

# SIERRA LEONE

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SUBMITTED TO THE  
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HUMAN AND PEOPLES'  
RIGHTS

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# EXECUTIVE SUMMARY

This shadow report contains background information in advance of the review of Sierra Leone's first periodic report at the 57<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (the Commission) to be held in Banjul from 4 – 18 November 2015.

Amnesty International welcomes Sierra Leone's first report to the Commission. We welcome Sierra Leone's openness to co-operate with the Commission and its invitation for an objective assessment of the human rights situation in the country, particularly relating to prison conditions.<sup>1</sup> We urge the Commission to work with Sierra Leone to organise missions with the relevant Special Mechanisms.

This shadow report does not cover all the human rights issues during the period covered by the state party report (30 years) and instead focuses on key recent human rights issues of concern relating to Sierra Leone's implementation of the African Charter on Human and Peoples' Rights (the Charter), in particular in relation to Articles 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 16, 17 and 18. These issues include:

- Abolition of the death penalty
- Police use of arbitrary and excessive force
- Conditions in detention centres
- Pre-trial and arbitrary detention
- Freedom of expression and peaceful assembly
- Right to health
- Right to education
- Discrimination against women and girls
- LGBTI rights

Amnesty International urges Sierra Leone to continue to submit regular reports every two years in accordance with Article 62 of the Charter.

## ABOLITION OF THE DEATH PENALTY (ARTICLE 4)

Sierra Leone retains the death penalty for treason and aggravated robbery, and it remains mandatory for murder. There is currently a moratorium on executions in place and several death sentences have been commuted. In May 2014, the Attorney General and Minister of Justice told the UN Committee against Torture that Sierra Leone will shortly abolish the

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<sup>1</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013, p. 10. <http://www.achpr.org/states/sierra-leone/reports/1st-1983-2013/> (accessed 6 April 2015)

death penalty and later clarified that it would be done through a revision of the Criminal Procedure Act. However, no further action has been taken.<sup>2</sup> The Commission has issued two resolutions calling for a moratorium on the death penalty.<sup>3</sup> The Commission's Working Group on the Death Penalty recently called for all States that had not done so to take steps to abolish the death penalty.<sup>4</sup>

## RECOMMENDATIONS

1. Abolish the death penalty and ratify, without reservations, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty.

# POLICE USE OF ARBITRARY OR EXCESSIVE FORCE (ARTICLES 4, 5)

Amnesty International has been highlighting the issue of police accountability in Sierra Leone for several years. The government has not done enough to investigate and hold accountable police officers accused of using arbitrary or abusive force in the past<sup>5</sup>. Two cases are highlighted below:

In April 2012 police killed an unarmed woman, Musu Conteh, and injured at least 11 others when workers at a mining company in Bumbuna, Tonkolili held a peaceful demonstration against poor working conditions and remuneration. The Human Rights Commission of Sierra Leone investigated the incident and released its findings in September 2013 which included recommendations for criminal investigations and prosecutions. The government initiated a Coroner's Inquest into the killing. No one has been held to account.<sup>6</sup>

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<sup>2</sup> Amnesty International, *Sierra Leone to speed up death penalty abolition*, 6 May 2014 ( Index : AFR 51/001/2014) available at <https://www.amnesty.org/en/documents/afr51/001/2014/en/>. Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015), available at <https://www.amnesty.org/en/countries/africa/sierra-leone/report-sierra-leone/>

<sup>3</sup> ACHPR /Res.42 (XXVI) 99: Resolution Urging the State to Envisage a Moratorium on Death Penalty (1999) and ACHPR/RES.136 (XXXIII).08: Resolution Calling On State Parties To Observe The Moratorium On The Death Penalty (2008).

<sup>4</sup> Statement by the Chairperson of the Working Group on Death Penalty of the Africa Commission on Human and Peoples' Rights on World Day Against the Death Penalty, 14 October 2014 available at <http://www.achpr.org/press/2014/10/d227/> (accessed 5 April 2015)

<sup>5</sup> Amnesty International, *Annual Report 2013*, 23 May 2013, p. 231, (Index: POL 10/001/2013) available at <https://www.amnesty.org/en/documents/pol10/001/2013/he/> and Human Rights Commission of Sierra Leone, *The State of Human Rights in Sierra Leone*, 2013, p. 39.

<sup>6</sup> Amnesty International, *Sierra Leone: Briefing on the Events in Bumbuna, Tonkolili*, 2012 (Index: AFR 51/004/2012) available at <https://www.amnesty.org/en/documents/AFR51/004/2012/en/>

There were at least two allegations of unlawful killings by the police in 2014, connected to police shootings in Kono in response to a riot relating to a suspected Ebola case. There has been no prompt, effective and independent investigation into the killings.<sup>7</sup>

Amnesty International welcomes the establishment of an Independent Police Complaints Board in 2014 and urges the government to ensure it is well resourced and its mandate and procedures are clearly explained to the public to make it accessible.

Section 16 (2) of the Sierra Leone Constitution contains a broader definition of permissible lethal force than international human rights law.

## RECOMMENDATIONS

1. Properly investigate and hold accountable police officers accused of arbitrary and excessive force, especially as recommended by past commissions of inquiry ;
2. Ensure the Independent Police Complaints Board is well resourced and its mandate and procedures are clearly explained to the public to make it accessible ;
3. Amend Section 16(2) of the Sierra Leone Constitution to ensure that it does not provide for wider use of lethal force than permitted by international human rights law ;
4. Ensure that all police officers, including the Operation Support Division, are aware of and abide by international human rights standards on police use of force ; including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials ;
5. Take steps to implement and disseminate the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa.

# CONDITIONS IN DETENTION (ARTICLES 5, 6)

In its state party report, Sierra Leone states that its Constitution does not define torture though section 20 provides against inhuman and degrading treatment.<sup>8</sup> In 2014, the UN Human Rights Committee (HRC) recommended that Sierra Leone should adopt a definition of torture in its domestic legislation which complies with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and with the International Covenant on Civil and Political Rights (ICCPR). The HRC noted continued

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<sup>7</sup> Amnesty International, *Sierra Leone must release 8 people arbitrarily detained after Ebola riot*, 30 January 2015 available at <https://www.amnesty.org/press-releases/2015/01/sierra-leone-must-release-people-arbitrarily-detained-after-ebola-riot/>

<sup>8</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013, p. 9.

complaints of torture and ill treatment by law enforcement officials against detainees<sup>9</sup> although Sierra Leone states there are no official complaints of torture though it does admit there are occurrences of "inhuman and degrading treatment."<sup>10</sup>

Conditions in prisons and detentions centres are well below international standards, including those outlined under the African Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa. A 2012 UN assessment found there was overcrowding, poor sanitation, limited access to health facilities, and inadequate provision of food, drinking water and rehabilitation facilities. Many people are detained for minor offences, such as loitering and fraudulent conversion, which contributes to overcrowding and excessive pre-trial detention. Juveniles are often detained with adults.<sup>11</sup>

## RECOMMENDATIONS

1. Adopt a definition of torture in Sierra Leone's domestic legislation compliant with CAT and the ICCPR and take steps to domesticate both conventions ;
2. Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) ;
3. Ensure the relevant body investigates all complaints of torture or inhuman treatment promptly, thoroughly and impartially ;
4. Enact new Prison Rules in line with international standards, such as the Standard Minimum Rules for the Treatment of Prisoners and the Standard Minimum Rules for the Treatment of Female Prisoners ;
5. Take steps to implement the:
  - a. Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa (Ouagadougou Declaration), in particular the recommendation to decriminalise minor offences such as loitering and failure to pay debts and alternatives to penal prosecution ;
  - b. Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa ;
  - c. Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), 2008.
6. Encourage the implementation of alternatives to detention by courts, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) ;
7. Expedite the enactment of the Criminal Procedure Bill and ensure its provisions are in line with international and regional standards ;

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<sup>9</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para. 16.

<sup>10</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013, p. 9.

<sup>11</sup> UNIPSIL, *Opening minds to rights behind bars: Report on the situation of detention in Sierra Leone*, 2012, pp. 40, 43, 44 and 53 available at <http://unipsil.unmissions.org/Default.aspx?tabid=9621&language=en-US>. (accessed 6 April 2015) See further, Amnesty International, *Annual Report 2013: Sierra Leone*, 23 May 2013, (Index: POL 10/001/2013). , AdvocAid, *Women, Debt and Detention*, 2012 available at <http://www.advocaidsl.com/wp-content/uploads/2011/03/AdvocAid-Women-Debt-and-Detention-Final-Report.pdf> (accessed 6 April 2015) and Human Rights Commission of Sierra Leone, *The State of Human Rights in Sierra Leone*, 2013, p. 46.

8. Invite the Commission's Special Rapporteur on Prisons and Conditions of Detention to conduct a review and assessment of Sierra Leone's detention facilities.

## PRE-TRIAL & ARBITRARY DETENTION (ARTICLES 5, 6, 7, 11, 12)

As Sierra Leone acknowledges, there are instances of arbitrary arrests, especially by the police for minor offences, such as loitering and fraudulent conversion.<sup>12</sup> People are regularly detained beyond constitutional time limits by the police.<sup>13</sup>

In August 2013, 18 members of the Republic of Sierra Leone Armed Forces were detained for allegedly plotting to mutiny at the Tekoh barracks in Makeni. They were held in incommunicado detention for eight months, in violation of constitutional detention time limits. Fourteen of them were indicted and brought to trial<sup>14</sup> and eventually acquitted on 6 August 2015<sup>15</sup>.

There is lengthy pre-trial detention (including detention during trial) and a high number of persons held in pre-trial detention, including juveniles. Pre-trial detainees are commonly not separated from convicted prisoners. There is unpredictable and, at times, overly restrictive exercise of power over the granting of bail.<sup>16</sup>

Positive steps were taken by the passing of the Legal Aid Act in 2012, however concrete steps still need to be taken for it to be fully implemented. Legal aid provision is sparse and is

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<sup>12</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013, p. 10. Amnesty International, *Annual Report 2013*, 23 May 2013, p. 231, (Index: POL 10/001/2013), available at <https://www.amnesty.org/en/documents/pol10/001/2013/he/> (accessed 27 August 2015). Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para 20.

UNIPSIL, *Opening minds to rights behind bars: Report on the situation of detention in Sierra Leone*, 2012, pp. 40, 53.

<sup>13</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015). UNIPSIL, *Opening minds to rights behind bars: Report on the situation of detention in Sierra Leone*, 2012, p. 37.

<sup>14</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015).

<sup>15</sup> Reuters, *Sierra Leone Court Acquits 13 Soldiers Accused of Mutiny*, 6 August 2015, available at <http://www.reuters.com/article/2015/08/06/us-leone-military-idUSKCN0QB24W20150806> (accessed 10 August 2015)

<sup>16</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015).

Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para 20.

UNIPSIL, *Opening minds to rights behind bars: Report on the situation of detention in Sierra Leone*, 2012, pp. 37 – 39.



offered by a few NGOs.<sup>17</sup> As Sierra Leone acknowledges, there is a need for additional judges, prosecutors and to limit frequent court adjournments which contribute to trial delays.<sup>18</sup>

Sierra Leone declared a State of Emergency in July 2014 and passed the Public Emergency Regulations 2014 due to the Ebola crisis. The State of Emergency was extended in August 2015 although some restrictions, such as the ban on public gatherings, have been lifted. Amnesty International had documented several arrests and prosecutions under these regulations, such as for public gathering or trading after hours. Whilst recognising the need for strict measures to combat the health crisis, these arrests are often unpredictable and inappropriate and contribute to overcrowded detention facilities and pre-trial detention. In many cases similar objectives could be met through the use of alternatives to custody and detention as a last resort as highlighted in the Ouagadougou Declaration and other Commission resolutions.

In October 2014, 8 people were detained under an Executive Order issued by President Koroma following a riot in Kono (Eastern Sierra Leone) related to a contested suspected Ebola patient. In February 2015, a further four men were arrested and in March 2015, an additional man was arrested under the same Executive Order. The detainees had no warrants or documentation supporting their detention or any release date. Two women were released on 12 April 2015, following civil society advocacy. The 11 men were charged on 21 April 2015 under the Public Order Act and Public Emergency Regulations 2014 after a habeas corpus application was filed to challenge the legality of their detention. The trial is still ongoing. Amnesty International and other civil society groups raised concern about these cases as, under Sierra Leone's Constitution, an independent tribunal should have been set up by the Chief Justice to review the detainees continued detention when the President refuses to order their release.<sup>19</sup>

## RECOMMENDATIONS

1. Expedite implementation of the Legal Aid Act 2012 ;
2. Take steps to implement the Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa (Ouagadougou Declaration), in particular the recommendation to decriminalise minor offences such as loitering and failure to pay debts and alternatives to penal prosecution ;
3. Encourage the implementation of alternatives to detention by courts, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) ;
4. Take steps to implement and disseminate the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa ;

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<sup>17</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015).

<sup>18</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013, p. 11.. UNIPSIL, *Opening minds to rights behind bars: Report on the situation of detention in Sierra Leone*, 2012, pp.38, 39.

<sup>19</sup> Amnesty International, *Sierra Leone must release 8 people arbitrarily detained after Ebola riot*, 30 January 2015. Amnesty International Urgent Action Update, *Two Women Released, 11 Men Charged*, 7 May 2015, (Index: AFR 51/1603/2015), available at [http://www.amnestyusa.org/sites/default/files/uaa01815\\_0.pdf](http://www.amnestyusa.org/sites/default/files/uaa01815_0.pdf)

5. Expedite the enactment of the Criminal Procedure Bill and ensure its provisions are in line with international and regional standards ;
6. Reform constitutional provisions relating to the State of Emergency to ensure that appropriate safeguards are in place that comply with international human rights law;

## FREEDOM OF EXPRESSION (ARTICLE 9) & PEACEFUL ASSEMBLY (ARTICLE 11)

The increased use of criminal defamation against journalists has served as a means to silence criticism and threatens freedom of expression in Sierra Leone.

In October 2013 Jonathan Leigh and Bai Bai Sesay from the Independent Observer were charged with criminal defamation for publishing an article criticizing the President. The journalists pleaded guilty to conspiracy to publish a seditious article. They were cautioned and discharged in March 2014.<sup>20</sup>

In January 2014 David Tam Baryoh was arrested for seditious libel and released on bail. In May his radio programme Monologue was banned for two months following a government directive. He was arrested again in November for comments made on his programme regarding the government's response to the Ebola outbreak. He was detained for 11 days and released on bail<sup>21</sup>. After his release his passport was retained by the police, impeding him from travelling abroad and he had to report every week to the police for several months. He has still not obtained custody of his passport.

These laws are also being used to stifle freedom of expression amongst citizens.

In February 2015, Mamoud Tim Kargbo was charged with five counts of defamatory libel under the Public Order Act 1965 for forwarding a WhatsApp message he received, said to be defamatory to the President He was detained for 52 days and then released on bail during the trial. . He was eventually discharged on 28 July 2015.<sup>22</sup>

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<sup>20</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015). Amnesty International, *Sierra Leone must drop charges against editors*, 24 October 2013, available at <https://www.amnesty.org/en/articles/news/2013/10/sierra-leone-must-drop-charges-against-editors/> See further, Human Rights Commission of Sierra Leone, *The State of Human Rights in Sierra Leone*, 2013, pp. 41 – 42.

<sup>21</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015). Amnesty International, *Sierra Leone journalist faces indefinite detention*, 6 November 2014 (Index: AFR 51/002/2014) available at <https://www.amnesty.org/en/documents/AFR51/002/2014/en/>

<sup>22</sup> Awoko Newspaper, *President Koroma's WhatsApp Libel matter*, 1 April 2015, available at

Ansumana Bangura was sentenced on 22 April 2015 to 6 months imprisonment on two counts of threatening language and public insult and provocation under the Public Order Act. He is supposed to have insulted the President in public and in the view of a police officer.<sup>23</sup>

In *Konaté v Burkina Faso* the African Court on Human and Peoples' Rights ruled in 2014 that imprisonment for defamation violates the right to freedom of expression and that criminal defamation laws should only be used in restricted circumstances.<sup>24</sup>

Amnesty International has also documented disproportionate restrictions on the right to freedom of expression and peaceful assembly during the State of Emergency. Following the removal of former Vice President Samuel Sam-Sumana on 18 March 2015, there was an increase in arrests of opposition members, bans on peaceful protests and a crackdown on dissent. In contrast, assemblies and events held by the governing party were allowed.<sup>25</sup>

On Sierra Leone's Independence Day, 27 April 2015, 15 members of the main opposition party, Sierra Leone People's Party (SLPP) and a Senior Officer from the Human Rights Commission of Sierra Leone, were arrested in the town of Kenema following a protest at the SLPP office. They are currently on trial. There are concerns about excessive use of force during arrests by the police with several people injured.<sup>26</sup>

## RECOMMENDATIONS

1. Repeal the criminal defamation provisions of the Public Order Act 1965 (Articles 25, 26, 32 and 33) and review the entire Act to ensure it is consistent with the right to freedom of expression under international and regional human rights law ;
2. Ensure that the rights to freedom of expression and peaceful assembly are not unnecessarily or disproportionately restricted in any circumstances, including during the continued State of Emergency in accordance with international law and standards.

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<http://awoko.org/2015/04/01/sierra-leone-news-president-koromas-whatsapp-libel-matterinvestigator-testifies/> (accessed 4 April 2015)

<sup>23</sup> Amnesty International, *Sierra Leone: Ebola regulations and other laws must not be used to curtail freedom of expression and assembly*, 4 May 2015, available at <https://www.amnesty.org/en/articles/news/2015/05/sierra-leone-ebola-regulations-and-other-laws-must-not-be-used-to-curtail-freedom-of-expression-and-assembly/>

<sup>24</sup> *Lohé Issa Konaté v Burkina Faso (Application No 004/2013)*, available at <http://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf>, 5 December 2014, (accessed 27 August 2015).

<sup>25</sup> Amnesty International, *Sierra Leone: Ebola regulations and other laws must not be used to curtail freedom of expression and assembly*, 4 May 2015.

<sup>26</sup> Amnesty International, *Sierra Leone: Ebola regulations and other laws must not be used to curtail freedom of expression and assembly*, 4 May 2015.

## RIGHT TO HEALTH (ARTICLE 16, 18)

Sierra Leone was severely affected by the Ebola epidemic. By 23 August 2015 there were 8,697 confirmed cases and at least 3,950 people had died.<sup>27</sup> The epidemic has weakened Sierra Leone's already fragile health care system and at least 307 health workers had been infected as of 19 August 2015<sup>28</sup>. NGOs expressed concerns regarding food security, the disproportionate impact of the crisis on women and the inhumane conditions experienced by people subjected to quarantine.<sup>29</sup> Concerns were also raised about the lack of safety equipment and concerns over the working conditions for health workers, with a number of strikes occurring<sup>30</sup>, as well as mismanagement of Ebola funds.<sup>31</sup>

Sierra Leone has one of the highest maternal mortality rates in the world.<sup>32</sup> Prior to the Ebola outbreak, Sierra Leone had made some progress towards ensuring that the Free Health Care Initiative (FHCI), launched in 2010, started to become a reality for pregnant women and girls, lactating women and girls, and children aged under five. Challenges remained in implementing the FHCI. Health facilities continued to charge fees for health care services that were intended to be free. A toll-free line, set up to enable people to make complaints if they did not receive the care to which they were entitled, was set up but the process was subject to delays and inefficiencies.<sup>33</sup>

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<sup>27</sup> Statistics as of 23 August 2015 – Centers for Disease Control and Prevention available at <http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa/case-counts.html>, (accessed 23 August 2015).

<sup>28</sup> WHO Ebola Situational Report as of 19 August 2015 available at <http://apps.who.int/ebola/current-situation/ebola-situation-report-19-august-2015> (accessed 19 August 2015).

<sup>29</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015). Amnesty International, *International assistance and human rights protections vital for Ebola-stricken countries*, 22 September 2014, (Index: AFR 01/013/2014) available at <https://www.amnesty.org/en/documents/afr01/013/2014/en/>

<sup>30</sup> BBC, *Ebola Crisis: Sierra Leone health workers strike*, 12 November 2014 available at <http://www.bbc.com/news/world-africa-30019895>. (accessed 6 April 2015), The Guardian, *Sierra Leone hospital staff strike over Ebola payments*, 24 December 2014 available at <http://www.theguardian.com/world/2014/dec/24/sierra-leone-hospital-strikes-over-ebola-payments> (accessed 6 April 2015)

<sup>31</sup> Audit Service Sierra Leone, *Report on the Audit of the Management of the Ebola Funds: May – October 2014*, available at <http://www.audit-service.gov.sl/report/assl-report-on-ebola-funds-management-may-oct-2014.pdf>. (accessed 6 April 2015) See further, IRIN, *Sierra Leone's missing Ebola millions*, 30 March 2015 available at <http://www.irinnews.org/report/101293/sierra-leone-s-missing-ebola-millions>, (accessed 6 April 2015)

<sup>32</sup> Sierra Leone was estimated to have the highest maternal mortality at 1,100 deaths out of 100,000 live births. *Trends in maternal mortality: 1990 to 2013*. Estimates by WHO, UNICEF, UNFPA, The World Bank and the United Nations Population Division [http://data.unicef.org/corecode/uploads/document6/uploaded\\_pdfs/corecode/MMR2013\\_117.pdf](http://data.unicef.org/corecode/uploads/document6/uploaded_pdfs/corecode/MMR2013_117.pdf), (accessed 6 April 2015)

<sup>33</sup> Amnesty International, *Annual Report 2013*, 23 May 2013, p. 231, (Index: POL 10/001/2013). See further, Amnesty International, *At a Crossroads: Sierra Leone's Free Healthcare Policy*, 2011, (Index: AFR 51/001/2011), available at [https://www.amnestyusa.org/sites/default/files/pdfs/sierral\\_maternaltrpt\\_0.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/sierral_maternaltrpt_0.pdf) and Amnesty International, *Out of Reach: The Cost of Maternal Health in Sierra Leone*, 2009, (Index: AFR 51/005/2009), available at <https://www.amnesty.org/en/documents/afr51/005/2009/en/>

## RECOMMENDATIONS

1. Ensure the human rights of health care workers and service providers involved in the Ebola response are upheld, including ensuring proper personal protection equipment and working conditions ;
2. Take initiatives to address the disproportionate impact of Ebola on women, particularly its impact on the provision of maternal health services ;
3. Apply a human rights framework to protect the safety, dignity and freedoms of affected communities, particularly during quarantines or “stay at home” exercises ;
4. Take concrete steps to protect and uphold the human rights of people subjected to quarantine or other emergency measures. In particular, steps must be taken to ensure that such measures are justified, proportional and time bound, with a clear means for review and remedy. Further, action must be taken to ensure the conditions are humane, that the right to information, sanitation, nutrition and access to health care of those subject to such measures are guaranteed. The particular needs of women and girls, including having access to sanitary products during menstruation must also be met ;
5. Take concrete steps to address corruption in health provision, especially in relation to use of funds surrounding the Ebola crisis ;
6. Work with development partners to rebuild and strengthen health care systems and public health information.

## RIGHT TO EDUCATION (ARTICLES 5, 16, 17 AND 18)

Sierra Leone recognises in its state party report that it is the duty of the State to ensure all citizens have equal access to education, and to safeguard the rights of certain groups, such as women and children, in securing educational facilities.<sup>34</sup>

Amnesty International is concerned at the Ministry of Education's discriminatory policy of barring pregnant girls from attending school and sitting their Basic Education Certification Exams (BECE) exams, that were held for a two week period from 30 March 2015. The basis of the policy seems to be based on discriminatory views and negative stereotypes. The Minister has expressed the view that he fears that pregnant girls will be a bad example to other girls.<sup>35</sup> Sources indicate that many pregnant girls are afraid to attend schools because of the statements by the Minister of Education and others in the media. The exclusion of pregnant girls from school and exams seems to be a common practice as highlighted by the

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<sup>34</sup> Initial to date following article of the Charter Report submitted by Sierra Leone, p. 20 available at <http://www.achpr.org/states/sierra-leone/reports/1st-1983-2013/>

<sup>35</sup> Ministry of Education, Science and Technology Press Release, *Government Position on Pregnant School Girls*, 2 April 2015. Amnesty International, *Sierra Leone: Let pregnant girls take exams*, 27 March 2015 available at <https://www.amnesty.org/en/articles/news/2015/03/let-pregnant-girls-take-exams/>

Human Rights Commission of Sierra Leone.<sup>36</sup> For example, in 2011 the West African Examinations Council stopped pregnant girls in Sierra Leone from taking their exams. It is unclear how the exclusion of pregnant girls from school and exams is being implemented and enforced, but attempts by school authorities or others on their behalf to ascertain a girl's pregnancy status could further breach her rights to privacy, physical and mental integrity and her right to be free from cruel, inhuman and degrading treatment.

The United Nations Committee on the Elimination of all Forms of Discrimination against Women (CEDAW) has raised concern to Sierra Leone about girls' lack of access to education, including for reasons such as pregnancy. In 2008, the UN Committee urged the Sierra Leonean government to "implement measures to ensure equal access for girls and women to all levels of education and retention of girls in school." A policy of excluding pregnant girls from education flies in the face of this recommendation. The United Nations country office in Sierra Leone has also stated that this policy violates local and international human rights obligations.<sup>37</sup>

By excluding pregnant girls from school and exams the Sierra Leonean authorities are violating girls' human rights and making early pregnancy or unwanted pregnancy the result of rape the event that defines the rest of their lives.

#### RECOMMENDATIONS

1. Take measures to comply with Sierra Leone's international and regional legal obligations to respect, protect and fulfil all girls rights to education, non-discrimination, privacy, and physical integrity and issue an urgent directive to all schools to guarantee pregnant girls can continue with their education, attend classes and sit exams ;
2. Take action to guarantee girls' human rights to sexual and reproductive health care information, services and goods, particularly post rape services for survivors of violence;
3. Take measures to involve women and girls in the development of policies and laws and uphold their right to participation.

#### WOMEN'S AND GIRLS' RIGHTS (ARTICLE 16, 18 and 5)

Violence against women and girls, including sexual violence, remain a disturbingly frequent occurrence. The Sexual Offences Act 2012 introduced improved definitions of, and stiffer penalties for, sexual violence.<sup>38</sup> However, in 2014 the UN Human Rights Committee

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<sup>36</sup> Human Rights Commission of Sierra Leone, *Ensuring the right to access education by pregnant girls and young mothers*, 25 February 2015, available at <http://www.hrctl.org/content/ensuring-right-access-education-pregnant-girls-and-young-mothers>, (accessed 6 April 2015)

<sup>37</sup> United Nations Country Team in Sierra Leone statement on the ban on pregnant girls returning to school and taking exams, 15 April 2015 available at <http://sl.one.un.org/2015/04/15/united-nations-country-team-in-sierra-leone-statement-on-the-ban-on-pregnant-girls-returning-to-schools-and-taking-exams-4/> (accessed 18 April 2015)

<sup>38</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL

expressed concern that the 2012 Act was not being implemented properly in particular by the police.<sup>39</sup> The Committee also highlighted concerns about limited access to legal aid and shelter and rehabilitation services for victims of sexual and domestic violence that were additionally exacerbating the risks faced by women and girls trying to leave violent partners or ex-partners.<sup>40</sup>

There is a further concern about the lack of access to post rape health care services for victims of sexual violence in Sierra Leone due to legal and cost barriers.<sup>41</sup> Currently the availability of such services is limited across the country, but also victims are required to bear the financial costs of repairing the physical damage caused by the crime they have suffered.

The World Health Organization recommends that post rape health care include physical and psychological care, emergency contraception, post-exposure prophylaxis for HIV prevention, treatment for sexually transmitted infections (STIs) and injuries, access to safe and legal abortion services and follow-up care. It recommends that this gamut of services be women centered, available at all clinics and be made accessible by removing barriers.<sup>42</sup> Several UN treaty bodies and expert agencies like the World Health Organisation have emphasised state obligations to guarantee access by rape victims to cost free post rape health care services, including emergency contraception, HIV Prophylaxis and abortion services.<sup>43</sup>

Further, Sierra Leone maintains discriminatory laws that criminalise abortion in all circumstances. The Charter in Article 18 requires states to take steps to eliminate discrimination against women and girls and requires states to take positive steps to guarantee women and girls' human rights. Denial of access to safe and legal services could lead to a breach of Article 5 of the Charter, as well as Article 4 of the Maputo Protocol.<sup>44</sup>

10/0001/2015).

<sup>39</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para. 15.

<sup>40</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para. 15.

<sup>41</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1 paras 14 and 15

<sup>42</sup> See, "Responding to intimate partner violence and sexual violence against women: WHO Clinical and Policy Guidelines", 2013 and the *WHO Safe abortion: technical and policy guidance for health systems* Second edition 2012 states, for example.

<sup>43</sup> See for example, Committee on the Rights of the Child (CRC Committee), *Concluding Observations: Costa Rica*, U.N. Doc. CRC/C/CRI/CO/4 (2011), para. 64(e), urging states to "Ensure that girls and adolescents have free and timely access to emergency contraception and raise awareness among women and girls about their right to emergency contraception, particularly in cases of rape.", and Committee against Torture, *Concluding observations on the combined fifth and sixth periodic reports of Peru*, 49<sup>th</sup> session, 29 October - 23 November 2012, para.15, in which it urged the state to amend laws to permit abortion in cases of pregnancy resulting from rape and incest and provide free health coverage in cases of rape and also to legalize the distribution of oral emergency contraception to victims of rape.

<sup>44</sup> General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14. 2 (a) and (c) of the Maputo Protocol, see paras 37 "The Protocol provides for women's right to terminate pregnancies contracted following sexual assault, rape and incest. Forcing a woman to keep a pregnancy resulting from these cases constitutes additional trauma which affects her physical and mental health, as evidenced by the

According to the General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14.2 (a) and (c) of the Maputo Protocol which provides interpretative guidance on states obligations under both the Protocol and the Charter, "State parties must ensure that women are not treated in an inhumane, cruel or degrading manner when they seek to benefit from reproductive health services such as contraception/family planning services or safe abortion care, where provided for by national law and the Protocol."<sup>45</sup>

Further, the UN Human Rights Committee has urged Sierra Leone to accelerate the adoption of a bill that would permit women and girls access to safe and legal abortion services. The UN Committee found the criminalisation of abortion in Sierra Leone concerning in the context of women and girls' rights to life and to privacy.<sup>46</sup>

The Gender Equality Bill, which provides for a minimum 30% representation of women in Parliament, local councils and ministries, departments and agencies, was not enacted.<sup>47</sup>

Discriminatory provisions against women remain under Section 27(4) (d) of the Constitution, in relation to adoption, marriage, divorce, burial, devolution of property on death, or other interests of personal law.<sup>48</sup>

As Sierra Leone acknowledges, provisions of Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have not been fully domesticated and leave gaps in the law in ensuring the protection of rights of girls and women.<sup>49</sup> Amnesty International welcomes Sierra Leone's recent ratification of the Maputo Protocol (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) and urges full incorporation of the Protocol into domestic legislation to grant effective implementation.<sup>50</sup>

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UN bodies responsible for ensuring compliance with the treaties, which advocate for women's access to therapeutic abortion in cases of pregnancy resulting from sexual assault." and 40 "Safe abortions may be required by women whose pregnancies pose risks to the life of the mother or the foetus. That is the case, for example, where it is demonstrated that the foetus which is developing suffers from deformities that are incompatible with survival, so being forced to carry the pregnancy to term would constitute cruel and inhuman treatment. This can also occur in relation to women who need special medical treatment for heart disease, cancer or other diseases which may endanger the survival of the foetus." The UN Committee against Torture has found.

<sup>45</sup> Although Sierra Leone has only signed and not ratified the Maputo protocol, it is still bound by the Vienna Convention on the Law of Treaties to not act in a way that defeats the object and purpose of a treaty prior to it entering into force. See Article 18, Vienna Convention on the Law of Treaties (1969) Aside from that obligation, the concerns highlighted constitute violations of women and girls human rights and breaches of the Charter, as well as multiple United Nations treaties to which Sierra Leone is party.

<sup>46</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para 14

<sup>47</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015).

<sup>48</sup> Amnesty International, *Annual Report 2014/15: Sierra Leone*, 25 February 2015, p. 409 (Index: POL 10/0001/2015).

<sup>49</sup> *Sierra Leone Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, 2013 p. 22.

<sup>50</sup> Politico, Sierra Leone finally ratifies Maputo Protocol, 7 July 2015 available at



## RECOMMENDATIONS

1. Expedite the enactment of the Gender Equality Bill ;
2. Repeal discriminatory laws on abortion that violate women and girls fundamental human rights. Further, take action to enact legislation that guarantees women and girls access to safe and legal abortion services ;
3. Guarantee access for victims of sexual violence to post rape health care services in line with international human rights obligations, including removing cost and any other barriers to ensure access to emergency contraception, HIV and STI prophylaxis, and safe and legal abortion services ;
4. Abolish Section 27(4) (d) of the Constitution which discriminates against women.
5. Fully implement and resource the Sexual Offences Act 2012 ;
6. Fully incorporate into domestic legislation provisions of CEDAW and the Maputo Protocol.

## LGBTI RIGHTS (ARTICLES 2, 3, 5)

Sierra Leone lacks any constitutional or statutory provision expressly prohibiting discrimination on the grounds of sexual orientation or gender identity, and the law criminalizes same sex relationships between consenting adults. The HRC noted in 2014 the prevalence of stereotypes and prejudices against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and was particularly concerned about reported acts of violence against LGBTI persons.<sup>51</sup> The UN Special Rapporteur on Human Rights Defenders has also expressed concern for the physical and psychological integrity of human rights defenders working to protect the rights of LGBTI individuals in Sierra Leone and has called on the government to ensure a safe and enabling environment for them to conduct their work without fear of their safety.<sup>52</sup>

## RECOMMENDATIONS

1. Repeal sections 61 and 62 of the Offences Against the Persons Act 1861 ;
2. Amend the Constitution to prohibit discrimination on the basis of sexual orientation or gender identity, as recommended by the HRC ;
3. Ensure that crimes motivated by any form of discrimination, including on the basis of presumed sexual orientation are fully and effectively investigated and that those against whom sufficient admissible evidence of criminal wrongdoing exists are brought to justice ;

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<http://politicosl.com/2015/07/sierra-leone-finally-ratifies-maputo-protocol/> ( accessed 25 August 2015)

<sup>51</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Sierra Leone: International Covenant on Civil and Political Rights*, 17 April 2014, UN Doc: CCPR/C/SLE/CO/1, para 11. See further, Global Rights, Dignity Association & Pride Equality, *Discrimination on the Basis of Sexual Orientation and Gender Identity: A Sierra Leone Case Study*, 2013 available at [http://www.globalrights.org/sites/default/files/docs/2013\\_LGBTI\\_Report\\_Sierra\\_Leone.pdf](http://www.globalrights.org/sites/default/files/docs/2013_LGBTI_Report_Sierra_Leone.pdf) (accessed 6April 2015)

<sup>52</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 3 March 2014, UN Doc: A/HRC/25/55/Add.3, para. 381. Available from: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2015/02/Report-SRHRD-Communications-and-replies-2014-eng-fra-esp.pdf> (accessed 14 April 2015)

4. Take steps to implement the Commission's Resolution 275 on the Protection against Violence and other Human Rights Violations against Persons on the Basis of their Real or Imputed Sexual Orientation or Gender Identity.

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