

SIERRA LEONE

NGO assessment of the follow-up actions of the State party in implementing UN Human Rights Committee's recommendations

Assessment carried out by **Prison Watch Sierra Leone**

December 2015

The 1st periodic report of Sierra Leone on the State's compliance with the International Covenant on Civil and Political Rights (ICCPR) was reviewed by the UN Human Rights Committee (the Committee) at the Committee's 110th session in March 2014. As the result of this review, the Committee issued its Concluding Observations (CCPR/C/SLE/CO/1) and recommendations to the State party. The Concluding Observations states in paragraph 26 that "In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 14, 16 and 20".

The recommendations laid down in these three paragraphs are selected by the Committee for its follow-up procedure ("follow-up recommendations"), as they are expected to be implemented within a year and/or require immediate attention. Information provided by the State party on the implementation of the follow-up recommendations (due in March 2015) will be further assessed by the Committee, whereby overall grades are also given to the action / reply of the State party.

This assessment form was developed by the Centre for Civil and Political Rights (CCPR) in order to facilitate civil society assessment of the implementation of follow-up recommendations by the State party and more effectively contribute to the Committee's follow-up procedure. As of the submission of this assessment (December 2015) the State party has not yet provided any information to the Committee.

Current situation

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| Date of examination of the State Report by the HR Committee | March 2014 |
| Deadline for the submission of the follow-up report by the State Party | March 2015 - Not yet submitted |

Summary of the assessment

| Recommendation in par. 14 | Overview |
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| The State party should accelerate the adoption of a bill that includes provision for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest. | Government lacks the political will to enact the bill into law. This is demonstrated by the slow pace of the process. |
| The State party should ensure that reproductive health services are accessible for all women and adolescents. | Access to reproductive health services is rather seen as adhoc political project. It is not addressed as a right in the national legislation. |
| The State party should increase education and awareness-raising programmes, both formal (at schools and colleges) and informal (in the mass media), on the importance of using contraceptives and the right to reproductive health. | Despite the efforts made by the State party, logistical problems have prevented the government from implementing adolescent and school health programmes. |
| Recommendation in par. 16 | Overview |
| The State party should adopt in its legislation a definition of torture that fully complies with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the International Covenant on Civil and Political Rights. | The State failed to adopt a clear definition of torture that fully complies with articles 1 and 4 of the UNCAT in any of its legislation. Even though the Sierra Leone Constitution explicitly prohibits torture, it does not provide a definition of torture. |
| The State party It should ensure that law enforcement personnel receive training on the investigation of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1999 (the Istanbul Protocol) in all training programmes for law enforcement officials. | The State party has not provided specific trainings in investigating cases of torture and ill-treatment to its law enforcement personnel. |
| The State party should ensure that allegations of torture and ill-treatment are effectively investigated, alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and victims are adequately compensated. | The Independent Police Complaint Board (IPCB) was established in 2014 as an independent oversight body in order to hold police officers accountable for misconduct or violation of human rights. It is a welcomed development. However, a year after taking up its function the IPCB has still not been able to conclude a single case. |
| Recommendation in par. 20 | Overview |
| The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant | The National Legal Aid Act (2011) provides for the establishment of the legal aid board and guarantees accessible, affordable, credible and sustainable legal aid service. State measures are coordinated with other legal aid providers, such as NGOs, which complement government's legal aid service. However, more efforts are needed. |

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| <p>The State party should also 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), and take urgent measures regarding the situation of inmates who have been in pretrial detention for many years.</p> | <p>A working group has been established with a two years mandate to work on bail and sentencing guidelines. The working group has proposed alternatives to detention like suspended sentencing, deferred sentencing, community service and other forms of non-custodial sentencing.</p> |
| <p>It should further take appropriate action to ensure that convicted persons are not detained together with pretrial detainees.</p> | <p>The government has taken proactive steps by designating the Mafanta Prison exclusively for convicted detainees. However, all other prison facilities are crowded with both convicted and pre-trial detainees. There is no physical separation and all the detainees (regardless of whether they are convicted or pre-trial) are kept in the same cells and blocks.</p> |

Detailed Assessment

Paragraph 14: Abortion, adolescent pregnancy and maternal mortality

The Committee notes with interest the Abortion Bill of 2012, but expresses its concern at the current general criminalization of abortion, which may oblige pregnant women to seek clandestine abortions that endanger their lives and health. The Committee is also concerned at the persistently high incidence of adolescent pregnancy and maternal mortality, despite the State party's prevention efforts (arts. 6 and 17).

| Recommendation of the HR Committee | Action taken by the State | Measures needed additionally / Other comments |
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| <i>(The State party should)</i> accelerate the adoption of a bill that includes provision for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest. | <p>There is currently a proposed bill on reproductive and preventive health for women and girls. The bill is still in the process of being tabled in cabinet for approval and then it could be taken to Parliament for enactment.</p> <p>This bill was drafted in the 1st quarter of 2015 with support from IPAS, a United States NGO.</p> | <p>The government views this bill as a potential way of legalising abortion and considers that it might give leeway to legalise prostitution, which is currently criminalised under Sierra Leonean Law.</p> <p>The government needs to demonstrate enough political will to ensure that the bill is approved by the cabinet for subsequent enactment into law by Parliament.</p> |
| <i>(The State party should)</i> ensure that reproductive health services are accessible for all women and adolescents. | <p>The Government's Free Healthcare Initiative for pregnant women, breastfeeding mothers and children under five of 2010 is a laudable initiative. To a large extent, this initiative resulted in the increase of health service intake.</p> | <p>However, the Free Health Initiative is not a government policy. It is only an adhoc political project initiated by the current Ernest Bai Koroma led regime.</p> <p>To ensure that reproductive health services are accessible for all women and adolescents, it has to become a matter of State policy rather than an adhoc political project that will phase out when a new regime will be elected.</p> <p>The current healthcare system is donor driven, which is a very risky process since donor fatigue will eventually lead to a collapse of the system.</p> |
| <i>(The State party should)</i> increase education and awareness-raising | <p>In 2015, through the Ministry of Health and Sanitation, the government of Sierra Leone instituted adolescent and school health programmes.</p> | <p>Despite the efforts made by the State party, logistical problems have prevented the government from implementing adolescent and school health</p> |

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| <p>programmes, both formal (at schools and colleges) and informal (in the mass media), on the importance of using contraceptives and the right to reproductive health.</p> | <p>Focal point persons have been allocated to work with schools to promote family health programmes, safer sex, teenage pregnancy issues and adolescent youth friendly issues in every school.</p> <p>Leading mass media houses have been engaged to air our jingles and public notices that will educate and raise public awareness on the importance of using contraceptives and on the right to reproductive health.</p> | <p>programmes. The school-based programmes have been mostly ineffective and the proposed activities have not yet taken place.</p> <p>The government needs to move beyond adhoc political project to ensure that reproductive health services are accessible for all women and adolescents, it must be addressed by legislation as of right.</p> |
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Paragraph 16: Prohibition of torture and ill-treatment

The Committee is concerned that, although torture is prohibited in the Constitution, the State party has not adopted criminal legislation that defines and criminalizes torture explicitly. The Committee regrets the continued reports of torture and ill-treatment of detainees by law enforcement personnel, and notes with concern the information provided by the State party in its initial report that “at the present, there are no official complaints of torture.” It regrets the lack of concrete measures by the State party to thoroughly investigate and prosecute alleged cases of torture and cruel, inhuman or degrading treatment and ill-treatment by law enforcement officials and the delays in establishing the Independent Police Complaints Board (arts. 7 and 10).

| Recommendation of the HR Committee | Action taken by the State | Measures needed additionally / Other comments |
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| <p>The State party should adopt in its legislation a definition of torture that fully complies with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the International Covenant on Civil and Political Rights.</p> | <p>The State failed to adopt a clear definition of what constitutes torture that fully complies with articles 1 and 4 of the UNCAT in any of its legislation.</p> | <p>Sierra Leone is currently reviewing its Constitution and the Sierra Leone Detention Code (The Sierra Leone Correctional Act and Correctional Rules 2014). This review represents a window of opportunity for the government to improve the rights of the detainees.</p> <p>Furthermore, torture should be criminalised in the domestic penal legislation in accordance with international standards.</p> |
| <p>The State party should ensure that law enforcement personnel receive training on the investigation of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading</p> | <p>The government of Sierra Leone is currently working with the International Military and Advisory Training Team (IMATT) and the International Security Advisory Team (ISAT) to train our military forces and to provide security advices.</p> <p>Interviews with military officers revealed that the military training includes a component of International Humanitarian Law. However, no specific training on human rights is being provided.</p> <p>Interviews with police and correctional personnel</p> | <p>Prison Sierra Leone, with the support of The Danish Institute against Torture (DIGNITY), has organised training sessions in human rights approach in detention management for both police and correctional officers.</p> <p>According to the Director and Head of Training of the Sierra Leone Police, the police training manual is currently under review. Prison Sierra Leone, supported by the Danish Institute Against Torture, has helped to review the Sierra Leone Correctional Training Manual in line with International best practices. However, the Istanbul Protocol is not integrated in the manual.</p> |

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| <p>Treatment or Punishment of 1999 (the Istanbul Protocol) in all training programmes for law enforcement officials.</p> | <p>revealed that police officers, correctional officers and the military should go through a six months recruit training. But to a large extent, training is largely focused on physical and weapon drill.</p> <p>No specific training in investigation of torture and ill-treatment is being provided to law enforcement personnel. The Istanbul Protocol is not integrated in the training programmes for law enforcement officials.</p> | <p>Government needs to integrate the Istanbul Protocol into training programmes of the law enforcement officials.</p> |
| <p>The State party should ensure that allegations of torture and ill-treatment are effectively investigated, alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and victims are adequately compensated.</p> | <p>In 2014, the government of Sierra Leone has set up the Independent Police Complaint Board (IPCB). The IPCB is an independent oversight body for the police, established by the police council under s.158 of the Constitution of Sierra Leone 1961 (Act No. 6). It was established to protect people from abusive police practices and serves as a means to hold the police accountable for misconduct or violation of human rights. The IPCB is headed by the former anti-corruption officer.</p> | <p>The establishment of the IPCB is a laudable initiative, but it has been plagued by serious logistical constraints since its inception. Most of the operations of the IPCB are funded by the United Nations Development Programme (UNDP) and the Access to Security and Justice Programme (ASJP). The government still lacks the political will to support the operations of the IPCB.</p> <p>Data on the number of investigations, prosecutions and sanctions concerning allegations of torture and ill-treatment is not available. One of the reasons is that allegations of torture and ill-treatment are not investigated since they are not properly criminalised.</p> |

Paragraph 20: Pretrial and arbitrary detention

While acknowledging progress made, the Committee expresses concern at reports of arbitrary detention, lengthy pretrial detention (including detention during trial) and the unpredictable and, at times, overly restrictive exercise of power over the granting of bail. The Committee is concerned about the high number of persons held in pretrial detention, including juveniles, and the fact that pretrial detainees are not separated from convicted prisoners (arts. 9, 10 and 14).

| Recommendation of the HR Committee | Action taken by the State | Measures needed additionally / Other comments |
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| <p>The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant</p> | <p>The National Legal Aid Act (2011) provides for the establishment of the legal aid board and guarantees accessible, affordable, credible and sustainable legal aid service. State measures are coordinated with other legal aid providers, such as NGOs, which complement government's legal aid service. However, more efforts are needed.</p> | <p>Even though the Criminal Procedure Bill (2014) contains progressive human rights provisions that would ensure compliance with articles 9 and 14 of the ICCPR, government needs to show political will for the Bill to be enacted.</p> |
| <p>The State party should also 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), and take urgent measures regarding the situation of inmates who have been in pre-trial detention for many years.</p> | <p>The Government of Sierra Leone with support of the United Nations Development Programme and the US State Department is currently working on a two-year project on bail and sentencing guidelines.</p> <p>A Working Group (WG) has been set up which consist of senior judges, police officers, magistrates, civil society, the Human Rights Commission and the justice sector coordinating institutions.</p> <p>The mandate of the WG is to review the bail and sentencing guidelines with the purpose of tackling the problem of overcrowding in prisons and police stations.</p> <p>There is currently a reviewed draft bill of the Sierra Leone Criminal Procedure before parliament for debate. This bill if passed, consists on very progressive</p> | <p>Political will is required to ensure that the bail and sentencing guidelines are enforced. Guidelines in themselves are good, but they need to have force of law. Otherwise it will be subject to the discretion of the magistrate and judges who will decide on their own whether to be bound by the guidelines or not.</p> <p>The proposed draft of the Criminal Procedure bill, if accepted and passed by parliament without modification by the office of the Attorney General and Minister of Justice, will be ranked as one of the most progressive criminal procedure codes in the world.</p> |

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| | <p>human rights provisions and offers alternatives to imprisonment and excessive detention.</p> <p>Some of the provisions address suspended sentencing, alternative sentencing, community service and provisions guiding the wide and excessive discretion of magistrate and judges.</p> | |
| <p>It should further take appropriate action to ensure that convicted persons are not detained together with pre-trial detainees.</p> | <p>Government has taken steps to ensure the separation of prison inmates. There are currently two detention facilities available for female inmates only. One in the Capital Freetown and the other in Kenema. This has provided more space for ensuring that inmates are kept in separate categories.</p> <p>There are three juvenile facilities to ensure that juveniles are physically separated from adults. One juvenile facility, situated at the Kingtom, is exclusively for juvenile inmates on pre-trial detention. The other one is the Approve School Juvenile Home, which is exclusively meant for the detention of juvenile offenders.</p> <p>In the effort to ensure that convicted persons are not detained together with pre-trial detainees, the government has rehabilitated the Mafanta prison facility for the exclusive detention of convicted inmates.</p> | <p>Despite government's efforts to ensure that male and female inmates are held in separate detention facilities, in Kono prison facilities, male and female inmates continue to be held together, sharing the same living space especially during the day, with no physical separation.</p> <p>The rehabilitation of the Mafanta prison provided more spaces to ensure that convicted persons are not detained together with pre-trial detainees. However, all other prison facilities are crowded with both convicted and pre-trial detainees. There is no physical separation and they are all kept in the same cells and blocks.</p> |



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