

SIERRA LEONE

**Continuing human rights
violations in the post conflict
period**

*Amnesty International
Submission to the UN Universal
Periodic Review, May 2011*

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INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review of Sierra Leone in May 2011, Amnesty International expresses concerns in relation to the overall human rights situation, in particular challenges within the justice sector and the police, violations of children's rights, gender based violence, and maternal mortality and morbidity. Amnesty International is also concerned about impunity for past human rights violations, and political-ethnic violence.

OVERALL HUMAN RIGHTS SITUATION

Faced with vast post-war challenges, the government has made great strides in rebuilding institutions and infrastructure, promoting development, providing basic health and education, and respecting its citizens' rights, as seen most recently in the second poverty reduction strategy in the Agenda for Change. Progress on the legal front has been made with the Chieftaincy Act, Child Rights Act, Domestic Violence Act, Registration of Customary Marriage and the Divorce Act, and the ratification of the Convention on the Rights of Persons with Disabilities. Capacity building of civil society organizations and government officials has proven crucial in many sectors. The Anti-Corruption Commission successfully engaged in hard-hitting work. Its high-profile cases include a former ombudsman; the Minister for Health; a magistrate; and a high court judge. Moreover, the justice sector has improved since the end of the war with human resource development and infrastructural improvements. Significant progress was also made in implementing a post-war reparations program.

However, despite important progress on many fronts, Sierra Leone is plagued by corruption; poverty-related socio-economic rights violations; violence against women; violations of children's rights; impunity for past crimes against humanity; justice system weaknesses; non-implementation of crucial Truth and Reconciliation Commission (TRC) recommendations; and the looming threat of ethnic violence. The absence of a clear land policy, appropriate demarcation of land, proper registration of land and record keeping has caused disputes and violent attacks, fuelling tensions between returned refugees and resettled IDPs over land.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

JUSTICE SECTOR CHALLENGES AND GROSSLY INADEQUATE PRISON CONDITIONS

The justice sector has seen a number of improvements, including new magistrate courts, a child-friendly court in Freetown, plans for a commercial court, new prosecutors, magistrates, and judges; specialized training for key actors on case management, juvenile justice, judicial administration, organized crimes and corruption; Internet connection and computer facilities provided to all magistrates

and judges; a law court library completed; electronic filing of all judgments of the Supreme Court now in progress; bail policy guidelines and multiple key manuals adopted.

However, major challenges in the justice sector include the fact that the law reform process, which encompasses constitutional review, is making little progress. In addition, the process makes little reference to the TRC recommendations, and does not amend discriminatory provisions of the Constitution. Beyond legal frameworks, the justice system faces an acute shortage of magistrates; delays; overloaded State counsels; inadequate prosecutorial capacity; delays in the appointment of local court chairmen; and capacity constraints, all of which directly impact Sierra Leoneans' access to justice.

Prison conditions remain grossly inadequate. Despite improvements in prison conditions, prisons are still plagued by overcrowding, lack of supplies, inadequate medical treatment and food, prolonged pre-trial detention, and detention of juveniles with adults. All of these problems combine to make detention in Sierra Leone a dangerous and occasionally lethal experience, which often amount to the level of cruel, inhuman or degrading treatment or punishment.

POLICE: BRUTALITY, CORRUPTION, AND FEW EFFECTIVE INVESTIGATIONS

Police brutality, corruption, excessive use of force, prolonged detention without charge for periods beyond the lawful detention period, and poor conditions of police detention cells, are all commonplace. Extrajudicial killings by police that occurred in the Lungi incident of September 2009, wherein three people were shot dead and at least 13 others were injured, remain unresolved. Police are often ineffective in maintaining law and order. Investigations into ritual murders and sexual and gender based violence are overwhelmingly characterized by poor investigations, few prosecutions, out of court settlements and interference by traditional leaders, despite some improvements with the Family Support Unit of the Sierra Leone Police.

CHILDREN'S RIGHTS ABUSED

Children face serious violations of their rights in many domains. Thousands of Sierra Leone's children experience gross violations of their basic rights in diamond mines and other ultra-hazardous sectors. Denied an education, thrust into gruelling and dangerous work without health care or basic protections, they suffer with no recourse. Some children in this hazardous industry die in collapsing pits or other mining accidents. Others are scarred for life from the back-breaking work and suffer illness as a result. The government has failed to live up to its obligations under domestic legislation and international treaties to protect Sierra Leonean children from the worst forms of child labour and guarantee their human right to a healthy environment, to water, to health, to an adequate standard of living, and to education. Child diamond diggers are not the only ones whom the government has failed. Few government programs adequately address the special needs of war affected children and youth (orphans, unaccompanied IDPs, ex-child soldiers). Moreover, street children are vulnerable to a wide range of abuses, with few or no protections.

GENDER-BASED VIOLENCE

Domestic violence remains a widespread phenomenon. To date, only one case has

been prosecuted under the Domestic Violence Act 2007. Women's lack of access to the police, the exorbitant fees charged by medical officers and pressure to make out-of-court settlements all contribute to impunity for domestic violence and state inaction in this regard. In addition, some discriminatory customs continue to impede women's and children's rights such as female genital mutilation and forced or early marriage. The rape of minor girls and teenage pregnancies (by close relatives, schoolteachers, security personnel, etc) remains a problem, as does sexual exploitation, and gender discrimination in education.

MATERNAL MORTALITY AND MORBIDITY

Sierra Leone's President launched a "Free Health Care Service" for pregnant women, lactating mothers and children under five on 27 April 2010. The new programme to abolish health user fees reportedly costs \$90-million and is expected to cover 230,000 pregnant women and around one million children under five in 2010. Mothers and children are supposed to be able to access a package of medical care that includes all treatment and medicines at no cost, ensuring minimal essential quality of care for all. This constitutes a leap forward for a country at the bottom of the Human Development Index, with some of the worst maternal and child mortality rates in the world. The well-publicized Free Care policy galvanized broader reforms, becoming a lever for more far-reaching systemic reform of the entire health sector. Payroll cleansing ensured that thousands of irregularities were dealt with, including numerous ghost employees. A pay increase for doctors and nurses came out of a coordinated strike action by health professionals to achieve salaries commensurate with other West African nations. Some health professionals were trained to deliver the provisions of the Free Care policy and tackle corruption and extortion. The Anti Corruption Commission has been actively working on ensuring some accountability for this new service. However, the health system is broken, the launch of the policy was ill-prepared, and resources were inadequate.

The launch of the Free Care policy triggered a massive influx of women and children, who could then not be appropriately cared for. Many drugs ran out in a number of places; consumables completely ran out in most places; patients waited too long in difficult conditions. Months after the launch, water and electricity; equipment; ambulances; and the lack of blood banks are still major problems nationwide. Target beneficiaries continue to be charged in many places for services and drugs. Moreover, many factors that drive maternal mortality and morbidity remain unaddressed, such as unsafe abortions, female genital mutilation, early marriage, and the lack of sexual and reproductive education.

IMPUNITY, JUSTICE, AND THE WORK OF THE SIERRA LEONE SPECIAL COURT

The trial of former Liberian President Charles Taylor before the Special Court for Sierra Leone (SCSL) in The Hague is ongoing. To date, the Court has convicted eight men. The few trials before the Court have contributed to partial disclosure about the serious crimes committed in Sierra Leone over the armed conflict since 1996. However, it is striking that less than a dozen of those responsible for hundred of thousands of human rights violations are brought to justice. Most perpetrators remain unpunished. The Lomé Accord still provides an absolute and free pardon for all those responsible for crimes under international law committed in Sierra Leone, such as crimes against humanity and war crimes. That amnesty provision contained in the Lomé Accord is not a bar to prosecution before the SCSL,

but it is still enforced under Sierra Leone law. Therefore, despite the few trials before the SCSL, no other investigation or trial before national courts of Sierra Leone are taking place. In sum, impunity is still the rule in Sierra Leone. Concerns also continue regarding the SCSL's inaccessibility to the public, overspending, mismanagement, slowness, selective justice, inadequate legacy programs (to rebuild a broken local justice system and strengthen local institutions), and impunity for corporate actors. In 2010 the SCSL began implementing a policy to restrict access to its archives, which may hinder the ability of prosecutors in Sierra Leone, Liberia, the Netherlands and elsewhere, to benefit from the SCSL's archives and pursue war criminals in other jurisdictions.

POLITICAL-ETHNIC VIOLENCE AND ASSOCIATED HUMAN RIGHTS VIOLATIONS

Political and ethnic violence between supporters of the two main political parties, Sierra Leone People's Party (SLPP) and the All People's Congress (APC), looms large as Sierra Leone gears up for elections in 2012. Inter-party violence, opportunistic criminal activity, and accompanying human rights abuses were elements of the last contested election, and there is great potential for abuses during the next elections. This is due to the resurgence in identity politics and the sharpening of party divisions along APC and SLPP lines. In apparent celebration of the APC victory in 2007, hundreds of young people vandalized the National Secretariat of the SLPP. The SLPP newspaper, radio station, and the homes of several leading SLPP members were attacked. Ensuing mayhem brought Freetown to a halt for days. Some police were spotted looking on at abuses and taking no action. The APC leadership was slow to condemn outrages. Although a subsequent judicial commission to look into the electoral violence and human rights violations did find that abuses took place, the commission did not make determinations on associated rape allegations and failed to recommend appropriate action against identified perpetrators. Moreover, no action was taken on a government-appointed panel to review the commission's report. Additional violent political clashes occurred in provincial towns since the 2007 elections, often preceded by visits from high-profile party leaders and activists. Youth supporting the SLPP, the PMDC, and the APC clashed throughout 2009 and again in the summer of 2010. In July 2010, the army was deployed in Kenema district as a pre-election precautionary measure.

A recent initiative to launch a Commission of Inquiry into the alleged 1992 extra-judicial execution of 26 people by the National Provisional Ruling Council junta has increased ethnic-political antagonism, already exacerbated by the current APC government's replacement of roughly 200 high-level government mostly Mende professionals from the Southern and Eastern provinces with largely Temne Northerners. The primarily Mende SLPP has embraced regional and ethnic overtones as a campaign strategy, and a combustible fault line is magnifying between APC youth and chiefs or elites supporting the SLPP in places like Kono and Pujehun Districts. Perceived ethnic and political biases in the police and army have also produced inflammatory and corrosive results. Doubts have been raised about army independence, and tensions are emerging in the ranks. The ruling APC has co-opted 'youth leaders' and recruited a number of ex-militia combatants – some already implicated in serious attacks on political opponents – to join the Operational Support Division of the police. If this practice continues, it may inspire the SLPP opposition to similarly tap into thousands of resettled ex-RUF and ex-CDF, posing a grave threat to the country's medium and long-term security.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government:

Abuses by police and other security forces:

- To instruct the security forces to always act in compliance with international human rights law. They must respect the right to life, end torture and other inhuman and degrading treatment of suspects;
- To suspend from duty members of the security forces reasonably suspected of having committed offences under international law or other human rights abuses, until allegations against them have been independently and impartially investigated.

Ethnic-political violence and associated human rights violations:

- To uphold freedom of expression and assembly, including in the context of future electoral campaigns;
- To invite the UN Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance to visit Sierra Leone;
- To end impunity and investigate, try, and punish those culpable for political-ethnic violence and human rights violations during the 2007 elections and thereafter;
- To investigate and punish incidents of political violence involving sexual violence, so that rape does not become a political weapon, as it was during the war.

Justice for serious past crimes

- To establish a comprehensive plan of action to investigate and prosecute all crimes committed in Sierra Leone for which impunity continues to exist;
- To bring to justice those suspected of having committed extrajudicial executions, torture, ill-treatment, rape and other grave human rights violations, in accordance with international standards of fairness ;
- To ensure that the victims of human rights violations and their families can obtain full reparation in the form of restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition;
- To evaluate the government's track record and make public its progress on implementing the TRC recommendations so far and publicly commit to further implementations in the future;
- To enact legislation to make war crimes and crimes against humanity crimes under national law.

Maternal mortality and morbidity

- To end harmful practices such as female genital mutilation and early marriage and to combat discrimination against women that prevents them from making key decisions on their health;
- To improve access to confidential family planning services and sexual and reproductive health services, and to promote women's right to decide whether, when and how many children to have;
- To guarantee the availability and quality of maternal healthcare services: to address shortages of blood, skilled medical personnel and supplies, and poor health infrastructure or facilities, ineffective referral systems, and inequitable distribution of equipment and medicines;
- To retain skilled health professionals by offering them competitive conditions – particularly to go to under-served areas of the country to ensure equitable access to health;
- To reinforce transparency, information sharing, monitoring, and accountability by committing to regular payroll cleansing; monitoring and investigating shortcomings in the national health systems; responding to allegations of corruption, abuse of patients, non-availability of drugs, systematic malpractice, or other challenges with the support of a facility-level or investigative authority (which must be accessible, independent, well-resourced, and transparent, with a strong mandate, able to recommend remedies to improve delivery of health services.)
- To make complaint mechanisms available and inform patients about their right to redress;
- To commit to conducting timely district-level investigations into maternal deaths, to using “UN process indicators” to monitor the availability, utilization and quality of emergency obstetric care, and to improving reporting of deaths, including through civil registration systems;
- To accurately collect and report data on maternal mortality and morbidity;
- To engage with doctors, nurses, and other health professionals to ensure their active participation and full, informed, prior consent in reforms around pay, health/safety and working conditions;
- To address the effect of unsafe abortions on maternal mortality, reducing the incidence of unsafe abortions, including by providing safe abortion services to the fullest extent of the law.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Sierra Leone: Investment in the health sector needed to implement free care policy, 16 November 2009, AI Index: AFR 51/014/2009

Sierra Leone: End maternal mortality – join our campaign, 24 September 2009, AI Index: AFR 51/006/2009

Sierra Leone: Out of reach – the cost of maternal health in Sierra Leone, 21 September 2009, AI Index: AFR 51/005/2009

Sierra Leone: Lives cut short – make pregnancy and childbirth safer, 27 May 2009, AI Index: AFR 51/001/2009

Sierra Leone: President Koroma must commute all death row prisoners, 26 April 2009, AI Index: AFR 51/003/2009

Sierra Leone: Getting reparations rights for survivors of sexual violence, 1 November 2007, AI Index: AFR 51/005/2007

Sierra Leone: Women face human rights abuses in the informal legal sector, 15 May 2006, AI Index: AFR 51/002/2006

Sierra Leone: Special Court for Sierra Leone: Issues for consideration regarding the location of the trial of Charles Taylor, 3 April 2006, AI Index: AFR 51/005/2006

¹ All of these documents are available on Amnesty International's website:

<http://www.amnesty.org/en/region/sierra-leone>

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