



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Initial reports of States parties due in 2002**

**Sierra Leone<sup>\*,\*\*</sup>**

[19 February 2013]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

\*\* The annex to the present report may be consulted in the files of the secretariat.

## Sierra Leone's initial to date report<sup>1</sup>

### I. Introduction

#### A. Background

1. Sierra Leone is a small coastal country located on the west coast of Africa covering an area of 71,620 square kilometres. It is bounded on the north and northeast by the Republic of Guinea, on the west by the Atlantic Ocean and on the east by the Republic of Liberia. Sierra Leone, Guinea, Liberia and Cote d'Ivoire together form the Mano River Union.

2. The country is divided into four administrative units constituting the Southern, Eastern and Northern provinces and the Western Area. There are twelve districts and one hundred and forty nine chiefdoms. The chiefdoms are under the control of traditional leaders called Paramount Chiefs and their sub-chiefs. The division of the country into these administrative units is meant to provide better control and governance. There are also local government bodies in the district and city councils which compliment the efforts of the central government in providing basic amenities to their localities. Freetown is the capital city of Sierra Leone.

3. Sierra Leone is a Republican State with a democratically elected executive president and a unicameral Parliament. It is a Constitutional democracy wherein the Constitution of 1991 serves as the highest law of the land guaranteeing that any act of Parliament or other law that is inconsistent with the Provisions of the same are declared null and void. The present system of government in Sierra Leone as established under the Constitution of Sierra Leone 1991, Act No. 6 of 1991, is comprised of three branches of government: the Executive, the Legislature and the Judiciary. Each arm of government is distinctly provided for in the 1991 Constitution without reference to the other, however, the Constitution provides for checks and functional overlaps among the branches of government to ensure good governance and order in society.

4. Sections 53 of the 1991 Constitution provides for the Executive authority in Sierra Leone. The Executive function includes the initiation of legislation, the maintenance of law and order, and the promotion of social and economic welfare. Additionally, the Executive Branch is charged with the administration of the State, though some public services are initiated through local government bodies, as well as independent statutory bodies.

5. Supreme executive authority rests in the President and members of his cabinet, as granted under Section 40 of the Constitution. The President is the head of state, the head of the government, and the commander-in-chief of the Republic of Sierra Leone Armed Forces. The President appoints and heads a cabinet of ministers, who must be approved by Parliament. The President is elected by popular vote limited to a maximum of two five-year terms.

6. Section 73 of the Constitution provides for the establishment of Parliament, while Section 105 vests Parliament with supreme law making authority. Parliament may make laws for the peace, security, order and good governance of Sierra Leone. The Sierra Leone Parliament is unicameral. Parliament consists of the President, the Speaker and members. Sierra Leone has a multiparty system of government with 124 parliamentary seats of which

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<sup>1</sup> November 2012.

112 are elected members and 12 are Paramount Chiefs. Ordinary members are elected through universal adult suffrage whereas the Paramount Chief Members, each of who represents one of the twelve provincial districts, are elected by Electoral Colleges.

7. According to Section 120(2) of the Constitution, the Judiciary has jurisdiction over all civil and criminal matters and such other matters conferring jurisdiction on it by Parliament or under an Act of Parliament. As per Section 105 of the Constitution, the judicial powers of the country are vested in the Judiciary of which the Chief Justice shall be the Head. The Judiciary interprets the law of the land and shall deal with all civil and criminal matters including matters relating to the Constitution. The Constitution requires that the Judiciary be independent, fair and just in the dispensation of justice.

## **B. Political structure**

8. Following the re-introduction of multi-party democracy and the holding of the first post-conflict elections in 2002, Sierra Leone has witnessed an exponential growth in political socialization and pluralism, as well as a steady expansion of the political space leading to a greater freedom of choice and association and a significant increase in the free exercise of political rights and engagement among the citizenry.

9. There are approximately 18 political parties in Sierra Leone, depending on the state of political affairs. These were reduced to nine officially recognized political parties following a re-registration exercise undertaken by the Political Parties Registration Commission (PPRC). During the current electoral cycle i.e. 2007-2012, three parties have constituted the majority of political affiliation in Sierra Leone: the All People's Congress (APC) which is the present ruling party, the Sierra Leone's People's Party (SLPP) and the People's Movement for Democratic Change (PMDC). The APC currently has 59 seats in Parliament, the SLPP has 43 seats, and the PMDC has 10 seats.

10. The participation of women in the political landscape of Sierra Leone is awakening. However, the Truth and Reconciliation Commission's recommendation that women should reach 30% representation in politics is yet to be realized. Currently, women make up only 14% of Parliament. Additionally, out of a total of 1,324 candidates that contested for local government elections in 2008, only 224 were women (16.91%). This, nonetheless, represented a significant increase in women's participation compared to previous elections, and a step forward for Sierra Leone.

11. As part of its commitment to human rights values and the rule of law, Sierra Leone has ratified seven of the core UN human rights treaties and their optional protocols. Sierra Leone is a State Party to:

(a) 1966 International Covenant on Civil and Political Rights (ICCPR) and to the 1966 International Covenant on Social, Economic and Cultural Rights (ICESCR) since 23 August 1996;

(b) 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) since 2 August 1967;

(c) 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since 11 November 1988;

(d) 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) since 25 May 2001;

(e) 1989 Convention on the Rights of the Child (CRC) since 18 June 1990;

(f) Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1);

(g) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC);

(h) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC) since 15 May 2002;

(i) Convention on the Rights of Persons with Disabilities, 2008

12. Sierra Leone has not yet signed the second optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty that was adopted on 15 December 1989. The death penalty remains part of the laws of Sierra Leone; however a de facto moratorium on executions exists and commitment towards expunging it was made during the Universal Periodic Review Process.

13. Sierra Leone has not yet signed the 1999 Optional Protocol to the CEDAW, concerning individual complaints and inquiry procedures, nor has Sierra Leone signed the 2002 Optional Protocol to the CAT, concerning regular visits by national and international institutions to places of detention.

14. Sierra Leone has also not yet ratified the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the United Nations in 1948.

## II. General information

15. Being a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Sierra Leone is obligated under article 19(1) to "...submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request."

16. Having in mind the definition set out in article 1 of the Convention: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

17. The State is a democratic Republic with the Constitution<sup>2</sup> as its primary source of law. In section 20(1) it reads: "No person shall be subjected to any form of torture or any punishment or other treatment which is inhuman or degrading." Seeing that torture has been prohibited in all jurisdictions for which the Constitution is applicable those category of persons liable to perpetrate torture have been guided by statutes/policies giving effect to this protection guaranteed by this grand norm.

18. As a party to the ICCPR, ICESCR and many other core international instruments, as well as having emerged from a history of human rights abuses during the country's civil war, Sierra Leone is in a unique position to recognize the importance of adherence to a human rights framework. As a result, there are currently a number of legal mechanisms in

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<sup>2</sup> Act No. 6 of 1991.

place to guarantee and promote human rights, including civil and political rights, economic, social and cultural rights and the many other rights which are essential to a free and just society. Specifically, these rights are firmly embedded and contained in the highest law of the land, the Constitution of Sierra Leone 1991, Act no.6 of 1991. Chapter II outlines the fundamental principles of state policy whilst Chapter III guarantees the recognition and protection of fundamental human rights and freedoms of the individual.

19. Sierra Leone is party to the following Geneva Conventions and other treaties on international humanitarian law:

(a) Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949, since 31 May 1965;

(b) Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949, since 31 May 1965;

(c) Geneva Convention (III) relative to the Treatment of Prisoners of War, 1949, since 31 May 1965;

(d) Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949, since, 31 May 1965;

(e) 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), since 21 October 1986;

(f) 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II), since 21 October 1986;

(g) Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, since April 2001.

20. The Judiciary of Sierra Leone consists of the Supreme Court, the Appeals Court, the High Court, and Magistrate Courts. There are also Local Courts which administer customary law in the Chiefdoms.

21. The Constitution in section 121(1) provides that the Supreme Court shall consist of the Chief Justice and not less than four justices of the Supreme Court and such other justices of the superior court of judicature. The Chief Justice shall preside at the sittings of the Supreme Court and in his or her absence the most senior of the justices of the Supreme Court shall preside with a minimum of three justices to form a quorum. The Supreme Court is the final Court of Appeal in Sierra Leone. It has original jurisdiction to the exclusion of all other courts with regards to the enforcement or interpretation of the constitution and where any question arises whether an enactment of law was made in excess of the judicial powers conferred upon Parliament or any other authority or person by law under the constitution. The Supreme Court is not formally bound by previous Supreme Court decisions.

22. The Court of Appeal is provided for under Section 128(1) of the Constitution. It consists of the Chief Justice and not less than seven other justices of the Court of Appeal and such other justices of the superior court of judicature as the Chief Justice may direct. It is duly constituted by three Justices. A single Justice of the Court of Appeal may however exercise any power vested in the Court of Appeal not involving the decision on any cause or matter before the Court of Appeal except in a criminal matter. Where any Justice refuses or grants an application in exercise of their power, any affected person is entitled to have the application determined by the constituted court of the whole. Under Section 129(1) of the Constitution the Court of Appeal has jurisdiction as the second highest court to hear and determine appeals from any judgment, decrees or order of the High Court in addition to any

other appellate jurisdiction as may be conferred upon it by the Constitution or any other law. The Court of Appeal is bound by its previous decisions and Courts inferior to it are bound on questions of law as provided by Section 128(3) of the Constitution.

23. Section 131(1) of the Constitution provides that the High Court shall consist of a Chief Justice, and not less than nine High Court Judges and such other judges of the superior court of judicature as the Chief Justice may for the determination of any particular cause or matter, request to sit in the High Court for such periods as the Chief Justice specifies or until such request is withdrawn. One Judge is sufficient to constitute the High Court. The High Court of Justice has supervisory jurisdiction over all inferior traditional Courts in Sierra Leone and any adjudication authority and in the exercise of its supervisory jurisdiction shall have power to issue Directions, Writs and Orders, including the Writs of Habeas Corpus, and other writs of certiorari, mandamus and prohibition as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

24. The lower courts are represented by the Magistrate Courts, which deal with civil and criminal matters at the lowest level. There are magistrate courts in all twelve judicial districts in Sierra Leone. Pursuant to Sec 4 of the Courts Act, 1965, Act No. 31 of 1965, Magistrate Courts shall be constituted in all judicial districts. Section 8 of the Act provides for the Magistrate Courts powers and jurisdictions.

25. There are also Local Courts, which administer customary law in the chiefdoms. The Local Courts Act 2011 continues to provide for their jurisdiction and brings them squarely under the Judiciary of Sierra Leone where previously they sat under the Ministry of Local Government and Rural Development.

26. Section 170(1) of the 1991 Constitution outlines the legal structure of Sierra Leone. The laws of Sierra Leone comprise constitutional law, the common law, equity, statutory law and customary law. The Constitution is the supreme law of the land and all other laws are derived from it and must conform to it. There are two broad divisions of laws based on the British common law and the local customary law for the chiefdoms. Sierra Leone inherited the common law and equity from Britain who instituted a common law system as Sierra Leone's prior colonial ruler. Section 74 of the Courts Act 1965 provides that subject to the provisions of the Constitution the common law and statute of general application in England before the 1st day of January 1880 shall automatically be part of the common law of Sierra Leone. Legislation made by Parliament forms part of the laws of Sierra Leone. Delegated legislation, defined as legislation made by subordinate bodies entrusted with certain powers by Parliament to make rules, regulations, orders and by-laws, is also part of the laws.

27. Statutory Law in Sierra Leone is divided into two categories: those laws adopted from England and those laws enacted by the Sierra Leone Parliament. After 1961, the Sierra Leone Parliament has been solely responsible for the enactment of statutes. The Interpretation Act No. 8 of 1971 governs the interpretation of statutes.

28. Customary law is defined as the rules of law by which customs are applicable to particular communities in Sierra Leone (chiefdoms). Customary law is largely unwritten and it varies within different communities. Customary law is taken to include Islamic law. Its validity is based on the community's acceptance of it as a binding obligation. The Constitution provides that customary law does not prevail if it is in conflict with natural law, equity and good conscience. Section 170 (4) provides for existing laws as part of the written and unwritten laws of Sierra Leone.

29. In response to the challenges faced by the Judiciary, the President of the Republic in 2008 constituted a Presidential Task Force to look into the challenges facing the justice sector and advance recommendations for its improvement. Currently the Government is

implementing the Justice Sector Reform Strategy and Investment Plan II 2011-2014. As part of the ruling party's campaign manifesto in the run up to the 2007 elections, the current President expressed his intention to separate the Office of the Attorney General from the Ministry of Justice, a key recommendation of the TRC. Though an important step towards ensuring an independent Judiciary, this recommendation is yet to be realized.

30. Capacity constraints of the Ministry of Justice and Law Reform Commission still remain a serious concern.

31. The enforcement agencies, police and military, are promulgated by the Constitution in section 155 and 165 respectively. Both enforcement agencies report to respective Councils made up of ex-officio members and members of the public that act as checks and balances in giving effect to the Constitution and its provisions, including section 20(1).

32. Bearing in mind the strict definition of the word torture<sup>3</sup> as prescribed in the Convention, this report will focus on those persons that are liable to commit torture and those who are likely victims as depicted in article 10.

### III. Commentary on articles 1–16 of the Convention

#### **Commentary on article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

33. Article 1 (1) has been encapsulated in the Constitution of Sierra Leone, Act No.6 of 1991, in section 20 (1): "No person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading." Any and all violations of the Constitution are prosecuted by the High Court of Sierra Leone either through the Attorney General's office or by private prosecutions. Section 170 of the Constitution declares that it is the primary law of the land and its provisions are not affected by any enactment adversely but will be in conformity or give effect to it.

34. Using the broad group for the sake of this report there are enactments that either act in conformity with the Constitution in guaranteeing the protection afforded in section 20, or giving effect to it<sup>4</sup>.

#### **Commentary on article 2 of the Convention**

35. This article mandates States to effectively ensure that torture is prohibited with no derogation.

36. Sierra Leone has ensured the prohibition of torture by enshrining it in Chapter 3 of the Constitution<sup>5</sup>. Aside from this legislative measure it has gone further in ensuring prohibition with several administrative policies/ordinances.

<sup>3</sup> For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

<sup>4</sup> Act No.6 of 1991, The Armed Forces of the Republic of Sierra Leone (Amendment) Act No.13 of 2000, Police Act No.7 of 1964, any profession that swears to an oath.

<sup>5</sup> Section 20 (1), Constitution.

37. Using the definition given to us in article 1(1) we are guided that the perpetrators of torture can be classified into the following broad categories for the sake of this report: Police including Chiefdom Police Officers), Army, Prisons, Judiciary and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

38. All groups in this classification are guided by rules that prohibit torture and/or inhuman or degrading treatment either expressly or impliedly. The Prison Rules which was promulgated under the Prison Ordinance Act 1961 contain a number of provisions that are consistent with minimum international standards however, like most legislation in Sierra Leone it is old and sometimes inadequate lacking contemporary standards. The Prison Rules sets out in Part V and VI the treatment of prisoners and discipline of prisoners respectively with strict adherence to minimum international standards<sup>6</sup>. After a comprehensive review of the Prisons Service was done and recommendations for improvement approved by Cabinet; a new Sierra Leone Correctional Services Bill has been prepared and is waiting enactment.

39. The judicial measures taken to prohibit torture are through the establishment of the Judicial and Legal Service Commission mandated by the Constitution<sup>7</sup> with necessary powers to ensure disciplinary control over persons with offices that vest under this Commission<sup>8</sup>.

40. The Sierra Leone Military Forces Act 1961 guarantees the right given by section 20 of the Constitution by asserting in section 68 that any person subject to it who acts in a disgraceful conduct of a cruel indecent and unnatural kind is guilty of an offence punishable by imprisonment.

41. The guarantee given in section 20 of the Constitution is non-derogable as intended by article 2(2) however; there have been some isolated instances of torture perpetrated by members of the classes listed above.

42. During the more recent military coup regimes of the National Provisional Ruling Council (NPRC) [1992-1996] and the Armed Forces Revolutionary Council (AFRC), [1997-1998] there were serious allegations of torture by military personnel against civilians. Both regimes suspended the Constitution during their tenure of rule.

43. The rules governing the different classes do not preclude an officer from liability of torture if he invokes superior orders as his defense. Even though the rules are not contemporary they are clear as to the minimum standards.

44. Notwithstanding the Constitutional protection afforded, the Human Rights Commission of Sierra Leone was established by an act of Parliament in 2004 with a mandate to promote and protect human rights by policing and investigating violations and ensuring that there is redress in the case of a/any violation/s. This has been an exalted institution as it was awarded A accreditation by the International Coordinating Committee of the Human Rights Council for its exemplary work in the field.

### **Commentary on article 3 of the Convention**

45. Sierra Leone promulgated the Extradition Act No.11 of 1974 which is responsible for extradition or return/"refouler" of persons to another State. This act affords the Attorney

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<sup>6</sup> The Prisons (No. 2) Rules, 1961

<sup>7</sup> Section 140 (1), Constitution

<sup>8</sup> Section 141, Constitution



–General and his office powers to act upon a request for extradition<sup>9</sup> the Attorney-General is obliged to be satisfied with the authenticity of the request and in compliance with section 2 which relates to public policy<sup>10</sup>, section 15 which is applicable to Commonwealth countries<sup>11</sup>, section 22 which is applicable to Republic Guinea<sup>12</sup> and section 23 which is applicable to those countries listed in the Third Schedule of the Act.

46. If a fugitive is brought for extradition he can look to section 7 as a means of challenging the decision. Such a fugitive, if he is apprehended on an Order or Warrant shall be taken to the High Court for his cause to be heard as to why he should not be extradited. However, if such a fugitive is on a provisional warrant he can be discharged by a Judge in the High Court if the matter has lapsed within reasonable time and the Attorney-General has failed to produce any request for extradition of such fugitive. When he is taken to a Judge for his cause to be heard, he can do so as if it were a trial.

#### **Commentary on article 4 of the Convention**

47. Section 20 of the Constitution guarantees protection from torture and inhuman or degrading treatment, this falls under Chapter 3 of the same. In 2004 Act No. 9 of 2004 was promulgated establishing the Human Rights Commission of Sierra Leone with a mandate to protect and promote human rights. In carrying out their duties section<sup>13</sup> 8 empowers the Commission to investigate all matters under its jurisdiction with the same powers vested in the High Court Judge to enforce attendance of witness/witnesses, examine witness under oath, compel full disclosure and issue a request for examination outside of the jurisdiction.

48. The proceedings of the Commission are guided by the Rules of Court and they have powers to issue or make orders or directions to enforce its decision including measures to protect life and safety of an individual; power to refer to the High Court any person who refuses, without justifiable cause, to comply with a decision, direction or order of the Commission within a given time. Further, any person dissatisfied with its decision, directive or order may apply to the Supreme Court against such<sup>14</sup>.

<sup>9</sup> Section 4.

<sup>10</sup> Section 2 (1) No extradition shall be granted...appears to the Attorney-General to be contrary to the public policy of Sierra Leone to do so. (2) ...the expression “public policy of Sierra Leone” shall be taken to include – (a) the interests of security, public order and good morals; and (b) fundamental human rights and the principles of humane treatment generally accepted among civilized nations.

<sup>11</sup> Section 15 (1) Section 2 shall not apply to cases under this part but extradition shall not be granted if in the circumstances of a particular case it appears to the Attorney-General that – (a) the offence is an offence of a political character; (b) the request for surrender although purporting to be made for a returnable offence was in fact made for the purpose of prosecuting or punishing any person on account of his race, religion, nationality or political opinions; or (c) the person returned may be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions; or (d) the case is of a trivial nature; (e) the accusation against the fugitive was not made in good faith or in the interest of justice; or (f) having regard to all the circumstances it would be unjust or oppressive or too severe a punishment to return the fugitive; or (g) the fugitive has been convicted of the offence of which he is accused and is neither unlawfully at large nor at large in breach of a condition of a license to be at large; or (h) the fugitive has been acquitted, whether within or outside the Commonwealth of the offence of which he is accused.

<sup>12</sup> Section 23(a) extradition shall be granted only in respect of a crime which – (i) falls within one of the categories of offences listed in the Fourth Schedule; and (ii) corresponds to a crime punishable in Sierra Leone with imprisonment of a term of twelve months or more; and (b) extradition shall not be granted for any offence which appears to the Attorney-General to be of a political character.

<sup>13</sup> Section 8: Human Rights Commission Act 2004.

<sup>14</sup> Section 8 (3): Human Rights Commission Act 2004.

49. The Commission can order in its report payment of compensation to human rights victims and/or their families or legal representatives and also award costs in some cases.

50. The Commission can, or through a legal counsel appointed with no less than five years at the Bar, intervene with leave of the Court in a matter over which it has competence but is limited to amicus curiae briefs in such a matter<sup>15</sup>.

51. The Commission shall have no jurisdiction in any said human rights violations under Chapter three of the Constitution if the said violation is pending or has already been decided by a court with competent jurisdiction<sup>16</sup>.

52. Sierra Leone has no codified system/Penal code therefore it laws, including criminal law; follow the declaration of section 170<sup>17</sup> of the Constitution. Any and all violations of this can be brought either by the State or by private prosecutions.

#### **Commentary on article 5 of the Convention**

53. Section 170 (1) (a)<sup>18</sup> declares the Constitution the primary law of the land which makes it application universal. The Human Rights Commission Act 2004 was promulgated from the Constitution giving effect to Chapter Three of the latter.

54. All violations of Chapter Three, especially section 20, can be brought as a matter of cause in the first instance to the High Court for prosecution either by private prosecution or through the office of the Director of Public Prosecutions.

55. The Human Right Commission can investigate with its High Court powers<sup>19</sup> any such violations and make necessary decisions/directives/order in its report knowing that they have enforcement powers.

#### **Commentary on article 6 of the Convention**

56. A person suspected of any violations under article and being a fugitive falls under the directive of the Extradition Act of 1974. The Fourth Schedule in article 27 allows the possibility of extradition on the grounds of torture.

57. The Attorney-General upon a request for extradition may issue an Order to apprehend the said fugitive. This Order will be an authority granting first instance appearance before a Judge or a Magistrate.

58. A Magistrate can issue a provisional warrant for the apprehension of such a person but must first act upon the certified copy of the original request, or dismiss the request in its entirety. This provisional order is made for the fugitive to be apprehended and brought before a Judge or Magistrate to determine why he should not be extradited. A Judge/Magistrate can discharge this provisional warrant if no further request is made by the Attorney-General confirming the request for extradition.

59. A fugitive can be remanded or granted bail following appearance before a Judge which will take the form of a trial with the Judge deciding on the merits as to whether the request is for an offence covered by the Extradition Act of 1974.

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<sup>15</sup> Section 12: Human Rights Commission Act 2004.

<sup>16</sup> Section 16: Human Rights Commission Act 2004.

<sup>17</sup> The Laws of Sierra Leone.

<sup>18</sup> Constitution.

<sup>19</sup> Section 8: Human Rights Commission Act 2004.

### **Commentary on article 7 of the Convention**

60. All offences listed under the Extradition Act are offences punishable under the criminal laws of Sierra Leone: summary and indictable offences. Therefore should there be a case of a fugitive not being extradited he can be prosecuted; section 11 warrants that if an action is not taken as to extradition or return a Judge may upon application made to him by or on behalf of the fugitive order the criminal to be discharged out of custody unless cause is shown to the contrary. the Attorney-General must be given notice of this application to discharge as it is only then that the Judge can grant a discharge if no contrary cause is shown.

### **Commentary on article 8 of the Convention**

61. The law that governs the extradition of a fugitive is the Extradition Act of 1974<sup>20</sup>.

### **Commentary on article 9 of the Convention**

62. In this regard Sierra Leone has excelled: by signing the Rome Statute of the International Criminal Court it holds itself to the doctrine of reciprocity.

63. Further, upon the request of assistance of any State to the Attorney-General the latter is at liberty to cooperate with such a State as long as it does not go against the laws of Sierra Leone, "public policy", fundamental human rights and the principles of natural justice.

### **Commentary on article 10 of the Convention**

64. The general provision is the guarantee of section 20 in the Constitution. However, this guarantee is ensured by several rules, policies and ordinances.

65. In the training of law enforcement personnel within the Police Force they have a Police Training School-Recruit Manual<sup>21</sup> which ensures education on the prohibition of torture with the following: "A suspect should not be given any inhuman or degrading treatment, nor be subjected to torture or cruel treatment". CDIID. This Training Recruit Manual is undergoing further revision with the support of UN bodies in Sierra Leone so as to ensure that the right Human Rights standards are embedded in it.

66. The military law enforcement personnel are guided by International Humanitarian Law rules especially the Four Geneva Conventions and the Two Additional Protocol. Section 68 of the Armed Forces of the Republic of Sierra Leone (Amendment) Act No.13 of 2000 says: "Any person subject to military law under this Ordinance who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind shall...be liable for conviction for a term not exceeding two years".

67. Professionals who are likely to be involved in the interrogation, custody or treatment of any individual/s subjected to any form of arrest, detention or imprisonment are bound by oath to adhere to what is humane and ensconcing their professionalism with integrity. The medical personnel are so guided at the end of training to swear to such an oath and this applies also to the legal practitioners.

68. Prison Officers have benefitted from a lot of training on the Standard Minimum Treatment required for prisoners. A recent report released - Behind the Walls: An Inventory and Assessment of Prisons in Sierra Leone has brought out the fact that there has been

<sup>20</sup> See addendum for the text of this legislation.

<sup>21</sup> Paragraph 5, page 6, Revised in August 2003.

some education on the prohibition of torture and other cruel and inhumane or degrading treatment. This report assessed how the legal framework conforms to international standards and reported how solitary confinement is sometimes translated into inhuman treatment as the infrastructure of many prison facilities across the country does not allow section 35 of the Prison Rules to be in harmony with Rule 32 of the Standard Minimum Rules for the Treatment of Prisoners (UN SMR) which forbids punishment of a prisoner in a dark cell. The infrastructure has rendered this provision powerless as lack of electricity (even in proper cells) translates solitary confinement into confinement in a dark cell as cells used are often in darkness. The infrastructure also belies the provision in section 53 of the Prison Rules that prohibit discrimination especially with regards to the exercise prisoners in solitary confinement should get which is contrary to Rule 21 of the UN SMR.

69. The Truth and Reconciliation Commission (TRC) recommended that corporal punishment be abolished as even though section 73 of the Prison Rules and section 57 of the Prison Ordinance allow for corporal punishment it is by its very nature cruel and inhuman treatment. The Constitution in section 20 (2) actually sanctions this but it is in contravention of the international standards especially rule 31 of the UN SMR. What must be the fundamental principle is article 10 of the International Covenant on Civil and Political Rights which asks that all persons deprived of their liberty be afforded humane treatment preserving their respect and inherent dignity at all times.

70. Section 45 of the Prison Ordinance mandates labour for prisoners<sup>22</sup> without any mention of remuneration of any kind. The effect of this that prisoners are subjected to labour in government offices and private residences without any compensation which makes this labour of an afflictive nature contrary to Rule 71 and 76 of the UN SMR. The Sierra Leone Correctional Service Bill which has been prepared and is awaiting enactment in Parliament however abolishes sentencing with hard labour.

#### **Commentary on article 11 of the Convention**

71. The Constitution in section 17(2, 3) sets out the custody provision. At the time of the arrest the person so arrested/detained must be informed in a medium he understands the facts and grounds for his arrest/detention. He must be told at this time of his right to access a legal practitioner or anyone of his choice without delay and to communicate with such a person in confidence. Anyone who is arrested /detained if he is not released should be brought before a court of law within ten days from the date of arrest for capital offences or within seventy two hours for other offences. If he has been so arrested or detained he must be released at the times stated either unconditionally or conditionally.

72. Section 30 of the Prison Ordinance mandates the officer in charge of a prison to hold a prisoner in his custody by any court order or other competent authority and keep him according to the terms of the warrant until such a person is discharged by the due course of the law.

#### **Commentary on article 12 of the Convention**

73. All categories mentioned in article 10 have disciplinary bodies charged with investigating any allegation of torture and other cruel inhuman or degrading treatment and/or any other conduct contrary to those sanctioned by the same.

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<sup>22</sup> It states that every sentence of imprisonment whether the sentence was one of imprisonment within hard labour or simple imprisonment, passed upon any criminal prisoner, shall work as directed by the officer in charge.

74. The Sierra Leone Police has the CDIID (Complaints, Discipline and Internal Investigations Department) which is mandated to investigate and ascertain the veracity of any claim made to it by either the public or another member of the Force. Plans are also underway by the Government to establish an Independent Police Complaints Board. The Army has its Military Police Department which undertakes investigations of allegations on torture and other cruel and inhuman treatment and others. The Prison Ordinance gives power to any officer enquiring into a disciplinary action to enquire into and ask for the production for all documents or pieces of evidence relevant to such an enquiry.

#### **Commentary on article 13 of the Convention**

75. The police can act as the first point for any complaint under this article. If such a complaint concerns the police the complaint can go the CDIID. The office of the Ombudsman can be used in making any complaint of an administrative nature. This office was established by the Constitution in section 146 (with the enabling legislation passed in 1997)<sup>23</sup> to undertake investigations for any action taken or omitted to be taken by any department of Ministry of Government, statutory institutions set entirely or partly by public funds and any member of the Public Service.

#### **Commentary on article 14 of the Convention**

76. Once the full implementation of the Convention is rolled out this article will come fully into effect.

#### **Commentary on article 15 of the Convention**

77. There is no rule/s that implements this article.

#### **Commentary on article 16 of the Convention**

78. Sierra Leone has guaranteed the prohibition of torture in section 20 of the Constitution.

## **IV. Conclusion**

79. In researching and consulting for the production of this report several achievements, challenges and constraints were encountered. This report has very accurately captured the structures of the implementation of the CAT. A lot of credit must be given to the Constitution of Sierra Leone which has safeguarded the rights postulated in the Convention. As a State party, Sierra Leone will endeavour to discharge all its obligations under the same in the same as (mandated by the Convention) and when called upon to do so.

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<sup>23</sup> It states that every sentence of imprisonment whether the sentence was one of imprisonment within hard labour or simple imprisonment, passed upon any criminal prisoner, shall work as directed by the officer in charge.