

# AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS

INITIAL TO DATE FOLLOWING ARTICLE OF THE CHARTER REPORT

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# Table of Contents

<b>Item</b>	<b>Page No.</b>
I. Introduction	1
II. Background	
III. Domestication of the Charter	1-23
IV. Conclusion	23

## I. Introduction

*The African Charter on Human and Peoples' Rights prescribes in Article 62 that: "(...)each State Party shall undertake to submit every two years, from the date the Charter comes into force (for that State), a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter."*

Sierra Leone in 1983 ratified the African Charter on Human and People's Rights embracing a document that postulated the protection of citizens and avowed to assure the individual of their human dignity and integrity. This document proscribes that a report on the implementation of the same in to the domestic legal order. In this regard, the State has failed in its obligation; Sierra Leone has never submitted a report to the Commission entrusted with the task of ensuring that States discharge their obligations.

Sierra Leone has therefore fourteen reports outstanding that it must submit in the discharge of its obligation.

The lapse or failure to report has not been a disregard of the importance of the Charter; rather it has been as a result of serious domestic upheavals that threatened the very existence of the State. A respecter of international norms, relations and international law in itself the Sate has embarked on a rebranding process which will see it discharge all obligations accruing it in the shortest possible time.

This report is intended as its initial to date report with a view to sending all reports stemming from this as per the mandatory obligation.

## II. Background

Sierra Leone is a former British Colony which gained independence on 27<sup>th</sup> April 1961 under the Sierra Leone People's Party (SLPP).

In March 1967 Sierra Leone experienced a constitutional crisis due to disputes over the authenticity of election results. As a result, a series of *coup d'états* and counter-coups destabilized the government until March 1968, when the country returned to civilian rule under the All People's Congress (APC) led by Dr. Siaka Stevens. On 19 April 1971, Sierra Leone adopted a Republican Constitution. After a period of multiparty politics, in 1978 a one-party constitution was established. The 1978 constitution was overturned when a new multi-party constitution was adopted in 1991.

That same year saw the initial attacks by the Revolutionary United Front (RUF), led by Foday Sankoh. President Joseph Saidu Momoh was overthrown on 29<sup>th</sup> April 1992 by junior army officers called "the National Provisional Ruling Council" (NPRC). The NPRC ruled Sierra Leone until April 1996 when multiparty Parliamentary and Presidential elections were held. The SLPP, led by Ahmed Tejan Kabbah, won the presidency.

This democratic period was short lived as the Armed Forces Revolutionary Council (AFRC), led by Lt. Col. Johnny Paul Koroma, overthrew the newly elected SLPP government in May 1997 with the latter giving the RUF an open invitation to enter Freetown and join his government. President Ahmad Tejan Kabbah went into exile in Conakry, Guinea. The AFRC-RUF coalition remained in power for 10 months until dislodged by the Economic Community of West African States Monitoring Group (ECOMOG) forces under Nigerian command. The SLPP Government was reinstated in March 1998. On January 6, 1999 a mixture of AFRC and RUF fighters again re-entered Freetown attempting to force the Government out of power and civil strife and unrest ensued. The RUF looted and destroyed much of eastern Freetown before withdrawing after three weeks. Following an ECOWAS brokered peace accord in Lomé in 1999<sup>1</sup>, an uneasy peace returned to Sierra Leone.<sup>2</sup>

The war was officially declared over in 2002. That same year, the Government, as a result of an agreement with the United Nations, set up a Special Court to "prosecute persons who bore the greatest responsibility for the commission of serious violations of international humanitarian law and crimes committed under Sierra Leonean law".<sup>3</sup> Thus far, 13 people have been indicted out of whom 9 were prosecuted. The Court went further to set a precedence by convicting a sitting head of State, President Charles G. Taylor, with a 50 year sentence. The Special

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<sup>1</sup>The Lomé Peace Agreement was ratified by Parliament by Act No. 3 of 1999, Lomé Peace Agreement (Ratification) Act, found at <http://www.sierra-leone.org/Laws/1999-3.pdf>

<sup>2</sup>The 1999 Lomé Peace Agreement provided for the establishment of a Truth and Reconciliation Commission (TRC). The TRC was set up in 2002 "to create an impartial historical record of violations and abuses of human rights in international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered."<sup>2</sup> The TRC has completed its mandate, and published a report of its findings and recommendations in 2004. The report can be found at [www.sierraleonetr.org](http://www.sierraleonetr.org).

<sup>3</sup>The Special Court Agreement Act, Act No. 9 of 2002, section 47 found at <http://www.sierra-leone.org/Laws/2002-pdf>

Court is still in operation and is expected to close at the end of 2013 however there will be a Residual Special Court in operation for the immediate future after the<sup>4</sup>

Peaceful Presidential and Parliamentary elections were held in May 2002. President Kabbah of the Sierra Leone People's Party (SLPP) prevailed with over 70% of the vote and the SLPP won a large majority in Parliament. The next presidential elections were held in May 2007. President Ernest Bai Koroma won in a Presidential run-off election with 54.6% of the vote and the APC won a large majority in Parliament with 59 seats.

The civil war, social unrest and an unstable government led to disruptions in the social and economic life of the country. Over 20,000 people lost their lives and about two million people were displaced in addition to over half a million who fled to neighbouring states as refugees.<sup>5</sup> Consequently, the dual effects of poverty and a devastating civil war hampered government activities and weakened the government's capacity to fulfil its international reporting obligations to treaty monitoring bodies.

## **Land**

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.

The tropical climate supports a dense rainforest in the southern and eastern provinces. There are two distinct seasons in Sierra Leone. November to April is the dry season and May to October is the wet (rainy) season. Very dry winds arrive from the Sahara during the Harmattan period during the months of December to February.

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.

## **Population**

According to the World Bank, the 2008 population of Sierra Leone is approximately 5,560,000 people. The annual growth rate is 2.3 percent. As of 2007, 42% of the population was urbanized, and 58% lived in rural areas. The

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<sup>4</sup> The Residual Special Court for Sierra Leone Agreement (Ratification) Act, 2011

<sup>5</sup> Government of Sierra Leone Poverty Reduction Strategy Paper, 2005-2007, (2005) The Civil War and its Aftermath.

average annual growth rate of the urban population between 1990 and 2007 was 4.4%.<sup>6</sup>

**Table 1**

### Population Data

	2005	2007	2008
Population, total (millions)	5.11	5.42	5.56
Population growth (annual %)	3.6	2.8	2.5
Surface area (sq. km (thousands))	71.7	71.7	71.7

*Source: World Bank: World Development Indicators Database, April 2009*

**III. Table 2**

### Age Composition

Age group	Percentage
Persons aged below 15 years	34.7%
Persons aged 15-59 years	59.3%
Persons aged 60 years or older	6%

*Source: World Bank: World Development Indicators Database, April 2009*

The indigenous population is made up of 18 ethnic groups: Temne constitutes 30 per cent, Mende 30 per cent, Krio is about 1 per cent and the rest is spread over 15 other tribal groups: Kono, Limba, Susu, Mandingo, Fulla, Koranko, Yalunka, Kissi, Galines, Kroo, Sherbro, Vai, Loko, Gola, Bullum and Krim. In addition there are significant Lebanese and Indian minorities, and small groups of European and Pakistani origin.

### Language and Religion

The official language of Sierra Leone is English but the Krio language is widely spoken in the country. Sixty percent of the population constitute Muslims and thirty percent are Christians, while the remaining ten percent practice African traditional religions. Religious tolerance is at its highest where Muslims and Christians live side by side in peace. Freedom of religion is provided for by the Constitution.<sup>7</sup>

<sup>6</sup> UNICEF, The State of The World's Children 2009

<sup>7</sup> Sections 13 and 24, 1991 Constitution Act

### **III. Domestication of the Charter**

#### **Article 2**

*Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.*

#### **Legal framework**

In Act No.6 of 1991, which is the Constitution of Sierra Leone, section 15 of the same protects the fundamental human rights and freedoms of all individuals.

#### **General practice**

The abovementioned section in the Constitution offers protection in the same manner given by the Charter. It is all embracing as it provides for non-discrimination, guarantees fundamental rights and offers limitations in cases so needed with specific guidelines for any such limitation imposed.

Notwithstanding the Constitutional protection afforded, Act No. 9 of 2004 established the Human Rights Commission of Sierra Leone 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 for its exemplary work in the field.

It ensures that there are no derogations from the fundamental rights guaranteed under chapter three of the Constitution and even when there is it should follow the proviso set out by the same.

#### **Article 3**

*Every individual shall be equal before the law. Every individual shall be entitled to equal protection of the law.*

#### **Legal Framework**

The Constitution in section 23 guarantees equality before the law and equal protection of the law. It denotes that all persons charged with a criminal offence shall be tried by an impartial and competent court, and shall be permitted to defend himself in person or by a legal practitioner of his choice. In addition, a person so charged shall be afforded facilities to examine witnesses called to testify before a competent tribunal on his behalf, be permitted to have an interpreter if he cannot understand the language of the tribunal and shall be given adequate time and facilities for the preparation of his defence. Furthermore, such person shall be presumed innocent until proved guilty.

Other complementary legislations to the Constitution for the guarantee of equality before the law and by the law are the Criminal Procedure Act of 1965, Civil Procedure Act 2007, , what has been famously labelled “*the Gender Laws*” (inclusive of the Devolution of Estate Act 2007, the Registration of Customary Marriage and Divorce Act 2007 and the Domestic Violence Act 2007), the Chieftaincy Act 2009, the Local Courts Act of 2011, the Disability Act of 2011, the Legal Aid Act 2012 and the Sexual Offences Act 2012 which make provision for the security of equal opportunity within the law.

### **General Practice**

Theoretically, the Constitution affords a guarantee for the enjoyment of this right; this is not always the case in practice. This is not a misnomer on the part of the law makers. Customs and tradition tends to give the effect of the Constitutional guarantee as a misnomer due to the fact that they provide inroads for discrimination and unequal protection of the law especially against women.

In practice for example, a lot of sensitive cases in traditional settings are heard in the Poro Bush. The Poro Society is a male secret society and as such women and non members do not have any form of access to the Poro Bush. These cases are therefore deliberated upon in their absence and in most cases, not in their favour.

The recently enacted Devolution of Estate Act 2007 itself contains discriminatory provisions against illegitimate children. For the purposes of the Act, Section 2 of the Act defines a child as one who is born to the deceased and his lawful spouse or one born out of marriage while the deceased was married but recognised by both the deceased and his spouse, or child born to the deceased while he was unmarried and recognised by the deceased as his child. As such, an illegitimate child born while the deceased and his spouse were married but not recognised by both as the child of the deceased cannot claim under the Act. Also, as a matter of customary practice, illegitimate children cannot contest in any chieftaincy election. Section 8(a) of the Chieftaincy Act provides that a person can only be qualified for the chieftaincy title when he is born in wedlock to a rightful claimant or where tradition specifies, has direct maternal or paternal lineage to the rightful claimant.

Another area of concern is, although the Constitution of Sierra Leone makes provision for the access to witnesses, it does not make provision for the protection of such witnesses. This in effect affects the rights to equal protection of the law of individuals. The Sierra Leone Police (SLP) with support from the Special Court has recently established a Witness Protection Unit within the SLP however which should go some way towards providing the protection required for the witnesses.

### **Article 4**

*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*

### **Legal framework**



This all important right is an entrenched clause in the Constitution. Section 16 provides that it is a right to be enjoyed and can only be denied in execution of a court sentence.

### **General Practice**

This right is one very respected in practice. The death penalty is the maximum penalty for capital offences e.g. murder, treason. It has however, brought about very fine discuss as to its advantages and disadvantages to which the law makers have listened. With the respect of the fundamental human rights paramount a moratorium on the cessation of death penalty was passed with the result being no judicial killings for the past twelve years.

However, there have been incidences of extrajudicial killings during the coup d'états era: Armed Forces Ruling Council (AFRC), National Provisional Ruling Council (NPRC). In 1998, a court martial was held for the trial of individuals on the capital offence of treason. The majority of the accused were convicted and executed although some received the Presidential Pardon. There was no right to appeal from the Court Martial: neither interlocutory nor final. Following this precedent a review of the Court Martial Rules resulted in an appeal system being instituted from its decisions.

For suspicious deaths, the Coroners Act makes provision for investigations to be done.

### **Article 5**

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*

### **Legal Framework**

Section 19 of the Constitution of Sierra Leone protects individuals against any form of slavery and section 20 provides against inhuman and degrading treatment. The Constitution however does not define torture; it is implied that having ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment the definition given within is the de facto definition so used.

### **General Practice**

During the war, torture, inhuman and degrading treatments were widespread and systematic. However, efforts are being made to address this and to prevent any reoccurrence. The establishment of the Special Court for Sierra Leone which has the jurisdiction to try those who bear the greatest responsibility for crimes committed during the conflict including torture is one such effort. To date, all the individuals who have been tried by the Court have been convicted and are currently serving various terms of imprisonment .

At present there are no official complaints of torture. There are however occurrences of inhuman and degrading treatment. Various Reports from the

United Nations Integrated Peace Building Office in Sierra Leone (UNIPSIL), the Human Rights Commission, and Prisons Watch show that inmates of mental and penal institutions suffer inhuman and harsh conditions. These institutions with the assistance of the Prisons administrations have conducted several trainings on the prevention of torture and the application of the minimum standard applicable internationally in the treatment of prisoners.

In 2011, the GOSL through its Ministry of Foreign Affairs and International Cooperation extended an open invitation to the African Commission on Human and People's Rights for an objective assessment of the human rights situation especially with regards to the conditions and treatment of prisoners.

To correct the present situation and to secure the protection of individuals from all forms of torture, inhuman and degrading treatment, procedures and institutions for the handling of such complaints and investigations have been established. Chief among these are the CDIID, and the Human Rights Commission. Though the effectiveness of the CDIID has been proven on various occasions by the dismissal of officers who commit crimes of torture, inhuman and degrading treatments, its absolute independence and impartiality is yet to be proven especially in very sensitive cases.

The Judicial system allows for compensation for victims but this is hardly done and even when done such compensations are very inadequate. There are ongoing trainings and reforms spearheaded by various development partners for the proper education of the police, military and security personnel in human rights Law. Currently there are no occurrences of medical or scientific experiments being used on human beings.

### **Article 6**

*Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.*

### **Legal framework**

The right to liberty is guaranteed by section 17 of the Constitution. The Constitution denotes that this right can only be restricted in certain instances which include an order or sentence from the High Court which has to be executed, for the purpose of bringing an individual to court, for the purpose of educating an individual where he has not attained the age of 21 years, and in consequence of an individual's unfitness to plead to a charge.

### **General practise**

There are occurrences of arbitrary arrests, especially by the police, for very minor offences. The laws of the land make provision for compensation; this is provision is ambiguous as it says that if the arrest is carried out by another and refrains from mentioning an officer of the law.

### **Article 7**

*The right for an individual to have his cause heard.*

### **Legal framework**

The Constitution in section 23 provides for the protection of the right of an individual to have his cause heard. In addition to this, it provides in subsection 7 that an individual should not be charged of an offence which was not a crime at the time it was committed (ex post facto law).

### **General practise**

Section 23 (7) of the Constitution protects individuals from ex post facto laws. This is a highly debatable area as a case involving drug trafficking in 2008 was questioned by the defence lawyers; they claimed that the crime charged was not a crime at commission. However, being part of The International Community and a party to the United Nations treaty on the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* it could not be argued conclusively that the laws enacted were in fact retroactive as ratification had been done before then.

The Constitution establishes the Courts, which shall be independent and impartial tribunals entrusted with the responsibility of dispensing justice. In addition, it recognises the existence of other courts established by law such as the local courts and the court martial. The existence of all these courts provides individuals the opportunity to not only have causes heard, but that such hearings should be done by independent and impartial tribunals. With the enactment of the Local Courts Act 2011 which brings Local Courts under the jurisdiction of the Judiciary, it is hoped that less arbitrary judgements will be passed in these of Customary Law Courts as this is where the majority of Sierra Leoneans seek justice. There are still challenges with the traditional rulers who adjudicate on issues outside of their mandate and in some instances promote injustice especially in the rural areas. As the Local Courts Act 2011 makes provision for mediation, reform measures have started with these traditional rulers to support them in this process.

Where an individual whose cause has been heard by the courts is not satisfied with his judgement, his case will be reheard as of right on appeal by the court immediately above the previous court. The Constitution establishes a hierarchy of courts which makes provision for appeals to be heard by each court from the court immediately below it.

The Constitution protects Judges from removal from office except if the reason for such removal is incompetence or gross misconduct. As such, judges have a secure tenure. After a number of development partners had intervened to support improved terms and conditions for Judges and Magistrates; the government itself has now stepped in and reviewed the salaries and allowances for all Judges and Magistrates.. This has attracted more legal practitioners to the Bench and, the number of Judges and Magistrates have effectively increased. Though this is a positive development, there is still the need for additional Judges considering the number of cases in the courts, to prevent delays in justice.

Court Martials which handle matters relating to the misconduct of officers of the Republic of Sierra Leone Armed Forces is in existence in Sierra Leone. This tribunal is governed by its rules and procedures. In the past, no appeal was heard from any court martial and so whatever decision was arrived at was final. This gave room for miscarriage of justice and the execution of many officers of the armed forces. In 1998, A Court Martial was held in Sierra Leone which led to the conviction and execution of twenty four (24) officers for the crime of treason. This trial and the subsequent executions were greatly criticised both at home and abroad for the fact that these officers were not given the opportunity to appeal on the decision of the court martial and so justice was not fully dispensed of. This created the need for the rules and procedures to be revisited and reformed. Today, Sierra Leone can proudly say that this situation has been addressed and an appeal can now lie from a court martial decision.

There are procedural guarantees in black and white for the hearing of matters in the Magistrate Courts, the High Courts, the Court of Appeal, the Supreme Court and the Court Martial's. The Local Courts as well have their procedures in accordance with their customs and traditions. Although all these procedural guarantees are in place, the reality is that the procedures are not always strictly followed. Thus, there are frequent adjournments of cases which greatly affect the dispensing of justice.

In addition to the provision for tribunals to guarantee an individual's right to have his course heard, the constitution, makes provision for an individual to be entitled to legal aid. There was a national legal aid scheme in Sierra Leone piloted by the Justice Sector Development Programme (JSDP) in partnership with the Government of Sierra Leone (State number of cases covered when it ended). There are also other organisations that provide legal aid services such as Legal Assistance through Women Yearning for Equality, Rights and Social Justice (LAWYERS) and Timap for Justice. The Legal Aid Act 2012 has been touted as the peoples act and is reformist in nature. It guarantees the provision of legal aid or representation to any indigene who needs it and where the State cannot provide these services; the Act makes provision for them to be provided by non State Actors (Paralegals) as long as they have been duly accredited after under going the relevant training.

### **Article 8**

*Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.*

### **Legal framework**

Section 24 of the Constitution provides for the freedom of conscience and the free practise of religion except where such practice is not in the interest of public safety, public morality, public order or public health or to protect a religion from the unsolicited intervention of the members of any other religion.

### **General practise**

Sierra Leone enjoys a high level of religious tolerance and religious stability. There is no existence of a particular state religion and as such, there is in existence various religions including Christianity, Islam, African Traditional Religions, etc.

Any religion can establish a place of worship. However, before worship commences, the place of worship be it a church, mosque or temple must undergo registration with the Ministry of Social Welfare. There has not been any case where any religious group has been deregistered.

Although Sierra Leone is known for religious tolerance, there were, very recently, very serious clashes between Christians and Muslims in some parts of the country. These clashes took place in one village called Mambolo in the Northern part of the Country and in Calaba town in the Western Area. These situations were however quickly resolved by public officers and the Interreligious Council, a council which comprises of representatives of all religions recognised and practised in Sierra Leone which has the duty among others, of ensuring that there is religious tolerance in the country.

#### **Article 9**

*Every individual shall have the right to receive information. Every individual shall have the right to express and disseminate his opinions within the law.*

#### **Legal framework**

Section 25 of the Constitution protects the right to freedom of expression and the press. According to the Constitution, freedom of expression includes “the freedom from interference with correspondence, freedom to own, establish and operate any medium for the dissemination of information, ideas and opinions and academic freedom in institutions of learning” This right however is limited in the interest of defence, public safety, public order and public morality and for the purpose of protecting the rights, reputations and freedoms of others.

#### **General practise**

There is a marked improvement in the operations of media outlets in Sierra Leone. To regulate the activities of the mass media and other matters connected with the mass media such as registration and licensing, the Independent Media Commission was established by the Independent Media Commission Act 2000. This Commission also monitors and ensures that the media operate in accordance with the law. In addition to the Independent Media Commission, there are unions for various sectors of the media, which bear the responsibility of seeking their best interest. These include the Sierra Leone Association of Journalists (SLAJ) and other unions for the editors and vendors.

Previously, the landscape for the free dissemination of information by political parties was not even. Only the ruling party and/or the political party which was financially strong could have easy and unhindered access to the media, especially television.. In fact, before 2010, the political parties which had the financial capability owned their own independent radio stations that produced programmes which became incitful and led to anumber of violence encounters between

members of the parties involved This situation was addressed by the shutting down of All political party owned radio stations. In relation to access to the television, the Constitution prohibits the ownership of a television station other than the government or any person or body authorised by the president. Section 6 of the Independent Media Commission (amendment) Act of 2007 provides that a television licence shall be granted to only a citizen or body cooperate established by an act of parliament, a partnership registered under the Business Registration Act of 1983<sup>8</sup>, an international relay station.

The activities of the government owned Sierra Leone Broadcasting Corporation, established by Act No. 1 of 2010 are regulated by the Act and monitored by the Independent Media Commission. All individuals including political parties however do have access to the use of this medium of communication as long as such use is not contrary to law including the constitution. All individuals including Political parties do have equal access to the print media. Another independent international (Nigerian) relay station started operations in October 2012 and also gives unhindered access.

Concerning this right, there have been decided cases in court against individuals and members of the press. These include the cases of *Paul Kamara, Sylvia Blyden* and *Fatmata Hassan V. Yansaneh*. At present, there is a Freedom of Information Bill awaiting enactment by Parliament which, when promulgated would give the right to access information from public institutions.

#### **Article 10**

*Every individual shall have the right to free association provided that he abides by the law. Subject to the obligation of solidarity provided for in Article 29, no one may be compelled to join an association.*

#### **Legal framework**

The principal law guaranteeing the right to freedom of association is Section 26(1) of the Constitution. This right includes the right to assemble freely and associate with others and to belong to any political party, trade union or economic, social or professional associations, national or international for the protection of his interest. In addition to the restriction of the right in the interest of public safety, public health and public morality, the constitution further provides that where any law makes provision which imposes restrictions on the establishment of political parties, or regulates the organisation, registration and functioning of political parties and the conduct of its members, such provision shall not be held to be inconsistent with section 26.

#### **General practise**

In Sierra Leone, for an association/organisation to be legally recognised, it must be registered with either the Ministry of Finance and Economic Development or the Ministry of Social Welfare, Gender and Children's Affairs as well as registering with the Ministry with oversight function of the sector it wants to work in. The association/organisation also needs to register with the local council in the District where it plans to operate. The registration process is fair and open to all as long as the operations of the organisation/association is not contrary to law. The Independent Media Commission regulates the formation and registration of media institutions whilst in the case of political parties, registration must be done with the Political Party's Registration Commission (PPRC) in line with part III of the Political Parties Registration Act of 2002.

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<sup>8</sup> Act No. 13

Although it is a fact that there is freedom of association, this freedom is restricted in certain instances and as such certain control measures are put in place by public authorities over the activities of these associations in the interest of the safety and morality of the general public. For example, the registration of associations or organisations such as cults is not permitted by the Ministry of Social Welfare. The Police has in place restrictive measures to regulate meetings, thanksgivings, rallies etc. to prevent chaos in the interest of public safety and public peace.

For political parties, the laws governing their establishment, registration regulation and conduct pursuant to section 33 and 34 of the Constitution, are enshrined in the Political Parties Registration Act No. 3 of 2003.

In addition, the Constitution protects the right to belong to a political party. Before the Act No6 of 1991, Sierra Leone was a one party state. Under this system of government, only one party, the All People's Congress (APC) was in operation. In 1991, the enactment of the 1991 constitution gave access to democracy. Following the 1991 Constitution, there was a proposed multi party election which did not hold as a result of a military coup by the National Provisional Ruling Council (NPRC). During the period of preparing for the multi party elections, in 1992, various political parties (totalling 23) were formed. The elections were disrupted by the military coup. In 1996, Sierra Leone returned to democracy and multi party elections were held. Currently, there are in existence 26 political parties. The two main parties in Sierra Leone however are the Sierra Leone Peoples party (SLPP) and the All Peoples Congress (APC).. There are no prohibited political parties unless they do not conform to the provisions of the PPRC Act. The ten year civil war in Sierra Leone brought the emergence of several human rights organisations most of which are Non Governmental Organisations (NGOs). There is an Association of Non Governmental Organisations (SLANGO) which regulates the activities of these NGOs. On its part, the Government established the National Commission for Democracy and Human Rights (NCDHR) in 1994, which prepared people for the democratisation process and also, looked into various human rights issues.

In 1991, the Lome Peace agreement between the Government of Sierra Leone and the RUF called for the formation of a Human Rights Commission. This was restated in the Truth Reconciliation Commission recommendations of Sierra Leone. At present, Sierra Leone has in operation a Human Rights Commission, established by the Human Rights Commission Act of 2004. In addition, the Ministry of Foreign Affairs in 2009 signed a Memorandum of understanding with the United Nations Integrated Peace Building Office in Sierra Leone (UNIPSIL) for the establishment of a Human Rights Secretariat for the discharge of all legal and other obligations relating to human rights owed by Sierra Leone either internationally or regionally.

In addition, the right of individuals to form trade unions for the protection of their rights and interests is allowed. There are in existence active trade unions which protect the welfare of their workers such as the Sierra Leone Teachers Union, the Labour Congress, and Drivers Union.

To protect this right, there are laws which regulate the formation of these unions. These include the Trade Union Act of 1962, the Regulations of wages and industrial relations Act of 1991, and the Trade Union Dispute Act of 1964. Such trade unions are relatively large in size and membership, with the following organisational structure: President – Executive – members.

To ensure the free exercise of trade union rights and to implement the laws relating to trade union, the Industrial Court has been established. Sierra Leone as a member of the

International Labour Organisation has also adopted practical measures in protecting the rights and existence of labour unions.

### **Article 11**

*Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.*

### **Legal framework**

This right is guaranteed by section 26 of the Constitution of Sierra Leone which provides that it can be restricted where it is reasonably required in the interest of public safety and public order, public morality, the provision for the maintenance of supplies and services essential to the life of the community or for the purpose of protecting the rights and freedoms of other persons.

The Public Order Act of 1965 also makes provision for the restriction of assembly in certain cases in line with the claw back clauses in the constitution.

### **General practise**

People are free to assemble including to form political parties and to hold meetings. This right is re-established by the Political Parties Registration Act. Political parties, like all other organisations and associations, need permission to hold public meetings. Restrictions on holding such meetings can only be placed in the interest of public safety and directions to prevent this will be given by the police. In Sierra Leone, if a demonstration or procession for example is to be held, permission will have to be sought from the police for clearance, directions and protection.

### **Article 12**

*The right to freedom of movement and the right to seek political asylum.*

### **Legal framework**

Section 18 of the Constitution, prohibits the deprivation of the right to freedom of movement except where such right is restricted in accordance with the law. The circumstances under which a person might be deprived of his freedom of movement in Sierra Leone include the limitation of such right which is reasonably required in the interests of public defence, public health, public safety, public morality or the conservation of natural resources such as mineral, marine, forest and other resources of Sierra Leone. This right can also be limited for the imposition or restriction of movement or residence in Sierra Leone of any person who is not a sierra Leonean and other justifiable reasons.

### **General practise**

To guarantee this right in accordance with the law, National Identity Cards are issued to all citizens of Sierra Leone and residential permits are granted by the immigration department to non citizens who are permitted to move around and reside freely.

National Passports, which are now ECOWAS passports also, are granted to all citizens of Sierra Leone who apply for one. Issuance of all travelling documents is done by the Immigration Department, after rigorous scrutiny to ensure that applicants fulfil the requirements of holding a national passport or travelling document. Once a national



passport has been issued, it can only be withdrawn in certain circumstances which include: to restrict the movement of an individual who is before the courts of law for a criminal offence or when an individual ceases to be a citizen of the country such as a naturalised citizen whose citizenship is revoked on in accordance with the law.

Furthermore, the constitution protects citizens against banishment from their place of origin. As such, where a person is prohibited from entering or residing in place in which he is an indigene, the constitution in section 18(4) makes provision for him to have the matter reviewed by an independent and impartial tribunal which shall come up with a decision on the matter. During the period when Sierra Leone was a one party state, there were many occurrences of banishments. At present, there are no cases of banishment at the state level. This is only done in the provinces where people are banished from the Poro Bush (secret society) but the occurrence of this is very minimal and not done in accordance with the laws of the land.

Sierra Leone does grants political asylum to deserving foreign nationals.

### **Article 13**

*The right to vote and be voted for.*

#### **Legal framework**

The Constitution, in Chapter IV, makes provision for the right to vote and be voted for. This right is also guaranteed in the newly promulgated Public Elections Act 2012.

#### **General Practice**

From 1986 to 1992, Sierra Leone was under a one party state. In 1992, there was a military coup by junior officers of the Sierra Leone Army who formed the National Provisional Ruling Council. (NPRC) In This Military coup disrupted the multi party elections which was to be held as a result of the enactment of the 1991 Constitution. In 1996, Sierra Leone started enjoying a semblance of democracy. This was again disrupted by another military coup which saw the emergence of the Armed Forces Ruling Council (AFRC) in 1997. Sierra Leone again returned to democracy in 1998 and since then has been enjoying democracy. At present, elections in Sierra Leone are free and fair. Presidential and parliamentary elections are conducted every 5 yrs. Other elections are conducted as and when necessary.

### **Article 14**

*The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.*

#### **Legal framework**

The Constitution of Sierra Leone in Section 21 guarantees the right to property. In addition to the constitution, this right is guaranteed by the Land Tenure Act and The Devolution of Estate Act.

#### **General Practise**

The land tenure in Sierra Leone is of such a nature that, mode of acquiring property in the Western Area is different from acquiring property in the provincial area. In the Western Area, land is either privately owned, or belongs to the State and can be either bought from the crown or the person who has bought from the state, or acquired through a statutory declaration.

In the provincial area, land belongs to the people and so what actually exists is communal land ownership. The acquisition and dispensation of such land is in accordance with customary law of the land and the Provincial Land Property Act.

In the case of compulsory purchase of property or acquisition of property, owners of such property are compensated. The concern however is that these landowners are not adequately compensated when such incidences occur. Another area of concern is that there is no standard method of computing compensation in such cases. As such there is disparity in the compensation received by various owners of land who lose their property to forced acquisition of land.

Recently, there are incidences of displacements of people from property acquired in the interest of the public. Massive roadwork is currently being undertaken in Freetown. Wilkinson Road, one of the main roads in Freetown, is currently under reconstruction. This has led to the forceful removal of occupants and homeowners owners of properties situate on the maid road from their properties. The home owners and landowners of such properties were not compensated in monetary terms but a promise was made to rebuild all walls that were broken as a result of demolition.

Also, these people were not relocated but were left to relocate themselves. For the roadwork in the mountain areas, occupants who resided in this area in the east were relocated to Yams Farm, another location in the east end of Freetown where there is availability of basic amenities including schools.

There is also another ongoing incidence at Kroo Bay, one of the biggest slums in the country. Occupants are currently being asked to relocate to another area by the government who will be responsible for their relocation in the interest of public safety, public health and development. Occupants are however insistent on staying where they are. This matter is yet to be settled.

In the Gola Forest area also, people were moved out of their lands and homes in the interest of conservation and they compensated.

Sometimes, the activities carried out on the land have negative effects on the environment especially when the land is acquired for the purpose of mining. In most mining areas such as Kono and Sierra Rutile in the Moyamba District, the land can no longer be used after mining for agricultural purposes. Rather, such lands become breeding ground for mosquitoes.

During the NPRC regime reported cases of forceful acquisition of land spiralled, leading to an upsurge in the number of complaints from disenchanted legitimate landowners. This also took place during the reparation of people and the building of schools, hospitals, court barrays, and other basic facilities undertaken by the National Commission for Social Action (NACSA) after the war. As a whole, there is unequal access to property in Sierra Leone.

#### **Article 15**

*The right of individuals to work under equitable and satisfactory conditions and to receive equal pay for equal work.*

### **Legal framework**

The right to work under favourable conditions is guaranteed by section 8 (a) and (b) of the Constitution. The Constitution clearly states that the State shall direct its policies in ensuring that every citizen without discrimination on any grounds shall have the opportunity to secure suitable employment and adequate means of livelihood and that condition of work is fair, just and humane. In addition to 8 (a) and (b), section 8(e) provides that the State shall direct its policies towards ensuring that there is equal pay for equal work without discrimination on account of sex, and that adequate and satisfactory remuneration is paid to all persons in employment. The Labour Laws of Sierra Leone as well protects workers in terms of conditions of employment and guarantees this right.

### **General practise**

To give effect to the constitution and to the labour laws of Sierra Leone, an Industrial Court has been established, which is presided over by a former Supreme Court Judges. The Office of the Ombudsman, established by the constitution also handles investigations of actions taken or omitted to have been taken by any Government Department or Ministry, Statutory Cooperation or Institution set up entirely or partly out of public funds or actions taken in the administration of public offices.

No law in Sierra Leone prevents women from doing any sort of work. Nonetheless, traditional and gender stereotype perceptions prevent women from rendering certain services. Despite the existence of laws protecting all individuals against discrimination, there have been cases of discrimination against women and the disabled in terms of acquiring jobs and equal pay for the same work. However, with the enactment of protective laws against discrimination such as the Disability Act and the establishment of the Industrial Court to handle complaints arising from such treatments, there is hope for improvement. Also the implementation of resolution 1325 for the participation of women in decision making in addition, the recommendations of the Truth and Reconciliation Commission for Sierra Leone's recommendation for a 30% participation of women in politics will be very instrumental in addressing this situation.

There is high level of youth unemployment. However, in line with the constitutional provision for the State to formulate policies geared towards ensuring that all citizens secure an adequate means of livelihood and suitable employment, a National Youth Commission which was established by the National Youth Commission Act of 2009 was formed in 2010, and entrusted with the functions, among others, of seeking the interest of youth in various areas, secure their employment and to empower them to develop their potential, creativity and skills for national development.

The minimum wage in Sierra Leone is Le 150,000.00 (USD 34). There is need for concern in this area. Efforts are currently being made to review the minimum wage. Wages however differ from institution to institution and there is a huge difference in the salaries paid by the government form that paid by private institutions for the same work done. The various collective bargaining powers make provision for protection against occupational accidents and diseases.

Prior to 2001, Sierra Leone had the government 'no contribution pension scheme' and 'private pension scheme' that were undertaken by private institutions In 2002, the National Social Security Insurance Trust (NASSIT) was established under the NASSIT ACT (2001) which made it compulsory for every worker to contribute to the scheme. The issue of validation of workers for past services rendered is still one of the challenges faced by NASSIT.

## **Article 16**

*The right to the best attainable physical and mental health.*

### **Legal framework**

Section 8 (3)(d) of the Constitution provides for the provision of adequate medical and health facilities for all persons. However, such proviso is limited to the availability of the resources of the state. In addition to the constitution, Sierra Leone has other laws which protect the right to health of its citizens. The Prevention and Control of HIV & AIDS Act of 2007<sup>9</sup> also provides for this right.

### **General practise**

There are other national health policies such as the malaria roll back plan and the free healthcare plan for all pregnant women, lactating mothers and children less than five years of age. In addition, the national health sector has a strategic plan for the years 2000 - 2015 which aims at providing adequate access to healthcare of citizens.

There are in existence primary health care programmes such as free immunisations against deadly diseases such as polio, yellow fever, tuberculosis etc. There is also massive sensitisation on the use of mosquito bed nets as well as the free supply of mosquito bed nets to all households in preventing against malaria. Furthermore, there is sensitisation on other health issues such as HIV AIDS, STIs, STDs, Malaria, Polio, Yellow Fever, and Tuberculosis.

In providing free health care for its citizens, the government allocated Le 154,950,589,392.00 (2011 National Budget Allocation) of its annual Gross National budget to Health Care.

Sierra Leone has been rated as one of the countries in the world with the highest infant and maternal mortality rate. To correct the situation, the government in 2010 launched a National Free Healthcare Programme for lactating mothers, pregnant women and children under the age of five. In addition to this development, government has taken measures to guarantee the healthy development of children. These steps include the provision of mebendazole VTA. Also, UNICEF in collaboration with the United Nations World Food Programme provides immunization for children. In support of the Government's health care initiatives, the Office of the First Lady with support from UNFPA and other partners has also established a health care programme aimed at reducing maternal and infant mortality.

## **Article 17**

*The right to education.*

### **Legal framework**

The right to education is provided for in Section 9 of the Constitution.

### **General Practise**

In guaranteeing this right, the Constitution provides that it shall be the duty of the State to ensure that all citizens have equal access to education by making provision for educational facilities such as primary, secondary, tertiary and vocational institutions, safeguard the right of vulnerable groups such as women, children and the disabled in securing educational facilities and providing the necessary structures, finance and supportive facilities for education as and when practicable.

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<sup>9</sup> Act No. 8

In addition to the Constitution of Sierra Leone, there are other laws which guarantee the enjoyment of this right and regulate the manner in which it can be realised. The Education Act 2004<sup>10</sup> for example provides for pre-primary education, technical and vocational training, adult and non-formal education and establishes the role of universities in providing education; and to provide for other related matters. Also, Sierra Leone has in place various legislature which regulates the activities of the various institutions under the education sector. These include the Tertiary Education Commission Act<sup>11</sup>, the Polytechnics Act<sup>12</sup>, the Sierra Leone Teaching Service Commission Act<sup>13</sup>, and the National Council for Technical, Vocational and Other Awards Act<sup>14</sup>, and the Universities Act of 2005<sup>15</sup>.

When there was a serious issue or allegation relating to the educational sector, a commission of enquiry was set up by the government to look into the issue/issues in dispute. In 2010, the Gbamanja Commission was set up to investigate the reason for low level of performance/malpractice of students at public exams. The Commission conducted investigations and made recommendations as to the possible solutions of the issues highlighted. From the recommendations proffered implementation was expedited, the result will be long term but one of the short term results has been proof by statistics that there is an increase in the enrolment of the girl child at primary school level.

In primary and secondary institutions, the discourse of human rights is not in the context of the curriculum. In tertiary institutions efforts are being made for elements of human rights and democracy to be included in the curriculum.

Cultural rights are protected by section 12 of the constitution of Sierra Leone. Creative and Practical Arts is included in the school curriculum. Also, local languages are currently being taught in schools. African Studies, a study of the African Culture and traditions is being offered in tertiary institutions to help display and promote our culture there is a national museum in Freetown which, even though it is limited to the capital, crusades the culture of the nation.

The Sierra Leone Broadcasting Cooperation (SLBC) also aids the promotion of culture by broadcasting programmes on our culture and cultural heritage. To promote the morals of the State, Religious and Moral Education is included in the school curriculum.

The enactment of the Customary Marriage and Divorce Act, the Child Rights Act which have discouraged and isolated negative traditional practices such as forced marriage, early marriage, deprivation of women of property ownership, and to protect women in areas of inheritance etc. Also, measures are in place to preserve and enhance the practices of dispute resolutions through the traditional courts.

Despite these improvements, there are still certain challenges Sierra Leone is faced with. One such challenge is the importation of the western culture in our society, which has greatly undermined our cultural, traditional and moral values. There are also harmful traditional practices still in practice.

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<sup>10</sup> Act No. 2 of 2004

<sup>11</sup> Act No. 8 of 2001

<sup>12</sup> Act No. 9 of 2001

<sup>13</sup> Act No.1 of 2011

<sup>14</sup> Act No. 10 of 2001

<sup>15</sup> Act No. 1 of 2005

## **Article 18**

*The right of the existence of a family, the aged and disabled and to ensure the protection from all forms of discrimination against women.*

### **Legal framework**

The Constitution of Sierra Leone in section 13(h) recognises the existence of a family. In addition, section 8 (3) (f) provides for the protection, care and welfare of the aged, young and disabled, and for the protection against discrimination on account of sex in terms of employment.

### **General Practise**

The *Child Rights Act of 2007* makes provision for the protection of the family as a whole, and the child in particular. The Children and Young Persons Act, provides for the security of children and young persons against offences such as rape, indecent assault, and forced labour.

Further, the National Health Maternity Protection Strategic Plan protects the health of pregnant women and children aged five and under. In addition, the Free Medical Health Programme caters for maternity protection. As such, women cannot be discriminated against due to maternity reasons.

In the process of domesticating the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), three Bills were enacted. These were *The Registration of Customary Marriage and Divorce Act*<sup>16</sup>, *the Devolution of Estates Act and the Domestic Violence Act* commonly called the three Gender Acts. The Registration of Customary Marriage and Divorce Act protect persons entering into customary marriage from forced marriages in line with traditional customs and practices. In general, marriage under whatever law, be it under the Christian Marriage Act, the Muslim Law or Civil Law, is entered into by two adults ( aged 18 years and over).

In addition, Sierra Leone has taken certain measures to protect women in many areas including ensuring that women are sent on paid leave or leave with social security benefits and guarantees against dismissal for working mothers, irrespective of their marital status during a reasonable period before and after childbirth.

In addition, there is an affirmative action gender policy which protects and promotes the rights of women. In addition, 50/50 a women's activist group in Sierra Leone participated in the development of the HIV strategy and there is currently a national campaign involving many women's groups across the country working on the enactment of a bill that would guarantee a minimum of 30% quota representation of women at decision making levels in line with the **Truth and Reconciliation Commission's** recommendations. Also, the *Prevention and Control of HIV and AIDS Act* is currently under review to protect women infected with the virus in particular against all forms of discrimination.

However, despite the tremendous strides taken including the signing and ratification of CEDAW, the provisions of **CEDAW** have not been fully domesticated and as such, vital provisions which protect women are still not in use in Sierra Leone.

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<sup>16</sup> Act No. 1 of 2009 supersedes *The Registration of Customary Marriage and Divorce Act* No. 24 of 2007

## **Article 20**

*All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.*

### **Legal framework**

The fundamental principles of state policy within the Constitution submit sections 4 to 8 as the implementation of this guarantee in the laws of Sierra Leone.

### **General Practise**

The existence of the people is provided for in section 5 of the Constitution which declares the existence of the people of Sierra Leone by giving them ownership of the state. The principle of self-determination has nations freely choosing their sovereignty and international political status with no external compulsion or interference.

With the cessation of the civil war the Republic of Sierra Leone returned to the principles of freedom, democracy and justice. The state reasserted its right to self-determination and exhibited its democratic will by conducting three successful presidential and parliamentary elections since then, the third being the first that was completely managed by Sierra Leoneans themselves.

The State remains committed to the provisions of the Constitution and has instituted a Commission for the proper review of the same with the intention of ridding it of discrimination but capitalising on the empowerment of the people and the tenets of peace, freedom and justice.

## **Article 21**

*The right of the people to freely dispose of their wealth and resources.*

### **Legal framework**

This right is protected under Section 7 of the Constitution. The *Mines and Minerals Acts*<sup>17</sup> also make provisions for the regulations of mining activities in the country whilst the setting up of a National Mineral Agency by an Act of Parliament in 2012 will further strengthen the oversight of mining activities in the country.

### **General practise**

Despite these provisions, the practise is that the locals who actually own the land where these activities are carried out do not constructively benefit from the extraction of mineral and natural resources from their land, neither do they fully enjoy the right of lawful recovery of their property and adequate recovery in cases of spoliation. This is evidenced by the destruction of land and property in Moyamba (Sierra Rutile) and Kono where the mining companies, after mining abandon the land in the spoiled state. After such activities, the land is no longer good for agricultural purposes which is what the locals largely depend on. In some instances, it is even impossible to use the land for building purposes. As such, the environment is left destroyed..

There is an environmental protection agency which has a National Environmental Protection Plan and Policy on protecting the environment. The *Mines and Minerals Act* and the Sierra Leone Environmental Protection Agency (SLEPA) in their national action plan aim at addressing the issues of spoliation and regulating the activities of mining.

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<sup>17</sup> Act No. 12 of 2009

Exploitation is not only limited to land but also to the natural resources in the seas. There are various cases of illegal fishing in the territorial waters of Sierra Leone. The Ministry of Fisheries on its part is taking steps to address this issue.

## **Article 22**

*The right to economic, social and cultural development.*

### **Legal frame Work**

Section 7 (1) (a) of the Constitution provides that the government shall harness all natural resources of the nation to promote national prosperity.

### **General Practise**

In 2009, the *Mines and Minerals Act* which seeks to improve the welfare of communities adversely affected by mining; and to introduce measures aimed at reducing the harmful effects of mining activities on the environment and to provide for other related matters was enacted. In addition, The *Bumbuna Watershed Authority and the Bumbuna Conservation Area Act*<sup>18</sup> which provides for the establishment of the Bumbuna Watershed Management Authority, to coordinate sustainable land use and agriculture programmes in an environmentally compatible manner in the Bumbuna Watershed, to promote environmental management and biodiversity conservation in the Bumbuna Conservation Area, in order to address environmental and social needs associated with the operation of the Bumbuna Hydroelectric Dam, including, the physical protection and sustainability of the Bumbuna reservoir and to provide for other related matters; *Environment Protection Agency Act*<sup>19</sup> to provide for the effective protection of the environment and for other related matters.

## **Article 23**

*The Right to national and international peace and security*

### **Legal framework**

Section 5 (b) of the Constitution provides that it shall be the duty of the state to provide security, peace and welfare for the people and that such shall be the duty of the police, the armed forces, public offices and all security agents. In addition, the constitution maintains that it shall be the responsibility of the state to promotes international cooperation for the consideration of international peace and security and mutual respect for their territorial integrity and independence, respect for international law and treaties as well as seeking of settlement of international disputes by negotiation, conciliation, arbitration or adjudication and the promotion of inter- African cooperation and unity.

To ensure national security, the National Security and Central Intelligence Act of 2002 was promulgated to ensure the internal and external security of the State and establishes a National Security Council which is Chaired by His Excellency the President of Sierra Leone. It also establishes the Office of National Security (ONS) which is tasked with coordinating the security sector of the country. The *Public Order Act of 1965* makes certain actions or omissions which threaten public security criminal offences under which, the perpetrator can be charged and brought before the courts of law. The Constitution also makes provision for public emergencies which according to it can be proclaimed by the president when it is imminent or such a situation has commenced.

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<sup>18</sup> Act No. 6 of 2008

<sup>19</sup> Act No. 11 of 2008



### **General practise**

A state of public emergency can be proclaimed only when the country is at war or is in imminent danger of invasion or involvement in a state of war/ civil unrest, or there is breakdown or clear and present danger of an actual breakdown of public order and public safety, or there is an occurrence of any disaster or calamity.

During such period, the President is permitted to make such regulations and take such measures that may appear to him necessary to secure public peace and security. Such measures include the detention of persons or restriction of the movement of persons, authorising the entering and search of any premises, and authorising the taking of possession or control on behalf of the government any property. Any regulation made under public emergency ceases to have effect ninety days from the date it came into operation.

The Constitution further allows for individuals who do not conform to the regulations to be punished and those affected by it to be compensated or remunerated. One of the policies that the ONS has instituted is the Military Aid to Civil Authority (MACA) within which there is the provision for the Military Aid to Civil Power (MAC-P). This policy essentially allows the military to come out in support of the Police in instances when national security may be threatened and the Police feel that it needs extra support.

### **Article 24**

*All peoples shall have the right to a general satisfactory environment favourable to their development.*

### **Legal framework**

Chapter II of the Constitution which embodies the fundamental principles of State policy provides for this.

### **General practise**

The practise of this right is quite tedious as even the Constitution does not specifically detail it as a right to be guaranteed but is ambiguous. There are several policies which have unfolded in the pursuit of the enjoyment of this right. For the most part there is the political will to ensure this right; the Government's Agenda for Change/ PRSP II which is in line with the United Nation's Development Programme's Millennium Development Goals.

This Agenda has inspired development strategically. The Gross Domestic Product has reportedly increased by 51%. The sector of education has seen an increase in the enrolment of the girl child and an improvement in the turn out in public exams. The health sector has a new face as it programmes continue to better the life of the people especially the women and children. The justice sector continues to be overwhelmed with the influx of cases versus meagre infrastructure and benefits. The country itself is undergoing a phase of rebranding and infrastructural development.

Above all, the Anti Corruption Commission continues as a trail blazer in ensuring that corruption is punished.

There are several enactments that support the protection of this right in the protection of women, children and vulnerable groups; justice sector, education, labour, good governance and management of natural resources.

### **Article 25**

*State Parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.*

### **Legal framework**

The enacting legislation of the *Human Rights Commission Act*<sup>20</sup> mandates that the Commissioners of the same ensure the protection and promotion of human rights from existing laws and treaties (be they international or regional).

### **General practise**

The Human Rights Commission has been tremendously successful in the protection and promotion of human rights in Sierra Leone earning it with an accreditation of “A” status from the United Nation Human Rights Council.

To promote the education of the public on human rights issues the Independent Media Commission gives awards for human rights reporting which is judged by the commission. Currently, trainings for police and the army include education on human rights issues undertaken by the human resource directorate and training. This is also the case for prison officers. Court officials including the local court clerks and chair persons are also undergoing human rights trainings undertaken.

### **Article 26**

*The independence of the courts and the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of rights enshrined in the charter.*

### **Legal framework**

Chapter VII of the Constitution establishes the Judiciary. The court system functions in a hierarchy for the guarantee of appeals and as a mechanism for checks and balances in ensuring the promotion and protection for human rights.

### **General practise**

To ensure this independence, the Judges are appointed by the President on the advice of the Judicial and Legal Service Commission and such appointment is subject to Parliamentary approval. For a Judge to be so appointed, he/she must be entitled to practice as counsel for a period of ten, fifteen and twenty years in the High Court of Sierra Leone.

Once appointed, a Judge cannot be removed from office unless he has attained the retirement age, or he is removed for his inability to perform his functions as a judge or for misconduct. Where a judge is removed from office for inability to perform his functions or for misconduct, he will only be so removed by the President upon the recommendation of a tribunal appointed by the Judicial and Legal Service Commission to conduct an enquiry, or by a 2/3 rd majority vote of Parliament.

This guarantees the independence of the Judiciary which is headed by the Chief Justice, from other organs of government such as the Executive and the Legislature and provides for checks and balances.

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<sup>20</sup> Act No. 9 of 2004

In addition to the Judiciary, there are establishments of other national institutions which seek the promotion and protection of rights enshrined in the charter. The Constitution in section 146 establishes the office of the Ombudsman, which has the responsibility of investigating any action taken or omitted to be taken by or on behalf of any department or ministry of government, statutory cooperation or institutions of higher learning or education set up entirely or partially out of public funds or any member of the public service in the exercise of his administrative functions. As such, complaints of abuse of rights by these government officials and institutions can be handled by the office of the Ombudsman.

The establishment of the Human Rights Commission also creates an avenue for rights and freedoms enshrined in the charter to be promoted and protected.

Apart from these institutions, several human rights NGOs including legal human rights NGOs which provide legal services such as advice, sensitisation and legal representation are in existence in Sierra Leone. These organisations operate with as much freedom as is needed.

#### **Articles 27 – 29**

*Articles 27-29 deals with the duties of the individual to his family and the state.*

#### **Legal Framework**

The Constitution in section 13 provides the duties of the citizen which include abiding by the constitution, cultivating a sense of nationalism, enhancing the good name of the state, respect the dignity and religion of others, ensuring the proper upbringing of his children or ward, and making positive contributions to the development of the community.

#### **General practise**

At present, one of the visions of the President is attitudinal and behavioural change which came about as a result of the Government Agenda for Change or PRSP 11.

The National Commission for Democracy (NCD) does civic education for interested persons and there is in existence a national pledge which is a constant reminder for citizens of their duties to the state.

In line with the duties towards family, as a matter of practice in Sierra Leone, children look after their aged parent/ relatives. The Devolution of Estate Act also makes provision for a surviving parent or guardian to inherit property from the estate of a deceased child who dies intestate.

### **III. Conclusion**

Sierra Leone has crested many waves since signing and ratifying the African Charter on Human and People's Rights..

After such a turbulent period we must quickly crave your indulgence in discharging our reporting obligation; the state's failure in reporting does not mean that the area of human rights has been neglected, the protection and promotion of human rights has always been paramount.

This report covers the period of ratification to date. The State sees this as an ongoing project and intends to interact fully in the review of this submission.