

**Mandates of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE: OL  
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27 January 2016

Excellency,

We have the honour to address you in our capacities as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 23/7, 24/6, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information on alleged delays in the adoption of the **2015 Safe Abortion Bill**.

According to information received:

On 19 November 2015, the 2015 Safe Abortion Bill was published in the Gazette and introduced by Honorable Isata Kabia to the Parliament for vote. The 2015 Safe Abortion Bill allows women to terminate their pregnancy during the first twelve weeks of gestation, under any circumstances (Section 2 (1) (a)). The Bill also permits a woman to have an abortion between the thirteen and twenty-fourth weeks of pregnancy in cases of rape, incest, foetal impairment or risk for the woman's health (Section 2 (1) (b)). The bill also authorises abortion for girls under 18, with the consent of a parent, a guardian or an "adult acting in *loco parentis*" (Section 6 (2)). The Bill further specifies that an unqualified abortionist is criminally liable and faces at least a four year imprisonment sentence and/or a fine up to 50 million of Leones (about 12,000\$).

On 1 December 2015, the Ministry of Social Welfare, Gender and Children's Welfare sent a letter to the Clerk of Parliament, expressing its support to the Safe Abortion Act 2015. On the same day, the pre-legislative session started.

On 3 December 2015, the vote of the Safe Abortion Bill was postponed, reportedly due to the absence of a quorum.

On 8 December 2015, the 2015 Safe Abortion Bill was passed in Parliament, 122 out of 124 Members of Parliament being present for the vote. The bill was passed with a large majority.

On 23 December 2015, the Bill was sent to the President of Sierra Leone by the Clerk of Parliament for signature.

On 6 January 2016, the Inter-Religious Council of Sierra Leone met with the President. On the same day, it was reported that the President's Secretary sent a memo to the Clerk of Parliament saying that the President had decided to return the Safe Abortion Bill to Parliament for reconsideration after his discussion with the representatives of the Inter-Religious Council. It is stated that the representatives felt that the Bill had been passed "without proper sensitization of the citizenry", and that they "have requested that their voices be heard by [the] Parliament concerning the inalienable right to life which is given by God and must be cherished from the moment of conception until the time of natural death". This decision created an unprecedented situation as this is the first time that the President sent back a bill, that was already passed, to the Parliament, asking Members of the Parliament to meet an external body, namely the Inter-Religious Council of Sierra Leone.

On 14 January 2016, the Inter-Religious Council of Sierra Leone reportedly met with key Parliamentary leaders, including the Majority Leader, the Minority Leader, the Deputy Speaker, the Clerk, and the Heads of four committees (Human Rights, Legislation, Social Welfare and Health).

Following this it appears that the Inter-Religious Council has been invited to speak before the Parliament on 27 January 2016 to present its position paper about the Safe Abortion Bill 2015. Furthermore, it is reported that a Parliamentary session will be held to consider the reasons why the President sent the bill back to the Parliament and there will be a vote on whether to maintain the Parliament's adoption of the Safe Abortion Bill in its current form or to withdraw it. It appears that the Bill cannot be amended.

In this context we would like to recall that Sierra Leone has one of the highest maternal mortality ratios in the world, with 1100 deaths for 100,000 live births in 2013, according to the World Health Organization<sup>1</sup>. According to the Committee on the Elimination against Women's Concluding observations (CEDAW/C/SLE/CO/6), the

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<sup>1</sup> "Trends in maternal mortality: 1990 to 2013". Estimates by WHO, UNICEF, UNFPA, The World Bank and the United Nations Population Division (2014)

current law on abortion in Sierra Leone criminalises the procedure without providing any exception.

While we do not wish to prejudge the accuracy of these allegations, we wish to express serious concern regarding the persistence of a total ban on abortion and delays at adopting the 2015 Safe Abortion which had already been passed by Parliament. Concern is further expressed that the current criminalization of abortion violates the basic rights of women and girls, including their right to life and their right to the highest level of physical and mental health. In countries where access to abortion is severely restricted, terminating a pregnancy often becomes a privilege only available for the wealthy sectors of the society. Under these circumstances, women from poorer backgrounds do not have much choice and may resort to unsafe abortion services causing irreversible injuries, as well as deaths and mortality rates make this issue a major public health concern.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned opinions and allegations.
2. Please provide detailed information on how the Government intends to finalize the adoption of the 2015 Safe Abortion Bill, which would bring its legislation in line with international human rights law and standards.
3. Please provide statistics and numbers of unsafe illegal abortions carried out in Sierra Leone each year and the impact on the health and life of the women and girls who undergo such abortions.
4. Please provide detailed information regarding the availability and affordability of contraceptives and the teaching of sex education courses in schools.
5. Please provide detailed information about the measures taken to prevent very high maternal mortality rate and to ensure the right to life and the right to physical and mental integrity, as well as the right to women and adolescents to the highest attainable standards of physical and mental health, including their sexual and reproductive health rights and access to adequate medical services, which are in compliance with international human rights standards.

Given the urgency of the issues addressed in this letter, we would kindly request that your Excellency's Government forward a copy thereof to the Speaker of the Parliament, Mr. Sheku Badara Bashiru Dumbuya.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure pregnant women and adolescents their right to physical and mental integrity as well as their right to health, including reproductive health.

It is our intention to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention and which the public opinion should be alerted to. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Eleonora Zielinska  
Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Dubravka Šimonovic  
Special Rapporteur on violence against women, its causes and consequences

## **Annex**

### **Reference to international human rights law**

In connection with the above concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Sierra Leone ratified on 23 August 1996. The ICCPR underlines that the State shall respect and ensure the rights of all individuals, without any distinction of any kind, including of sex (art.2), and to be free from inhuman and degrading treatment or punishment (art.7). The abovementioned alleged facts also indicate a violation for Sierra Leonean women and girls of their right to the highest attainable standard of physical and mental health (art.12) as set forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded by Sierra Leone also on 23 August 1996. Article 12 of ICESCR includes the obligation for all States Parties to take measures to promote sexual and reproductive health, and to ensure that the access to health services is available to all, especially the most vulnerable and marginalized segments of the population, without any form of discrimination.

We would like also to refer your Excellency's Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, which states that the right to health implies freedoms and rights, including the right to control one's health and body, including sexual freedom and reproductive (para. 8). The Committee also indicates that States shall respect the right to health by, inter alia, abstaining from imposing discriminatory practices relating to women's health status and needs as well as by refraining from limiting access to contraceptives and other means of maintaining sexual and reproductive health, from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, as well as from preventing people's participation in health-related matters (para. 34). In addition, with the aim to eliminate discrimination against women, General Comment 14 refers to the need to develop and implement policies to provide women with access to high quality and affordable sexual and reproductive services (para.21), further indicating that the provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child may be understood as requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information (para.14)

The total ban of abortion for women and adolescents in Sierra Leone undermines a number of rights and principles guaranteed under the Convention on the Elimination of all forms of discrimination against women (CEDAW), ratified by Sierra Leone on 11 November 1988. According to article 12, States Parties shall take all appropriate measures to eliminate discrimination against women in the area of health in order to ensure, on a basis of equality of men and women, access to health services, including those related to planning family. Furthermore, article 16 (1) of the Convention states that States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality between men and women, the same rights to decide freely

and responsibly on the number and spacing of their children and to have access to information, education and means to enable them to exercise these rights.

We also consider appropriate to refer your Excellency's Government to Resolution 2005/41 of the Commission on Human Rights on the elimination of violence against women, which stresses the need to provide women with the means to protect themselves against violence and, in this regard, stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.

In this context, we would like also to highlight the Concluding Observations made by the Committee on the Elimination of all forms of discrimination against women (CEDAW Committee) to Sierra Leone in 2014 (CEDAW/C/SLE/CO/6), in which the Committee already expressed concern about the law on abortion criminalizes the procedure without providing any exception, given the high incidence of sexual violence and unwanted pregnancies resulting in unsafe abortions, which account for 13% of maternal mortality. The Committee also expressed concern about delays in adopting the abortion bill, which decriminalizes the termination of pregnancy based on various socioeconomic grounds and urged Sierra Leone to ensure the effective implementation of all measures aimed at facilitating women's affordable access to health care, including through the allocation of sufficient resources and the implementation of the Initiative for Free Health Care throughout the State party. Finally, the Committee recommended that the State party, inter alia, strengthen its efforts to reduce maternal mortality, address its causes and increase the number of skilled health-care personnel, in particular in rural areas; provide effective access for women and girls to comprehensive information regarding sexual and reproductive health and rights, including on contraceptive use in order to reduce the rate of unwanted pregnancies, teenage pregnancies and unsafe abortions, and ensure that modern contraceptives are available and affordable for all women; enhance women's access to health-care facilities and skilled birth attendance, postnatal and maternal care, especially in rural areas and in Northern Province; and accelerate the adoption of the abortion bill.

In 2011, the CEDAW Committee issued two major decisions related to women's sexual and reproductive health rights. In the case *Alyne da Silva Pimentel v. Brazil*, the Committee reiterated that States have a human rights obligation to ensure that all women, regardless of their income or race, have access to health services that are provided in due course, that are non-discriminatory and services appropriate to maternal health. In 2009, in the case *L.C. v. Peru* regarding a 13-year rape victim who was denied a therapeutic abortion and who underwent a delayed spine surgery causing her disability, the Committee stated that the State must guarantee access to abortion when the physical or mental health of a woman is at risk, decriminalize abortion when the pregnancy is the result of rape or sexual abuse, examine the restrictive interpretation of therapeutic abortion and establish a mechanism to ensure that reproductive rights are understood and observed in all areas of health.

The two cases mentioned above confirm that States must ensure accountability for the violation of sexual and reproductive health rights, and provide victims with the opportunity to remedy and reparation. In addition, they reaffirm the importance of international human rights organisations as a source of responsibility when sexual and reproductive rights are violated, especially when national responsibility is absent or ineffective

We would also like to bring to the attention of your Excellency's Government the observations made by the Human Rights Committee to Sierra Leone in 2014 (CCPR/C/SLE/CO/1), in which the Committee also expressed concern at the current general criminalization of abortion, which may oblige pregnant women to seek clandestine abortions that endanger their lives and health. The Committee was also concerned at the persistently high incidence of adolescent pregnancy and maternal mortality, despite the State party's prevention efforts. The Committee recommended that Sierra Leone accelerates the adoption of a bill that includes provision for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest, to ensure that reproductive health services are accessible for all women and adolescents, to increase education and awareness-raising programmes on the importance of using contraceptives and the right to reproductive health.

We would like also to bring your attention on the concluding observations of the Committee against Torture to Sierra Leone in 2014 (CAT/C/SLE/CO/1), in which the Committee also expressed concern at sections 58 and 59 of the Offences against the Person Act which are still criminalizing abortion in all circumstances, and it recommended that the State party accelerate the review process of the Offences against the Person Act with a view to considering providing for further exceptions to the general prohibition of abortion, in particular for cases of therapeutic abortion and pregnancy resulting from rape or incest.

Finally, we would also like to refer to the Special Rapporteur on torture's report on torture on abusive practices in health-care setting (A/HRC/22/53) which notes that international and regional human rights bodies have begun to recognize that abuse and mistreatment of women seeking reproductive health services can cause tremendous and lasting physical and emotional suffering, inflicted on the basis of gender. Examples of such violations include denial of legally available health services such as abortion and post-abortion care (para. 46). The Committee against Torture has repeatedly expressed concerns about restrictions on access to abortion and about absolute bans on abortion as violating the prohibition of torture and ill-treatment (para 50). States must ensure that women have access to emergency medical care, including post-abortion care, without fear of criminal penalties or reprisals.