

## **GOVERNMENTAL ACTION IN MONITORING COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS NORMS – THE SIERRA LEONE EXPERIENCE.**

I want to express my profound appreciation and gratitude to the organizers of this seminar for inviting me to speak on the topic: Governmental Action in Monitoring Compliance with International Human Rights Norms – The Sierra Leone Experience.

You will agree with me that this topic is one of great emotive significance. It addresses the contemporary issue of Human Rights in the “*JUS GENTUM*” i.e. the Law of Nations; which consists in rules which are fairly certain and generally acceptable among states.

It follows that, states must set up effective mechanism to monitor and ensure that they honor, respect and implement the provisions of all international Human Rights agreements, treaties and conventions to which they have consented and given general acceptability as parties thereto.

The Government of Sierra Leone is party to several regional and international Human Rights instruments. As at present, the government is a party to six (6) core International Human Rights Treaties. The government has also signed several other International Human Rights instruments that it is yet to ratify.

A substantive principle under public international law is that, when once a state has entered into an international agreement, treaty or convention as a party thereto, it is the responsibility of that state to bring its municipal or national laws in conformity with that particular international agreement, treaty or convention to which it has become a party.

In this respect, the main practical steps for a state to follow to ensure conformity is RATIFICATION of its international agreements, treaties, and conventions into

which it has entered as a party. By ratification, two important obligations arise as immediately binding upon the ratifying state. These obligations are:

Firstly, the obligation to implement the provisions of the international agreements, treaties or conventions at the national level; this is the implementing obligation.

Secondly, the obligation to submit reports periodically to the international agreements, treaties or conventions bodies on the measures it has taken to give effect to the rights provided under these instruments and to ensure the enjoyment of these rights; this is the reporting obligation.

It is these two obligations that deal with the entire question of the mechanisms for compliance with international Human Rights norms by a state.

I will therefore now proceed to discuss how these two (2) obligations have been addressed by the government of Sierra Leone.

## **1. THE OBLIGATION TO IMPLIMENT THE PROVISIONS OF THE INTERNATIONAL AGREEMENT, TREATY OR CONVENTION AT THE NATIONAL LEVEL -**

The line ministry responsible for implementing the provisions of all international agreements, treaties and conventions in Sierra Leone is the ministry of Foreign Affairs and International Cooperation. In order to ensure efficiency and transparency in this implementation, the government of Sierra Leone has set up a Human Rights Secretariat within the ministry of Foreign Affairs and International Cooperation as an independent structure not within the civil service which is responsible for the following matters

- I. To monitor the implementation of all international Human Rights norms under all international Human Rights Agreements, treaties and conventions signed and ratified by the government of Sierra Leone.

- II. To ensure that the government of Sierra Leone promptly and appropriately discharge all obligations under its international agreements, treaties and conventions with regards to international Human Rights norms.
- III. To cooperate with other Human Rights groups in the country such as the Human Rights commission of Sierra Leone HRC/SL in the implementation and promotion of international Human Rights norms in Sierra Leone.
- IV. To engage in field work to carryout investigations on government actions in the protection and promotion of international Human Right norms in Sierra Leone.
- V. To record reports, complaints and violations of International Human Rights norms and submit them to the government through the Human Rights commission of Sierra Leone which in turn addresses these complaints and violations and then pursue them, when necessary through the courts or appropriate bodies.
- VI. To train focal persons on the investigation and reporting of complaints and violations of international Human Rights norms. The training of focal persons emphasized on them to know what issues, matters, or questions they must be looking for in their investigations and reporting of violations of international Human Rights norms. Focal persons for training are drawn from the various line ministries so that they are made to handle and address particular international Human Rights norms under specific international agreements, treaties and conventions which fall under their line ministries.

In order to effectively carryout the functions stated above, the Human Rights Secretariat has developed a National Action plan for monitoring the implementation of International Human Rights norms in Sierra Leone. The National Action plan is intended to consolidate all state obligations under International Human Rights agreements, treaties, and conventions in Sierra Leone in order to provide an efficient monitoring mechanism to follow up all such obligations.

However, the most basic problem which inhibit the National Secretariat to execute this National Action Plan is the lack of adequate funding to hold consultations with civil society groups and relevant stake holders.

Because of limited funding, the Human Rights Secretariat cannot reach out to the public especially those in the rural communities as much as they should do in order to assess their Human Rights status regarding the enjoyment of these rights under International Human Rights agreements, treaties and conventions.

## **2. THE OBLIGATION TO SUBMIT REPORTS PERIODICALLY TO THE INTERNATIONAL AGREEMENTS, TREATIES OR CONVENTIONS BODIES ON THE MEASURES TAKEN TO GIVE EFFECTS TO THE RIGHTS PROVIDED UNDER THESE INSTRUMENTS AND TO ENSURE THE ENJOYMENT OF THESE RIGHTS.**

Sierra Leone has direct reporting obligations under six (6) core treaties and these are:

- i. Article 40 of the International Covenant on Civil and Political Rights (ICCPR).
- ii. Article 16 of the International Covenant on Social Economic and Cultural Rights (ICESCR).
- iii. Article 9 of the Convention on the Elimination of all forms of Racial Discrimination (CERD).
- iv. Article 18 of the convention on the elimination of discrimination against woman (CEDAW).
- v. Article 19 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
- vi. Article 43 of the African Charter on the Rights and Welfare of the Child and as well as Article 62 of the African Charter on Human and People's Rights.

The reporting obligation provided under these treaties, seeks to shed light on the progress which Sierra Leone as a state, is making in implementing treaty rights on International Human Rights norms.

There are two (2) different categories of reports: These are:

**A. THE STATE PARTIES REPORT:** Under the United Nations Security Council resolution 250/60, state parties to international Human Rights agreements, treaties, and conventions are to report on their Human Rights situations in their respective countries. Sierra Leone presented its report in May 2011 in Geneva to the working group of the Human Rights Council. The state parties report allows and enables a state to undertake a comprehensive review of its national legislations, administrative rules, procedures and practices in order to ensure the fullest possible conformity with the provisions of its international agreements, treaties and conventions with respect to international Human Rights norms.

**B. THE UNIVERSAL PERIODIC REVIEW REPORT:** -These are subsequent reports prepared periodically which provide an opportunity for evaluating the progress achieved by a country over a period of time in implementing treaty rights with regards to international Human Rights norms.

These reports are submitted to the working group of the Universal Periodic Review (UPR). The Universal Periodic Review was established in June 18, 2007 in accordance with Human Rights resolution 5/1. At its eleventh session held from May 2<sup>nd</sup> to May 13<sup>th</sup> 2011, the Universal Periodic Review on Sierra Leone was held at its 8<sup>th</sup> meeting on May 5<sup>th</sup>, 2011. The Sierra Leone delegation to the working group of the (UPR) was headed by the present Attorney General and minister of Justice Honorable Franklyn Bai Kargbo. The working group adopted the report of the Universal Periodic Review on Sierra Leone at its 12<sup>th</sup> meeting held on May 9<sup>th</sup>, 2011.

The background which provided the context within which this report on the Universal Periodic Review (UPR) was compiled is as follows:

When the present government of Sierra Leone headed by President Ernest Bai Koroma came to power in September 2007, a new Human rights based development framework was immediately enunciated by the government called “**THE AGENDA FOR CHANGE**,” Within this new framework, the process of reporting under the UPR was launched by the president in 2010 and it was designated as a priority activity. This process of reporting under the UPR emphasized that extensive consultations were to be held with the civil society groups, children, women, and development partners, traditional and religious leaders.

Within this context, it must be noted that prior to the coming into power of this present government, Sierra Leone had suffered a brutal civil war which lasted for eleven years. This war which was fought against unarmed civilians resulted in massacres, rapes, murders and forced recruitments of children into the fighting factions, forced marriage and generally widespread violation of International Humanitarian and Human Rights laws.

The civil war officially ended in February 2002. Following this, two transitional justice mechanisms were established. These were:

- i. **The Truth and Reconciliation Commission (TRC)**, which was tasked with collecting a historical record of the conflict and making recommendations to avoid any reoccurrence of conflict.
- ii. **The Special Court of Sierra Leone**, which is a hybrid court, was established by the government of Sierra Leone and the United Nations. This court was tasked with addressing impunity of those who bear the greatest responsibilities in the perpetration of Human Rights violations during the civil war. Presently, eight persons are now serving prison sentences in Rwanda from the Special Court of Sierra Leone.

In explaining the context within which the report on the UPR was compiled, it is also necessary to mention the following matters which are relevant in this context. That, the Sierra Leone constitution 1991 (Act No.6) of 1991 provides under its Chapter III, an entrenched Bill of Rights. That, when the present government came to power, it inherited a constitutional review process which had addressed emerging concerns about legislations that discriminated against women and other discriminatory provisions within citizenship legislations as well as questions relating to the abolition of the Death Penalty.

That, on the question of gender equality, the government has planned to adopt legislation to accord 30 percent representation for women in all public positions, including parliamentary administration and cabinet positions. Consultations were on-going on these matters. The government had only recently adopted a number of legislations based on gender equality. These are: the Registration of Customary Marriage and Divorce Act of 2007, the Devolution of Estate Act 2007, the Domestic Violence Act of 2007, the HIV Prevention Act of 2007 and the Disability Act of 2011.

That, on the protection of women and girls, government was pressing to curtail and eventually abolish the deeply rooted harmful traditional practices, such as early marriages and forced marriages as well as female genital mutilation. By then the government had embarked upon a massive sensitization of the population about female genital mutilation in collaboration with the United Nations.

After the report on the Universal Periodic Review (UPR) on Sierra Leone was adopted by the working group, the United Nations Integrated Peace Mission for Sierra Leone (UNIPSL) which is the United Nations field office for Human Rights in Sierra Leone commended the 2011 Universal Periodic Review on Sierra Leone. (See The Human Rights Council website for the report on the UPR for Sierra Leone).

Also, during the session on the interactive dialogue and responses which followed immediately after the presentation of the report on UPR for Sierra Leone among delegates in attendance, a number of delegations recognized the Human Rights progress achieved by Sierra Leone after more than 10 years of civil war.

Japan commended Sierra Leone's efforts to promote the reintegration of former child soldiers. It welcomed the educational reforms and the establishment of a free health care program.

Poland noted with praise the enactment of some Gender based laws which seek to improve the status of women.

Algeria commended the setting up of mechanisms and the adoption of action plans and national strategies in the area of the rights of children, women and persons with disabilities.

Morocco commended Sierra Leone's political commitment to achieve truth and reconciliation; establish peace and stability; and rebuild the social fabric through dialogue.

It also commended the legal and institutional measures taken, good governance and other Human Rights achievements.

France noted the moves made by the government of Sierra Leone in addressing gender discrimination, particularly the under representation of women in politics, discrimination of women under customary law and the abolition of Female Genital Mutilation (FGM).

China noted the importance Sierra Leone has given to the accession to core International Human Rights treaties, the emphasis on protecting the rights of vulnerable groups such as women and children and on ensuring children rights to education.

Ecuador recognized Sierra Leone's efforts to fulfill its international obligation to guarantee, respect and promote Human Rights.

Costa Rico recognized the Human Rights legislative measures taken as well as the public policies adopted to reduce child and maternal mortality.

Indonesia commended the efforts made by Sierra Leone to ensure that Human Rights remained a key priority in the country's national rebuilding process.

Ghana commended the establishment of the Human Rights commission of Sierra Leone HRC/SL and applauded the efforts of the government to fully implement the recommendations of the Truth and Reconciliation TRC, particularly those relating to promoting the rights of women and children.

Nigeria welcomed the efforts made by Sierra Leone to harmonize domestic legislations with international Human Rights instruments.

Sweden commended the criminalization of domestic violence including sexual assault within marriage through the domestic violence Act 2007.

The United States of America commended the level of commitment by Sierra Leone to alleviate high infant and maternal mortality rates. It noted the progress made by the Ant-corruption Commission. It noted the efforts made in the implementation of Gender Laws in Sierra Leone.

United Kingdom of Great Britain and Northern Ireland was also encouraged by Sierra Leone addressing with tremendous success, what was at one point the world's highest infant and mortality rates. It acknowledged the progress made by Sierra Leone through the creation of a Human Rights Commission in 2007, the enactment of the Gender Acts of 2007 and the Disability Act of 2011, on improving access to Justice, on bringing the Human Rights commission in line with the Paris principles and on the abolition of discriminatory laws, practices and customs which entrenched gender equality.

At the end of this session on the interactive dialogue and responses by delegates, Sierra Leone, reaffirmed its commitment and promised to continue its efforts to honor its reporting obligation on all Regional and International Human Rights Agreements, Treaties and Conventions.

It is important to emphasize that fulfilling the reporting obligations deriving from International Human Rights Agreements, Treaties and Conventions is an occasion for achieving the following objectives:

- It creates the opportunity for the government of Sierra Leone to reaffirm its commitment to respect Human Rights of its own citizens and to concurrently reassert that commitment in the domestic political forum.
- It allows and makes it possible for domestic stock-taking on how International Human Rights norms are complied with.
- It gives an opportunity for the adoption of appropriate measures to remedy any short comings in the implementation of International Human Rights Norms.
- It makes it possible to engage the International community in the reporting process and to attract adequate assistance by states for fulfilling their obligations under International agreements, Treaties and Conventions.

Reporting should also be considered as an integral part of a continuing process designated to promote and enhance respect for Human Rights norms.

The preparation of any report is evidence for international commitment and provides an important occasion for national consultations of the appropriate social, economic, cultural and other sectors of society.

Conversely, the continuous non-compliance by a state to report under its International Human Rights Agreements, Treaties and Conventions bears a number of negative effects. For example, in September 2007, the Ministry of

Foreign Affairs and International Cooperation in Sierra Leone was called by the Human Rights Committee to send Sierra Leone's country report on the International Covenant on Civil and Political Rights (ICCPR), which had been due since November 1977.

In this particular case, the credibility and good faith of the Republic of Sierra Leone are put at stake. Further potential negative consequences may include:

Withdrawal of International support; actions taken by the Human Rights Monitoring Committee; poor record of Human Rights reporting as listed by the committees and reported to the United Nations General Assembly etc.

In the light of the foregoing, there is need absolutely for Sierra Leone to set up a structured and framed scheme for the timely and effective completion of its reporting obligation under International Human Rights instruments. To achieve this, Sierra Leone has set up a comprehensive national reporting strategy that will enable government to comply with its reporting obligations as the only sustainable means to catch up with the delay and prevent future delay.

The National Reporting Strategy (NRS) is formulated and adopted at a National Consultative Conference organized for this purpose. Once adopted, the National Reporting Strategy is submitted through the appropriate channel to Cabinet for approval. The Human Rights Secretariat established under the Ministry of Foreign Affairs and International Cooperating is responsible to facilitate the administration, coordination and implementation of the National Reporting Strategy.

The National Reporting Strategy (NRS) of Sierra Leone establishes and put in place a National Reporting Mechanisms (NRM). The National Reporting Mechanism provides the common institutional framework for the completion of the International and Regional reporting obligations of Sierra Leone to the International Treaties monitoring bodies under all International and Regional

Human Rights Agreements, Treaties and conventions to which Sierra Leone is a party.

The National reporting mechanism (NRM) covers all regional as well as International Human Rights instruments.

The structure of the National Reporting Mechanism (NRM) is made up of:

***i) Legal Agency; ii) Steering Committee; iii) Working Group; iv) Drafting Team and v) Focal Persons.***

**1. The Lead Agency:** This is responsible to coordinate the overall implementation of Sierra Leone's National Reporting Strategy and to ensure that the reports meet all the standard criteria.

It is also responsible for the diplomatic transmission of the finalized reports to the relevant treaty monitoring body.

It shall also ensure that the finalized country report is disseminated to the general public.

The Ministry of Foreign Affairs and International Cooperation has been designated by government to carry out the functions of the Lead Agency. This is consistent with its International role and to signal the importance accorded to the reporting process.

The Lead Agency (i.e) the Ministry of Foreign Affairs and International Cooperation shall be "***IPSO JURE***" Chair of the Steering Committee.

**2. The Steering Committee:** The steering committee is composed of one representative from each Ministry of Government, four (4) representatives from the Civil Service Organizations (CSO's) which shall include women, the chair of the Parliamentary committee on Human Rights, the Human Rights Commission

of Sierra Leone as well as relevant U.N Agencies which serve as technical advisers to the steering committee.

The Steering Committee is responsible to ensure that International Human Rights Treaty body reports are timely prepared and submitted and that all relevant stake holders are involved in the process. In this regard, the steering committee:

- i. Advocate for sustainable implementation of the reporting strategy.
- ii. Adopt the reporting schedule for the various International Human Rights Treaty body reports.
- iii. Establish working groups and determine their composition and powers.
- iv. Designate the Ministry to chair each working group.
- v. Adopt relevant guide lines to facilitate the work of the working groups.
- vi. Endorse the reports produced by the working group through a decision-making process.
- vii. Adopt internal operational and management procedure.

The steering committee meets every two (2) months for the first six (6) months and then quarterly thereafter. The first meeting shall be held not later than two (2) weeks after the adoption of the National Reporting Strategy.

**3. The Working Group:** The working group is established by the Steering Committee on an ad hoc basis for the purpose of putting the reports together based on the reporting schedule established by the steering Committee. The composition of the Working Group is determined by the Steering Committee and may vary according to the subject matter of the report. Each Working Group is chaired by a Ministry and no Ministry shall chair more than one working group. The Human Rights Commission of Sierra Leone (HRCSL) and the relevant U.N. Agencies serve as Technical advisers to the Working Groups.

The Working Group receives information from Focal persons and from other sources and proceeds with the detailed analysis and qualitative evaluation of such information.

**4. The Drafting Team:** Each Working Group has a Drafting Team which is responsible for drafting the country's report assigned to them for submission to the working Group for review and approval.

The composition of the Drafting Team is determined by the Working Group and may vary according to the subject matter of the report. Each Drafting Team shall include at least one lawyer. The Human Rights Commission of Sierra Leone and relevant U.N. Agencies serve as Technical advisers to the Drafting Committee.

**5. The Focal Persons:** One main Focal person and one Alternate Focal person are nominated by each institution represented in the working group. Ministries are encouraged to nominate main Focal persons from their professional wings for the purpose of continuity and alternate Focal Persons from their administrative wings.

The Focal Persons are responsible to:

- i. Facilitate the collection of all information pertaining to the drafting of the reports in their respective institutions.
- ii. Establish a system that will ensure the timely and effective availability of the information.
- iii. Be responsible for providing the Drafting Team with all relevant information that may be required.
- iv. Represent their various institutions in the Working Groups and Drafting Committees as may be necessary.

.As far as possible, Focal Persons (Main and Alternate) should participate in meeting, training and other activities for implementation of the reporting strategy.

To conclude, the following recommendations can be put forward for the sustainability of the National Reporting Strategy:

Firstly, the role of the various ministries and the mobilization of all available capacities and resources must be involved as they are crucial, for the National Reporting Strategy to provide and maintain a sustainable National Reporting Mechanism for compliance with the countries reporting obligations.

Secondly, the existence of a strong political commitment is needed to ensure the continued sustainability of the National Reporting Strategy.

Lastly, cabinet shall authorize in the budget of the ministry of Foreign Affairs and International Cooperation, the creation of a special budget line adequate enough to facilitate the operations of the Human Rights secretariat. It must also encourage specific budget lines to be created in all line ministries to support and facilitate the reporting process.

I thank you all.

Presented by:

**Hon. Justice Abdulai Sheikh Fofanah**

**Judge of the Superior Courts of Judicature**

**Sierra Leone Judiciary**