



CYRUS R. **VANCE CENTER**
FOR INTERNATIONAL JUSTICE



Sierra Leone

Submission to the UN Universal Periodic Review

October 2020

The Cyrus R. Vance Center for International Justice advances global justice by engaging lawyers across borders to support civil society and an ethically active legal profession. In 2017, the Vance Center launched a project to promote global collaboration on improving conditions of women's imprisonment. The Women in Prison Project ("the Project") convenes women prisoners' rights advocates from across the globe to 1) share information about conditions of women's incarceration in their respective countries or regions; and 2) build capacity for improved monitoring and reporting of conditions in women's prisons.

Founded in 2006, AdvocAid is the only human rights organization in Sierra Leone providing holistic access to justice and post-detention support to women and girls who come into contact with the law. This often includes the most vulnerable and marginalized women, including commercial sex workers, women working in the informal economy, survivors of abuse, and juveniles.

AdvocAid (A) – Does not have ECOSOC status

Cyrus R. Vance Center for International Justice (VC) – Has ECOSOC status

Websites:

<https://advocaidsl.org/>

<https://www.vancecenter.org/>

Introduction

1. AdvocAid and the Cyrus R. Vance Center for International Justice (the “Vance Center”) submit the following information regarding Sierra Leone's implementation of recommendations it accepted through its 2016 Universal Periodic Review (UPR). During this review, the Government of Sierra Leone received 208 recommendations, accepted 177 and noted 31.¹ Additionally, this submission provides information about developments in the human rights situation in Sierra Leone not addressed in the 2016 review.
2. This submission is not a complete review of the implementation of all recommendations either fully or partially supported by Sierra Leone, nor is it a comprehensive review of Sierra Leone's protection of human rights in the domestic sphere. The submission only covers human rights concerns monitored by AdvocAid and the Vance Center with regards to women in prison in the country, with attention to issues such as prison conditions, unfair police practices, arbitrary arrests and petty offences, violence against women and the death penalty.

Prison conditions

3. In 2016, Sierra Leone supported recommendations to reduce prison overcrowding and address poor prison conditions. Further, it agreed to guarantee all individuals the right to be tried within a reasonable time and to ensure healthcare to vulnerable groups. Four years later, conditions in detention centers in the country continue to fall short of basic standards, and women remain excessively held in pretrial detention.
4. Existing research indicates that pre-trial detention continues to be excessively used in Sierra Leone both for women and men.² AdvocAid and the Vance Center have documented that almost three quarters of women in prison are in pre-trial detention.³ This is in spite of guidance from The United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules) and the African Commission's Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (Luanda Guidelines), which provide that pre-trial detention should only be used as a measure of last resort in criminal proceedings.⁴ The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) further emphasize that, taking into account the experiences of violence of many women

¹ https://www.upr-info.org/sites/default/files/document/sierra_leone/session_24_-_janvier_2016/recommendations_and_pledges_sierra_leone_2016.pdf

² Open Society Foundations, 2013. Socioeconomic Impact of Pretrial Detention in Sierra Leone. Open Society Foundations, New York

³ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone* <https://www.vancecenter.org/wp-content/uploads/2020/08/Final-Woman-wahala-na-prison-web-version-.pdf>

⁴ United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), Rule 6.1; Luanda Guidelines s. 1(b)

offenders and their caretaking responsibilities, States should develop gender-specific alternatives to custodial measures both for women in pretrial detention and those who have been sentenced.⁵

5. Pre-trial detention is a major cause of prison overcrowding. AdvocAid and the Vance Centre found that the correctional center for women in the capital, Freetown, is severely overcrowded. The Center holds at times more than 60 women in a facility initially designed to hold 18. Some women even have to share a bed because of the lack of space.⁶ Reducing overcrowding is a priority obligation under regional and international standards such as the Luanda Guidelines and the Mandela Rules, the Bangkok Rules, and the Tokyo Rules. The COVID-19 pandemic presents unprecedented challenges and requires extraordinary efforts to reduce prison overcrowding, which renders the social distancing rules recommended to prevent the transmission of the virus virtually impossible. Incarcerated women also commonly have poorer health than the general population, and often suffer from underlying conditions. These circumstances, combined with the substandard hygiene conditions and infrastructures found in most correctional centers, put the health of both those detained and prison staff at great risk.
6. In spite of AdvocAid's repeated calls to release pre-trial and vulnerable people in detention as part of COVID-19 prevention measures⁷, the only people in detention who were released in the country since the outbreak were the 150 men and three women (approximately 3% of the total prison population), who were granted presidential pardons carried out every Independence Day.⁸ When comparing the response of the Sierra Leone government to that of other countries in Africa, it is clear that Sierra Leone's efforts to decongest prisons are insufficient. Additionally, not only has the Sierra Leone government not released people in detention to reduce the spread of COVID-19, it also continues to arrest people for minor, economic and petty offences, jeopardizing the lives of those detained, prison staff and the general public.⁹
7. Water supply in prisons is inadequate and sanitation is also often very poor in detention centers for women. Both women in detention and correctional officers complain that water becomes scarce during the dry season.¹⁰ This poses a challenge to hygiene and health, particularly amid the COVID-19 pandemic and for women menstruating or pregnant, which is why the Bangkok Rules require female correctional centers to provide facilities and materials needed to meet women's specific hygiene needs.¹¹ Also, clean drinking water is often scarce, which leads to many becoming

⁵ Bangkok Rules, Rules 57-62; See also: UNODC, 2020. Toolkit on Gender-Responsive Non-Custodial Measures

⁶ Mandela Rule 21 states that each person detained should have a separate bed and clean bedding

⁷ <https://advocaidsl.org/urgent-call-on-the-government-to-reduce-overcrowding-and-increase-support-to-correctional-centres-as-part-of-covid-19-prevention-measures/>

⁸ Sesay Amin Kef (2020), 153 Prison Inmates Released On Presidential Pardon. The Calabash News. <https://thecalabashnewspaper.com/153-prison-inmates-released-on-presidential-pardon/>

⁹ AdvocAid, 2020. *How COVID-19 Related Petty Offences Are Impacting Women's Rights*

<https://advocaidsl.org/lydia-kembabazi-advocaid-legal-manager-how-covid-19-related-petty-offences-are-impacting-womens-rights/>

¹⁰ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

¹¹ Bangkok Rules, Rule 5

ill.¹² While women are provided with sufficient toiletries, including sanitary pads, toothpaste, soap, and disinfectant, those are largely supplied by CSOs and NGOs, not the prison authorities.¹³

8. Women have different gender-specific health needs which may go unnoticed and unmet in penitentiary systems largely designed by men and for men. Where women's needs are not met, long-term health effects may be greater.¹⁴ The provision of health care services for those who are in prison is the responsibility of the State.¹⁵ Women in prison are entitled to at least the same level of healthcare that is available to the general population and should receive (for free where necessary) gender-specific healthcare services related to family planning, pregnancy, postnatal care as well as adequate nutrition during pregnancy and lactation.¹⁶ However, gender-specific medical services in women's prisons continue to be below minimum standards. For example, AdvocAid and the Vance Center have documented that prison authorities do not adequately provide for women's specific health needs, including gynecological care and cervical and breast cancer screenings, in any of the correctional centers.¹⁷
9. Medical services in women's prisons are overall limited due to lack of resources. Specialized medications are often lacking and must be bought from outside, at the expense of the detained women and when they cannot afford them, of the corrections officers.¹⁸ As a result, some women report only receive treatment when they are severely sick.¹⁹ While in the female correctional center in the capital a doctor is on call and visits when deemed necessary by the correctional officers, in the provinces, the prisons only employ nurses, who cannot provide the same level of medical care as doctors.²⁰
10. Mental health issues can be triggered or exacerbated by prison conditions where women live in unclean environments far from their communities, eat poorly, receive inadequate healthcare, and lack purposeful activity and privacy.²¹ Research indicates that women who suffered from a pre-existing mental health condition or developed a condition while in prison are more likely to self-harm after release.²² This demonstrates the need for trauma-informed mental health counselling in prison. Additionally, a body of literature has found that women who have suffered physical, sexual or psychological violence often develop coping mechanisms such as drug and alcohol

¹² Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

¹³ *ibid*

¹⁴ Report of the Rapporteur on violence against women, its causes and consequences, 2013. Pathways to, conditions and consequences of incarceration for women, UN doc. A/68/340

¹⁵ Mandela Rules, Rule 24

¹⁶ Bangkok Rules, Rules 10 and 18; CEDAW, Rule 12

¹⁷ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

²¹ WHO Regional Office for Europe, 2007. Health in Prisons: a WHO Guide to the Essentials in Prison Health, EUR/07/5063925

²² Report of the Rapporteur on violence against women, its causes and consequences, 2013. Pathways to, conditions and consequences of incarceration for women, UN doc. A/68/340

abuse and self-harm.²³ Given the large number of women in prison who have suffered at least one form of abuse, prisons should implement strategies to prevent suicide and self-harm. Prisons must also provide appropriate, gender-specific mental health support to those at risk.²⁴ AdvocAid and the Vance Center found, however, that only a quarter of women in detention in Sierra Leone receive mental health counselling in prison, with correctional centers in more rural and remote areas of the country reporting not being able to provide consistent counselling services.²⁵

11. During the 2016 UPR, Sierra Leone supported recommendations to ensure access to education to women. Nevertheless, AdvocAid and the Vance Center have documented that more than half of women in prison in Sierra Leone are illiterate and 45% have never attended school. Additionally, while in prison, women are not provided with appropriate educational and training programs. While there are libraries in the majority of Sierra Leone's correctional facilities, they remain largely unused because most women in prison cannot read. In prisons in rural areas, training and rehabilitation activities are quasi non-existent. The lack of access to education and training is not only a pathway that leads women to prison but also impacts their post-release reintegration into society.

12. *Sierra Leone should:*

- Allocate and provide adequate resources to address poor prison conditions including adequate nutritious food and safe water;
- Reduce overcrowding in prisons by releasing pregnant women and women with children in detention; at risk populations, such as elderly prisoners or those with underlying health issues; those held in pretrial detention for minor offences and individuals sentenced for minor, low-risk offences particularly with six months or less remaining on their sentence to serve;
- Provide for women's specific physical and mental health needs, including gynecological, antenatal and postnatal care and cervical and breast cancer screenings;
- Ensure that women in prison can work and actively participate in their reintegration and provide them with appropriate educational and training programs to improve their employment prospects.

Unfair police practices

13. In the 2016 UPR, Sierra Leone agreed to take all the necessary measures to guarantee equal and effective access to justice for women. Despite Sierra Leone's commitment, most women in prison in the country lack assistance by legal counsel. International standards demand that all States ensure that people who are arrested are immediately informed of their right to be assisted by a

²³ MacDonald, M., 2013. Women prisoners, mental health, violence and abuse. *International Journal of Law and Psychiatry*, Special Issue on Prisons and Mental Health 36,

²⁴ Bangkok Rules, Rule 16

²⁵ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

lawyer (free of charge if needed).²⁶ However, most women in prison in Sierra Leone say they are not offered legal advice at the police station, except for paralegals, such as those employed by AdvocAid, who monitor police stations and offer legal advice where funding allows. There are, however, no official duty lawyers on call at police stations once a person is arrested.²⁷

14. The lack of legal representation at the police level is problematic as a recent study indicated that many women, and especially those who are illiterate and from rural communities, do not understand the criminal justice system. As a result, they are not aware of and unable to assert their rights.²⁸ Women report being arrested and the police telling them that they will be able to go home if they sign a confession.²⁹ However, once they sign a confession, they are charged to court instead. Other women said that they have been read a statement in English when they only speak their ethnic group's language. In some cases, women have been presented with a written statement even though they were illiterate and were forced to thumbprint a confession they could not understand.³⁰ This breaches international standards.³¹ Research on gender analysis has suggested that women in strong patriarchal cultures may lack the skills necessary to bring a complaint and enforce their rights because they have been taught to have an unquestioning respect for male authority.³² This situation, combined with low levels of legal literacy, mean that many women plead to charges they do not comprehend.³³

15. *Sierra Leone should:*

- Eliminate barriers to women enjoying effective access to justice and promote knowledge of their rights and provide basic legal assistance through investment in legal empowerment services such as paralegals and lawyers;
- Provide information on the rights of a woman suspected or charged of a crime in a criminal justice process in a language that she can understand and in a manner that is accessible to illiterate persons, minorities and persons with disabilities.

Petty Offenses

²⁶ Basic Principles on the Role of Lawyers Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.3, annex

²⁷ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

²⁸ *ibid*

²⁹ This may be in breach of the Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, Economic and Social Council resolution 1984/47, annex, adopted on 25 May 1984; Principle 21 states that authorities must not use methods of interrogation which impair the capacity of decision or judgement of a person under arrest or in detention.

³⁰ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

³¹ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, General Assembly resolution 67/187, annex, adopted on 20 December 2012, Guideline 2(d): "Information on the rights of a person suspected or charged of a crime in a criminal justice process ... should be provided in a manner that corresponds to the needs of illiterate persons, minorities, persons with disabilities and children; and such information should be in a language that those persons understand."

³² Baker, J., 2015. Conditions For Women In Detention In Zambia

³³ Mahtani, S., 2013. Women and the Criminalization of Poverty: Perspectives from Sierra Leone. Signs

16. In 2018, the African Commission recommended that State Parties to the African Charter take steps to decriminalize and declassify petty offences as they violate a number of rights guaranteed by the African Charter – namely the right to equality and non-discrimination,³⁴ the right to dignity and freedom from torture, cruel, inhuman or degrading punishment and treatment³⁵ and the right to liberty and security of the person and freedom from arbitrary arrest and detention.³⁶ During the 2016 UPR, Sierra Leone agreed to take appropriate measures to implement alternatives to custodial sentences for minor offences. Despite this, AdvocAid and the Vance Center documented that the country continues to criminalize petty offences, both in practice and in law, and incarcerate women for minor crimes. This is contrary to international standards that prohibit the criminalization of petty offences, which often equates with the criminalization of poverty.³⁷ Petty offences make up a large proportion of the cases entering the criminal justice system: 33% of all offences for which people were in prison in the country in 2019 – either in pre-trial detention or convicted – were petty offenses.³⁸
17. Petty offences are enforced under often incorrectly applied, outdated and vague laws which give the police wide discretion for enforcement.³⁹ This leaves ample liberty for the police to extort bribes and conduct arbitrary arrests of the poor and other marginalized groups.⁴⁰ In some cases, the vague character of these laws means that they are used by the police to arrest those against whom a substantive charge could not be imposed.⁴¹ This is contrary, *inter alia*, to the Luanda Guidelines, which provide that people can be arrested and incarcerated only on the basis of laws that are clear, accessible and precise, consistent with international standards and respect the rights of the individual.⁴²
18. While both men and women are arrested and charged for petty offences in Sierra Leone, AdvocAid and the Vance Center have observed that women are disproportionately affected by the enforcement of petty offences. Women are generally more disadvantaged and experience higher rates of poverty due to limited access to capital, education, and job opportunities.⁴³ The vast majority of women in prison in Sierra Leone are marginalized, illiterate, petty traders and the sole caretakers of young children.⁴⁴ A large portion of female defendants are thus arrested for petty offences, which are often committed to ensure their survival and that of their families.⁴⁵

³⁴ Articles 2, 3 and 18 of the African Charter

³⁵ Article 5

³⁶ Article 6

³⁷ UN Special Rapporteur on Extreme Poverty and Human Rights, *Report of the Special Rapporteur on Extreme Poverty and Human Rights on his Mission to the United States of America*, U.N. Doc. A/HRC/38/33/Add. 1, paras. 71-73 (4 May 2018)

³⁸ Centre for Accountability and Rule of Law and AdvocAid, 2019. *Decriminalising Poverty in Sierra Leone: Petty Offences Baseline Research*

³⁹ Centre for Accountability and Rule of Law and AdvocAid, 2019. *Decriminalising Poverty in Sierra Leone: Call For Reform Of Petty Offenses. Position Paper*. <https://advocaidsl.org/1942-2/>

⁴⁰ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁴¹ *ibid*

⁴² Article 2(a)

⁴³ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁴⁴ *ibid*

⁴⁵ AdvocAid, 2018. *Submission to the United Nations Working Group on the Issue of Discrimination Against Women in Law and Practice, Women Deprived of Their Liberty – Sierra Leone* <https://www.ohchr.org/Documents/Issues/Women/WG/DeprivedLiberty/CSO/AdvocAid.pdf>

19. Furthermore, the enforcement of petty offences creates opportunity for corruption and bribery. Women report being held at the police station as the police levy money from them.⁴⁶ Some of these women are then charged to court and spend such extended periods of time in pre-trial detention that by the time their case is heard in court, they have already served their time.⁴⁷
20. The most common petty offences women are charged with are fraudulent conversion and obtaining goods or money by false pretense.⁴⁸ Both require a deliberate and fraudulent intent.⁴⁹ However, both offences have been largely misunderstood and overextended to criminalize almost any instance of debt, regardless of intent.⁵⁰ Following advice from the police, some women plead guilty to owing money to their accuser without understanding that they are admitting to intentionally defrauding them or the implications of their plea.⁵¹ The number of such cases among women has increased during the COVID-19 pandemic.⁵² Most women in Sierra Leone work as small-scale traders who, following the establishment of a curfew to limit the spread of the virus, have had trade hours reduced and their profits cut. This can prevent women from repaying their loans and lead to their arrest under charges of fraudulent conversion and obtaining money by false pretense.⁵³ This is counterproductive because once an individual is convicted and goes to prison, the lender does not recover the money owed, and the State incurs expenses in detaining someone who could have instead worked to repay the lender.
21. Among other petty offences criminalized in Sierra Leone, 'loitering' is defined as idling in the street 'not having any visible means of subsistence, and not giving a good account of himself'.⁵⁴ This definition is vague, leaving extensive discretion to the police and placing marginalized groups at risk. Loitering is disproportionately applied to women who do not comply with traditional gender norms and conservative customs in the way that they dress or act, particularly those suspected of engaging in sex work.⁵⁵ This is contrary to international standards, which place positive obligations on States to both eradicate stereotypes and practices that discriminate against women⁵⁶ and to protect sex workers, who are particularly vulnerable to abuse.⁵⁷ This already vulnerable group has been severely affected by the pandemic across Africa, as lockdowns,

⁴⁶ *ibid*

⁴⁷ Mahtani, S., 2013. *Women and the Criminalisation of Poverty: Perspectives from Sierra Leone*, in *Signs*

⁴⁸ AdvocAid, 2012. *Women, Debt & Detention: An Exploratory Report on Fraudulent Conversion and the Criminalisation of Debt in Sierra Leone*
<http://advocaidsl.org/wp-content/uploads/2018/12/AdvocAid-Women-Debt-and-Detention-Report.pdf>

⁴⁹ Under the Larceny Act 1916, a person is guilty of committing "fraudulent conversion" if: "...being entrusted [...] with any property in order that he may retain in safe custody or apply, pay, or deliver, for any purpose or to any person, the property or any part thereof or any proceeds thereof; [...] **fraudulently converts** to his own use or benefit, or the use or benefit [...] the property or any part thereof or any proceeds thereof"(emphasis added). Fraudulent conversion carries a sentence of up to seven years in prison. Similarly, a person is liable to up to five years in prison if 'by any false pretense— (1) **with intent to defraud**, obtains from any other person any chattel, money, or valuable security [...]' (emphasis added).

⁵⁰ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*.

⁵¹ *ibid*

⁵² AdvocAid, 2020. *How COVID-19 Related Petty Offences Are Impacting Women's Rights*

⁵³ *ibid*

⁵⁴ Public Order Act 1965, s.7

⁵⁵ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁵⁶ CEDAW, art. 5.

⁵⁷ CEDAW GR 19, paras. 15–16 (1992)

curfews and travel bans have left many without income. In Sierra Leone, sex workers are reportedly often arrested for violating curfew regulations and are sometimes forced to spend the night with a client to avoid breaching the limitation, frequently without being appropriately remunerated.⁵⁸ Arrested sex workers are also at considerable risk of sexual violence at the hands of police, who can sometimes extort payments or sex from them in return for their release.⁵⁹

22. *Sierra Leone should:*

- Decriminalize and declassify petty offences such as loitering, fraudulent conversion and obtaining goods or money by false pretenses, insulting conduct, and minor traffic offences;
- Encourage alternative dispute resolution or civil summonses to resolve minor crimes;
- Develop community-based non-custodial measures such as diversion, community service and community-based treatment.

Violence against women

23. During the 2016 UPR, Sierra Leone agreed to implement a zero-tolerance policy on sexual and gender-based violence and ensure the prosecution of all perpetrators of violence against women and the rehabilitation and support for victims of violence. Despite the progress represented by the passage of the Sexual Offences (Amendment) Act in 2019, sexual and gender-based violence against women remains pervasive in the country.

24. Sierra Leone is a highly patriarchal society, which consistently ranks as one of the bottom 10 countries in the world for indicators on gender equality,⁶⁰ although important progress has been made recently around economic participation for women.⁶¹ Unequal power relations between men and women and socially constructed gender hierarchies create a permissive space for violence against women and girls.⁶² Women, compared to men, are trained to be submissive from a young age and girls are commonly taught that a good wife obeys her husband and prioritizes his needs over hers.⁶³ While Sierra Leone has positive obligations to address sexual and gender-based violence,⁶⁴ it remains prevalent, especially in the domestic context: 45% of women aged 15-49 years report having experienced physical and/or sexual violence by an intimate partner at

⁵⁸ AdvocAid, 2020. *How COVID-19 Related Petty Offences Are Impacting Women's Rights*

⁵⁹ Justice Studio, AdvocAid, African Prisons Project and Defence for Children International – Sierra Leone, 2011. Justice for Girls? Girls in conflict with the law and sexual exploitation in Sierra Leone <http://advocaidsl.org/wp-content/uploads/2018/12/AdvocAid-Justice-for-Girls-Report.pdf>; AdvocAid, 2018. Online launch of documentary 'Kolonko' showing harassment and violence faced by sex workers <https://advocaidsl.org/online-launch-of-documentary-kolonko-showing-harassment-and-violence-faced-by-sex-workers/>

⁶⁰ According to the United Nations Gender Inequality Index, in 2019 Sierra Leone ranked 181 out of 189 countries in the world for gender equality <http://hdr.undp.org/en/composite/GII>

⁶¹ World Economic Forum, 2020. The Global Gender Gap Report http://www3.weforum.org/docs/WEF_GGGR_2020.pdf

⁶² Moyo, T., Dhliwayo, R., 2019. Achieving Gender Equality and Women's Empowerment in Sub-Saharan Africa: Lessons from the Experience of Selected Countries. *Journal of Developing Societies* 35

⁶³ Denney, L., Ibrahim, A.F., 2012. Violence against women in Sierra Leone. ODI Politics and Governance <https://www.refworld.org/pdfid/523ac7a94.pdf>

⁶⁴ CEDAW, art. 1; Maputo Protocol, art. 3

least once in their lifetime.⁶⁵ Yet the police are unlikely to intervene in what they consider to be domestic matters.⁶⁶ This is supported by perceptions within the community – UNICEF data shows that 73.3% of women in Sierra Leone believe that intimate partner violence can be justified.⁶⁷

25. While in March 2019 the President of Sierra Leone, Maada Bio, declared rape and sexual violence a national emergency and passed the Sexual Offences (Amendment) Act 2019 – increasing the maximum penalty for rape of a child from fifteen years to life imprisonment – rape continues to be pervasive. According to the police, 8,500 cases were recorded in 2019. However, because many cases are not reported, or are reported but not prosecuted, the actual figures are likely much higher.⁶⁸ Sexual abuse in marriage is considered by many as a natural reaction to a wife's failure to perform what are seen as her sexual duties.⁶⁹ Although the Sexual Offences Act of 2012 provides that marriage is not a defense to rape charges,⁷⁰ this provision conflicts with customary law under which a woman cannot deny her husband sex. Notably, the Sierra Leonean Constitution allows for discriminatory practices against women and children under customary law.⁷¹ This is in breach of international standards, under which States must not invoke customs, traditions or religion to avoid their obligation to eradicate violence against women.⁷² Despite the passing of the Domestic Violence Act 2007, the Sexual Offences Act 2012 and the Sexual Offences (Amendment) Act 2019, many women do not feel safe reporting their abuser to the police and when they do report, they are not taken seriously.⁷³

26. Research has conclusively found a strong link between childhood and adulthood sexual and gender-based violence and women's incarceration, whether prior to, during or after prison.⁷⁴ AdvocAid and the Vance Center found that almost half of the women in prison in Sierra Leone have experienced at least one form of abuse during their childhood and 72% as adults at the hands of their partners.⁷⁵ An additional 45% report abuse as adults by someone other than their partner, typically by a father, uncle, neighbor or a male acquaintance.⁷⁶

27. *Sierra Leone should:*

- Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and adopt measures to prevent, punish and eradicate

⁶⁵ Statistics Sierra Leone (SSL) and ICF International, 2014. Sierra Leone Demographic and Health Survey 2013. Freetown, Sierra Leone and Rockville, Maryland, USA: SSL and ICF International

⁶⁶ OSAC, 2019. Sierra Leone 2019 Crime & Safety Report

<https://www.osac.gov/Country/SierraLeone/Content/Detail/Report/fee7f77e-7389-45ed-81a5-15f4aec723c8>

⁶⁷ UNICEF, At a glance: Sierra Leone https://www.unicef.org/infobycountry/sierraleone_statistics.html

⁶⁸ <https://www.bbc.com/news/world-africa-47169729>

⁶⁹ *ibid*

⁷⁰ Sexual Offences Act, s.5

⁷¹ Constitution of Sierra Leone 1991, s. 27(4) (d) and (e)

⁷² Declaration on the Elimination of Violence against Women General Assembly resolution 48/104, adopted on 20 December 1993, art. 4

⁷³ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁷⁴ Report of the Rapporteur on violence against women, its causes and consequences, Pathways to, conditions and consequences of incarceration for women, 2013, UN doc. A/68/340

⁷⁵ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁷⁶ *ibid*

violence against women;

- Take concrete measures to eliminate discrimination against women and girls in law and in practice, also by accelerating the constitutional amendments in the area of gender equality, specifically article 27(4) of the 1991 Constitution;
- Implement a zero-tolerance policy on sexual and gender-based violence and ensure the prosecution of all perpetrators of violence against women, rehabilitation and support for victims of violence;
- Recognize and consider a history of sexual and gender-based violence when investigating and prosecuting women who commit crime and conduct gender-sensitive trials;
- Provide gender-responsive training for judicial and law enforcement officers and strengthen police accountability mechanisms.

Death Penalty

28. Sierra Leone accepted 13 recommendations on the abolishment of the death penalty and agreed to take steps to ratify the ICCPR Second Optional Protocol in the second review session of the UPR. Sierra Leone's Truth and Reconciliation Commission also recommended that Sierra Leone abolish the death penalty. *"Respect for human dignity and human rights must begin with respect for human life. Everyone has the right to life. A society that accords the highest respect for human life is unlikely to turn on itself."*
29. Despite these public commitments to abolish the death penalty, Sierra Leone retains the mandatory death penalty for aggravated robbery, murder, treason and mutiny. Although a *de facto* moratorium is in place, with the last executions taking place in October 1998, the death penalty is still routinely sentenced. Currently, there are 78 people, all male, on death row, an increase of over 50% from August 2019. Recent sentences from the Kabala High Court Circuit session (September 2020)⁷⁷ saw one woman sentenced to death by hanging. Further, there are no *statutory* defenses in the Offences Against the Person Act that would reduce murder to manslaughter.
30. In November 2017 a government white paper rejected the Constitutional Review Commission's recommendation to abolish the death penalty. The death penalty, which is discriminatory, is often used against the most vulnerable in society, including the poor, illiterate and people with mental disabilities. Research shows that the majority of women who are in prison in Sierra Leone for violent offences have generally acted in response to domestic and/or sexual abuse.⁷⁸ This data reveals the importance of taking into account a history of abuse during sentencing.⁷⁹ AdvocAid and the Vance Center found that almost all women imprisoned for committing a violent crime against their partner or spouse report that their spouse or partner beat, bullied, belittled, or

⁷⁷ <https://thecalabashnewspaper.com/62-criminal-cases-to-be-tried-4-could-face-death-penalty-in-kabala/>

⁷⁸ Penal Reform International and Linklaters LLP, 2016. Women who kill in response to domestic violence: How do criminal justice systems respond?

⁷⁹ Report of the Rapporteur on violence against women, its causes and consequences, 2013. Pathways to, conditions and consequences of incarceration for women, *supra* note 2, para. 84

sexually harmed them before they committed the crime; 69% say they acted in self-defense.⁸⁰ Yet, if a woman is found guilty of murder, a history of violence cannot be considered at sentencing as a mitigating factor because of the automatic death penalty for murder. There is only one partial defense to murder; 'provocation' under the (unwritten) common law, which reduces the crime of murder to one of manslaughter. This practice goes against international legal standards.⁸¹

31. One of the most frequently cited reasons for maintaining the death penalty is that it is necessary for public safety—it is 'the ultimate deterrent'. This argument claims the death penalty has either a specific deterrent effect (on an individual who would otherwise commit a crime) or a general deterrent effect (making the public at large, and would-be criminals, think twice about breaking the law) or both. This argument was advanced in 2016 by Sierra Leone's then-Minister for Internal Affairs, Paolo Conteh, who threatened to restart executions, saying: "*It's in the Bible, an eye for an eye. Our local people say kill a dog in front of another to know that death is real.*"⁸²

32. **Sierra Leone should:**

- Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as well as take steps aimed at elimination definitively of the death penalty in all cases;
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Develop gender-specific defenses and/or mitigating factors that take into account a history of gender-based violence and slow-burning reactions of victims of violence.

⁸⁰ Cyrus R. Vance Center for International Justice and AdvocAid, 2020. *Woman Wahala na Prison – Causes and Consequences of Women's Imprisonment in Sierra Leone*

⁸¹ Updated Model Strategies and Practical Measures on the Elimination of Violence against Women and Girls in the Field of Crime Prevention and Criminal Justice, 15(k). General Assembly resolution 65/228, annex, adopted on 21 December

⁸² <https://www.aa.com.tr/en/africa/sierra-leone-to-apply-death-penalty-once-again/646746>