**Honourable Justice D B Edwards**

**Chief Justice of the Republic of Sierra Leone**

**Chief Justice’s Chambers**

**Law Courts Building**

**Siaka Stevens Street**

**Freetown**

**28th August 2020**

**3rd April 2020**

**Tel:**

**Mobile: +232 76 904134**

**Email:** [**cj@judiciary.gov.sl**](mailto:cj@judiciary.gov.sl)

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**SIERRA LEONE GOVERNMENT**

**CONTRIBUTION FROM THE JUDICIARY OF SIERRA LEONE TO THE THEMATIC REPORT ON “WOMEN’S AND GIRLS’ SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS IN SITUATION OF CRISIS” TO BE PRESENTED TO THE 47TH SESSION OF THE HUMAN RIGHTS COUNCIL**

**BACKGROUND**

The Judiciary of Sierra Leone is constitutionally mandated to carry out judicial functions in all civil, criminal matters relating to the Constitution and such other matters in which Parliament by law shall confer jurisdiction on the Judiciary. The judiciary is headed by Hon. Chief Justice Desmond Babatunde Edwards and consists of the Supreme Court, the Court of Appeal, High Court, Magistrate Courts and the Local Courts. The 1991 Constitution guarantees to every individual fundamental human rights and freedoms irrespective of sex, and this includes the right to life, liberty, security of person and protection of the law.

Over the years with increased human rights awareness, a lot of institutional and legal reforms have been undertaken in Sierra Leone following the war, to ensure the protection of human rights based on human rights guaranteed in the constitution as well as in provisions in regional and international human rights instruments that the country has ratified. It has ratified the U.N. Convention on the Elimination of all forms of Discrimination Against Women, the Africa Union Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, the U.N. Convention on the Rights of a Child and the African Charter on the Rights and Welfare of the Child.

1. **CONCEPT/DEFINITION OF CRISIS - LEGAL AND POLICY FRAMEWORK**

In response to the high incidence of sexual violence against girls leading to injury and death and impunity for these crimes, the Head of State, President Dr. Julius Maada Bio invoked section 29 of the 1991 Constitution and in February 2019 declared a State of Emergency in order to address the prevalence of these crimes. He also declared a harsher punishment for such crimes from the maximum punishment of 15 years imprisonment to life imprisonment.

Following the declaration of a State of Emergency, on the 19th September 2019 the Parliament of Sierra Leone enacted the Sexual Offences (Amendment) Act, 2019 which was signed into law by the President of Sierra Leone on 7th October 2019. The Sexual Offences (Amendment) Act makes provision for inter alia, the increase of the maximum penalty for rape and sexual penetration of a child from fifteen years to life imprisonment; for the introduction of the offence of aggravated sexual assault; for an alternative conviction of aggravated sexual assault, for prosecution of offences under the Act and the making of rules to further regulate the practice and procedure under the Act.

Under the Sexual Offences (Amendment) Act a victim of a sexual offence shall be entitled to free medical treatment and a free medical report from any Government Hospital in Sierra Leone or from any other Health unit duly accredited by the Ministry of Health and Sanitation. It also allows the Attorney-General to prosecute such offences in the High Court without going through a preliminary investigation in the Magistrate Courts. Any person who engages or attempts to engage in a settlement or compromise on any matter in which a sexual offence is alleged to have occurred commits an offence and liable on conviction to a fine of Le10,000,000 or to a term of imprisonment of not less than one year and not more than 10 years or to both fine and imprisonment.

The Human Rights Commission of Sierra Leone in conjunction with the National Committee on Gender based violence (NAC-GBV) of the Ministry of Social Welfare, Gender and Children’s Affairs shall produce and present to Parliament an annual report of the status of implementation of the Sexual Offences Act 2012 as amended throughout Sierra Leone including recommendations to Parliament.

Apart from the Sexual Offences Act 2012 and the Sexual Offences Amendment Act 2019, other existing laws to address sexual and gender based violence include the following:

1. The Domestic Violence Act 2007;
2. The Devolution of Estates Act 2007;
3. The Registration of Customary Marriage and Divorce Act 2009;
4. The Child Rights Act 2007 and
5. The Anti-Human Trafficking Act 2005.
6. **MEASURES ADOPTED BY THE JUDICIARY TO ADDRESS THE CRISIS OF THE HIGH INCIDENCE OF SEXUAL VIOLENCE AGAINST GIRLS AND SEXUAL AND GENDER BASED VIOLENCE GENERALLY**

The Judiciary of Sierra Leone is committed to ensuring accessible, fair and expeditious justice for all in Sierra Leone. In all of the courts nationwide it hears and determines matters both civil and criminal involving the protection of women and girls and enforces their rights in the above listed laws and any other applicable laws. The Judiciary has taken measures to respond to the crisis following the declaration of the State of emergency in respect of sexual offences against girls and to address impunity in relation to such offences.

Specific measures adopted by the Judiciary from 2019 to 2020 include the following:

* Conducted several trainings for Judges, Magistrates, lawyers and law enforcement officials to enhance the effective prosecution and trial of sexual offences as well as human rights generally;
* Established a Sexual Offences Division of the High Court;
* Recruited more Judges and assigned more judges to sit on sexual offences cases;
* Established the Sexual Offences Model Court with witness protection facilities to ensure that victims can testify in safety in the presence of social workers and their identities are protected;
* Developed Sentencing Guidelines for sexual offences;
* Established mechanisms for monitoring the trials of sexual offences and
* Regular meetings of Judges and other relevant stakeholders with the Chief Justice to address challenges or bottlenecks in the trials of sexual offences.

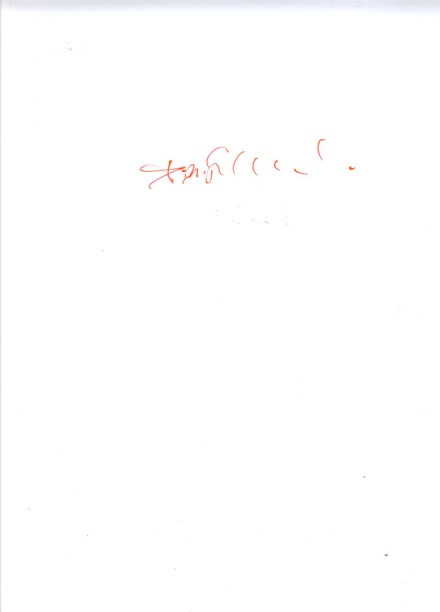
1. **CHALLENGES**

Some of the challenges experienced in the prosecution of sexual offences includes the following:

* Undue delay in trials caused by witnesses mainly parents of victims and in some occasions the victims themselves who refuse to testify in such cases. This is as a result of out of court settlements and compromise by family members;
* the absence of a forensic lab that will assist in providing the needed evidence or link between the perpetrator and the crime through DNA testing of specimens and other items found at the scene of crime or connected with the crime;
* Insufficient prosecutors, doctors who provide medical reports and courts throughout the country for the effective prosecution of such offences. This problem is more acute in rural areas and among the poor and vulnerable;
* Insufficient funding allocated to the investigation and prosecution of sexual and gender based violence;
* The absence of a dedicated fund to provide reparation for victims of sexual violence who are mainly children;
* Insufficient co-ordination of all stakeholders in the justice system delivery in respect of sexual offences;
* Inadequate data collection in respect of sexual offences and
* The absence of a register of perpetrators of sexual and gender based crimes.

1. **CONCLUSION**

The Judiciary has established institutional as well as administrative measures to provide justice for victims of sexual and gender based violence. By doing so it is enforcing the laws guaranteeing the protection of women and girls and addressing impunity for sexual and gender based violence. It is also fulfilling its mandate to protect and promote the human rights of girls and women by harnessing its resources both human and financial towards developing an effective judiciary which is gender sensitive and accessible.



Hon. Justice Desmond Babatunde Edwards

**HONOURABLE CHIEF JUSTICE OF THE REPUBLIC OF SIERRA LEONE**