

HUMAN RIGHTS COMMISSION OF SIERRA LEONE

REPOSE TO THE REQUEST OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS AND THE ENVIRONMENT



A presentation made by the Human Rights Commission of
Sierra Leone

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Referenced to a letter dated 27th July, 2016 from the office of the Special Rapporteur on Human Rights and the Environment, requesting the Human Rights Commission of Sierra Leone to respond to some issues on the state's human rights obligation to Biodiversity, the Commission has the following submissions in line with the request made;

1. ***(Please provide good practices in the adoption of biodiversity – related legislation, policies and programmes that incorporate human rights obligations)*** – The Government has adopted several policies and legislation on Biodiversity management in the country. It has also acceded to the Biodiversity Convention out of which it has been able to adopt some local policies. Below are some of these policies and legislation;

National Laws

1. National Protected Area Authority and Conservation Trust Fund Act 2012
2. Wetland Policy 2015
3. Forestry Act 1988
4. Forestry Regulation 1998
5. Environmental Protection Mines and Mineral's Regulation 2013
6. Environmental Impact Assessment Strategy
7. Resettlement Action Plan
8. National Biodiversity Strategic Action Plan (NBSAP)

International laws

1. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1973
2. Wild Life Conservation Act 1972
3. Biodiversity Convention 1992
4. Nagoya Protocol (On going for Sierra Leone's membership) – Document passed through Cabinet Approval and awaiting submission to Parliament (This is on Access and Benefit Sharing in relation to Biodiversity)

The National Laws and the International Standards have helped the country in regulating the affairs of the environment and its biodiversity. Some of these laws are being enforced whilst others still remain a challenge.

Some of them incorporate the interest of the local indigenes, for instance the Resettlement Action Plan provides for a rights based approach to moving the indigenes from their ancestral settlement to a new settlement.

The National Protected Area Authority (NPAA) and Conservation Trust Fund Act 2012 dictates the interest of the state through its established NPAA for the protection of the National Protected Areas and provides for the management of the proceeds that come from any sales and transaction from the protected area.

Recent development in the Biodiversity management is the move by the Environmental Protection Agency (EPA) to lobby government to adopt the Nagoya Protocol. If adopted it will create greater legal certainty and transparency for both providers and users of genetic resources. This could be affected by establishing more predictable conditions for access to genetic resources and by helping to ensure benefit-sharing. The National Protected Area Authority (NPAA) which is an established wing under the Ministry of Agriculture has been ensuring that the benefits from the carbon sales and any other proceeds are shared among communities and among the indigenes.

Another positive action taken by the government is the REDD+ (*Reducing Emission from Deforestation and Degradation +*) approach to reducing the environmental degradation. REDD+ is a project that is meant for managing the GOLA Rain Forest National Park and has been a show case for Sierra Leone's Biodiversity.

Human Rights Activists dealing with environmental issues are concerned with the fact that there are Laws, Policies and Regulations that are meant for the protection of the Biodiversity and the affected indigenes, but that these laws, policies and regulations are not being implemented to the letter. They are even critical about the impact of the NPAA on the Biodiversity regulation, because their functions are contingent on Government regulations and supervision. The NPAA instituted a regulation on mining in the protected areas which is never adhered to because of the influence of the Ministry of Mines and Mineral Resources.

2. *(Please provide specific examples of good practices in the implementation of human rights obligations in biodiversity – related matters. For instance, such examples may include practices related to: guaranteeing procedural rights (e.g. rights to information, participation and remedy); monitoring human rights affected by biodiversity – related legislation, programmes and projects (e.g. rights to life, food, housing, health, water and sanitation, cultural rights , etc.); protecting the rights of individuals and groups from adverse impacts related to biodiversity; promoting the enjoyment of human rights (e.g. rights to life, food, housing, health, water and sanitation and cultural rights, etc.); guiding business activities in accordance with the UN Guiding Principles on Business and Human Rights; and seeking remedies for victims) –*

The Environmental Impact Assessment (EIA) Strategy is a major tool used by the EPA and this has been widely participatory, allowing the affected communities to take part in vital decision making. The process is however, criticized by some Civil Society Organisations that are dealing with environmental issues. Major concerns raised in respect of the EIA process is the reporting method. They are concerned that there is no detailed report that the community can refer to and which is easily accessible. In presenting the outcome of EIA processes to the public and specifically to the indigenes; the CSOs reported that the findings are not fully covered. A 100 page report is presented on 7 or 8 slides on power point. According to the CSOs, this has the potential of letting the presenter skip vital details in the report. This according to the CSOs could lead to an under representation of the issues researched on.

Sierra Leone is a signatory to the Biological Diversity Convention and it is provided in Section 13 of this Convention that there should be Public Education and Awareness Raising for inhabitants/Parties on the management of the Biological Diversity and Section 17 requires an exchange of information from all parties. This has been adhered to through the town hall meetings summoned and through radio sensitization, stakeholder engagements on the management of the Biological Diversity of the country.

The problem of livelihood which result from either the change in environment due to government's action in declaring a settlement a protected area, or the prohibition of indigenes from using their ancestral bush from hunting or farming to provide their livelihood has been closely monitored by CSOs and other international partners, who are involved with advancing the protection of the local indigenes in protected and prohibited areas. This has led to the provision of the following alternative livelihood measures;

- Livestock support (animals)
- Micro Credit to the indigenes to undertake any activities that could improve on their standard of living. This is particularly provided for women who embark on trades of all kinds.
- Scholarship for learning
- Provision of rice seeds for low land farming
- Providing the scope for indigenes to embark on low land farming.

This is a rights based approach which maintains the rights and dignity of the people living in the affected areas.

Sierra Leone Biodiversity Conservation Project has three Protected Areas (PA);

1. Otamba Kilimi National Park (OKNP)
2. Kangari Hills (Non Hunting Forest)
3. Loma Mountain National Park.

The World Bank JEFF funded Project is meant specifically for the three national parks mentioned above. The project included but not limited to Livelihood support to the indigenes living in these protected areas. The support covered the following;

- a) Provision of farming materials
- b) Rice
- c) Solar Panels for Community Centers in these Communities
- d) Building of stores (Warehouses) for storage of their goods and other valuables for the indigenes.
- e) Pineapple Suckers for some of the communities around the PA
- f) Created a market link for some indigenes involved in farming with FELIX (a juice manufacturing company) located in the Western Rural District to buy the products of the community peoples.
- g) Ground nut is supplied to ground nut farmers.

In order to maintain the rights and dignity of the local indigenes who are affected by the action of government to protect the Biological Diversity, local and international NGOs give support to the people of those communities affected. Some of them included;

1. STEWARD (Sustainable Thriving Environment for West African Regional Development). This is made up of several other NGOs involved with the people living in the affected areas. E.g. CARE SL that works within the OKNP
2. MADAM – another NGO that is involved in supplying farming materials to the affected communities. Some of these materials include hoes, machetes, tractors, rakes, etc.
3. RODA (Rosuntha Development Association) – Is a village savings loan scheme within the affected communities. This is within the Kangari Hills
4. Bioclimate - Is a Scottish charity that is located in Fintonia, in the Tambaka Chiefdom and works with local partners to help their communities' access and manage the natural resources and to establish land tenure and user rights. They have been involved in the following areas; 1) Helping to clarify local tenure arrangements and strengthening tenure security, including identifying areas that are community forest; 2) strengthening the capacity of local forest management institutions like the NPAA and the EPA to manage community forests; and 3) Introducing the Payment for Environmental Service (PES) as a livelihood and income generating opportunity. This has been working effectively with support from STEWARD since 2012.

These structures are meant to fulfil the basic rights of the affected persons and at the same time protect the Biological Diversity whilst they maintain the national and international provisions that govern biodiversity.

The establishment of the Human Rights Commission of Sierra Leone has added credence to the human rights landscape. In recent past the Commission developed a Business and Human Rights Monitoring Guidelines meant to provide the Commission with a clear and consistent platform for monitoring the operations of business enterprises in Sierra Leone, and their respect for human rights standards, in line with its statutory mandate. It has also been conducting training for staff of some Agro – business enterprises in the country and for major stakeholders in business and human rights, protecting both the businesses and the indigenes by ensuring that the rights based approaches are used by businesses and the indigenes also recognise their responsibilities.

Other relevant issues

1. Environmental Impact Assessment (EIA) – EPA ensures that all institutions that embark on EIA should do it within the requirement of EPA. Institutions that embark on exercises that have impact on the Biological Diversity of the environment should ensure that a cover up action is taken to either create another alternative measure or not to cause the impact at all. They should follow procedures that will ensure that the rights of the indigenes are maintained. In the Environmental Protection Act of 2000, is it provided in Section 19(1) ***“The Director shall after receiving Environmental Impact Assessment, circulate to Professional bodies or Associations, Government Ministries and Non-Government Organisations for their comments.”*** And further in Section 19(2) it provides also that ***“without prejudice to Subsection (1), the Director shall make an environmental impact assessment open to the public inspection and comments and he shall give notice to the effect in two consecutive issues of the gazette and two issues in a newspaper. Except that in the case of a newspaper, there shall be an interval of at least seven days between the first and second publications.”***
2. EPA prevents actions that affect people’s welfare; Example – The Mining in the water of Sulima was considered hazardous to the environment and will deprive the people of their daily activity which is fishing in the waters. EPA prevented this work from taking place in the waters; the diversion of the road from Sussex through Tokeh which would have affected the biodiversity around the Tokeh – Sussex axis was enforced by the EPA.
3. Human Rights issues are now captured in all EIA strategies.
4. There is now a Resettlement Action Plan for the resettlement of people from their original settlement to new settlements for the purpose of mining or agriculture or any other purpose. The Ferengbeya people who are relocated away from their ancestral water source are facing serious challenges with their new water source in terms of sustainability. They are concerned that the current water source will not be sustainable in the event Shan Dong Steel Mining Company closes down. Serious consideration is being given to this concern by the EPA.
The Resettlement Action Plan also takes into consideration housing, the people’s cultural heritage, water sources and land for farming. London Mining which later metamorphosed to Koidu Holding relocated people living closer to their concession area. The relocation

was considering the activities undertaken by the people on their initial land, facilities which included water source, and possible land for agriculture. In the Mogbemo and Mobimbi sections of Rutile in the Moyamba District, some villages were moved and relocated because of the effect of the mining exercises to the surface of the land.

3. *(Please specify, where relevant, specific examples of challenges and obstacles to the integration and protection of human rights in the biodiversity – matters)* – There have been challenges that are affecting the effective management of the Biological Diversity. Prominent among them are;
- a) Land administration – Accepting best practice by land owners is a major challenge faced by EPA. They don't consider best practice as being useful to them even when they are sensitized. They always think their old method of handling their land is still the correct way because their ancestors used same methods. Most of those approaches are not right based.
 - b) The Ministry of Mines and Mineral Resources is also a challenge to the operations of the EPA – The Agency in order to enforce some best practice, adopted a regulation referred to as the Environmental Protection Mines and Mineral Regulation 2013, to regulate Artisanal mining which in the opinion of EPA has a cumulative effect on the environment compared to those big mining companies like the Koidu Holdings in the East, AMR Gold in the North, Sierra Diamonds in the East. The Ministry of Mines has prevented this regulation from taking effect on the Mining sector by denying the implementation of the dictates of the Regulation particularly on the Artisanal miners. Their operation is not only affecting the environment but also the social life of the inhabitants, as there is an influx of miners from various parts in the country into those settlements.
 - c) Relocation/resettlement of the local people of the affected areas – When inhabitants are relocated and paid their relocation benefits, they return to settle again in the same communities they are being asked to live after using all the funds allocated them. They come again to claim or stay within the protected areas. This is a breach and they are failing in their responsibilities.
 - d) Illegal Mining is depleting the protected areas. Preventing the illegal miners has been a challenge for EPA particular in respect of the role of the National Minerals Agency (NMA). The denial by the Ministry of Mines and Mineral Resources and NMA in enforcing the Environmental Protection Mines and Mineral Regulation 2013 has impeded the efforts in addressing these areas. This is a legal instrument that is meant to ensure that rights of the community people and the protection of the biodiversity is enforced.

- e) The attitude of Paramount Chiefs and the Youth of the Communities are also a major challenge in enforcing agreements. Their protests against the legal standing of EPA or NPAA most often lead to conflicts and this creates instability which distorts peace in the communities.
- f) The control of the Border areas around the OKNP and along the borders of the Kambia District with Guinea is a major challenge. Guineans move into the country to those areas that border with them illegally and embark on illegal mining. This has been difficult to regulate on the part of the NPAA and the EPA. Gold and other minerals are stolen through those porous borders. This is often with support from a few people living in those protected communities. This has been depriving the country and the communities of revenue.
- g) One of the challenges that need to be addressed is the issue of Companies that are coming into the Agro – business, who lease or buy land and cultivate those plots of land to plant only one type of crop (Monoculture) which affects the Biological Diversity because it destroys many plant species and replaces them with only one type. An example of an Agro – Business involved in such is the Natural Habitat which is only involved in Palm Oil cultivation. This deprives the community of variety of crops that contributes to their welfare.

4. ***(Please give examples of how the rights of those who may be particularly vulnerable to the loss of biodiversity, including but not limited to indigenous peoples, are (or are not) provided with heightened protection.)***- The NPAA together with other local NGOs and International NGOs have been assisting in catering for the welfare of the indigenes that are being affected as a result of the protection of the biodiversity. They have been catering for all category of persons affected without discrimination. Women and Youth have been involved in all the planning and assessment processes. However, there has been a challenging issue in respect of land acquisition in the Sahn Malen chiefdom in the Pujehun District where the SOCFIN Agricultural Company operates. This has created a community tension between the Company and the indigenes leading to arrest and incarceration of some of the indigenes. The Green Scenery a local NGO that monitors Agro – businesses and the environment in the country. They were in defense of the rights of the indigenous people of Sahn Malen Chiefdom. At a point the Country Director of the Organisation had a strained relationship with some personnel of the government. He was threatened and was asked to have his hands off the matter by some members of the community and other government authorities. Among the land owners arrested was a former member of parliament who was leader of a group that was advocating for the interest of the defenseless land owners. Some aggrieved members of the community formed a pressure group called Malen Land Owners Association (MALOA). Leaders of

this group were arrested on charges of malicious damage to property (crops/seedling) belonging to SOCFIN Agricultural Company.

In 2004, the Human Rights Commission of Sierra Leone came into existence with a mandate to protect and promote human rights in Sierra Leone. Its Act gives it a wide range of powers to monitor and report on human rights violation in the country and also to receive complaints on violation from the public. Its functions are without discrimination. The Commission has been in a close partnership with the Environmental Protection Agency (EPA) in the country through an established unit called Business and Human Rights Unit. The Unit has been working together with EPA to monitor the operations of Multinational Companies. The Unit is charged with the responsibility to monitor the adherence to basic human rights during the operation of these companies.

5. ***(Please give examples of good practices in the protection of the environmental human rights defenders working on biodiversity and conservation issues, including any efforts by governments or others to create a safe and enabling environment for them to freely exercise their rights without fear.)*** – The Human Rights Defender’s Network is a CSO that is created to defend human rights advocates in the country; it is a network of some CSOs with a common goal in the defense of the rights advocates.

Mr. Rahall who is the Country Director for the Green Scenery ; an NGO working in the interest of the environment made strong point that there is no protection for defenders who advocate for people in protected areas , whose land is being used by Multinational Agro – Businesses. An instance which he mentioned was himself, that he has been threatened by Government officials on issues involving the defense of the vulnerable who are affected by the actions of the biodiversity management processes; the declaration of some forests as a protected areas, the leasing of land by government to Agro – businesses without proper negotiations with the land owners, issues bothering on resettlement of persons living in affected areas. He noted that some of the state apparatus responsible to ensure that defenders are protected have been compromised and rendered ineffective.