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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to Sierra Leone\***

### **Note by the Secretariat**

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to Sierra Leone. In his report, submitted pursuant to Human Rights Council resolution 27/23, the Special Rapporteur shares findings and recommendations derived from his official country visit.

\* \* The present report was submitted after the deadline in order to reflect the most recent information.

## Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to Sierra Leone\*\*

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## I. Introduction

1. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes conducted an official visit to Sierra Leone at the invitation of the Government, from 14 to 25 August 2017. The purpose of this visit was to monitor and assess steps taken by the Government to protect the human rights implicated in the management of hazardous substances and wastes throughout their life cycle.

2. The Special Rapporteur expresses his deepest gratitude to the Government of Sierra Leone for the invitation to visit the country. He commends the exemplary cooperation accorded to the visit despite the national emergency due to floods and landslides that hit Freetown and surrounding areas on 14 August 2017. The Special Rapporteur reiterates his heartfelt condolences to the families of the victims.

3. During this visit, the Special Rapporteur had the honour to meet with the President of Sierra Leone, H.E. Dr. Ernest Bai Koroma; representatives of different Ministries, Departments and Agencies of the central Government, the Human Rights Commission, the police, business enterprises, civil society representatives, local officials, traditional leaders and communities in both urban and rural settings. The Special Rapporteur met with representatives of the international community, including the UN Country Team. He thanks the UN Resident Coordinator and the UNDP personnel for facilitating his visit, and also thanks all the civil society organizations, business enterprises and individuals with whom he met for their time and cooperation, for sharing information on their views and experiences.

4. The Special Rapporteur met with local communities in Freetown, Bo and Makeni, and the districts of Pujehun, Kono and Bombali. He visited a large-scale palm plantation of the Société Financière des Caoutchoucs (Socfin). Socfin is a Luxemburg-based company that operates in multiple African countries. The company's Sierra Leone plantation and processing plant stretches over 18,000 hectares of land in the Pujehun District. The Special Rapporteur also visited the Koidu Kimberlite Project, a mining site in the Kono District owned and operated by Koidu Limited, a private business enterprise owned by BSG Resources Limited (BSGR) through its subsidiary, OCTÉA Limited. During visits he met local residents and workers, paying particular attention to issues related to the management of solid waste and on the impact of activities of the agriculture and the mining sectors on affected workers and communities. He is grateful to those who made time to meet with him and discuss the challenges, opportunities and desires in relation to the mandate.

## II. General context

5. Sierra Leone has marked significant advancements in the promotion of peace, democracy and economic development since the end of the civil war in 2002.<sup>1</sup> While the outbreak of the Ebola Virus Disease in 2014, as well as the decline in the international prices of iron ore in 2013 created a significant setback<sup>2</sup>, economic growth has resumed supported, in particular, by investments in the mining and agriculture sectors.

6. Sierra Leone has potential for significant economic expansion despite acute socioeconomic challenges. Although it is currently the 154<sup>th</sup> economy in the world and the 38<sup>th</sup> in Africa,<sup>3</sup> the country has one of the largest ports in the region, vast water resources and fertile soils with potential in agriculture, fishing and tourism. It is also among the top ten diamond producing countries in the world; one of the largest rutile and bauxite producers; a major producer of gold and has the second largest iron ore deposits in the world.<sup>4</sup>

1 See <http://www.sl.undp.org/content/sierraleone/en/home/countryinfo.html>.

2 Authorities estimate that there was a 50% job loss in the private sector while the agricultural and manufacturing outputs declined 30% and 60% respectively. See National Ebola Recovery Strategy for Sierra Leone 2015-2017.

3 See African Economic Outlook 2017.

4 See African Peer Review Mechanism (APRM), Republic of Sierra Leone: APRM

7. Poverty remains a central concern; in 2011 it was estimated that about two-thirds of the population lived in rural areas, of which about 70% lived below the poverty line.<sup>5</sup> Sierra Leone appears at considerably low level positions in the Human Development Index, ranking 179<sup>th</sup> (out of 188) and in the Gender Inequality Index standing at 151.<sup>6</sup> Despite remarkable strides and reforms, youth unemployment, corruption, fiscal policies and infrastructure are also commonly recognized among the challenges Sierra Leone faces on its way to achieving sustainable development and effective protection and promotion of human rights.<sup>7</sup> Sierra Leone is classified by the FAO as a Low-Income Food-Deficit Country.<sup>8</sup> It is estimated that nearly half of the population is food insecure.<sup>9</sup> Under-nutrition is prevalent among children, and pregnant women,<sup>10</sup> and this can exacerbate the adverse impacts of their exposure to toxic chemicals. Maternal and infant mortality are among the highest in the world as is the prevalence of major communicable diseases.<sup>11</sup> Air and water pollution contribute to poor health outcomes.<sup>12</sup> Availability of safe water and sanitation also remains an area of concern.

8. Most stakeholders acknowledge the increased need for bringing rapid improvements in chemicals and waste management sectors in Sierra Leone, in light of the policy focus on economic prosperity highlighted under the Agenda for Prosperity,<sup>13</sup> the main policy document guiding Government development initiatives between 2013 and 2018. Agriculture and mining are the main drivers for economic growth, and the Agenda for Prosperity, recognizing the elevated risks of pollution and contamination in these sectors, includes a specific pillar focusing on the need to address inadequate management of resources, gaps in norms and policies, and insufficient cross sectorial coordination. The success of development platforms, such as the Agenda for Prosperity, in achieving its goals of poverty reduction, is closely related to maintaining continued attention to sustainable development and human rights, including the effects of economic activities on public health and the environment, the adoption of regulations protecting workers and marginalized communities, and the promotion of access to justice.

### **III. Governance**

#### **A. Relevant human rights obligations**

9. Numerous civil, political, economic, social and cultural rights are implicated by toxics, and those rights are interlinked, interdependent and indivisible.<sup>14</sup> Sierra Leone's commitment and recognition of its obligations regarding the protection from exposure to hazardous substances and wastes is confirmed by its participation in key international human rights, environment, and labour treaties in these domains.

10. Sierra Leone has ratified or acceded to relevant core international human rights instruments<sup>15</sup> except the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) and the Optional Protocol to the Convention on the Rights of the Child (OP3-CRC) which allow for individual complaints. During its last Universal Periodical Review cycle, Sierra Leone agreed without

Country Review Report No. 15.

5

See

[http://www.fao.org/fileadmin/templates/ess/pages/rural/wye\\_city\\_group/2011/documents/session6/Sannoh\\_-\\_Paper.pdf](http://www.fao.org/fileadmin/templates/ess/pages/rural/wye_city_group/2011/documents/session6/Sannoh_-_Paper.pdf).

6

See Human Development Report 2016.

7

See <http://www.worldbank.org/en/country/sierraleone/overview>.

8

See <http://www.fao.org/countryprofiles/lifdc/en/>.

9

See <http://www1.wfp.org/index.php/countries/sierra-leone>.

10

See UNICEF, Sierra Leone: Country Programme Document 2015-2018.

11

See

[http://www.aho.afro.who.int/profiles\\_information/index.php/Sierra\\_Leone:Analytical\\_summary\\_-\\_Health\\_Status\\_and\\_Trends](http://www.aho.afro.who.int/profiles_information/index.php/Sierra_Leone:Analytical_summary_-_Health_Status_and_Trends).

12

See WHO, Sierra Leone: Country Cooperation Strategy 2017-2021.

13

See The Agenda for Prosperity, Road to middle income status.

14

A/HRC/36/41

15

ICCPR, ICESCR, CEDAW and CRC.

qualification to accede to or ratify various international instruments including these three optional protocols yet ratification was not concluded at the time of writing this report.

11. Sierra Leone is party to the main global treaties for chemicals and waste management. The country is party to the Stockholm, Basel and Rotterdam Conventions and participated for the first time in the 2017 Conferences of the Parties to the Conventions. Sierra Leone is also a party to the Minamata Convention on Mercury. While a signatory since 2003, Sierra Leone has yet not ratified the Bamako Convention.

12. Thirty-five International Labour Organization (ILO) conventions including conventions on forced labour, freedom of association, right to organize and collective bargaining, equal remuneration, discrimination at work, and child labour have been ratified by Sierra Leone. However, it has not ratified several ILO conventions relevant to the protection of workers from hazardous substances.<sup>16</sup>

## **B. Mobilizing financial and technical resources and combatting corruption**

13. The Special Rapporteur notes the repeated recognition by Government entities of the gaps in the regulation and oversight of the use of hazardous chemicals and the slow pace in reversing this scenario.

14. Low-income countries often cite lack of financial and technical resources as a primary challenge in protecting people against exposure to pollution, toxic industrial chemicals, pesticides and other hazardous substances that pose grave threats to life, health and other human rights. This truly a challenge, but completely in the control of Governments to rectify. Three factors predominate cases where Governments are unable to mobilize financial resources for toxic pollution control and chemicals management: a misperception by States that the cost of action is either (1) unaffordable or (2) greater than the cost of inaction (A/HRC/36/41); and (3) the failure to mainstream within development agendas.

15. Examining the situation in Sierra Leone, the Special Rapporteur concludes that the country should urgently take robust, positive action to increasing financial resources for the control of hazardous substances and wastes. In particular, the country has potential for generating sustainable financing through cost-recovery systems, bolstering private sector's financial participation in meeting the costs of full implementation and enforcement of national chemicals-related laws.<sup>17</sup> Sierra Leone should develop a strategy to implement cost-recovery systems to increase financial resources and national capacity, appropriate mechanisms and economic instruments including cost recovery systems.<sup>18</sup> All stakeholders in the national planning processes could be encouraged to integrate such systems to realize the economic benefits of providing resources for the sound management of hazardous substances and wastes.<sup>19</sup> In doing so, they should include the rationale for mainstreaming and the development of capacity for assessing the costs of inaction and benefits of action on chemicals issues at the national, regional and global levels.<sup>20</sup> The costs of monitoring and inspection, of technical capacity for risk assessments and of other necessary regulatory and enforcement activities could be further defrayed<sup>21</sup> to support development of a robust chemicals management system.

16. International cooperation, including financial and technical assistance, has also been provided to assist low-income countries in developing capacities needed to protect human rights implicated by toxic chemicals.<sup>22</sup> The Special Rapporteur notes the support of other Governments and international organizations and institutions in assisting Sierra Leone. Waste management is one area that has received attention, although further action is needed as described below. The Special Rapporteur was informed of the UK-funded Improved Waste Management Project first implemented in Bo, Sierra Leone's second-largest city in

16 ILO C155, C170, R177, C176 and C184.

17 UNEP, LIRA (2015) p 12

18 Ibid.; SAICM, Overall orientation and guidance for achieving the 2020 goal of sound management of chemicals (2015) para 85

19 SAICM, *ibid.*

20 *Ibid.*

21 A/HRC/36/41

22 *ibid.*

2014, then rolled out in Makeni, and closed in 2016, two years early when the activities were subsumed in a Water, Environment, Sanitation and Hygiene project.<sup>23</sup> As a result of this initiative, it is reported that Bo City Council and Makeni City Council closed down some illegal dumpsites in their municipalities. Given the economic and development situation of Sierra Leone, the Special Rapporteur acknowledges that many recommendations in the present report would strongly benefit from close and continued technical and financial support of the international community, particularly from home states of foreign business enterprises operating in Sierra Leone.

17. The Special Rapporteur feels obliged to note that while financial resources are a challenge and can advance protections from exposure, corruption practices in economic sectors pose a major challenge towards utilizing these resources as intended.<sup>24</sup> While acknowledging some progress made in Sierra Leone to combat corruption,<sup>25</sup> for example, through establishing and supporting the country's Anti-Corruption Commission, the problem persists.

18. Financial audits support the Government's effort to identify areas of improvement, where further reforms need to be implemented for public funds to address the intended purposes. For example, in 2016 among other cash losses in the Government, the Ministry of Lands, Country Planning and Environment had an estimated unaccounted revenue of 980,040,500 Leones (127,000 USD).<sup>26</sup> Further, while there is a policy that 20% of all EIA license fees collected should be used for monitoring activities, a government audit of the EPA's accounting records showed that the 20% portion of the EIA license fees collected were not used exclusively for monitoring purposes.<sup>27</sup> Sierra Leone should prioritize not only identifying gaps in public finance losses, but implement legal and administrative measures to recoup funds, in this case to better finance the chemicals and waste governance frameworks.

19. Business enterprises worldwide continue to gain profit at the detriment of human beings; victims of exposure to toxic chemicals resulting from highly profitable agriculture and mining activities have been seen to go without compensation, financial or otherwise. Corruption concerns have been seen to arise in relation to allegations of tax conflicts of interest and tax avoidance, where the costs of economic development is borne by the community while the benefits are claimed by the powerful elite. For example, residents from Kono District complained of the lack of transparency and justice in the distribution of financial resources generated by mining of diamonds in their land. In 2015, lawyers representing the mayor of Koidu city alleged in court that Koidu Limited had dodged local property taxes. Koidu maintained it was exempt from taxes but that it was committed to its corporate social responsibilities. In 2016, the central Government suspended Mayor Lamina from office in what was allegedly a politically motivated act linked to his attempt to challenge Koidu. The High Court of Sierra Leone ruled that Koidu Limited and OCTÉA, Koidu's parent company, were separate entities, that OCTÉA was therefore not technically the mine's owner and had no duty to pay property tax.

20. The Special Rapporteur is fully aware that the fight against corruption is a long-term process and that patience and persistence are key to producing results. At the same time he raises alarm that corruption practices are threatening the governance framework on chemicals management, environmental protection, and waste management and that the failure to address this may compel the most vulnerable, including the local community, to pay for the adverse effects of such projects through loss of life, health, and wellbeing. The Special Rapporteur therefore urges the Government to step up anti-corruption efforts not only in the mining sector but in all areas in the private sector, especially those involving public and private entities. Implementing measures addressing corruption would be an essential step towards recouping costs from industry for chemicals management,

23 See <https://devtracker.dfid.gov.uk/projects/GB-1-203636>

24 See <http://www.worldbank.org/en/topic/governance/brief/anti-corruption>; and [http://siteresources.worldbank.org/INTANTICORRUPTION/Resources/383901-1317672198081/sl\\_gacreport.pdf](http://siteresources.worldbank.org/INTANTICORRUPTION/Resources/383901-1317672198081/sl_gacreport.pdf)

25 See [https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2014-September-8-10/Responses\\_NV/Sierra\\_Leone\\_EN.pdf](https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2014-September-8-10/Responses_NV/Sierra_Leone_EN.pdf)

26 See Appendix A of <http://www.auditservice.gov.sl/report/assl-auditor-general-annual-report-2016.pdf>

27 Ibid, p xiv

environmental protection, and ensuring a more robust waste management system. Strong anti-corruption measures must accompany cost-recovery systems and other financial measures to ensure that resources are efficiently and appropriately allocated to protect the public against toxic exposures.

### C. Legislation and regulation

21. All States are duty bound to establish legislative and regulatory frameworks to protect human rights from infringement as a result of toxic chemicals and wastes (A/HRC/36/41). The failure to enact or enforce laws necessary to prevent the adverse impacts of hazardous substances on, inter alia, the rights to life, to health and to the integrity of the person is a violation of a State's obligations (A/HRC/36/41). Sierra Leone is no exception to the global deviation between the standards of protection required to uphold human rights and the standards of protection established under legislation.

22. The Constitution of Sierra Leone reflects some critical human rights obligations. Although recognized as public policy goals in Chapter II of the Constitution, economic, social and cultural rights do not enjoy the same constitutional protection afforded to civil and political rights at the national level. The Special Rapporteur is convinced that establishing constitutional rights and legislation of direct relevance to toxics would be a step in the right direction for the country. Discussions on the need to revise the Constitution of Sierra Leone have been ongoing since the end of the civil war. In 2013, a Constitutional Review Committee was established, and concluded its work with the publication of its final report in 2016.<sup>28</sup> In December 2017, the Government rejected 102 of the 138 recommendations made by the Committee including the recommendation concerning the recognition of economic and social rights in Chapter II of the main law of the country.<sup>29</sup> The Special Rapporteur believes that enhancing constitutional protection over economic, social and cultural rights would expand possibilities of national courts to enforce some of the human rights most commonly affected by the exposure to hazardous substances and wastes, such as the rights to health, food, safe drinking water and sanitation, and a safe, clean, healthy and sustainable environment.

23. The Special Rapporteur encourages the Government to further the constitutional review in an inclusive manner to fulfil Sierra Leone's obligation to protect human rights, through promoting effective compliance and enforcement of laws. This goal could be achieved through revisiting key recommendations from the 2013 constitutional review including the particular recommendation to make "justiciable" the "fundamental principles of state policy" in Chapter II, through recognizing at the national level the rights to health, housing, water and sanitation, a healthy environment, equality of women, and the rights of children, the aged, and persons with disability. These recommendations included also the provision for collective bargaining and union security of tenure, which would contribute to the democratization of trade unions.<sup>30</sup> Abandoning recommendations related to labour and the rights of workers has cemented the current position where workers' rights are not adequately catered for in the Constitution. Sierra Leone is encouraged to recognize these rights at the constitutional level to advance efforts to promote the protection of workers, particularly in the context of exposure to hazardous substances and wastes. This would need to be supported by constitutional provisions for safeguards regarding health, safety and welfare of all persons in employment, in particular working women with children; and the provision for adequate medical and health facilities for all persons, including workers.<sup>31</sup>

24. The Special Rapporteur notes that various legal instruments to protect against exposure to hazardous substances and wastes in Sierra Leone were either in the process of being elaborated or under review during his visit. He is convinced that addressing gaps in the national legal and policy framework improve human rights protection in the country and encourages authorities to keep the momentum of drafting and adopting corresponding legal standards.

28 See Parliament of Sierra Leone 2017 [www.democracy.gov.sl/images/reports/REPORT%20OF%20THE%20CONSTITUTIONAL%20REVIEW%20COMMITTEE.pdf](http://www.democracy.gov.sl/images/reports/REPORT%20OF%20THE%20CONSTITUTIONAL%20REVIEW%20COMMITTEE.pdf)

29 See <http://www.parliament.gov.sl/dnn5/Portals/0/HANSARDS/28%20NOVEMBER%202017.pdf>

30 See Parliament of Sierra Leone 2017 footnote 31

31 *ibid.*

25. The main legal instrument governing the environmental protection sphere is the Environment Protection Agency Act. Human rights concerns related to exposure to hazardous substances and wastes especially in the agriculture and mining sector may be addressed through compliance mechanisms including environmental impact assessments (EIAs).<sup>32</sup> Following approval of an EIA prepared by the applicant, the EIA license is issued by the Environment Protection Agency (EPA). Some gaps have been reported in the EIA license procedures, which are discussed in relation to monitoring, below.

26. The Special Rapporteur encourages Sierra Leone to fulfil its obligations to health, safety and life by establishing and implementing an appropriate regulatory regime on pesticides, as well as adequate compliance and enforcement systems. Without these mechanisms in place, the main burden of the negative effects of pesticides is felt by workers, children, and other vulnerable members of the community.<sup>33</sup>

27. To reduce the dangers of hazardous pesticide use, which the Government acknowledges is an existing problem regarding food and water contamination, several policies, laws and guidelines are pending, in a draft or review process, and await adoption.<sup>34</sup> The Special Rapporteur was informed that an inventory of pesticides was conducted in 2008 and was being updated at the time of his visit. A list of banned pesticides was prepared in 2010. At present, the ban is limited to pesticides referred to in the Stockholm Convention on Persistent Organic Pollutants.

28. Concerns with the mining sector are raised in the context of the existing relevant legal and institutional framework. In 2007, a review of all mining agreements in the country was carried out by authorities and the normative framework was reformed. Mining activities are currently regulated in Sierra Leone by the Mines and Minerals Act of 2009 (MMA). The Act is supplemented by the Environment Protection (Mines and Minerals) Regulations and the Mines and Minerals Operational Regulations of 2013.<sup>35</sup>

29. The Government has developed policy initiatives aimed at promoting sustainable waste management, including the Integrated National Waste Management Policy and the Integrated National Waste Management Strategic Plan for the years 2012-2016 (Waste Management Policy and Plan of 2012).<sup>36</sup> In 2014, a National Strategic Roadmap on Integrated Waste Management (Waste Management Roadmap of 2015) for 2015 and beyond was also launched.<sup>37</sup>

30. Certain important gaps exist in the labour normative framework despite periodic efforts to take into account developments in international human rights law.<sup>38</sup> For example, the main employment laws in place do not make specific reference to the right of all persons to work in safe and healthy conditions.

31. The EPA is the primary authority on human rights protection in the context of exposure to hazardous substances and wastes in Sierra Leone. The agency is mandated to coordinate, monitor and evaluate the implementation of national environmental policies, including issuing and monitoring compliance with the terms and conditions of EIA licenses, as well as ensuring enforcement in cases of non-compliance. The Ministry of Health and Sanitation is the main authority monitoring the direct impact of hazardous substances on

32 MMA s 131 stipulates the requirement for both small and large-scale mining projects to obtain an EIA license.

33 A/HRC/34/48.

34 The draft Phytosanitary and Pest Control Act (2010), updating the Phytosanitary and Plant Import Act of 1974; draft food bill and a food safety bill; draft Regulations on Toxic and Hazardous Substances; Guidelines for sustainable agriculture; National Integrated Pesticides Management Policy

35 See Sierra Leone Extractive Industries' Transparency Initiative (SLEITI), Final Report on SLEITI Reconciliation Audit (2013).

36 See

[https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/health\\_strategic\\_plan-finaldraft-6-11-2011.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/health_strategic_plan-finaldraft-6-11-2011.pdf).

37 See

[https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/rwa-sl-roadmap-strategy-draft\\_3-20140824-submitted.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/rwa-sl-roadmap-strategy-draft_3-20140824-submitted.pdf).

38 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up 1998, clause 2.

human health. The National Minerals Agency (NMA) established in 2012<sup>39</sup>, is responsible for the enforcement of the MMA and the implementation of policies formulated by the Ministry of Mines and Mineral Resources (MMMR). A Minerals Advisory Board (MAB) was established in 1994. The Board is an inter-ministerial committee mainly responsible for recommendations on minerals policies. In agriculture, the lead authority is the Ministry of Agriculture, Forestry and Food Security (MAFFS). The MAFFS, together with the Ministry of Trade and Industry, have introduced plans to establish a Crop Protection Unit within the MAFFS mandated to manage all agrochemicals issues, including pesticides.<sup>40</sup> At the time of writing this report, the Unit had not been established.

32. The waste management sector presents a clear example of the multiplicity of government agencies involved and the lack of coordination of oversight and compliance mechanisms. For instance, the Ministry of Health and Sanitation is responsible for policy issues relating to solid waste, the EPA controls waste management facilities and deals with e-waste and hazardous waste, the Ministry of Local Government and Rural Development is responsible for municipal solid waste services in general, and the City Council of a particular areas, e.g. the City Council of Freetown is responsible for solid waste management services in Freetown.<sup>41</sup> In an attempt to promote interagency collaboration, the Waste Management Policy and Plan of 2012 envisaged the establishment of a National Wastes Management Working Group, led by the Ministry of Health and Sanitation and the EPA, to improve coordination and regulation efforts.

33. The Special Rapporteur notes that further efforts are needed to develop a harmonised system to address the overlapping roles and responsibilities of government agencies and the disaggregated institutional framework on issues related to hazardous substances and wastes. Efforts should be pursued towards establishing effective governance structures and practices that are needed to ensure clear decision-making authority, clarity of roles, responsibilities and relationships between institutional actors and public accountability. While institutional capacity-building is necessary and needs to be a continuous process, coordination must be improved to strengthen efficiency and transparency. Clarity and coherence in the allocation of mandates between public bodies is key to efficiency and cost-effectiveness.<sup>42</sup> Clear legal mandates lay the foundation for the overall organization of institutional arrangements, while provision of adequate powers and resources to responsible authorities ensures their ability to fulfil their mandate.<sup>43</sup>

34. One approach for optimising the allocation of mandates to public bodies would be to concentrate those amongst fewer public agencies. This would mean identifying areas of duplication, gaps or lack of clarity of responsibility, and exploring opportunities for improved synergies. A careful assessment of the advantages and drawbacks of different approaches (including costs and benefits) of harmonizing the regulatory system especially in relation to chemicals and wastes, is highly advisable in the context of existing governance mechanisms in Sierra Leone.<sup>44</sup>

#### **D. Monitoring**

35. In order to protect human rights affected by toxics, States are duty-bound to generate, collect, assess and update information; effectively communicate such information, particularly to those disproportionately at risk of adverse impacts; ensure confidentiality claims are legitimate; and engage in international cooperation to ensure that foreign Governments have the information necessary to protect the rights of people in their territory.<sup>45</sup> The Special Rapporteur observes that in this area as well Sierra Leone has considerable room for improvement, especially regarding issues of transparency, access to

39 See National Minerals Agency Act, 2012.

40 See WTO [https://www.wto.org/english/tratop\\_e/tpr\\_e/s303\\_e.pdf](https://www.wto.org/english/tratop_e/tpr_e/s303_e.pdf); see also MAFFS, Smallholder Commercialization and Agribusiness Development Project (SCADEP), 2015. Establishment is envisioned under the draft Phytosanitary and Pest Control Act (2010) which if passed by Parliament, would update the Phytosanitary and Plant Import Act of 1974.

41 <http://documents.worldbank.org/curated/en/523671510297364577/pdf/121120-WP-PUBLIC-SierraLeoneDaLAreportNovember.pdf>

42 UNEP, LIRA 2015 p 24

43 *ibid.*

44 *ibid.*

45 A/HRC/30/40, para. 99; A/HRC/36/41

information and meaningful participation of affected communities in the realisation of large-scale projects.

36. The enjoyment of the right to information in the context of toxics is crucial in order to prevent adverse impacts, ensure freedom of expression and enable individuals and communities to participate in decision-making processes, and seek and obtain remedy.<sup>46</sup>

37. Sierra Leone adopted a Right to Access Information Act in 2013 for the disclosure of information held by public authorities or by persons providing services for them. While this is a welcome development, efforts for the timely dissemination of information on the development and implementation of extractive industry projects should be reinforced. A 2014 study indicated that only about 30% of people in Sierra Leone were informed about their rights and the rate was even lower in poor and rural communities.<sup>47</sup> Existing legislation should be expanded to ensure those affected by mining projects are fully informed about the mining activities and resulting consequences. Transparency is important to mitigate the risk of corruption, environmental damage, and abuses against impoverished communities.

38. The right to information is crucial for realization of the right to participation. The State and business enterprises should ensure communities are provided with adequate information on extractive activities occurring in their area of residence and on the potential impacts of these operations. Unfortunately, this does not seem to be a widespread practice in Sierra Leone. Several affected communities informed the Special Rapporteur that their views are not being sufficiently taken into account; information, particularly on health impacts, is unavailable, inaccurate or too technical; and information gathering is not reasonably accessible.<sup>48</sup> Communities neighbouring large-scale mining projects should be consulted during the preparation of social and environmental risk assessments, and should also receive the completed evaluations. Authorities should proactively make information accessible to affected communities and organise local spaces for information sharing. Additionally, business enterprises should work with local leaders to create grievance mechanisms.

39. The State should improve upon the quantity and quality of medical information gathered on affected populations to better ensure adequate health monitoring and record keeping. This information is crucial to establish or exclude correlations between mining activities and reported health outcomes. The Special Rapporteur recommends that the Government prioritizes strengthening data collection and analysis of health indicators.

40. National human rights institutions (NHRIs) can play a key role in monitoring human rights and disseminating information, ensuring that communities are involved in decision-making processes when they are provided with the necessary funds and autonomy to work.<sup>49</sup> The Human Rights Commission of Sierra Leone (HRCSL), established in 2004,<sup>50</sup> was in 2011 accredited with “A” status by the International Coordination Committee of NHRIs in Geneva. The HRCSL has a mandate to promote and protect human rights in the country, including through monitoring and investigation activities. The Special Rapporteur was informed about awareness-raising activities undertaken by the HRCSL such as the development of guidelines for monitoring business and human rights.<sup>51</sup> He was also informed that the HRCSL was at the time of the visit considering publishing an annual report specifically devoted to business-related human rights issues.

41. The HRCSL has performed commendable work in the promotion of human rights. However, civil society organizations and residents in communities visited by the Special Rapporteur noted the need for the HRCSL to further develop its capacity and independence by securing cooperation from business enterprises in human rights monitoring. Thus, the Special Rapporteur echoes the recommendations made by the Human Rights Committee in

46 A/HRC/36/41

47 See Suma, Sierra Leone Justice Sector and the Rule of Law, Open Society Foundations, 2014.

48 A/HRC/36/41

49 See A/HRC/25/55.

50 See The Human Rights Commission of Sierra Leone Act, 2004.

51 See Guidelines for Monitoring Business and Human Rights in Sierra Leone.

2014<sup>52</sup>, as well as in the context of the UPR 2016<sup>53</sup>, encouraging the Government to ensure adequate resourcing and full independence of the HRCSL.

42. The Special Rapporteur notes that more robust data is required than what is currently provided under approval and monitoring procedures to appropriately assert the safety situation of workers, communities and the environment. For example, while business enterprises need to disclose in their quarterly reports to the EPA what pesticides they use, the EPA informed the Special Rapporteur of challenges in analysis or testing of pesticides. One of the EIA licenses examined by the Special Rapporteur in relation to Socfin's large-scale palm oil plantation failed to provide an accurate list of pesticides and other agro-chemicals envisaged to be in use in the plantation and remained non-exhaustive on several other key aspects that may be hazardous to human health and the environment, including strategies to ensure the safe handling, transportation, application, storage and disposal of pesticides.<sup>54</sup> This lack of detail fundamentally obstructs the ability of the EPA to perform its duties under human rights law, and fails to respect the rights of workers and local communities to information, participation and remedy. Despite these concerns, Socfin received an EIA licence. The Special Rapporteur urges in this connection review of the EIA requirements according to the different sectors of the economy for which an EIA licence is sought, to take into consideration social aspects of projects including the health impacts of exposure to toxics as a result of the applicant's activities.

43. Improved capacity in monitoring the use and assessing the impact of chemicals in agriculture and other economic activities may mitigate challenges with regulation and the institutional framework. In the absence of a public laboratory facility for the monitoring of pesticide residues in food, water and the environment, the level of pesticides use in the country has not been fully studied and therefore is highly likely to be under-estimated. Estimates are based on limited information on government supplies and the economic status of the farmers.<sup>55</sup>

## **E. Judicial system and enforcement**

44. States and other duty bearers must be answerable to rights holders for the observance of human rights implicated by toxics. In this regard all countries are expected to comply with the legal norms and standards enshrined in international human rights instruments. Every rights holder is entitled to initiate proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. States must ensure access to justice and provide effective remedies and restitution to victims of violations occurring as a result of exposure to hazardous chemicals.<sup>56</sup>

45. Most victims of toxics have no access to justice and no semblance of an effective remedy, while most perpetrators of violations relating to toxics are not held accountable. The burden of proving the cause of their illness, the lack of information, the insurmountable costs of judicial remedy, corporate structures, global and devolved supply chains and other factors all obstruct the path to justice and remedy for most victims.<sup>57</sup> The Special Rapporteur noted in particular that in Sierra Leone no cases dealing specifically with pollution, contamination and exposure to hazardous substances and wastes have been brought by victims to the courts.

46. The Special Rapporteur welcomes the establishment of the Legal Aid Board in 2015, for the provision of legal aid services to indigent persons, as well as the National Judicial and Legal Training Institute, to ensure legal education within the justice sector. He recommends that the Government carry out education and information campaigns, together with the HRCSL and the civil society, to increase awareness on existing remedies and how to use them. The Special Rapporteur wishes to stress that while access to remedies entails improving access to judicial and adjudicatory mechanisms, it also requires effective remedies.

52 See CCPR/C/SLE/CO/1.

53 See A/HRC/32/16.

54 See J. Baxter, *Who is Benefitting? The social and economic impact of three large-scale land investment in Sierra Leone: a cost-benefit analysis*, 2013.

55 See [http://eprints.lanacs.ac.uk/82526/2/2016Alhajisphd\\_without\\_chapter\\_2\\_.pdf](http://eprints.lanacs.ac.uk/82526/2/2016Alhajisphd_without_chapter_2_.pdf)

56 A/HRC/36/41

57 Ibid.

47. The Special Rapporteur takes note of the EPA's informal role in receiving and addressing people's complaints on matters relating to the environment. He encourages the EPA to create a dedicated complaint desk. While this should not be seen as a substitute for access to judicial proceedings, including appropriate remedies and redress, establishing participatory procedures for grievances and related dispute-resolution systems, such as this one, can serve as early warning and prevention mechanisms.

48. Achieving the right to an adequate remedy for victims of exposure to hazardous substances and wastes in Sierra Leone is extremely challenging for a number of reasons, including financial barriers and a lack of confidence in the justice system. The Government recognizes that the justice sector suffers from important deficiencies, and as such the Agenda for Prosperity acknowledges that growth and development will not be achieved without enhancing access to justice and promoting the rule of law.<sup>58</sup>

49. In the context of hazardous substances and wastes, adverse impacts on human rights may include implications for the rights to life, health, food, water and adequate housing. Violations are often related among themselves and entrenched in patterns of exclusion, marginalisation and unequal power relationships. Beyond ensuring remedies for individual violations, the Government is encouraged to increase its efforts to identify these patterns and address their structural causes in policy-making and budgeting.

50. The Special Rapporteur was informed of the efforts by one company, Socfin, to participate in establishment of a grievance committee, chaired by the Paramount Chief, to channel grievances, and submit and discuss allegations and issues of concern. A community liaison team was also in place to facilitate communication and dialogue with local communities. Initiatives like the grievance committee can help in providing a space for discussion. However, the Special Rapporteur observes that these initiatives cannot serve as replacements for justice mechanisms considering the complex representation of forces within each community.

51. There is a widely recognized global crisis facing environmental human rights defenders.<sup>59</sup> In Sierra Leone, concerns emerge of judicial harassment of community leaders opposing large-scale economic projects. In 2015,<sup>60</sup> a group of UN Special Rapporteurs addressed a communication to the Government of Sierra Leone on allegations received concerning the arbitrary arrest and trial of activists belonging to the Malen Land Owners and Users Association (MALOA) who accused Socfin of land grabbing. Six activists of MALOA were charged with "destruction of growing plants", "conspiracy" and "incitement". In 2016, all were found guilty and sentenced to pay fines or face detention. The Government regrettably did not respond to the communication sent by Special Rapporteurs on the alleged judicial harassment. The sentencing and arbitrary detention of community leaders questioning land lease agreements is especially concerning as it seems to be directly related with the legitimate attempts of residents to seek justice while challenging the arrangements between business enterprises and a local chief. This sort of harassment would be incompatible with Sierra Leone's recognized human rights obligations and would also contradict the Government's stated commitments to ensuring economic investments are promoted while paying full attention to the rights of the most vulnerable communities.

52. Further concerns have also previously emerged with regard to intimidation of NGOs reporting on allegations of human rights violations. In 2013, Socfin filed a defamation case in Sierra Leone<sup>61</sup> against Green Scenery (Sierra Leone) and Oakland Institute (United States),<sup>62</sup> organizations that were reporting on alleged abuses including inadequate compensation, corruption, and pressure on land owners and chiefs to sign agreements to give up their land to Socfin. In addition, the Bolloré Group, a major shareholder in Socfin, filed a defamation suit in France against journalists with the Bastamang news agency for a

58 See <http://www.sierra-leone.org/Agenda%204%20Prosperity.pdf>

59 A/HRC/36/41.

60 See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21201>.

61 See [http://www.fian.be/IMG/pdf/writ\\_of\\_summon.pdf](http://www.fian.be/IMG/pdf/writ_of_summon.pdf)

62 See <https://www.grain.org/article/entries/4736-end-intimidation-around-sierra-leone-oil-palm-project?print=true>.

2012 report<sup>63</sup> accusing Bolloré of human rights abuses, including land grabbing in Sierra Leone. The defamation claims were rejected by French Courts in 2016. Filing defamation cases against NGOs and journalists carrying out their vital work reporting on what they consider to be abuses in land leasing deals between authorities and business enterprises is incongruent with the responsibilities of business enterprises to respect human rights.

53. The Special Rapporteur underlines that while access to legal remedy may be of foremost concern, authorities should also ensure that appropriate medical treatment is available to those in need.

54. The Special Rapporteur recalls that, in case of adverse human rights impacts resulting in irremediable harm (such as in the case of irreversible health effects or biodiversity loss), business enterprises should take proactive measures to prevent or mitigate such harm.<sup>64</sup> Where such harm has already occurred, the need for accountability of business enterprises for their activities must be highlighted. For example, while acknowledging that OCTÉA ended surface mining activities in 2016, the Special Rapporteur would like to stress the importance of addressing and remedying any adverse impacts that may be related to the company's operations until that date, as appropriate.

55. Problems with land tenure and concessions for large-scale investments in mining and agriculture are widely recognized by multiple stakeholders. Power imbalances between investors and affected communities can often escalate into violence with serious negative repercussions for rural communities living in poverty. In this context, improving access to remedies for those claiming compensation should be prioritised. For example, questions of the fairness of agreements between business enterprises and local leaders have arisen in the past in relation to large-scale agriculture projects. Often, the local community accuses business enterprises of land-grabbing, leading to conflict between the business enterprises and local communities.

56. Lack of access to justice and remedies seems to be at the root of the deterioration of conflict situations emerging in large scale economic projects in Sierra Leone. It is not uncommon in the extractive projects studied in the Special Rapporteur's visit that tensions between local communities and business enterprises have sometimes deteriorated into protests with allegations of police violence and intimidation against community members. In 2007 and in 2012, workers and local residents reportedly protested against the working conditions in the diamond mines and against the environmental impact. Twice, police officers violently repressed the protests, reportedly killing two protesters in 2007 and two more in 2012, including a 12-year-old boy.

57. Sierra Leone has an obligation to protect people from recurring episodes of violence. The Government has a clear international human rights obligation to guarantee the security of residents voicing their discontent and is also obliged to thoroughly investigate these episodes, identifying those responsible for the violence. Reportedly, an investigation was launched by the HRCSL on these violent events but no report was made public. The Special Rapporteur commends the HRCSL for having assumed responsibility for its failure to publish the report in a timely manner but reminds the HRCSL of the necessity to avoid any further delay.

58. The Special Rapporteur notes that tensions accompanying large-scale economic projects indicate challenges with ensuring adequate channels for local groups to be fully informed and consulted about extractive activities and an absence of access to justice mechanisms whenever conflict emerges. Strengthening participation processes, and the establishment of grievance committees, may contribute as alternative tools for redress or remedy to garner respect and interest from the local community. Continued episodes of violence in large-scale agriculture and mining projects may be avoided through addressing the apparent isolation of the affected communities living in poverty, systematic attention to their needs, and enhancing routes to achieve access to justice.

## IV. Sector specific concerns

### A. Extractive industries

59. Sierra Leone has vast reserves of diamonds, rutile, bauxite, gold, iron and limonite, and counts on the export earnings of these minerals to support its economic growth. In 2012 alone, exports reportedly increased by 147.3% due to the resumption of iron ore production and exports by two iron ore mining business enterprises. In 2016, more than 70% of Sierra Leone's exports were minerals.<sup>65</sup> In 2017, weak recovery of iron ore production contributed to a slow-down in economic growth by 2%, and increased private sector investment in mining was identified as a contributing factor to a 5% projected rise in economic growth in 2018.<sup>66</sup> Yet, the Agenda for Prosperity recognizes that without appropriate regulation and oversight, mining can result in numerous harmful consequences.<sup>67</sup>

60. Mining in Sierra Leone has often been considered a contributing factor of political instability and is often cited as one of the reasons for the country's recent civil war. Disputes over the way mining activities were initiated and, in particular, the distribution of mineral revenues, have historically resulted in tensions. Limited resources create additional obstacles for precise assessment of the environmental impact of past, present and future mining initiatives.<sup>68</sup>

61. Large-scale mining forms an important part of the sector, and therefore business enterprises are key stakeholders in the mining sector in Sierra Leone, with responsibilities to respect human rights. Concerns of limited oversight and support to artisanal mining were raised, especially considering the relevance of this practice for those living in poverty. Estimates indicate nearly 38% of diamond exports were mined in artisanal mines.<sup>69</sup> A recent study highlighted that a lack of support for securing these activities as sustainable could lead to environmental damage that in the future would practically nullify the potential economic benefits to the communities engaged in artisanal mining.<sup>70</sup> Artisanal miners informed the Special Rapporteur that limited understanding and capacity to act on environmental issues, limited accountability for the damages caused, and limited capacity in the promotion of rehabilitation are among their top concerns.<sup>71</sup>

62. Communities reported adverse health impacts potentially associated with exposure to hazardous substances and wastes from mining activities, including cases of individuals suffering from fever as a result of breathing blast-generated dust as well as skin, vision and hearing problems, often accompanied by inadequate medical attention, as they would allegedly be routinely treated as episodes of malaria. Cases of waterborne diseases have reportedly also increased. Air and water pollution contribute to poor health outcomes,<sup>72</sup> and this is especially a concern for the mining sector. Availability of safe water and sanitation also remains problematic. Heavy noise pollution, associated with both blasts and other sources of noise, such as heavy processing plants and machinery, remains a concern.

63. Community Development Agreements (CDAs) are required for the approval of mining projects and are important for the consultation and participation of communities neighbouring mining projects. Furthermore, CDAs advance the right to free, prior and informed consent.<sup>73</sup> Despite established requirements for EIAs and for promotion of CDAs through consultations with affected groups, the licensing process in Sierra Leone could be improved. There appear to be inadequate guarantees of meaningfulness and fairness in the

65 See [https://www.uneca.org/sites/default/files/uploaded-documents/CountryProfiles/2018/sierraleone\\_cp\\_2017\\_en.pdf](https://www.uneca.org/sites/default/files/uploaded-documents/CountryProfiles/2018/sierraleone_cp_2017_en.pdf)

66 See <http://pubdocs.worldbank.org/en/885471492188170236/mpo-sle.pdf>

67 See p 45

68 See <https://link.springer.com/content/pdf/10.1007%2Fs10661-007-9930-9.pdf>

69 See [https://dukespace.lib.duke.edu/dspace/bitstream/handle/10161/9289/RachelLichte\\_FinalMP\\_12-7-2014.pdf?sequence=1](https://dukespace.lib.duke.edu/dspace/bitstream/handle/10161/9289/RachelLichte_FinalMP_12-7-2014.pdf?sequence=1)

70 *ibid.*

71 *ibid.*

72 See WHO, *Sierra Leone: Country Cooperation Strategy 2017-2021*.

73 MMA, s 139; CDAs should be funded by no less than 1% of gross revenue obtained by the company the year before the agreement is signed. However, the figure remained unconfirmed during the mission as no interlocutor of the Special Rapporteur, including representatives of the MMMR and the NMA, was in a position to clarify it.

CDA process. The responsibility for conducting CDAs rests primarily with those who hold or aim to hold a small-scale or large-scale mining licence. Consultation may in such scenarios be inadequate as CDAs appear to rely on the arrangements made between the business enterprise and local chiefs. This is especially problematic considering the political and economic power imbalances between business enterprises interested in developing mining projects and the communities that live with the consequences of the projects. Clearer requirements for CDAs should be established to ensure that consultations with the affected communities are meaningful. This concern is amplified by existing limitations on access to justice for those living in areas affected by extractive projects. Another challenge is that the process of concluding a CDA does not appear to involve external expert bodies with technical expertise on the social, cultural and economic implications of projects.

64. Multiple reports of human rights violations, predominantly relating to inadequate community consultation and participation, have been attributed to big mining projects in Sierra Leone. If the affected communities are fully informed and meaningfully consulted before the start of large projects, challenges may be addressed. However, without access to justice, residents affected by large projects or victimized by the police have no chance to access remedy.

## **B. Oil palm and other agriculture**

65. Agriculture is considered the backbone of the Sierra Leone economy. In 2015, agriculture, including forestry, fishing and hunting accounted for 61.3% of the country's GDP.<sup>74</sup> The National Sustainable Agriculture Development Plan 2010-2030 provides the main public policy vision.<sup>75</sup> It focuses mostly on the creation of an enabling environment for investment in agriculture, the need to improve coordination of policies and the need to revise the regulatory framework. Oil palm is one of the tree crops with major economic importance in Sierra Leone.<sup>76</sup>

66. The agriculture sector is linked with challenges including in relation to oversight on the use of agrochemicals and their potential impact on agriculture workers and communities living around areas where chemicals are used, and the potential contamination of food and water sources.

67. A study on the use of pesticides in Sierra Leone rice crops provided troubling results illustrating the risks under the present context of unregulated use of chemicals in agriculture.<sup>77</sup> Interviews with around 500 rice farmers indicated that a wide range of pesticides are in use, including some internationally banned pesticides such as parathion. The most commonly used pesticides include chlopyrifos (60%), furadan (20%), malathion (5%), and carbolinium (5%). The study indicated that 46% of the pesticides in use entered the country irregularly. It further noted that since the majority of rice farmers surveyed were poor, they did not afford buying pesticides in legal vendors. Seventy-one percent (71%) of the respondents had not received any training on the safe use of pesticides. The study also confirmed that storage of the chemicals was inadequate and that 90% of workers used no personal protection when applying pesticides. Pollution of adjacent water bodies and accumulation in soil and sediments are probable results of the continuous uncontrolled use of pesticides. Finally, the study concluded that cases of skin problems, nausea, seizure, respiratory disorders, blurred vision, loss of appetite, lacrimation and nervous disorder were significantly higher among farmers who use pesticides than those who do not. Yet, it underscored that it was not possible to determine if farmers were experiencing chronic effects of pesticide poisoning due to the lack of monitoring of health effects.

68. Closely monitoring the use of pesticides in agricultural is essential to minimise exposure of workers, their families and communities, as well as to mitigate associated health risks.<sup>78</sup> Continued use of higher amounts of pesticides and other pollutants, as well as

74 See <https://www.oecd-ilibrary.org/docserver/aeo-2017-55-en.pdf?expires=1536314330&id=id&accname=ocid195767&checksum=F9088DC88A0775A0694862FBE915F30B>

75 See National Sustainable Agriculture Development Plan (2010 - 2030). See also UN Standing Committee on Nutrition, Impact of agriculture and food systems, Country policy analysis, 2013.

76 See <http://www.fao.org/3/a-au874e.pdf>

77 See [http://eprints.lancs.ac.uk/80079/1/ENVINT\\_D\\_16\\_00107.pdf](http://eprints.lancs.ac.uk/80079/1/ENVINT_D_16_00107.pdf)

78 Ibid.

the proximity of their homes to the worksite, mean agricultural workers may be exposed to environmental and health hazards.<sup>79</sup> In rural communities, the Special Rapporteur heard complaints of contamination potentially related to the activities of business enterprises engaged in large-scale oil palm farming. He was equally informed of inadequate protective clothing and training to prevent workers' exposure to pesticides. The Special Rapporteur was informed of training for workers to raise awareness on different chemicals including pesticides used on plantations, as well as on the use of sprays using handlers and applicators.

69. The Special Rapporteur wishes to point out that in some situations the Government seems to have adopted contradictory policies stimulating the purchase of toxic products for the expansion of economic activities, despite limited resources and capacity for their management. For example, the Finance Act 2013 provided for a five-year window for duty free import of "agriculture inputs" including pesticides and fertilizers.<sup>80</sup> The National Food and Nutrition Security Implementation Plan 2013-2017 included among the activities to improve the production of vegetables, facilitating the acquisition of production packages, including fertilisers, agrochemicals and pesticides, to communities groups. These incentives leave considerable room for concern considering critical gaps in ensuring the safe use of such dangerous chemicals.

70. The formulation of proper disposal methods for obsolete pesticides and public awareness of how to handle them is needed in Sierra Leone. The Special Rapporteur was informed that empty pesticide containers are often used for the storage of water and food, among other purposes. State commitment to the right to information, and safeguarding its availability, accessibility and consistency would increase awareness on the potential risks and the preventive measures to be adopted by those using agrochemicals.

### **C. Chemicals and waste management**

71. Rapid urbanization and challenges with resource management in Sierra Leone appears to contribute to the prevalence of waste management concerns.<sup>81</sup> Solid waste in particular poses a challenge in urban areas.<sup>82</sup> For example, it is reported that Freetown alone generates an estimated 600 tonnes of solid waste daily, including household, medical, hazardous, and toxic waste.<sup>83</sup> The Special Rapporteur underscores the potential impact of this waste, especially the hazardous and toxic waste, on health and the environment.

72. The increasing emphasis on country-driven programmatic approach to economic and social development provides a strong rationale for the integration of sound management of chemicals priorities into national development planning processes.<sup>84</sup> The ultimate goal of sound management of chemicals is to minimize negative health and environmental effects of chemicals and to fully benefit from positive impacts of their use where necessary.<sup>85</sup> It is of particular concern to the Special Rapporteur that the Sierra Leone Development Agenda does not include chemicals and waste as a priority area.

73. Waste minimization is a favourable way for national and subnational governments to limit the introduction of waste into the environment and reduce the cost of waste disposal, recovery and treatment.<sup>86</sup> Thus far, the focus of Sierra Leone has been on waste collection. During discussions with the Special Rapporteur, public officials acknowledged that waste management is one of the greatest environmental, health and social challenges faced by Sierra Leone. There remains a need to further consider a shift of focus to waste minimisation to mitigate the risks of exposure to toxic wastes.

79 A/HRC/20/15.

80 See s 49 of <http://www.sierra-leone.org/Laws/2013-03.pdf>

81 See <http://documents.worldbank.org/curated/en/523671510297364577/pdf/121120-WP-PUBLIC-SierraLeoneDaLAreportNovember.pdf>

82 Foday Pinka Sankoh and Xiangbin Yan, 'Problems of Solid Waste Management in Developing Urban Cities: A Case Study of Freetown, Sierra Leone' (2013) 2 *American Journal of Environmental Protection* 113

83 See

[https://www.unicef.org/about/annualreport/files/Sierra\\_Leone\\_Annual\\_Report\\_2014.pdf](https://www.unicef.org/about/annualreport/files/Sierra_Leone_Annual_Report_2014.pdf)

84 UNEP, LIRA (2015) p 12

85 *ibid.* p 41

86 See [http://www.who.int/water\\_sanitation\\_health/facilities/waste/module11.pdf](http://www.who.int/water_sanitation_health/facilities/waste/module11.pdf)

74. The Freetown City Council has in place a collection system that handles approximately 473.15 tonnes of waste per day, but almost 127 tonnes of waste remains uncollected.<sup>87</sup> Less than 50% of the total waste output of Freetown reaches the two major dumpsites in the capital area: the dumpsite at Granville Brook and the dumpsite at Kingtom.<sup>88</sup> Sierra Leone's waste management framework still presents serious challenges, which if left unaddressed will threaten human rights through exposure to wastes which impact negatively on the health and livelihoods of the people.

75. Pressure on the waste management system in Freetown has resulted in significant dumping of wastes and the resulting pollution in the city poses a risk to health and environment. Insufficient capacity and inadequate organization of waste management in Sierra Leone often leads to the processing of waste in neighbouring countries. For instance, broken glass is transported to Cameroon and used oil is off-set to Ghana. The Special Rapporteur notes that the Government has conducted advocacy activities to sensitize stakeholders on the impacts of improper waste management. On the use of plastics, the EPA has engaged businesses and encourages formation of public-private partnerships to improve investment in and the infrastructure for recycling.

76. Insufficient capacity in waste management affects economic activities, and not only limits economic growth, but also contributes to exposure to toxic chemicals. A 2014 Government environmental assessment of the Granville Brook and Kingtom dumpsites acknowledged the need to strengthen the legal and institutional framework for solid waste management in Sierra Leone and provided examples of the health and environmental risks for people living both in and near the dumpsites.<sup>89</sup> These risks range from exposure to water-borne and other infectious diseases to contamination of air, soil, streams and the sea with a potential for consequences also for the food chain. The assessment recommended the closure of the Granville Brook and Kingtom dumpsites and relocation of the final waste disposal locations to new landfills to be built and operated according to international standards.

77. Communities living near dumpsites face risks of exposure to high levels of toxics by various routes, especially through inhalation, dermal exposure, and consumption of food produced at or near the dumpsites. At the dumpsites in Freetown, open burning is reportedly used without any sorting mechanism, and people living within and nearby the dumpsites, including children, and pregnant women, inhale smoke and dangerous fumes on a daily basis.<sup>90</sup> Swine farming at or near the dumpsites poses a further challenge, as toxins enter the food chain when consumed by pigs, and when consumed by human beings pose a heightened risk to health through bio-accumulation and bio-magnification.<sup>91</sup> The potential cumulative impact of delayed responses to available evidence on improper waste management's negative impacts on human health and the environment is of particular concern.

78. The Special Rapporteur welcomes the Government's support and openness to evaluations, including the recommendation to close open dumpsites, while acknowledging there is room for improvement in this sphere. He reminds Sierra Leone of its obligation for both national and subnational governments to draft, adopt and implement environmentally sound solid waste management and disposal programmes.

## V. Conclusion and Recommendations

79. **Sierra Leone has overcome several challenges in recent years and is poised for considerable expansion of economic sectors that raise concerns of increasing exposure to toxic substances through contaminated water and food, as well as air pollution.**

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[https://www.unicef.org/about/annualreport/files/Sierra\\_Leone\\_Annual\\_Report\\_2014.pdf](https://www.unicef.org/about/annualreport/files/Sierra_Leone_Annual_Report_2014.pdf)

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<http://documents.worldbank.org/curated/en/523671510297364577/pdf/121120-WP-PUBLIC-SierraLeoneDaLAreportNovember.pdf>

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Ministry of Lands, Country Planning and the Environment and the Freetown City Council; also see [http://www.slurc.org/uploads/1/6/9/1/16915440/environmental\\_assessment\\_and\\_evaluation\\_of\\_natural.pdf](http://www.slurc.org/uploads/1/6/9/1/16915440/environmental_assessment_and_evaluation_of_natural.pdf)

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Abubakarr S Mansaray and others, 'Exposure to Dioxins and Furans at the Bormeh Kingtom Dumpsite in the Western Area of Sierra Leone' (2015) 6 *Natural Resources* 491, 498.

91

ibid.

Indeed these concerns already exist at present. The Special Rapporteur during his visit met with various stakeholders and gathered information on issues pertaining to his mandate. He paid particular attention to national systems to minimize exposure to toxic substances through pollution prevention, industrial chemical, 'pesticide' and waste management, with specific investigation on the impacts of extractive industries and agriculture sector activities on human rights.

80. The Special Rapporteur is fully aware that the social and economic situation of Sierra Leone, the specific issues faced including lack of resources and social vulnerability of large parts of the population, pose additional challenges towards achieving higher standards of and consolidating good practices in ensuring human rights implicated in the management of hazardous substances and wastes. It is with this understanding of difficulties faced by the country, and its authorities and population, that the Special Rapporteur proposes a number of recommendations, which he hopes could promote improvements in areas related to his mandate. The Special Rapporteur stands ready to assist the country to ensure any follow-up to and practical implementation of his recommendations.

81. In the case of the extractive industry, the Special Rapporteur noted the need for improvements in relation to ecosystems' degradation, debris accumulation, soil and water contamination, explosions, dust emissions and limited remediation measures.<sup>92</sup> With regard to agriculture, issues in focus include the use of agrochemicals and the need for increased transparency, consultation with local communities, and adequate compensation during land acquisition processes.<sup>93</sup> Concerning rapid urbanization, the Special Rapporteur also noted serious challenges regarding waste management in Freetown. Addressing the disproportionate impact of mining, agriculture and improper waste management on already marginalized groups, such as women, and children, would produce desirable positive effects on those most at risk and the broader community.

82. The Special Rapporteur therefore recommends that the Government:

(a) Urgently mobilize financial and technical resources to minimize exposure to hazardous substances through the adoption of cost-recovery systems. In parallel, he urges the government to strengthen anti-corruption efforts in the entire governance structure for hazardous substances and wastes. He urges the international community, including States and international organizations to support these efforts through financial and technical assistance;

(b) Consider increases in the budgetary resources directed at minimizing the adverse effects of toxic substances on the enjoyment of human rights by enhancing the private sector's financial and technical participation in meeting the costs of full implementation and enforcement of national chemicals-related laws;

(c) Reconsider in light of the national elections in March/April 2018, a meaningful constitutional review with a participatory process in conformity with international human rights obligations. The review of the Constitution should include adoption of international human rights commitments, especially regarding economic, social and cultural rights, at the national level;

(d) Continue with finalization and adoption of various pieces of draft legislation currently pending to domesticate international protections of human rights in the context of exposure to hazardous substances and wastes;

(e) Ensure timely implementation of laws and policies already in place in the context of exposure to hazardous substances and wastes;

92 Human Rights Watch, *Whose Development? Human Rights Abuses in Sierra Leone's Mining Boom*.

93 Sierra Leone: Land deals beginning to stir discontent, 2012; The Guardian, *Sierra Leone's smallholder farmers 'worse off' after large land deals*, 2013; Yengoh and Ato Armah, *Effects of Large-Scale Acquisition on Food Insecurity in Sierra Leone*, 2015; Yengoha, Steena, Ato Armah, Ness, *Factors of vulnerability: How large-scale land acquisitions take advantage of local and national weaknesses in Sierra Leone*, 2015.

(f) **Revise EIA requirements according to the different sectors of the economy for which the EIA licence is sought, to strengthen information requirements on applicants and to take into consideration social aspects of projects including the health impacts of exposure to toxic chemicals as a result of the applicant's activities;**

(g) **Revise legislation on occupational health and safety to ensure conformity with the Constitution of Sierra Leone and commitments under international law.**

(h) **Revise existing and unfavorable waste management systems, and explore new viable solutions to deal with the waste problem in Sierra Leone, in particular, dumpsites in Freetown;**

(i) **Take further steps towards improving existing government structures, reinforcing inter-agency coordination and cooperation, and addressing the overlapping roles and responsibilities of government agencies on issues related to hazardous substances and wastes. The allocation of clear legal mandates between public bodies and provision of adequate powers and resources to responsible authorities seem as unavoidable steps for increasing their ability to fulfil their mandates;**

(j) **Ensure adequate resourcing and full independence of the HRCSL in line with recommendations made by the Human Rights Committee in 2014<sup>94</sup>, as well as in the context of the UPR in 2016;<sup>95</sup>**

(k) **Consider prompt ratification of the Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa;**

(l) **Strengthen occupational protections in line with principles proposed by the Special Rapporteur in A/HRC/39/48 and consider prompt ratification of the ILO Conventions C187, C170, C174, C176, and C184;**

(m) **Develop mechanisms to realize the right to information, meaningful participation and access to remedies on matters pertaining to hazardous substances and wastes, including through;**

(i) **adhering, at minimum, to the standards of the Aarhus Convention;**

(ii) **improving the quantity and quality of medical information gathered on affected populations by prioritizing diligent data collection and analysis of health indicators on state level;**

(iii) **developing policies and guidelines aimed at ensuring that communities living in areas surrounding large-scale mining projects are consulted during the preparation of social and environmental risk assessments, and also receive the completed evaluations.**

(n) **Ensure the justiciability of claims for violations and abuses of human rights due to exposure to toxic chemicals and wastes;**

(o) **Require business entities operating in Sierra Leone to conduct human rights due diligence generally and with a specific requirement for the risks and impacts of exposure to toxic substances.**

83. **The Special Rapporteur recommends that business enterprises:**

(a) **Implement the UN Guiding Principles for Business and Human Rights with respect to their activities that produce, use, release and otherwise may result in human exposure to toxic substances;**

(b) **Internalize the costs of chemicals and waste management;**

(c) **Increase transparency in regard to their activities and interactions with the government by communicating information externally particularly when concerns**

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**are raised by or on behalf of affected stakeholders in relation to exposure to hazardous substances and wastes;**

**(d) Avoid the use of chemical products and practices forbidden in economies and countries in which they are domiciled (home States) especially where the home States provide stronger protection from exposure to hazardous substances and wastes;**

**(e) Increase protection from exposure to pesticides and other toxic chemicals to children, and women of childbearing age. This emanates from the Special Rapporteur's concern that some workers' children accompany their parents to farms, plantations, mines and other workplaces with risks of toxic exposure.**

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