

UNIVERSAL PERIODIC REVIEW OF SIERRA LEONE

SUBMISSION ON BEHALF OF *THE TRADE UNION CONFEDERATION OF SIERRA LEONE (TUCSL)*

24TH SESSION OF THE UPR WORKING GROUP, *January-February 2016*

Title Second Cycle Report on the enhancement of Workers' Rights in Sierra Leone

4. RECOMMENDATIONS FOR ACTION BY THE MINISTRY OF LABOUR *Sierra Leone*

1.1 Introduction and Executive Summary: The advent of modern post colonial labour and industrial relations law could be traced to 1969 when the then Prime Minister Mr. Siaka Stevens (a former trade unionist) approached the International Labour office (ILO) in mid-1969 for the harmonization of the labour and industrial relations laws. In October of that year, a *Mr. Spencer-Cooke*, a labour expert was loaned to the then Ministry of Lands and labour who made a draft of what is now the, "***Regulation of Wages and Industrial Relations Act (No.18) of 1971***" The draft was passed by Parliament and given assent by President Siaka Stevens on the 10th December 1971.

1.2 ACT NO 18 of 1971: The shortcomings of the new Industrial Relations law are as follows:-

1. It was made with what became a One-Party dictatorship for 23 years (1968-1991) in mind for which reason the merger between the two separate national labour centers: Sierra Leone Labour Congress (SLLC) and the Sierra Leone Council of Labour (SLCL) was forged into what is now the **Sierra Leone Labour Congress**;
2. The Sierra Leone Labour Congress (SLLC), was particularly mentioned in the Act as the *defacto and only labour* organization for workers to exist in Sierra Leone contrary to the 1971 constitution and ILO Conventions 87 & 98 and remained so until after the dictatorship was dismantled in 1991;

1.3 Methodology: This report is submitted as a result of the training conducted by the Human Rights Commission of Sierra Leone (HRCSL) on the Universal Periodic Review (UPR) of the United Nations Human Rights Council UNHRC. It is based on the recommendations of states and the obligations of Sierra Leone to implement the recommendation relating to the rights of the workers of Sierra Leone by the Ministry of Labour.

1.3 Mandate: The Trade Union confederation of Sierra Leone (TUCSL) was founded in 1998 by four registered trade unions as an alternative national labour center to cater for both blue collar and, especially informal sector workers who have no place in the orthodox, formal sector trade unions. It was also set up to break the monopoly of the only national labour center and give workers a viable alternative, and draws its statutory mandate from Articles 25 and 26 of the Constitution of Sierra Leone Act (No. 6) of 1991 and ILO Conventions 87 & 98 respectively. What the Trade Union Confederation of Sierra Leone needs now is a legal, practical mandate by formal, written recognition from the Ministry of Labour and Social Security. As a non-orthodox national labour center, our intention is to organize and cater for domestic workers, fight for the rights of the many migrant workers in Sierra Leone.

2.1 Trade Union Confederation of Sierra Leone (TUCSL), Human Rights Commission of Sierra Leone (HRCSL) and the State Reporting Obligation: On the 20th-21st May 2015 the Regional Conference for the North-West Region on the Universal Periodic Review (UPR) of the Republic of Sierra Leone, conducted by the Human Rights Commission of Sierra Leone was held at the Tonkolili District Council Conference hall. During the two days conference, many issues relating specifically to Economic, Social and Cultural Rights (ESCRs) and Civil and Political Rights (CPRs) were raised by the participants. In particular issues relating to the rights of the workers and the departmental reporting obligations of the Ministry of Labour, and Social Security (MLSS) were raised among them were the following:-

2.2 On the 25th July 2012 Mr. Falla Ensa-N'Dayma as National President of the Trade Union Confederation of Sierra Leone (TUCSL) filed a motion in the High Court of Sierra Leone for the TUCSL to be formally recognized by the Ministry of Labour through the **Minister of Labour** and the Commissioner of Labour, 'as a separate' national labour centre based on Articles 25 & 26 (1) of the Constitution of Sierra Leone Act (No 6) of 1991 and ILO Conventions 87 & 98. This stemmed from the blatant refusal by the Ministry of Labour over the years to recognize the TUCSL in violation of the Constitution of Sierra Leone Act (No.6) of 1991 and International Labour Organization (ILO) Conventions 87 & 98 respectively. On the 21ST June 2013, The High Court of Sierra Leone in a ruling, "Ref:MISC:250/2012 – 2012 E. No. 14; The High Court of Sierra Leone ordered the following: *"(1) That the Ministry of Labour, Commissioner of Labour and the Registrar of Trade Unions do grant recognition to the Trade Union Confederation of Sierra Leone to serve as another umbrella organization of trade union organizations in exercise of its constitutional right as enshrined in Section 20 (1) of the 1991 constitution"*

Recommendation 1: The TUCSL recommends as a matter of urgency for the Government to review the Regulation of Wages and Industrial Relations Act (No. 18) of 1971 with the view to bringing it in line with the laws of a plural democracy. Specifically, the word, 'Sierra Leone Labour Congress' in the Act be replaced with the word, 'National Labour centers' in line with the requirements of the constitution and ILO Conventions 87 & 98 respectively.

Recommendation 2: The TUCSL strongly recommends that the Ministry of Labour through the Minister and Commissioner of Labour grant formal recognition in "writing" to the Trade Union Confederation of Sierra Leone (TUCSL) as a separate National Labour Centre (NLC), as directed by the High Court of Sierra Leone in a ruling, in conformity with the Constitution of Sierra Leone and ILO Conventions 87 & 98.

2.3 We could recall that the National Executive Council (NEC) of the TUCSL has on three occasions met with the *Ministry* on this issue without a formal, definitive written conclusion of the issue except a '*verbal*' recognition on the advice of the Commissioner of Labour which is far short of the requirements of the High Court Ruling. This deliberate refusal to grant *formal, written* recognition to the TUCSL in accordance with the High Court Ruling has hampered the work of the TUCSL as follows:-

- I. *The TUCSL and by extension the worker-members of the trade unions affiliated to the TUCSL cannot be represented on the statutory bodies reserved for representatives of workers like the National Social Security and Insurance Trust (NASSIT) Board (where all workers have their pensions and other social benefit money), Political Parties Registration Commission (PPRC) etc;*
- II. *The TUCSL cannot sue and/or be sued as long as it has not received the formal written recognition as ordered by the High Court of Sierra Leone.*

Recommendation: The TUCSL strongly recommends that as a matter of urgency, that the Ministry of Labour and Social Security, Ministries, Departments and Agencies (MDAs) and other authorities include and regularize the position of the TUCSL on all the relevant statutory bodies reserved for workers and workers representatives.

2.4 *The Regulation of Wages and Industrial Relations Act (No. 18) of 1971* established **The Industrial Court** and has maintained it since then for which we commend the Government. However, the functionality of the Court has been centralized in and restricted to the Capital City and, has mainly handled cases from the Capital City and the surrounding communities. Even that been the case, the industrial Court is overwhelmed and congested with industrial matters with cases taking years without been heard or, decisions taken on them

Recommendation: The TUCSL recommends that the Industrial Court be *DECENTRALIZED* at regional level (four regions) to decongest the court and fast track the litigation thereby enhancing industrial peace.

3.1 In December 2014 the Ministry of Labour and Social Security through a Statutory Instrument raised the Minimum Wage from **SLL 21,000** (Twenty-Thousand Leones or **US\$ 4,70** (Four US Dollars and Seventy Cents) per month since 1998 to **SLL 500,000** (Five Hundred Thousand Leones) or **US\$ 114** (One Hundred and Fourteen US Dollars) with effect from 1st January 2015. The Trade Union Confederation of Sierra Leone (TUCSL) commends Government for this giant, bold step. This is because even though the Government has not been able to enforce the new minimum wage; since January 2015, the prices of goods, works and services have increases a thousand fold thereby bringing untold, unsolicited and unexpected hardship on the people.

Recommendation: The TUCSL strongly recommends that the Government of Sierra Leone through the Ministry of Labour and Social Security sets up a multi stakeholder “National Minimum Wage Implementation Committee (MWIC) made up of two persons each from the Ministry of labour, Anti-Corruption Commission (ACC), Human Rights Commission of Sierra Leone (HRCSL)Sierra Leone labour Congress (SLLC) and Trade Union Confederation of Sierra Leone (TUCSL) to supervise the implementation of the minimum wage thereby reducing the hardship and sufferings of the people.

“Review the Labour Laws to bring them in line with the present trend in doing business

Subheading 2

- Recommendation 3;
- Recommendation 4.

Note on what to include under this heading. Use this section to list the key recommendations that you believe should be made to Sierra Leone to address the human rights concerns mentioned in this submission. The recommendations should be as specific, practical, measurable and implementable as possible, setting out clearly what action the state authorities should take. The recommendations should be arranged under sub-headings that match the sub-headings in the submission. If you are making a recommendation that was already made to the state in the previous review [and which it had accepted], please note this, e.g. "ensure x,y,z, as Sierra Leone had accepted to do in the previous review.

Recommendations in the submission should be addressed to the State under review and not to the international community or to other States.

NB: Remember the max length of a submission is strictly 2815 words [or 5630 if submitted on behalf of a coalition of NGOs]