



SIERRA LEONE

A BRIEF ON EQUALITY AND NON-DISCRIMINATION, EDUCATION, CHILD MARRIAGE, AND WORK AND EMPLOYMENT

(ICESCR Articles 2, 3, 7, 10, and 13, and General Comment No. 5)

*Information for the Committee on Economic, Social, and Cultural Rights
74th Pre-Sessional Working Group, March 2024*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 74th Pre-Sessional Working Group of the Committee on Economic, Social, and Cultural Rights.

This brief will focus on the following areas:

1. Equality and non-discrimination (Articles 2, General Comment No. 5)
2. Non-discrimination in work and employment (Article 7)
3. Child marriage (Articles 2 and 10)
4. Free and compulsory education (Article 13)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Sierra Leone and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that Sierra Leone address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Sierra Leone for having provisions in place, we hope the Committee will recommend that Sierra Leone work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. Equality and Non-Discrimination (Article 2, General Comment No. 5)

Based on our review, the constitution of Sierra Leone prohibits discrimination on the basis of race and colour, sex, national origin, political opinion and religion, but not **on the basis of language, social origin, property, birth, or disability.**

RECOMMENDED CONCLUDING OBSERVATIONS

We hope the Committee will:

- Recommend in its concluding observations that Sierra Leone amend its constitution to add explicit guarantees of equality and non-discrimination based on language, social origin, property, birth, and disability, consistent with ICESCR commitments. These guarantees could be added to article 27 of the constitution, which already prohibits discrimination based on other personal characteristics and statuses.

2. Non-Discrimination in Work and Employment (Article 7)

On broad prohibitions of workplace discrimination:

Among Covenant-protected groups, Sierra Leone **specifically protects against workplace discrimination on the basis of race and colour, sex, religion, political opinion, national and social origin, and disability.** The remaining Covenant-protected groups, including **language, birth and property status, do not enjoy this protection.**

On discrimination in remuneration:

Sierra Leone mandates **equal pay for work of equal value regardless of sex,** and prohibits discrimination in wages for workers with disabilities. No specific provisions exist for the remaining Covenant-protected groups, **including race, colour, language, religion, political or other opinion, national or social origin, property, and birth.**

On discrimination in promotions:

Among Covenant-protected groups, Sierra Leone only explicitly prohibits discrimination in promotions **on the basis of disability.** All other Covenant-protected groups, including **race and colour, sex, language, religion, political or other opinion, national origin, social origin, property, and birth do not specifically enjoy this protection.**

Table 1. Guaranteed legal provisions of non-discrimination in Sierra Leone across key areas of employment for personal characteristics covered by the Covenant

	Discrimination broadly prohibited	Remuneration	Promotions
Race and colour	✓		
Sex	✓	✓	



Language			
Religion	✓		
Political opinion	✓		
National origin	✓		
Social origin	✓		
Property status			
Birth status			
Disability	✓	✓	✓

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

On broad prohibitions of workplace discrimination:

We hope the Committee will:

- In its list of issues, ask Sierra Leone: can Sierra Leone provide the Committee with any concrete, near-term steps it is taking to pass legislation that adds broad prohibitions against workplace discrimination on the basis of language, birth and property status?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Sierra Leone amend its legislation to provide broad guarantees against workplace discrimination on the basis of language, birth and property status.

On discrimination in remuneration:

We hope the Committee will:

- In its list of issues, ask Sierra Leone: can Sierra Leone provide the Committee with any concrete, near-term steps it is taking to pass legislation that protects against discrimination in remuneration on the basis of race and colour, language, religion, political or other opinion, national origin, social origin, property, and birth?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Sierra Leone amend its legislation to provide explicit guarantees against discrimination in remuneration on the basis of race and colour, language, religion, political or other opinion, national origin, social origin, property, and birth.

On discrimination in promotions:

We hope the Committee will:

- In its list of issues, ask Sierra Leone: can Sierra Leone provide the Committee with any concrete, near-term steps it is taking to pass legislation that adds specific prohibitions against discrimination in promotions on the basis of race and colour, sex, language, religion, political or other opinion, national origin, social origin, property, and birth?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Sierra Leone amend its legislation to provide broad guarantees against discrimination in promotions on the basis of race and colour, sex, language, religion, political or other opinion, national origin, social origin, property, and birth.



3. Child Marriage (Articles 3, 10)

Based on our review, **Sierra Leone’s legislation generally prohibits marriage until age 18. However, customary marriages may be performed at any age, as long as parents consent to the marriage of anyone – boy or girl – under the age of 18.** Sierra Leone’s last recorded child marriage rates, from 2019, were high: 30% of women married before age 18 and 9% married before age 15.¹

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Sierra Leone: Can Sierra Leone outline any concrete, near-term plans to pass legislation that removes any exceptions to a minimum legal age of marriage of 18 for both boys and girls?
 - If Sierra Leone does not have concrete, near-term plans in place, recommend in its concluding observations that Sierra Leone develop a concrete plan to pass and implement legislation that protects children under the age of 18 from early marriage without exceptions.

4. Free and Compulsory Education (Article 13)

By law, education in Sierra Leone is free and compulsory until the end of junior secondary education. However, as of 2019, the out-of-school rate for children of primary age was 10%, and the out-of-school rate for children of lower secondary school age was 16%.²

² UNESCO. SDG 4 Country Dashboard. Retrieved November 30, 2023 from <https://tcgtest.uis.unesco.org/sdg-4-dashboard/sdg-4-country-dashboard/>



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Sierra Leone: Can Sierra Leone provide any information on what concrete measures it is currently taking to identify and address barriers to the effective implementation of its free and compulsory education provisions?
 - If Sierra Leone does not have concrete measures in place, recommend in its concluding observations that Sierra Leone develop a concrete, near-term plan to effectively implement its provisions to provide education that is both free and compulsory until the end of junior secondary school.
- In its list of issues, ask Sierra Leone: does Sierra Leone have concrete plans to progressively introduce free education at the senior secondary level?
 - If Sierra Leone does not, recommend in its concluding observations that Sierra Leone develop concrete plans to progressively introduce free education at the senior secondary level, in accordance with article 13.2.b of the Covenant.

DETAIL OF LEGISLATIVE FINDINGS

1. Equality and Non-Discrimination (Article 2, General Comment No. 5)

Article 2 (2) of The Covenant states that:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, General Comment No. 5, explicitly addresses non-discrimination of persons with disabilities by stating:

[...] the requirement contained in article 2 (2) of the Covenant that the rights “enunciated ... will be exercised without discrimination of any kind” based on certain specified grounds “or other status” clearly applies to discrimination on the grounds of disability.

In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights.

SIERRA LEONE’S CONSTITUTIONAL PROVISIONS: SOME COVENANT GROUPS PROTECTED, BUT GAPS REMAIN

Article 27 of the constitution of Sierra Leone prohibits discrimination on the basis of race and color, sex, political opinions, national origin, and religion.

Constitution of 1991, amended to 2022

27. Protection from discrimination

1. Subject to the provisions of subsection (4), (5) and (7), no law shall make any provision which is discriminatory either of itself or in its effect.

(...)



3. In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.

The constitution does not prohibit discrimination explicitly on the basis of language, social origin, property, or birth. Moreover, despite General Comment No. 5 which explicitly addresses non-discrimination of persons with disabilities, the constitution **does not explicitly prohibit discrimination against persons with disabilities.** Our research has shown that these protections are becoming increasingly common: While only 12% of current constitutions that were passed before 1990 explicitly guarantee equality for persons with disabilities, 69% of those passed since 2010 do. In addition, older constitutions can be amended to include protections for persons with disabilities where none existed before.

2. Non-Discrimination in Work and Employment (Article 7)

Article 7 of the Covenant outlines a number of specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment, including specific measures in the areas of remuneration and promotion. We systematically reviewed legislation to determine whether national legislation prohibited workplace discrimination broadly, as well as in employment across the two areas specified in the Covenant:

- Equal remuneration for work of equal value
- Promotions

For each area, we assessed whether there were explicit prohibitions from discrimination across the grounds listed in Article 2.2 and General Comment No. 5 of the Covenant.

SIERRA LEONE’S LEGISLATIVE PROVISIONS: RECENT PROTECTIONS ARE COMPREHENSIVE, BUT GAPS REMAIN

BROAD PROTECTIONS AGAINST DISCRIMINATION

Sierra Leone’s recent Employment Act (2023) broadly **protects against workplace discrimination on the basis of race and colour, sex, religion, political opinion, national and social origin, and disability, but not on the basis of language, birth or property.**

The Employment Act

1. In this Act, unless the context otherwise requires-

(...)

"discrimination" includes a distinction, exclusion or preference made on the basis of colour, disability, political opinion, national extraction, marriage, pregnancy and maternity, race, religion or belief, sexuality, sex, membership of a trade union, organisation or social origin, that has the effect of nullifying or impairing equality of opportunity or treatment in employment and occupation;

(...)



17. (1) *Discrimination in employment or occupation is prohibited and a person discriminated against may make a complaint by himself or by another person on his behalf*

(...)

12. (...)

(5) *An employer or employer's organisation that discriminates, intimidates, or harasses a worker with respect to the employment or conditions of employment because the worker is a member or an officer of a trade union or on account of race, religion, gender, religious dress code, HIV, AIDS, political opinion, region, marriage, age, disability condition or ethnicity commits an offence and is liable on conviction to a fine of not less than 17 months national minimum wage and shall take appropriate steps to ensure there is a remedy to such action and prevent a reoccurrence.*

(...)

ON REMUNERATION

The Covenant states that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) *Remuneration which provides all workers, as a minimum, with:*

(i) *Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*

(ii) *A decent living for themselves and their families in accordance with the provisions of the present Covenant;*

The Covenant requires all workers – and more specifically women -- to receive equal pay for equal work, or equal pay for work of equal value. **Sierra Leone's labor code provides this guarantee only on the basis of gender.**

The Employment Act

18. (1) *An employer shall pay equal remuneration for men and women workers for work of equal value and for that purpose, an employer shall conduct job evaluation to ensure that the principle of equal remuneration for men and women workers for work of equal value is applied.*

(...)

In addition, Sierra Leone's main legislation for persons with disabilities **guarantees non-discrimination in wages, although the provision falls short of the higher standard of equal pay for work of equal value.**

The Persons with Disabilities Act

Protection from discrimination in employment.

20. (1) *Subject to subsection (2), no employer shall discriminate against a person with disability in relation to-*

(...)

(d) *the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits;*

(...)



All other groups covered by the Covenant, including workers facing discrimination on the basis of race, colour, language, religion, political or other opinion, national or social origin, property, and birth, are not guaranteed equality in remuneration.

ON PROMOTIONS

The Covenant calls for equal opportunity in promotions, subject only to competence and seniority:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

Among Covenant-protected groups, Sierra Leone's legislative framework only protects **against discrimination in promotions on the basis of disability.**

The Persons with Disabilities Act

20. (1) Subject to subsection (2), no employer shall discriminate against a person with disability in relation to-

(...)

e) the choice of persons for posts, training, advancements, apprenticeships, transfer, promotion or retrenchment;

(...)

All other groups covered by the Covenant, including workers facing discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, and birth, are not guaranteed equality in promotions or advancements.

3. Child Marriage (Articles 3, 10)

Article 10 (1) of the Covenant states that all States Parties must recognize that:

[...] Marriage must be entered into with the free consent of the intending spouses.

Additionally, Article 3 guarantees this right to be applied to all persons equally regardless of sex:

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Child marriage has life-long health, educational, and economic consequences, particularly for girls. Child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Covenant, specifically the right to physical and mental health (Article 12), and the right to education (Article 13).



SIERRA LEONE'S LEGISLATIVE PROVISIONS: CUSTOMARY MARRIAGES PERMITTED AT ANY AGE

Based on our review of Sierra Leone's legislation, the Child Rights Act (CRA) sets a minimum age of marriage of 18 for both women and men. However, the Registration of Customary Marriage and Divorce Act, passed after the CRA had been in force for two years, upholds the **validity of customary marriage at any age as long as the parents of any parties under 18 consent** to the marriage.

The Child Rights Act

34. (1) *The minimum age of marriage of whatever kind shall be eighteen years.*

(2) *No person shall force a child -*

(a) *to be betrothed;*

(b) *to be the subject of a dowry transaction; or*

(c) *to be married.*

(3) *Notwithstanding any law to the contrary, no certificate, licence or registration shall be granted in respect of any marriage unless the registrar or other responsible officer is satisfied that the parties to the marriage are of the age of maturity.*

The Registration of Customary Marriage and Divorce Act

2. (1) *Subject to this Act, a customary marriage, contracted after the coming into operation of this Act, shall be valid only if –*

(a) *both spouses are not less than eighteen years old and consent to the marriage; and*

(b) *the marriage is contracted in accordance with the customary law applicable to any of the spouses.*

(2) *Where, either of the prospective spouses, not being a widow or widower, is less than eighteen years, it shall be necessary for the parents to give consent to the marriage and if the parents are dead or unable for any reason to give such consent, then the consent may be given by the guardians of the prospective spouse or spouses to the marriage, as the case may be.*

(...)

In the last year for which there is available data in Sierra Leone, child marriage rates were high: 30% of women aged 20-24 at the time of survey had been married before age 18, 9% had been married before age 15, and 14% of girls aged 15-19 were already married.³

4. Free and Compulsory Education (Article 13)

Article 13 of the Covenant states that:

1. *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding,*

³ 2019 data taken from UNICEF. UNICEF Data Warehouse – Child Marriage. Retrieved November 30, 2023 from https://data.unicef.org/resources/data_explorer/unicef_f/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_F_20-24_MRD_U15+PT_M_20-24_MRD_U18+PT_F_20-24_MRD_U18+PT_M_15-19_MRD+PT_F_15-19_MRD.&startPeriod=2016&endPeriod=2022



tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

SIERRA LEONE'S LEGISLATIVE PROVISIONS: SCHOOL IS FREE AND COMPULSORY THROUGH LOWER SECONDARY EDUCATION, BUT MANY CHILDREN AND ADOLESCENTS REMAIN OUT OF SCHOOL

Sierra Leone's Education Act makes education both free and compulsory until the end of junior secondary education, with the specifics to be determined by the education minister.

The Education Act

2. (1) Subject to this Act, there is hereby continued in existence the system of formal education consisting of the following stages:

(a) six years of primary education;

(b) three years of junior secondary education;

(c) three years of senior secondary education; or three years of technical or vocational education in lieu thereof; and

(d) four years of university or other tertiary undergraduate education.

(3) The age of entry into primary school shall be six years preceded, where the appropriate facilities exist, by such pre-primary education as may be prescribed.

3. (1) The six years of primary and three years of junior secondary schooling provided under paragraphs (a) and (b) of subsection (1) of section 2 shall constitute formal basic education in Sierra Leone.

(2) Every citizen of Sierra Leone shall have the right to basic education which accordingly shall be compulsory (...).

(3) Basic education shall be, to the extent specified by the Minister by statutory instrument, free in government assisted primary and junior secondary schools and private schools shall not frustrate the right to basic education conferred by subsection (2) by charging fees that are, in the opinion of the Minister, unreasonable.

Despite these provisions, in 2018 10% of Sierra Leonian children of primary school age were out of school, as were 16% of children of lower secondary school age,⁴ so the extent to which education has become free and compulsory in practice remains a matter of concern.

⁴ UNESCO. SDG 4 Country Dashboard. Retrieved November 30, 2023 from <https://tcgtest.uis.unesco.org/sdg-4-dashboard/sdg-4-country-dashboard/>