



Policy Brief

Head Office
Block D, Brooklyn Court,
Veale Street, New Muckleneuk,
Pretoria 0181,
South Africa
Tel +27 12 346 9500
Fax +27 12 346 9570
E-mail iss@issafrica.org
www.issafrica.org

Knowledge empowers Africa! le savoir émancipe l'Afrique!

Policy Brief Nr 05, July 2009

Criminal Justice System in Sierra Leone

*African Human Security Initiative
addisababa@issafrica.org*

INTRODUCTION

After going through one-party and military authoritarianism and a decade-old civil war, Sierra Leone's criminal justice system has serious systemic problems notwithstanding the valiant efforts being made by the government in collaboration with international partners. The 1991-2002 fratricidal war adversely affected the operations of the criminal justice institutions, especially the police, prisons and judiciary with fighting forces preventing the smooth working of the institutions, destroying their infrastructure and killing their personnel. This policy brief assesses the criminal justice system in Sierra Leone and makes pertinent recommendations to improve the efficiency and effectiveness of the system¹. It focuses on policing and prosecution, prisons, the judiciary, access to justice, juvenile justice, customary justice and the various international and regional treaties and protocols relating to the criminal justice system.

POLICING

The Inspector-General of Police heads the Sierra Leone Police (SLP) and is appointed by the President on advice of the Police Council and is subject to parliamentary approval. The SLP has a negative public image and is perceived to be pervasively corrupt and incompetent and suffers from poor morale. There is also indiscipline in the form of drunkenness, absenteeism, lateness etc. This is partly due to budget constraints which have ripple effects for the rest of the SLP e.g. poor remuneration and conditions of service. Despite recent increases in the size of the police, the numbers are still inadequate. Infrastructural and other logistical needs are also not

adequately provided. Other challenges are low educational enlistment requirements and poor training though the training has been expanded to include professional ethics and respecting human rights. Politicisation of the force is also a problem and this is manifest in some crimes by politically connected people not being investigated or prosecuted. Some police officers are also victimised because of their political beliefs (e.g. delayed promotions, premature retirement and dismissals) recruitment is also sometimes based on partisan considerations. The SLP also relies on an archaic Police Act of 1964 that urgently needs to be amended or repealed to bring it in line with modern day policing and new challenges.

Policy Recommendations

Key to the reform of the SLP is provision of adequate budgetary allocations so as to deal with the other manifold problems e.g. remuneration and conditions of service which in turn can boost morale. Every effort must be made to curb corruption at all levels of the force which in turn will improve its public image. Further, the politicisation of the force in all its forms must be avoided and to this extent, the autonomy of the Police Council must be guaranteed. A review of the present low entry qualifications for recruitment is required and there should be mandatory refresher courses in areas of police ethics, human rights, law, civil-police relations etc. The obsolete Police Act needs to be urgently reviewed.

PROSECUTION

The Prisons Service is headed by the Director of Public Prosecutions (DPP) who is appointed by the

President on advice of the Judicial and Legal Services Commission and approval of Parliament. However, the DPP takes his cue from the Attorney-General who simultaneously is the Minister of Justice resulting in political meddling. Like the Police, the prosecution services are poorly funded leading to poor morale, poor logistical support, corruption and inadequate state counsel because of poor incentives to attract new entrants. Prosecutorial capacity is very weak and experiences incessant adjournment of criminal prosecutions. Police officers are used to prosecute most of the cases and these lack rudimentary knowledge of the law, have inadequate education qualifications and are consequently ineffective. The incompetence of police prosecutors contributes to delays in trial proceedings. The prosecution services are guided by the archaic Criminal Procedure Act of 1965 which is out of line with modern-day prosecution practices.

Policy Recommendations

Budgetary allocations to the prosecution services should be increased. Coupled with this is the need for periodic reviews of remuneration packages for the officers. Police prosecutors should be given adequate basic legal training. Likewise, corruption among prosecutors should be stemmed while they must be given incentives to prosecute effectively and speedily and avoid unnecessary adjournments. The autonomy of the prosecution should be enhanced by separating the office of the Attorney-General from that of the Minister of Justice. It is mandatory that the outdated Criminal Procedure Act be reviewed to accord with best practices in criminal prosecution.

PRISONS

Like in other African countries, Sierra Leone's Prison Service is the weakest link in the criminal justice system. Its challenges include: inadequate budget allocations; poor professional skills among the staff; excessively long court proceedings/adjournments; poor conditions of service for prison officers; over-crowdedness and deplorable living conditions for prisoners – the remand section is said to be the worst incarceration facility; poor access to justice and legal representation especially for women, juveniles and the poor; abusive conditions for women and children; inadequate food, sanitation and medical facilities. Beatings, rape and illegal possession of drugs in prison are common while remand prisoners, women and juveniles are held alongside convicted prisoners. Most of these problems are an infraction of the stipulated international standards which Sierra Leone has signed and ratified.

Policy Recommendations

Budget allocations for the Prison Service need to be boosted to improve salaries, conditions of service, and ensure adequate logistics, supplies and amenities. The prosecution needs to be capacitated by and this can be done by hiring additional state counsel and providing legal training for police prosecutors. Court trials should be expedited to reduce excessive remands and adjournments and a mechanism needs to be put in place for legal aid to remand inmates, indigents and juveniles. Further, the legal framework should be amended and modernised and should abolish solitary confinement and corporal punishment. It is also necessary that separate facilities be available for women, juveniles and trial prisoners.

THE JUDICIARY

The 1991 Constitution guarantees the independence of the judiciary through security of tenure and an elaborate dismissal procedure and the Chief Justice is appointed by the President after advice of the Judicial and Legal Services Commission and the approval of Parliament. As a consequence, the judiciary has demonstrated some independence but the judiciary is understaffed, is viewed as corrupt and inefficient due to lack of funding and years of misrule. It also suffers from poor remuneration and conditions of service. Sierra Leone has a bifurcated legal and court system, one for the capital Freetown and the other for the provinces and this creates disunity and injustice. People accused of crimes often face lengthy delays before trials and there is limited judicial presence outside Freetown. The cost of hiring a lawyer is far beyond the reach of the majority of citizens. Juvenile cases as generally neglected, suffer from delays in justice delivery while the rights of juveniles are often not respected.

Policy Recommendation

The dual legal system should be reviewed and possibly harmonised and outdated legislation revised and modernised. The judiciary should be strengthened by hiring more judges and magistrates while capacity building programmes should be mounted for judicial officers and their support staff. Also important is the improvement in the remuneration and conditions of service of the judiciary and support staff. To reduce congestion, the judiciary should introduce and encourage modern sentencing practices e.g. non-custodial sentences. The government should provide an effective nation-wide legal aid service to promote justice for the poor and in the rural areas.

Measures to protect women's' and juvenile rights ought to be taken.

ACCESS TO JUSTICE AND JUVENILE JUSTICE

Access to justice for the majority of citizens is limited and this is particularly so for women, juveniles, the poor and illiterate. This is primarily due to: a weak court delivery system, imposition of heavy court fines and the populations' general lack of resources. Offenders are often detained for more than the stipulated periods provided by national and international laws. Juvenile justice is face additional challenges: law enforcement and probation officers are not adequately aware of laws governing juvenile offenders; there are no specific courts to deal with juvenile cases; understaffing of juvenile units of the police and probation units; children's detention centres (e.g. Approved Schools and Remand Homes) are inadequate; children have limited access to basic facilities in the detention centres; and the Ministry in charge of children's affairs is understaffed.

Policy Recommendations

Budgetary allocations for Units dealing with juvenile justice should be increased to enable them to hire more probation officers. Training of all personnel dealing with juveniles e.g. detention and probation officers and court personnel should be conducted to ensure that they are fully knowledgeable about laws governing juveniles. The government should also provide country-wide legal aid service for juveniles who cannot afford the service. In addition, basic facilities and services like education, health and recreation should be provided at juvenile detention centres. To ensure speedy trials, additional magistrates should be assigned to juvenile courts, separate courts for juvenile cases should be constructed and separate detention structures should be provided.

CUSTOMARY JUSTICE

As in many post-colonial countries, Sierra Leone has a dual legal system and this dualism is recognised in the 1965 Courts Act. Customary law applies in the provinces or chiefdoms and it exists alongside general law and up to 70% of citizens do not have access to the formal justice system. There is overall satisfaction with customary justice especially among the poor and local people who detest the complexities and procedures of general

law courts. They instead prefer settling disputes within the ambit of their customs particularly with regard to cases involving family law, inheritance and land tenure. However, the local courts suffer from: understaffing; poor state funding; poor staff incentives; political interference in the administration of customary justice; and logistical barriers in accessing local courts. Further, traditional law is sometimes in conflict with the constitution and some local chiefdoms exceed their mandates and execute harsh punishments e.g. flogging. Under customary law, the rights of women also vary significantly depending on the ethnic groups.

Policy Recommendations

Given its popularity and accessibility, the jurisdiction of the Local Courts Act should be expanded and the capacity of the local courts and personnel enhanced. The supervision of local courts should also be strengthened and local court staff should receive regular pay and incentives.

ADHERENCE TO REGIONAL AND INTERNATIONAL INSTRUMENTS

Sierra Leone has signed and ratified many international and regional conventions and protocols dealing with crime, war, human rights, gender issues etc. Overall, the country has demonstrated a reasonable degree of commitment to international obligations. However, there is too long a time lapse between ratifying an instrument and implementing it via domestication.

Policy Recommendations

Sierra Leone should strengthen its compliance with relevant regional and international instruments and one avenue is to shorten the period between signing and ratifying an instrument on one hand and implementing it. Instruments that have been ratified must be domesticated by being part of the corpus of the country's laws and the country can derive considerable benefits from this exercise.

CONCLUSION

Sierra Leone has gone through a traumatic history and its criminal justice system bears heavy and fresh scars of this dark past. Since the end of the civil war in 2002, some strides have been and continue to be made in improving the criminal justice system but a

Addis Ababa Office

First Floor, Ki-ab Building,
Alexander Pushkin Street,
Pushkin Square Addis Ababa,
Ethiopia
Tel +251 11 372 1154/5/6
Fax +251 11 372 59 54
E-mail addisababa@issafrica.org

Cape Town Office

67 Roeland Square,
Drury Lane Gardens,
Cape Town 8001,
South Africa
Tel +27 21 461 7211
Fax +27 21 461 7213
E-mail capetown@issafrica.org

Nairobi Office

5th Floor, Landmark Plaza,
Argwings Kodhek Road,
Nairobi,
Kenya
Tel +254 20 300 5726/8
Fax +254 20 271 2902
E-mail nairobi@issafrica.org

Pretoria Office

Block C, Brooklyn Court,
Veale Street, New Muckleneuk,
Pretoria 0181,
South Africa
Tel +27 12 346 9500
Fax +27 12 460 0997/8
E-mail pretoria@issafrica.org

lot still needs to be done to make the system function more efficiently and effectively and contribute to the consolidation of peace, democracy and development in Sierra Leone.

NOTE

- 1 This brief is based on ISS monograph 160 Sierra Leone: A country review of crime and criminal justice, 2009.

