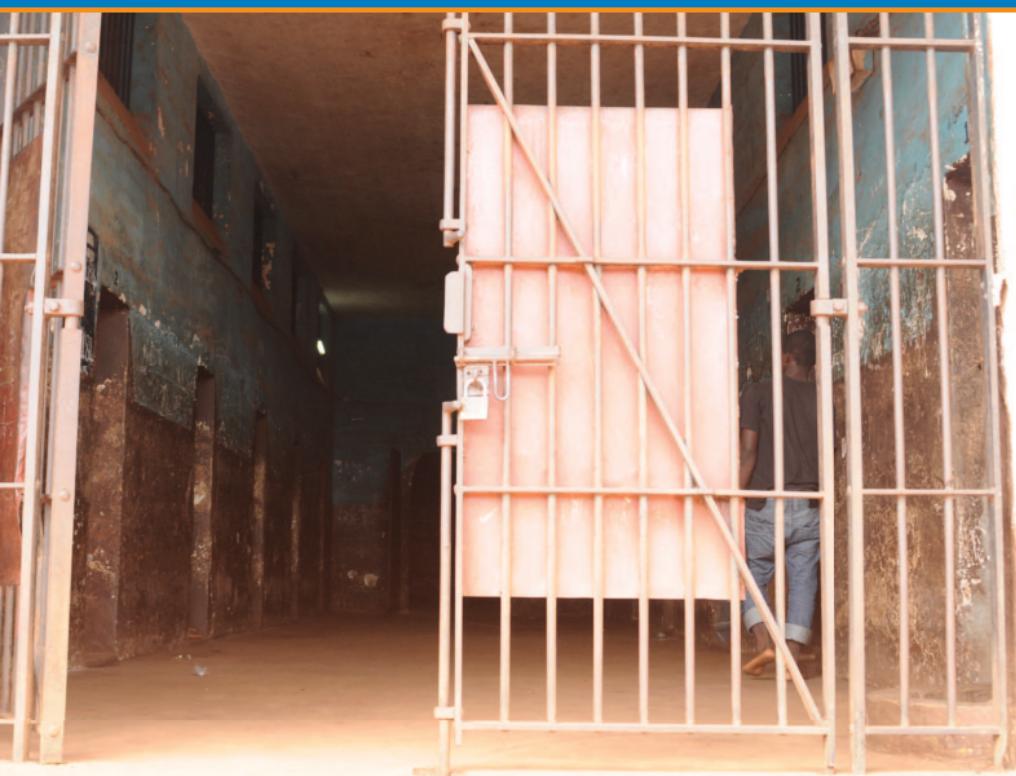


**Opening minds to rights behind bars**



*Report on*

**The situation of detention in Sierra Leone**



UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER

# **Opening minds to rights behind bars**

*Report on*

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## *Foreword*

This report, jointly published by the United Nations Integrated Peace Building Office in Sierra Leone (UNIPSIL) and the Office of the High Commissioner for Human Rights (OHCHR), is the result of a strong collaboration with the Government of Sierra Leone. The exercise was preliminarily discussed with the Minister of Internal Affairs, and all relevant national authorities and institutions have actively participated in the process. I want to express my most sincere appreciation to all who cooperated in this regard.

The ultimate objective of this report is to support the Government of Sierra Leone in fulfilling its responsibilities towards people in detention. Since 2007, when the United Nations mission in Sierra Leone issued the first assessment on prisons, progress has been made. UNIPSIL has been providing technical assistance and capacity building to improve the situation in prisons and other places of detention. Moreover, regular engagement with prison authorities and other justice sector stakeholders has brought concrete and tangible results.

While important legal reforms relevant to detention are already underway, there is wide agreement among Sierra Leone's stakeholders on the need for further interventions that are sustainable, realistic and impact oriented.

I hope that this report will contribute in assisting the Government of Sierra Leone, other institutions as well as the international community in this joint effort.



Jens Anders Toyberg-Frandzen  
Executive Representative of the Secretary-General

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## List of Acronyms

<b>ASJP</b>	Access to Security and Justice Programme
<b>Bangkok Rules</b>	United Nations Rules for the Treatment of Women Prisoners and non-custodial Measures for Women Offenders
<b>Beijing Rules</b>	United Nations Standard Minimum Rules for the Administration of Juvenile Justice
<b>BoP</b>	United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CDIID</b>	Complaints, Discipline and Internal Investigations Department
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CRA</b>	Child Rights Act 2007 of Sierra Leone
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>DCI</b>	Defence for Children International – Sierra Leone
<b>DFID</b>	United Kingdom Department for International Development
<b>DHRCs</b>	District Human Rights Committees
<b>DISEC</b>	District Security Committee
<b>FSU</b>	Family Support Unit of the Police
<b>GIZ</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit (German International Cooperation)
<b>HRCSL</b>	Human Rights Commission of Sierra Leone
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>MIA</b>	Ministry of Internal Affairs
<b>MOHS</b>	Ministry of Health and Sanitation
<b>MSWGCA</b>	Ministry of Social Welfare, Gender and Children Affairs
<b>NASSIT</b>	National Social Security Insurance Trust
<b>NEC</b>	National Electoral Commission
<b>NGOs</b>	Non Governmental Organizations
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PNLA</b>	Pilot National Legal Aid scheme
<b>RUF</b>	Revolutionary United Front

<b>SC</b>	United Nations Security Council
<b>SLP</b>	Sierra Leone Police
<b>SMR</b>	Standard Minimum Rules for the Treatment of Prisoners
<b>Tokyo Rules</b>	United Nations Standards Minimum Rules for Non-custodial Measures
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UNDP</b>	United Nations Development Programme
<b>UNICEF</b>	United Nations Children's Fund
<b>UNIOSIL</b>	United Nations Integrated Office in Sierra Leone
<b>UNIPSIL</b>	United Nations Integrated Peace Building Office in Sierra Leone
<b>UNIPSIL HRS</b>	Human Rights Section of UNIPSIL
<b>WFP</b>	World Food Programme

## **Executive summary**

Supporting improvements in the corrections system is part of the mandate of the Human Rights Section of UNIPSIL (UNIPSIL HRS), the United Nations Integrated Peace Building Office in Sierra Leone. In the framework of its cooperation with the Ministry of Internal Affairs and the Prisons Service, the Section conducts periodic monitoring of prisons and other detention facilities, engages relevant authorities on the findings, and provides technical assistance for the improvement of prisons as well as capacity building to officials and personnel of prisons, police and local courts.

The Ministry of Internal Affairs and the Prisons Service acknowledge significant challenges, some of which require substantial technical and financial support. In order to highlight these and other related issues to help the Government and development partners in designing more sustainable and impact-oriented interventions, UNIPSIL HRS embarked in a systematic review of the status of detention in Sierra Leone. In the first semester of 2012, human rights officers visited all the 17 prisons of the country, the three detention centres for juveniles and a number of police cells and local court cells in all the regions. UNIPSIL HRS also conducted individual interviews with inmates and prisons officers, and discussed findings with justice sector authorities, relevant ministries and development partners. The exercise was preliminarily discussed with the Minister of Internal Affairs, who welcomed the assessment as an opportunity to help the sustainability of future support to the corrections system. The results of this analysis have been used to produce this report, jointly issued by UNIPSIL and the Office of the High Commissioner for Human Rights (OHCHR).

The study builds on a 2007 report entitled "Behind Walls: An Inventory and Assessment of Prisons in Sierra Leone" issued by the Human Rights and Rule of Law Section of the United Nations Integrated Office in Sierra Leone (UNIOSIL), the then United Nations mission in Sierra Leone. *Behind Walls* contained recommendations which contributed to informing a United Nations Peace Building Fund intervention of US\$ 1,5 million to support the Prison Service. The present report assesses the extent of the implementation of those recommendations, while broadening the scope of the analysis to other detention facilities which were not covered by the 2007 reports. The main objective of this assessment is to map out the current situation of detention in Sierra Leone in order to identify areas for further support and have an up to-date position for advocacy, policy and decision-making in the corrections system and administration of justice.

The report reviews the legal and institutional framework of Sierra Leone in light of relevant international human rights standards and the country's obligations; it provides an objective assessment of the state of the infrastructure and the conditions of detention; it also analyses access to justice and justice reform issues within the corrections system, and examines organizational reform measures, gaps and human rights implications; finally, the report assesses the effectiveness of recent technical assistance and capacity building interventions.

### ***Findings***

The national legal framework on detention dates back to the colonial era and the process to further bring it in line with international standards has been slow. However, important reforms to the Prison Service and the Criminal Procedure Act were being completed at the time of writing.

Even though a number of interventions have taken place since 2007, material, logistical and infrastructural conditions have generally not substantially improved since the publication of *Behind Walls*. The Prison Service still faces financial and capacity constraints and the working conditions of prison, police and local courts staff countrywide remain unfavourable.

Poor infrastructural conditions and lack of maintenance make the prisons and, more often, the police and local court cells, largely unfit to meet international standards. Lack of lighting, inadequate provision of food

and water, overcrowding, shortage of beds, beddings and sanitary facilities make the conditions of detention extremely harsh. The poor level of hygiene negatively impacts on the health of the prisoners. Medical care is limited and costs connected to the referral of sick inmates to hospitals are partly not covered by the public health system. While vocational training exists in several facilities, there is no paid work scheme and education activities rely on external support. On a positive note, the use of solitary confinement has decreased substantially since 2007 and is no longer imposed as a punishment. Also, the Sierra Leonean distinctive tolerance and peaceful coexistence of Muslim and Christians is reflected in the correctional institutions, where prisoners enjoy the right to practice their religion freely.

Challenges in the area of administration of justice impact on the rest of the justice chain, with particularly negative consequences on the limited resources allocated to the prison service. The majority of prisoners are not serving a sentence, but rather on remand or trial. Limited access to bail, logistical constraints on the police, the absence of resident magistrates in some districts, the poor prosecutorial capacity and costs for complainants and witnesses to reach the few existing courts contribute to long delays before remand prisoners appear before a magistrate and to endless adjournments for those on trial. A large part of inmates is sent to prison for minor offenses which in most cases would require a fine or disciplinary measure other than imprisonment. Prisoners of different categories (remand, trial, convicted) are often held together, although women are accommodated in separate wings or buildings and are attended to by female officers. Even though there are specific facilities for juveniles, UNIPSIL HRS has repeatedly found minors held in prison with adults because their age was mistakenly or deliberately increased on the arrest warrant by the police.

The international community has directed large resources towards strengthening the Prison Service, promoting organizational and infrastructural reforms and capacitating the staff employed in the area of corrections; yet, the impact does not always meet the expectations, in particular in the case of rehabilitation of the infrastructures. The prisons management has expressed the commitment to address both immediate and long terms challenges. However, sustainable solutions for many of these problems can only be devised by looking at corrections in the light of the whole justice sector. In this regard, a number of informal meetings among different justice sector stakeholders (*human rights and justice focal*) organized at district level by UNIPSIL HRS allowed triggering results which directly or indirectly benefitted prisoners.

#### *Recommendations*

This report proposes a number of recommendations to support the Government of Sierra Leone, other relevant institutions as well as the international community in the process of bringing detention in line with international standards.

#### To the Government

The role of the Government is crucial to ensure that adequate funds are allocated to the Prison Service and that staff from different institutions receive a salary appropriate to the tasks they are required to perform.

The Government should promptly complete the reform of the Prison Service and the Criminal Procedure Act and the Parliament take action, when required, in this process.

The Office of the Attorney-General and Minister of Justice should operationalize the Legal Aid Act 2012 and develop strategies to strengthen the prosecutorial capacity.

The Ministry of Social Welfare, Gender and Children Affairs should review the current status of juvenile detention facilities and plan sustainable solutions, including for the regions where there are no remand homes.

The Ministry of Health and Sanitation should ensure that public health care system covers for all the costs involved with the referral of sick inmates nationwide.

The Ministry of Education should take measures to support child inmates to receive or continue receiving education in detention as well as after release, including by assigning teachers to centres and ensuring that children take exams.

#### To the Prison Service

Many and detailed recommendations are aimed at the Prison Service, which should undertake rehabilitation works based on priorities and with adequate support from the Government and the international community. The Service should also establish reasonable budget lines for maintenance and supply of services in order to ensure that, even within limited resources, the conditions of detention meet essential minimum standards.

Among several other recommendations, this report also calls on the Prison Service to find interim and long term solutions to ensure that untried prisoners are separate from convicted ones.

#### To the Police

The Sierra Leone Police should conduct a needs assessment of the police holding cells across the country and plan rehabilitation works as required and with the necessary support the Government and the international community.

The police should resort to custody as an exception, in particular in the case of juveniles, and ensure that an adequate budget is allocated to provide minimum standards to detained persons.

#### To the Judiciary

The Judiciary should support efforts towards the improvement of detention conditions by inter alia encouraging the provision of a range of non-custodial measures to reduce the use of imprisonment, which should be seen as an extreme penalty, resorting to remand only when strictly necessary, and conduct trials without undue delay.

To this end, the number of magistrates should be increased to at least one resident magistrate per district. Judges and Magistrates should standardize the sentences across the country with regard to the period of incarceration, ensure that they are commensurate with the crime committed and promote measures alternative to incarceration for minor offences.

The Office of the Chief Justice should also assume all responsibilities with regard to local courts as established by the Local Courts Act 2011.

#### To the National Electoral Commission

Given the particular time at which this report is released, the National Electoral Commission should ensure that untried prisoners are not deprived of their rights to vote in the general elections of November 2012 as well as in any future election.

#### To the International Community

Finally, the international community should support the Government and all relevant institutions in the implementation of the recommendations listed above and ensure that in all future interventions sustainability measures and the development of management capacity are prioritized.

## 1. Introduction, methodology and context

### 1.1 Introduction

The United Nations Integrated Peace Building Office in Sierra Leone (UNIPSIL) was established by the Security Council (SC) Resolution 1829 (2008) to support the Government of Sierra Leone recovering from the conflict and achieving peace, security and development. In all successive resolutions extending UNIPSIL's mandate<sup>1</sup>, emphasis was put on supporting national institutions and mechanisms including rule of law, justice and democratic structures. The Human Rights Section of UNIPSIL (UNIPSIL HRS) contributes to the overall mandate of the Mission through monitoring and reporting on the human rights situation in Sierra Leone and through technical support to national institutions, including the corrections system, in the area of human rights.

The Section has developed a positive cooperation with the Ministry of Internal Affairs (MIA) and the Prisons Service, which acknowledge significant challenges in the prison system, some of which require substantial technical and financial support. In this framework, UNIPSIL HRS conducts periodic monitoring of prisons and other detention facilities, such as police cells and cells at local courts, where customary law is administered. On the basis of the findings of this monitoring work, the Section has engaged with local authorities for them to take appropriate action when human rights violations were identified. Also, UNIPSIL HRS periodically organizes training on human rights standards and detention management for corrections officers and other security sector officers. Technical assistance and funding have been also geared towards the establishment of a library at the Freetown Central Prison (Pademba Road), the largest prison in the country.

This report, jointly published by UNIPSIL and the Office of the High Commissioner for Human Rights (OHCHR), is the result of this continuous engagement with national counterparts. It aims at highlighting human rights concerns regarding detention in Sierra Leone and, ultimately, at helping the government and development partners in designing more sustainable and impact-oriented interventions. The report builds on a 2007 report entitled "*Behind Walls: An Inventory and Assessment of Prisons in Sierra Leone*" issued by the United Nations Integrated Office in Sierra Leone (UNIOSIL), the then United Nations mission in Sierra Leone. That report contained recommendations which contributed to inform a United Nations Peace Building Fund intervention of about US\$ 1,5 million to address key perennial challenges in the corrections system. The present report assesses the extent of the implementation of the 2007 recommendations and the progress made through past capacity building interventions, while broadening the scope of the analysis to other detention facilities which were not covered by *Behind Walls*, notably juvenile detention centres, police cells and local court cells. The main objective of the report is to map out the current status of detention in Sierra Leone in order to identify areas for further support and to present an up-to-date position for advocacy, policy and decision-making in the corrections system and administration of justice.

### 1.2 Methodology of the study

This report is the result of a systematic review of detention facilities in Sierra Leone conducted in the first semester of 2012. The exercise was preliminarily discussed with the Minister of Internal Affairs, who emphasized his vision to shift the perception of prisons from punishment-oriented to rehabilitation-oriented

<sup>1</sup> See UN SC Resolutions 1886 (2009), 1941 (2010) and 2005 (2011).

facilities, and welcomed UNIPSIL assessment as an opportunity to help the sustainability of future interventions to improve the corrections system.

UNIPSIL HRS periodically conducts unannounced visits of detention facilities as part of its monitoring mandate. However, for the purpose of this report the Section visited all 17 prisons of the country over 5 weeks, between 27 February and 30 March 2012<sup>2</sup>. In many cases, regional staff of the Human Rights Commission of Sierra Leone (HRCSL) as well as members of the District Human Rights Committees<sup>3</sup> (DHRC) joined UNIPSIL staff in conducting the visits. The Department of Prisons was informed and, thanks to the support from the Acting Director of Prisons, UNIPSIL HRS staff enjoyed unhindered access to all prisons facilities and full cooperation from prisons staff<sup>4</sup>. To enlarge the scope of the review, the three juvenile detention centres<sup>5</sup> and a number of police cells and local court cells<sup>6</sup> were visited. UNIPSIL human rights officers also conducted individual interviews with inmates, prisons officers and heads of the institutions concerned. While the analysis contained in this report is largely based on this specific monitoring, findings from the periodic monitoring of detention facilities in 2011 and 2012 are used as additional evidence and are referred to throughout the text.

The monitoring was conducted using a checklist based on a combination of existing guidelines, and primarily the form on prison visits contained in the OHCHR training manual on human rights monitoring<sup>7</sup>. Although there was no explicit reference to the recently published United Nations Rule of Law Indicators (2011)<sup>8</sup>, the criteria and standards used for the monitoring exercise were largely the same. UNIPSIL HRS encourages the Government of Sierra Leone and other partners to use the United Nations Rule of Law Indicators for any future assessment.

The report focuses on respect for the rights of inmates according to minimum international standards in detention, and on developments in the last 5 years (2008-2012) in that regard. To that end, it reviews the legal and institutional framework of Sierra Leone in light of international human rights standards and the country's obligations. The report provides an objective assessment of the state of the infrastructure and the conditions of detention. The study also analyses access to justice and justice reform issues within the corrections system and examines organizational reform measures, gaps and human rights implications. Finally, it assesses the effectiveness of recent technical assistance and capacity building interventions and its implications on the corrections system.

The preliminary findings were shared with relevant justice sector authorities and development partners. In particular, in June 2012, UNIPSIL HRS discussed the findings with the Acting Director of Prisons and the

<sup>2</sup> Freetown Central Prison (Pademba Road), Freetown Female Prison, Makeni Prison, Kabala Prison, Magburaka Prison, Mafanta Prison, Kambia Prison, Port Loko Prison, Bo Prison, Moyamba Prison, Pujehun Prison, Mattru Jong Prison, Bonthe Island Prison, Kenema Prison, Kenema Female Prison, Kailahun Prison, Sefadu Prison.

<sup>3</sup> District Human Rights Committees are coalitions of human rights organizations/civil society groups at district level. DHRC have been promoted and supported by the Human Rights Section of successive United Nations missions in Sierra Leone to forge collaboration among the organizations, induce joint programming and maximize their synergy to address issues of human rights concern.

<sup>4</sup> The only area that UNIPSIL HRS was not allowed to visit was the death row in Pademba Road Prison, for alleged security reasons.

<sup>5</sup> Kingdom Remand Home (Freetown), Remand Home Bo, Kissi Approved School (Freetown)

<sup>6</sup> Western Area: Freetown Central Police Station, Waterloo Police Station; Northern Region: Port Loko Police Station, Makump Local Court No.2 cell; Southern Region: Moriba Town Police Station, Jendema Police Station, NjamaKwona Local Court cell, NjalaKombayo Local Court cell, NgellehunBadjja Local Court cell; Eastern Region: Yenga Police Post, Tongo Field Local Court cell, Bandawor Local Court cell, Matema Police Station, Tankoro Police Station, Kayima Police Post, Kayima Local Court cell, Sewafe Police Station, Sewafe Local Court cell, Tombodu Police Post, Tombodu Local Court cell.

<sup>7</sup> Appendix 2 to Chapter IX of the Manual, p.155 onwards.

<sup>8</sup> The Rule of Law Indicators is a special instrument created to monitor changes in the performance and fundamental characteristics of criminal justice institutions (police, judiciary and corrections), especially in conflict and post-conflict environments. The instrument was jointly published by the Department of Peacekeeping Operations (DPKO) and OHCHR and it has been endorsed by the Department of Political Affairs and the Office of Legal Affairs of the United Nations, UNICEF, UNDP, UN-Women, UNHCR and UNODC.

senior management of the Prisons Service, the Minister of Justice and Attorney-General, the Master and Registrar in the Office of the Chief Justice, the Inspector General of the Police, the Minister of Social Welfare, Gender and Children's Affairs, the Ombudsman, the Human Rights Commission of Sierra Leone, representatives of Defence for Children International - Sierra Leone (DCI) and Prisons Watch. Their views and the additional information they have provided are reflected in the report. UNIPSIL HRS also requested to meet the Minister of Internal Affairs and the Minister of Health and Sanitation to present the findings, but had received no answer at the time of finalising the report. Finally, the draft was also circulated for comments among development cooperation partners, in particular the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the German International Cooperation (GIZ), the United Kingdom Department for International Development (DFID), and the DFID's Access to Security and Justice Programme (ASJP).

### 1.3 Context

The decade long conflict in Sierra Leone had a serious impact on the prisons service. Prisons in Kailahun, Kono, Makeni, Port Loko, Kambia, Moyamba, Mafanta, Masanka and Freetown Central Prison were seriously vandalized by the Revolutionary United Front (RUF) rebels. Pademba Road Prison was also used in different phases of the conflict to imprison individuals without due process. Furthermore, the war led to an upsurge in the crime rate causing a rise in the prison population and imposing an additional burden on the already constrained system.

Post-conflict countries share many challenges with regard to the situation of prisons. Overcrowding, poor infrastructures, inadequate food, sanitation and health care, prolonged pre-trial detention have been repeatedly highlighted in different reports on the detention conditions in the Mano River Union countries, namely Ivory Coast, Liberia and Guinea<sup>9</sup>.

The Government of Sierra Leone acknowledges various challenges in the system, most of which requiring technical and financial support. The MIA is keen on interventions that are more sustainable, realistic and impact oriented. Challenges in human resources, manual and poor record systems, and overcrowding leading to insecurity are some of the issues identified by the leadership of the ministry as requiring attention and support.

## 2. Legal and Institutional Framework: International and National legal standards, policies and institutional arrangements in the area of detention

### 2.1 International legal obligations

The rights of individuals who are detained are protected by a number of international human rights instruments. In fact, prisoners retain all their rights except those that have been lost as a specific consequence of the deprivation of liberty. While this chapter does not include a systematic analysis of the provisions contained therein, reference to them will be extensive during the analysis of the findings.

<sup>9</sup> See <http://www.irinnews.org/Report/60401/COTE-D-IVOIRE-UN-condemns-nation-s-prison-conditions>; Amnesty International, 'Good intentions are not enough, the struggle to reform Liberia's prisons, September 2011'; and United States Department of State, 2011 *Country Reports on Human Rights Practices – Guinea*, 2011 *Country Reports on Human Rights Practices – Côte d'Ivoire*.

In addition to the Universal Declaration of Human Rights (UDHR)<sup>10</sup>, various treaties to which Sierra Leone is a party sets specific binding obligations on the State relevant to prisoners. The International Covenant on Civil and Political Rights (ICCPR) details the rights of all persons deprived of their liberty (article 10) among various relevant others, including the right to life, the prohibition of torture, the prohibition of arbitrary arrest or detention, the prohibition of imprisonment for failure to fulfill a contractual obligation, the right to a fair trial, the right to be presumed innocent until proved guilty and the prohibition of retroactive penal measures<sup>11</sup>. Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) stipulates the right of everyone to an adequate standard of living, which includes the right to adequate food, clothing and housing. While all the obligations contained in the Covenant are incumbent on States vis-a-vis their citizens, the State responsibility in the case of detainees is even more direct. Other articles contained in the ICESCR cover the areas of health, work, education, protection of families and children<sup>12</sup>. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) adds emphasis on the conduct of persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment<sup>13</sup>. Sierra Leone is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) which envisage additional measures to protect these vulnerable groups, including when in detention<sup>14</sup>.



A view of Freetown Central Prison (Pademba Road Prison) with the new library (white building) built by UNIPSIL/OHCHR

A number of instruments specifically addressing the administration of places of detention have also been developed throughout the years. Although these instruments are not legally binding, they provide practical guidance to States and may be seen as declaratory of principles that are broadly accepted by the international community.

<sup>10</sup> See in particular art. 3, 5, 9, 10 and 11.

<sup>11</sup> See in particular art. 6, 7, 8, 9, 10, 11, 14 and 15.

<sup>12</sup> See in particular art. 6, 7, 8, 9, 10, 11, 12, 13 and 15.

<sup>13</sup> See in particular art. 10, 1,, 12 and 13.

<sup>14</sup> In particular, article 37 of the CRC sets out a prohibition on life imprisonment and capital punishment of juveniles, and states that imprisonment of juveniles must be a measure of last resort and, when imposed, must be for the shortest appropriate period of time. Article 37 further requires that juveniles in conflict with the law be treated with humanity and respect for the dignity of the human person, and in a manner which takes into account their age. Article 14 of the CRPD requires States parties to treat persons with disabilities in compliance with the objectives and principles of the Convention, including by provision of reasonable accommodation.

The *Standard Minimum Rules for the Treatment of Prisoners*<sup>15</sup> (SMR) are the foremost international instrument in the management of correctional institutions. The Rules contain indications on registration, separation of categories, accommodation, personal hygiene, clothing and bedding, work, education, food, exercise and sport, medical services, discipline and punishment, instruments of restraint, information to and complaints by prisoners, contact with the outside world, books, religion, retention of prisoners' property, institutional personnel and inspections. They also set standards applicable to specific categories such as mentally imbalanced prisoners, prisoners under arrest or awaiting trial, civil prisoners and persons arrested without charges. Together with the SMR, two other instruments complete a comprehensive set of safeguards for the protection of the rights of persons who are detained or imprisoned. The *United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (BoP) covers and protects the rights of persons under any form of detention or imprisonment, including persons in police cells, children in juvenile detention centres and other places of detention. Principles include that of ensuring a human treatment in detention, non-derogation of human rights in detention facilities, oversight by the judiciary or other lawful authority on any form of detention or imprisonment, and others relating to access to justice for persons under any form of detention. Finally, the *UN Basic Principles for the Treatment of Prisoners*<sup>16</sup> contain 11 principles, in many ways covered by the other instruments mentioned above.

Parallel to these set of rules and principles, specific instruments have been developed to regulate the management of institutions for juveniles who have come into conflict with the law, among which the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*<sup>17</sup> and the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*<sup>18</sup>. Like the CRC, these instruments require that national legal systems take into account the special status and vulnerability of juveniles who have come into conflict with the law and base all actions in the field of juvenile justice on the central principle of the best interest of the child. Similarly, the *United Nations Rules for the Treatment of Women Prisoners and non-custodial Measures for Women Offenders*<sup>19</sup> (Bangkok Rules) exclusively deals with the specific rights and needs of female prisoners such as protecting the right and welfare of pregnant women, mandating that personal searches that are conducted on women be carried out by female corrections officers, and addressing other gender specific needs and circumstances of female prisoners. Several other principles, minimum rules and declarations are not mentioned in this chapter, but will be referred to in the analysis when appropriate<sup>20</sup>.

Finally, a number of United Nations thematic mandates or special procedures are specifically relevant to persons in detention, in particular the Working Group on Arbitrary Detention and the Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. In 1997 the African Commission on Human and Peoples' Rights appointed a Special Rapporteur on Prisons and Conditions of Detention in Africa to assess prison conditions and point out the major problems. It is worth noting that Sierra Leone has extended a standing open invitation to all human rights special procedures.

<sup>15</sup> The standard Minimum Rules for the Treatment of Prisoners adopted by the First United Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (IXII) of 13 May 1977.

<sup>16</sup> Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, adopted by the General Assembly resolution 43 / 173 of 9 December 1988.

<sup>17</sup> The UN Standard Minimum Rules for the Administration of Juvenile Justice, adopted by General Assembly resolution 40/33 of 29 November 1985.

<sup>18</sup> The UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of 14 December 1990.

<sup>19</sup> Adopted by the UN General Assembly on 21 December 2010, A/C.3/65/L.5

<sup>20</sup> For a complete overview of all non-binding documents which are relevant on detention, see Human Rights and Prisons, Manual on Human Rights Training for Prisons Officials, Professional Training Series No.11, OHCHR, 2005.

## 2.2 National legal framework

The 1991 Constitution of Sierra Leone contains provisions that protect and promote the fundamental human rights and freedoms of all individuals and provide for a number of remedies available to the accused<sup>21</sup>. In particular, Section 17 refers to protection from arbitrary arrest and detention and prescribes that any person who is arrested or detained shall be informed no later than twenty-four hours of the facts and grounds for his arrest or detention, and immediately of his right of access to a legal practitioner and to communicate with the latter confidentially. The Constitution also establishes that any person who is arrested must be brought before a court of law within 72 hours (or 10 days for a number of serious offences) or released otherwise. Finally, it envisages compensation for any person who was unlawfully arrested or detained. Section 23 focuses on the right to a fair trial, the presumption of innocence until proved guilty, the right to be informed of the nature of charges, the right to counsel, and various other provisions in line with international human rights law.

The management of the Sierra Leone Prisons Service is governed by the Prison Ordinance Act of 1960, which defines the powers and duties of prison officers and matters incidental thereto. In 1961, based on a provision of the Ordinance<sup>22</sup>, the then Governor-General promulgated rules for the administration of prisons in the country with the enactment into law of the Prison (No.2) Rules. The Rules regulate the classification of prisons and prisoners; medical officers and health of prisoners; treatment of prisoners; discipline of prisoners; sentencing, release and parole; appointment and discipline of prison officers; and duties of prison officers. The Ordinance and the Prisons Rules captured basic human rights standards in the management of correctional facilities, e.g. the possibility to channel complaints to appropriate authorities<sup>23</sup>, transferring sick prisoners to specialized institutions for further treatment<sup>24</sup>, the separation of male and female prisoners<sup>25</sup> and the separation of different categories of prisoners<sup>26</sup>. However, in other areas these rules are obsolete and do not reflect the evolution of international human rights standards, e.g. with regard to disciplinary measures. The Prison Ordinance and the Prison Rules are referred to in details in the analysis of findings, in particular with regard to the conditions of detention.

As of September 2012, a Bill entitled "The Sierra Leone Correctional Service Act" was being finalized and was expected to be enacted before the November 2012 elections. The Bill aims at bringing the national legal framework more in line with international standards, and would allow re-writing all secondary legislation concerning detention (e.g. the Prison Rules), thus giving room for further improvement in the national standards.

As explained in the previous chapter, this study also looks at places of detention other than the State prisons, namely police and court cells. The conditions of detention in police cells are not regulated by any specific law, while the procedures for arrest are established by the Criminal Procedure Act 1965 and the 1991 Constitution. The Criminal Procedure Act of 1965 regulates bail, remand and the right of appeal, among other aspects. A Criminal Procedure Act reform Bill which aims at repealing the previous Act was being finalized as of September 2012. The Local Court Act 2011, which reformed the administration of local court justice, also does not stipulate standards pertaining to the detention of individuals in local court cells. As any other place of detention, however, they are bound by the international standards illustrated above.

<sup>21</sup> Chapter 3 of the 1991 Constitution of Sierra Leone.

<sup>22</sup> Section 78 of The Prison Ordinance Act 1960

<sup>23</sup> In line with Section 36 of The Prison Ordinance Act 1960 and article 35 of the SMR.

<sup>24</sup> See Section 40, 41 and 43 of The Prison Ordinance Act 1960, and article 22 of the SMR.

<sup>25</sup> Section 38 of The Prison Ordinance Act 1960 and Article 8 of the SMR.

<sup>26</sup> Part VIII The Prisons (No.2) Rules 1961

The legal framework for Sierra Leone's juvenile justice system is governed largely by the Children and Young Persons Act, Chapter 44 (Cap 44) of the Laws of Sierra Leone (1960)<sup>27</sup>. A number of additions and amendments to Cap 44 were introduced in the Child Rights Act (CRA) in 2007. While the CRA does not directly address the protection of children participating in criminal proceedings, it provides the legal framework for child welfare and child protection interventions in general. The CRA stipulates that the best interests of the child must be of paramount consideration in any decision that affects the child. Parents or guardians also have the right to participate in any court or other legal proceedings related to a child, subject to the child's best interest. The CRA also sets the minimum age of criminal responsibility at 14 years. Children between the ages of 14 and 17 who are alleged to have committed an offence are afforded special protection in accordance with Cap 44. In line with international standards, Cap 44 makes it clear that the framework under which legal proceedings occur is determined by the age of the alleged offender at the time of the offence. This has important implications for determining the individual criminal responsibility, the nature of the legal process, and for the potential outcomes for children in relation to sentencing and rehabilitation. However, the grounds for denying bail to a child are quite broad, and there are no guiding principles to ensure that the deprivation of liberty is used as a last resort. There is no stipulated maximum time limit for holding a child on remand. Inconsistencies between Cap 44 and the Criminal Procedure Act also determine that juvenile cases are often referred to the High Court and thus further delayed<sup>28</sup>.

Notwithstanding progress, several obligations set out by binding treaties have not or not fully been domesticated, and the process of legal reform has been too slow. It is important, therefore, that the Law Reform Commission<sup>29</sup> and the constitutional review process<sup>30</sup> address this in due time. Also, even when the laws set out clear limitations and protection measures in line with international standards, many challenges emerge in implementing these provisions, as illustrated in the analysis provided in chapter 3.

## 2.3 Institutional framework

There are different categories of detention facilities in Sierra Leone. State Prisons are meant to host individuals who have been convicted by a court order as well as persons who are undergoing trial and have not been granted bail. Suspects who have been remanded in custody pending the completion of the investigation are also kept in prison. Juvenile detention facilities (Remand Homes and Approved School) host children who have come into conflict with the law with the purpose to rehabilitate and reintegrate them into the society. Police cells are used to keep suspects immediately after their arrest, until they appear in court or are granted bail. Finally, Local court cells are used to host suspects, trial and convicted individuals under the jurisdiction of Customary Law (see below).

<sup>27</sup> The Criminal Procedures Act of 1965 states that children and young persons accused of criminal offences shall be apprehended and tried in accordance with the provisions of the Children and Young Persons Act.

<sup>28</sup> There are currently no guidelines or rules for how juvenile cases are to be handled at the High Court, or how to ensure the protection of juveniles who are co-accused with an adult. Cap 44 says that any offence other than homicide shall be finally disposed of in the Juvenile Court, meaning that magistrates have no discretion and must deal with all juvenile cases other than murder. However, under the Criminal Procedure Act, magistrates are directed to refer cases to the High Court if they consider them to be complex. In practice, magistrates regularly refer juvenile cases other than murder to the High Court, sometimes even cases that are not complex enough to warrant this decision. This significantly adds to delays and contributes to lengthy periods on remand.

<sup>29</sup> The Law Reform Commission is an independent body established in 1994 to review all the laws of Sierra Leone with a view to reform or repeal. It is composed of a chairperson, commissioners and administrative staff.

<sup>30</sup> In 2006, the Government established a Constitutional Review Commission to review the 1991 Constitution. In 2007, the Commission submitted recommendations to the President and a Committee has been established to review them and advise on the way forward. However, the process has been rather slow as the Government had precluded that a referendum on the constitutional review would take place before the 2012 elections.

UNP/ photo/Luca Trinchieri

The board at the entrance of Pademba Road

The day to day running of prisons is managed by the Sierra Leone Prison Service, which was established by the Prison Ordinance Act 1960. The Service is headed by a director who is appointed by the Government and is statutorily responsible for the administration, control and supervision of all prisons in the country. The director also approves all contracts with private enterprises for the supply of food, medicines, etc. in collaboration with the National Procurement Board and the Office of the Solicitor General. The overall command, control, supervision, planning and monitoring activities is instituted at the national headquarters level with the Director of Prisons at the helm. There are Regional Command structures throughout Sierra Leone headed by regional commanders in each of the four regions.

As of September 2012, there were a total number of 17 prisons in the country: two in the capital, Freetown (one for men and one for women), five in the Southern Region, four in the Eastern Region (including one for women in Kenema), and six in the Northern Region. Pending the enactment of the Correctional Service Bill, the service will restructure as the Sierra Leone

Correctional Service. As of June 2012 the total number of prison staff in the entire country amounted to 1,454.

The Prison Strategic Plan 2012 – 2014 focuses on four thematic areas: enhanced inmates' welfare; improved systems and processes, including the upgrade of the Prisons Ordinance and Rules; improved public perception of the Service; improved condition of service for officers<sup>31</sup>.

The Ministry of Internal Affairs is responsible for the prevention and detection of crime; the safe custody of offenders and their reform and rehabilitation. It consequently has a supervisory role over the Prison Service as well as over the Sierra Leone Police (SLP). The SLP is responsible for conducting arrests and investigations. Family Support Units (FSUs) have been established in many police stations to specifically deal with matters involving women and children, including sexual and gender based violence as well as offences committed by children. The Police are also tasked with conducting prosecution of cases, but limited to criminal cases in the Magistrate Courts (see below). Police Prosecutors are attached to the Justice and Legal Support Department of the SLP and are supervised by both the SLP and the Law Officers Department at the Office of the Attorney General and Minister of Justice.

The Judiciary consists of the entire body of courts in Sierra Leone and the machinery that governs them. It is an independent organ headed by the Chief Justice. It is responsible for interpreting the laws as passed by Parliament, adjudicating cases and ensuring proper administration of justice throughout the country. A two-tiered system of Common Law based on the British system and Customary Law characterizes the legal system in Sierra Leone. The 'inferior courts' are comprised of the Magistrates Courts and the Local Courts. Magistrates Courts exist in each judicial district. Local Courts administer Customary Law in provincial communities outside the Western Area<sup>32</sup>. The Local Courts Act 2011 grants jurisdiction with reference to criminal offences punishable by a fine not more than Le 50,000 (\$11) or imprisonment not exceeding six

<sup>31</sup> Sierra Leone Prisons Service, 2012-2014 Strategic Plan, August 2011.

<sup>32</sup> Justice Sector Survey 2010, Justice Sector Coordination Office, p.21.

months, and civil cases governed by customary law provided they are in line with equity. With the Local Courts Act 2011 the responsibility over the Local Court system was finally moved from the Ministry responsible for Local Government to the Office of the Chief Justice, thus contributing to a more coherent approach to the administration of justice. The appointment, transfer, promotion, suspension and dismissal of Local Court officers, for instance, which until now was done by the Paramount Chiefs, will be now done by the Chief Justice in consultation with the Judicial and Legal Service Commission and the Local Court Service Committee. This will guarantee a higher level of independence of the Chairmen from the local traditional leaders in administering justice.

The Office of the Attorney General and Minister of Justice includes the Division of Public Prosecution, under which State Counsels are responsible for the drafting and signing of indictments and the prosecution of criminal matters in court. However, their number and capacity is very limited, which is the reason why prosecution of cases at the magistrate courts is done by police prosecutors. There are only 13 public prosecutors (5 State Counsels – 3 of which in the Provinces - and 8 Pupil State Counsels) plus the Director of Public Prosecution, although a recruitment process was reportedly on-going at the time of writing. Both the Attorney General and the Director of Public Prosecution can exercise the power of *nulleproseque*, i.e. to discontinue a prosecution of any criminal matter in a court of law in Sierra Leone.

In January 2010, a Pilot National Legal Aid (PNLA) scheme began functioning and was formally launched in April 2010. The main aim of its establishment was to provide free legal advice, representation and assistance to persons in conflict with the law. The PNLA scheme concluded operations in 2012. In May 2012, Sierra Leone Parliament passed into law the Legal Aid Act 2012, which seeks to expand and strengthen the legal aid scheme, and establishes a National Legal Aid Board that will provide legal representation, advice and assistance to underprivileged Sierra Leoneans in both civil and criminal matters. As of date, the National Legal Aid Board has not been established. Meanwhile, some non-governmental organisations (NGOs) are providing forms of legal assistance. Among others<sup>33</sup>, lawyers and paralegals from Timap for Justice provide free legal aid to detainees and employ alternative dispute resolution methods such as mediation. Under a pilot criminal justice programme, Timap for Justice also assists suspects immediately after arrest<sup>34</sup>. AdvocAid, another local NGO, supports access to justice for girls, women and their children in conflict with the law.

The Ministry of Social Welfare, Gender and Children Affairs (MSWGCA) is responsible for the management of the three juvenile detention facilities in the country, namely the Remand Homes in Kingtom (Freetown) and Bo, and the Approved School in Kissy (Freetown). Once the general policy of decentralization adopted by the Local Government Act 2004 will be fully implemented, the local council Child Welfare Departments will have responsibility for child and family welfare services. At present, however, the responsibility to deliver social welfare services, including to children in conflict with the law, remains largely with the central-level MSWGCA. The Ministry also has mandate to provide probation services to ensure protection of children in the justice system (through probation officers) and to support rehabilitation and reintegration of children in conflict with the law (through social welfare services).

The Office of the Ombudsman was established by an Act of Parliament and is responsible for investigating issues of maladministration in the public sector. Within its mandate, the Office can receive complaints by citizens, including by prisoners<sup>35</sup>. The Human Rights Commission of Sierra Leone (HRCSL), in fulfilling its

<sup>33</sup> See also <http://www.namati.org/work/legal-aid/>.

<sup>34</sup> As of December 2010, ten paralegals had handled more than 4,300 cases and secured the release of more than 2,300 detainees. More recent figures were not available at the time of writing this report.

<sup>35</sup> Under Section 9 of The Ombudsman Act 1997, a person who is in detention has the right to send a sealed envelope containing complaint to the Ombudsman and such sealed envelope should not be opened by the detaining authorities.

mandate to investigate or make inquiry into human rights violations and abuses, has focused its attention on prison conditions and has proffered recommendations in its annually published State of Human Rights in Sierra Leone Report to the Government of Sierra Leone. More information on the capacity of the Ombudsman and the HRCSL to inspect prisons and receive complaints is provided in chapter 3.3.5.

NGOs, both national and international, are also playing a prominent role in the protection and promotion of human rights in prison. In addition to the already mentioned activities of ActionAid and Timap for Justice, specific reference to the work of Prison Watch, Defence for Children International (DCI) and GOAL, among others, is made throughout the analysis.

The United Nations have provided capacity building to prison officers on human rights standards in the management of prisoners, logistic and technical support. Additionally, the United Nations continue to monitor prison conditions and make interventions when required. International development partners have also sponsored rehabilitation and capacity building programmes in this area, as described in chapter 3.

### **3. Analysis: the situation of detention in Sierra Leone**

This chapter builds on the findings of the systematic review of the status of detention conducted by UNIPSIL HRS in February and March 2012. It also assesses the level of implementation of the recommendations of the 2007 report entitled *Behind Walls*, which focused on capacity building, material and logistical support, organizational reform, and access to justice and reform of the justice system. The focus of this chapter is largely the same, although the structure is different and the scope of the analysis is broadened to include places of detention other than prisons.

#### **3.1 Material, logistical and infrastructural situation**

##### 3.1.1 Condition of the infrastructure

The situation observed by UNIPSIL HRS has not substantially improved since the publication of the 2007 report on the subject. This is particularly worrying as a number of interventions have taken place since then, including as direct follow-up of some of the recommendations of that report. Responsibilities for this are shared by a number of actors and specific remarks in this sense are included in chapter 3.4, which deals with the effectiveness of capacity building.

Rules 9, 10 and 11 of the SMR set minimum standards in terms of cell occupancy, size and climatic conditions of the cell, minimum floor space, lighting, heating and ventilation, and size of the windows. However, even though most buildings constructed prior to independence have undergone some renovation and new facilities have been built after the war, the poor quality of the rehabilitation and construction works as well as the lack of maintenance makes prisons unsafe, unhealthy and unable to accommodate the current number of inmates. The facilities built more recently are sometimes in more deplorable conditions than the old colonial structures. The perimeter wall has cracks in Kabala, Mafanta and has partially collapsed in Kailahun in May 2011, even though the buildings are less than 10 years old. In the latter case, prisoners had not been allowed to leave the cells due to this security risk until the wall was repaired in May 2012, thus infringing on a number of standards in terms of open air time and daily exercise. In June

2012, 2 prisoners escaped from Kenema prison through an aperture in a metal grill and thanks to the absence of a perimeter wall around the male wing of the prison<sup>36</sup>.

Poor materials and lack of maintenance have resulted in damages, including doors, toilets, iron bars, wells, and other basic parts of recently rehabilitated structures (Kailahun) or newly built facilities (Mattru Jong). Due to security and health concerns relating to the infrastructure, and sometimes just poor management of available space, only part of the total number of cells are used, thus reducing the total capacity of the facilities. In Kabala and Magburaka, for instance, cells built in 2004 have leakages during the rainy season that make them very cold and unhealthy. The entire roof of the prison in Kambia, which was built just after the war, leaks during the rainy season, and only four out of ten cells are being used. In Kenema, when it rains, some cells at the ground floor get flooded due to the lack of roof in an internal courtyard. In Pademba Road Prison, the old female wing, unused since November 2010, has not been reallocated to host male prisoners because the ceiling is made of thin wood and it is thought that male prisoners could easily escape. Sefadu prison needs urgent intervention, including at the perimeter and internal walls, the roof ceiling and dorms, some of which are not in use. In Pujehun, only 9 out of 20 cells are in use and the prison is always smoky because the kitchen has no window. As a result of poor rehabilitation works, in Bonthe, two of the prison quarters and three out of seven cells are not used. In Mafanta prison, three blocks and an office were rehabilitated in 2009 through the PBF intervention that followed the publication of the 2007 *Behind Walls* report, but only one block (6 cells) is currently used. Juveniles detained in the approved school in Freetown are not allowed to spend the day outside the dorm because of a crack in the wall of the recently rehabilitated structure.

In addition, most of the structures do not take into account the specific needs of persons with disabilities as provided by in the Convention on the Rights of Persons with Disabilities (CRPD)<sup>37</sup>. In Bo, for instance, UNIPSIL HRS found a detainee with physical disability who faces difficulties in accessing the toilet.

Commenting these findings, the Acting Director of Prisons observed that the rehabilitation works were done by intermediary organisations, in most cases the Justice Sector Development Programme (JSDP) funded by the UK Department for International Development (DFID)<sup>38</sup>. He lamented little involvement of the engineering section of the Prisons Service in the works. As a consequence, he claimed, the materials used were not appropriate for correctional institutions and quickly deteriorated. However, DFID officers explained that priorities for infrastructure were decided in consultation between JSDP and key stakeholders, including the then Director of Prisons, and all buildings were audited before being handed over to the Prison Service. Maintenance of the works was an overriding concern of the JSDP programme and clear recommendations were made about the need for maintenance. However at the close of the JSDP project, no maintenance plans had been put in place. The Acting Director of Prisons admitted that the prison service is facing challenges in terms of maintenance due to financial constraints, as the service has a yearly budget allocation of 9 billion Leones which is not enough for the daily management of the 17 prisons<sup>39</sup>. The project to build a new high security central prison in Freetown is also on stand-by: while a number of suitable areas have been identified, the cost of the infrastructure is far beyond the possibility of the service.

<sup>36</sup> The building that houses male inmates is an old structure which is said to have been constructed in 1846.

<sup>37</sup> Art. 14 (2) of the CRPD requires States to ensure that if a person with disability is deprived of his or her liberty, he or she should be treated in compliance with the objectives and principles of the CRPD, including by provision of reasonable accommodation. Art. 2 of the CRPD defines 'reasonable accommodation' as follows: "necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms".

<sup>38</sup> The Programme ended in 2011. Its purpose was "to support the development of an effective and accountable justice sector that is capable of meeting the needs and interests of the people of Sierra Leone". For more information see "Justice Sector Development Programme, Achievements and Lessons Learned", JSDP 2011.

<sup>39</sup> Late disbursement of money from the Government is creating additional challenges. As of 22 June, for instance, the prison service had not yet received the 2nd quarter allocation for 2012.



UNIPSIL photo/Luca Trinchieri

A cell occupied by 5 inmates in Kenema

The size of the cells in the different prisons varies and the capacity fluctuates between 2 to 10 inmates. In fact, cells are very often overcrowded. The 17 prisons have an overall capacity of 1767 prisoners, but there were a total of 2291 inmates at the time of visit by UNIPSIL HRS. In Makeni, for instance, the average occupancy rate at the time of the HRS visit was of 20 inmates per cell, about the double of the ratio the cells were built for. The remand wing in Pademba Road Prison has only 25 cells for a population which, at the time of the visit, was of 251, with about 10 prisoners sleeping on the floor in a space initially conceived for one. In many cases, overcrowding happens even when the occupancy is lower than the total capacity of the facility because, as explained above, not all the spaces are actually used. In Kambia, for instance, cells were made to host 6 inmates but prisoners were more than the double since only 4 cells were in use. As female prisoners are in much less number than males, they normally do not suffer overcrowding but are subject to the same conditions as men in terms of infrastructure.

Cells have windows, although in some cases the size is too small or the window is too high to have proper ventilation and sufficient natural light (Kambia, Makeni). Most windows are also lacking wire mesh and inmates are exposed to mosquito bites. Generators guarantee artificial light at night (until midnight) in most prisons, but there are cases where prisoners are left in total darkness due to lack of generator or money to buy fuel (Magburaka, Bonthe, Mattru Jong, Moyamba, Sefadu, Approved School) and can only rely on battery-operated portable lamps or, in some cases, kerosene lamps.

There are also positive exceptions in terms of infrastructure. Female detainees in Freetown have been moved in 2011 from Pademba to the former structure of the Special Court of Sierra Leone (SCSL), which was built after the war to guarantee international standards to the detainees facing trial at the SCSL. In Kenema, female prisoners enjoy better detention conditions since a separate wing was constructed in 2008 by JSDP with funds from DFID.



UNIPSIL photo/Luca Trinchieri

The new female Prison in Kenema, built in 2008 by JSDP with funds from DFID

The condition of the infrastructure in the case of police cells is generally even less satisfactory than in prisons. As noted by the Inspector General of the Police, the current detention facilities were largely built long ago and planned for a smaller population, especially in urban areas where cells tend to be often overcrowded<sup>40</sup>. In all the stations visited, there was no lighting at night. The Yenga Police Station, Kailahun district, is built half in concrete and half in corrugated iron sheet, which makes the only available cell dark and hot during the day. In Bonthe there are no police cells so suspects are kept in prison, in violation of a number of international standards, including on the separation of categories of detainees. On a good note, the rehabilitation of the cells in Waterloo, which was on-going at the time of the visit, was completed in July 2012 and is expected to have a positive impact on the conditions of detention.

Buildings of the Local Courts cells are small, often with no fence, and poorly ventilated. While at the time of the visit by the HRS most of the cells were empty, they often get overcrowded at specific times, such as during local tax evasion raids.

### 3.1.2 Administration of prison and working condition of prison staff and other detention officers

Prison staff are "at the forefront of human rights protection on a daily basis, experiencing them and putting them into practice; respecting them and enforcing their respect"<sup>41</sup>. They have the responsibility to hold individuals who are lawfully deprived of their liberty safely and release them back to the community. SMR Rules 46 to 54 regulate the administration of prisons and the conduct of prison personnel. Additional relevant requirements are included in the Code of Conduct for Law Enforcement Officials of 1979<sup>42</sup>.

As of June 2012, a total of 1454 staff (including support staff) were working for the prison service, which represents a 65% increase compared to 2007<sup>43</sup>. JSDP has built a training school for prison officers in Waterloo, where new recruits attend a three month-long course which ends with an examination. The school is operational but still lacks permanent facilitators. The Director of Prisons has expressed the intention to create a new permanent position to be in charge of the training school.

Working conditions for prison staff remain unfavourable, also taking into account the delicate and stressful nature of their responsibilities. The average salary of a prison officer has increased but is still only 250,000 Le a month (around 50\$) and several benefits and allowances that were paid in the past have been removed, including the risk allowance. Many officers lamented that there was no possibility for promotion, inadequate quarters to accommodate them and lack of due notice and incentive for transfer to new locations. Not all personnel have uniforms and those serving in rural areas are compelled to travel to regional headquarters, sometimes back and forth several times, to collect salaries, thus using part of their earnings for transportation. With such conditions, motivation is low and there is room for corruption, including some of the personnel accepting trafficking goods for the prisoners in exchange of money. This situation is well known among the senior management of the Prison Service, which has repeatedly raised concerns on the need to review salary grades, which are lower than in any other security force in the country<sup>44</sup>. This notwithstanding, the relationship between prison staff and inmates is generally good, and credit needs to go to the many prison staff serving countrywide in difficult conditions.

<sup>40</sup> Interview with the IG Police.

<sup>41</sup> Human Rights and Prisons, Manual on Human Rights Training for Prisons Officials, Professional Training Series No.11, OHCHR, 2005, p.4

<sup>42</sup> The Code set forth the specific responsibilities of law enforcement officials in the area of protection of human rights, use of force, treatment of confidential information, prohibition of torture, protection of the health of detainees, corruption and respect for the law and the Code itself.

<sup>43</sup> Additional recruitment is scheduled to bring the total number of staff to the 1605 approved by the Government.

Police personnel are facing similar challenges with regard to the conditions of service. Salaries are low (at average of 250,000 Le/50\$) and those in rural areas may spend up to a third of it to go and collect it from a bank in the district headquarters. Understaffing is preventing those serving in remote areas to take leave, promotion is slow and the low morale negatively affects professionalism.

Working conditions of staff in the local courts are even harsher. Personnel are not on the pension scheme of the National Social Security Insurance Trust (NASSIT) pension scheme and the payment of salaries is extremely irregular. The local court officer in Ngelihun lamented he had not received his salary for 2 years, the one in Njama for over 3 years, while the officer in Njala told UNIPSIL he had been paid a total of 8 months since 2001. As a result, staff largely depend on fines and, in some cases, on bribery. Personnel interviewed expressed high expectations that the transfer of responsibility for Local Courts under the Ministry of Justice will positively affect their condition of service.

### 3.2 Conditions of detention

As stated in chapter 2, persons in detention maintain their rights except those that have been lost as a specific consequence of deprivation of liberty. Prisoners and detainees should be treated at all times in a humane and dignified manner. Ensuring adequate conditions of detention is therefore extremely important to guarantee that fundamental rights are not violated.

#### 3.2.1 Right to adequate food and drinking water

Rule 20 of the SMR requires the prison administration to provide inmates at the usual hours with food of nutritional value adequate for health and make drinking water available to every prisoner whenever he or she needs it<sup>45</sup>. The Prison Rules of 1961 include a list of nutritious diets which the prison authorities should serve to prisoners<sup>46</sup>.

The reality, however, is far from what the law prescribes. In a large number of the prisons visited in the north and south of the country, and in Kono in the east, inmates receive only two meals per day (including breakfast). Only in Kenema, Kailahun and Freetown three meals are provided.

The quality of the food is generally poor: a piece of bread with butter and tea for breakfast and a cup of rice



The kitchen in Freetown Central Prison

<sup>45</sup>The Director of Prison informed UNIPSIL that he wrote with this purpose to the Secretary of the Cabinet in May 2012 and is waiting for a meeting on the matter. Conditions of service have also been discussed at the Parliamentary Internal Affairs Committee which is soon expected to produce a communiqué.

<sup>46</sup>Article 20(1) of the United Nations International Minimum standards on the Treatment of Prisoners

<sup>46</sup>Breakfast: Ogie; Mid-Day Meal: Rice, Sweet Potatoes, Green vegetables, meat without bone, fresh Fish, dried Fish, Palm Oil, Kainda, Pepper, Salt; Evening Meal: Rice, Sweet Potatoes, Green vegetables, Meat, Fresh Fish, Dried Fish, Ground Nuts, Palm Oil, Kainda, Pepper, Salt, Fresh Fruit.

with local sauce for the main meals, with no or little variation. Low nutritional levels have also resulted in diseases connected to malnutrition. In March 2012, an outbreak of pitting pedal oedema (also known as 'beriberi') was registered in Freetown Central Prison as a result of insufficiency in vitamin B1. Furthermore, food is provided by contractors and delays in payments from the prisons headquarters have resulted in problems in the supply. In December 2011, for instance, the supplier to Sefadu Prison withdrew her services because she had not been paid for ten months, and only thanks to the prompt intervention of members of the District Security Committee (DISEC) she restored the supply without much delay, pending Government's settling of the arrears. In other cases, the Officers in Charge (OICs) resorted to paying contractors out of their own salaries to avoid the interruption of the service. Finally, there were also instances when NGOs and UN agencies intervened to this end: from September to December 2011, for instance, Prison Watch, GOAL, UNICEF and WFP contributed in various ways to ensure that food was regularly supplied to the juvenile detention centres, where the contractor had stopped the services protesting against the non-payment by the MSWGCA. OICs lamented that the lack of budgetary autonomy was the main cause of delay in payment to contractors. However, the Acting Director of Prisons explained that financial constraints are rooted at headquarters level, as delays originate in the late disbursement of the quarterly allocation by the Government. The Acting Director also noted that contractors should be obliged to maintain the service even when the payment is delayed as the provision of food is vital<sup>47</sup>.



UNIPSIL photo/luca Tranchieri

Prisoners distributing food, Freetown

The Prison Service is also responsible to supply food to police cells. However, UNIPSIL HRS found that this is not consistent across the country. In Motema Police Station, Kono district, senior officers are somehow compelled to provide food for detainees although it is not clear whether there is provision for it in the SLP budget. Even when food is provided by the Prison Service, the quantity is insufficient. In Freetown Central Police Station food is supplied only one time per day (lunch). During UNIPSIL HRS visit, officers brought a

half empty bucket where rice, fish and water were mixed to feed 20 inmates. Feeding of suspects in police cells therefore appears to largely depend on the magnanimity of police officers, relatives or aggrieved parts. In Waterloo, where food should come from Pademba Road Prison but does not come due to lack of a vehicle, only those whose families had sent some food had eaten the day prior to UNIPSIL HRS visit. In some local courts cell food was reported to be on the court's bill (for an amount of 5,000 Le per day, little more than 1 US Dollar) while in others it was the responsibility of the relatives or the complainants. Detainees are often bailed as soon as possible due to lack of funding to provide food.

Access to drinking water varies extensively across the country. In most cases water is provided through wells or hand pumps which serve for bathing and for drinking. With few exceptions, wells are outside the compound and inmates – including those in juvenile structures – are escorted to fetch the water as far as 3-4 miles away (Bo). This has posed security threats, as in Kailahun when, in December 2011, three inmates attempted to escape on their way to fetch water in the outskirts of the town. This incident prompted the

<sup>47</sup> Interview with the Director of Prisons, 22nd June 2012.

Kailahun District Council to construct a borehole with a lift pump outside the prison<sup>48</sup>. Wells also risk drying up in the dry season or being contaminated: while internal wells are regularly chlorinated, less control is exercised when the well is external. The worse practice was found in Pujehun, where prisoners fetched water from the nearby Wanjei River. Clean tap water is supplied by pipe only in Kenema, Makeni, Pademba Road Prison and Freetown Female Prison. In Pademba Road Prison, however, inmates in remand complained of not having access to sufficient drinking water supply (250ml per day). Prison officials said that water is supplied by bowsers if the pipeline does not work, but the Acting Director of Prisons has requested support in constructing a borehole in order not to depend on Guma Valley Water Company.

Police officers throughout the country stated that drinking water in police stations cells was supplied upon request. However, in Freetown Central Police Station, suspects claimed they had not been given water since the previous day and no police officer took responsibility to provide water after UNIPSIL HRS requested so. International standards nonetheless require that drinking water be available to every prisoner whenever he or she needs it<sup>49</sup>.

In local courts, officers interviewed also stated drinking water was provided upon request but it was not possible to ascertain this since too few detainees were found at the moment of the visits.

### 3.2.2 Bedding, hygiene and right to health

Rule 19 of the SMR requires that every prisoner be provided with a separate bed and with separate and sufficient bedding, which should be changed often enough to ensure its cleanliness. Section 47 of the 1961 Prison Rules provides the same. The 2007 report *Behind Walls* had found that supplies by the prison administration were grossly inadequate<sup>50</sup>. Based on that assessment, 1,000 bunk beds, 2,000 mattresses, 2,000 pillows, 2,000 bedspreads and 2,000 blankets were provided to 15 prisons in 2009 through the already mentioned PBF intervention.

However, only three years later, an important part of that amount is already damaged or lost and the situation does not differ from the description contained in *Behind Walls*. With some positive exceptions where beds, mattresses and blankets are available to all inmates and regularly washed (Freetown Female Prison<sup>51</sup>, Magburaka, Mafanta and Kenema), beds and beddings are scarce and pillows almost nonexistent. In Pademba Road Prison, beds were found in the blocks (although not always with mattresses and bed sheets) but not in the remand wing, where inmates were sleeping on the ground. In Makeni beds were dilapidated and inmates slept on thin sponges and blankets. In other prisons in the north, no bed was found and prisoners slept



Sleeping conditions are good in Freetown Female Prison

UNIPSIL photo/Luca Trinchieri

<sup>48</sup> In 2005, Oxfam constructed a bore hole just outside the prison at the cost of 6,000 USD. However, due to lack of maintenance, it only functioned for about three years and it has not been repaired since Oxfam left the area.

<sup>49</sup> UN SMR, Rule 20 (2).

<sup>50</sup> *Behind Walls*, p. 32.

<sup>51</sup> Additional beds for Freetown Female Prison were inherited at the moment of its relocation in the structures of the former SCSL.

on worn out mattresses and blankets that were never changed and, in some cases, never washed. UNIPSIL found cases in which up to three inmates were sharing a mattress and a blanket (Port Loko, Kambia). Not a single bed was found in any of the prisons in the southern region and mattresses or foams, when available, were often infested with bed bugs<sup>52</sup>. In the rainy season, they would remain wet during days and cannot be washed. In Sefadu and Kailahun, beds were removed for alleged security reasons<sup>53</sup>. Juvenile detention facilities are in better conditions because cement beds are built in the dormitories. However, while the Remand Home in Freetown provides beddings and mosquito nets, very few were available in the Approved School.

Sleeping conditions in police cells were found to be even more precarious. No bed was found in any of the cells visited. Only in Port Loko Police Station some locally made grass mattresses were available, while in Waterloo few blankets and one mat were shared among 25 detainees<sup>54</sup>. In all other cells across the country, inmates sleep on the bare floor<sup>55</sup>. So do prisoners in local courts cells visited, with the exception of Makump Local Court, where grass mattresses were found.



Improvised open air latrines in the remand wing, Freetown

SMR 12 and 13 require sufficient sanitary installation and adequate bathing and shower facilities. Such requirements are also found in the 1961 Prison Rules<sup>56</sup>. However, once more, the reality is far from the laws and no tangible improvement could be registered since the 2007 *Behind Walls* report. As noted in 2007, inadequate water supply in most of the prisons has a direct negative impact on the hygiene and sanitation of the inmates. All the prisons in the northern region have working toilets inside the cells, although often filthy and smelly, and in some cases also outside. Cells in Sefadu and Kailahun, in the east, and Mattru Jong in the south, also have internal toilets, but due to shortage of water they are not properly flushed and cleaned. In all other prisons, internal toilets were not available or were damaged and had not been repaired for years (e.g. Moyamba). Thus, prisoners rely on a bucket which is emptied in a cesspit. In Pujehun, flush toilets were initially supposed to be provided through the PBF intervention but this part was eventually removed from the project, and prisoners continue to use buckets and empty them in the same river where they collect water. In Kenema, during the rainy season the cesspit overflows and excreta are strewn all over the facility into neighbouring offices and residential areas close to the facility. In Pademba Road Prison, blocks have common toilets accessible during the day, but remand prisoners used improvised open air latrines with serious health consequences.

UNIPSIL photo/Luca Trinchieri



Adequate sanitary facilities are available in the female Prison in Freetown

<sup>52</sup> In Moyamba, walls are coloured with blood stains from the bed bugs killed by inmates after being bitten.

<sup>53</sup> In Sefadu, the roof ceiling is very thin and fragile and prison officers fear that inmates could escape using the beds to reach the ceiling. In Kailahun, beds were removed by the Kailahun District Council after one inmate used his bed to commit suicide in June 2010.

<sup>54</sup> At the time of the visit, the ordinary cell at the Waterloo Police Station was under renovation and suspects were detained at the Kissi Police Post, about 3 km away. The situation was expected to improve upon relocation of suspects in the renovated structures in Waterloo.

<sup>55</sup> Freetown Central Station, Moriba town, Jendema, Yenga, Motema, Tankoro, Sewafo, Tombodu.

<sup>56</sup> Section 33 and 34 of the Prison Rules. In addition, Section 27 (1)d require a medical officer or a nurse, at least once every month, to inspect the whole prison with particular attention to the cooking and sanitary facilities in the prison and to advise the director upon the findings.

The only improvement concerns Freetown Female Prison, which has good quality and well working bathrooms and toilets in each cell. Detention facilities for juveniles have toilets, although the only ones well kept were found in the Remand Home in Freetown, despite challenges in the water supply.

Very few cells in police stations and none in local courts visited have functioning toilets. Only in Sewafe, Kono district, the situation could be considered satisfactory thanks to a running tap water supply. Otherwise, suspects are generally escorted to toilets or latrines outside the cells during the day and are given a bucket for the night. In Freetown Central Police Station, suspects were crammed in the corridor as the cells were used as latrines. Similarly, in Yenga Police Post detainees were confined in a corner of the cell since most of the floor was drenched with urine.



The cess pit at Pademba Road Prison requires urgent rehabilitation to ensure it can be emptied regularly

Except for Freetown Female Prison<sup>57</sup>, showers were not working in prisons and prisoners thus use bucket showers. Detainees are in principle allowed to bathe once a day, but this eventually depends on the frequency of water supply, which is also used to wash clothes. In Port Loko, for instance, prisoners take shower every second day, and in Mattru Jong they do it when water is available.

In police and local courts cells, bucket showers are normally accessible when requested by the prisoners and water is available, although there is often no designated place for showers, and suspects bathe under the close watch of an officer<sup>58</sup>. In Freetown Central Police Station, it was not possible to confirm whether suspects had access to buckets when the tap water was not running. In Makump Local Court cell a prisoner denied having been able to wash in the previous 24 hours<sup>59</sup>.

Art. 12 of the ICESCR recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In the case of detainees, such responsibility rests entirely on the prison authorities. Both the BoP and the SMR state that all prisoners should be given a medical examination as soon as they are admitted to a prison or place of detention and that any necessary medical treatment should then be provided free of charge<sup>60</sup>. Access to health care should include all services available in the country (Principle 9 of the BoP) and be organized in close relationship with the general health administration (SMR 22), while a medical officer should daily see all prisoners requiring medical attention

<sup>57</sup> Reportedly in Mafanta, showers never worked since the rehabilitation was concluded.

<sup>58</sup> In Tombofu, the Mammy Queen or a female designate is called to guard when a female suspect wants to shower.

<sup>59</sup> Also in Motema, a male suspect informed UNIPSIL HRS that since he was detained (two days before) he had not been given the opportunity to bathe because there was no water. A female suspect had however been able to wash because when there are limited water resources, women are reportedly given preference.

<sup>60</sup> Principle 24 BoP; Rule 24 SMR.

(SMR 25)<sup>61</sup>. The Prison Rules of 1961 make provision for prisoners to receive medical attention when the need arises. Part 111 Section 23 of the Prison Rules provides that “in every prison where the facilities are available an infirmary or proper place for the care and reception of sick persons shall be provided” and section 25 provides that a medical officer shall attend at the prison either daily or at least once a week to attend to sick prisoners. The Chief Medical Officer should also supervise the day to day running of the infirmary. The Prison Rules do not address the mental health of prisoners and merely state that the medical officer shall make reports on the mental condition of prisoners and advice the officer in charge of the prison as to any prisoner that should be transferred to a mental hospital<sup>62</sup>.

In fact, the practice is far below the required standards due to structural challenges. Prisoners generally receive a superficial examination by a nurse when they are first admitted and, in some cases (Mafanta), de-wormed, but no health screening was reported in Pujehun, Bonthe, Mattru Jong and the Remand Home in Bo. Particular attention is paid to pregnant women: in Kabala, for instance, attempts are made to arrange for a surety and when the offence does not admit bail, women are transferred to Makeni where the facility is more suitable for their condition.

Access to basic medical care inside the prison is possible in all facilities except Pujehun Prison, the Approved School and the Remand Home in Bo. However, most of the structures only have a consultation room with one to three beds and one nurse during day time who can supply basic generic drugs for minor ailments. In Kambia, at the time of writing this report, there had been no nurse since the one assigned to the prison retired several months before. In Kenema, patients lied on the metal strips of two beds as there were no mattresses. Regional medical officers are based in the three regional headquarters’ prisons of Makeni, Bo and Kenema, and are in charge of ensuring the periodic supply of drugs from the prisons headquarters, but medicines are insufficient and not always supplied on time. The quality and level of health care is higher in Freetown Central Prison, where there is an infirmary with 18 beds and a total of 19 staff, including an external medical doctor visiting every day, a health officer-pharmacist, a lab coordinator and seven community nurses. The fact that the lowest standards were recorded in juvenile detention facilities is particularly worrying.



The infirmary in Freetown Central Prison

Skin infections, malaria, tuberculosis, cholera, pneumonia, and typhoid are common illnesses across the country, while rheumatism was reported on the increase in Port Loko and in other prisons in the north. Poor hygiene and sanitation also negatively impact on the health of inmates. Yet, with the exception of Pademba – where 60 to 70 prisoners were reportedly treated every day – the number of inmates receiving medical care at the time of UNIPSIL HRS visits was very

<sup>61</sup> The medical officer has also an important responsibility to ensure that proper health standards are met in the conditions of custody and advise the director upon the suitability of food, water, hygiene, cleanliness, sanitation, lighting, ventilation, clothing, bedding and opportunities for exercise (SMR 26).

<sup>62</sup> Rule 22 of the UN SMR requires that medical services include psychiatric service for the diagnosis and treatment of mental illness.

low. In Moyamba, the team found three sick prisoners who were not receiving medical attention. In its periodic monitoring of prisons, UNIPSIL HRS has come across a number of cases where lack of medical attention led to the death of prisoners.

Prisoners suspected of infectious or contagious conditions should be treated separately while prisoners who require specialist treatment should be transferred to specialized institutions or to civil hospitals<sup>63</sup>. However, the regional health officer in Freetown informed UNIPSIL HRS that inmates in Pademba Road Prison who are positive to tuberculosis are treated but are not held separate due to the overcrowding. Inmates who present ailments that cannot be treated within the prison are referred to hospitals. However, the procedure varies extensively across the country and should be urgently harmonized. In the majority of cases, professional services connected with the hospitalization are provided free of charge by the Government, but not the drugs. Thus, unless drugs are available within the prison service, they have to be bought on the cost recovery scheme and, in such cases, the cost is largely covered by the OIC of the prison out of his own salary, although in Freetown Central Prison it was reported to be paid by the prison management. There are also cases (Kabala, Remand Home Bo, Port Loko)<sup>64</sup> in which the cost of drugs is borne by the relatives of the inmate. The inability by prison authorities or relatives to pay medical bills has been the cause of deaths of inmates. In Kenema, for instance, in September 2011 a prisoner died at the Government hospital as doctors insisted that the medical bill had to be paid before commencing the treatment, while the lack of funds for surgical operation caused the death of two prisoners at the Sefadu Prisons in May 2011.

The Acting Director of Prisons noted that the introduction of the cost recovery system in the public health care has imposed an additional burden on the prison service, and advised to establish some form of agreement to ensure that the health care system covers for all the costs involved. There are already examples of such agreements at local level. In Kambia, for instance, there is a Memorandum of Understanding with the District Council which pays the bill. In other cases, support is provided by local or international NGOs: prisoners at the Remand Home in Kington and at the Approved School are referred to the police medical hospital at the expenses of the Irish organization GOAL; in Kailahun, the cost of inmates requiring surgery is covered by the local NGO Community Action for Psycho-social Services (CAPS).

No internal medical services were available in any of the police and local court cells inspected. Sick suspects in police custody can be referred and escorted to the hospital. However, in Freetown Central Police Station UNIPSIL HRS found a suspect suffering from hernia who lamented having requested medical attention since he was brought in, to no avail. When referred, treatment was reported to be largely covered by the relatives of the suspect. For local courts, in Njama there is a Memorandum of Understanding (MoU) with the District Health Medical Team in Moyamba while in Njala and Ngeliuhun bills were initially paid by the court but are now refunded by relatives of prisoners. In Makump they are discharged.

### 3.2.3 Work, education, cultural activities, religion, leisure

Art. 10 of the ICCPR provides that the essential aim of the treatment of prisoners by the penitentiary system should be their reformation and social rehabilitation. In line with this overall purpose, rule 65 and 66 of the SMR establish that the prison regime, in particular for those sentenced, should aim at helping them leading law-abiding and self-supporting lives after their release and all appropriate means should be used to this end, including religious care, education, vocational training, social casework, employment counselling, etc.

<sup>63</sup> Rule 24 SMR. The Rule also provides that "where hospital facilities are provided in an institution, their equipment, furnishing and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers".

<sup>64</sup> In Port Loko, the cost of drugs is covered by the OIC but family members pay in case of expensive treatment.

According to SMR 71 to 76, sentenced prisoners should be required to work and paid for it, as far as possible with a view to giving them skills so that they can earn a living after their release<sup>65</sup>. In the same vein, vocational training should be provided, especially for young prisoners. The Prison Ordinance Act 1960 has made it compulsory that prisoners engage in some form of work<sup>66</sup> and has put in place a system of earning scheme for prisoners<sup>67</sup>. Prisoners under that scheme can be placed in three grades based on their conduct and their skills. The rate of earning is fixed by the Minister who is in charge of Prison related matters<sup>68</sup>.

Even though it is provided by law, the paid work scheme is not available. The Acting Director of Prisons noted that it was effective in the 1980's, but is not doable with the current budgetary constraints. However, prisoners are required to work inside the prison to keep the facility clean, fetch water or cook. In Mafanta and Kenema, inmates also work in the prison farm but are not paid. Sometimes, inmates are requested to work for stakeholders at the community level and may receive small tips in exchange (Pujehun, Mattru Jong), although in some cases this practice has reportedly ceased (Mafanta). Prisoners in local courts cells are also requested to clean the facilities of the local court or other institutions, with no remuneration. In Bandawor Local Court, it was alleged that detainees were forced to work in the farms of Court Chairman or the Paramount Chief to secure their release. If confirmed, this practice should immediately cease.



Inmates in the carpentry workshop in Freetown Central Prison

Vocational training is available in some facilities. Prisoners in Pademba have the possibility to enrol in different workshops, notably carpentry, blacksmithing, shoe making, tailoring, arts and crafts, and bread baking. The already mentioned PBF intervention also contributed with additional carpentry, tailoring and shoemaking equipment in 2008. Vocational training is also available in Mafanta (baking, tailoring, masonry and carving), Magburaka (tailoring), the Approved School (carpentry and tailoring)<sup>69</sup> and the Freetown Female Prison (tailoring, bead-making products). In Bonthe, tailoring machines are available but are not used because there is no trainer, while in Port Loko weaving classes for female detainees have

<sup>65</sup> Principle 8 of the BoP has similar provisions.

<sup>66</sup> Section 45 of The Prison Ordinance Act 1960

<sup>67</sup> Section 19,20 and 21 of The Prison Rules of 1961

<sup>68</sup> Section 21 of the Prison Rules 1961

<sup>69</sup> Participation is based on recommendation from the guards as the environment is not protected and inmates could easily escape.

started but there are no funds to buy materials. These activities are not remunerated. The products are normally sold by the prison management and, with the exception of Freetown Female Prison where prisoners get a share of the sales, the money goes in the consolidated fund of the prison service or is used to purchase new raw materials. The Acting Director of Prisons noted that they are currently looking for a convenient location for a show-room (that they used to have) to sell products manufactured in the prison in a more formal way and raise money to re-launch the earning scheme.

Principle 6 of the BoP states that all prisoners should have the right to participate in cultural activities and education aimed at the full development of their personality. Rule 77 of the SMR further provides that the education of illiterate and young prisoners should be compulsory and that the education of prisoners should be integrated with the educational system to enable them continue education after their release.

Since 2006, JSPD developed a pilot adult literacy project which in 2011 was extended to all prisons. Forty-four prison officers were trained before being provided with materials for the introduction of literacy classes in all centres throughout the country. However, when JSPD closed at the end of 2011 classes stopped in many prisons and, at the time of UNIPSIL HRS visit, adult literacy and numeracy classes (3 to 5 days a week) were offered in approximately half of the prisons. In few prisons, college students were providing support. Lack of suitable accommodation was also noted as a constraint in Kenema, Kailahun as well as in Pademba Road Prison, where classes are currently held in the Mosque. In the latter, internal exams are organized and certificates are given to inmates at the end of the year. However, there is no procedure in place to allow prisoners to take official exams. In this regard, the senior prison management requested UNIPSIL HRS that future technical assistance be directed towards enabling inmates to take official examinations. None of these opportunities is available to prisoners held in local courts cells.



Adult literacy classes are taught in the Mosque in Pademba Road Prison

Juveniles of compulsory school age have the right to education and vocational training while in detention, and specific emphasis on the importance of education in juvenile custodial institutions is made in the SMR for the Administration of Juvenile Justice (*Beijing Rules*). In this regard, juveniles in the Approved School are taught all areas of Junior Secondary School and allowed to sit for the Basic Education Certification Examination (BECE). In 2011, five out of six inmates were admitted at the Senior Secondary School. However, no teacher is permanently assigned to the structure and classes are given on a voluntary basis. Defence for Children International offers two classes a week of basic education, communication skills, and civic education in the Remand Home in Freetown, where there is no formal programme. Juveniles in the Remand Home in Bo do not have any education opportunities, in clear breach of international standards.

The SMR also provide for recreational and cultural activities to be available in all prisons, including a library for the use of all categories of prisoners<sup>70</sup>. A library is available in Port Loko, but it is reportedly not being used due to lack of interest by the inmates. UNIPSIL HRS/OHCHR has just completed the construction of a library in Pademba Road Prison in cooperation with AdvocAid, which will also accommodate literacy

<sup>70</sup> SMR rules 78 and 40.

and numeracy classes. The prison management in Kenema has requested UNIPSIL HRS/OHCHR to support the construction of a similar structure.

The Sierra Leonean distinctive tolerance and peaceful coexistence of Muslim and Christians is reflected in the correctional institutions, where prisoners enjoy the right to practice their own religion as prescribed by rules 41 and 42 of the SMR. Some structures include a mosque and a church, whereas in others the religious services are held in the open air. Prisoners also generally have access to a minister of their religion, either internal or regularly visiting from outside, although in Kabala, Kambia and Kailahun it was reported that the local Muslim community does not pay any visit to prisoners. In Pademba Road Prison, it was noted that remand prisoners had restricted access to the mosque (which is situated where the blocks for convicted and trial prisoners are) and the church. In local courts, inmates are allowed to practice religious activities.

In most of the prisons, inmates spend about half the day out of their cell, in the open air, from the early morning until around 5.30 pm, when they are locked for the night. Therefore, they have the opportunity to do exercise in the open air as prescribed by Rule 21 SMR. Specific recreational facilities such as football fields are also available in several structures and are accessible at certain hours or certain days, as decided by the prison management. There are cases, however, where the lack of strong perimeter walls, or crack in the existing infrastructure, limits the movement of inmates outside the cells, as in Kailahun and the Approved School (see paragraph 3.1.1). In other cases, such as the Remand Home in Freetown, inmates are allowed to leave the cells but not the block, so their movement is limited to a narrow fenced corridor in the open air. Prisoners at local courts usually spend the day time outside the cells or are taken out every few hours. Restrictions are applied for security reasons. As for suspects in police custody they are generally kept locked in the cells.



Inmates praying in the Kenema Prison. Prisoners enjoy the right to practice their own religion freely in Sierra Leone

### 3.2.4 Prisoners' contact with the outside world

Despite being deprived of their liberty, prisoners retain a right to have a certain level of contact with the outside world. Principle 19 of the BoP provides that an imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his/her family, subject to reasonable conditions and

restrictions. It is provided that special efforts should be made with regard juveniles in detention. The same provision is included in Rule 37 of the SMR, which also includes guidance in the case of foreign prisoners (Rule 38) and with regard to access to information (through newspapers, radio and other means). The Prison Rules 1961 contain a number of provisions which are consistent with international standards, including the right to send and receive letters, to receive visits and to be transferred to another facility if this facilitates visits by relatives and friends<sup>71</sup>.

In most of the prisons, visits are allowed on specific days and at certain hours, generally once to twice a week, and for about a maximum of half an hour. In Mafanta, considering that visitors are coming from far away, visits are allowed throughout the day, on Tuesdays and Saturdays. Legal representatives are allowed to visit their clients any time. However, in Pujehun and Mattru Jong, it was reported that communication with the outside world is severely restricted, including visits. Such restrictions are in contravention with the SMR and the BoP and should be promptly lifted.

Procedures for written or telephone communications vary across the country. In most cases written correspondence is allowed and facilitated by the welfare officer of the prison, who acts as a liaison between inmates and their families. Letters were reportedly read and censored in Makeni, Kabala, and not allowed in Kambia, Port Loko and Bo. Throughout the country, phone communications are generally restricted and, often not allowed for alleged security reasons. There are cases, however, in which phone calls are allowed through prison staff and in the presence of an officer. In the juvenile detention facilities, for instance, inmates can make phone calls through the Matron or the OIC upon request. Access to newspapers, radio and TV also varies, but is largely hindered due to a lack of resources. In some prisons (e.g. Pademba Road, Freetown Female Prison) a TV is available at certain hours.

Family visits to suspects in police custody are allowed at certain hours and are closely monitored by a police officer. Telephone communications and correspondence are restricted but could reportedly be authorized by an officer in several stations visited. In Waterloo and Moriba Town police stations, it was reported that no contact with the outside world was allowed, including visits by family members and any form of communication. Communications with attorneys are however always allowed. In some of the local court cells monitored by the UNIPSIL HRS, no visits were allowed (Njala, Njama, Ngelehung, Tonga Field), while they were in others, with almost no restriction. In some cases, phone calls would be allowed upon request. The suspect would be authorised to use his/her personal phone (Makump) or would pay for the communication (Njama, Kayima, Sewafe, Tombodu).

### 3.2.5 Discipline and punishment

Disciplinary measures are sometimes necessary to maintain order and control and ensure that all inmates observe the rules of the prison. They should however be in line with international standards. Rules 28 to 33 of the SMR regulate discipline and punishment. All disciplinary offences and punishments must be specified by law or published legal regulation; no prisoner should be punished without being informed of the offence he is accused of and without being given the opportunity to defend; no prisoner should be employed in any disciplinary capacity; cruel or degrading treatment is completely prohibited, including corporal punishment or isolation in dark cell; punishment by close confinement or reduction of diet should be authorized by a medical officer; and instruments of restraint should never be applied as a punishment<sup>72</sup>. In addition, efforts

<sup>71</sup> This last provision is provided by in rule 79 of the SMR.

<sup>72</sup> The BoP also provides that a detained or imprisoned person who has been subject to disciplinary action shall have the right to bring such action to higher authorities for review.

addressed to abolish solitary confinement or restrict its use have been promoted at the international level, and it has become accepted that it should be prohibited<sup>73</sup>.

National legislation is in clear contradiction with international standards. Corporal punishment is permitted by both the Prison Ordinance and its Rules, although with limitations to ensure that it is not misused by the prison authorities<sup>74</sup>. In this regard, while the 1991 Constitution of Sierra Leone rejects the infliction of torture, cruel, inhuman and degrading treatment, it permits any punishment which was legally sanctioned before 1991<sup>75</sup>. The Prison Rules also include solitary confinement among disciplinary measures that can be inflicted on a prisoner.

While disciplinary measures provided by law are partially applied, they are in violation of international standards and should be immediately stopped. Occasional physical punishment was reported in some prisons, in particular in the South (Moyamba, Pujehun, Bonthe, Mattru) and at the Remand Home in Freetown (flogging with hard rubber). Overall, prisoners did not show evident signs of ill-treatment, torture or degrading treatment. In Kenema, severe disciplinary measures were imposed on a prison officer who slapped a prisoner, and the OIC in Bonthe committed to sanctioning staff who flogged inmates. Reduction of the diet was reportedly imposed in the Remand Home in Bo and in Sefadu prison. Handcuffs or other means of restraint are reportedly generally used only when inmates are taken out of prison. However, prisoners reported that in Mattru Jong and Sefadu handcuffs were occasionally used as a disciplinary measure, and in Bo violent prisoners were reportedly handcuffed in a corner until they calm down. Similarly, in Makeni a former inmate reported that aggressive prisoners are tied with their hands on their back until they get back to a normal behaviour.

According to prison authorities and staff, the use of solitary confinement is not imposed as a punishment but rather as a means to separate a prisoner who has had a violent behaviour until he or she cools down. It is reportedly normally imposed for very short time, in most cases a few hours, and generally not more than a day<sup>76</sup>, and is often accompanied by some form of counselling. This was confirmed by several inmates interviewed in different prisons. The situation thus seems to have changed since 2007 when prisoners considered as violent were reportedly locked up for up to a month<sup>77</sup>. In Makeni, however, UNIPSIL HRS found a person with mental disability in solitary confinement, allegedly because he would disturb the sleep of other inmates and defecate on the floor. It is clear that in this case, solitary confinement was not the appropriate measure and resulted in an additional form of punishment for the prisoner who should have been transferred to the Kissy Psychiatric Hospital, as prescribed by SMR 82.

In every prison, there is a disciplinary officer who is to receive and investigate complaints, and to prescribe sanctions. In the case of convicted prisoners, such sanctions can consist in the removal of the remission on their sentences. Inmates can appeal against the decision of disciplinary officers to the deputy OIC, the OIC, or even the regional commander, but chances to reach that higher level were reported to be scarce. Complaints procedures are further explained in chapter 3.3.5.

When asked about cases of male rape, prison authorities admitted that it happens, but it is generally treated as a fault on both sides for engaging in same sex activities. Therefore, according to prison authorities

<sup>73</sup> Principle 7, Basic Principles for the Treatment of Prisoners

<sup>74</sup> Section 56(5) [A], 57, and 61 of the Prison Ordinance Act 1960 and Section 73 of the Prison Rules of 1961. According to the Ordinance, such punishment should be approved by the Director of Prison and the Prison Medical Officer should certify that the individual who will receive such punishment is fit. The number of strokes is limited to ten and it should not be inflicted on a prisoner over the age of forty five.

<sup>75</sup> Section 20 of the 1991 Constitution.

<sup>76</sup> Only in Port Loko the length of solitary confinement was reported to be more than one a day.

<sup>77</sup> See Behind Walls, paragraph 110, p. 52.

the offender and the victim are usually separated and both reportedly receive counsel, but the cases are not charged to court. It is important to put an end to this approach and ensure that the offender is charged for the crime committed. There are cases of inmates charged to court for other crimes. In Kabala, for instance, in 2007 a group of prisoners was charged for attempting to escape.

Disciplinary measures for suspects in police custody often consist in the use of handcuff, when the detainee has been violent and needs to calm down. This was reported also in some local court cells, together with other measures such as restrictions to or deprivation of time spent outside. In Bandawor, it was alleged that solitary confinement was used by court officials with a view to obtaining a confession from the defendant. If confirmed, this practice would amount to cruel, inhuman and degrading treatment or punishment.

### **3.3 Administration of Justice and protection measures**

Challenges in the area of administration of justice continue to impact on the whole functioning of the justice system, which significantly contributes to overcrowding in prison and precarious conditions of detention. This has been also acknowledged by the Prison Service Strategic Plan 2012-2014<sup>78</sup>.

#### 3.3.1 Admission and registration

Rule 7 of the SMR requires that in every place where persons are imprisoned, a detailed register should be kept containing essential information on every person deprived of liberty. It also states that nobody can be received in an institution without a valid commitment order. Other rules contained in the SMR and the BoP include that prisoners should be provided promptly with written information about the regulations which apply to their treatment and about their rights and obligations, and that families, legal representatives and, if appropriate, diplomatic missions should receive information about the fact of their detention and where they are held<sup>79</sup>.

National legislation does not fully reflect international standards on admission and registration. The 1960 Prison Ordinance requires that the OIC admits a person in prison only upon a warrant or order by a competent authority and the 1961 Prison Rules provides for reception boards to interview every prisoner as soon as possible after his reception in prison and consider what arrangements are to be made for his/her training<sup>80</sup>. However, neither the Ordinance nor the Rules contain indication on the registration of prisoners and the record keeping. While the Prison Rules are silent about contacts of foreign nationals with their diplomatic missions, the practice is regularly observed by the Prison Service<sup>81</sup>.

To support a reform and restructuring project, JSDP contracted a consultant to review the operational procedures and the management system of the Prison Service. A Management and Standard Operational Procedures manual was subsequently developed to standardise procedures within correctional centres and at headquarters, copies were distributed and Officers in Charge and reception officers in all prisons were trained. Registers and forms were introduced in accordance with the procedures contained in the manual. A procedures manual was also developed to provide clear rules and guidance on the day-to-day management of the juvenile facilities.

<sup>78</sup> See Sierra Leone Prison Service, 2012-2014 Strategic Plan, p. 6.

<sup>79</sup> Rule 35 of SMR and principles 13, 16, 18 of BoP.

<sup>80</sup> Section 30-33 of the Prison Ordinance Act 1960 and Section 6 of the Prison Rules of 1961.

<sup>81</sup> Section 54,55,57 and 60 of the Prison Rules of 1961.



UNIPSIL photo/Jucca Trinchieri

Prison records at Pademba Road Prison

UNIPSIL HRS inspected record books in police and prison facilities and found that the essential information is generally recorded upon arrival, in particular the charges, the dates of first, last and next appearance to court, the length of detention for those who are convicted, and the release date. However, lack of stationary has been reported in some prisons as an obstacle undermining proper registration. The storage of information is also problematic as information is entered manually and there is no proper system for keeping past records. There were even instances where numbers of prisoners on the blackboard at the entrance of the some prisons differed from those at the reception room or the OIC office (Freetown Central Prison, Kenema). There are also infrastructural challenges: in Pademba Road Prison, for example, the admission process is conducted in the open-air and reception officers are using a makeshift office since the reception building – which had showers, a room for medical examination and a place to store the belongings of inmates – burnt down in 2004.

As a result of poor record keeping, there have been instances of files misplaced and people have remained detained due to the loss of their files. In 2008, UNIPSIL HRS attempted to develop a computer-based system of record keeping but the project did not work due to lack of appropriately trained staff and the absence of constant power in prisons, which impeded the systematic use of computers. The German International Cooperation agency (GIZ) is planning a similar intervention to improve the registration and data management in Kenema prison, and possibly also Sefadu and Kailahun prisons, by providing material (stationary, information technology) and training.

All suspects and inmates interviewed reported that they were informed about their rights upon arrival, although not in writing. Given the high level of illiteracy among the prison population in Sierra Leone, written information would be meaningful for a limited number of people. Generally, inmates were aware of the reasons for their detention and the procedures, rules and regulations while in detention. A foreign national detained in Pademba road complained that he had not been able to contact his Embassy during four months. The information was not confirmed by the prison management and it was not clear whether the responsibility for the lack of the contact lied on his Embassy.

### 3.3.2 Legal status and situation of persons under detention without sentence

The right to liberty and security is an overriding human right according to which no one can be arbitrarily deprived of his/her liberty. On this ground, people who are detained without a sentence<sup>82</sup> are entitled to specific legal safeguards. According to article 9 of the ICCPR, anyone who is arrested must be immediately informed of the reasons for the arrest and of any charges against him; he or she should also be brought promptly before a judicial authority for the purpose of reviewing the legality of the arrest and be released if



UNIPSIL photo/Jucca Trinchieri  
The registration officer in Kenema using the new stationary and files donated by GIZ

<sup>82</sup> Unless differently specified, when talking about 'persons detained without a sentence' this report refers to all categories encompassed therein, including persons under arrest, on remand, on trial, etc.

the detention is found to be unlawful. Principle 37 of the BoPreiterates these rights, providing that no person may be kept under detention pending investigation or trial, except upon the written order of a judicial or other authority. Section 17 of the 1991 Constitution domesticates these principles and establishes that any person who is arrested must be brought before a court within 72 hours (or within a maximum of 10 days for a number of serious offences)<sup>83</sup> or otherwise released. In addition, Section 17 requires that the individual arrested be informed immediately of his right of access to a legal practitioner and communicate with him/her confidentially, in line with article 14 ICCPR and Principle 17 of the BoP.

#### *Police custody and bail*

The police officers whom UNIPSIL HRS met were all aware of the limits imposed by the Constitution in terms of police custody. However, UNIPSIL HRS found suspects held in police custody beyond time limits. The lack of sureties often prevents bail, and logistical constraints on the police negatively impact on the speed of investigations. Also, the limited number of magistrates (and the limited frequency of court sittings) makes it difficult for suspects to appear before the court within the limits imposed by the law. According to prison authorities, warrants are at times endorsed by courts clerks and not by the magistrate, which could amount to unlawful detention.

In Waterloo the magistrate's increased appearance in court (from twice to four times a week) was a direct consequence of a *human rights and justice forum* organised by UNIPSIL HRS in October 2011 (see chapter 4 for more details on UNIPSIL HRS *human rights and justice fora*). UNIPSIL HRS or partners' intervention sometimes helped granting bail in specific situations where the suspect was held beyond the time limits, waiting to face charges. In Port Loko Police Station, for instance, a suspect had been held for three days at the time of the visit in connection with a larceny report. Since the Magistrate Court would not sit on time to validate his detention within the limits prescribed by law, UNIPSIL HRS and the Port Loko DHRC successfully advocated for him to be granted bail.

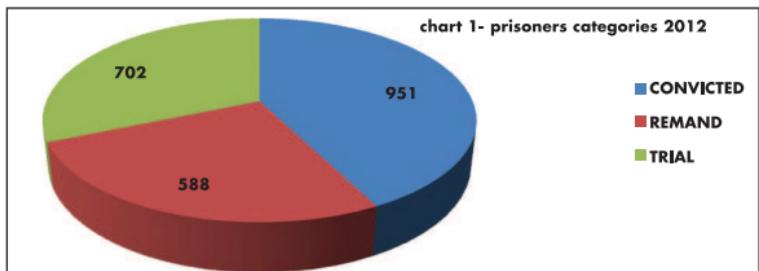
Article 14 of the ICCPR affirms that everyone charged with a penal offence has the right to be presumed innocent until proved guilty. On this basis, international standards are unequivocal in establishing that pre-trial detention should be the exception and not the rule (article 9 ICCPR). Principle 36 (2) of the BoP states that the arrest or detention of a suspect pending investigation and trial must be carried out on grounds and under conditions and procedures specified by law. Principle 39 of the BoP also states that, except in special cases provided for by law, a person detained on criminal charges shall be entitled to release pending trial subject to the conditions that may be imposed in accordance with the law. These safeguards are largely reflected in Section 17 and 23 of the 1991 Constitution. It is internationally recognized that pre-trial detention should be ordered only if there are reasonable grounds to believe that the accused has been involved in the commission of an alleged offence and there is a danger of flight, commission of further serious offences, or that the course of justice will be seriously interfered with if freed<sup>84</sup>. In all other cases, the suspect should be granted bail, thus preserving the presumption of innocence until proved guilty.

However, the majority of inmates in Sierra Leone are not serving a sentence. As of March 2012, 57,5% of the prisoners were either on remand (26,2%) or on trial (31,3%)<sup>85</sup>. Only 42,5% of those in prison were convicted (see chart 1).

<sup>83</sup> Capital offences, offences carrying life imprisonment and economic and environmental offences.

<sup>84</sup> Eighth UN Congress on the prevention of Crime and Treatment of Offenders Havana (27th April – 7th September 1990).

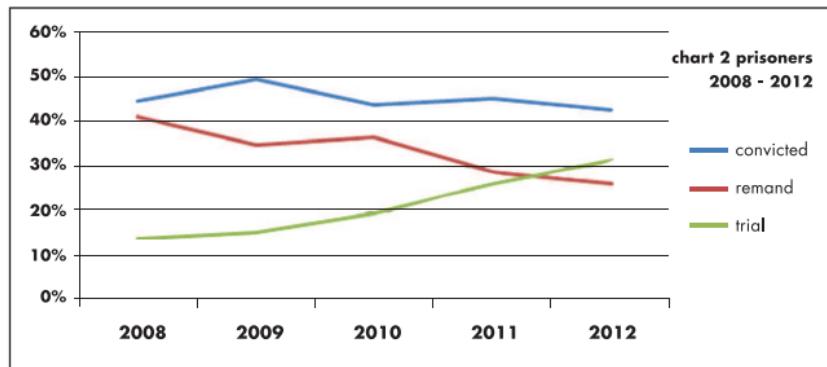
<sup>85</sup> Remand inmates are those in custody awaiting their trials on the strength of an order prescribed by Form 21 (Remand Warrant) Appendix 2 of the Rules made pursuant to the Criminal Procedure Act 1965; trial inmates are those whose trials are ongoing.



According to Section 79 of the Criminal Procedure Act, a Magistrate Court can admit to bail a person charged with felony (serious offence) as long as it is not murder or treason (for which only a Judge can grant bail). In some circumstances, bail can also be granted by the police on condition that the suspect appears before the magistrate court on a day and at a place mentioned in the bail bond<sup>66</sup>. It is possible to appeal to the High Court in case bail is refused by the magistrate court (CPA, Section 79.5). However, bail is often not granted, as shown in Chart 1 below. Lack of sureties is often the reason why bail is denied and the fact that the surety must be a resident within the court's jurisdiction is often an obstacle<sup>67</sup>. For instance, several juveniles found at the Remand Home in Freetown were granted bail but were kept in remand for lack of sureties. UNIPSIL HRS also found instances where bail was reported to be subject to request of money by court clerks (Pujehun) or police officers (Bonthe). In the case of Local Courts, corruption is widespread and bail is usually granted upon payment of a sum ranging between 5,000 Le to 10,000 Le.

#### *Remand*

Looking at the trend over the last 5 years, convicted prisoners have remained below 50% of the total number of inmates. Interestingly, however, the composition of the prisoners not serving a sentence has changed. As showed in chart 2, the number of those on remand steadily decreased from 41% (892 prisoners) of the total number of inmates in 2008 to 26% in 2012 (588 prisoners). In 2008 those on trial were only 14% (310 prisoners) of the total number and increased up to 31% in 2012.



<sup>66</sup> In the following cases: (a) when an accused is arrested without a warrant on a charge of having committed any offence other than murder or treason (b) When an accused person is arrested under a warrant endorsed for bail.

<sup>67</sup> This was reported as a local policy in Kenema and Kailahun districts although it seems it is practiced in every part of the country. In the case of the High Court, people standing as surety can come from any part of the country as long as they meet the conditions.

According to the Criminal Procedure Act 1965, remand warrants should not exceed eight days. There is no limit to the times a remand warrant can be renewed; however, the eight-day limit is usually not respected and the warrant is normally not renewed, even though the suspect is kept in prison until he/she appears before a court. Prisoners on remand are often kept for very long times before appearing before a magistrate, in some cases over one year. For instance, one lady in the Freetown Female Prison had been on remand for one year and one month without her case being called (for allegedly not paying a three *lapa* cotton material worth the equivalent of 5\$). In Makeni, 25 inmates had not been served indictments even though their cases had been committed to the High Court between 2010 and 2011. In Kenema, according to a 2011 report from the Office of the Ombudsman, 96 prisoners were in detention without indictment and seven of them had been in prison for seven years without trial. These cases are in contravention of art. 9 ICCPR which prescribes that anyone arrested or detained must be entitled to trial within a reasonable time or to release<sup>88</sup>. According to the Attorney General, the pending reform of the Criminal Procedure Act will allow for straight commitment on some offenses and prevent remanding in custody certain categories of suspects for preliminary investigations<sup>89</sup>. Remand limits for Local Court are 14 days for civil matters and four days for criminal matters.

### *Trial*

Being tried without undue delay is a key provision of art. 14 ICCPR. However, trials in Sierra Leone are often very slow and may involve endless adjournments of sittings, becoming tantamount to punishment without due process. In Makeni some inmates on trial at the High Court have had their cases adjourned over 100 times, with a peak of 147 times in the case of a prisoner who has been detained since 2007 and whose case was committed to the High Court in January 2009. In some districts, the absence of a Resident Magistrate has been a major cause of lack of court sittings. In Bonthe Island, for instance, there had been no magistrate Court sitting for close to one year as of March 2012, and sittings only resumed in May. It is not only the absence of magistrates or judges that delays the trial. The prosecutorial capacity in terms of numbers and knowledge remains very weak, as explained in chapter 2. State Counsels are few and only follow cases at the High Court. For all other cases, the prosecution is done by police prosecutors who - although having benefited from capacity building programmes, including by UNIPSIL HRS and UNDP – are not legal practitioners. Commenting on this, the Attorney General observed that the lack of staff is a consequence of the inability to pay competitive salaries. According to him, identifying resources to make staff salaries competitive is a priority and would require support<sup>90</sup>. Finally, cases are often adjourned because complainants and witnesses do not appear in court due to distance and lack of transportation. This is particularly serious regarding juveniles. During the visit at the Remand Home in Freetown, UNIPSIL HRS found a boy who had appeared in court 38 times while the complainant showed up four times. The magistrate kept adjourning the case. It also happens that individuals accused are not brought to court due to lack of resources within the prison service, such as vehicle or fuel.

In the case of local courts, UNIPSIL HRS found that, in some cases, the court facilities are used for public and community events, thus delaying the court sittings.

### 3.3.3 Severity and consistency of sentences

Many inmates are in prison for minor offenses such as larceny, traffic offences, loitering or fraudulent conversion which should be sanctioned by appropriate alternative measures. This contributes to congest the

<sup>88</sup> On a very similar note, Principle 38 of the BoP states that "A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial".

<sup>89</sup> Interview with the AG and MJ, 26th June 2012.

<sup>90</sup> Interview with the AG and MJ, 26th June 2012.

courts and reduce the speed at which justice is administered, negatively impacting on the length of remand and trial, and leading to overcrowding and poor detention in prisons. A recent report by AdvocAid provides a very clear explanation of how debts owned by women engaged in petty trading activities often results in their arrest and detention<sup>91</sup>. For instance, a 19 year-old school girl in Magburaka was given a six month-term in prison for fighting with her classmate. When UNIPSIL HRS inspected the record books in Pademba, it found that the majority of inmates recently brought in were charged for traffic offences with an average of 6 months of detention or fines up to 500,000 Le - a considerable sum for an average Sierra Leonean income. Traffic cases are often charged to court because the accused refuses to pay a fine to the traffic officer who, in many cases, may have boosted it to adjust his low salary. The Inspector General of Police told UNIPSIL HRS that some measures were recently adopted to try to curb corruption among traffic officers, such as reducing the number of traffic police elements as well as of the areas of deployment<sup>92</sup>.

Sentences across the country are inconsistent with regard to the period of incarceration, which is often not commensurate with the crime committed. For instance, in Freetown Female Prison, an inmate was reportedly sentenced to two years of imprisonment for manslaughter whilst another was sentenced to fifteen years for false pretence (which is contrary to Section 32 of Larceny Act whereby the sentence cannot exceed five years of imprisonment). There is an urgent need to standardize sentences, with due consideration for the charges.

When UNIPSIL HRS presented the preliminary findings of its monitoring to national authorities, there was an overall agreement that minor offences should not be punished with imprisonment and that alternative measures should be promoted as prescribed by the United Nations Standards Minimum Rules for Non-custodial Measures (*Tokyo Rules*)<sup>93</sup>. The Director of Prisons noted that the Prison department had repeatedly raised this issue with the Chief Justice at leadership meetings, but had not received any response<sup>94</sup>. The Inspector General of Police agreed that imprisonment should be used as a last resort and added that if a State does not have the means to provide minimum standard conditions to its detainees, detention should be avoided. He suggested that, before charging cases to court, informal settling mechanisms should be tried and police officers should be trained in this sense, while making sure that serious cases were not left out of court; and that when the cases are charged, bail, community services or similar procedures should be promoted. In this regard, the *Tokyo Rules* may offer good reference. The Attorney General and Minister of Justice also mentioned that the leadership meeting would soon discuss whether to send judges and magistrates for periodic visits to prisons in order to review cases of inmates and release those being incarcerated either unjustifiably or serving sentences for minor offenses<sup>95</sup>. He complained, however, of lack of resources and indicated that this would be an area for donors' support that could give tangible results. He also noted that the pending reform of the Criminal Procedure Act would decriminalize certain offenses (including loitering and minor traffic offences) and promote alternative sentencing, including community

<sup>91</sup> "In prisons across Sierra Leone, women are being detained for owing debts. These issues have been treated criminally based on the charge of fraudulent conversion, and other similar crimes, such as obtaining money under false pretense, as contained within the country's Larceny Act of 1916. The charge of fraudulent conversion alone represents an estimated 10% of all charges issued by the Sierra Leone Police. While such charges are designed to penalize the intent to defraud, the reality is one where corruption, limited financial and human resource capacity, lack of knowledge about legal rights and outdated laws, all contribute to the fact that straightforward disputes over debt too often result in the detention of women in Sierra Leone. This is particularly evident for women engaged in petty trading activities, a key economic activity for women across the country and a critical source of income for many households. Such trading activities create increased vulnerability to charges of fraudulent conversion given the formal and informal borrowing that such traders are conducting on a daily basis to run and grow their business". Women, Debt & Detention, An exploratory Report on Fraudulent Conversion and the Criminalisation of Debt in Sierra Leone, AdvocAid 2012. p.5.

<sup>92</sup> Interview with IG Police, 28th June 2012.

<sup>93</sup> Adopted by General Assembly resolution 45/110 of 14 December 1990.

<sup>94</sup> Interview with Director of Prisons, 22nd June 2012.

<sup>95</sup> Interview with the AG and MJ, 26th June 2012. One trial visit had been undertaken in 2011.

service. In addition, the recently enacted Local Courts Act now enables trial of some minor offenses in the local courts, thus contributing to reduction of overcrowding in prisons.

### 3.3.4 Treatment of persons under detention without sentence and separation of categories

#### *Remand, trial and convicted prisoners*

According to article 10 (2) ICCPR, remand and trial prisoners should, save in exceptional circumstances, be segregated from convicted persons and should be subject to separate treatment. This is based on the understanding that un-sentenced prisoners are presumed to be innocent and shall be treated as such, as reiterated by Rule 84 of the SMR. The SMR provide a number of essential requirements forming the special regime that untried prisoners should benefit from, including separate and single rooms, possibility to get food from outside, be allowed to wear their own clothing or a prison dress different from those convicted, and have the opportunity to work (and be paid for) but not be required to<sup>96</sup>.



A cell in Kenema Prison where over 20 inmates of different categories are kept together

While Part VIII of the Prisons Rules in Sierra Leone recognizes the principle of separation of categories, prisoners of different categories are largely held together, with the only exception of Mafanta, which is reserved for convicted prisoners. In Pademba Road Prison, remand inmates as well as those on death row are separated, but trial and convicted inmates are held in the same blocks. In Freetown Female Prison, inmates are together during the day but kept in separate cells during the night based on their category. In all other prisons, inmates are all mixed. In Kenema, Kailaun and Kono, the OIC mentioned a "security" policy justifying the fact of keeping the different categories together, but this was not confirmed in the other prisons. In Bonthe, disregard for standards on the separation of categories goes to the extent that suspects under

<sup>96</sup> SMR, Rules 84-91 and principle 8 of the BoP.

<sup>97</sup> Un-convicted prisoners should be separated from other classes of prisoners and they should not wear uniforms like convicted prisoners (Rule 103). Furthermore, prisoners who have been sentenced to death should be segregated from all other classes of prisoners (Rule 104).

police investigations are kept in the State prison together with the prison's inmates as a consequence of lack of police cells on the island (four suspects were found at the time of the visit). In all regions, local court detainees are brought to the state prisons when there are no cells available at the local court. In Makeni, however, the practice seems to have been suspended after repeated refusals from the prison to accept prisoners from Local Court No.1, who are now sent to Makump Local Court.

Unconvicted prisoners are subject to the same treatment as those convicted, in contravention of international norms, and being *de facto* subject to punishment before a court pronounces a verdict. Also, existing voter registration and voting procedures do not take into account the right of unconvicted prisoners to participate in elections, and the National Electoral Commission (NEC) should urgently devise solutions to redress this situation. As described earlier, inmates in the remand block in Pademba Road Prison are subject to even harsher conditions of detention than the other prisoners: the cells are far more overcrowded, there are no beds and beddings, the toilets are makeshift open air latrines and their movement is more restricted. In Bonthe, those in police custody are not accounted in the prison estimate and are therefore not given food, although it is reported that the OIC normally caters for them out of good will.

#### Women



The cells in the female Prison in Freetown

supervised by, attended to and under the authority of women officers. These principles have been further expanded in the United Nations Rules for the Treatment of Women Prisoners and non-custodial Measures for Women Offenders (Bangkok Rules).

Only in Freetown and Kenema are women detained in fully separate facilities, while in the rest of the country they are kept in the same prisons as men, but in separate areas. In all prisons, only female prison officers attend women prisoners. In Sefadu, however, there is no separation wall between the male and female buildings and all inmates share the same yard. As an interim measure, male prisoners are allowed access to the yard only in small numbers while females are out during the whole day, but a sustainable solution is urgent. Remand Homes and the Approved School have a separate wing to accommodate girl children, although no female juvenile was found at the time of the UNIPSIL HRS visits.

<sup>98</sup> CEDAW art. 2.

<sup>99</sup> SMR Rule 8.

Pregnant or lactating women normally receive increased attention, although this tends to be more a courtesy from the OIC of the prison than a policy by the prison service. In Kenema, at the time of UNIPSIL HRS visit, a 22-year old mother who gave birth in prison in early 2012 was found with her child. She reportedly depended on the good will of the OIC and other officers to care for the baby. In Freetown Female Prison, children can be accommodated with their mothers until they are two year-old, when they are placed in homes with the support from the MSWGCA or given to the family of the detainee.

Female suspects in police and local courts cells are held separately, even though the facilities are not always appropriate and, in several cases, women were found attended by male officers. When there are no cells specifically allocated to women, solutions are usually sought within what is available. In Yenga Police Post, Kailahun district, for instance, UNIPSIL HRS found a couple who was investigated for child cruelty: the man was placed in the only cell while the woman and the five month-old child were kept in open detention.

There have been cases of sexual abuse on female suspects in police custody or local courts cells. In June 2012, a 30-year old lactating mother was raped at the East-End Police Station in Bo by the male lock up officer who was in service during the night shift. After investigation by the Complaints, Discipline and Internal Investigations Department (CDIID) and the FSU of the police, the officer was found guilty, discharged and arrested for criminal charges in July 2012.

#### *Juveniles*

International standards also clearly require that juvenile prisoners be held separately from adults. Detention of a child should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases<sup>100</sup>. When it is necessary to deprive a juvenile of his or her liberty, international standards require the State to apply certain special considerations<sup>101</sup>. Children in detention should be treated in a manner which promotes their sense of dignity and worth, facilitates their reintegration into society, reflects the best interests of the child and takes their needs into account. They should not be subject to life imprisonment without chance of release or to capital punishment. Accused juveniles should be separated from adults and brought as speedily as possible for adjudication.

When a juvenile is arrested, the police contact the probation officer at the MSWGCA, who is to look for sureties. However, during police custody, there is often no separate cell to accommodate juveniles. In Freetown Central Police Station, a 14-year old boy was thus found held in the cell with 19 adults and kept long beyond the custody limit imposed by law because the complainant had not appeared. After several interventions, UNIPSIL HRS and partners succeeded in having the child released after eight days of detention. The matter (theft of 4,000 Leones, less than 1 USD) was not charged to court.

The Remand Homes in Freetown and Bo host juveniles on remand or on trial, while convicted juveniles are all detained in the only Approved School of the country, in Freetown. Such institutions are under the supervision of the MSWGCA and are managed by staff from the Ministry; prison and police officers are attached to them for security reasons. However, there is no remand home in the northern and eastern regions, and prison officers do not accept anyone under 18 on the remand warrant. Juveniles from Kenema and Kailahun districts are generally sent to the Remand Home in Bo, but in the north and in Kono they are left in custody of the FSU at the police station until the trial ends, held together with adults or, in the best

<sup>100</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

<sup>101</sup> See CRC art.37, ICCPR art. 10, the United Nations SMR for the administration of juvenile justice (the Beijing Rules) rules 13, 19, 21, 26, 27 and 29, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty rules 11, 56 and 57.

case scenario, in open detention. As reported by DCI, this has very negative consequences, as juveniles have no access to education or psychosocial support, among other things<sup>102</sup>. In such cases, there are further attempts to bail them, although the lack of sureties is often the main obstacle; sometimes the probation officer takes responsibility for the custody, acting as surety for bail.

It often happens, however, that to avoid this impasse the police inflate the age of the suspect: UNIPSIL HRS has repeatedly found juveniles held in prison with adults because their age was mistakenly or deliberately increased on the arrest warrant. In Makeni State Prison, for instance, UNIPSIL HRS found a 16 year-old girl who had been in the facility for over 10 months whilst standing trial at the High Court. Prison officers may however question the age on the warrant: in Pademba Road Prison, the reception officer said that they ask the age of the inmate upon admission and contact a social welfare office if there are suspicions that he/she is a minor. In Bo Prison, UNIPSIL HRS found a 15 year-old boy convicted for rape in 2010. After several interactions with the judicial authorities for histransfer to the Approved School, a High Court Judge assured that the boy would be transferred to Freetown after coordination with the MSWGCA. UNIPSIL HRS also found children below the age of criminal responsibility (14 years) convicted at the Approved School, in serious violation of the rights of the child.

Promoting alternatives to formal judicial proceedings would help preventing some of the challenges described above. As noted by DCI, effective diversion programmes could have a significant impact on the number of cases being charged to court, since the vast majority of juvenile crimes being committed to trial are relatively minor offences<sup>103</sup>. In this regard, it is urgent to fully implement the provisions for diversion already existing in the national juvenile justice legislation (Cap 44 and CRA).

Local courts often refer juveniles to the FSU or hand them over to parents who stand as sureties. However, since there are no dedicated cells, juveniles are usually detained with adults. In Tongo Field, UNIPSIL HRS, the HRCNL and the NGO "Humanist Watch – SL" set up a child protection community that interfaces with the police, Social Development Officer and the local authorities to address issues that are in the best interest of the child.

### 3.3.5 Internal and external complaints, inspection procedures

International standards also regulate the right of every prisoner to make a request or complaint, directly or through someone on his/her behalf, regarding his/her treatment and have it dealt with promptly and, if requested, confidentially<sup>104</sup>. They also affirm the right for the prisoner to bring the request or complaint before a judicial authority if it is rejected or not considered promptly. They further provide that the complainant should not suffer any prejudice for making a request or complaint. The BoP and the SMR also require that places of detention be visited regularly by qualified and experienced staff representing a competent authority distinct from the prison administration, in order to supervise the observance of relevant laws and regulations. The BoP further provides that detainees should have the right to communicate freely and confidentially with prison inspectors<sup>105</sup>.

Disciplinary officers are in charge of complaints between inmates as well as complaints between inmates and officers. When the issue concerns a prison officer, the matter reaches the OIC and, if not satisfied, the inmate

<sup>102</sup> See 'Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone, Defence for Children International – Sierra Leone, 2010, p.14.

<sup>103</sup> See 'Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone, Defence for Children International – Sierra Leone, 2010, p. 70-73.

<sup>104</sup> BoP principle 33, SMR rule 6.

<sup>105</sup> Principle 29 BoP and rule 55 of SMR.

can appeal to the Regional Commander. The complaint procedure seems to differ from prison to prison: in some cases inmates can complain to officers or directly to the OIC; in others (Moyamba, Bonthe, Sefadu and Approved School) the complaint is filed through a representative of prisoners, an inmate himself/herself; in a few prisons, prisoners lamented that no procedure was in place or that it was never used.

Suspects in police detention can raise complaints to higher ranking officials and the matter is to be brought to the CDIID. The case of rape in custody mentioned above (see chapter 3.3.4) confirms that the possibility exists and can lead to concrete results. Regarding local courts, there is no official policy for detainees to file complaints in case of abuses. However, UNIPSIL HRS was informed local court staff of the possibility to refer to a higher ranking officer either to the Court Chairman or to appeal to the Paramount Chief or the Customary Law Officer.

According to prisons authorities, prisons facilities are inspected monthly by a team from prisons HQ, but the regularity of this practice could not be confirmed. The Prison Rules also provide for a system of visiting Justices to regularly inspect the cells and receive possible complaints from prisoners. While this has not happened consistently, the Attorney General and Minister of Justice informed UNIPSIL HRS that the establishment of such mechanism is under consideration. Human rights organizations, independent institutions and the United Nations also inspect cells periodically and listen to prisoners' complaints.

Investigators from the Office of the Ombudsman have the mandate to visit prisons and have placed complaint boxes in all prisons with the exception of Pademba Road (where it was expected to be in place in the near future), sensitizing prisoners on their right to make requests or complaints<sup>106</sup>. Logistical challenges however prevent the office to regularly visit prisons and collect the boxes<sup>107</sup>. Among the complaints received so far by the office of the Ombudsman (Makeni, 31 complaints, Bo, 20 and Kenema, 7), the most recurrent issues confirm the findings of UNIPSIL HRS monitoring: prisoners held on long remand; non-issuance of indictments; prolonged trials; endless adjournment of cases; lack of sureties for those who have been granted bail; overcrowding; insufficient and poor quality of food; mediocre welfare; and lack of medical care. The Ombudsman raised concerns over allegations that prisons officers read the complaints, and reminded them that the Ombudsman Act provides for the secrecy of communications addressed to his office.

Regional Officers of the HRCNL also visit the prisons periodically and provide the Commission with quarterly reports. The Human Rights Commission Act gives unhindered access to prisons in all districts and the Commission has received full cooperation from the Prison Service when engaged on the outcome of its findings. However, there had been instances when the HRCNL faced some limitation in accessing Freetown's prison and its staff have been asked for a written authorization by the Attorney General to be let in. Directives should be given to all OIC to grant full access to the HRCNL staff at any time. In addition to those raised during the Commission's monitoring visits, the HRCNL has also received five complaints from prisoners in the last three years, including one from male prisoners from Sefadu complaining that they were locked up for most of the day, with negative repercussions on their health. As previously explained in this chapter, this is presented by prisons authorities as an interim measure to prevent contacts between male and female prisoners due to the absence of a separation wall in the yard.

<sup>106</sup> Between August and September 2011, the Ombudsman himself visited 11 prisons and issued a report on the findings.

<sup>107</sup> In particular, certain boxes are located outside the area of operations of investigators, who are unable to go and collect the complaints because the Office of the Ombudsman is unable to give transport allowance and per diem.

District Human Rights Committees also join the HRCSL and UNIPSIL HRS staff in periodic monitoring of prisons, police cells and other detention facilities. Among other organizations, Prison Watch<sup>108</sup> and DCI also conduct monitoring; the important role played by the latter in ensuring that the conditions of detention match the United Nations minimum standards on juveniles in conflict with the law has been already highlighted.

### **3.4 Effectiveness of international cooperation**

Various international development partners have made efforts towards strengthening the prison service, promoting organizational and infrastructural reforms and capacitating the staff employed in the area of corrections. While it would be difficult to provide a detailed account of all activities conducted in the last five years, it is important to look at the overall picture of capacity building in the area of detention and assess strengths and weaknesses. The ultimate purpose of this exercise, indeed, is to guide future interventions not only based on the priorities of the prison system but also on the lessons learned from the past experience.

#### **3.4.1 Promoting infrastructural and organizational reforms**

As mentioned, the findings and recommendations of the 2007 report *Behind Walls*, contributed to inform a United Nations PBF intervention (US\$ 1, 5 million) to address key perennial challenges faced by the Prison Service and to improve the living conditions in the various prisons throughout the country. UNIOSIL and later UNIPSIL HRS provided technical support and advisory services in the implementation of this project, which was managed by IOM. Reference to this intervention has been made throughout this chapter. The project rehabilitated the Mafanta Prison and provided equipment and machines for basic vocational training, water and sanitation facilities for prison inmates, beddings for prisoners nationwide, and vehicles for the Prison Service. UNIPSIL HRS also completed the construction of a library at the Pademba Road Prison in collaboration with AdvocAid.

The DFID-funded Justice Sector Development Programme (JSDP) has also sponsored a vast number of interventions in support to the Prison Service (both infrastructural and organizational) including juvenile detention facilities<sup>109</sup>. More limited interventions by DCI, GOAL and other organisations have also been mentioned, in particular with regard to juvenile detention facilities. Less attention has been paid to the Remand Home in Bo.

Findings from this report show that notwithstanding the wide scope of these interventions, the impact has not always met the expectations, in particular in the case of rehabilitation of the infrastructures. Beds and beddings provided through the PBF project have been damaged, misplaced or lost, the vehicles are in need of maintenance<sup>110</sup> and, most importantly, the rehabilitation of Mafanta resulted in only one out of four blocks being used<sup>111</sup>. Infrastructures rehabilitated by JSDP are also damaged, including toilets, doors, iron bars, prison walls, wells, and are in urgent need of maintenance. Furthermore, the attempt sponsored by UNIPSIL HRS to introduce a computerized system of record keeping proved unsuccessful.

<sup>108</sup> Prison Watch is a local NGO created to monitor, police detention centers, prisons, juvenile homes and lastly detention centers of local chiefs as mandated by the local Court Acts.

<sup>109</sup> For more information, see "Justice Sector Development Programme, Achievements and Lessons Learned", JSDP 2011.

<sup>110</sup> The Acting Director of Prison noted that no maintenance fund was established to take care of repairs of the vehicle. The Prison Service effected repairs on the vehicles through a private firm but incurred in debts to the said firm. Therefore maintenance has stopped.

<sup>111</sup> According to the progress report to the PBF (United Nations Peacebuilding Fund, Annual Programme Narrative Progress Report, 1 January-31 December 2009, Programme No. PBF/SL/B-8], the scope of work for the rehabilitation of cell blocks 1 and 2 fell short of

Different reasons can explain this unsatisfactory situation. According to the Acting Director of Prisons, rehabilitation works were not sufficiently coordinated with or managed by the Prison Service. Information from implementing partners seems to confute, at least partially, this idea and suggest a larger share of responsibility by the prison management, in particular on the maintenance side (damaged structures or items have often been left unrepaired).

Lessons learnt include the need to ensure that interventions are sustainable and the need for strengthening the management capacity of the Prison Service. Future interventions should therefore aim at developing the ability of prison staff to adequately plan maintenance works and reflect such needs in their annual budget. DFID has recommended that future programmes include as a pre-requisite a commitment by the Government to maintaining any new infrastructure. This issue has been reflected in the design of DFID new Access to Security and Justice Programme (ASJP), in which greater emphasis is placed on ownership by the Government and sustainability<sup>112</sup>.

#### 3.4.2 Capacitating prison, police and local court staff

In all the prisons visited, UNIPSIL HRS found staff who had received training from development partners, although their number was relatively low compared to the total staff. UNIPSIL HRS periodically conducts training for prison staff. In recent years, an average of about 100 personnel deployed in different regions has been trained annually on a human rights approach to prison management. Training subjects include human rights and prisons, including relevant international standards (UN SMR, BoP, etc.), national legislation, prohibition of torture, arbitrary arrest and detention, prison conditions and health of prisoners, rehabilitation and reintegration of prisoners, prisoners' contact with the outside world, basic rules for prisoners, prisoners of special categories and the roles of prison staff. There is evidence, in the daily



Prison staff participating in a training by UNIPSIL/OHCHR in June 2011 in Makeni

management of prisons, that some of the key messages have been received and are being applied. In Kailahun, for instance, prison staff have been refusing the imprisonment of juveniles brought to be remanded as well as injured suspects not having received medical treatment.

In Makeni, prison staff have started using weekly parade staff briefing (Friday parade) to transmit the knowledge acquired in a training conducted by UNIPSIL HRS. However, the effectiveness of training is uneven across the country, and awareness of international standards was noted particularly low among the staff in the southern region. Also to address this gap, UNIPSIL HRS held training in Bo in May 2012.

<sup>112</sup> the work required to be done to restore them, while cell blocks 3 and 4 had deteriorated to an extent that a complete reconstruction was the best option. The planned work at Mafanta was therefore reduced to fit in with the available funds after several consultations with the IOM's PMU, the Sierra Leone Prison Service and UNOSIL. This programme was established in early 2012, and the time of writing is still in its inception phase. The primary focus of ASJP is improving access to justice by the most marginalised population, at chiefdom and district level, with an emphasis on effective service delivery and oversight by the Government. This includes the Ministry of Internal Affairs, which has some oversight role of the Prison Service. The new programme builds on the successes of JSDP and places greater emphasis on improving the front-end of the security and justice systems, rather than loading responsibility upon the prisons to deal with suspects as well as legitimate custodial sentences

JSDP has also conducted training to staff attached to detention facilities, including in the area of health, adult education, HIV/AIDS, record management and management and operational procedures.

Many police officers in the posts and stations inspected by UNIPSIL HRS had received external training. In the last years, UNIPSIL HRS has conducted training for various sections of the SLP, including Police Prosecutors, the FSU and the CDIID. As mentioned earlier, UNIPSIL HRS also produced a handbook guide for police prosecutors. Police officers assigned to detention have also consistently been included in UNIPSIL HRS training for prison staff. It is impossible, however, to reach a sufficiently large number of police officers through ad hoc workshops, especially given the current process of expansion of the staff of the SLP. UNIPSIL HRS and partners have thus started working with the Assistant Inspector General for Training of the police to develop human rights contents in the regular training curriculum taught at the police academy.

Local courts staff received various training from international development partners. In 2010, UNIPSIL HRS conducted training for Local Courts Chairman and court clerks, local court supervisor and customary law officers in the northern region. Training for Chiefdom police officers, who operate local court cells, was also conducted in the southern region in 2011. In addition, local courts staff have been included in training for prison detention officers.

Concerning capacity building, it is critical to ensure sustainability and coordination among development partners, and to avoid duplication. Developing the management capacity of the Prison Service should be a priority for future interventions.

#### **4. Situating the corrections system within the justice sector as an opportunity for advancement and protection of human rights**

UNIPSIL findings confirm that correctional institutions in Sierra Leone, and places of detention in a broader sense, face multiple challenges. The overall good functioning of the system relies on the Government's capacity to fulfil its role, for instance ensuring that the budget allocation is sufficient and timely disbursed to enable prison, police or local courts to provide the services and pay the salaries of the staff. In some cases, addressing the challenges falls within the responsibility of the institution managing the facility. For instance, the management of the Prison Service should be responsible of renovating or replacing damaged material.

In other cases, different actors need to engage and coordinate to address the issue. Chapter 3.3 shows that challenges in the administration of justice have negative repercussions on the conditions of detention. Prisons, but also police cells, are the bottleneck of a process which is beyond the simple control of the prison authorities. On the one hand, it is critical to increase the actual capacity of prisons and improve the conditions of detention; on the other hand, such efforts need to be supported by preventing overcrowding through the improvement of justice delivery.

Thus, while it is important to pursue capacity building and technical assistance – and this report will hopefully assist in attracting new funds for that purpose –, it is essential to devise solutions that address the systemic root causes of the situation in prisons. In this regard, the experience of the *human rights and justice*

fora that UNIPSIL HRS has supported since March 2011 to address some of the issues identified through monitoring in the area of administration of justice could provide some good examples.

The **fora** are informal meetings among justice sector stakeholders held at district level where UNIPSIL HRS and the HRCSL present monitoring findings and map out strategies to improve justice delivery. The meetings generally last half a day and the participants include the OIC of the prison, the Local Unit Commander of the police, the magistrate covering the district, the state counsel, local and traditional authorities and representatives from civil society organisations. The initiative was developed in response to the persistent findings and challenges, which indicated lapses and coordination flaws among the various actors within the administration of justice chain. These issues, which are common in countries emerging from conflict, result from structural weaknesses including capacity deficiencies in the justice sector.

Eight *human rights and justice fora* were held in 2011<sup>113</sup>, and six between January and September 2012<sup>114</sup>. Positive changes as a result of these *fora* – some of which have been already mentioned in chapter 3 – include the provision of transportation for suspects to and from court, adjustment of the most pressing needs in detention centres, including renovation of cells and toilets, and provision of mattresses and of buckets for drinking water.

In one district, weekend sittings have been organized to process the backlog while in another the forum was used as a platform to successfully advocate for the resident magistrate based in the regional headquarters to hold sessions in the district. As a direct result of these engagements, 144 cases in different magistrate courts were presided over, of which many were concluded. Prisoners in remand had their status reviewed, missing files of prisoners have been replaced, and some juveniles who had been detained together with adults for over eight months were identified as such and released.

Some cases previously heard by traditional leaders and local courts outside their jurisdiction have been submitted to the police for investigation and handled by magistrate courts, and in some instances Justices of the Peace had their terms reviewed in accordance with the judicial system. Arbitrary arrest and detention of people by police without bail has also ceased in some districts, while police officers received internal training to address investigations, charges and prosecution knowledge gaps.



UNIPSIL photo/Martin Bolinsedi

A Justice and Human Rights Forum held in Waterloo, Western Area Rural, in October 2011

<sup>113</sup> Fora were held in Kenema (2), Kono, Kailahun (East), Bonthe, Pujehun (South), Waterloo (Western Area) and Makeni (north).

<sup>114</sup> Fora were held in Kailahun, Kenema (east), Bonthe, Moyamba (south), Waterloo (Western Area) and Makeni (north).

Some positive results achieved in 2012 include the setting up of a task force to monitor local courts in Kailahun composed of UNIPSIL HRS, the Kailahun DHRC, the office of the Kailahun District Local Court supervisor and the Customary Law Office; the signature of an MoU between the FSU and the hospital in Kailahun to treat detainees free of charge; an increased number of weekly sittings (from two to four) by magistrates in Waterloo; the release of two boys illegally detained in Mattru Jong State Prison; and the appointment of a Resident Magistrate for the two districts of Moyamba and Bonthe, who resumed magistrate court sittings as of June 2012.

Since their inception, *the human rights and justice* fora have scored successes through promoting frequent exchange of information and enhanced coordination among the key actors. Most of the achievements have directly or indirectly benefitted prisoners and the conditions of detention, confirming the value of addressing the issues in prisons from the wider angle of the justice sector. Strategically, these fora have been organized with minimal institutionalization and at very low costs. While important efforts of coordination are taking place at national level – and they should be encouraged and continued – addressing concrete challenges at local level would allow progress in the shorter term.

## 5. Conclusions and recommendations

The key findings and recommendations listed below aim at assisting the Government of Sierra Leone to continue bringing detention in line with international standards. Findings and recommendations are also meant to provide guidance to the international community to ensure that international cooperation is effective and sustainable.

### Key findings

- The national legal framework on detention dates back to the colonial era and the process to further bring it in line with international human rights standards has been slow. However, important reforms to the Prison Service and the Criminal Procedure Act were being completed at the time of writing.
- Even though a number of interventions have taken place since 2007, material, logistical and infrastructural conditions have generally not substantially improved. In several cases, lack of maintenance has resulted in damages to structures built in the last decade. Prisons are often overcrowded, especially the male sections. Police cells and local court cells are in most cases small and insufficient and can become overcrowded.
- The Prison Service faces financial and capacity constraints and the working conditions of prisons' staff countrywide are unfavourable and affect performance and motivation. This notwithstanding, the relationship between officers and inmates is largely good. Similar challenges are faced by police and local court staff.
- The conditions of detention are below international standards. Food in prisons and other detention facilities is inadequate and diseases connected to malnutrition have been reported. Only few prisons are connected with water pipes, and in some cases inmates and police suspects lamented not having sufficient access to drinking water. With some exceptions, beds and beddings in prisons are scarce (better in the juveniles detention facilities) and nonexistent in the police and local courts cells visited.
- The level of hygiene and sanitation in prison is poor: the number of toilets is insufficient and they are sometimes not working. Very few police cells and none of the local court cells visited had functioning toilets. Poor hygiene negatively impacts on the health of inmates. With the exception of Pademba Road Prison, medical care is very limited and cases of death as a result of lack of health care in prison were reported. The referral to hospital of sick inmates varies extensively across the country. Agreements to ensure that the health care system covers for all the costs involved have been reached at district level and should be extended to all prisons.
- Even though it is provided by law, there is no paid work scheme available. Prisoners are required to work inside the prison and in some cases outside, with no salary. Vocational training is available in several facilities. Adult literacy and numeracy classes have been offered to inmates but have largely stopped after external support ceased. There is no procedure in place to allow prisoners to take official exams, with the exception of juveniles at the Approved School. Juveniles in the Remand Homes do not receive regular education. Prisoners enjoy the right to practice his or her own religion.
- In most of the prisons, inmates spend about half the day outside their cells in the open air, but in some cases the infrastructure does not allow this. Visits are normally allowed on specific days and at certain hours (similar for police and local court cells). In most cases written correspondence is allowed, although with some level of censorship, while phone communications are generally subjected to more restrictions.

- Corporal punishment is allowed by national legislation as a disciplinary measure, in contradiction with international standards, and was reported in some prisons, in particular in the South. The use of solitary confinement has decreased substantially since the 2007 report and is no longer imposed as a punishment, although it is applied to temporarily isolate a prisoner in case of violent behaviour.
- Challenges in the area of administration of justice impact on the rest of the justice chain, contributing directly to overcrowding in prisons and, consequently, to the poor conditions of detention. The majority of prisoners are not serving a sentence, although international standards clearly provide that prison should be the last resort and that pre-trial detention should be the exception and not the rule. The lack of sureties often prevents bailing, and logistical constraints on the police negatively impact on the speed of investigation, so there are cases where suspects are held in police custody beyond legally established time limits. The absence of resident magistrates in some districts, the poor prosecutorial capacity and costs for complainants and witnesses to reach the few existing courts contribute to long delays before remand prisoners appear before a magistrate and to endless adjournments for those on trial. Many inmates are imprisoned for minor offenses, thus contributing to congest the courts and reduce the speed at which justice is administered. Sentences across the country are also inconsistent with regard the period of incarceration.
- Prisoners of different categories (remand, trial, convicted) are often held together and in some prisons UNIPSIL HRS found even suspects under police investigation and local courts detainees. Women are accommodated in separate wings or buildings and are attended to by female officers. Female suspects in police cells and local courts cells are held separately, even though in several cases women were found attended by male officers. Even though there are specific facilities for juveniles, UNIPSIL HRS has repeatedly found minors held in prison with adults because their age was mistakenly or deliberately increased on the arrest warrant by the police. Also, for the period juveniles are kept in police custody there is often no separate cell to accommodate them.
- The storage of information on prisoners is problematic, with cases of file lost and inmates with no record. Internal complaints procedures (both between inmates and between inmates and officers) are available to prisoners as well as suspects in police custody and in rare cases have triggered results. Prisoners can also file complaints to the Office of the Ombudsman and to the Human Rights Commission of Sierra Leone, which have also the mandate to visit detention facilities. Isolated cases of interference with the confidentiality of the complaints and some limitation in accessing prisons were reported.
- International cooperation has directed large resources towards strengthening the prison service, promoting organizational and infrastructural reforms and capacitating the staff employed in the area of corrections. Notwithstanding the wide scope of these interventions, the impact has not always met the expectations. Future interventions should include sustainability measures and aim at developing the management capacity of prison staff.
- In many cases, the solution to the multiple challenges faced by prisons and other detention facilities requires the interaction of a number of different actors. Thus, while it is important to pursue capacity building and technical assistance, it is essential to devise solutions that address the more fundamental, systemic issues related to the functioning of the justice sector at large. In this regard, informal meetings among different justice sector stakeholders organized at district level by UNIPSIL HRS (*human rights and justice fora*) proved able to trigger results.

## Recommendations

### Government of Sierra Leone

Timely disburse the quarterly allocation to the Prison Service and ensure that the yearly allocation includes an adequate amount for periodic maintenance and rehabilitation works.

### The Office of the Attorney General and Minister of Justice

- Devise solutions to increase the prosecutorial capacity of the Office throughout the country.
- Operationalize the Legal Aid Act 2012 to ensure that everyone has proper representation and defence.
- Ensure that the reform of the Criminal Procedure Act includes the decriminalization of minor offences, i.e. traffic offences, loitering or fraudulent conversion.

### The Ministry of Internal Affairs (MIA)

- Establish a nationwide MoU with the MOHS to ensure that public health care system covers for all the costs involved with the hospitalization of prisoners.
- Promote legislation regulating the condition of detention in police cells in line with international standards.
- Promptly submit the Correctional Service Bill to Parliament for enactment.

### The Ministry of Social Welfare, Gender and Children Affairs (MSWGCA)

- Establish distinct and reasonable lines in the yearly budget for juvenile detention centres for maintenance, fuel, periodic renewal of uniforms for prison staff and prisoners, beddings, food.
- Promote alternatives to detention of juveniles at both pre-trial and post-trial stages and take the lead in introducing measures needed to implement the existing legal provision for diversion; promote community-based rehabilitation and reintegration service for children.
- Explore a less institutionalised and less expensive alternative to Remand Homes to respond to remand cases in Northern and Eastern regions.
- Urgently find a sustainable solution, in concert and with support from the MOHS, to ensure access to water and health care for inmates detained at the Approved School. Also establish a nationwide MoU with the MOHS to ensure that public health care system covers for all the costs involved with the hospitalization of juvenile detainees.

### The Ministry of Health and Sanitation (MOHS)

- Establish a nationwide MoU with the MIA and the MSWGCA to ensure that the public health care system covers all the costs involved with the hospitalization of adult and juvenile prisoners, and extend such practice to suspects in police and local courts cells.

### The Ministry of Education

- Assign permanent teachers to the Remand Homes and the Approved School to ensure that children receive proper education covering all areas of Junior Secondary Education while in detention.
- Support adult literacy programmes in prison and provide inmates with the possibility to sit to exams.

### Parliament

Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT).

Promp~~ily~~ly enact the Correctional Service Bill once tabled and adopt thereafter new Prison Rules in line with the provision of the Bill and relevant international standards; also enact the Bill reforming of the Criminal Procedure Act once tabled.

Prison Service (future Correctional Service)

Grant unhindered access to independent institutions with the mandate to visit prison, including the Ombudsman and the HRC~~S~~l, and extend full cooperation to the Ombudsman to ensure that prisoners can communicate secretly with his office through the complaint boxes.

Immediately lift the total restriction on visits and communication with the outside world in prison when they still exist.

Immediately stop all forms of physical punishment, including the use of handcuffs or other means of restraints when not strictly necessary for the physical integrity of prisoners and staff.

Ensure that the system of record keeping in the prisons is consistent throughout the country and, with the support of the international community, progressively introduce a computerized data management system.

Find interim and long term solutions to ensure that untried prisoners are separated from convicted ones and that suspects under police investigation are not kept in prison; also ensure that remand prisoners get a special regime as per international standards.

Conduct a systematic assessment of the condition of the infrastructure and, with adequate support from the Government and the international community, undertake rehabilitation giving priority to those situations where the status of the infrastructure prevents the enjoyment of minimum standards. Ensure that adequate allocation for maintenance is included in all rehabilitation projects as well as in the yearly budget of the Prison Service. Take into account the needs of persons with disabilities while undertaking these works.

Do an inventory of beds, mattresses and beddings available across the country, repair those damaged and procure the required quantity to ensure appropriate conditions.

Ensure that prisoners, and police suspects when required, receive breakfast and two meals per day and ensure that enough water is supplied for both drinking and other use.

Ensure that in every prison there is at least one nurse present at any times, a medical officer visiting as often as established by the prison rules and an infirmary regularly supplied with basic drugs, where sick prisoners can receive basic treatment. Separate prisoners suspected of infectious diseases and transfer those requiring specialized treatment to appropriate hospitals.

Promote forms of paid work as established by the Prison Rules and immediately stop the practice of bringing prisoners outside to work in private properties of community stakeholders.

Create a permanent position to be in charge of the training school for prison officers and include human rights standards in the regular curriculum of the school.

Apply the UN Rule of Law Indicators for any future assessment of the situation of detention.

Police

Strictly abide by the limits imposed by the Constitution on police custody; ensure that pre-trial detention remains the last resort and bail is granted free of charge in all possible circumstances, with special regard to the best interest of the child; promote the use of alternatives measures to charging minor offences to court.

Perform an accurate and documented assessment of the age when there is the possibility that a suspect is a minor and distribute the Age Assessment Guidelines 2010 to **all** police officers; ensure that **juveniles** in police custody are kept separate from adult suspects.

Ensure that **female** suspects are kept separate from **male** suspects and are attended by **female** officers.

Conduct a needs assessment of the police holding cells across the country and **plan** rehabilitation works as required, with adequate support from the Government and the international community. Procure a minimum number of beds, mattresses and beddings to be available in every police cells.

Establish clear share of responsibilities with the Prison Service on the provision of food to suspects and ensure that **all** those in custody in **all** police stations/posts receive adequate food and drinking water.

Ensure that understaffing does not result in denying police officers in remote areas their right to take leave.

#### Office of the Chief Justice/Judiciary

Ensure that there is one resident magistrate in each district and consider holding special court sittings to clear backlog of cases.

Grant bail in **all** possible circumstances and ensure that **all** possible means are exhausted to find sureties, in particular in the case of juveniles; limit the use of remand to when it is strictly necessary and abide by the limits set by the law in this regard.

Standardize the sentences across the country with regard to the period of incarceration and ensure they are commensurate with the crime committed. Do not punish minor offences with imprisonment and explore instead alternatives to detention and diversion; use the Tokyo Rules as a reference in this regard.

Speedily assume **all** responsibilities with regard to **local** courts as established by the Local Courts Act 2011, ensure that salaries of **local** court staff are paid on time and the backlog is cleared as soon as possible and work towards the standardization of **local** court fines and penalties across the country.

Conduct a needs assessment of the **local** courts cells across the country and **plan** rehabilitation works as required, with adequate support from the Government and the international community; provide budget for adequate food and drinking water to be supplied to detainees in **local** court cells.

#### National Electoral Commission (NEC)

Ensure that untried prisoners at the time of elections are not deprived of their right to vote.

#### International community

Ensure that, when technical cooperation and assistance is provided, sustainability measures are put in place. In this regard, support the enhancement of the management capacity of the Prison Service and consider including the commitment to maintenance expenses by the Government as a pre-requisite condition for **all** rehabilitation interventions.

Ensure that support towards the amelioration of the infrastructure is given with **full** involvement of the engineering section of the Prison Service.

Support the training school for prison officers and help with the facilitation of subjects until permanent facilitators are properly recruited. Also support the inclusion of a human rights chapter in the regular curriculum of the Police Academy.



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On the front page: the entrance into one of the blocks of Freetown Central Prison (UNIPSIL photo/Luca Trinchieri)