



Year 2, Issue 3 - May 2012

Joint newsletter of the UN Joint Vision Programme 2 Access to Justice and Human Rights



Editorial

The third Edition of *2gether* highlights our engagement with Parliament and grass root actors to build their capacity in integrating human rights in legislation and to address SGBV and Children's rights issues. The lead story features the efforts by the UN Joint Vision Programme 2 Partners to train the Parliamentary Human Rights and Legislative Committees and the Parliamentary Female Caucus on a human rights approach to legislative review.

Parallel to describing our engagement with the Parliament, this issue analyzes key legislation in the areas of women's rights, children's rights and land issues, and offers some recommendations in this regard. An analytical article on Sierra Leone laws and pending Bills relating to the rights of children highlights weaknesses alongside the strides made. Progress and obstacles met towards the enactment of a Sexual Offences Bill are also discussed, while challenges and good practices in fighting SGBV are described with reference to specific areas of cooperation and support by Programme 2 partners.

Other capacity building activities featuring in this issue include a training of trainers on political participation of persons with disabilities which targeted the staff of various Election Management Bodies. We hope readers will find the third issue of *2gether* enlightening.

A human rights approach to legislative review

Programme 2 partners held a workshop with members of three parliamentary committees on human rights compliance in legislative processes



BO - The UN Joint Vision Programme 2 partners held a capacity building workshop on Human Rights Approach to Legislative Review for members of the Parliamentary Human Rights and Legislative Committees, and the Parliamentary Female Caucus in Bo City from 16th to 18th of February 2012. The event drew together 27 MPs and parliamentary staff from three most relevant committees of the Parliament.

The training linked key human rights principles to legislative processes, including meaningful participation of all stakeholders, accountability, equality and non-discrimination. Senior lawyers from the Office of the Attorney General and the Solicitor General's office joined the facilitating team, which also included the Human Rights Commission of Sierra Leone (HRCSL).

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Capacity building on human rights approach to legislative review

Using three gender Bills currently before the Parliament (Gender Equality Bill, Sexual Offences Bill and Matrimonial Causes Bill) as case studies, the programme explored strategies and opportunities of enhancing human rights compliance within legislative processes. Participants appreciated the importance of human rights standards and the key aspects of human rights approach towards effective and people-oriented legislation. In committing to make use of the knowledge acquired in present and future legislative processes in Parliament, the MPs requested for sustained technical support to ensure enhanced compliance of human rights standards in law making.

Participants agreed on the way forward based on four areas: enhancing human rights in legislative review, strategic coordination and collabora-

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tion between relevant committees, effective advocacy and monitoring and compliance with human rights in implementation of legislations. The actions proposed in the first area include research and data collection, popularization through making the human rights library at the Parliament more accessible and collaboration with Statistics Sierra Leone. With regard to coordination and collaboration between the committees, it was agreed that the PHRC should be available at every legislative review. To support its role, it was also suggested that a motion be moved for all Bills before the Parliament to pass a human rights compliancy test. In the area of advocacy, proposed actions included the revival of the PHRC/CSO Forum, to continue highlighting human rights issues during debates, to strengthen relationship with the Human Rights Commission

and collaborative advocacy with international partners.

Finally, in terms of compliance with human rights in implementation of legislation, participants agreed to engage the MDAs on the recommendations of the PHRC reports, keep track of emerging developments after the passage of the laws and seek support from partners for monitoring activities.

The training was requested by the Parliamentary Human Rights Committee (PHRC) as part of the capacity building activities by UNIPSIL HRS, UNICEF and UNDP Access to Justice to support the Parliament towards effective legislation. In the past, UNIPSIL HRS provided support for the establishment of a Human Rights Library at the Parliament and the production of a human rights survey carried out by the PHRC in 2010. The support to Parliament and the PHRC in particular recognizes its crucial role in enhancing compliance with human rights standards and mechanisms in the country.



Human Rights Commissioner Jamesina King holding a session at the workshop

The legal framework for children in contact with the justice system

An analysis of the laws currently in force in Sierra Leone and a proposed way forward

Sierra Leone has ratified all major international treaties relating to children's rights. Significant steps have been taken to translate these international standards into national law. However, a number of laws in relation to child justice and child welfare are considerably outdated.

There are several national provisions which govern the formal justice system for children. For victims and witnesses, the main criminal laws dealing with violence, abuse, and exploitation are the Protection of Women and Girls Act (1960), the Prevention of Cruelty to Children Act (1926), the Domestic Violence Act (2007) and the Anti-Human Trafficking Act (2005). The first two of these Acts are outdated and are in need of revision and the Anti-Human Trafficking Act is currently being revised.

In the draft Sexual Offences Bill (see also page 4) some of the gaps are addressed but the provisions regarding child sexual abuse, child prostitution and child pornography leave room for improvement. In particular, the proposed Bill does not provide for peer consent for sexual activities for those under the age of 18, thus exposing teenagers to potential criminal prosecution for engaging in consensual sexual acts.

The Criminal Procedures Bill and other related legislation do not make any provisions for special investigation and court procedures for child victims and witnesses. This puts children at risk of being subjected to violence or other forms of intimidation as a result of cooperating in an investigation or prosecution of a serious offense.

For child offenders, 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). A number of additions and amendments to Cap 44 were introduced by the Child Rights Act (CRA) in 2007. The CRA does not directly address the protection of children participating in criminal proceedings but it does provide the legal framework for child welfare and child protection interventions in general.

The CRA stipulates that the best interest of the child must be of paramount consideration in any decision that affects that child. Parents also have the right to participate in any court or other legal proceedings related to their child, subject to the child's best interest.

One of the most important provisions in the CRA in relation to justice is the minimum age of criminal responsibility which is set 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 criminal responsibility, the nature of the legal process, and for the potential outcomes for children in relation to sentencing and rehabilitation.

Despite these improvements, both Cap 44 and the CRA are based on inherited British justice system models that are outdated and overly focused on the formal justice system.

The way forward

The child justice system is meant to ensure adequate protection of the rights of child victims and witnesses including the right to due process. The child justice system should not be geared towards punishment of children in conflict with the law but towards supporting their rehabilitation. This requires active use of diversion from formal court proceedings to mechanisms which promote restorative justice. In the long term, comprehensive child justice legislation that better reflects both the local context and effective approaches to children in contact with the justice system is needed.

Legal reform should be done within the context of broader child protection and welfare systems reform and it should fully encompass both the formal and the traditional justice systems. In fact, although the formal justice system functions in main towns, it is estimated that over 70 per cent of disputes are resolved according to customary law. Recent studies have shown that, for most people, the first stop for justice is the traditional authorities and, thereafter, the Local Courts. While difficulty in accessing the formal justice system is one factor that influences this decision, the informal system also receives a higher level of trust, conforms better to local values and perspectives, is more flexible, faster and inexpensive

and is more easily understood by the community. The government has acknowledged that a comprehensive approach to justice reform will require efforts to strengthen both the formal and primary justice systems. In recognition of the significant role that the traditional system plays in providing access to justice, the Justice Sector Reform Strategy and Investment Plan 2011-2014 has placed significant emphasis on strengthening semi-formal and informal justice systems at the community level.

Also, new or amended laws and policies should be based on evidence. It may be preferable, therefore, to first develop an overall vision for the child welfare and child justice systems in Sierra Leone, pilot various initiatives, and learn from other countries' experience before making substantial amendments to the law.

The child justice system is meant to ensure adequate protection of the rights of child victims, witnesses and offenders

UNIPSIL and OHCHR engage Traditional Leaders on fighting SGBV

Women and girls in Sierra Leone are still subjected to sexual and gender-based violence (SGBV) and incidents continue with impunity. While there is an increase in number of reported cases to the Family Support Unit (FSU) of the police, the number of prosecutions and convictions remain low often due to factors outside the reach of the FSU.

Traditional leaders continue to be influential in all districts in Sierra Leone, especially in rural communities, where they continue to arbitrate in GBV related cases. Acting as "custodians" of Sierra Leone culture, traditional leaders play a key role in advocating for various community initiatives. They preside over custom-

ary law courts and reach communities through community dialogue.

In view of the above, UNIPSIL HRS and OHCHR brought together a total of 60 traditional and local authorities from Tombo, Kent, Tissana and other communities for a training on fighting SGBV.

The training, held in the Tombo community center on 21st and 22nd April 2012, sought to increase the knowledge of traditional leaders on SGBV issues and their implications in a bid to strengthen their ability to respond to community needs addressing SGBV.

The two day workshop provided participants with information on key international instruments relating to

women's rights including the Convention on the Elimination of all forms of Discriminations Against Women (CEDAW), whilst establishing the link between this document and the three gender justice laws in Sierra Leone. The provisions in the three gender laws formed the high point of the training. This, in turn, enabled participants to identify gaps such as the need for free medical examinations for victims of SGBV as provided for in the Domestic Violence Act.

Participants highlighted the trend of gender based violence in Tombo and its environs, such as underage initiation into secret societies, teenage pregnancy, wife battering and rape. Concerns were raised as to the lack of logistics and capacity by the FSU to handle reported cases in these communities, whilst women's groups have called on local authorities to pass by-laws that would serve as deterrence to SGBV in these communities.

A key outcome of the two days programmes was the formation of groups that would not only monitor and report on SGBV but provide support to victims wishing to access justice.



One of the sessions of the SGBV training for traditional leaders in Tombo

The relevance of the Sexual Offences Bill

The persistence of sexual and gender-based violence (SGBV) in Sierra Leone since the end of the civil conflict continues to present a serious challenge to the protection and advancement of women's rights. As a national response, the Government of Sierra Leone established the Family Support Unit (FSU) within the Sierra Leone Police with the mandate to investigate and facilitate prosecution of people who are accused of SGBV offences. In 2007, the Domestic Violence Act was enacted together with other two gender justice laws (the Devolution of Estate Act and Registration of Customary Marriages and the Divorces Act) with the objective to complement existing laws and improve legal protection of women from abuse and violation.

In spite of these developments, existing gaps also vis-à-vis the cultural context limit SGBV victims from accessing justice and the persistent problem of impunity indicates the need to strengthen legal protection for women. Accordingly, national and international development partners are presently supporting the Ministry of Social Welfare, Gender and Children's Affairs (MSWGCA) in the processes of enactment of a Sexual Offences Bill (SOB). When enacted into law, this Bill will contribute to strengthen the legal protection of women and children who face abuse and would improve their chances to access justice remedies. The Bill broadens the scope of sexual offences to include some aspects of customary law in addition to general law. For instance, in customary law a man could justify raping his

Promoting cooperation between Paramount Chiefs and FSU

UNICEF has supported Interactive Dialogue Meetings with Paramount Chiefs leading to developing an MoU Between Paramount Chiefs and FSU in responding to sexual abuse cases

Research shows that most communities have limited access to a FSU. In response, Paramount Chiefs and the FSU, together with the MSWGCA, developed an MoU to strengthen working relationships for the referral of child abuse cases including sexual offences.

The process for consultation and development of the MoU began in February 2010 among Paramount Chiefs, FSU and the MSWGCA in Bo and Moyamba, with support from the Decentralisation Secretariat and UNICEF. In April 2011, the MoU was officially signed by the Minister of Social Welfare, Gender and Children's Affairs, the Assistant Inspector General of the SLP and representatives of the Paramount Chiefs.



An interactive dialogue with Paramount Chiefs, the FSU and the MSWGCA in Bo

Subsequent implementation meetings were held with the Paramount Chiefs of Bo, Kenema, Makeni, Pujehun and Kono districts in 2011, in which 80% of Paramount Chiefs in the districts attended.

The MoU includes advanced forms of cooperation. For example, while the MoU obligates Paramount Chiefs to report child abuse cases to FSU in the first instance, it allows them to take certain actions such as the preservation of evidence and apprehension of alleged perpetrators in case no FSU is able to respond. The MoU should

help improve cooperation between the chiefs, the Community Welfare Committees (CWCs) and the FSU in responding to sexual abuse cases, thus improving access to justice and reducing impunity for perpetrators. UNICEF continues to monitor the implementation of the MoU in partnership with Defence for Children International Sierra Leone (DCI-SL) as a part of a project to strengthen child protection case management capacities at district level.

wife by using marriage as a defence. Within the SOB, the use of marriage as a defence is no longer tenable for any sexual assault. Penalties are increased considerably for sexual offences in order to achieve some level of deterrence. For instance, indecent assault is currently punishable with a period of imprisonment not exceeding 2 years, while the SOB includes an alternative punishment of 2 million Leones or both such imprisonment and fine.

The Bill also caters for persons with disabilities, including those with mental disabilities. Offences committed against this category of people carry a sentence from five to ten years imprisonment. It criminalises exposure of children to pornography or sexual activity either by film or otherwise. The SOB is more gender sensitive or gender neutral, thus either a man or a woman can now be accused of sexual offence. For example, the offence of incest could be committed by both male and female and it carries an imprisonment sentence of not more than two years.

This Bill, however, has suffered a temporary setback. A Rule of Courts sitting on 29th February identified major loopholes and inconsistencies in the Bill and has recommended redrafting it. This delay came as a disappointment among women's groups and other key stakeholders. According to the Minister of Social Welfare, Gender and Children's Affairs the legal draft's man at the Law Officer's Department is currently working on the Bill. Various United Nations actors such as UNDP, UNIPSIL, UNFPA, and UNICEF continue to demonstrate their commitment in ensuring that the Bill gets the required support. Specific activities include financing the consultancy for redrafting, awareness raising at community level on the Bill and training of relevant Members of Parliament (MP) on human rights approach to legislative review with a focus on the SOB.



Ensuring women's land rights in the Land Reform Process

An outline of the main gender issues that the land reform process needs to consider

As the draft National Land Policy for Sierra Leone has been presented to the public, central land issues have been debated among stakeholders, including the issues of women's land rights and large-scale land investment. UNDP has been supporting initiatives to strengthen dialogues and advocacy around women's property and land rights to inform the ongoing land reform process.

Land is critical in Sierra Leone where the majority of the rural population depends on land for their livelihood. At the same time growing pressure on land for various uses, including commercial farming, bio-fuel production and mining, makes the quest for land reform as relevant as ever. The Land Policy is to frame the land reform process, provide the overall principles, outline the land tenure system and land administration, with one the objectives being to ensure equitable access to land for all citizens.

The process, as other land reforms across Africa, is faced with addressing the reconciliation between customary and statutory land tenure, land management, women's land rights and large scale land investments. Women's unequal access to land as well as smallholder farmers' insecure land rights vis-à-vis large scale land investment are critical issues when considering a human rights approach to land reform and are being debated and challenged in many African countries.

The arguments for women's land rights are two-folded. Firstly, women's equal access to and control over land is a right outlined in international human rights law, including the Convention on Elimination of all forms of Discrimination against Women (CEDAW), which is ratified by the government of Sierra Leone. Discrimination based on sex is furthermore prohibited in Section 27 (1) of the Constitution of Sierra Leone. The 'Maputo Protocol' to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) also specifically mentions women's rights to equitable share of property in inheritance and dissolution of marriage, women's rights to sustainable development and rights to control over productive resources. The second argument for women's land rights is food secu-

Women are often sidelined in the negotiation of land leases

ity and sustainable development. Women in Sierra Leone constitute the majority of the subsistence farmers and have a central role in sustaining livelihood and household food security. Therefore it is all the more imperative to ensure women's participation in debates and decision-making on land matters which have a direct impact on their lives.

The Truth and Reconciliation Commission in its findings stated that "securing greater access to land for women through legal reform in the areas of inheritance and land allocation, particularly after the war, is a pressing priority". However, Section 27 (4) *d* and *e* of the Sierra Leone Constitution state that the non-discrimination provision shall apply with respect to marriage, divorce, devolution of property on death or other interest of personal law nor in

the application of customary law. This notion of exempting customary law from equality and non-discrimination reflects in the legislation, including the Devolution of Estates Act 2007, which does not apply to family property held under customary law.

In fact, land in Sierra Leone is governed by a complex and dual tenure system: general law is applicable in the Western Area, while land in the provinces is mainly governed by customary law and held by lineages and families. Customary law and practices favour men in inheritance, distribution, ownership and control of property in marriage and divorce. Consequently, property and land rights for the majority of women are indirect and insecure, and women are exposed to dispossession of land and property with limited possibility of redress. Women are not represented in local institutions managing land, while they are often sidelined in the negotiations around large scale land investment. Ensuring women's land rights encompasses to secure and protect women's rights to access and control land and to ensure women's participation, representation and influence in land administration. The land reform process, thus, must take account of women's central role in farming as well as gender aspects of land rights.

UNIPSIL train trainers on political participation of persons with disabilities

Staff of electoral management bodies discussed strategies for PWDs to vote and be voted for

On 17th and 18th April 2012, UNIPSIL HRS organized a training of trainers on political participation of persons with disabilities at the Bank of Sierra Leone Complex, Kingtom. The programme, developed in collaboration with the Directorate for Training of NEC and funded by OHCHR, aimed at getting the actors who will be involved in the November 2012 elections acquainted with the essential knowledge on the right of persons with disabilities to participate in political and public life. Challenges faced by persons with disabilities in the electoral process were identified and discussed, whilst specific solutions were proposed to enhance the full participation of different categories of persons with disabilities.

A total of 35 participants were drawn from NEC, the Political Parties Registration Commission (PPRC), the Ministry of Social Welfare, Gender and Children Affairs (MSWGCA), the Sierra Leone Union on Disability Issues (SLUDI), National Election Watch (NEW) and the Human Rights Commission of Sierra Leone (HRCSL). Approximately half of them were NEC's Voter Education and Training Officers, one per each district. The participants

The facilitation of a session on the Persons with Disability Act 2011



UNIPSIL/OHCHR report on disabilities now in Braille version and on-line

On Monday 7th May, UNIPSIL released a Braille version of the Report on the Rights of Persons with Disabilities in Sierra Leone, initially launched last December. Persons with visual impairment were extensively involved in the study, but they had not been able to benefit from the dissemination of the report. The 25 Braille copies, which have been distributed among the blind in all districts of the country, will allow them to access information and analysis which concerns them directly and be involved in the dissemination and implementation of the recommendations of the report.

A soft copy of the report is also available at www.unipsil.unmissions.org.

will be now responsible to share the capacity acquired in order to contribute to create a disability sensitive and responsive electoral process for the 2012 general elections and subsequent ones. Beneficiaries of this second round of training will include staff of the participating organizations, NEC's ward coordinators, Ward Electoral Education Committees (WEECs), members of the Election Security Committee, political parties (at district level), CSOs and DPOs, the media, local and community authorities.

The enactment of the Persons with Disability Act 2011 contributed to adjust Sierra Leone's national legal framework to its international obligations. However, UNIPSIL/OHCHR Report on the Rights of Persons with Disabilities in Sierra Leone found that persons with disabilities face a variety of barriers to fully participate in political processes and to be represented in the government. Long queues, excessive distance from the polling stations, vulnerability to intimidation and violence, difficulty in accessing the facilities and respect for secrecy for those who need assistance were among the most recurrent obstacles reported.

UPDATE

A road map towards establishing a National Commission for Persons with Disability

Progress has been made towards the establishment of the National Commission for Persons with Disability (NCPWD) in Sierra Leone. The Technical Committee on Disability (TCD), formed in February 2012 to steer the process, has held several meetings. The TCD, composed of representatives from Government, NGOs and International partners, provides technical expertise and support to the government on the creation of the NCPWD. The TCD has made great stride by adopting a road map. All 8 Ministries with a seat in the future Commission have nominated representatives. Two representatives from NGOs have also been nominated and regional consultations for the election of 4 representatives from organizations of persons with disabilities are near conclusion. The Minister of Social Welfare will then propose candidates for the position of Chairperson, from whom the President will appoint the Chair. The NCPWD is provided for in the PWD Act 2011, and its establishment is a key recommendation of the UNIPSIL/OHCHR Report on Persons with Disabilities. UNIPSIL and OHCHR continue to provide technical support to the implementation of the Act and the recommendations of the Report.

Girls in the northern region continue to be victims of early and forced marriage despite the sensitization and existing law against this practice. A 13 years old girl attending primary school was given in marriage to a 45 years old farmer by her parents last March. On 14th April, she complained about her situation, including of pain caused by forced sex, to Buya Rights Advocacy Group in Buya Romende Chiefdom, Port Loko District. On 25th April, UNIPSIL HRS and members of Buya Rights held a meeting with community stakeholders in Robis Mende village and succeeded in convincing the community to immediately remove the girl from the man's house and return her to her parents. They used Sierra Leone's Child Rights Act of 2007 and the UN Convention on the Rights of the Child as reference points. The girl was handed over to her aunt. Local authorities welcomed the sensitization and explained that there were still many under-aged girls in early and forced marriages in that part of the chiefdom who need to be returned to school. Meanwhile Buya Rights members have raised some money to assist the victim to seek medical treatment. UNIPSIL HRS made a follow up visit to the community and found that the girl has already returned to school and her health was making steady progress. The girl expressed appreciation to the team for their timely intervention which has enabled her to continue her education.

What is the Joint Vision Programme 2?

The UN organizations, agencies and programmes working in Sierra Leone, recognizing their joint responsibility for a fully integrated peace building mission, agreed in May 2009 to combine efforts and resources behind the UN Joint Vision for Sierra Leone. The Joint Vision establishes the general framework of the UN family cooperation and sets a number of tangible benchmarks meant to guide the UN contribution to the implementation of the Sierra Leone's Government Second Poverty Reduction Strategy Paper, also known as 'Agenda for Change'. Within this framework, promoting rule of law and strengthening the justice system was considered essen-

tial in the consolidation of peace and stability and was formalized in one of the twenty-one programmes through which the Joint Vision is being implemented. The Joint Vision Programme 2, entitled "Access to Justice and Human Rights", is composed of UNIPSIL Human Rights Section/OHCHR, UNICEF, IOM and UNDP, which is also the lead agency. National counterparts are the Attorney General and Ministry of Justice, the Justice Sector Coordination Office and the Human Rights Commission of Sierra Leone (HRCSL), while DFID and Irish Aid are the development partners supporting the programme.

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