

Briefing paper
Sierra Leone
**No one to turn to: Women's lack of access to
justice in rural Sierra Leone**

"I couldn't go to the chief [as] he would not have taken my matter seriously; I didn't go to the local court [as] I had no money. If human rights had not been there I don't know what I would have done. I suppose I would have left it to God."

Introduction

Amnesty International considers the discrimination women suffer and their lack of access to justice in Sierra Leone to be of serious and urgent concern. This briefing paper provides an overview of the barriers that women face in accessing justice that Amnesty International found on a recent visit and includes recommendations to address them. The briefing paper, to be followed by a longer report in 2006, specifically targets participants of the Stakeholders Conference on Human Rights, being held in Freetown, Sierra Leone from the 6-8 December 2005¹. The Conference brings together the Government of Sierra Leone, United Nations agencies, donors, international organizations and members of civil society to discuss the critical human rights issues facing Sierra Leone. These discussions will feed into the National Human Rights Action Plan and into the work of the Human Rights and Rule of Law component of the United Nations Integrated Office in Sierra Leone (UNIOSIL) - due to start operations in early 2006².

Many cultural, legal, and social factors impact women's access to justice. Justice is compromised by discrimination in the law, lack of laws to protect women against gender based violence, discriminatory social attitudes in the family and wider society, as well as discriminatory attitudes and practices of officials administering the law. Furthermore it is exacerbated by a general lack of legal advice and assistance.

Women face discrimination and inequality in laws, in custom, and in rulings by Chiefs and Local Court officials primarily in marriage, divorce, inheritance, and property. The consequences are devastating for women as it further entrenches many into poverty, forces some to stay in violent relationships, contributes to homelessness, and severely compromises

¹ This meeting has been co-organized by the Office of the High Commission for Human Rights (OHCHR), UN Mission in Sierra Leone, the UN Country Team and the Government of Sierra Leone

² UN Doc S/RES/1620 (2005) 31 August 2005 established the creation of a United Nations Integrated Office in Sierra Leone (UNIOSIL) to assist the Government of Sierra Leone in a variety of tasks including, but not limited to: (ii) developing a national action plan for human rights and establishing the national human rights commission; (v) strengthening the rule of law, including by developing the independence and capacity of the justice system and the capacity of the police and corrections system; (viii) developing initiatives for the protection and well-being of youth, women and children².

women's ability to properly care for themselves, and their children. Not only are laws that relate to matters in the domestic setting discriminatory, but there exists little protection in the law against gender based violence. By promoting laws, which protect rather than subordinate women, and taking concrete steps which aim to improve women's access to justice, Amnesty International believes Sierra Leone's overall development will benefit.

Customary law in Sierra Leone is unwritten and based upon deep rooted social practices that coexist with the formal legal system. Customary law, recognized and relevant to 85%³ of the local population is based on traditional beliefs and attitudes and administered predominantly by men. Traditional practices dominate and tend to deprive women of their human rights or silence them when their human rights are not respected. While discrimination on the basis of sex is prohibited in Sierra Leone's constitution, this protection is undermined by condoning discrimination under customary law.

Laws governing marriage, property, and inheritance impacts women in every aspect of their lives. Yet women find the process of pursuing remedies related to these human rights confusing and inaccessible. Further, these laws are unwritten, not systematically recorded, influenced by region, religion, and differ depending upon the individual administering it. Women's unfamiliarity with laws and procedure leave a lot of room for manipulation by those administering the law. Amnesty International found women's experiences with the Local Courts and Chiefs often resulted in unlawful rulings, humiliation, and at times, imprisonment and trumped up charges and exorbitant fines of the women seeking justice.

Recognition of the link between women's equality and the reduction of poverty is highlighted in the Poverty Reduction Strategy Paper which the Government of Sierra Leone has committed to over the next several years and highlights that the "focus needs to be on gender equality and empowerment as well as promotion and protection of the human rights of women in the process of achieving poverty alleviation and sustainable economic growth". Other commitments of the government include the adoption of the recommendations of the Truth and Reconciliation Commission which prominently feature women's human rights including the repeal of all discriminatory statutory and customary laws. Some bilateral donors have taken steps to address this issue, for example the UK Department for International Development (DFID) has allocated £25 million over five years to reform the justice sector which may offer hopeful opportunities.

UNIFEM, the Ministry of Social Welfare, Gender, and Children's Affairs and the International Rescue Committee have been working with the Law Reform Commission⁴ to

³ This estimation is found in numerous reports and was commonly quoted to Amnesty International as the percentage of people who live in the rural areas.

⁴ The Law Reform Commission was established under the Law Reform Act of 1994 and amended in 1996. The Act came into operation in 2003 with the appointment of its present Commissioners. The Commission reviews the laws both statutory and others, to reform develop, consolidate, and codify and as well to propose the enactment of new laws as appropriate.

develop a Women's Law Reform Agenda. These discussions have fed into the current draft laws on marriage, succession, sexual offences and inheritance, soon to be presented to Parliament by the Law Officers Department of the Attorney General and Ministry of Justice office. Consultations are currently being carried out on domestic violence legislation. Once the laws are passed in Parliament, a much greater challenge will be to change the prevailing local attitudes towards women's human rights. The government's reluctance to interfere is reinforced by a strong belief among Chiefs and some of the elders in the community that the government has no business interfering and changing cultural norms. Amnesty International believes this is the area that needs great commitment and attention by the Government of Sierra Leone, civil society, traditional leaders, and UN agencies.

Sierra Leone has ratified the Convention on the Elimination of all Forms of Discrimination (CEDAW) which guarantees equality before the law and the equal protection of the law, and ensures that women have effective remedies if their rights are violated. International law also obliges states to modify discriminatory social and cultural patterns of conduct. By failing to confront discrimination and practice Sierra Leone is violating these obligations.

Amnesty International notes that the Stakeholders Conference on Human Rights is a critically important forum to ensure that women's human rights are prominently featured in the National Human Rights Action Plan and central to the work of the Human Rights and Rule of Law component within UNIOSIL due to start in early 2006.

The Legal System in Sierra Leone

The laws of Sierra Leone, as defined in Section 170 of the 1991 Constitution, comprises of the Constitution itself, along with laws made by Parliament, statutory instruments, the existing law, and the common law. The common law includes the English common law and customary law. English common law is institutionalized into the Judiciary headed by the Chief Justice, and comprises the Supreme Court, Appeals Court, and High Court which are the superior courts of jurisdiction. The Magistrates Courts constitute the inferior courts. These courts adjudicate criminal and civil matters under statutory and English common law.

Customary law, largely unwritten, are the rules and regulations that are applicable by custom and to particular communities in Sierra Leone⁵. Customary law is also defined as any rule, other than a rule of general law, having the force of law in any chiefdom province⁶. Common law which includes both English common law and customary law, as described above, is applicable throughout Sierra Leone except for Freetown where only English common law is applicable. In the instances where British Common law and customary law clash, the Sierra Leone Constitution mandates that British Common law supersedes.

⁵ Constitution of Sierra Leone 1991, at Section 170

⁶ Local Courts Act 1963, Act.20 in the laws of Sierra Leone, at Section 2

The Local Court is the only institution permitted by the Constitution to adjudicate customary law under the Local Courts Act of 1963. The majority of the cases they preside over include marriage, divorce, debt, succession, and land tenure. There are 147 chiefdoms in Sierra Leone and each chiefdom has one to three Local Courts. They are presided over by a Court Chairman, Court clerk, a panel of elders and chiefdom police who act as marshals during court sessions. The Court Chairman is appointed by the Paramount Chief for three-year terms with final approval from the Ministry of Local Government and Rural Development. The Local Courts are administered by the Executive branch of the government through this Ministry. The Customary Law Officer, in the Law Officers Department in the Attorney General and Ministry of Justice Office, also part of the Executive branch of government, has the power to supervise the Local Court Chairperson and review the decisions made by the Local Court to ensure that they are fair. Lawyers are not allowed to appear in Court and the Judiciary currently has no role in how the Local Courts function. In general Paramount Chiefs and the elders in the community are considered to have the most power over how the Local Courts function which raises questions about their independence⁷.

Civil claims in family matters⁸

The 1991 Constitution states equality before the law and equal protection for the law, by prohibiting the making of any law which is discriminatory. Chapter III Section 27 of the Constitution states that “no law shall make any provision which is discriminatory either in itself or in its effect”. However, this provision is qualified by subsection 4 of Section 27 which makes exceptions for, among other things, adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law and in customary law. This means that discriminatory laws on such matters are *not* necessarily unlawful under the Constitution.

For example when a wife dies her husband inherits her entire property. However on the death of the husband, the wife inherits only a proportion of his property⁹. Moreover a wife has no right under law to ensure that the husband contributes financially towards the children while the family is living together. If the couple separates, the wife is eligible for support but only if he has deserted her. If she has left him or if they have decided to separate, she is not entitled to support¹⁰. Even then, the amount stipulated in the law for support for the children is grossly inadequate.

There are provisions in law on the surface provide for equal treatment of men and women, however have a discriminatory effect on women. For example, there is a restriction

⁷ In the past an important role of the Paramount Chiefs was to adjudicate disputes however due to the enactment of the Local Court Act of 1963 Chiefs ceased to preside over Courts and this function was turned over to Local Court Chairman.

⁸ Lawyer's Centre for Legal Assistance (LAWCLA) *Unequal Rights: Discriminatory Laws Against Women in Sierra Leone* 2005 deals extensively with issues regarding discriminatory law and practice and contributed extensively to this section and the report in general.

⁹ The percentages vary under both the Christian Marriage Act and the Muslim Marriage Act

¹⁰ Married Women's Maintenance Cap. 1000 of the laws of Sierra Leone Sec. 2

with regard to petitioning a divorce making it difficult to do so within the first three years of marriage. While this law is applied equally to men and women, it may have the effect of requiring a woman to stay with her husband who is abusing her because of the financial implication she would encounter if she left him. As another example, there is no minimum age of marriage. This fails to protect girls from forced marriage as it is common practice for girls, even as young as 10, to be forced to marry adults. Among the many human rights violations a girl may be subjected to when forced to marry an adult man, her ability to mature into an adult with dignity is compromised as she is deprived of her right to education.

Protections in criminal law

Despite that the Constitution provides for the right to life, liberty and security of person and stipulates that no person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading, criminal law fails to protect women from domestic violence. It is widely accepted that a man chastise his wife, often translating into condoning or acceptance of domestic violence. In effect, unless the violence results in murder or serious wounding, criminal law is not regarded as applicable to the forms of violence which a husband may inflict on his wife. Since the domestic arena is where the majority of violence against women takes place, women are largely left without legal remedies. Involving police or the state in "family matters" is not regularly practised. Women are unlikely to take any steps that would break up the family as it would leave her and her children without financial means including possibly being denied any access to the joint property of the marriage. As a result, women often simply accept this human rights abuse and perceive it as natural and inevitable, thus not demanding justice¹¹.

Customary law

The Constitution states that customary law is part of common law of Sierra Leone but does not define it. The laws themselves are not written and the rulings are rarely recorded and so the population is forced to rely on what they understand as custom and the memory of Local Court officials to apply the law in good faith. Some of the customary practices that are understood as customary law relate to marriage, property, and inheritance. Customary law is supposed to comply with the national constitution and should not contradict enactments of Parliament or principles of natural justice and equity¹². However customary law works in ways which are often discriminatory or which perpetuate violence against women.

For example, it is customary that if a husband dies his widow is required to marry the brother of her late husband in order to continue to have access to the property. In another example, if a woman marries she loses her rights to her parents' property or any say in how it is administered. In cases of divorce, men are not required to pay compensation to the wife

¹¹ Bambrick, Kati, *Silent Victims, Young Girls at Risk: An Evaluation of Post-War Rape and the Response to Rape in the Provinces of Sierra Leone*. Campaign for Good Governance Publication Freetown, Sierra Leone December 2004 highlights the vast differences as to how cultural practices are handled from one community to another.

¹² Local Courts 1963 in the Laws of Sierra Leone Section 75

although in some communities she is required to pay back the dowry¹³ which was given to her family when she married.

In cases of sexual assault and rape the customary practice is for the families of the victim and of the perpetrator to settle these cases by compensating the victim's family with money and/or goods. The main focus is to salvage the reputation of the victim's family rather than bring the rapist to justice or provide redress for the victim and protect others who may be at risk. While Local Courts do not have jurisdiction in sexual assault and rape cases, families continue to bring them for settlement and the Local Courts continue to handle them. If the victim was previously a virgin there is a stiff penalty, usually a sum of money, that the perpetrator is supposed to pay to the victim's family and the Chief; however if she was not previously a virgin, a lesser penalty is normally imposed. In some Muslim communities family pressure is put on the victim to marry the rapist, since her chances of getting married are greatly reduced by the fact that she is no longer a virgin¹⁴. However, with recent improvements in the training of Local Court officials, particularly with regard to the scope of their jurisdiction, it appears in some district towns that they are now declining to exert jurisdiction in such cases and are increasingly referring them to the Magistrates courts to be dealt with under the criminal code¹⁵.

Administration of customary law by Local Courts and Chiefs

The majority of the cases where women appeared before the Local Courts and Chiefs were family related cases, often brought by their husband or other relatives. It was less often that women appeared before the Local Court or Chiefs on their own initiative in matters of their own protection or remedies. Women in general underutilize Magistrates Courts due to the long distance, the expense, and ignorance of them and their procedures. Appearing before the Chiefs and Local Courts, at times was the only option for women, despite the feeling that their case would not be taken seriously, would be treated unfairly, and would be expensive. Cases involving women and Local Courts and Chiefs included trumped up charges and exorbitant fines against women themselves, unlawful rulings, humiliation, and even, imprisonment of women seeking justice.

Confusion around where one mechanism's jurisdiction begins and ends also leaves a lot of room for manipulation and impacts upon women's access to justice. This is true for both women and for those administering the system, as it is unclear where the boundaries of the different jurisdictions lie. Amnesty International found that external assistance from paralegal organizations was an effective way in which women could access this system and avoid some of the manipulation and unfairness that normally took place. In some cases Chiefs

¹³ It is customary in Sierra Leone in marriage that a sum of money is paid to the father of his new wife. This is known as dowry in Sierra Leone. (In many other countries this is known as bride price)

¹⁴ Bambrick, Kati, *Silent Victims, Young Girls at Risk: An Evaluation of Post-War Rape and the Response to Rape in the Provinces of Sierra Leone*. A Campaign for Good Governance Publication Freetown, Sierra Leone December 2004

¹⁵ Amnesty International interview with Magistrates in Kenema

were unlawfully imposing fines and detaining people in so called “native” prisons¹⁶. Under the laws of Sierra Leone, Chiefs are not allowed to adjudicate cases, impose fines or imprison people. The Local Courts have no power to impose detention leaving only fines as possible punishments. Also it was reported that Local Courts, sometimes also adjudicated cases that fell outside their jurisdiction as in cases of rape.

In addition to family disputes and similar matters, cases involving women accused of witchcraft were brought to Chiefs and Locals Courts. Little information is available as to how they attempt to rule on these cases, because there is a lack of clarity in law as to the content of such offences and their rulings are not recorded systematically. While the Customary Law Officer in the Law Officers Department of the Attorney General and Ministry of Justice office has the power to review cases there is only one officer allocated for the entire country. He is unable to carry this task out systematically. Likewise despite a Constitutional provision that provides for the right to appeal Local Courts’ decisions before a Magistrate’s Courts, such appeals are rarely carried out.

Amnesty International believes that more external assistance, including paralegal or legal aid, and greater oversight of the actions and the rulings of Chiefs and Local Courts are urgent and critical to address. In the cases below women were supported and helped to access the judicial system by various paralegal and legal national NGOs including the *Catholic Church’s Access to Justice Project* in Makeni, *Lawyers Center for Legal Assistance (LAWCLA)* in the district capitals and Freetown, and *Timap for Justice* in Magburuka and Bo. These NGOs have assisted many people including women in the district towns and surrounding villages. However they all told Amnesty International that they were completely overstretched with many more cases than these organizations could handle. Staff of community based organizations told Amnesty International that the manipulation and unlawful behaviour experienced by these women is common at the local level due largely because the authority of Chiefs or Local Court officials is rarely challenged. Clearly the women, the most vulnerable in the community, were impacted significantly making their already very difficult situation, much worse¹⁷.

¹⁶ This usually a room or simply a designated area where a person accused would have to stay until they could pay the fine.

¹⁷ Discussions with members of *Timap for Justice* including an unpublished article written by Vivek Maru, one of the co-founders of *Timap for Justice* provided much of the background to this section.

Case I

JK and her son were accused of witchcraft by her husband who brought the case to the chief in the village.

My son and I live in a village near Makeni town. My son is 13 years old and he suffers from epilepsy. In September this year (2005) my son and I were accused of witchcraft. My husband brought this charge to the Chief. My husband said that our child was bewitched and it was me who was responsible for bewitching him¹⁸. Based on this accusation that my husband made, the Chief charged both me and my son with witchcraft. He said that we each had to pay him: one five gallon of palm oil, 50,000 leones (US\$15), one goat, and 20 ft pan of straw rice, each.

I pleaded with the Chief for mercy claiming that I had no way of paying those kinds of fines. His answer was to order me to go to the tribal prison. He told me to stay there until I paid him bail money of 12,000 leones (US\$4). After I gave him the bail money he released me. He then demanded that I pay him the fines. I didn't have that kind of money so I begged him to let me go to Freetown to get the money together to pay him. He said he would only let me go if I could identify someone in the village who could pay the fine if I did not return. My uncle, who also lived in the village, agreed.

The next day I went to Freetown to find my brother. He was the only one I knew who could help me. I left my son in the village with the other people in my family. I stayed in Freetown for awhile as it took a long time to convince my brother to return to the village with me. When I finally returned with my brother, I found my son in the care of community worker. The community worker told me he had become destitute because no one wanted to care for him as they thought he was bewitched. Upon hearing my story, the community worker advised me and my brother to take the matter to a human rights lawyer from the Access to Justice Project¹⁹ in Makeni. We went to Makeni to talk to the lawyer there. After they heard our story they sent a letter to the Chief in our village. Immediately when the letter reached the Chief, he dropped the witch craft charge and all the fines that he had imposed on me. I am not sure what I would have done if it had not been for the human rights lawyer with the Access to Justice Law Center in Makeni.

¹⁸ Witchcraft is widely believed by both educated and uneducated people in Sierra Leone

¹⁹ The lawyer from the Access to Justice project that was being funded by the Catholic Church

Case II

KD was abandoned by her husband who was also trying to evict her from her family home where she and her five children were living. In the process of trying to evict KD she experienced unlawful practice and behaviour by both the Paramount Chief and the Local Court.

I am married and have five children with the same father who until very recently was my husband. A few months ago my husband left me to marry another woman. He is now trying to evict me and our five children from the property where we have lived for so many years. The first thing that happened was that an order came from the Paramount Chief through the Chiefdom police that we should leave our family home. When the Chiefdom police arrived, I was terrified and told them that I couldn't move as my children and I have no where else to go. When the Paramount Chief found out that I had refused to move he took the case to the Local Court.

At the same time that the Paramount Chief transferred the eviction charge to the Local Court, my husband had also asked the Local Court to grant us a divorce. The main justification that he gave to the Local Court for the divorce was that I had been wearing trousers when I was in bed with him, and failing to perform my wifely duties. The Local Court presented me with divorce papers which my husband had already signed. I did not know what to do. I know I wanted to stay in my family home and wanted to have continued support for my children. What I did not know was what would happen if I signed the divorce papers. I decided to ask for advice from the legal aid people at LAWCLA. They advised me not to sign the divorce papers.

The next day I got an urgent summons to immediately appear before the Local Court. When I arrived at the Local Court, they asked me why I had not signed the divorce papers. Before I could answer they detained me. I stood in the middle of the court barrie. It was open and every one could see me. They made me stay there all day. It was very humiliating. When LAWCLA heard about this they came to the Local Court and told them that they could not keep me there. The Local Court Chairman then told me I could leave.

The next day I received another summons from the Local Court. This time it was about the eviction notice and the fact that I had not left my family home with my children. I called LAWCLA again. This time LAWCLA wrote a letter to the Local Court Chairman with copies to the Paramount Chief and Resident Magistrate stating that I had not committed a criminal offence by not leaving the premises, that I had every intention of staying there, that the Local Court was acting outside of its jurisdiction, and that the Local Court was unlawfully applying the law. Soon after the Customary Law Officer became aware of the ruling made by the Local Court and in my presence he told the Local Court Chairman that they had no jurisdiction in this case. Following this, the Attorney General and the Customary Law Officer wrote to the Local Court Chairman stating that my husband had no right to evict me from my home and if my husband wanted to divorce me he could do so but would have to pay support for the children.

My husband still refuses to pay his children's school fees, food and clothing costs. LAWCLA has written to him about this and have also warned him that if he continues to hassle me about leaving our family home then I will consider taking legal action against him or reporting him to the police. I want to take him to court anyway if he doesn't pay the support for the children. When I go to court, I won't go to the Local Court. I will go to the Magistrate Court.

Case III

PP was taken to the Local Court by her husband after she left him for sexually harassing her. She experienced heavy and unlawful fines imposed by the Local Court.

I was sued to the Local Court by my husband whom I left because he was sexually harassing me. After I left my husband I went to stay with my brother. The next day I was summoned to the Local Court. The Local Court Chairman told me that my husband was suing both my brother and I and we were charged with the following: 750,000 leones (US\$250) for cash and property, for abruptly leaving my marriage without his consent, and for refusing to have sex with him. He charged my brother for taking me without his consent, and for using abusive language. While these charges were pending I asked for a divorce which was easily granted by the Local Court.

Upon the request for the divorce, my husband asked for the return of the dowry to the amount of 1 million leones (US\$333,000). In the end the Local Court, dismissed the first charge of 750,000 leones (US\$250) for cash and property however the rest of the charges resulted in heavy fines. I was charged with 73,000 leones (US\$24) for leaving my marriage without the consent of my husband, 112,000 (US\$37) for failing to perform my duties as a wife (or for refusing to have sex with him) and 500,000 (US\$167) as a repayment for the dowry which so far I have paid 200,000 leones (US\$66). My brother was charged with 250,000 (US\$83) for taking me without the consent of my husband and both my husband and my brother had to pay 50,000 (US\$16) to the Local Court for using abusive language.

Women's access to justice is compromised by so many factors including their perception of what they are entitled to, making access to justice extremely limited. The women interviewed by Amnesty International represent the minority of women who were able, with external assistance, to have access to some judicial remedies or to avoid the imposition of discriminatory fines, to be evicted from their home, or to ensure support for their children. Amnesty International believes there are so many women who suffer in silence.

Legal Obligations to respect, protect, and fulfil the human rights of women

The Government of Sierra Leone has the obligation to *respect* women's human rights through its direct action, agents and structures of law. In order to adequately *protect* women's human rights the government must take all necessary measures to prevent individuals or groups from violating the rights of each individual. The government is also required to *fulfill* the human rights of women by ensuring opportunities for individuals to obtain what they need or so they can provide for themselves. International law has developed the standard of *due diligence* as a way to measure whether a government has acted with sufficient effort to live up to its responsibilities to uphold human rights for example to respect, protect and fulfill.

Sierra Leone is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol. Under UN leadership, women's organizations are helping the Government of Sierra Leone to prepare its initial report to the CEDAW Committee. Sierra Leone is a party to African Charter on Human and

People's Rights and it has signed, but not ratified the Protocol to the African Charter on the Rights of Women in Africa.

With regard to discriminatory legislation and practices, under Article 2 (f) of CEDAW it states that state parties undertake to "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women."

Under Article 5 of CEDAW it further states that state parties shall take all appropriate measures "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

With regard to discrimination in matters relating to marriage and family relations, Article 16 of CEDAW establishes the principle of equality between men and women and in particular for states to ensure "the same rights and responsibilities during marriage and at its dissolution" (see Article 16, paragraph 1, c.)

It also provides for temporary special measures, in accordance with article 4, paragraph 1, of the CEDAW to increase women's representation in all spheres and levels of public and political life, accompanied by skills training and other support programs to allow women to effectively take advantage of such opportunities.

With regard to the practice of forced marriages, the UN Committee on the Rights of the Child, in its consideration of the initial report of Sierra Leone, stated that it "is very concerned at the practice of arranging marriages - under customary law - for very young girls, in particular against the free will of the child. The Committee notes that such practices violate the provisions and principles of the Convention on the Rights of the Child." And it recommended that "the State party undertake child rights promotional activities in communities which apply such customary law practices, explaining the rights of children in this regard with a view to ensuring that a minimum age for marriage is established, that it is the same for both boys and girls, and that girls are not forced into marriage."²⁰

With regard to violence against women, and in particular domestic violence, General Recommendation 19 of CEDAW clearly links discriminatory laws and practices to gender-based violence and makes specific recommendations to states parties to take measures to overcome all forms of gender-based violence, including violence in the family.

²⁰ See, Concluding Observations of the Committee on the Rights of the Child: Sierra Leone. 24/02/2000, UN document: CRC/C/15/Add.116.

The way forward

As the rehabilitation and reform of the administration of justice in Sierra Leone takes place, it is imperative that priority is given to ensuring legal aid and paralegal services, law reforms, administrative and other measures aimed at creating an environment where women are able to enjoy access to justice. Special attention needs to be on reforming statutory law, common law and customary law and practice to ensure that gender-based discrimination which pervades the laws and practices of Sierra Leone is eradicated in all its forms. Laws also need to be developed which play a role in protecting women from domestic violence, harmful traditional practises, and other gender based crimes. The Government of Sierra Leone must take the responsibility for ensuring that this happens. The UN and the international community must facilitate this by assisting Sierra Leonean institutions to protect and promote the rights and equality of women as a crucial step to both the survival of peace in and development of Sierra Leone.

The withdrawal of the United Nations Mission in Sierra Leone (UNAMSIL) will take place by the end of the year. It will be replaced by UNIOSIL whose mandate is largely comprised of human rights and rule of law components. The focus of the mission provides a key opportunity for women's human rights to be front and center in its work with the Government of Sierra Leone. The Stakeholders Conference on Human Rights provides the forum to begin these discussions on the development of the National Human Rights Action Plan. Tasks to be performed by the Human Rights and Rule of Law component of UNIOSIL in 2006 must be clearly defined and involve women's human rights to be fully incorporated into the United Nations country team's human rights initiatives in Sierra Leone.

Recommendations

Amnesty International's recommendations are specific and targeted to the content of the National Human Rights Action Plan and the composition and activities of the Human Rights and Rule of Law component of the UNIOSIL due to be in place beginning in January 2006.

Recommendations to the Government of Sierra Leone on the National Human Rights Action Plan

The National Human Rights Action Plan should reflect a comprehensive and serious commitment to women's human rights. Commitments should be divided into short and longer term steps including:

In the short term

i) *Legal aid services and paralegal services should be made available at the district headquarters and Freetown level. Paralegal services should be made available throughout the country to give advice on and mediate civil cases.*

ii) *Legal Reform* for laws concerning marriage, succession, inheritance, and sexual offences which meet international human rights standards are quickly passed and implemented. Domestic violence legislation, currently under consultation, should be fast tracked. Further analysis of discriminatory laws should be carried out as part of the government's commitment

to domesticating CEDAW, and the codification of customary law and ensuring that they meet international standards of fairness and justice.

ii) **Institutional reforms** must be carried out, such as the development of better oversight mechanisms of the Local Courts through hiring more Customary Law Officers, providing a greater link between the Local Courts and the Magistrate Court, educating people about the possibility of appealing to the Magistrate Courts, make legal aid assistance available for appeals, greater oversight on rulings and fines, and regular monitoring of the Local Court rulings and actions taken by the Chiefs with punitive action taken if necessary.

In the longer term

iii) **Training** to include gender sensitive and women's human rights needs to be targeted at staff in the administration of justice institutions including the police, the judiciary, and the prisons, and as well government functionaries at all levels and with traditional leaders including Chiefs, Local Court personnel, and community members.

iv) **Developing codes of conduct** for the above professionals and community members as well as related guidelines, outlining specifically how they can and should integrate gender concerns into their work. This should be done through a consultative process for regular and transparent review and accountability, in relation to such codes of conduct and guidelines.

vi) **Capacity building** through further strengthening of community based organizations, local and national organizations through the provision of funding, training in research, advocacy, and networking. Further enhance regional groupings and provide funding for groups to carry out joint advocacy.

vii) **Focus on rural areas:** Local government, traditional leaders, and members of community should be encouraged to improve women's position in the community and demonstrate to family and the wider community of supporting and protecting women rather than subordinating them. Development of women's leadership should also be encouraged.

ix) **Development of data collection systems** to more systematically analyze the prevalence and effects of gender based discrimination that negatively impacts women's human rights in Sierra Leone should be set up by the Government of Sierra Leone.

Recommendations for the Human Rights and Rule of Law component of UNIOSIL

To work with relevant ministries within the Government of Sierra Leone to ensure the National Human Rights Action Plan is adopted and implemented effectively by:

- a) Ensuring that legal aid and paralegal services are provided and working effectively
- b) Providing expertise and training on legal and institutional reform;
- c) Carrying out and assisting in gender sensitive training to staff and staff of institutions across Sierra Leone;
- d) Providing technical expertise in the development of Codes of Conduct working with the relevant governmental agencies;
- e) Assisting in the development and implementation of an awareness campaign;

- f) Training and building the capacity of local and national organizations with a special focus on rural groups;
- g) Facilitating in the consultation, education, training and participation at the local level with relevant local groups and bodies working at the local level;
- h) Supporting women to take leadership positions at the local level, and;
- i) Facilitating and providing the necessary technical expertise with the government to ensure that appropriate research and systematic data collection is undertaken.

ii) Development of an action plan on confronting gender discrimination in Sierra Leone is developed in the first quarter of 2006. The action plan should be at the forefront of the mission's work at every level and be regarded as a critical barometer for the mission's level of success.

iii) A highly experienced gender expert should be recruited whose responsibilities include taking the lead on the development and implementation of the action plan to confront gender discrimination in Sierra Leone, to train other staff of UNIOSIL, other UN agencies, and government ministries in women's human rights, and to work with relevant ministries to spearhead, monitor and report on implementation of the action plan.