

THE LAWYERS CENTRE FOR LEGAL ASSISTANCE SIERRA LEONE

Annual Report 2004



A HANDBOOK FOR PARALEGALS IN SIERRA LEONE



LAWYERS CENTRE FOR LEGAL
ASSISTANCE (LAWCLA)



WITH THE FINANCIAL SUPPORT OF USAID



MARCH 2004

JUVENILE VOICE

A Quarterly Publication of the Lawyers Centre for Legal Assistance's Juvenile Justice Project

LAWCLA JUVENILE PROJECT

The Lawyers Centre for Legal Assistance (LAWCLA), which is one of Sierra Leone's foremost law firms, is currently launching a project to launch the 'JUVENILE VOICE'.

The project which is co-ordinated by the Centre's Juvenile Justice Unit, is expected to run for twelve months (covering the whole country).

The aims of the project are as follows:

INSIDE THIS ISSUE

1. LAWCLA launches Juvenile Justice Project
2. LAWCLA launches Juvenile Voice
3. Child Rights Experts discuss Juvenile Justice
4. Law Enforcement Officials in Freedom
5. Ten Year old Liberator Religion Recount

LAWCLA LAUNCHES JUVENILE VOICE

This is the inaugural edition of the Lawyers Centre for Legal Assistance's Juvenile Justice Project's Quarterly Newsletter entitled 'JUVENILE VOICE'.

A major aim of the newsletter is to inform the general public, especially Human Rights Activists and Child Rights Advocates, about the work of the project in protecting juveniles in conflict with the Law in particular and to work for and on behalf of juveniles.

Another aim of this newsletter is to advocate for reform of the Law and Practice relating to the treatment of juvenile offenders and juvenile victims of Human Rights Abuse.

We wish you all an enjoyable reading.

And now entertain us to perfection.



Group Meeting of LAWCLA during the Juvenile Justice Project

BEHIND BARS

A Quarterly Publication of the Lawyers Centre for Legal Assistance's Prisoners' Rights Project (funded by Open Society Initiative for West Africa) (OSIWA)

MURDER AND TORTURE BEHIND BARS

The newsletter report on the murder of a man, who was killed in the custody of the police, and the torture of a man, who was held in the custody of the police, and the torture of a man, who was held in the custody of the police.

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LAWCLA NEWS

OSIWA VISITS LAWCLA

The Acting Executive Director of the Open Society Initiative for West Africa (OSIWA), Mr. Simon Taylor, visited the Lawyers Centre for Legal Assistance (LAWCLA) in Sierra Leone, on the 10th of March 2004, to meet with the staff and to discuss the work of the Centre.

The Director of LAWCLA, Mr. Milton Njai, welcomed the OSIWA representative to the Centre and the two sides discussed the work of the Centre and the Centre's plans for the future.

The OSIWA representative, Mr. Simon Taylor, expressed his appreciation for the work of the Centre and the Centre's plans for the future.

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GLOBAL RIGHTS AND LAWCLA LAUNCH HAND BOOK FOR PARALEGALS

Global Rights and the Lawyers Centre for Legal Assistance in Sierra Leone have jointly launched a Handbook for Paralegals in Sierra Leone, which is a guide to the work of the Centre and the Centre's plans for the future.

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WHY A LEGAL AID BOARD MUST BE ESTABLISHED

(5) PARLIAMENT SHALL MAKE PROVISION -

- a. For the rendering of financial assistance to any indigent citizen of Sierra Leone where his right under this chapter has been infringed, or with a view to enabling him to engage the services of a Legal Practitioner to prosecute his claim; and
- b. For ensuring that allegations of infringements of such rights are substantial and the requirement or need for financial or Legal Aid is real.

Section 28 (5)(A) & (B)

Constitution of Sierra Leone, 1991 (Act No. 6 of 1991)

THANKS FOR SUPPORT

The Lawyers Centre for Legal Assistance (LAWCLA) is grateful to the Open Society Initiative for West Africa (OSIWA) for funding the Publication of this Report.

FOREWORD

Over the past three years, many Sierra Leoneans have had reason to reminisce as to the causes of the ten-year civil strife that led to so much of suffering for the people.

After identifying economic, political factors, along with failed leadership as some of the causes of the war, injustice is usually not left behind. Those whose rights had been abused and violated but could not trust the legal system for redress, resorted to the barrel of a gun.

If we are to maintain our stance and need of a peaceful environment and abhor the chaos of war, we would have to embrace and practice the tenets of the rule of law.

In this vein, one can hardly over emphasize the importance and functions of an institution such as LAWCLA.

This publication has vividly given an account of what the organization has been as well as what it hopes to be in the near future. Those who do not respect the rights of others may not cherish the dreams of a group of young legal minds coming together to help promote and secure the rights and freedoms of others.

Though some believe that success in life and work is actually much more a matter of faith and will, it must be stated here that intelligence and industry have pulled LAWCLA through the hard routes usually associated with serving others.

What is contained within the pages of this report would not just be seen as another report; but also an assembly of, and a compendium of some of the happenings behind bars. In their fight for the freedoms and rights of others, both the staff and members of the Board of LAWCLA have had to embrace the spirit of team work and the quest to forge ahead with lofty dreams for the sake of others. The fight for human rights is usually a dry and thankless job. Many a time some donors would have loved to pull the plug as they would attempt to shift the mission of the course. Once management and Board refuse to do this, a donor might apply some unholy method against the organization. These hurdles have been surmounted with support and help from like-thinking minds, including those who believe in the LAWCLA dream. The government, through the Judiciary, has been very supportive of LAWCLA's work. Seeking the interest and welfare of those unlawfully kept behind bars, especially children and women has endeared LAWCLA to many. Asked whether governments should obey laws, A.V. Dicey said that the welfare of people must be the supreme law of government. It is in the hope of achieving this, one might say, that puts LAWCLA in a better position to understand the problems of the legal system and above all, fight for the rights of those who have been denied or given the raw and wrong edge of justice.

Once again, behold LAWCLA within these pages.



David Tam-Baryoh
Board Member

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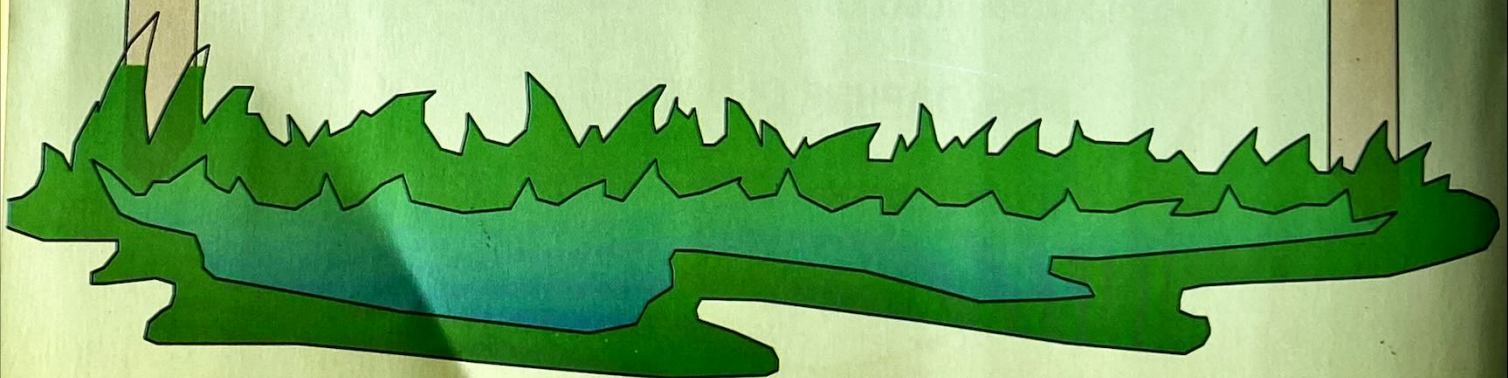
MRS. DAPHNE OLU WILLIAMS

Economist and Gender Activist



MISSION STATEMENT

THE LAWYERS CENTRE FOR LEGAL ASSISTANCE BEING A PUBLIC INTEREST HUMAN RIGHTS LAW CENTRE ENDEAVOURS TO MAKE THE LAW AND JUSTICE MORE ACCESSIBLE TO INDIGENT MEMBERS OF THE PUBLIC THROUGH LEGAL ADVICE, IMPACT LITIGATION AND RESEARCH, WITH THE ULTIMATE AIM OF PROTECTING AND PROMOTING HUMAN RIGHTS THROUGH LAW IN SIERRA LEONE



INTRODUCTION/OVERVIEW OF REPORT

The Lawyers Centre for Legal Assistance continued to forge ahead in 2004. In March, the Centre celebrated its third year of existence and we can look back at a short but proud history of consistency in our fight for access to justice and equality before the law for all members of the Sierra Leonean Society irrespective of social background and economic status.

The Centre was able to maintain its offices in Freetown, Bo (Southern Sierra Leone), Makeni (Northern Sierra Leone) and Kenema (Eastern Sierra Leone) as well as its administrative structure.

Notwithstanding the increase in the work load of the Centre there was no major shift in the type of cases handled or the management of the Centre.

During the period under review the Centre continued with its Prisoners Rights Project, which commenced in August 2002, providing free legal advice and representation to indigent detainees and Prisoners throughout Sierra Leone.

The Centre in partnership with Global Rights (formerly, International Human Rights Law Group) implemented a Paralegal Training Project in Kono, Kailahun and Kabala Districts and published a "Handbook for Paralegals in Sierra Leone".

In August, the Centre started the implementation of a Juvenile Justice Project which has already tremendously benefited hundreds of Juvenile Offenders. This was accomplished through legal representation and working with law enforcement officials dealing with Juveniles, through Training Programs.

Towards the end of the year the Centre was able to complete two major research documents (presently with publishers) on "The Need for the establishment of a Legal Aid Board in Sierra Leone" and "Reform of Discriminatory Laws against Women in Sierra Leone".

This report highlights some of the key activities undertaken by the Centre in 2004. Detailed Project Reports are available on request.



Melron C. Nicol-Wilson
Director

THE FREETOWN OFFICE

The Head Office of the Lawyers Centre for Legal Assistance is still located at 15D Old Railway Line, Brook fields in the Western Area of the capital, Freetown. This location has made it accessible to many clients that have benefited from its free legal services. The one storey has offices for Barristers, Administrative Officers, Finance Officer, Research Officer, Information Officer, Secretaries, Paralegals and even Office Assistants yet is fast becoming too small for the Centre's staff.

The year under review witnessed super human efforts from the two secretaries at this Office who had to contend with the constant absence of power in order to perform their secretarial duties. This was a serious setback due to the many clients that the cen-

tre had to attend to.

The Centre is also seriously constrained by the absence of infrastructure to support its work, such



British Researchers visit LAWCLA



The front elevation of the Freetown office

as lack of enough computers, printers, an office vehicle in proper working order and a photo-copier.

As the Centre intends to bring more officials on board to meet the daunting additional tasks that lie ahead in the coming year, it is no secret that it will be very difficult to accommodate its entire staff in the current building. It is in that vein that the Centre is looking forward to owning its own office structure in the coming year that will accommodate all its staff members and save cost in terms of payment of rent.

THE LITIGATION UNIT

During the period under review this unit continued with the provision of legal advice and representation to indigent victims of human rights abuses. The increase in the number of such cases prevented the Unit from pursuing Constitutional Test Cases in the Supreme Court of Sierra Leone. It is hoped that the unit will be able to reduce its case load in the coming year and concentrate on Impact Litigation cases as well as Constitutional Test Cases.

REVISITING SECTION 120 (16) OF THE 1991 OF SIERRA LEONE CONSTITUTION

The drafters of the 1991 Constitution were not oblivious to the importance of this particular section in incorporating it in to our Supreme Law. The provision read thus:

“Every Court established under this Constitution shall deliver its decision in writing not later than three months after the conclusion of the evidence and final address or arguments of appeal, and furnish all parties to the cause or matter determine with duly authenticated copies of the decision on the date of the delivery thereof”.



Oju Wilson - Researcher (Author)

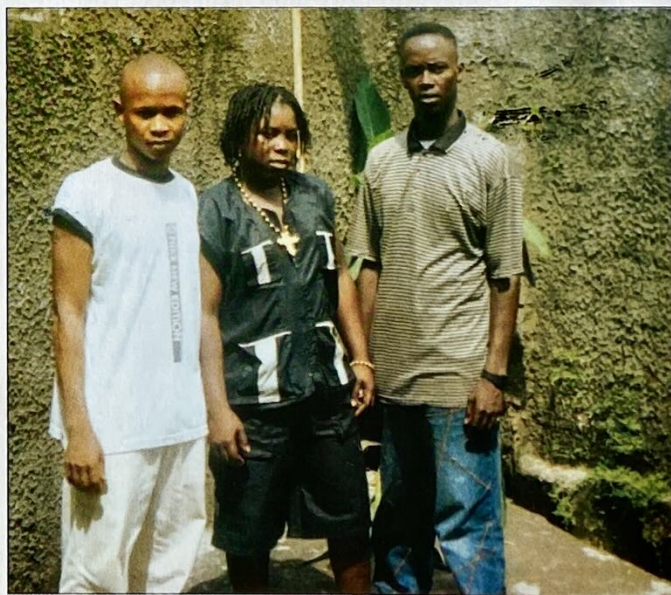
The essence of this provision is to complement other provisions that guarantee the rights of an accused facing trial, like Section 17 “the right to personal liberty” and Section 23 “the right to fair trial”. However the implementation of this very important constitutional provision is far-fetched.

Legal luminaries and scholars have presented strong arguments in favour of this provision, citing the psychological effects one goes through after arrest, not to mention when judgment will be given. Some say the judiciaries in most countries are not sufficiently effective for this provision to be fully effective, whilst others are of the view that the resources and manpower are

not readily available.

The bottleneck now is how long must we wait to see the realistic implementation of this section? Prisoners are languishing behind bars whilst very little or nothing has been done to make this provision more effective. My submission is that adjourning of Courts be scaled down considerably whilst at the same time the Law Reform Commission pay more attention in ensuring that something is done to this section to have its desired effect.

One thing that should linger in our minds is that the mischief is to avoid delay. Though many judgments are being delivered within this stipulated time frame, to avoid appeal for retrial, which in my mind is not sensible, the regular adjournments is a serious fetter in suffocating the true application of this provision. As we patiently await the constitutional provision to be fully effective the prisoners and detainees are praying fervently that something is done within the shortest possible time to ameliorate their plights.



*The Mara family - acquitted for murder
after three years behind bars*

*Culled from Behind Bars
March 2004*

PRISONERS WRITE LAWCLA

Despite several appeals for the Attorney General and Minister of Justice, and the Minister of Internal Affairs to grant LAWCLA access to the Central Prisons in Freetown, the authorities have refused to grant the human rights organisation permission to enter the maximum security prisons and search for clients in need of its services.

The Director of Prisons has also reiterated that he doesn't have the authority to grant LAWCLA permission to visit the prison. As a result of this LAWCLA this has no alternative but to interview detainees at the holding cells whenever they are brought to the Court.

Prisoners have also designed a new strategy by writing letters to LAWCLA so that their voices may be heard. One of the prisoners' 16-year-old Musa Kamara, from Yeadia Village, Semgbeh Chiefdom, Koinadugu District, in Northern Sierra Leone was arrested on the 24th of April 2001, for allegedly murdering Sammeh Sesay.

According to Musa, he was playing with his uncle's gun after the day's hunt, when it accidentally went off and killed his aunt. Three days after, hiding in fear of reprisals, he gave himself up to the police.

Musa was consequently charged with murder and is presently awaiting his preliminary investigations (which is being conducted in open court) to be concluded at Magistrate Court No.1 in Freetown. This will determine if there is sufficient evidence to proceed to the High Court.

Musa has been on preliminary investigations since the 25th of July 2001, having spent three months in police custody at Koinadugu District before being transferred to Freetown.

Like all those charged with murder, Musa could not be admitted to bail at the Magisterial level. In like manner Musa's preliminary investigations could not be expedited on the grounds that all the witnesses from his village could not be traced and brought to Freetown. Since he was arraigned in the Freetown Court, only three formal (Police) witnesses have testified against him, yet he continues to be in custody, unsure of when his matter would be concluded. Besides these problems, before 1st May 2002, Musa was remanded at the Pademba Road Maximum Prisons with adults, even though two medical doctors, during various medical examinations ascertained that he is 16 years old. The reason for this violation was based on two factors:

That Musa's case involved an allegation of murder, a capital offence; and secondly, the Remand Home for children was insecure, and that he has shown a propensity to escape whilst in custody.

After several interventions by LAWCLA, including advocacy and appeals for Musa, he was finally transferred to the

Remand Home for children at Kingtom on 7th May 2002.

The preliminary investigations were completed in November 2002 and he was committed to the High Court for Trial.

However, instead of being detained at the Juvenile Remand Home at Kingdom, the committal Magistrate ordered that he be detained at the Central Prisons.

Musa has been remanded to that Prison since 2002.

He wrote a letter to LAWCLA ten months ago; stating that things are extremely difficult and agonizing for him. His parents are dead, and had nobody to seek his welfare. Part of his first letter stated: "I have nothing to give you but the almighty will reward you in heaven. Galatians 6:7 say for whatsoever a man sows that he shall reap."

MUSA HAS WRITTEN ANOTHER LETTER APPEALING FOR HIS RELEASE

"It's your son Musa Kamara who is writing to remind you that I am suffering.

It is now one year and four months since I was taken away from remand home to Pademba Road Prisons. It seems as if the High Court Judge has forgotten about my case because it has taken a very long time without appearing in Court."

So please Daddy I beg you in the name of God for you to please help me. I realized what you have done for me since the beginning of this matter but my health condition is deteriorating. The adult prisoners are bullying me. Medical facilities are very poor. People are dying everyday in prison.

The situation is terrible and my life is at stake. Please help me.

Your son,

Musa Kamara

*Culled from Behind Bars
April 2004*

The Letter states:

It is a golden opportunity for me to explain to you human rights lawyers issues pertaining to my problem.

I am a trial prisoner. I was arrested and detained at Pademba Prison since April 2001. I have appeared so many times in the Magistrate Court and after so many adjournments I was committed to the High Court on 4th May 2002.

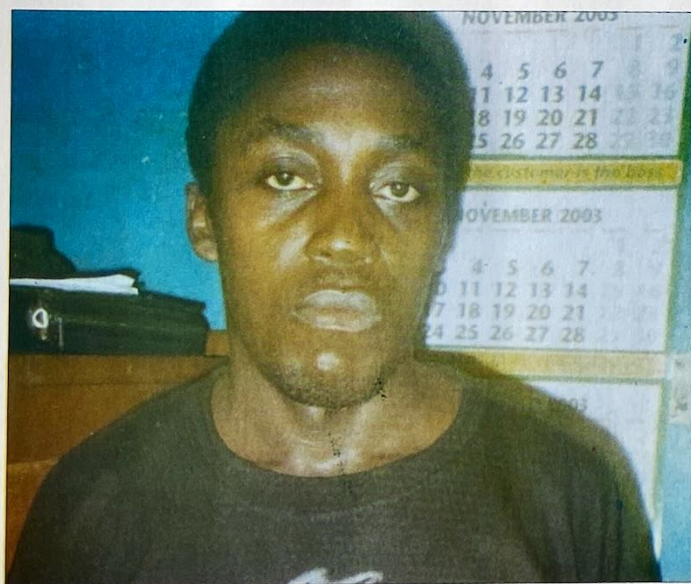
But I have never been arraigned in the dock for judgment. I came from a very poor background and do not have any lawyer to represent me. As human rights Lawyers fighting for the poor, I hope you will consider my plight. I believe God works in a mysterious way and through your intervention I will surely be a free man one day.

Please Sir, inform Mr. Lansana Dumbuya so that you can discuss this issue.

Your co-operation is highly solicited.

God bless you all. 'Amen.

Yours faithfully,



LAWCLA continues to defend Tamba Jimmy Kay who is standing trial for murder

SEVENTY YEAR OLD ACCUSED FREED AFTER THREE YEARS IN PRISON

Seventy-year-old Pa Alimamy Sesay had been in detention for over three years at the Pademba Road Prison before finally being acquitted and discharged.

According to the statement of offence, Pa Sesay had a brawl with the complainant whom he proposed to marry some time ago. During a scuffle, the complainant was injured.

Pa Sesay was later arrested and charged with wounding under the Offences against the Persons Act of 1861.

He made approximately fifteen appearances in court without the prosecution turning up.

When LAWCLA announced legal representation for the poor and frail old man in a crowded Court No. 1, one could discern that his gray hairs, hollow cheeks and emaciated body were due to poverty and long incarceration.

LAWCLA argued that the fundamental rights of the accused had been trampled upon because the prosecution cannot prove a case against the accused as there are no witnesses. LAWCLA therefore called for the matter to be thrown out of court.

Presiding Magistrate, Sam Margai, considered the age and the number of years the accused had spent in prison and thereby ordered his release.

The accused clapped and danced in the full view of all those present at Court, amidst amusement and laughter.



Pa Alimamy - freed after 3 years in detention

THE GENDER RESEARCH AND ADVOCACY UNIT

Since the inception of the Lawyers Centre for Legal Assistance some three years ago, the Centre has maintain a Gender Unit as Women are looked upon as the down trodden in our society. The unit normally provides legal representation for victims of sexual abuse who are below the age of 18 years.

During the period under review, the Centre received complaints regarding child maintenance, matrimonial causes and child support. Some of these matters we were able to settle out of Court. As the Sierra Leone government is set to domesticate the Convention on the Elimination of all forms of Discrimination against Women, the Centre has been in the fore front in terms of its research on discriminatory Laws against women in Sierra Leone.

BLIND FEMALE PRISONER GRANTED BAIL AFTER FIVE YEARS IN PRISON

It was an emotional scene at the High Court when the **State vs. Edna Marsh** came up for hearing. Justice Ademusu finally granted bail to the twenty-two year old accused who has been remanded to Pademba Road Prison from November 1999 to February 2004.

The defendant has been arrested for stealing and initially detained at the Waterloo Police Station in September 1999. The matter was later transferred to the Kissy Police Station where she was detained for two weeks.

Edna told LAWCLA that she had a perfect vision before her imprisonment; but unfortunately, she went blind during her long stay in prison.

She has a scar in her face, which she explained was as a result of a bullet wound she sustained during the January 6th invasion. "I was taken to the Connaught Hospital on several occasions. The Doctor examined me and said I am suffering from cataract and advised that an operation be carried out to restore my sight."

"Since I am from a poor family background there was nobody to rescue me and I resigned to fate, praying in prison for God to prove my innocence" she lamented. Marsh appeared in court more than twenty times without any legal representation.

It was when the matter was committed to the High Court that LAWCLA learned of the accused's plight. On the 4th of March 2004, she appeared before Justice Ademusu at the Freetown High Court. LAWCLA's Executive Director, Mr. Melron Nicol-Wilson made an application for bail, which was granted by the High Court Judge inspite of strong opposition from the State Prosecutor.

Edna Marsh appeared weak and sickly but gave a broad smile, beaming with happiness when the High Court Judge granted her bail.



Edna Marsh - granted bail after 5 years in detention

Interestingly, instead of child stealing for which she was committed to the High Court, she is now facing trial for false imprisonment. This offense carries a maximum of five years imprisonment, a period she has already spent in prison.

The accused was lost for words to express her joy. She said the food in prison is not good and she shared a single cell with seventeen others.

RAPE VITIM APPEALS FOR JUSTICE

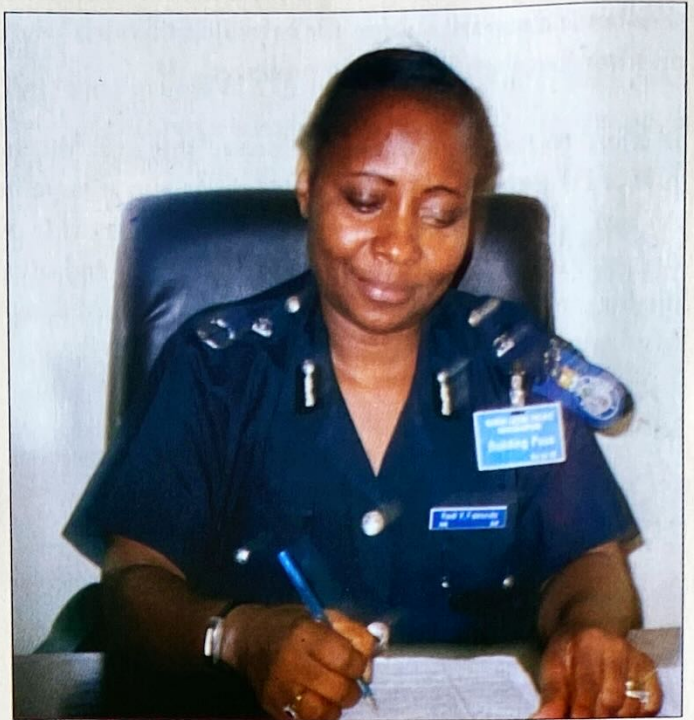
A Rape victim "Alimatu" of Tikonko Chiefdom in the Bo District, is receiving LAWCLA's help in attempting to get justice

She and her brothers and sister went to fell wood in the forest when she left behind because she was slightly limping as a result of an injury she sustained on her right leg.

Way inside the forest, she came across the perpetrator whom she recognized. According to the victim, the perpetrator spoke to her and began caressing her. Whilst she tried to pull off from him, he held her firmly and took her to an isolated place, telling her not to be afraid. They sat down quietly talking when he made sexual advances on her. She struggled and then cried for help; fighting the perpetrator. He over-powered her and raped her.

Having satisfied himself, the perpetrator ran away, leaving her wailing in anguish and despair. She got up and saw blood oozing from her private parts, but managed to walk home.

She told her mother who examined her and reported the matter to the Police Station. The Family Support Unit issued out a medical report which was taken to the Police Doctor at the Government Hospital where she was given medical treatment.



*LAWCLA collaborates with Family Support Unit
Mrs. Kadie Fakondo - Asst. Inspector-General of Police*



Salamatu acquitted on amurder charge

The police later went to the scene to carry out investigations taking photographs and statement from witnesses. The accused made a confessional statement, and the matter was charged to court. The victim told LAWCLA that she had appeared seven times in Court and expressed dissatisfaction at the frequent adjournments, she has appealed for a speedy trial.

The victim also told LAWCLA that she was recovering from her injuries as a result of an accident she had when she was knocked down by a Honda Bike and was hospitalized for almost two months. LAWCLA sympathizes with "Alimatu" who has suffered tremendously. As a matter of policy LAWCLA is associating with the prosecutor to get justice for the poor young girl. The centre is also providing counseling services for her.

N.B.

Please note that Alimatu is a fictitious name.

Due to her status as a rape victim we are obliged to protect her from stigma and molestation.

*Culled from Behind Bars
April 2004*

THE JUVENILE JUSTICE UNIT

The Juvenile Justice Unit is the child friendly unit at the Centre. Its modus operandi basically is to provide free legal services and representation for Juvenile Offenders who are in conflict with the law and ensure that their basic rights and freedoms are adequately protected.

In a bid to revitalize the operations of this unit, during the period under review, the Centre launched its Juvenile Justice Project which is a one year project aimed at targeting Juvenile Offenders and Juvenile Victims of Human Rights Abuses. Workshops were organized countrywide which focused more on Child Rights Experts and Law Enforcement Agencies like the Police, Prisons and other social workers within the Government Ministry responsible for children. Workshops were organized in Makeni in the North, Kenema in the East and Bo in the South and Freetown in the Western Area.

MURDER AND TORTURE BEHIND BARS

The vulnerable nature of our juveniles was made manifest on Saturday 7th February 2004 when chaos reigned at the already inadequate Remand Home at King Tom.

According to three eye-witnesses who were in-mates namely: Theresa Mansaray age 16, Mohamed Kamara age 15, and Abdul Kabul age 16, the incident erupted over a philanthropic gesture made by a visitor to the Home.

The grievance, according to these in-mates, who were interviewed separately, was due to the reluctance of their overseers to let them benefit from the donation.

As a show of protest they went on a hunger strike on the ground that their "legal and moral protectors" had not been fair with them and not seeking their interests. When the authority concerned failed to pay heed to their protests, at about 8:00 P.M., they burst into a tirade, beating and yelling to have water to drink. When Mr. Allen Walter Kamara decided to let them quench their thirsts, they decided to escape.

Because of this act by the internees, Mr. Kamara ordered their arrest. In his fury, the probation officer instituted corporal punishment and beat the culprits with sticks, which had nails on them. This brutal reaction ended in the death of an offender, and the hospitalization of two other in-mates.

Witnesses, who were interviewed, told us that the irate officer ground hot pepper and applied it all over their bodies. The remains of Ibrahim Rogers aged 10, which was found in a ditch near the Remand Home, has now been properly laid to rest.

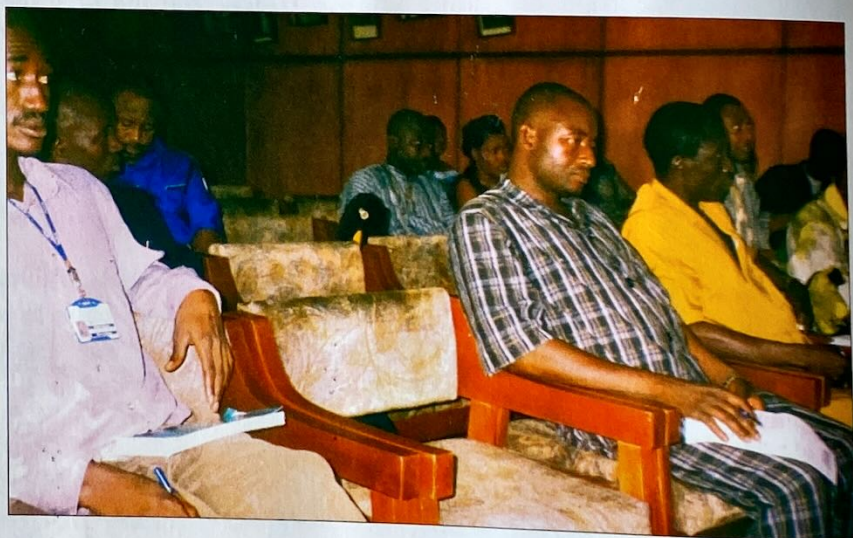
Such an act is degrading and inhuman thereby contravening the very letters of the 1991 Constitution, which is the Supreme Law of the land. As the investigation into the matter continues, LAWCLA is following the matter keenly and will do everything within its power to ensure that those responsible for the killing and torture of these innocent and defenseless kids be

brought to justice.

JUVENILE PETTY TRADER CRIES FOR BAIL

Francis Powell, 18, was a petty trader who before his incarceration at the Bo Prisons upon an allegation of larceny, lived at the Demby Hotel. When LAWCLA's Paralegal approached Francis for an interview in his detention centre, he appeared pale and dejected, as if he had been sick for a while. He started by explaining his ordeal, noting that he was innocent and it was merely a false accusation levied against him. He had been remanded since July 2003 and has made twenty-four appearances before the Bo Magistrate Court whilst the complainant is always absent from court sittings. Francis is desperately pleading with the Centre to listen to his pleas and try to at least secure a bail for him whilst he attends the rest of the court proceedings. The accused said the complainant is fully aware that the charges brought against him are untrue and therefore has not been showing up in court.

The matter is still pending and LAWCLA intends to provide legal representation on his behalf.



Cross-section of participants during the Juvenile Justice Project workshop for Law Enforcement Officials in Freetown

By: *Melron Nicol-Wilson and Oju R. Wilson*

The law relating to the treatment of juveniles in Sierra Leone is regulated by two key legislations i.e. Caps 31 and 44 of the Laws of Sierra Leone which are the Prevention and Cruelty to Children Act and The Children and Young Persons Act of 1960 respectively. Besides these two documents there are other international Conventions like United Nations Convention on the Rights of the Child, The African Charter on the Rights and Welfare of the Child, and United Nations Rules for the Protection of Juveniles Deprived of their Liberty and host of other that Sierra Leone has committed itself to.

The essence of these local legislations aim to provide a cocoon for juveniles when in conflict with the law.

Cap. 44 basically is the key legislation that governs the treatment of juveniles in conflict with the law in Sierra Leone. This law applies to those below the age of 17 as Section 2 of the interpretation section of Cap. 44 of the Laws of Sierra Leone 1960 is instructive of this:

“Young Person” means a person who is fourteen (14) years of age or upwards and under the age of seventeen (17) years”.

With the Convention on the Rights of the Child (CRC) the age is Eighteen (18) years which manifest that there is a lacuna between international standards and our domestic laws which were imported decades ago by our then Colonial Masters, the British.

The inconsistency in our laws continues in the following context: determination of age and the age of criminal responsibility. This is a problem that the judiciary in this country encounters due to the disparity in ascertaining who is a child within our laws.

A child according to Cap. 44 of the Laws of Sierra Leone 1960 is defined as:

“...a person under the age of fourteen (14) years”.

Cap. 31 defines a child to be any individual below the age of sixteen years whilst the Ordinance to Regulate the Infliction of Corporal Punishment defines a child as aged fifteen years and below.

With the age of criminal responsibility in Sierra Leone we are still operating under the old rule which is seven (7), though presently the age of criminal responsibility is ten (10) years in Britain and the Convention on the Rights of the Child. Within Cap. 44, it is the duty of the court to

determine the age of a juvenile when in conflict with the law, but this process has been impeded due to the poor birth registration in the country.

Hence, the way most Magistrates normally wriggle their way out of this kind of problem is to use their discretion which in most cases is not in the best interest of the child.

Section 4 of the Children and Young Persons Act also states that the composition of the court shall be a Magistrate and at least two or more Justices of the Peace but the practice in these courts is completely different from what is in writing. Coupled with the composition, another fetter is the trial process.

Section 3 of Cap. 44 states that juveniles should be tried in a different building or room from that in which the ordinary sittings of the court are held.

In a bid to maintain privacy for the juvenile offender who may play more useful role in society subsequently, Cap. 44 also states that the address, name, school, photograph or anything likely to lead to identification of the child or young person should not be used by the Media to prevent stigmatization. With the treatment of young offenders also, the law makes room for Probation Officers. However the infrastructure to house the Probation Officers and the Probationer is not available.

The Approved School at Wellington is like a haunted house whilst the Remand Home at Kingtom is just a pale shadow of its former self.

In a nutshell, the Criminal Justice System concerning juveniles is contrary to both Sierra Leonean and international law.

Consequently, juveniles are in a disadvantaged position as they have been detained and prosecuted for petty theft and even loitering.

It is our humble submission that the rights of juveniles should be respected and the provisions in the Statutes book fully implemented in the best interest of the child.

*from Juvenile Voice
October 2004*

JUVENILE JUSTICE PROJECT

Early this year, the Centre presented a Project proposal to a donor for the funding of a Juvenile Justice project in Sierra Leone. The Project which kick started in earnest on the 1st of August 2004 is expected to run for a year countrywide. The main aim of the project is to create awareness amongst stakeholders like law enforcing officials and government probation officers that have been dealing directly with the juveniles, provide legal service for juveniles whose rights have been violated, lobby Parliament and to urge government to perform its duties.

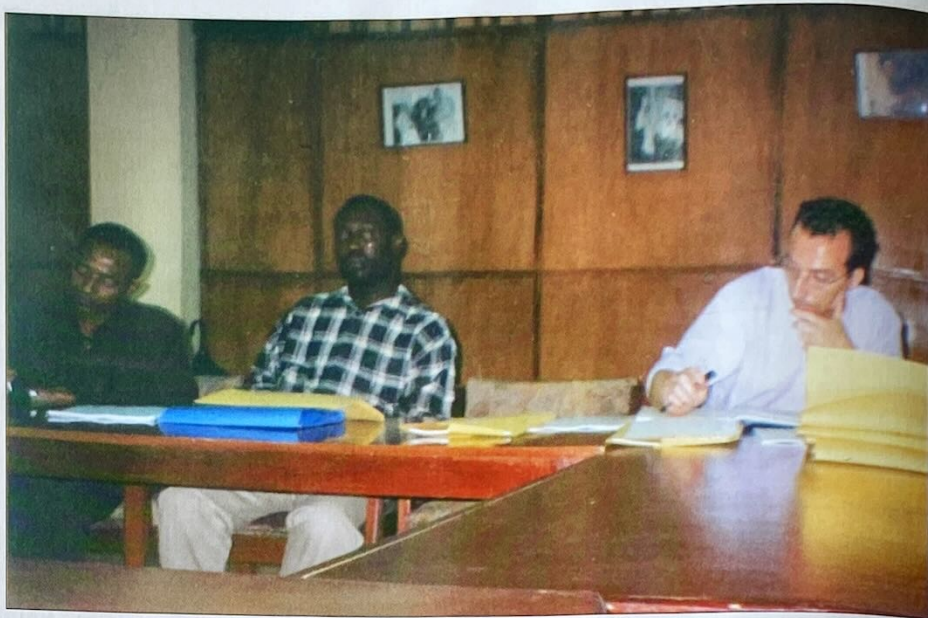
In a bid to fulfill the first phase of the Project Proposal, the Centre organized series of Workshops in Freetown, Makeni in the North, Bo in the South and Kenema in the East. As a forerunner to those Workshops, an Experts meeting was convened to have first hand information from child friendly institutions, like Save the Children U.K, Defence for Children International, Caritas Makeni, Campaign for Good Governance, Mathew 6 Foundation and host of others that were present.

This meeting more or less was a round table discussion that helped members who were present to brainstorm amongst themselves and find a way out of the problems facing juveniles in the country.

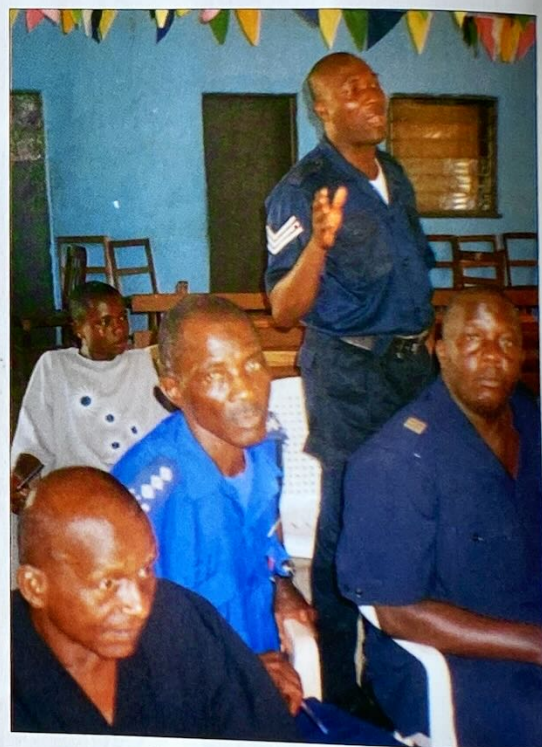
From the research conducted and the outcome of the experts meeting, the Centre was able to highlight some of these problems that were thoroughly deliberated on during the workshop for law enforcers in the form of an interactive lectures presented by facilitators from the Centre. The first workshop with the theme 'The Law and Practice relating to the Treatment of Juvenile Offenders and Juvenile Victims of Human Rights Abuses' attracted Police Officers, Prisons Wardens, Court's Clerks, Justices of the Peace and Probation Officers.

At the end of these contemporary and highly intellectually enriching workshops, the participants were very grateful for the benefits they received from these workshops. They came forward with meaningful recommendations: That juvenile cases should be speedily conducted the Sierra Leonean masses to be adequately sensitized on the Rights of the Child; the need for juvenile trials to be done in close session with parents/guardians accompanying their younger ones to attend Court sittings. Some probation officers also appealed to government for the establishment of Remand Homes and Approved Schools countrywide with properly trained staff, training Child Protection Officers to be monitoring juvenile activities and the need for adequate provisions for Children in need of care and protection.

With the nationwide workshops now completed, the Centre's Paralegals countrywide continue to monitor the juvenile justice system in the entire country and shall be doing a follow-up to all those that received training during the workshops to see if they have been conforming with what the Statute that governs the activities of Juvenile Justice.



Nicolas Dupic UNDP Consultant during the Juvenile Justice Project Workshop for Experts in Freetown



Prisons and Police Officers during the Juvenile Justice Project Workshop for Law Enforcement Officials in Bo

TEN YEAR LIBERIAN REFUGEE RESCUED

Takou T. a Liberian refugee age 10 (Ten), lives with her guardian, a petty trader at Nyadeyama Section in Kenema.

On her way to see her guardian at Fisheries Market on August 16th, she was picked up by Police along Maxwell Khobe Park near a rioting crowd and taken to the Police Station where she was detained.

When she was arraigned before Magistrate Court #1 in Kenema on the 19th of August, LAWCLA announced representation for her and applied for bail on her behalf, but the sitting Justice of the Peace refused bail and adjourned the matter.

When she was interviewed, she told LAWCLA that she is a pupil of the Pentecostal Primary School in Monrovia and that she lives with a friend in Kenema. She also said that she had Le20, 000 in her possession at the time of arrest which belonged to her guardian but she could no longer account for it.

Takou T. appeared in Court on the 20th of August and LAWCLA made an application for bail which was granted.

The Juvenile was counseled and later handed over to her guardian.

JUVENILE OFFENDER DETAINED WITH THIRTEEN ADULTS

I.S. is a thirteen year old girl who sells "soda soap" for her aunt who is her guardian.

She narrated to LAWCLA that on the day in question after checking the after sales, she realized that she had lost quite a sum. Afraid of the punishment that awaited her back home, she sat on a street corner and started to cry.

A passerby after hearing her story felt pity and gave her a thousand Leone. I.S. recounts that this was still inadequate to cover her loss. Still scared to venture home, she strolled over to the Maxwell Khobe Park, to take some rest. She maintained that she was ignorant of the fact that the location had become a transit point for Prostitutes.

The juvenile was arrested together with thirteen ladies accused of prostitution and was detained with them. This is contrary to both local and international legal standards as a juvenile may be exposed to violence, there is also the problem of criminal contamination, which can have a negative impact on the juvenile. It must also be remembered that aim of pre-trial detention especially for juveniles is merely to secure the presence of the offender at the court sittings.

I.S. was provided with legal representation by LAWCLA when she was charged to court. A case was made for her on the grounds that she was not only ignorant of the status of the Maxwell Khobe Park at night but she was also a first-time offender. Some of the ladies arrested together with I.S. recounted that they never knew the juvenile prior to their arrest and subsequent detention together. I.S. also told the court that during her arrest, she was beaten up, disrobed and violently thrown into the vehicle.

The Magistrate then in the presence of the Probation Officer cautioned and discharged the juvenile offender. She was then handed to the Probation Officer who took her home. A follow-up was made by staff members of LAWCLA who spoke with the aunt and advised her to only chastise I.S. reasonably as anything more could in itself constitute a criminal violation.

She was also given a brief talk on "The Convention on the Rights of the Child" and advised that children are a delicate species that must be handled with care.



Senior Superintendent Al-Shek kamara and Other Police Officers during a training Programme on Juvenile Justice in Freetown

THE TRANSITIONAL AND ECONOMIC JUSTICE UNIT

This Unit during the period under review embarked on a number of contemporary issues relating to Transitional Justice in Sierra Leone such as; The Need for the Abolition of the Death Penalty in Sierra Leone; The establishment of a Legal Aid Board in Sierra Leone and the unequal rights document that concentrates more on Laws and Practices that are Discriminatory Against Women. All these documents will soon be published. As an addendum to the functions enumerated above, the Unit also provided free legal service, representation and letters before action in favour of victims of unfair labour practices.

THE CONSTITUTIONAL VIOLATION OF THE RIGHT TO LIFE IN SIERRA LEONE

By: C. Melron Nicol-Wilson & Lornard Taylor

The question of whether the state can kill has since time immemorial been debated by various scholars from both Legal and Moral perspectives. This debate has never been laid to rest as the forces are contending against each other; (Human Rights activists on the one hand and respective State Governments on the other) are very strong and powerful. In any case the argument against the death penalty seems to be gaining ground as (we see) numerous international instruments such as the Universal Declaration of Human Rights, proscribing the death penalty and guaranteeing the right to life, security, and protection against inhumane and degrading treatment.

Ontologically, the right to life is perceived as the most fundamental and essential of all human rights. All the historic moral codes, both of religious and secular character, that evolved in the course of the civilization of mankind have emphasized the importance and immanence of human life.

Capital Punishment violates the right to life and, offers an illusory solution to crime, and as such effectively detracts attention from really effective measures to protect the public. Provisions of the Laws of Sierra Leone, which sanctioned capital punishment, are inconsistent with a number of provisions of the 1991 Constitution including the prohibition of cruel, inhuman and degrading punishment.

The Laws of Sierra Leone are yet to grow to meet International Standards. In any case, the 10 year gruesome civil war, which has just ended, and the subsequent efforts of the International Community to assist the nation into bringing perpetrators of these horrible crimes to justice have raised questions as to whether we indeed have a place for the death penalty in any civilized jurisdiction. Within the domestic court the death penalty is handed down on persons convicted of treason and murder, contrary to law.

However the Special Court which has been established to try and punish those most responsible for atrocities during the civil war does not see the death penalty as justified and, thus will only sentence those guilty to terms of imprisonment.

Thus, while "the bad boys" convicted by the Special Court will be sentenced to Terms of Imprisonment, "the not so bad boys" convicted by our national courts for similar offences shall face the death penalty. I see a breach of the fundamental right of equality here. In the same jurisdiction, the same crime (murder for instance) carries different penalties. The situation is not hopeless. We are not suggesting that to eliminate the inequality problem all must suffer the death penalty. We are simply asking that our Laws be reformed with a view to abolish the death penalty, which is cruel, inhuman and degrading and to meet International Standards.

There could be instances that could justify that taking of a life, like Chaskalson P, pointed out in the case of S.V. Makwayane (1995) 4 S.A.C.R 250 "Lethal force may be applied by the state to kill a hostage taker in order to save an innocent man or to suppress a rebellion or external aggression. But where one has submitted himself to the jurisdiction of the court and has been tried and convicted, there is no reason for the state to consider him dangerous to others if he is kept behind bars"

By: Oju R. Wilson

Just as peculiar as the country so too are the strange happenings that are taking place which in my mind requires urgent address. One of these strange phenomena has to do with the right to demonstrate and the procedures that must be followed before one can demonstrate. This aspect of the law has been a kind of enigma to even the most seasoned practitioners, and the police from their own side have been citing the public Order Act of 1965 with lucidity to justify the enforcement of constituted authority whenever an individual or group of persons intend to vent their grievance or grievances. A demonstration from my understanding is a public display of feelings by an individual or group of people, against a particular system or issues affecting their personal well-being like the deteriorating standards of living or better working conditions in a particular country.

In the past and at present, there is this general belief by many people that one needs the permission of the police before one could stage a demonstration. Surprisingly, the police have hoodwinked the vast majority that, that exactly is the position; indeed you need authorization before one could stage a demonstration. They have been justifying their claims by quoting the Public Order Act of 1965, which as far as I am concerned is farfetched. The reason being that initially, before one could make claim or claims against the government before the court you need to seek the permission of the very government you want to drag to court. But with the 1991 Constitution you need not seek any permission as Section 133(1) of the 1991 Constitution is explicit.

“Where a person has a claim against the government, that claim may be enforced as of right by proceeding taken against the government for the purpose, without the grant of a fiat or the use of the process known as petition of right”

At a time when many people were jittery of the potency of Section 133(1), Serry Kamal Esq. tested this very useful Constitutional provision in the celebrated case of All Peoples Congress Party Vs. NASMOS:

Though parliament by then never implemented subsection (2) of the said Section which states that:

“Parliament shall by an Act of Parliament make provision for the exercise of jurisdiction under this section”

The learned counsel went ahead notwithstanding the very strong argument postulated by the state counsel that the States Proceedings Act was not yet in place. The argument in this matter was whether acting on the instructions of the A.P.C. he had jurisdiction to take the government to court.

At the end of a marathon and protracted legal argument, the Supreme Court ruled in favour of the All Peoples Congress Party.

Juxtaposing the case cited above, with the topic under discussion one would begin to see exactly the logic behind my averment. Section (17)(1) of the said Public Order Act of 1965 states thus:

“Any person who intends to take part or takes part in organizing or holding any procession shall first notify the Commissioner of Police in writing of his intention to do so and any person who fails to give such notification as aforesaid shall be guilty of an offence”

Moving from Sub-section 1 of Section 17 to Sub-section 2, the said Commissioner of Police has the right to disallow the holding of such procession or impose conditions as he shall think fit. In summary, the Commissioner shall capriciously disallow a demonstration of national interest or impose stiff condition or conditions without giving any reasons for his refusal.

The Public Order Act of 1965 is without gainsay quite explicit in giving a lot of powers to the police to muzzle such demonstration which shall be necessary to put the government of the day on its toes. But whilst the police enjoys such right we must take cognizance of the fact that there is an operational law, which is the 1991 Constitution, the grand norm. If you take a look at Section 171(15) of the 1991 Constitution, it reads thus:

"This Constitution shall be the Supreme Law of the Land, any law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect"

This aforementioned Section in the Constitution gives this document the supremacy to decide on such a sensitive issue. Quite apart from our 1991 Constitution, decided cases in most Commonwealth jurisdictions have also manifested a change of attitude from the provision of statutes like the Public Order Act that gives Police Officers the powers to suppress the peoples' will in favour of the Human Rights provisions in their Constitutions.

The most oft-cited provision in these Constitutions is like our Section 26 of the 1991 Constitution:

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association..."

This provision is the crux of my argument and the solution to the fact that you need not seek the permission of the police before you can stage a demonstration. Some people may want to say well, what about the proviso in subsection (2) of the Constitution, which states that, in the interests of defense, public safety, public order, public morality, public health such a right could be curtailed.

It is my humble submission that for as long as the Public Order Act of 1965 has no clearly spelt out reason or reasons for denying one's right to demonstrate, the Police as an Institution responsible for the protection of lives and properties should not be use as an instrument to prevent people from exercising their right. It is amazing to note that whilst Masked Dancers have been permitted to process, without any hindrance to their movement, people of stature have been prevented from staging demonstrations in exercise of their constitutional right. The long and short of it all is that, I will always stick to the presumption that demonstration should be peaceful, and until the contrary is manifested people should be free to exercise their rights accordingly. Though people have been prevented from staging demonstration such a denial is a flagrant violation of section 26 of the 1991 constitution and I pray for the day when people would start invoking Section 28(1) which reads thus:

"If any person alleges that any of the provisions of Section 16 to 27 (inclusive) has been, is being or likely to be contravened in relation to him by any person... that person may (or that other person) may apply by Motion to the Supreme Court for redress"

Other than the Police Commissioner serving as an arbitrator between personal liberty and constituted authority, I strongly believe that it is the Supreme Court that has original jurisdiction to interpret, save as is provided in Section 124(1a) of the 1991 Constitution.

By: Lornard Taylor

Justice is a vital ingredient for every civilized society, but unfortunately in Sierra Leone, access to this necessity has degenerated to a luxury no one can conveniently afford. Factors responsible for this deplorable situation are numerous and are both direct and indirect. In any case the most pathetic part of the whole drama is the fact that even though the problem has been identified and solutions proffered, practical application of these recommendations exists only as a glimmer in our minds.

Justice itself is supposed to be fair, and must apply equitably to all under the umbrella of the law. However, this is not the case in Sierra Leone. The cost and procedure serves as a major constraint in accessing this vital necessity. As a third world country and a developing nation, the country is struggling behind in providing a decent salary structure, better conditions of service, and adequate employment facilities. This means that the earning power of even the average Sierra Leonean is not sufficient to afford him the luxury of demanding justice.

As a result of this, there is a strong tendency for one preferably to spend his meager earnings on his basic necessities and forfeit whatever right he is entitled to rather than engage in a legal battle that would cost him so much when the benefits are circumscribed.

But what about those who are accused of criminal offences and could not afford a lawyer isn't the state supposed to provide these people with Lawyers? The answer to this question is in the affirmative, but there is a fine line between what is and what ought to be. To start with, even the state counsels are grossly underpaid. This has the result of watching legal practitioners go into private practice where the pay is better, leaving the government Bar starving. The poor conditions of service of these state counsels also have its effect on the quality of the work they do. Because they are few, matters for them to handle keep piling high and especially where the incentive is lacking, there is little or no possibility for the poor client to be adequately represented. Did we have access to justice?

Access to justice is not just a problem for the poor. Even the rich or middle class face their own constraints. This again could be tied to the poor economic situation.

The conditions of service are so bad that the justice sectors are not just starving for state counsels, but also Magistrates and Judges. Practitioners prefer to stay in practice for as long as their brains would permit them and make a living rather than suffer penury on the bench. As a result of this, the state counsels, the Magistrates and Judges have their courts overloaded with files and in a survey conducted with the Canadian Lawyers Association for International Human Rights (CLAHR), in August 2002; the result shows that Magistrates deal with an average of twenty-five cases per day. How could they do a good job under such pressure?

The height of the files then means that either a matter is not handled on a particular day or any opportunity for an adjournment is seized, because even the strongest have their moments of fatigue. The numerous adjournments take its toll on even those who can afford a lawyer and sometimes even the lawyers make use of this opportunity as a strategy to wear out the opponent. In many instances, the ends of justice are defeated by the procedure and a plaintiff might just decide to drop his matter and not come to court.

In a situation like this, the gap towards access to justice is strangely widened. Where a complainant refuses to come to court or to testify, one might expect a discharge for want of prosecution to be made. On the contrary, the accused, especially if he is in jail, and cannot afford a lawyer, would remain in prison and continue to make appearances in court indefinitely.

These problems have all led to one destination. Loss of confidence in the judiciary by both Plaintiff and Defendant, and as a result we see the thriving of traditional ways of settling disputes whose problems open a whole new debate.

Constraints in accessing justice could not be limited only to the courtroom. It is the duty of the police, where a crime is committed to do proper investigation, gather evidences and initiate prosecution to ensure that the ends of justice are met. Unfortunately, even this force lacks the necessary apparatus. Not only is its staff underpaid, but also even materials and resources for effective work are lacking.

Coupled with the cost and the length of procedure, victims are usually not prepared to face the courts for redress and would prefer to suffer in silence or seek other forms of redress.

However, despite these problems the purpose of the court has not become undiscoverable. The solutions have always been there but there must be the willingness to move forward, better conditions of service and a change in the attitude of the government to justice is a necessary step towards creating a proper access to justice. One cannot access justice without the means to do so. Efforts must be made not only to improve on the standard of living of the average Sierra Leonean, but massive efforts must be exerted on the provision of a decent structure and working conditions for the judiciary. Only then can practitioners be willing to effectively perform the duties of a state counsel or retire to the bench after many experienced years at the bar. Police Officers must also be properly and regularly trained to conduct investigations, and adequate incentive and resources be provided. In a Survey conducted in August 2003 with Action Aid, I came to understand that large chunks of the people living in the outskirts of Freetown where the survey was conducted believe that if only the police were effective, they would prefer to have their disputes settled out of court and without the intervention of lawyers.

*from LAWCLA NEWS
June 2004*

ASSESSING THE SOCIO-POLITICAL CULTURE OF HUMAN RIGHTS IN SIERRA LEONE

By: Alimamy Baba Silla.

Background – The concept of human rights is as old as humanity, though it became an issue of International concern after the end of the 2nd World War in 1945. In Sierra Leone the One Hundred and Fifty-Three years of Colonial Rule hardly helped to develop a political culture of human rights.

The nature of the colonial government was basically undemocratic and dictatorial. But prior to the advent of colonialism, the existing institutions of Government, i.e. the Temne and Mende rulers, though entitled to serve their people, had unquestionable and sometimes semi-divine powers.

Indeed with the introduction of Lord Luggard's system of indirect rule, Sierra Leone easily practiced the system, with few problems.

Pre and Post Independence Period – after 1945, a series of constitutional reforms started, geared towards granting self-rule to Africans, but that period was not enough to imbibe the norms and values of democracy and human rights with the new Sierra Leonean ruling elite.

Consequently, with the attainment of independence in 1961, and immediately after the death of Sir. Milton Margai, the nation witnessed political upheavals and problems, which saw attempts to retard the civil and political liberties of Sierra Leoneans. During the 1970's the observance of these values reached its lowest ebb, with the declaration of a state of emergency in 1972, several treason trials between 1972 and 1974 and the one-party constitution of 1978.

The one party constitution, legitimized curtailment of civil liberties and human rights, and this period witnessed institutional violence and terror against all political dissidents. Political activities became likened to a mini-civil war and violence was quite acceptable during elections.

Also a victim in this situation was the gradual crippling of the institutions of governance i.e. the civil service, the judiciary, the police, the military, and civil society. Some of these institutions became part of the body politic and others were simply prevented from functioning. Such a situation had a negative effect of despair, distrust and hate for the governing institutions.

Within this state of affairs, the recipe for civil conflict was ignited in 1991 when the Revolutionary United Front started its rebellion. The nation witnessed arson, looting, rape, murder and terror unknown to the civilized world.

The Sierra Leonean society realized that such brutal abuses were the effects of decades of tolerating violations of human rights and civil liberties. The civil society thus became strengthened during the war and resolved never to experience such a situation again.

Post-Conflict Sierra Leone – No country, society and its people are the same after a conflict situation. The people then easily grasp institutional and societal lapses and this aids better preventive method of potential problems.

The existing political culture favours the acceptance of human rights values both within and outside the institutions of governance. The effects of this tolerance are: -

- i. It would strengthen popular will to ensure that the Judiciary, civil service and other state institutions are reformed.
- ii. A much more pro-active civil society has emerged after the war thus solidifying the tenets of institutional accountability and non-tolerance of human rights violations.
- iii. With the link between a democratic society and a human rights environment the latter strengthening the former, a democratic and political culture would be developed, which is so crucial for the stability of Sierra Leone.

Therefore the emphasis by the stakeholders of human rights observance in Sierra Leone, must be to strengthen the monitoring and delivery capacity of institutions of governance, implement necessary reforms and enable the human rights organization to have the requisite structural and operational ability to cope with the next phase in human rights work i.e. monitoring, reform and assessing new challenges in a post-conflict Sierra Leone.

THE NORTHERN PROVINCE REGIONAL OFFICE

The period under review witnessed the Centre's unrelenting fight against Human Rights abuses as it continues to run its Office which is situated at No. 7 Lady's Mile in Makeni about fifty yards off the Magistrate Court building. This single flat has an office space for a Legal Practitioner, Secretary, Paralegal and an Office Assistant.



Staff members at the Makeni Office

The office for all intents and purposes is ideally located as it served an area in the country which has the worst human rights record due to the fact that human rights abuses are rife in that area. This was manifested by the number of cases the Centre handled and the magnitude of some of these offences. Notwithstanding the legal challenges facing the Centre, in terms of handling these complains, the Centre prior to the expiration of the Prisoners Rights Project had a resident practitioner but later finds it very difficult to maintain one for many reasons.

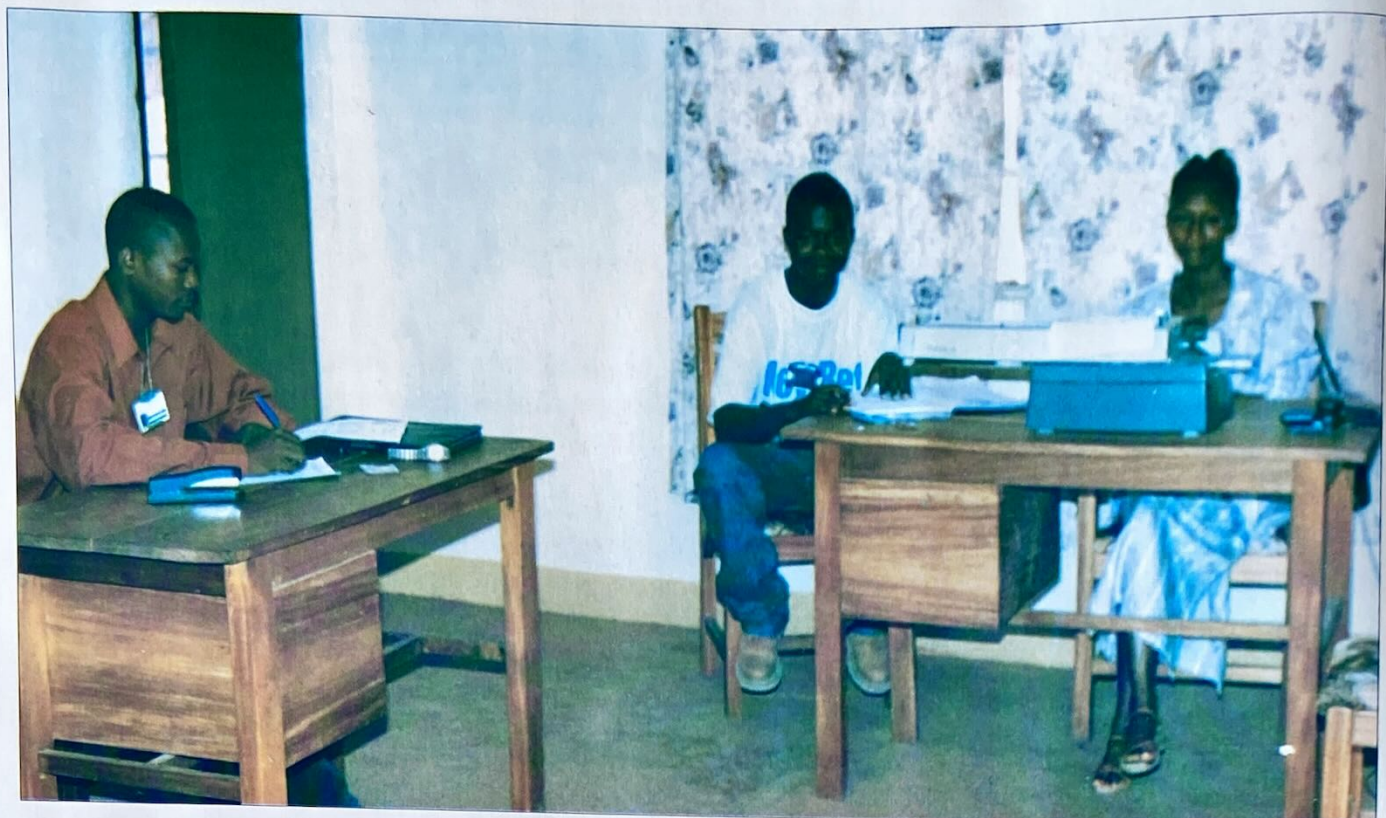


Makeni Northern Regional Office

In the first place, though the communication system is improving much still is required from the present situation. There is no proper pipe borne water and because of this most of the staff members are vulnerable to diseases. The Centre cannot boast of a proper office vehicle to wriggle its way through these rough roads, not to mention the unavailability of electricity and a stand-by generator to substitute for the absence of electricity.

THE EASTERN PROVINCE REGIONAL OFFICE

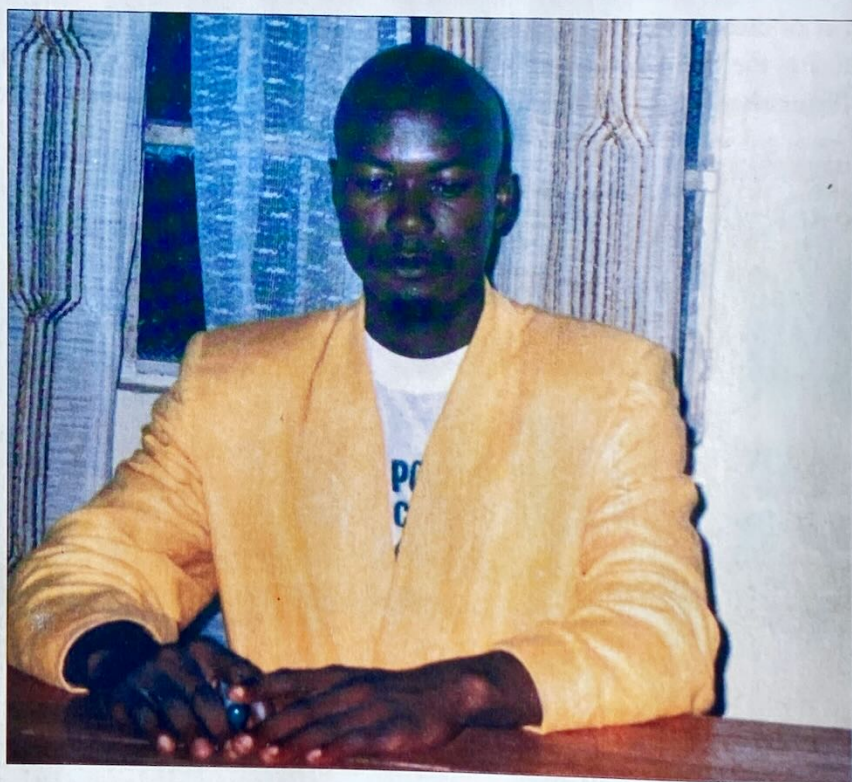
The Centre during the period under review maintains its office space at No. 25 Combema Road right at the heart of the township of Kenema. This structure, a two storey flat, has office spaces for the Legal Practitioner, Secretary, Paralegal, an Office Assistant and its numerous clients.



Staff members of the Eastern Regional Office

Complaints at the Centre during the period under review had been manifold as it ranges from larceny down to serious offences like robbery with aggravation and homicide.

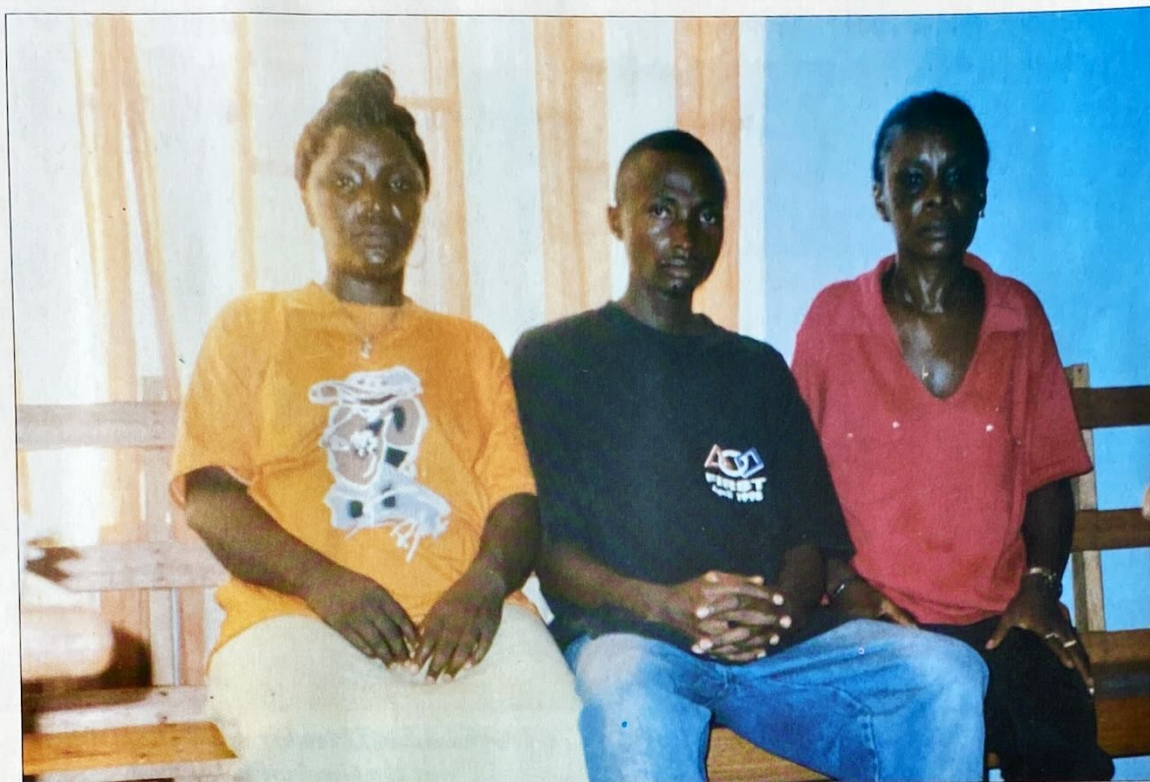
Both staffing and running cost have been provided by the Open Society Initiative for West Africa (OSIWA) which used to fund the Prisoners Rights Project. With the suspension of their funding, many inhabitants within the township are really jittery as to what the human rights situation would be.



John B. Sevallie - Paralegal Eastern Regional Office

THE SOUTHERN PROVINCE REGIONAL OFFICE

Like the other two Provincial Towns i.e. Kenema and Makeni the fight against human rights abuses is very much alive in the Country's second largest city, Bo, as during the period under review, the Centre operated from its initial office space at the Maxwell Khobe Park, Off Tikonko Road in Bo.



Staff Members of the Bo Office

Bo a diamondiferous town with a heavy Non-Governmental Organization presence has a soaring population of about a million people. From its office space in Bo, the Centre serves as a conduit to other areas in the provinces by providing legal representations and sensitizing the masses about their rights.

With the launching of the Juvenile Justice Project during the period under review and the series of workshops that were subsequently held, we realized that due to the heavy presence of foreign nationals from especially Liberia coupled with the fact that there are lot of ex-combatants within the township, crime rate is on the increase. This is especially the case with rape and other sexually related matters.

However, if the Centre is to succeed in successfully eradicating this malaise this coming year, then there are certain amenities which must be put in place to encourage practitioners and staff members. It is no secret that a proper vehicle ranks supreme, whilst a motor bike would be a great asset to assist the work of the paralegals.



Henry Sandi - Regional Coordinator Southern Province

THE PRISONERS RIGHTS PROJECT

The Prisoners Rights Project which came in to fruition shortly after the Centre conducted a Pilot survey entitled "Data Collection, Legal Advice and Representation of Detainees and Prisoners through out Sierra Leone ended in June 2004. This Project benefited detainees and prisoners who were indigent and did not have the financial means to solicit the services of lawyers. It was a landmark in the Judicial Process because many people were able to access justice. LAWCLA also filled the vacuum of government, and signalled the need for the full implementation of Section 28 (5) of the 1991 Constitution of Sierra Leone which calls on Government to establish a Legal Aid Board in order for Justice to be accessible to all.

This Project which was funded by the Open Society Initiative for West Africa (OSIWA) with clients benefiting in all the Regional Offices, i.e., Makeni in the North, Bo in the South, and Kenema in the East was a success story as those whose rights were trampled upon sought justice under this scheme. With the key donor OSIWA slashing its funding mid this year, the Centre decided to scale down the number of new cases it could admit and decided to concentrate on backlog cases as it was already overburdened with more cases than it can actually handle.

At the moment, the Centre continues to provide Legal Advice and Representation for cases that were still pending before the Project ended in June. The Centre intends to pursue these cases to their logical conclusion, as a work never completed is like a work never commenced.

However, with the Centre intending to change its mode of operation to impact litigation and research this coming year, the Centre has issued a communiqué to all legal practitioners handling cases under the Prisoners Rights Project to conclude their cases by 31st December 2004 through the following means: by obtaining bail for their clients, if he/she is detained or remanded, obtaining an acquittal or discharge, assigning of such cases to a practitioner who will provide service for a low cost and finally, writing letters to the client informing him/her about the expiration of the Project.



LAWCLA Staff Member and Police Officers at the Gerehun Police Post



LAWCLA Staff Member and Police Office during the Prisoners Rights Project

INTERNSHIP AT THE CENTRE

Notwithstanding the lack of funding to run major projects at the Centre during the period under review, the Centre still attracted university undergraduates countrywide and from outside the country who came to the Centre to do their summer internships. Though the Centre's work is predominantly legal, students from other disciplines did their bits in other units within the centre.

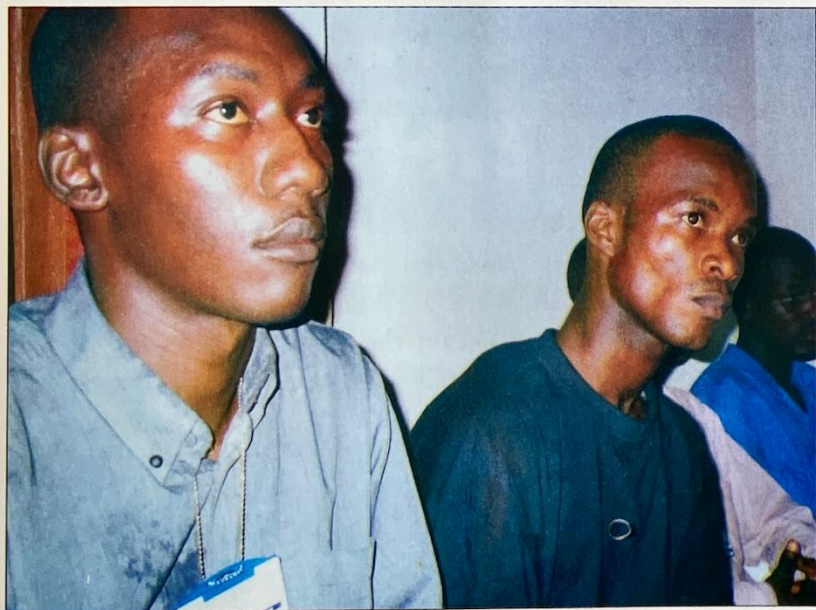
From Fourah Bay College, University of Sierra Leone, the Centre benefited from the services of Mr. Lornard Taylor from the department of Law, Ms. Kipiatu Bongor-Sesay, Jeneba Kamara, Joan Bull and Mr. Ibrahim Koroma, a law undergraduate. During their stay at the Centre, they contributed immensely towards the research unit, more especially Messrs Ibrahim Koroma and Lornard Taylor. Joan Bull and Kipiatu Bongor-Sesay were very instrumental within the Gender unit as they helped in bolstering the work of that very important unit.

From the Diaspora, the Centre received Jenifer Brea from Princeton University in June this year. The young American was part of the team that started the initial work on the document titled; The Need for the Establishment of a Legal Aid Board in Sierra Leone. At the end of her stay with the Centre, the young intern was very delighted to have been given the opportunity to work with a pro bono Centre like the Lawyers Centre for Legal Assistance (LAWCLA), and looked forward for a closer tie with the Centre.



Tilda Bergren - Research student from Sweden

With the departure of Jenifer, came Tilde Bergren from the Raoul Wallenberg Institute in Sweden who was in town to do a Research work on female Genital mutilation and Women's Rights. Her work was supervised by the Director of LAWCLA Mr. Melron Nicol-Wilson. During her stay, she traveled extensively countrywide in order to have first hand information about her research. The young Swede before her departure doffed her hat to all in the Centre for the time and attention they gave to her in a bid to expedite her work.



Information Officer, Abdul Samad Kamara

Quite apart from these students, the Centre also hosted an Italian lawyer by the name of Ms. Michella Tallarico who worked with the Centre for about three months. She was attached to the Centre's head office in Freetown and her job description was mainly research; though she had no locus standi, she occasionally accompanied Barristers to Court.

Like previous years the Centre interns enjoyed a wonderful time and a good number of Universities undergraduate countrywide looked forward for future internship programs with the Centre.

RECOGNITION BY THE MEDIA

The period under review, like previous years, saw the fourth estate sharing the same keen interests they have often shown in the activities of the Centre. On several occasions, members of the Electronic Media scurried to the Freetown Head Office to keep abreast with activities at the Centre or to conduct interviews. This same kind of interest with regard the work of the Centre applied to the Regional Offices in Makeni, Bo and Kenema.

Though members were granted interviews by mobile units of these Media houses, invitations were also extended to barristers and other staff members to take part in talk shows. With the launching of the Juvenile Justice Project in August 2004, Dauda Yoki Esq. was guest of the Radio UNAMSIL popular Tea Break Program as he succinctly explained the aims of the Project and the necessity to concentrate on Juvenile Justice.

The Director of the Centre, Melron Nicol-Wilson has also been a popular voice in most of these radio stations, on several occasions he explained the work of the Centre and the need for government to pay more attention to the judiciary of this country. Quite recently he was interviewed on the focus on Africa Program of the B.B.C to throw light on the need for the abolition of the death penalty. This debate in Sierra Leone has been very hot and he has always supported the abolition of this degrading and inhuman act citing both case laws and constitutional provisions to justify his condemnation.

With the Print Media one can hardly lay hands on a daily tabloid without you seeing the name LAWCLA. Though we have a critical print media, they have been able to appreciate the work of the Centre by making its work news worthy. At the start of 2004, LAWCLA and Global Rights, formerly International Human Rights Law Group, trained Paralegals Countrywide which was climaxed by the launching of a Paralegal Handbook for Sierra Leone. The launching of this Paralegal Handbook culminated in a front page story on the 19th April 2004, Monday edition of the Standard Times Newspaper with caption **"Global Rights and LAWCLA promote Human Rights Nationwide"**.

From publications and sensitization to the courtroom, came the landmark case of Edna Marsh, who was arrested, charged and remanded in Prison on the allegation of child stealing in June 1999. Learning of the girl's continuing detention the Director, Melron Nicol-Wilson announced representation for the accused who had lost her sight as a result of the long detention. Responding to the application for bail to be granted transformed the courtroom to a state of total pandemonium as hairs stood at ends when Justice Ademusu granted bail to the 21 year old accused. This attracted the attention of the Standard Times Newspaper with their Monday 5th 2004 edition front page story **"5-year Remand incarceration leads to blindness"**.

The hue and cry for the abolition of the death penalty was not just restricted to the electronic media, but the Print Media also that gave coverage on it as a paper presented by the Centre's Director Melron Nicol-Wilson titled **"Legal Challenges to the Death Penalty in Africa"** led to the Independent Observer inside story with the headline **"LAWCLA CALLS FOR ABOLITION OF DEATH PENALTY"**.

With the launching of the Juvenile Justice Project in August this year, and the series of Workshops for both Experts and Law Enforcers led to the front page publication of the Monday September 6th story on the SALONE TIMES with caption **"Lawyers, Police discuss protection of Juvenile Offenders"**. Prior to this publication, the Independent Observer another popular Freetown Newspaper also reported on the Experts Workshop held at Santano House with caption on their Friday 27th August 2004 Edition **"LAWCLA makes case for children"**.

UNAMSIL Leaves
Bo, Environs June 29
SEE PAGE 3

DAY OF DESTINY FOR BASKETBALL
SEE BACK PAGE

US Observers All Set For Elections

Fourteen members of staff of the United States Embassy in Freetown have been accredited by the National Electoral Commission (NEC) to serve as observers in the Local Government Elections due May 22.

A press release from the US Embassy in Freetown said yesterday that the US observation teams would travel throughout Sierra Leone to monitor polling stations. The

SEE BACK PAGE

LAWCLA NOW OVERBURDENED WITH CLIENTS

2000 HUMAN RIGHTS CASES TO BE HEARD

The Director General of the Revolutionary United Front (RUF) has denied that his former rebel movement now a political party has a hidden agenda to disrupt the peace of Sierra Leone.

Speaking on BBC Network Africa yesterday, Mr. Kpomea said that his party is firmly committed to continuing the peace development and stability process in the country.

'RUF Has No Hidden Agenda'

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Speaking on BBC Network Africa yesterday, Mr. Kpomea said that his party is firmly committed to continuing the peace development and stability process in the country.

QUOTING HIM

Be confident that we will put a stop to the misappropriation of funds, speculation, and illicit enrichment. This is why we are locking up, and will continue to lock up, all those who steal money from the people.

James Sankara

Anti-Corruption Commission presents 5-year Strategic Plan

Commissioner Val Collier, the Director of the Anti-Corruption Commission (ACC), has presented the Commission's 5-year Strategic Plan to the President of Sierra Leone.

The plan, which was developed in consultation with the public, outlines the Commission's vision, mission, and strategic objectives for the next five years.

'The war caused rapid spread of HIV/AIDS' - CGG respondents

A survey report published by the Campaign for Good Governance (CGG) has revealed that the war in Sierra Leone was a major factor in the rapid spread of HIV/AIDS.

The report, which was based on a survey of 1,000 respondents, found that 65% of respondents believed that the war was the primary cause of the rapid spread of the virus.

No more 'Kangaroo Courts' for Tribal Heads

Tribal Heads in the Western Area have been asked to desist from using 'kangaroo courts' to settle disputes.

The request was made by the President of Sierra Leone, who said that such courts are a violation of the rule of law and the constitution.

Policemen take Promotion Exams

Thousands of Police Constables are taking part in a promotion examination to become Sergeants.

The examination, which was held in Freetown, was the first of its kind in Sierra Leone.

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Thought For The Day
The Truth Shall Always Prevail



Police in uniform

Last-hope for Ivorians

See page 2

Military and the media seminar begins

A seminar on the role of the military and the media in Sierra Leone began yesterday in Freetown.

The seminar, which was organized by the Defence Force, aimed to improve the relationship between the military and the media.



Sweetened Condensed Milk

Sierra Leone Police in financial limbo

See page 2

SPECIAL COURT... RUF Lawyer challenges evidence

The RUF lawyer has challenged the evidence presented in the Special Court.

The lawyer, who is representing the RUF, argued that the evidence was unreliable and should be disregarded.



Sierra Leone Police

LAWCLA Launches Juvenile Justice Project

The Lawyers Centre for Africa (LAWCLA) has launched a Juvenile Justice Project.

The project aims to provide legal representation and support for juveniles in the justice system.



Sierra Leone Police

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CGG Gets Resource Center

The Campaign for Good Governance (CGG) has established a Resource Center.

The center will provide information and support for citizens and organizations.

Kambia Police Ready For Elections

The Kambia Police are ready for the upcoming elections.

The police have been deployed to various locations to ensure the security of the process.

YOUR STARS

See page 2

Blind Prisoner Granted Bail After 5 Years In Jail

A blind prisoner has been granted bail after serving five years in jail.

The prisoner, who was charged with a crime, was released on bail.

Bank of Sierra Leone Results of the Two-Hundred and Eight Foreign Exchange Auction held by the BSL on March 3, 2004

Total amount offered for sale of US\$ 1,100,000.00 of which:	
Amount offered through the competitive window	US\$1,000,000.00
Amount offered through the non-competitive window	US\$100,000.00
Total amount offered for sale by the Public	US\$1,100,000.00
Total amount sold	US\$1,000,000.00
Amount sold through the competitive window:	
Total amount offered for sale by the Public	US\$1,000,000.00
Total amount sold	US\$1,000,000.00
Amount sold through the non-competitive window:	
Total amount offered for sale by the Public	US\$100,000.00
Total amount sold	US\$100,000.00
Auction Rate: US\$ 1,000,000.00 / US\$ 1,000,000.00	
Official Bank Rate: US\$ 1,000,000.00 / US\$ 1,000,000.00	
The Bank of Sierra Leone also wishes to make the following announcements:	
* The Bank of Sierra Leone will sell US\$1,100,000.00 of which US\$100,000.00 will be the non-competitive window on Wednesday, March 10, 2004	
* The foreign exchange auction also provides a window for offers of foreign exchange for US\$100,000.00 and US\$200,000.00 to be sold on the day of the auction. The minimum offer amount should not be less than US\$ 10,000.	
* The following auction limits should be adhered to:	
* Lower limit in the non-competitive window	US\$ 10,000
* Upper limit in the non-competitive window	US\$ 200,000
* Lower limit in the competitive window	US\$ 20,000
* Maximum amount per bidder per auction	US\$ 100,000

COLLABORATION & LINKAGES

The World of Human Rights is like a Global Village, and if we are to walk towards a strong united front then there is a need for strong collaboration amongst different bodies. The activities of the Centre in and out of the Court room during the period under review witnessed the desperation on Human Rights bodies and other international and local non-governmental organization to develop very strong ties with the Centre.

Early this year, the Centre, in collaboration with Global Rights, formerly Law Group developed a very strong link for the training of paralegals countrywide. The whole essence of these training that was conducted countrywide was to provide people with basic training in the law to give legal first aid whenever the need arises in areas where it is difficult to access justice.

The Centre also signed a memorandum of understanding effective 1st day of October 2004 with PLAN Sierra Leone, to provide legal advice and training of their personnel whenever they are in need of such service in all their operational areas Countrywide. Regarding sex related matters, and Juvenile Cases, the Centre also has a strong link with PLAN.

The Forum for Africa Women Educationalist (FAWE) also signed a Memorandum of Understanding with the Centre. As an organization that concentrates more on psychosocial activities for rape victims, they deemed it fit to enter into an agreement with the Centre to reciprocate and complement each others work. Whereas the Centre has the expertise to provide legal advice and representation, they shall be concentrating on providing psychosocial therapy for victims in our operational areas countrywide.

As there is a strong research unit within the Centre that deals with contemporary human rights issues, the Centre also had very strong linkage with the British Council and the United Nations Development Program. During the period under review, the Centre completed vital researches on the need for the establishment of a legal Aid Board and Laws Discriminatory against Women that shall be publish by the British Council and the United Nations Development Program respectively.

Though the Centre made new collaboration and linkages during the period under review, it still continues to maintain its old links.

OFFICE OF THE OMBUDSMAN: The period under review, like in previous years saw the concerted efforts between the Centre and the office of the Ombudsman, as the Centre received a lot of referral matters that were not within the purview of the office of the Ombudsman.

THE NATIONAL FORUM: Being an umbrella body of all Human Rights bodies in the Country the ties between the Centre and this body during the period under review grew to a point that resulted to the appointment of LAWCLA's Director Melron C. Nicol-Wilson as a Board Member.

Like previous years, the National Forum prior to its Access to Justice Program made number of referrals to the Centre for which the Centre was able to make legal representation and give legal advice when necessary.

THE PRISON SERVICES: The relationship between the Centre continued to improve during the period under review as the Centre was able to visit prisoners at the holding Cell in the Law Court building and other Prisons in the Country.

During the Juvenile Justice Project, training Workshops were conducted countrywide, a good number of Prisons Officers in the provinces benefited from this scheme.

SIERRA LEONE BAR ASSOCIATION: The relationship between the Bar Association was very fruitful as the Bar Association looked at the work of the Centre as a complementing struggle trying to fill the vacuum which has been created as a result of the non-implementation of Section 28 (5) of the 1991 Constitution. With the appointment of a new executive during the period under review headed by Freetown Legal Luminary Charles F. Margai, the Centre together with the Association's President and other distinguished scholars, held a talk show on the status of the Sierra Leone judiciary.

THE SIERRA LEONE POLICE: During the period under review the Centre had an amicable working relationship with the police more especially providing unhindered access to our clients behind bars to successfully carryout the Prisoners Rights Project.

During the Juvenile Justice Project similar gesture was extended to the Centre as we were able to do surveys in Police Stations and posts all over the country. With the training of Law Enforcement Officials during the Juvenile Justice Project, it also attracted Junior as well as very Senior Police Officers like the Local Unit Commander Central, Senior Superintendent

Al'Sheik Kamara and the Officer in Charge, Western Police Station at Adelaide Street Superintendent Prince Jones. The Assistant Inspector General of Police Mrs. Kadi Fakondor was granted an interview in the Behind Bars Magazine.

THE CENTRE FOR PEACE AND CONFLICTS STUDIES, FOURAH BAY COLLEGE, UNIVERSITY OF SIERRA LEONE:

The Centre still maintains a good working relationship with the Centre for Peace and Conflict Studies at Fourah Bay College, as students within that department continues to benefit from the lectureship of the Centre's Director Melron C. Nicol-Wilson in Human Rights and International Law.

THE ANTI-CORRUPTION COMMISSION:

As Corruption is a national struggle, the Centre still maintains a good partnership in ensuring that this social problem is completely eradicated. This continuing relationship between the Centre and the Commission during the period under review attracted the visit to the Centre by the Chairman of the Commission Mr. Valentine Collier and a Ugandan Prosecutor to acquaint the latter about the work of the Centre.



Staff members of LAWCLA after a Paralegal Training Programme at Kono

THE LAW OFFICERS DEPARTMENT: The Centre during the reporting period continued to work with the Law Officers Department especially in prosecuting Accused Persons for offences that fall within the mandate of the Centre.

BRITISH COUNCIL: During the period under review the Centre tried to consolidate its relationship with the British Council that started way back in 2002 when the Department for International Development (DFID) gave the Centre a grant for data collection for Prisoners and Detainees countrywide without trial.



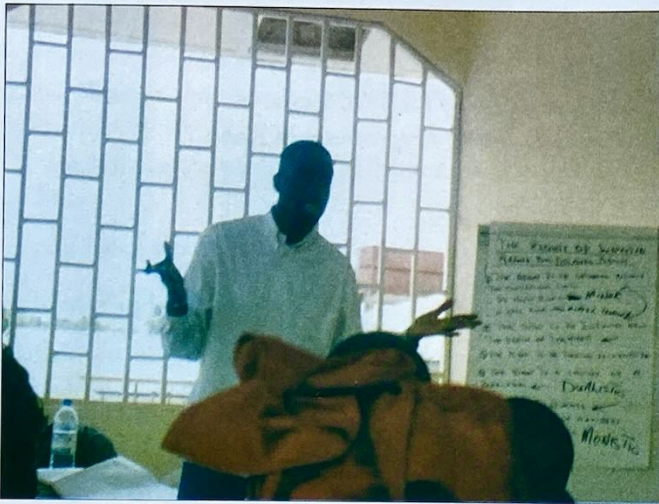
Participants after a paralegal Training Programme in Kailahun

GLOBAL RIGHTS: During the period under review LAWCLA collaborated very strongly with the launching of its Paralegal Training. In February LAWCLA in collaboration with Global Rights (formerly referred to as International Human Rights Law Group) implemented a Paralegal Training Programme in Koinadugu, Kailahun and Kono Districts.

Over 40 people benefited from this Training Programme in each of these districts which included community activists, local court officials, traditional rulers, NGO workers, representatives from civil society organizations etc.



Traditional welcome at Kabala for LAWCLA before the Paralegal Training Programme



Melron Nicol-Wilson training Paralegals in Kono



Lansana Dumbuya training Paralegals in Kono



Hanatu Kabbah training paralegals in Kabala



Oju Wilson training Paralegals in Kabala

STAFF DEVELOPMENT

The period under review was very remarkable for the Lawyers Centre for Legal Assistance (LAWCLA) as whilst some were returning home after pursuing advanced courses overseas in a bid to develop the intellectual capacity of staff members, a good number have been doing courses both within and the Diaspora.

Early this year, Lansana Dumbuya who heads the Litigation Unit at the Centre returned home after he successfully completed a Postgraduate Course at the Pretoria University in South Africa. A graduate from the University of Sierra Leone, with a Bachelors Degree in Law with Honours, and the Bar exams at the Sierra Leone Law School, Mr. Lansana Dumbuya has now spiced his earlier qualifications with an LL.M. in International and Humanitarian Law from Pretoria, South Africa.

Ms. Hanatu Kabbah another Barrister who is also the Deputy Director and head of the Gender Unit received a scholarship in August during the period under review to pursue a Masters Degree in Law, specializing in Public Service Law at New York University, U.S.A. This course is expected to run for a year.

As the need for the Research and Information Unit continues to soar, Abdul Samad Kamara, the Information Officer took up a Degree Programme in Mass Communication at F.B.C.

In the Finance Unit Mr. Dylan Sogie-Thomas who started his Technician Diploma in Accounting at the Institute of Public Administration and Management (I.P.A.M) enrolled in September this year as an ACCA Student at the London School of Accounting, where he is presently studying to be a Certified and Chartered Accountant.



Deputy Director - LAWCLA

Mr. Maada Soyei a graduate in Accounting from the Faculty of Social Sciences and Law, in the department of Accounting, is also a Masters candidate at the Njala University College Postgraduate Program.

With a flurry of staff members engaged in diverse field of studies, it is highly anticipated that at the end of their respective studies, they would all return to help boost and improve on the work of the Centre.

PUBLICATIONS BY THE CENTRE

The period under review witnessed the publications of numbers of Newsletter and other reading materials by the Research and Information Unit of the Centre. These publications were medium used to placate the work of the Centre and those that have been directly benefiting from its services nation-wide.

The most popular and most frequently published of the Newsletters, is the **Behind Bars** Magazine. This magazine specifically looked at cases that the Centre is dealing with more especially those Behind Bars awaiting trial or those whose trials have been dragging on infinitely. This publication which is under the Prisoners Rights Project funded by the Open Society Initiative for West Africa (OSIWA), was specifically designed not only to catalogue the successes of the Centre's activities country-wide, but to also create some awareness amongst the not knowing about the plights of Prisoners who are incarcerated nation-wide. It is a bi-monthly newsletter which has been distributed free of cost to members of the Bench and Bar, Human Rights bodies and the N.G.O community.

Another publication which is pretty new but has created a lot of impact is the **Juvenile Voice**. The main aim of this publication is to inform the general populace, more especially Human Rights Activists and Child Friendly Institutions about the work of the Centre in protecting Juveniles in Conflict with the law and its work country-wide. Through this medium the Centre has been advocating for reform of the laws and practice relating to the Treatment of Juvenile Offenders and Juvenile Victims of Human Rights Abuses. It is a quarterly publication which like all other magazines or newsletter published by the Centre has been distributed free of cost.

With information about the day to day running of the Centre's activities **LAWCLA News** has been very useful. People have been able to get a complete rundown about the work of the Centre and have been longing for the publication of this Newsletter to read contemporary happenings and highly educated intellectual articles on Legal and Human Rights issues. This too, like all other publications is distributed free of cost.

The **Para-legal handbook**, is a publication that was co-edited by the former International Law Group now Global Rights and the Lawyers Centre for Legal Assistant (LAWCLA) with funding from USAID. The whole essence of this publication is to serve as a "First Aid Tool" to Para-legals with basic knowledge about the law especially in areas where they cannot readily access the services of lawyers. Eighty percent of those who benefited from this publication were those in remote areas where based on survey conducted human rights abuses are rife. Hence people in the North of Kabala and the East in Kono and Kailahun received these booklets after a two days training workshop organized by the Centre in concert with Global Rights.

THE DEATH PENALTY PROJECT

As Sierra Leone still continues to practice the horrendous exercise of state killings by maintaining the Death Penalty under the Treason and State Offences Acts and other statutes for grave offences like murder, the Centre has joined in the debate for the abolition of the death penalty.

The Project is a novelty in the judicial history of this Country but was deemed very necessary by the Centre as a course worth pursuing. The Centre believes that the death penalty is inhuman and degrading and an outright violation of the Country's Constitution which is the Supreme Law of the Land.

The Director of LAWCLA presented papers during the period under review condemning this process and called on government to emulate good examples from other Commonwealth Countries through judicial precedent and case laws that have now jettisoned the death penalty. During a B.B.C. interview during the period under review, the Director made it emphatically clear that the fight in realizing the eradication of the death penalty will go on unabated until their voices are heard through reform of the existing laws.

LEGAL CHALLENGES TO THE DEATH PENALTY IN AFRICA

By: Melron C. Nicol-Wilson Director-Lawyers Centre for Legal Assistance

The question of whether the State can kill has since time immemorial been debated upon by various scholars from both Legal and moral perspectives. This debate has never been laid to rest as the forces contending against each other (Human rights activists on the one hand and State Governments on the other) are very strong and powerful.

The death penalty is a debate of great controversy. The death penalty has been accepted for murder and other serious crimes since the dawn of human civilization. It came to America with the first settlers and is identified in the Fifth Amendment of the United States Constitution.

At one time the death penalty was used in almost every part of the globe, but over the last few decades many countries have abolished it. Eighty-three (83) countries still maintained the death penalty in both law and practice, seventy-seven (77) countries have abolished it completely, fifteen (15) retained it but only for crimes committed in exceptional circumstances (such as crimes committed in times of war) twenty (20) other countries maintain laws permitting the use of death penalty for ordinary crimes, but have allowed the death penalty to fall into disuse. The death penalty is the ultimate cruel, inhuman and degrading punishment.

It violates the right to life. It is irrevocable and can be inflicted on the innocent and it has never been showed to deter crime more effectively than other punishments.

A number of international protocols and covenants have called for the abolition of the death penalty:

1. **The second optional protocol to the international covenant on civil and political rights aiming at the abolition of the death penalty** provides for the total abolition of the death penalty, but permit states to retain the death penalty in war time as an exception.
2. **The protocol to the American Convention on Human Rights to abolish the death penalty** provides for the total abolition of the death penalty but permits states to retain the death penalty in war time as an exception.
3. **Protocol No. 6 to the European Convention for the Protection of Human Rights and fundamental freedoms concerning the abolition of death penalty** provides for the abolition of the death penalty in peacetime.

A number of other convention and covenants has prohibited capital punishment for offences committed by persons under the age of 18.

1. **Article 6 of the International Covenants of Civil and Political Rights** provides that sentence of death shall not be imposed for crimes committed by persons below 18 years of age, and shall not be carried out on pregnant women.
2. **Article 37 of the convention of the Rights of the Child** provides that a no child shall be subjected to torture or other cruel, inhuman or degrading treatment of punishment, neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below 18 years of age.

3. Article 4 of the American Convention on Human Rights provides that, capital punishment shall not be imposed upon persons who at the time the crime was committed were under 18 years of age or over 70 years of age, nor shall it be applied to pregnant women.

The death penalty has no place in a modern criminal justice system. It is a violation of two fundamental human rights as laid down in Article 3&5 of the Universal Declaration of Human Rights.

a. The rights to life and the right not to be tortured or subjected to any cruel, inhuman or degrading punishment.

The death penalty is not an effective deterrent because all judicial systems make mistakes and because it is of an irrevocable nature, the death penalty kills innocent individuals who are wrongly convicted. It brutalizes society and breeds contempt for human life.

THE DEATH PENALTY IN SOUTH AFRICA -THE CASE OF STATE V MAKWANYANE AND MCHUNU

Eminent Courts around the world have reached divergent decision on the compatibility of capital punishment with constitutionally guaranteed rights particularly in regard to the provision proscribing cruel and unusual punishment found in them. In *McCleskey v Kemp* 1987), the United States Supreme Court by a single vote rejected *McCleskey's* claim that the state of Georgia's sentencing process with respect to capital punishment involved a racial bias notwithstanding that black defendants such as *McCleskey* have the greatest likelihood of receiving the death penalty.

The Court held that the statistical probabilities were insufficient to prove racial discrimination, and that the legislature rather than the courts was the more appropriate branch of government for determining such policies. As a consequence, the moratorium on the implementation of capital punishment, which had ensued after *Furman v Georgia*, came to an end.

THE MAKWANYANE JUDGEMENT

In 1995 the Constitutional Court of South Africa outlawed the Death Penalty in the oft –quoted case of *Makwanyane v Mchunu*.

The Court conceded that the constitution does not outlaw capital punishment per se.

It however reasoned that the death penalty is inconsistent with one of the constitution most sacrosanct provision – the right to life. And that it is undoubtedly an inhuman and degrading punishment.

It proceeded and stated that the constitutionality of capital punished is not a matter for referendum borrowing from Justice Jackson in the celebrated case of *West Virginia State Board of Education v Barnette*, the Constitutional Court stated “the very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy and to place them beyond the reach of majorities...”

The facts of the case are quite clear and not in dispute. The two accused in this matter were convicted in the Witwatersrand Local Division of the Supreme Court on four counts of murder, one count of attempted murder and one count of robbery with aggravating circumstances. They were sentenced to death on each of the counts of murder and to long terms of imprisonment on the other counts. They appealed to the Appellate Division of the Supreme Court against the convictions and sentences. The Appellate Division dismissed the appeals against the convictions and came to the conclusion that the circumstances of the murders were such that the accused should receive the heaviest sentence permissible according to law.

Section 277 (1) (a) of the Criminal Procedure Act. No. 51 of 1977 prescribes that the death penalty is a competent sentence for murder. Counsel for the accused was invited by the Appellate Division to consider whether this provision was consistent with the Republic of South Africa's Constitution, 1993, which had come into force subsequent to the conviction and sentence by the trial court. He argued that it was not, contending that it was in conflict with the provisions of sections 9 and 11 (2) of the Constitution.

The Appellate Division dismissed the appeals against the sentences on the counts of attempted murder and robbery, but postponed the further hearing of the appeals against the death sentence until the constitutional issues are decided by the Constitutional Court. See:

The trial was concluded before the 1993 constitution came into force and so the question of the constitutionality of the death penalty did not arise at the trial.

However this was raised during the constitutional hearing.

Chapter 3 of the 1993 Constitution of South Africa sets out the fundamental rights to which every persons in entitled under the Constitution and also contains provisions dealing with the way in which the chapter is to be interpreted in court, it does not deal specifically with the death penalty, but in section 11 (2) it prohibits cruel, inhuman or degrading treatment or punishment.

The President of the Constitutional Court, Justice Chaskalson held that the provision of section 277 (1) (a) of the Criminal Procedure Act which sanctioned capital punishment were in Consistent with the prohibition of cruel, inhuman and degrading punishment contained in section 11 (2) of the 1993 constitution. Furthermore the Court held that the state had failed to discharge the onus placed on it by the limitation clause, encapsulated in section 33 of the interim constitution that the death penalty would be materially more effective to deter or prevent murder than the alternative sentence of life imprisonment would be, thereby justifying the state's taking life. It was also held by the court that retribution smacks too much of vengeance to be a justification for taking life in an enlightened constitutional democracy, established by the interim constitution.

Chaskalson stated that for the purposes of this judgment, it was unnecessary to decide whether section 277 (1) (a) of the Criminal Procedure Act was inconsistent with section 8 (equality), 9 (life), or 10 (human dignity) of the interim Constitution. Whereas all the other 10 judges of the constitutional court concurred with the judgment of Chaskalson there is nevertheless a measure of divergence of opinion as to which fundamental rights where indeed violated. Certain judges held that in addition, the right to life was violated while others included the violation of the right to dignity in their judgment.

Mahomed J and Ackermann J went further in their analysis and assessment. The former was of the opinion that in addition, capital punishment violated the right to equality. Ackermann J found that the right to life of necessity includes the right not to be put to death by the state in a way, which is arbitrary and unequal.

This sentiment was further developed by Chaskalson P who commented that it is without gainsay that poverty, race and chance play roles in outcome of capital cases in the final decision as to who should live and who should die. If this is indeed the case, it is a serious violation of the right to equality encapsulated in section 9 of the 1996 constitution.

THE DEATH PENALTY IN SIERRA LEONE

In Sierra Leone at the moment we have the Domestic courts and the Special Court for Sierra Leone both dispensing justice. The two Courts have different policies with regards to the imposition of the death penalty for offenses committed within the territory of Sierra Leone.

The Domestic Court applies the Death Penalty whereas the Special Court does not. Within the domestic court, the death penalty is handed down on persons convicted of treason, murder and armed robbery. Similar to section 11 (2) of the 1993 Constitution of South Africa, section 21 of the 1991 constitution of Sierra Leone prohibits cruel, inhuman and degrading punishment.

Article 19 of the Agreement between the United Nation and the Government of Sierra Leone on the establishment of the Special Court of Sierra Leone, provides for the imposition of terms of imprisonment as opposed to the Death Penalty as punishment for the conviction of an offence.

Thus while the bad boys convicted by the Special Court will be sentenced to terms of imprisonment, the not so bad boys convicted by our national courts for similar offences shall face the death penalty. I see a breach of the fundamental right to equality here. In the same jurisdiction, the same crime (murder for example) carries different penalties. I therefore suggest that we bring a constitutional test case before the Supreme Court arguing that the death penalty is unconstitutional since it violates the prohibition of cruel, inhuman and degrading punishment in Section 21 (a) of the 1991 Constitution.

Recently, the Truth and Reconciliation Commission established by the Government of Sierra Leone has recommended the abolition of the Death Penalty, in its report submitted to the Government.

THE WAY FORWARD

Like in South Africa the Death Penalty in Sierra Leone can be abolished by Legal means. A test case should be brought before the Supreme Court of Sierra Leone alleging that the death penalty is Unconstitutional. Alternatively the Government should abide by the recommendation of the Truth Commission and abolish the Death Penalty.

RECOGNITION BY AWARD COMMITTEES

The Director of the Lawyers Centre for Legal Assistance (LAWCLA) Mr. Melron C. Nicol-Wilson has received recognition for his services rendered to children by receiving two awards this year. His keen interest in the activities of children spans way back to the inception of the Centre in July 2001 and the establishment of a Juvenile Justice Unit which main focus was essentially in "Protecting and Promoting Child Rights through Law".

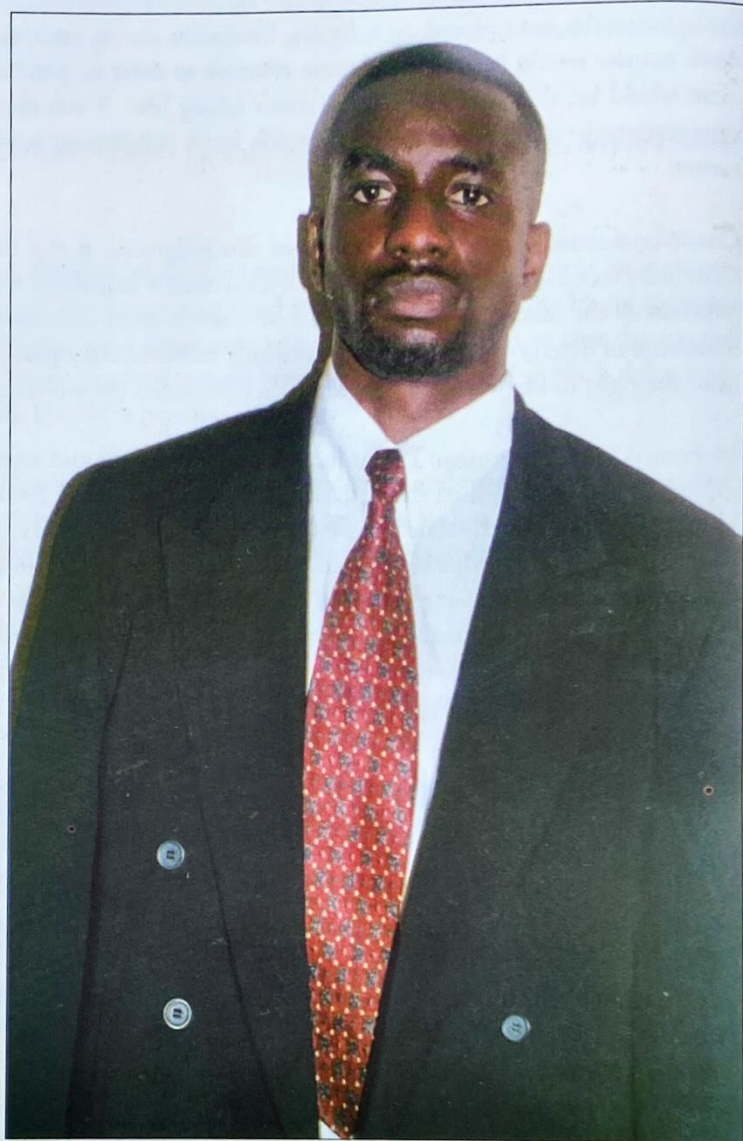
With the data collection exercise funded by the Department for International Development (DFID) through the British Council in Freetown, to have a first hand information about the amount of Prisoners and Detainees locked up in all functional Police Stations and Prisons countrywide, he was able to perceive the true plights of children when they are in conflict with the law and the need to find a way to ameliorate their plights. This in fact brought him in contact with Musa Kamara a juvenile who allegedly killed an Aunt by accidentally discharging a rifle. His interest in this matter led to LAWCLA's regular visit to the Juvenile Remand Home at Kingtom.

As a result of LAWCLA's close relationship with children at the Juvenile Remand Home, LAWCLA was one of the first institutions that reported on the chaotic scene at the Home which even resulted to fatality, with a front page caption on our Behind Bars Newsletter, "Murder and Torture Behind Bars". With the launching of the Juvenile Justice Project which was an initiative of the Director this August, the series of Workshops for both Child Experts and Law Enforcement Officials were used as forums to teach Child Rights Agencies the rudiments of handling children.

It is as a result of these good works by the Director and his team that led to his bequeathal of two awards by the National Youth Coalition & Children Forum Network, and the Children of Sierra Leone. The children of Sierra Leone through the Children's Forum Network recognized the Director as a "Very Active and

Dedicated Child Friendly Lawyer" whiles the National Youth Coalition & Children Forum Network recognized him for the Award of "Excellence and Meritorious Services in Public Life".

Many people saw these awards bequeathed on the Director as an inspiring gesture.



Director - LAWCLA

THE LAWYERS CENTRE FOR LEGAL ASSISTANCE IS GRATEFUL TO THE FOLLOWING FOR THEIR SUPPORT

- ‡ BANYAN TREE FOUNDATION
- ‡ DOEN FOUNDATION
- ‡ U.N.D.P. SIERRA LEONE
- ‡ BRITISH HIGH COMMISSION - SIERRA LEONE
- ‡ GLOBAL RIGHTS (FORMERLY, INTERNATIONAL HUMAN RIGHTS LAW GROUP)
- ‡ THE OMBUDSMAN OF THE REPUBLIC OF SIERRA LEONE
- ‡ JUSTICE PATRICK HAMILTON
- ‡ MAGISTRATE BANKOLE SHYLON
- ‡ MAGISTRATE FISHER
- ‡ MAGISTRATE DEEEN TARAWALIE
- ‡ STANDARD TIMES NEWSPAPER
- ‡ THE INDEPENDENT OBSERVER NEWSPAPER
- ‡ THE NEWS
- ‡ THE CONCORD TIMES NEWSPAPER
- ‡ MRS. KADIE FAKONDO
- ‡ SALONE TIMES
- ‡ AWOKO NEWSPAPER
- ‡ RADIO DEMOCRACY F.M. 98
- ‡ S.L.B.S. RADIO AND T.V.
- ‡ RADIO 96 VOICE OF THE HANDICAP

CONCLUSION

During the past twelve months the Centre was able to fulfill its mission to make the Law and Justice more Accessible to Indigent Members of the Sierra Leonean Society through various Projects.

The major challenges facing the Centre are the reform of the Justice Sector in Sierra Leone, the Pursuit of Constitutional Test Cases and Continuation of Impact Litigation Cases. The Centre also need to continue its Advocacy and ensure that the Government of Sierra Leone establishes a Legal Aid Board, Reform Discriminating Laws against Women enact a Child Rights Law, and abolish the Death Penalty.

It is hoped that we will be able to meet these challenges in the next twelve months.

SUPPORT LAWCLA

The Lawyers Centre for Legal Assistance - Sierra Leone is presently one hundred percent dependent on Donors for its operational and staffing costs. We believe that this dependence threatens the existence of the Centre in the absence of funding from Donors. In order to complement funds received by donors and to ensure the Centre's financial sustainability, the Centre undertakes the undermentioned tasks for modest cost:

1. Human Rights Training.
2. Human Rights and Legal Research.
3. Consultancies and Retainership.
4. Commercial adverts in our Newsletters and Reports.

Our ability to continue and expand the work of the Centre depends on your support.

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ABOUT THE LAWYERS CENTRE **FOR LEGAL ASSISTANCE (LAWCLA)**

The Lawyers Centre for Legal Assistance (LAWCLA) is one of Sierra Leone's newest but promising Human Rights Institution.

LAWCLA was established in March 2001 partly due to a concern by the founders about the deplorable human rights situation in the country and the limited access to justice and the Law by the majority of victims of Human Rights abuses and violations especially indigent members of the society.

LAWCLA is an independent, non-Political, non-Profit making, Public Interest Human Rights Law Centre, which among other things provides free Legal services to poor members of the public.

LAWCLA's mission is "to make the Law and Justice more accessible to indigent members of the Public through Legal Advice, impact Litigation and Research".

LAWCLA's human rights work is unique in one respect, that it is Sierra Leone's first and only organisation to date involved in Public Interest Litigation and providing Pro Bono Legal Aid. This is appreciated against the fact that human rights work by the vast majority of Local groups in the country is limited to monitoring, reporting and community Education and Sensitization.

As a non-Profit Making Institution, the Centre is dependent upon donation and grants from a wide variety of sources.

The Centre welcomes your Technical, Financial and Moral Support.

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