

# Justice for Girls?

Girls in conflict with the law and sexual exploitation in Sierra Leone

June 2011

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AdvocAid



Justice for girls? Girls in conflict with the law and sexual exploitation in Sierra Leone is the product of collaboration between four organisations:

# justice studio.

Justice Studio is a consultancy and research organisation specialising in child protection, juvenile justice, prisons and detention.

Marianne Moore, Director of Justice Studio, designed and led this research. She is the author of this report.

[www.justicestudio.org](http://www.justicestudio.org)



# AdvocAid

AdvocAid supports justice, education and reintegration for female detainees and their children, in Sierra Leone. Founded in 2006, the organisation's aim is to strengthen access to justice, including an increased ability to claim rights for women and to empower them as active citizens through the provision of education, welfare and post-prison support.

Sabrina Mahtani, Executive Director of AdvocAid, provided expertise and additional research for this report and Genevieve Hughes, intern at AdvocAid, carried out additional fieldwork.

[www.advocaidsl.com](http://www.advocaidsl.com)



The African Prisons Project (APP) is a group of people passionately committed to improving access to healthcare, education, justice and community reintegration for prisoners in Africa. They aim to restore the dignity of those they serve by providing humane conditions and services which help them to regain their humanity. They build and refurbish prison medical and educational facilities, provide innovative services and work to change the attitudes of the societies served when it comes to criminal justice issues.

[www.africanprisons.org](http://www.africanprisons.org)



As the local chapter of DCI in Sierra Leone, Defence for Children International – Sierra Leone (DCI-SL) is an independent, non-profit, non-governmental organisation dealing with juvenile justice, child's rights and human rights' mainstreaming and advocacy. The main thrust of DCI-SL's work is to provide socio-legal support to children in conflict with the law, child victims of human rights abuse and violations or those at high risk of becoming in conflict with the law.

[www.defenceforchildren.org](http://www.defenceforchildren.org)

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## Executive summary

This report gives a voice to girls in conflict with the law and those involved in sexual exploitation in Sierra Leone. The research was carried out by Justice Studio in collaboration with three NGOs: AdvocAid; the African Prisons Project (APP); and Defence for Children International Sierra Leone (DCI – SL) during November and December 2010. Interviews were carried out with 24 girls between the ages of 13 and 18 across Sierra Leone, the Ministry of Social Welfare, Gender and Children's Affairs (MSWGCA) and other key stakeholders and NGOs such as the Justice Sector Development Programme (JSDP).

### “Nobody to take care of me”: Background

The majority of girls in conflict with the law and girls who are sexually exploited have experienced neglect, abuse and abandonment. The girls, and the organisations interviewed, highlight that it is almost impossible to distinguish a girl as in need of care and protection from one who is in conflict with the law. The majority were estranged from their families and living on the streets or had moved away from guardians or ‘aunties’. One girl explained how she had become pregnant and so *‘my aunty drove me away. She said I have put myself in trouble and should go to the man.’* Of the 24 interviewed: 12 were living on the streets or in street/slum accommodation; three were living with their guardian “aunty”; two were living with their boyfriends; and seven were orphans. Although these children fit the category of being ‘in need of care and protection’ under the Sierra Leone Child Rights Act 2007, the main agency that deals with these children is the police, and their involvement often leads to criminalisation rather than protection.

### “Society does not want to see it” Sex work

The Sierra Leone government has ratified international protocols against child prostitution. However this has not been carried through into domestic law, meaning that in practice, sexually exploited girls have little or no legal protection. Instead they are often penalised for the offence of loitering and left to continue to be exploited. Out of the cohort of 24, ten girls said they were sex workers. The majority were living on the streets or in slum areas and had begun working in the sex industry from an average age of 13/14. All of the girls had extremely troubled lives and had either been estranged from their family or were orphans. The death of a parent or a breakdown in their relationships with their guardian or ‘aunty’ was the trigger that drove the majority of them onto the street. For example one girl, aged 17, had started working in the sex industry at the age of 13 when her father died and her mother left her.

Night clubs are the principle location for sexual exploitation. Madames, ‘Sissis’ or ‘Mammy Queens’, and night club owners exploit the girls for a profit. Indeed the girls explained how they procured sex by visiting night clubs. One said *‘during the night I visit clubs for boys - then they use me and pay me money.’* The girls are often in risky situations that can lead to their abuse and their conflict with the law. They experience bullying and rape as a matter of course and often become involved in petty offences such as larceny. Only a very small number of NGOs work with these girls and it appears that the situation is largely ignored by government and society. Little is known about boys who are being sexually exploited, yet all these children are in desperate need of care and protection.

## Relationship with the Police

Family Support Units (FSU), situated in police stations and staffed by both police officers and probation and social workers from the MSWGCA, are mandated to handle all juvenile justice cases. However, divisional police officers often fail to recognise their role in this. The petty offences of larceny and loitering appear to be the “typical” offences committed by girls, although they are also charged with more serious offences such as wounding and murder. The offence of loitering is vague and anachronistic and appears to be open for police to abuse at their discretion.

With no training on child rights, or girls’ rights, the police are alleged to have treated the majority of girls interviewed harshly. Police interrogations did not take place with a parent/guardian or social worker present and in a high number of cases there was no attempt to contact the parents. This resulted in the majority (13 of 19) of girls who were arrested being placed in a cell with adults when in police custody. Girls who were sex workers reported being propositioned, or raped, and three girls reported being beaten by the police. One girl reported that she was taken to the central police station in Freetown, beaten, fined 25,000 Leones and raped, another that she was forced to “pump” up and down on the spot and given *‘five beats with a shoe’* on her hand. Of the 15 girls that had experience of court, the majority (nine) had a lawyer. Despite this, some girls felt unable to state their side of the story to the court. In addition, there appears to be a distinct lack of lawyers in the provinces, meaning that it is far more difficult for girls in the rural areas to obtain legal representation.

## “They treat me fine” Detention

There are two remand homes and one approved school for sentenced children in Sierra Leone. However girls were only detained in Freetown Remand Home at the time of the research. The recently approved United Nations *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* otherwise known as “the Bangkok rules” establish the international expectations of how girls in detention should be treated. Generally, all of the juvenile establishments appear to have undergone vast improvements in relation to their treatment of children in conflict with the law in the last ten years. Indeed three out of six girls at Freetown Remand Home felt it offered them a safer environment than the outside world. One said *‘now I feel like I have a home because out there I don’t have a permanent place to stay - I have to go out in the evening. Here I can sleep without needing to go out and find money’*. Nevertheless, a few expressed fear about the boys who were housed with them in the homes, clearly highlighting a need for greater and more effective separation of girls and boys in the remand homes, particularly in Bo. The majority of the homes were unable to provide the level of care stipulated by the Bangkok rules. In particular it is clear that psychological services for girls who have been sexually exploited need to be developed. Furthermore, there is little or no educational or vocational training available for girls who are detained in juvenile facilities.

Children should not be detained in adult prisons. However eight girls were found in, or had experienced, adult prison. They did not appear to be suffering from harsh treatment and generally appeared to be being looked after by the older women. However they received no schooling by the establishments and the majority appeared to be suffering psychologically. Three were missing school and one said she did *‘not feel fine’* because of this.

## Community reintegration

There were no reintegration programmes run by the juvenile remand homes or the adult prisons and the majority of girls who had been detained were simply released back into the environment they came from. That environment continues to be an unequal one for girls in Sierra Leone. They are vulnerable to discriminatory and sometimes harsh treatment and are less likely to receive schooling than boys. This is particularly true for sexually exploited girls.

## Conclusion

Girls in conflict with the law and being sexually exploited are in need of care and protection rather than criminalisation. Indeed, the cohort of girls, and the organisations consulted, demonstrate that it is almost impossible to distinguish a girl as in need of care and protection from one who is in conflict with the law. The problem of sexual exploitation of girls is particularly concerning. Poverty and a tradition of guardianship sees the girls travelling far from their families to attend school, and stay with their 'aunties'. When these relationships break down, the girl is far from home and unable to provide for herself which often leaves her with little choice but to turn to prostitution. Big steps are needed to ensure that domestic legislation protects girls who are being sexually exploited and that the media, the public, the government and mining companies, whose presence has caused an increase in girls being sexually exploited in Sierra Leone, need to work together to end the sexual exploitation of girls.

## Recommendations

### Protect sexually exploited children

Children who engage in sex work should not be criminalised. It should be made explicit in law that an attempt to procure a girl, or commit sexual acts with a girl under the age of 18, is illegal regardless of any 'known immoral character' of the minor in question, as is currently laid out in the Cruelty to Children Act. The provision in the Child Rights Act 2007 for police officers to "arrest" children found wandering in order to protect them and take them to a safer place would appear more appropriate than detention in cases such as loitering.

Recommended targets:

- Cruelty to Children Act (Cap 31) to be amended to remove references to 'known immoral character'
- The offence of loitering to be abolished
- The MSWGCA, the police, NGOs, the Human Rights Commission, women's organisations and companies such as those working in the mining industry, work together to draft and implement a strategy for ending the sexual exploitation of children. Ensure that after care and counselling for such children is included.
- Research into sexually exploited boys to be undertaken

## Build the capacity of MSWGCA

In 2006 the MSWGCA committed itself to working towards an improved social welfare system deploying trained social workers from national to chiefdom levels, building the capacity of the management staff, and improving the provision of logistical support and equipment to the Probation units.<sup>1</sup> Unfortunately, however, there is still a long way to go. It is recommended that as a priority the capacity of the MSWGCA is enhanced. If the probation and social work profession are given more skilled recruits and opportunities for training then they will be better able to work with the relevant NGOs and ensure that children are better protected.

Recommended targets:

- Recruit more skilled probation and social workers to provide for children in need of care and protection
- Sensitise the police to their role in detecting children in need of care and protection and diverting them to probation and social workers
- Empower and train probation and social workers so that they are aware of their roles and responsibilities
- Provide better facilities and resources, such as means of transport, to probation and social workers so that they can carry out their duties accordingly.

## End abuses by the police

A number of girls interviewed reported abuse by the police. This is completely unacceptable. It is crucial that girls' families and guardians are contacted and that lawyers are present during all police interrogations. It is therefore recommended that more effective supervision and training are implemented across police departments to ensure that no abuse takes place.

Recommended targets:

- All police officers, not just those working in the FSU, to be sensitised to girls' rights
- A code of conduct which explains the penalties for abuse of children to be implemented and promoted
- The police to sensitise communities about girls' rights and their role in promoting and protecting those rights
- Monitoring of police stations to be carried out to ensure that children are not interrogated without a parent, guardian or appropriate adult present
- Cease detention of children for petty offences
- The Legal Aid Act to be fully implemented ensuring that children have access to lawyers
- Increase the provision of legal assistance in the provinces
- Establish an independent police complaints commission to fully and impartially investigate complaints regarding the police.

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<sup>1</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

## Promote formal diversion away from the criminal justice system

It appears that girls are often being diverted from the criminal justice system. This is commendable, and in accordance with international standards. However informal diversion without support means that the girls end up back in the environments that lead them into conflict with the law.

Recommended targets:

- A clear policy on diversion and measures to prevent children coming into contact with the criminal justice system to be agreed by key stakeholders
- The responsibility of educating the wider community on the rights of children and diversion to be given to the police
- Ensure the implementation of the Criminal Procedure Bill 2010

## Bring conditions of detention in line with international standards

For those girls who have broken the law, the basic rights afforded to them under the Beijing rules and the Bangkok rules should be assured. The Courts and the Prison system are advised to continue their efforts to end the detention of children with adults. A number of organisations have suggested that building more remand homes would be one solution to this problem. However, as the majority of girls who are detained are not a danger to society, building more remand homes does not address the need. Instead, it is suggested that the MSWGCA build child protection centers where children in need of care and protection can be housed, counseled and reacquainted with their families. These centers would provide the space and opportunity to establish how best to meet the individual needs of girls in conflict with the law.

Recommended targets:

- Children should only be detained if they are a danger to the community
- All girls in detention to have access to and resources for education
- All girls in detention to have access to psychological support
- Girls and boys in detention to be kept completely separate from each other
- No children to be detained in adult facilities
- No further criminal detention facilities to be built, instead child protection centres to be established across the country
- Effective reintegration programmes for children who have been detained to be established.

## Give girls better access to education

The MSWGCA note that there have been considerable strides made in promoting education since the Education for All Action Plan was launched.<sup>2</sup> However stakeholders pointed out that if there were more schools in the rural areas, girls would not have to travel such distances from their families. Girls travelling far from home or living with 'aunties' are often vulnerable to being in conflict with the law.

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<sup>2</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

Recommended targets:

- Build and resource more secondary schools in rural areas
- Sensitise families to the potential abuses committed by guardians or 'aunties'
- Ensure all girls are accessing education regardless of their socio-economic background
- Educate girls on their rights including their right to education

It is clear that Sierra Leone is moving towards greater gender equality, however more can be done to protect and safeguard girls in conflict with the law. By listening to these girls' voices, we create a platform for them to recognise and demand their rights.

# 1. Introduction

Girls in conflict with the law and girls involved in sexual exploitation have been overlooked in Sierra Leone. As their numbers are fewer than boys, and the issues surrounding their situation complex, it appears that their presence has been easier to ignore than confront. To facilitate the reversal of this trend, the following report aims to give a voice to the girls in conflict with the law and involved in sexual exploitation in Sierra Leone. Through interviews with 24 girls aged 13 to 18 and additional interviews with seven young women in their 20s, this report uncovers the routes that these young women take from their home environment, through arrest, to detention. It allows their often painful stories to be heard.

Outlined below is an account of the offences committed by girls, the reasons for their confrontation with the criminal justice system, and the impact of imprisonment on their lives. In recounting their stories, it is hoped that public awareness is raised and that the media, the public, the government and mining companies, whose presence in Sierra Leone has caused an increase in the sexual exploitation of girls, will be better informed about the problems faced by these children. It is essential that these groups work together to address the situation.

## 1.1. Method

This research was carried out by Justice Studio in collaboration with three NGOs: AdvocAid, the African Prisons Project (APP), and Defence for Children International Sierra Leone (DCI – SL). It was conducted during November and December 2010 in:

- Freetown, Western Area, Sierra Leone
- Kabala, Northern Province, Sierra Leone
- Makeni, Northern Province, Sierra Leone
- Bo, Southern Province, Sierra Leone
- Kenema, Eastern Province, Sierra Leone

There are fewer girls in conflict with the law than boys in Sierra Leone. Therefore we interviewed all girls between the ages of 13 and 18 that we encountered in hostels, juvenile detention facilities and adult detention facilities during the course of the fieldwork. In addition, interviews were conducted with seven women aged between 20 and 25 who had current experience of sex work and previous conflict with the law. The majority of interviews were carried out with the aid of a translator.

We also consulted with:

- Representatives from the Ministry of Social Welfare Gender and Children's Affairs (MSWGCA)
- Representatives from the Sierra Leone Police in Freetown, Kabala and Bo
- The managers and wardens in the remand homes of Freetown and Bo and the approved school in Wellington

In addition, we consulted with organisations and agencies such as the British Council Justice Sector Development Programme (JSDP); Prison Watch Sierra Leone (PW); the regional branches of DCI – SL; Centre for Democracy and Human Rights (CDHR); Help

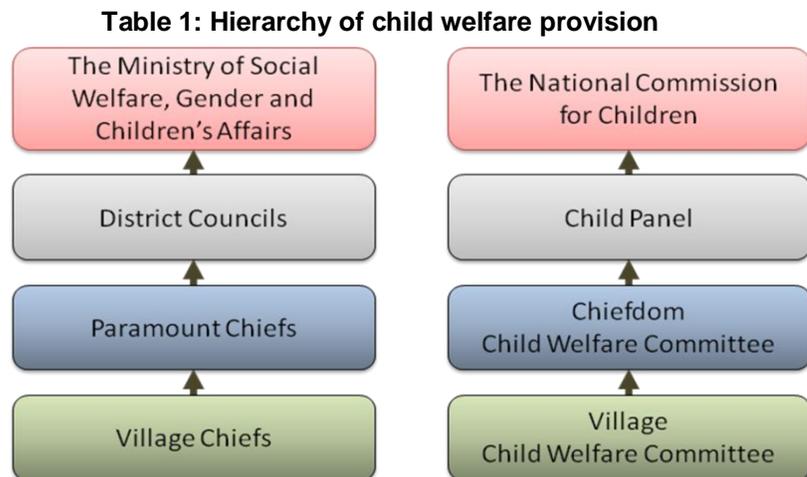
a Needy Child in Sierra Leone (Hanci-SL) in Makeni; Street Child of Sierra Leone (SCSL); and Jonathan Child Centre (JCC) in Bo.

The research was designed by Marianne Moore who also conducted the majority of the fieldwork. Additional research support was provided by Genevieve Hughes, an intern at AdvocAid, and Sabrina Mahtani, Executive Director of AdvocAid, provided further research and expertise.

## 1.2. The child welfare and justice structure

There are three Provinces in Sierra Leone - the southern, northern, and eastern - as well as the Western Area, which includes Freetown and the surrounding rural area. Within each Province there are districts and chiefdoms, making a total of 12 districts and 149 chiefdoms in the country. Each chiefdom has a Paramount Chief, and within each chiefdom there are sections and villages.

The Sierra Leonean Government has ratified the Convention of the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The main international treaties on juvenile justice have also been ratified. The Child Rights Act 2007 incorporates many child rights principles into domestic Law. Under this Act, a child welfare and juvenile justice structure is laid out, with a child considered to be a person under the age of 18.



The Act provides for a National Commission for Children in order to advise government on 'policies aimed at the improvement of the condition or welfare of children in Sierra Leone'. These include the registration of births, and the elimination of forced marriages for girls, female genital mutilation, sexual abuse and economic exploitation of children. The Act also advocates alternatives to imprisonment for children, which should be used only as a last resort.<sup>3</sup> Under the Act, the promotion of child rights is the responsibility of all levels of government. At the village level, Village Child Welfare Committees are to monitor girls' education, prevent domestic violence, oversee the welfare of children in the village and provide 'advice and instruction to a child alleged to have committed a misdemeanour'.<sup>4</sup> At chiefdom level, Chiefdom Welfare Committees, led by the Paramount Chief, are to coordinate and advance the enjoyment of child rights.<sup>5</sup> These Committees are to issue instruction and advice to children who have committed minor crimes, however they 'have no power to punish, imprison, impose a fine, order damage or any other sanctions'. As such, they have no jurisdiction over the crimes of murder,

<sup>3</sup> Child Rights Act (2007) Government of Sierra Leone section. 11

<sup>4</sup> Child Rights Act (2007) Government of Sierra Leone section. 48

<sup>5</sup> Child Rights Act (2007) Government of Sierra Leone section. 50

treason, rape, defilement, indecent assault or any other sexual offence.<sup>6</sup> These matters are to be referred to the police. At the district level, Child Panels have 'non-judicial functions to mediate in criminal and civil matters which concern a child'. They should 'seek to facilitate reconciliation between the child and any person offended by the action of the child' and can impose a community guidance order, an apology, or service by the child to the offended person.<sup>7</sup>

### 1.2.1. Child protection

The Child Rights Act 2007 states that parents have a duty to 'protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression.'<sup>8</sup> The Act defines a child as in need of care and protection if the child:

- Is an orphan or is deserted by his parents and relatives
- Has been neglected or ill treated by the person who has the care and custody of the child
- Has a parent or guardian who does not exercise proper guardianship
- Is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child
- Is destitute or found wandering and has no home or settled place of abode or visible means of subsistence
- Is found begging or receiving alms or accompanies any person begging or receiving alms
- Frequents the company of reputed thieves or prostitutes
- Is residing in the house, or part of a house, used for prostitution
- 'is found acting in a manner from which it is reasonable to suspect that he is, or has been, soliciting or importuning for immoral purposes'
- Is otherwise exposed to moral or physical danger.<sup>9</sup>

If the district council suspects that a child is in need of care and protection they can direct a probation or social welfare officer to investigate and subsequently remove the child to a place of safety for seven days. After this period they are taken to a Family Court which may issue a care order to remove the child from the situation. The child can then be placed in an approved residential home, with an approved person or with a parent, guardian or relative for a maximum of three years or until the child reaches 18. A Family Court may also issue a supervision order to the district council, 'aimed at preventing any significant harm being caused to a child whilst he remains at his family home'. This is carried out by a probation officer or social welfare officer.<sup>10</sup>

Although the system appears coherent and its aims are commendable, the organisations and agencies consulted in this research demonstrate that it is far from clear in practice. There are limited numbers of social workers, limited places to house the children, and a lack of MSWGCA capacity. Although a representative from the MSWGCA said that they are working with agencies such as orphanages and homes and that 'countrywide we have 45 homes and about 12 in Freetown', she admitted that on occasion she has had no choice but to take children home with her. Organisations such as Don Bosco in Freetown, SCSL and Hanci-SL in Makeni, and JCC in Bo, are part of a very small group

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<sup>6</sup> Child Rights Act (2007) Government of Sierra Leone section. 52

<sup>7</sup> Child Rights Act (2007) Government of Sierra Leone section. 71 - 75

<sup>8</sup> Child Rights Act (2007) Government of Sierra Leone section. 26

<sup>9</sup> Child Rights Act (2007) Government of Sierra Leone section. 62 and 63

<sup>10</sup> Child Rights Act (2007) Government of Sierra Leone section. 46 and 64

of NGOs working with children in need of care and protection. The MSWGCA, with little capacity and a lack of staff, struggles to give advice to the orphanages and centres that work for the children. There is not enough central coordination, and key aspects of the Child Rights Act, such as the National Commission, are still being established rather than in place.

### 1.2.2. The limitations of juvenile justice in practice

It is believed that the civil war in Sierra Leone ‘weakened family and community structures, institutions and mechanisms that protected and promoted child welfare which has resulted in an increase in children in conflict with the law.’<sup>11</sup> Nevertheless, since the end of the war in January 2002, Sierra Leone has been attempting to address the issue with a child rights focus. Unfortunately, there are developmental issues that are hampering progress. For example, the age of criminal responsibility in Sierra Leone is 14.<sup>12</sup> However, the extent to which this is understood by the formal justice system is debatable. Indeed, a recent report by DCI-SL found that children under the age of criminal responsibility are arrested, interrogated, charged in court and convicted routinely. It appears that a minority of police are unaware that the age of criminal responsibility is 14, and although the majority of Magistrates are aware of this, the report uncovered evidence of children younger than 14 being put through trial proceedings.<sup>13</sup>

In addition, Prison Watch ‘continue to report instances of children below the age of criminal responsibility being detained due to an inability to determine age.’<sup>14</sup> Indeed, as registration of new births is currently only at 48%, many children and young people are often unsure of and/or unable to prove their age. This means that children may be inappropriately treated (intentionally or unintentionally) by the authorities. AdvocAid reported that they experienced particular difficulties with children aged 16 or 17 as police officers note they are 18 ‘in order to make things easier for themselves’. Indeed, an assessment of prisons by the UN in 2007 found a number of people below 17 who stated that the police had altered their age to ensure they were prosecuted as adults.<sup>15</sup> Once an age is on police or court records it is difficult to challenge, and AdvocAid report that magistrates and lawyers do not challenge this sufficiently.

Police officers and magistrates often rely on their own visual assessment of the individual. DCI – SL therefore draw attention to the fact that ‘inaccurate determinations of age at the point of first contact have the potential to put juveniles at risk of multiple violations of their rights.’<sup>16</sup> In order to rectify this, the National Child Justice Strategy for Sierra Leone (2006) and the Justice Sector Reform Strategy and Investment Plan 2008-2011 planned for, and have drafted, guidelines on age assessment. This prioritises formal documentation and statements from key witnesses over medical assessments. Although the guidelines have been validated by the MSWGCA, and signed by the minister, they were, at the time of the research, with the Judiciary for consideration and had not yet been incorporated into policy.

### 1.2.3. Girls in the justice system

There are fewer girls than boys in conflict with the law in Sierra Leone. The table below

<sup>11</sup> National Child Justice Strategy (2006) p. 2

<sup>12</sup> Child Rights Act (2007) Government of Sierra Leone section. 70

<sup>13</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>14</sup> Prison Watch Sierra Leone (2009) REPORT ON THE STATUS OF WOMEN AND JUVENILES IN DETENTION. October 2008 – March 2009

<sup>15</sup> United Nations Integrated Office in Sierra Leone (2007) Behind Walls: An Inventory and Assessment of Prisons in Sierra Leone, Para 141

<sup>16</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

shows the numbers of boys and girls monitored by probation officers in police cells, prison and correctional facilities in Sierra Leone.

**Table 2: Children in the justice system<sup>17</sup>**

Year	Boys	Girls	Total
2004	678	117	795
2005	955	91	1,046

DCI-SL's recent report shows that girls are not coming into contact with the formal justice system as often as boys. They state 'whether it is because they offend at a reduced rate, or because of the nature of crimes they commit, or because of how magistrates dispose of their cases, girl children appear to come into state detention less frequently than boys do.'<sup>18</sup>

This report is unable to categorically state why there are fewer girls than boys in conflict with the law in Sierra Leone. This is a pattern worldwide and there is no uncontested explanation for the phenomenon. However anecdotally, one organisation consulted stated that girls are typically told to stay in the background and not to make any trouble. Another said that 'girls are more resilient to hardship than boys – they are more obedient' and will take to the streets less quickly. It appears generally that a mixture of societal factors and a greater propensity to divert girls away from the system also contribute to the situation. The following pages shed light on all the factors involved.

<sup>17</sup> Ycare International (2007) Youth Justice in Action, YMCA

<sup>18</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

## 2. “Nobody to take care of me”: Background

### 2.1. Overview

Girls in conflict with the law have troubled backgrounds. The majority have experienced neglect, abuse and abandonment. The cohort of 24 girls interviewed, and the organisations consulted, demonstrate that it is almost impossible to distinguish a girl as in need of care and protection from one who is in conflict with the law.

The cohort of 24 girls included:

- Three who were at risk of being in conflict with the law
- Six whose experiences had ended in arrest and police detention
- Seven who had experience of being detained in a remand home
- Eight who had been detained in adult prisons

All of these girls had multiple vulnerability factors and the majority, 17, were living away from home immediately prior to being in conflict with the law. As can be seen from the table below, ten of these girls were open about being involved in sex work and it was suspected that two additional girls were being exploited in a similar way. Seven girls disclosed that they were orphans, nine had problematic relationships with an ‘aunty’, a female family friend or relation, and eight described experiences of street trading as a contributing factor to them being in conflict with the law.

**Table 3: Vulnerability factors of the cohort**

	Age	Category	Location	Crime	Living situation	Away from family?	Sex work?	Lived with aunty?	Orphan	Street trading
1	16	At risk	Makeni	Larceny	Streets	✓	✓	✓	–	–
2	18	At risk	Makeni	None	Streets	✓	✓	–	–	✓
3	13	At risk	Bo	None	Aunty	✓	?	✓	–	✓
4	18	Arrested	Freetown	Loitering	Renting/streets	✓	?	–	✓	–
5	17	Arrested	Freetown	Loitering	Boyfriend	✓	✓	–	–	–
6	18	Arrested	Freetown	Loitering	Streets	✓	✓	–	✓	–
7	15	Arrested	Makeni	Larceny	Streets	✓	✓	✓	–	–
8	14	Arrested	Makeni	Loitering	Streets	✓	✓	✓	✓	–
9	18	Arrested	Makeni	Loitering	Renting/streets	✓	✓	✓	–	–
10	16	Remand Home	Freetown	Abusive Language	Parents	–	–	–	–	–
11	18	Remand Home	Freetown	Escape from Detention + Larceny	Aunty	✓	–	✓	–	✓
12	17	Remand Home	Freetown	Wounding	Parents	–	–	–	–	–
13	13	Remand Home	Freetown	Larceny	Parents	–	–	–	–	✓
14	16	Remand Home	Freetown	Wounding	Parents	–	–	–	–	✓
15	14	Remand Home	Freetown	Larceny	Streets	✓	✓	–	✓	–
16	18	Remand Home	Bo	Larceny	Streets	✓	–	✓	–	✓

17	16	Prison	Makeni	Murder	Parents	–	–	–	–	–
18	18	Prison	Makeni	Larceny	Streets	✓	✓	–	✓	–
19	17	Prison	Kenema	Wounding	Sister	–	–	–	–	–
20	17	Prison	Kenema	Murder	Renting/streets	✓	–	–	✓	✓
21	17	Prison	Kenema	Debt	Renting/streets	✓	✓	✓	✓	✓
22	17?	Prison	Kenema	Abducting a child	Aunty	✓	–	✓	–	–
23	16	Prison	Freetown	Larceny + House breaking	Parents	–	–	–	–	–
24	16	Prison	Freetown	Murder	Boyfriend	✓	–	–	–	–
<b>Total:</b>						<b>17</b>	<b>10</b>	<b>9</b>	<b>7</b>	<b>8</b>

## 2.2. Family estrangement

Sierra Leone has a large population of vulnerable children. It was estimated in 2006 that 50.5% of Sierra Leone's population was below the age of 18, and approximately 350,000 of them were orphans. In addition, it was reported that 'up to 2,874 children sleep on the street exposed to the risk of getting in contact or in conflict with the law, and only about 30% of children in Sierra Leone live above the poverty line, with the remaining 70% living on less than US\$1 a day.'<sup>19</sup> In line with these previous reports, the majority of the cohort of girls interviewed for this study were estranged from their families at the time of them being in conflict with the law:

- 12 were living on the streets or in street/slum accommodation
- Three were living with their guardian 'aunty'
- Two were living with their boyfriends
- Seven were orphans

### 2.2.1. Street children

Half of the overall cohort were living on the streets or street/slum accommodation. The majority of these girls (eight) simply described where they lived as '*on the streets*'. The average (mean) age of these girls was 16. Three mentioned that they had migrated from either the village or smaller towns to the streets where they now lived. Another girl explained that she lived '*on Samma Street (in Makeni) in the market*.' Four girls talked about renting rooms or flats in slums, though these girls were older – two were 18 and two were 17. One girl described a troubled early life as a result of the civil war. She explained how her mother had been killed by 'the rebels' and she and her father were captured. She served as a cook for 'the rebels' who did not allow them to eat, beat her father and sexually abused her, until they both escaped. Following this, her father died and she lived with a woman for a while, until she moved into her current accommodation in a slum in Freetown where she shared a room with four other girls. Although this is the only example among the cohort of a girl suffering directly from the war, other reports indicate that this experience of victimisation during the war, followed with no support in the years after, is a characteristic of many girls.<sup>20</sup> JSDP also mentioned that some of the street children in Freetown are a result of the civil war 'where parents come to Freetown displaced, [then] the parents went home and left them here.'

<sup>19</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

<sup>20</sup> McKay, S. (2004) Reconstructing fragile lives: girls' social reintegration in northern Uganda and Sierra Leone, Gender and Development Vol 12, No 3, Peace building and Reconstruction' and Denvov and MacLure (2006) Engaging the voices of girls in the aftermath of Sierra Leone's conflict: Experiences and perspectives in a culture of violence, Anthropologies Vol 48, No 1, War and Peace

In the majority of cases, the girls appeared to be fleeing from a lack of care, poor parenting, and poverty. As a representative from Bo Remand Home said, 'if there was proper care in the house then you wouldn't go to the street.' Indeed a representative from Hanci-SL said 'the ones we are working with live permanently on the streets... on the streets they have no safe place to sleep. They have to sleep in kiosks, lorry parks – they sleep in the stalls where they sell "top-up" [phone] cards.'

Although these children fit the category of being in need of care and protection according to the Child Rights Act 2007, and international guidelines state that children who are vagrant, 'roaming the streets or runaways should be dealt with through the implementation of child protective measures' rather than through the criminal justice system, the main agency that deals with these children is the police, and their involvement leads to criminalisation rather than protection.<sup>21</sup>

### 2.2.2. Living with a guardian or 'aunty'

The Matron at Freetown Remand Home explained that 'there is a strong sense of family in Sierra Leonean society, especially within the extended family'. Children therefore routinely live with the extended family or family friends and acquaintances: 'aunties'. This is a situation that is beneficial to many families in Sierra Leone and can be a valuable rite of passage. However some authors note, and the cohort interviewed demonstrate, that these relationships can break down and children are left abused and with nowhere to turn to for help.<sup>22</sup> Although only three girls were living with their 'aunty' immediately prior to their conflict with the law, nine depicted problematic relationships with their 'aunties'.

Poverty and a tradition of guardianship sees children travelling far from their families to attend school. As DCI-SL in Bo said, 'since the parents are poor they give the girl to a family member and they don't look after them and they end up on the streets'. The situation was the same in Makeni, DCI-SL there said 'some have moved from villages – from 25 miles around to attend senior secondary schools. Some do prostitution to go to school'. They added that 'the aunties beat them, flog them and use them for work.' Six girls had experiences where they had been living with their 'aunties' who did not treat them well. They mentioned cases where the 'aunty' was not feeding them, would beat them, and would not clothe them. One girl also explained how she had become pregnant and so '*my aunty drove me away. She said I have put myself in trouble and should go to the man.*' Another girl, aged 18, was accused by her 'aunty' of stealing money, and one girl was living with her 'aunty' in a slum area in a house that appeared to be used for drug taking and prostitution. The 13 year old explained how she had been driven out of her house at the age of 12 when her mother refused to take her side after the girl's stepfather had tried to have sex with her. Since living with her 'aunty' she had been subject to horrific treatment at the hands of other occupants of the house. They accused her of stealing money, beat her up, starved her and put spice all over her body. She also appears to have a much older boyfriend who she goes to at night time.

In other cases, the breakdown in the relationships with the girls' 'aunties' directly contributed to their involvement with the law. Two girls explained how these circumstances led directly to their arrest. One girl said she had initially got on well with her 'aunty'. However, her 'aunty' began to resent the fact that her domestic work suffered as she had to go to school. The girl, now aged 18, recounted how one day she thought

<sup>21</sup> United Nations (2007) Convention on the Rights of the Child General Comment 10: Children's rights in Juvenile Justice

<sup>22</sup> Bledsoe, C. (1990) 'No Success without Struggle': Social mobility and hardship for foster children in Sierra Leone in *Man*, New Series, Vol 25, No. 1 pp. 70-88; and Zack-Williams, A.B. (2001) Child Soldiers in the Civil War in Sierra Leone in *Review of African Political Economy*, Vol. 28, No. 87, Civil Society, Kleptocracy & Donor Agendas: What Future for Africa? Pp. 73-82

her 'aunty' had given her a bottle of perfume out of a batch she had asked her to sell. However, later the 'aunty' demanded money for it, selling the girl's clothes to get the payment. When the girl reported her to the police her 'aunty' retaliated, accusing the girl of stealing her phone and digital camera. Because the 'aunty' was influential, the girl's mother did not intervene, the police listened to her 'aunty' instead of her and the girl was arrested.

## 2.3. Labour, domestic violence and marriage

### 2.3.1. Selling things

The Child Rights Act 2007 prohibits children from undertaking 'exploitative labour' and states that the age of 15 should be the minimum age of engagement of a child in full time employment (with the minimum age for doing 'light work' 13 and for hazardous work 18). It also prohibits night work for children between the hours of 8 o'clock in the evening and 6 o'clock in the morning.<sup>23</sup>

Nevertheless, eight out of the 24 girls mentioned selling as children. Four mentioned that they sold things for their 'aunty' such as palm oil, perfume, and clothes. Two mentioned that their mothers asked them to sell things and one girl, who lived on the streets, said that she helped traders to sell and sometimes stole for them. The representative from the approved school felt that 'by selling you are vulnerable [whether it is] oil water, fruit'. However, for street children, street trading appears to be one of the only means to survive. The representative from Hanci-SL reported that 'those between nine and 12 are engaging in domestic work – helping businesses with sales and work – carrying luggage for those that travel. The person gives small [amounts of] money. They wash plates, fetch water, sweep shops, sell cold water and help with the customers – wash dishes.' Then, when they reach 13, many gravitate towards sex work.

### 2.3.2. Domestic violence

Three of the girls interviewed were charged with murder. Of these, two explained how the murders were of their boyfriends and took place during incidents of domestic violence. In both cases the boyfriends were much older than the girls (one girl was aged 16 while her boyfriend was 27) and in both cases the girls stabbed them with a knife whilst under physical attack by their boyfriends. The Sierra Leonean Domestic Violence Act 2007 makes domestic violence an offence, however domestic violence against women appears to be common and it has been reported that the police are unlikely to intervene in domestic disputes except in cases involving severe injury.<sup>24</sup> AdvocAid report that they frequently represent women for murder, manslaughter or wounding arising out of cases of domestic violence. They note that there is no "battered wives" syndrome (diminished responsibility) defence in Sierra Leone. Indeed, there appears to be a societal lack of concern for the victims of domestic violence, as indicated in one of the cases: The girl, who had been in a relationship with her boyfriend for 11 months, had suffered violence from her boyfriend for a long time. When he began to beat her she tried to speak to his family but they did not do anything to help. Then she spoke to her brother and he told her to stay with him. On the day of the murder they were fighting, and he bent her over a table whilst whipping her with a piece of rubber. While he held her down on the table she reached for a knife and raised it behind her head, stabbing him fatally.

<sup>23</sup> Child Right Act (2007) Government of Sierra Leone section. 125 – 128

<sup>24</sup> Chikwanha, A.B. The Criminal Justice System in Sierra Leone Issue Paper, November 2008

### 2.3.3. Early marriage

Section 34 of the Child Rights Act states that the minimum age of marriage should be 18 years and that no person should force a child to be betrothed, married or subject to a dowry transaction.<sup>25</sup> Although there was no evidence of any of the cohort having been subjected to early marriage, anecdotal evidence suggests that the practice is prevalent, particularly in villages. JCC in Bo believed that early marriage contributes to girls being in conflict with the law as ‘the girl leaves the husband and goes to the streets.’

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<sup>25</sup> Child Right Act (2007) Government of Sierra Leone section. 34

## 3. “Society does not want to see it”: Sex work

### 3.1. The legal framework

The Sierra Leone government ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in September 2001. Child prostitution under this protocol is defined as ‘the use of a child in sexual activities for remuneration or any other form of consideration’ and Article 1 prohibits it. In turn, the Optional Protocol calls for state parties to make the procurement of a child prostitute a punishable offence and take measures to close premises used to commit such offences. Furthermore, Article 9 states that ‘parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full psychological recovery’.<sup>26</sup> The MSWGCA strategy reported that sexual abuse had been increasing and that amongst the offences reported against children in 2003 and 2004, sexual abuse was highest, representing about 21% of reported cases of child cruelty in 2003, rising to 22.5% in 2004. In addition, the offence of “unlawful carnal knowledge” is reported as the most common form of child sexual abuse constituting about 14% and 17% of offences in 2003 and 2004 respectively.<sup>27</sup>

Despite this, the domestic legislation, which dates from the colonial era, has not been updated to provide sexually exploited girls with the level of protection required by the Optional Protocol. The Protection of Women and Girls Act 1960 makes it an offence to procure or attempt to procure any girl or woman under 21 *unless* it can be proved that the girl in question is a ‘common prostitute’ or of known ‘immoral character at the time of the offence’.<sup>28</sup> In addition, the Prevention of Cruelty to Children Act makes it an offence to have ‘unlawful carnal connection’ with ‘any child *not* being a common prostitute, or of known immoral character’ punishable by ‘imprisonment for any period not exceeding two years with or without hard labour.’<sup>29</sup> Needless to say, these qualifications make offences against young girls difficult to prosecute, and can even be used to legitimise child prostitution.

Not only are girls not protected, they are penalised, criminalised and abandoned to continuing exploitation by the men who buy sex and the industry that profits from these transactions. Prostitution is not illegal in Sierra Leone, however a vast number of girls who are sexually exploited have been arrested for loitering. They are often mistreated by the police who detain them, extort payments from them in return for their release, and in some cases demand sex. As a representative from a Freetown FSU said, ‘if they are caught along the beach we counsel them to discourage them from being on the beach. If the child is a perpetual solicitor and above 14 then the child is charged to court for loitering. Then they are fined or sent to the remand home.’

### 3.2. Child sex workers

Out of the cohort of 24, ten girls openly admitted they were sex workers, and two were

<sup>26</sup> United Nations (2000) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

<sup>27</sup> Ministry of Social Welfare, Gender and Children’s Affairs (2006) National Child Justice Strategy

<sup>28</sup> My italics, Harvey, R. (2000) Juvenile Justice in Sierra Leone. An analysis of legislation and practice, Children and armed conflict unit

<sup>29</sup> Prevention of Cruelty to Children Act Section 10, Chapter 31(1960) quoted in Oju R. Wilson, Comments and Opinions: Juvenile Justice in Sierra Leone in Awareness Times Newspaper in Freetown 27.03.2005

suspected of being sexually exploited in this way. Of these ten, the majority were living on the streets, although some were renting accommodation with friends in slum areas at the time of the interviews. The girls became involved in prostitution at ages varying from 11 to 16. Although some girls were not always certain of their ages, the median age for becoming involved in prostitution was 13/14. Three girls said they became involved as young as 11.

All of the girls had led extremely troubled lives and had either been estranged from their family or were orphans. Those who became estranged from their families did so due to desertion, mistreatment or because the family could not afford to look after them. One girl, aged 17, had started working in the sex industry at the age of 13 when her father died and her mother left her. Another girl, aged 18, was 14 when she began sex work. She had been living with her stepmother who *'maltreated me - not giving me food'*. She was beaten every day until she ran away to the streets. A breakdown in their relationships with their guardian or 'aunty' was the trigger that drove the majority of the girls onto the streets. For example one girl, aged 15, said that her aunty was not giving her sufficient food to eat, *'not taking care of me - or clothe me'*. She did not go back to her mother because she was not used to her, and turned to the streets at age 11. Another girl, aged 14, was living with her sisters who were not feeding her. From the age of 11 she had been sleeping with men to get the money she needed to survive.

#### Case study - Rugi and Haja

Rugi, aged 17 and Haja, aged 14, were found by AdvocAid in June 2009, in the adult women's Pademba Road Prison. Rugi was 6 months pregnant at the time. She had been thrown out of her house when her father found out she was pregnant and she met Haja on the street. Both girls had been making a living through sex work and did not use condoms, both because of a lack of access to reproductive health services and a lack of knowledge about the risks.

They had been arrested for loitering by the police. A police man stopped them at 9pm one evening and asked for Le 40, 000 (around \$10). They did not have that amount of money and so they were arrested and sentenced at court to one week's imprisonment. On their release, AdvocAid referred them to Defence for Children and together both organisations assisted them with after care services. They found out that both girls were staying with an 'aunty', related to Haja, who was exploiting them through prostitution and retaining most of the proceeds.

The two organisations were able to ensure that Rugi was reunited with her father who accepted her back into the home. She has since given birth to a healthy child. Unfortunately, Haja was diagnosed as being HIV positive. She had not responded to attempts to assist her although follow up is still continuing.

All of the seven adult prostitutes that we interviewed in Freetown who were between the ages of 20 and 25 had begun sex work as children. Two of the women started as young as eight and nine, whilst the remainder started between the ages of 13 and 16. The trigger in the majority of cases was the death of a family member. One explained that after the death of her parents, and working several jobs (including washing dishes), the friend she now lives with introduced her to working the streets at night. For these women, the death of their parents at a young age left them with no support. Two felt that following the deaths of their parents they had nowhere to go because their other family members did not care about them. One was currently trying to support a baby who had been

abandoned by the father.

### 3.2.1. Sexual exploitation

Night clubs are the principle location for sexual exploitation, however in Freetown, there is also a market along the beaches. Madames, known as ‘Sissis’ or ‘Mammy Queens’, pimps and night club owners exploit the girls for a profit. ‘Sissis’ have good relationships with night club owners and take a percentage of the money the girls receive from men in return for their free entry into the clubs. The owner usually profits by taking a percentage of this and the extra custom they receive from men buying the girls’ drinks. These locations demand that the girls look good. A representative from Hanci-SL reported that ‘the commercial sex workers, they group themselves. They rent a single room for the safety of their clothes. All their money is for their feeding and on clothes. They have to make themselves tidy to get the men.’ The girls also explained how they procured sex by visiting night clubs. One said *‘during the night I visit clubs for boys - then they use me and pay me money.’* A girl from Makeni said *‘I work at the F\*\*\*\* - and meet with the mens.’* In Kabala the situation was similar, CDHR revealed that girls were ‘involved in prostitution but not as street children. There are guest houses – girls below 14 are shouting out for men. You can also find them in a bar called V\*\*\*\* – the teenage girls. These girls have come to the town from far and they come from the village and don’t have any way to survive.’

### 3.2.2. Abuse and conflict with the law

The girls are often in vulnerable situations that can lead to their abuse and conflict with the law. Indeed, as a representative from Hanci-SL said, ‘during their stay on the streets they experience bullying from men – they will negotiate a price for men, then they will refuse to pay the set amount of money and if you refuse he will beat you.’ One girl, aged 14 and detained in a remand home, explained how this led to her arrest: A man had agreed to pay her a certain amount of money for sex and they had sex with a condom. However, afterwards, the man was not satisfied - he wanted to have sex without a condom. The girl refused and so he raped her. She was then beaten by him because she asked him to pay more money to do sexual health tests. While they were fighting he lost the key to his motorbike. She ran away with it and got someone to drive the motorbike. She was then arrested in Bo for larceny, and taken to court by the man’s brother. It appears that in general, the lifestyle that these girls lead can mean they end up committing petty offences on a regular basis. Hanci-SL’s representative said that sexually exploited girls are arrested for ‘smoking, fighting, truancy, loitering.’ She stated that ‘most of these girls are in conflict with the law because of the activities they are doing. They drink hard rum, double punch, stout or beer, they smoke cannabis, some do pick pocketing. If a man takes them to his house then they take a phone and run’.

## 3.3. Working with girls involved in sexual exploitation

Some attempts have been made to address the issue of sexual exploitation in the capital. Freetown City Council introduced a regulation barring minors from nightclubs, although this had apparently not stopped the practice.<sup>30</sup> Generally, however, there are few interventions by government and NGOs. In Freetown, the Irish NGO GOAL has an outreach and education project that helps girls learn a trade. AdvocAid has begun preventative legal education for girls and women involved in sex work, providing

<sup>30</sup> Chikwanha, A.B. The Criminal Justice System in Sierra Leone Issue Paper, November 2008

information regarding their rights and access to legal aid should they come into conflict with the law or encounter police abuse. They supplement this training with information on sexual health in conjunction with organisations such as Promotion of Reproductive Sexual Health and HIV Education (PORSHE) and Society for Women and AIDS in Africa, Sierra Leone chapter (SWAASL). In Makeni, SCSL and Hanci-SL are working with girls in a programme that was about to extend to rural areas, such as Magburaka and Kono, in anticipation of the increased demand for sex from mining contractors. Hanci-SL currently provide a day centre, open from the morning until 5pm, which gives the girls three meals a day, recreational activities, clothing, counselling and family tracing. They note that there is 'lots of difference working with boys and girls on the street because the majority of girls are working in commercial sex.' The girls are usually older than the boys, with access to money and living in rented accommodation, meaning they are less likely to want to go to school. They have also found that the girls prefer reconciliation and vocational work to being placed back with their families and have therefore tailored their work to meeting this goal. Although it appears that this approach is delivering results, as DCI-SL in Makeni report, 'they can't care for all of them. Yet if you go to social welfare then they don't do anything - they first say "take them to an NGO".' In turn, there is no evidence of any work being carried out for boys who are being sexually exploited. As we did not interview boys we are unable to report on this, however past research indicates that there is a 'culture of silence' surrounding boys who are sexually exploited: 'boys have powerful clientele who often 'adopt' the boys so that they are attached to their exploiters, and who can blackmail people who interfere.'<sup>31</sup>

Girls and boys who are being sexually exploited are in desperate need of care and protection. We were informed that the girls are likely to be suffering from emotional and mental health problems: 'they sometimes hurt themselves – they use blades, they have marks on their bodies, some use stones, some have scissors that they carry around in case anyone tries to harass them' says Hanci-SL. However, when working with them it is important to recognise the sense of autonomy that they have gained from their involvement in the sex trade and the economic independence it gives them. It is therefore crucial, to work *with* the girls as partners in order to ensure that their needs and agency are recognised when addressing their sexual exploitation.

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<sup>31</sup> The Protection of Women and Girls Act (1960, laws of Sierra Leone) section 2 quoted in Harvey, R. (2000) Juvenile Justice in Sierra Leone. An analysis of legislation and practice, Children and armed conflict unit

## 4. Relationship with the Police

### 4.1. The Police

#### 4.1.1. The Family Support Units (FSU)

Family Support Units (FSU) were originally established in police stations as Domestic Violence Units in 1999 to deal with the large number of violent offences against women and children during and after the civil war. In 2001 their name was changed to FSU and since 2007 their remit has included juvenile offenders. They are staffed by both police officers and social workers/probation officers from the MSWGCA who carry out joint investigations with a child rights focus. This brings Sierra Leone in line with the Beijing rules that state that special police units should be established for the purpose of dealing with juvenile offenders.<sup>32</sup> Unfortunately, however, many police stations in Sierra Leone currently lack an FSU, and of those that have one, DCI-SL found that less than half were adequately staffed with personnel from the MSWGCA.<sup>33</sup> In turn, DCI-SL found that as duty officers have a 'lack of understanding and/or awareness of the mandate of the FSU', cases are not being transferred to them.<sup>34</sup>

Although a large proportion of police personnel in the FSU and divisions have received training since the Child Rights Act 2007, it appears that they have received no specific training about the treatment of girls. Nevertheless, JSDP state that they have had a specialist develop a manual for those who work with women and children and that the plan is that the FSU will roll out their existing training to their colleagues.

### 4.2. Arrest

Of the 24 girls interviewed, 21 had been arrested, and two had committed crimes but evaded arrest.

#### 4.2.1. Offences

The table to the right shows the offences as conveyed by the girls interviewed. The petty offences of larceny and loitering are the most common crimes for girls, followed by the more serious offences of wounding and murder. Indeed larceny and loitering appear to be "typical" crimes for girls. Loitering is a crime provided for by s7 Public Order Act 1965. The offence is vague and anachronistic and appears to be open for police to abuse at their discretion. DCI-SL in Makeni said 'approximately 45% of the cases are simple larceny – because according to them they are doing it to pay for their school fees and provide for their needs. Five to six girls are currently in the court for this reason.' They also said that 'approximately 40% of girls are charged with assault, 25% with loitering

**Table 4: Offences of the cohort**

Offence	No.
Larceny	5
Loitering	5
Murder	3
Wounding	3
Abducting a child	1
Abusive Language	1
Debt	1
Larceny + Escape from Detention	1
Larceny + House breaking	1
Not arrested	3
<b>Total</b>	<b>24</b>

<sup>32</sup> United Nations (1985) Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") rule 12.

<sup>33</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>34</sup> Ibid

due to prostitution and a small remainder get in trouble with the law through microcredit debts. The majority of them do not have parents that will help them so they take credit from organisations and then they end up taking them to prison – they serve a sentence in the remand home or in an adult prison.’ The Matron of Freetown Remand Home described “typical” children in conflict with the law as ‘those coming from poor families who sleep on the streets and are often raised in the ghettos. Many have drug problems, and the most common drug consumed is marijuana.’

#### 4.2.2. Interviews and notification of parents

Of the 21 girls who were charged in our cohort, two went straight to court and had no contact with the police. Of the remaining 19, not all of them were able to give much detail about their contact with the police. The police in Freetown claim that after arrest ‘we jointly interview them with the social workers – if they need their parents then we invite them to interview. If they are brought to the station, then heard, then it’s over to the parents once the investigation is completed. We complete the investigation within 72 hours.’ However, seven girls mentioned that their interviews had been undertaken unaccompanied, with no parent, guardian, social worker or lawyer present. One girl, now 18 and charged with larceny, was interviewed in front of the complainant, two of the complainant’s siblings and two policemen. Although there are no domestic laws governing the way these interviews should be carried out, international guidelines stipulate the need for privacy and the presence of a parent, relative, or appropriate adult.<sup>35</sup>

In Sierra Leone there is no legal obligation for police officers to notify parents of the arrest of their child. Although this is in contravention of the Convention of the Rights of the Child and the African Charter for the Rights and Welfare of the child, the restricted mobility of the police makes tracing and notification of parents and guardians difficult.<sup>36</sup> DCI-SL observe that FSUs have very little transport facilities. However, they also point out that the lack notification of parents can severely impede the children, as 81% of children whose parents were notified by them and their partner agency, ended up being released or granted bail.<sup>37</sup> This shows that the involvement of parents can divert children away from the criminal justice system. AdvocAid report that the new Legal Aid Act and the revised Criminal Procedure Bill, currently going through parliament, are ‘likely to increase protection in this area once enacted’.

#### 4.2.3. Treatment by the police

Although three girls reported that the police had treated them well, the majority reported harsh and arbitrary treatment by the police. For example, one girl aged 17, had previously been arrested for loitering. She reported that she was taken to the central police station in Freetown, beaten, fined 25,000 Leones and raped. Another girl, aged 14, had been arrested for larceny whilst working as a sex worker and was also propositioned by a policeman in Freetown. The policeman asked her to have sex with him but she refused. This experience seems to be common among sexually exploited girls, and was reported by NGOs as far back as 2000.<sup>38</sup>

Two girls reported being beaten by the police. One girl, demonstrating mental health problems, reported that she had been flogged by the police. Another girl, aged 17 and

<sup>35</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>36</sup> CRC Article 9(3) and 9(4) and ACRWC Article 19(4)

<sup>37</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>38</sup> Harvey, R. (2000) Juvenile Justice in Sierra Leone. An analysis of legislation and practice, Children and armed conflict unit

arrested for wounding, described how they beat her and they told her to “pump” up and down on her legs with her hands behind her ears. Two women police officers watched her while she did 100 “pumps” as punishment. She then had *‘five beats with a shoe’* on her hand. She was held in the cell for nine days, where she slept on a bare floor. While she was there she reported feeling unwell, but was not given any medicine or medical treatment.

### 4.3. Investigative detention

Investigative detention should be used only as a last resort. If it is deemed necessary, children should not be detained with adults, and must retain their basic right to food and health.<sup>39</sup> Although no police stations in Sierra Leone have cells designed for juveniles, and all cells are multi occupancy,<sup>40</sup> all of the police we interviewed from Freetown, Bo, and Kabala said that they do not place children in cells with adults. Freetown FSU said that ‘juveniles are held in the office because we don’t have juvenile cells.’ Freetown police stated that ‘they are kept in the police station until the court hearing unless we think they can get bail. In minor cases such as fraudulent conversion (converting property entrusted to you with the intent of not returning it) they get bail but there’s no bail for larceny or serious offences.’ However, DCI-SL’s report shows that police often state that the presence of parents and/or guardians is a pre-condition for granting bail. This means that for those whose parents cannot be located, they have no alternative to detention.<sup>41</sup>

The majority, 13 of the 19 girls who had contact with the police, were detained in a cell with adults. Six reported that they had been in a cell with men and women and seven said they were in a cell with women. One girl, aged 18, said that she had been scared in the cell as it could only be accessed through a room in which men were being detained. Only one of these 13 girls had been in the cell for less than the stipulated time limit of 72 hours. The majority spent three days to one week in the cells; one girl now aged 16 and accused of murder, stayed there for 16 days. This is corroborated by AdvocAid, DCI-SL and Prison Watch who recorded ‘a significant number of detainees in police custody who were held in detention beyond the stipulated time as prescribed by law.’<sup>42</sup> It is unclear in the majority of cases if the police contacted the girl’s parents. In the case mentioned above, however, it was noted that the girl’s parents were too afraid to visit. Moreover, they had not been informed of their daughter’s internment in person, but had learned about the case via a general radio announcement. Although some girls reported that they had been given some food, others reported that they had been given no food by the police while they were there. They survived by sharing the food of the other detainees or eating food brought by their family members.

### 4.4. The Courts

Only Freetown has a juvenile court as prescribed by domestic law. It is presided over by a Magistrate and two Justices of the Peace. The remaining courts are usually staffed by Magistrates who preside over adults and juveniles, although at separate times.<sup>43</sup> The Beijing rules state that juveniles should be provided with free legal aid, however at the time of the research there was no provision for this. Since then the Legal Aid Act, which

<sup>39</sup> Convention on the rights of the Child (CRC); The Beijing rules; The Havana rules

<sup>40</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>41</sup> *ibid*

<sup>42</sup> Prison Watch Sierra Leone (2009) REPORT ON THE STATUS OF WOMEN AND JUVENILES IN DETENTION. October 2008 – March 2009

<sup>43</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

stipulates free representation for children, has been passed. However it will take time to be fully implemented. Even so, of the 15 girls that had experience of going to court, the majority (nine) had received a lawyer. The three girls charged with murder all had lawyers and it was confirmed by JSDP that legal aid had been given to girls with serious offences. Two out of the three girls who were charged with wounding had lawyers, however the majority of those charged with petty offences did not, and of most concern, one girl in the provinces with severe mental health problems, did not appear to have been represented by a lawyer. Indeed, there appears to be a distinct lack of lawyers in the provinces, meaning that it is far more difficult for girls in rural areas to be provided with legal representation.

### Case study - Mariama

Mariama, aged 17, came from Guinea to Sierra Leone to stay with her 'aunty' and go to school. However her 'aunty' did not pay her school fees and so Mariama took money from her. Her 'aunty' complained to the police and Mariama was arrested in March 2010. She was detained at Makeni Female Prison, as there was no remand home in Makeni for juvenile offenders and there was a dispute about her age. Although Mariama was 17, the police had written down that she was 18. She had to prove she was sitting her school exams before the Magistrate agreed that she was in fact 17.

AdvocAid's paralegal tried to mediate and solve the issue with Mariama's 'aunty', however she refused to come to court and so the case could not progress. The Magistrate refused to discharge the case until a lawyer was involved, and yet there were very few legal services available in the provinces: Makeni had just one lawyer in the region. After much enquiry, AdvocAid's paralegal was finally able to obtain the services of the pro bono lawyer who managed to have the case discharged. Mariama was released in July 2010 and provided with post prison support from AdvocAid which enabled her to travel to see her mother. AdvocAid's partner, EducAid, agreed that Mariama could study full time at their school for vulnerable girls in Rolal, Port Loko. AdvocAid assisted Mariama with items to begin her studies. She is now at school and progressing well.

The absence of a lawyer for any child is unacceptable. As DCI–SL state, 'without a lawyer present to advocate on their behalf, children lack the knowledge and understanding needed to effectively navigate the court process... children often receive misinformation in police detention and plead guilty at their first appearance believing it will help secure their release'. In addition, although they are allowed to be heard under domestic law, 'children are generally unprepared to ask questions or generate relevant and meaningful information.'<sup>44</sup> AdvocAid report that they have found a lack of legal education and literacy resulting in several wrongful convictions, with girls and women unable to understand the charges against them or even able to understand the language of the court process due to lack of interpretation provided. Indeed, four girls in the cohort felt they were not allowed to speak during court. This was particularly concerning in two cases: one of murder where domestic violence had been a factor and one of wounding. Both girls felt they had been unable to state their side of the story and, as a result, the sentences for these girls were extreme. In the case of wounding, the girl aged 17, was sentenced to five years imprisonment. In the case of murder, the girl who reported she was aged 17, has been condemned to death. These sentences contravene the Beijing

<sup>44</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

rules which state that sentences should incorporate the background of the juvenile and the conditions under which the offence has been committed.<sup>45</sup> They also contravene the Bangkok rules which state that 'essential information about women's background, such as violence they may have experienced, history of mental disability and substance abuse' should be taken into account in the allocation and sentence planning process.<sup>46</sup> For a fuller discussion of the Bangkok rules please see chapter 5.

#### 4.4.1. Customary law

Traditional justice systems supplement the formal criminal justice system in Sierra Leone, particularly in the areas of family law and especially in rural areas. Local courts apply customary law in the chiefdoms and elected indigenous chiefs preside over local courts.<sup>47</sup> Prison Watch report that this practice can lead to abuses of children's rights. They report that tribal systems are in operation where 'there is no government presence. The justice system is based on the paramount chief or the local authorities. If a child is raped the outcome is that the child marries the rapist. In one village in the south children are locked in a cage.' JCC in Bo similarly reported that 'in the villages if someone is involved in a crime then they will drive them away from town or the Chief will make you pay money.'

#### 4.5. Diversion

JSDP and MSWGCA are clear that the main policy of the country for juvenile offenders is diversion. Their National Child Justice Strategy 2006 proposes 'diversionary and restorative justice methods in dealing with first time offenders and children who commit minor criminal offences.'<sup>48</sup> This policy of diversion fits with the requirements of the Bangkok rules which state that 'alternative ways of managing women who commit offences, such as diversionary measures and pre-trial and sentencing alternatives, shall be implemented whenever appropriate and possible'.<sup>49</sup> However, diversion is not a formalised process. The strategy observes that probation officers have problems with the police, who at times do not allow matters to be settled amicably within families.<sup>50</sup> DCI-SL report this lack of formal diversionary structures means ad hoc diversionary measures do not follow any child rights guidelines.<sup>51</sup> AdvocAid report that the draft Criminal Procedure Bill 2010 formalises and encourages diversionary practices, but remark that there also needs to be the necessary probationary support which is lacking.

It appears that girls are more likely to be diverted from the criminal justice system than boys. Of the cohort, six girls were released and not taken to court following their arrest and detention. In some cases, agreement was reached through mediation with the complainant and the child. This was the case where offences were for larceny and wounding. Those accused of loitering were always released. In Kabala, the police said that if a girl is brought to the police station for a crime then they take her to the MSWGCA. Also, at the approved school, it was said that 'females don't end up in the approved school because they pay their fines... they usually send them to the remand home then the parents pay the fines.'

<sup>45</sup> Beijing rules

<sup>46</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>47</sup> Chikwanha, A.B. The Criminal Justice System in Sierra Leone Issue Paper, November 2008

<sup>48</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

<sup>49</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>50</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

<sup>51</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

## 5. “They treat me fine”: Detention

The United Nations General Assembly recently ratified *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* otherwise known as “the Bangkok Rules”. These rules, taken together with the 1990 *Rules for the Protection of Juveniles Deprived of their liberty*, or “the Havana Rules” establish the international expectations of how girls in detention should be treated.<sup>52</sup>

We interviewed girls in detention in both juvenile and adult facilities. There are three juvenile detention facilities in Sierra Leone: two remand homes and one approved school for convicted young people. The remand homes are in Kingtom in Freetown and Bo and the approved school is in Wellington, just outside of Freetown. At the time of the research, girls were only being held in Freetown Remand Home. There were no girls in Bo Remand Home, however we were informed that there had been three girls there in 2010 – two were 16 and one was 17. They were all accused of larceny and held for two weeks. The approved school at Wellington was established after World War II and appears to have had no girls held there in at least the last 15 years. As the Officer in Charge said, although there is capacity for 20 girls in terms of bedding and nets, ‘there has never been a girl’.

### 5.1. Juvenile detention facilities

**Table 5: Freetown Remand Home Dec 2010**

Category	No
Male magistrates court	11
Male high court	6
Female magistrates court	2
Female high court	1

Generally, both of the remand homes and the approved school appear to have undergone vast improvements in relation to their treatment of the children detained there in the last ten years.<sup>53</sup>

#### 5.1.1. Admission

When a girl is admitted into a detention facility, international guidelines require that details of her children are recorded and that she undergoes a health screening including tests for abuse, drug dependency and mental health needs. If she has a child then that child should also undergo a health screening.<sup>54</sup>

The Matron explained that when a child arrives at Freetown Remand Home, their basic details are recorded, including name, age, address and occupation. Their general histories are also taken, although their ‘vulnerabilities are not a major concern’. The girls are physically searched when they first enter by female police officers. In Bo, on admission, the Officer in Charge said that they record the children’s background and the Officer in Charge of the approved school felt that if they had a girl they would go through

<sup>52</sup> United Nations (1990) Rules for the Protection of Juveniles Deprived of their liberty (“The Havana Rules”)

<sup>53</sup> See Harvey, R. (2000) Juvenile Justice in Sierra Leone. An analysis of legislation and practice, Children and armed conflict unit; and DCI –SL (2004) Final Report on Juvenile Justice Administration in the Western Area of Sierra Leone 2003-2004 which states that on February 2004 a child was beaten to death and another two severely injured by the duty officer of Freetown Remand Home because they were caught escaping.

<sup>54</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

the same admissions process as for boys: 'when they arrive they are brought in a vehicle from court, then we go with them, talk them through counselling and get their mind in place.' They have a social history form which outlines the social circumstances and the psychological background of the children.

### 5.1.2. Officers' training

The Bangkok rules highlight the need for women staff members to be in senior positions and state that 'clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical violence, abuse, and sexual harassment' should be developed and implemented.<sup>55</sup> It appears that female staff received the same access to training as men, in line with international guidelines. However the training for all officers was basic and specific training relating to treatment of girls and women in detention was not provided.<sup>56</sup> The officers at Freetown Remand Home had been given basic generic training and at Bo, once every month, the MSWGCA gave child protection training to the officers. At the approved school, where there had never been any girls, they had female officers on call in case they got a girl so 'we are ready if there is a female offender – we have female to female officers and male to male officers. But we need three more female social workers to look after girls if they come.' Volunteers from GOAL, DCI and CVT (Centre for Victims of Torture) were training the prison officers. However the Officer in Charge said that 'training on looking after girls should be given now because we aren't used to it. But only the female officers are encouraged to look after the girls.'

### 5.1.3. Treatment by officers and feelings of safety

All of the girls felt that they were treated '*fine*' or well by the officers at Freetown Remand Home. Two girls mentioned that the officers gave them medicine and took care of them or took them to the hospital. Two also mentioned that they '*could talk to them*'. The layout of Freetown Remand Home is such that the boys are housed in a separate section of the home, divided off by a mesh fence. The majority of girls did not feel unsafe being in such close proximity to the boys, although one girl said she felt afraid because the boys are '*troublesome*' - the boys fought. Others maintained that they felt safe, however they mentioned that the boys were aggressive and rude: '*sometimes if a girl passes them they use abusive words - obscene language*'. Another girl, aged 16, said that the boys had made passes at her and that she had a boyfriend in the remand home that she had met there. She said they talk and kiss through the mesh that separates the male and female section, but that there had been no sex. For three out of six girls the remand home offered them a safer environment than the outside world. One said she felt safe there because she does not have to worry about armed robbers. Another said '*now I feel like I have a home because out there I don't have a permanent place to stay - I have to go out in the evening. Here I can sleep without needing to go out and find money*'.

At Bo Remand Home, the one girl we were able to interview - who had been detained there at the age of 17 for larceny - said that the officers treated her well and that the remand home matron talked to her. She was the only girl there however, and in Bo Remand Home the boys and girls were only separated at night. She said she had been afraid that the boys would abuse her. There is clearly a need to move towards greater and more effective separation of girls and boys in the remand homes.

<sup>55</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>56</sup> Ibid

#### 5.1.4. Sexual abuse and psychological support

The Bangkok rules state that ‘if an instance of sexual abuse or violence before or during detention is diagnosed then the girl should be informed of her right to seek recourse from judicial authorities and the prison authorities should ensure that she gets specialised psychological support or counselling.’<sup>57</sup> Indeed, ‘women who report abuse shall be provided immediate protection, support and counselling, and their claims shall be investigated by competent and independent authorities.’<sup>58</sup> The Matron at Freetown Remand Home said she did not suspect any misconduct towards the girls, and said that the girls report any problems to her directly as she maintains continuous contact with the children. If a problem is reported then they are sent to their social worker for counselling. She explained that the social workers receive basic counselling training and that before they can be employed a candidate must shadow a trained social worker and act as their intern. One girl housed at Freetown Remand Home, a sex worker aged 14 who had been raped by a client, explained that she had been given some counselling by the Officer in Charge of home and DCI-SL. This is in line with the Bangkok rules which states that ‘juvenile female prisoners shall have access to age and gender specific programmes and services, such as counselling for sexual abuse or violence.’<sup>59</sup> However we were unable to assess the quality of this provision.

DCI-SL reported that there had been a historic case of officers abusing the female inmates in Bo Remand Home during 2006. However the outcome was that the officer was sacked and they reported that they had no current suspicions of sexual misconduct towards the girls. Talking about relations between male and female offenders, the Officer in Charge said that ‘there is no sexual problem. We don’t allow them alone together – we keep watching them. If there is any complaint they can complain but they haven’t so far.’ Nevertheless, the facilities at the remand home mean that boys and girls mix freely unless locked in their dormitories at night. This was particularly concerning, as ‘placing women and girls in mixed sex facilities creates a general risk that is heightened by the significant number of men in prison for committing violent or sexual offences’ and indeed the Officer in Charge said many of the boys there were detained for unlawful carnal knowledge.<sup>60</sup> DCI-SL reported that there are no facilities for counselling the girls at the home and that this would have to be carried out by them if it arose, or they would contact the agencies who have expertise in counselling.

The Officer in Charge of the approved school explained that the regime includes guidance and counselling: ‘we need to help them realise their mistakes, and for reintegration.’ It was reported that no one has been abused in the approved school, however if this happened ‘we would make an incident report and take the person to a disciplinary committee. The perpetrators would be taken to the appropriate authority – it would be reported to the head of prisons or the ministry.’ The Officer in Charge said ‘we would try and prevent any type of abuses from the boys – we separate them in their dormitories and even in classes they will separate them. We have a matron and her role would be to supervise them.’

<sup>57</sup> *ibid*

<sup>58</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>59</sup> *ibid*

<sup>60</sup> Quaker United Nations Office (2005)

### 5.1.5. Education and vocational activities

There was little or no educational or vocational training for girls who were detained in juvenile facilities. The Matron at Freetown Remand Home explained that children received basic education at the home, including reading and maths, for about four hours a day. She admitted that education was the area that the home struggled with the most. Indeed, the girls did not corroborate that there were four hours of education a day. They did mention being taught how to present their case at court, maths, science, and English, but this did not appear to be regular - one said that there had been no class for a month. Although the Bangkok rules state that 'juvenile female prisoners shall have equal access to education and vocational training that are available to juvenile male prisoners', it appears that the boys are receiving the same irregular education.<sup>61</sup> The girls received meals cooked by the staff members and also partook in chores such as scrubbing clothes, washing the cups and dishes, and sweeping. They had access to a bath and were able to play games such as Ludo, ball, and watch films in their free time. In Bo Remand Home, DCI-SL gave lessons in some subjects such as numeracy and literacy. Girls were taught with the boys in the open parlour. The Officer in Charge felt that 'the government should provide some influential training for the children. For the girls we would like tailoring, hairdressing, tie and dye.'

### 5.1.6. Discipline

In Freetown Remand Home, two girls mentioned that if they did something wrong, for example fighting, then they were shouted at or given extra responsibilities. However the Matron explained that there was a special cell which they use as a 'cool down' room in order to discipline the charges. According to the Matron this cell is the size of a large room. However DCI-SL's report states that at the time of their assessment of the home 'researchers witnessed solitary confinement being used as a disciplinary measure against one agitated female inmate.'<sup>62</sup> The Officer in Charge of Bo Remand Home said 'they told us not to flog them, they are at liberty. Formerly they were escaping, but now we have redone the building so it's not easy to escape. Because this child rights has come in we don't flog them and we encourage them to see their parents.' Indeed, the Child Rights Act 2007 states that 'no correction is justifiable which is unreasonable in kind or degree according to the age, physical and mental condition of the child'. It also repealed the Corporal Punishment Act which allowed the use of corporal punishment.<sup>63</sup> Discipline in the approved school was reported to be domestic chores like cleaning and scrubbing. It was felt that 'with girls it would be the same.'

### 5.1.7. Family contact

The Bangkok rules state that 'in view of women's prisoners' disproportionate experience of domestic violence, they shall be properly consulted as to whom, including which family members, are allowed to visit them.'<sup>64</sup> The children had special visiting hours at Freetown Remand Home and all of the four that had family said they were able to, and had, visited them. In the case of one girl, aged 13, and therefore *under* the age of criminal responsibility, however, her parents could not be found. The girl from Bo

<sup>61</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>62</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

<sup>63</sup> Child Right Act (2007) Government of Sierra Leone section. 33

<sup>64</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

Remand Home had been visited by her mother in the allocated visiting time of between four and six o'clock.

## 5.2. Girls detained in adult prisons

We interviewed eight girls found in adult prisons who were either remanded or had been sentenced:

- Two from Makeni prison, in the women's quarter
- Four from Kenema Women's Prison
- Two from Freetown Women's Prison

The offences of the girls in the adult prisons were both petty and serious. They ranged from minor offences such as larceny and debt to wounding and murder. In fact, all of the murder cases in this cohort were found in adult prison, despite the existence of a remand home in the area of Freetown.

In Kenema prison the girls were searched by a female officer on admission. However, the admissions to the prisons did not appear to contain a medical check up. One 17 year old girl disclosed that she was three months pregnant although the officers did not know as they had not checked and she did not tell them *'I just told them I was sick.'* The Bangkok rules state that children living with their mothers in prison should be provided with ongoing healthcare services. This was not happening in Kenema prison, as this girl, accompanied by her son, received nothing from the prison, meaning that Advocaid had to step in to provide medical assistance to the child. The imprisonment of the mother on a charge of debt further contravened the Bangkok rules which state that custodial sentences should only be considered 'when the offence is serious or violent or the woman represents a continuing danger.' This did not appear to be an isolated case as AdvocAid reported a high proportion of women are detained for debt.

Generally the girls in adult prisons had a positive perception of the female staff that looked after them. One said *'we are not tortured'*. Those from Freetown and Kenema said the officers treated them well. There were mixed views of the officers at Makeni. One girl currently there said they treated her well, however one who had been released said that the officers called her a prostitute and would beat the inmates if they misbehaved. Discipline in Kenema prison appeared to be confinement in a cell or the toilets. The girls mentioned that as punishment *'you get locked in a cell - sometimes in the toilets - they give you a brush to scrub it'*.

When asked how they felt about living with older women in the prison, two out of four girls felt that it was good to live with the older ladies as they *'encourage'* them and look after them. However the girl that had been sentenced to death, and was singled out by the different uniform issued to condemned prisoners, appeared to be very agitated and wanted to move to a Freetown prison because *'I stay here and I don't have anyone to hear my story. Maybe if they send me to Freetown I will get someone to help me. I want to go to Freetown.'*<sup>65</sup> Three of the girls were acutely missing school. One said she felt she was wasting her time in jail, another said she did *'not feel fine'* as she missed school. She felt bad that she was not in education anymore. In Makeni Prison there was apparently very little for the women and girls to do. The men cook for them and so all they can do is discuss things and launder clothes for the officers. They also helped the officers with little jobs, like plaiting their hair. AdvocAid, through its partner Educaid,

<sup>65</sup> AdvocAid report that she has subsequently been moved to Freetown where all condemned prisoners are held.

taught them language and maths three times a week. However, they cannot exercise, and there was a sewing machine but they were not allowed to use it. In Kenema and Freetown, AdvocAid also provided literacy classes which the girls participated in.

There were different rules relating to families visiting in the adult prisons. For example in Makeni prison only visiting by females was allowed. For one girl this was difficult as she wanted her father to be able to visit. Some said that their family had visited, however for others the distance to the prisons was very far and meant they could not visit at all. In some cases, the girls reported that they had no family or that their families had abandoned them. One girl, accused of murder, was acutely worried about her ten month old child. The sister of her late husband was looking after him and was refusing to allow her to see him.

## 6. Community reintegration

### 6.1. Resettlement

The Bangkok rules state that prison authorities should implement comprehensive pre and post release reintegration programmes which take into account the gender specific needs of women.<sup>66</sup> Unfortunately however, there are no reintegration programmes run by any of the prison authorities studied for this report. Following police detention, the girls who had been arrested and detained for loitering were released back onto the streets. No attempt was made to resettle them with their families or an NGO or to protect them from this lifestyle. One girl, for example, said that she went back to the market where she was sleeping on a market stall. As Prison Watch report, 'children, especially from the provinces, are released on the street without adequate arrangement to take them back to their communities where they were arrested. These children often stand the risk of falling in conflict with the law and being taken back to prison, police cells and the approved school'.<sup>67</sup> Or, as DCI-SL report, 'without an education, without vocational training, and isolated from their families and communities, many find themselves unemployed and living with friends'.<sup>68</sup>

The Matron at Freetown Remand Home explained that when the girls are released from the home they are sent back to their families. However those who were interviewed after having been released explained that they just went back to their old environment. Two of them had been unable to return to school following their time in the Freetown remand home. One girl explained that the lady she was living with took her out of school by putting bad marks on her name so she had not been to school since. Another said that she could not go back to school after her release because she had missed time and her mother said she should wait until the following term. The girl from Bo Remand Home went to live with an 'aunty' and was at the time of the interview attending senior secondary school. At the approved school, however, reintegration appeared to be more organised. They carry out family tracing and had an aftercare plan for continuing vocational training or a carpentry workshop. In contrast, the majority of girls detained with adults did not have a clear idea of when they would be released, or where they would go following release. One girl, convicted of murdering a boy from her village, had been advised not to return because the victim's family lived there. As such she did not know where to go.

### 6.2. Equality in Sierra Leone

Sierra Leone has made recent assertive steps towards legal gender equality. Three Acts have been passed: The Domestic Violence Act 2007; The Devolution of Estates Act 2007; and The Registration of Customary Marriage and Divorce Act 2009. These laws ensure that domestic violence, be it physical, emotional or sexual, is an offence; that women can acquire property from men; and that customary marriages can be registered so long as both parties are over the age of 18 and consent. JSDP pointed out that previously 'on the death of her husband the woman had to marry someone else or be

<sup>66</sup> United Nations General Assembly (2010) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

<sup>67</sup> Prison Watch Sierra Leone (2009) REPORT ON THE STATUS OF WOMEN AND JUVENILES IN DETENTION. October 2008 – March 2009

<sup>68</sup> Defence for Children International – Sierra Leone (2010) Beyond the Law: Assessing the realities of juvenile justice in Sierra Leone

kicked out.’ Women’s groups such as 50:50, a non partisan campaign for more women to participate in politics and public life, are also promoting women’s rights. One girl had heard of this group and said *‘Because of 50:50 advocacy, rights of girls and women have been increased and protected. Sometimes some benefactors will come and help a girl child with school fees. Human rights organisations give preference to girls.’*

However, ‘in practice, women face both legal and societal discrimination’ and in particular ‘their rights and status under traditional law vary significantly depending upon the ethnic group to which they belong... cases of rape are underreported, and indictments are rare especially in rural areas.’<sup>69</sup> A number of those consulted either displayed discriminatory views themselves, or described the continuing sexual inequality in Sierra Leone. One NGO worker said that ‘naturally they [women] are weak, they are the weaker sex’, whilst another said that ‘bigger respect is given to girls because we see them as weaker. In terms of the jobs there are particular jobs we give to the girls. E.g. road buildings – filling pot holes. Cooking – we asked the girls to cook and not the boys.’ A representative from Bo police said ‘Sierra Leonean women are poor and uneducated. They rely on their matrimonial status as a form of employment. They experience physical violence. We live in a patriarchal society where men supersede women – where men dominate. In homes girls are expected to do all the domestic work because girls are to be prepared for marriage.’ The Bo DCI-SL office said that ‘in Bo there is an improvement in equality but traditionally there is special interest given to males rather than girls – in terms of property and education. It is the opinion of people that a boy should go to school and a girl should stay at home. Girls get taken out of school to get married – boys stay in school.’ CDHR said ‘times are changing, but tradition considers the boys more than the girls in terms of inheritance rights, and education. There is a fear of fathers in sending their girls to school. They are spending their money and then the girl will get pregnant. They will send them but not support them fully.’ AdvocAid feel that ‘economic empowerment is integral to women fully accessing their legal, social and political rights’.

Eleven out of 21 girls said that girls were treated better than boys in Sierra Leone, although the examples they gave were not always easy to understand as benefits. For example one girl said *‘they treat girls better because if they rape a girl then you have to arrest the boy and you will be taken to the police station.’* Three girls mentioned access to education being a good thing about being a girl. Two mentioned that the types of jobs boys have to do are dangerous and they do not let girls do such jobs. These views were supported by the representative of Hanci-SL who felt that ‘generally girls are treated better in Sierra Leone. In the homes you find out that the parents have more attention on the girl than the boy because they worry that the girl will get bad friends and get impregnated.’ Two police representatives echoed this sentiment: one said ‘we give more preference to the girl child.’ Indeed the majority of girls when asked which gender they would choose, said that they preferred to be a girl. For the majority, the reason given was because they were already a girl, however others mentioned that *‘boys suffer - most of the street children are boys’* and cited *‘the kind of attention given to girls by parents, boyfriends, community members.’*

The ten out of 21 girls who felt boys were treated better outlined discriminatory practices. Three girls said that boys were treated better because they can beat girls, for example one said *‘men have an easier time in Freetown as they have more advantages, if they need money then they can beat up a woman.’* Two mentioned that boys will agree to but

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<sup>69</sup> Chikwanha, A.B. The Criminal Justice System in Sierra Leone Issue Paper, November 2008

not pay a price for sex work: one said that *'the girls are normally treated badly in Sierra Leone - boys are given more preferences. Sometimes when they are talking of a price they will have sex with them and not pay them. The boys are usually sent to school and the girls are denied this.'* Two mentioned early marriage, one said boys sexually abuse girls and the remainder talked generally of boys receiving more opportunities than girls. Girls who were involved in prostitution were much more likely to say they would prefer to be a boy if they could choose their sex. Of the eight that said they would prefer to be a boy if they could chose, one said it was because *'the boys are enjoying more than the girls'*; another that she *'would love to have been a boy child. Nowadays women are highly dependent on a male so men are on the advantaged side.'*

## 7. Conclusion

It is clear that girls in conflict with the law and those being sexually exploited are in need of care and protection rather than criminalisation. The majority of the 24 girls interviewed in this report fell under the category of being 'in need of care and protection' under the Child Rights Act 2007. Many were orphans, or had been deserted by their parents. Many too had been neglected or ill treated by the adult supposed to care for them. A substantial number had been found wandering or begging and were engaged in prostitution. Indeed, the cohort of girls and the organisations consulted, demonstrate that it is almost impossible to distinguish a girl as in need of care and protection from one who is in conflict with the law.

The problem of sexual exploitation of girls is particularly concerning. Poverty and a tradition of guardianship see the girls travelling far from their families to attend school and stay with their 'aunties'. When these relationships break down, the girl is far from home and unable to provide for herself and has little choice but to turn to prostitution. Although the Sierra Leone government ratified the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* in September 2001, big steps are needed to ensure that domestic legislation is updated and that the media, the public, the government and mining companies, whose presence has caused an increase in girls being sexually exploited in Sierra Leone, work together to end the sexual exploitation of girls.

In these pages the girls have explained how they have been mistreated by the very agencies that are supposed to uphold their rights. The police have unfortunately been shown to have violently abused and mistreated them. The girls were often interrogated with no parent, guardian or lawyer to safeguard their rights and were detained in police cells where they felt unsafe. Without guaranteed access to a lawyer or legal aid they can become manipulated by members of the community who are older and more influential than them. Where girls have been detained in the remand homes in Freetown and Bo, they have been adequately cared for by the Matrons that attend to them. However this route, which leads to them being criminalised, is not a preferred solution. The girls in these homes receive only sporadic education and little or no psychological support to deal with their traumatic pasts. In adult prisons, girls are separated from their peers and taken away from their lives at school causing them further psychological distress.

It is clear that Sierra Leone is moving towards greater gender equality, however more can be done to protect and safeguard girls in conflict with the law. By listening to these girls' voices, we create a platform for them to recognise and demand their rights.

## 8. Recommendations

### 8.1. Protect sexually exploited children

Children who engage in sex work should not be criminalised. It should be made explicit in law that an attempt to procure a girl, or commit sexual acts with a girl under the age of 18, is illegal regardless of any 'known immoral character' of the minor in question as is currently laid out in the Cruelty to Children Act. The provision in the Child Rights Act 2007 for police officers to 'arrest' children found wandering in order to protect them and take them to a safer place would appear more appropriate than detention in cases such as loitering.

Recommended targets:

- Cruelty to Children Act (Cap 31) to be amended to remove references to 'known immoral character'
- The offence of loitering to be abolished
- The MSWGCA, the police, NGOs, the Human Rights Commission, women's organisations and companies associated with the mining industry, work together to draft and implement a strategy to end the sexual exploitation of children. Ensure that after care and counselling for such children is included
- Research into sexually exploited boys to be undertaken

### 8.2. Build the capacity of MSWGCA

In 2006 the MSWGCA committed itself to working towards an improved social welfare system deploying trained social workers from national to chiefdom levels, building the capacity of the management staff, and improving the provision of logistical support and equipment to the Probation units.<sup>70</sup> Unfortunately, however, there is still a long way to go. It is recommended that as a priority the capacity of the MSWGCA is enhanced. If the probation and social work professions are given more skilled recruits and opportunities for training then they will be better able to work with the relevant NGOs and ensure that children are better protected.

Recommended targets:

- Recruit more skilled probation and social workers to provide for children in need of care and protection
- Sensitise the police to their role in detecting children in need of care and protection and diverting them to probation and social workers
- Empower and train probation and social workers so that they are aware of their roles and responsibilities
- Provide better facilities and resources, such as means of transport, to probation and social workers so that they can carry out their duties accordingly

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<sup>70</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

### 8.3. End abuses by the police

A number of girls interviewed reported abuse by the police. This is completely unacceptable. It is crucial that girls' families and guardians are contacted and that lawyers are present during all police interrogations. It is therefore recommended that more effective supervision and training are implemented across police departments to ensure that no abuse takes place.

Recommended targets:

- All police officers, not just those working in the FSU, to be sensitised to girls' rights
- A police code of conduct which explains the penalties for abuse of children to be implemented and promoted
- The police to sensitise communities about girls' rights and their role in promoting and protecting those rights
- Monitoring of police stations to be carried out to ensure that children are not interrogated without a parent, guardian or appropriate adult present
- To cease detention of children for petty offences
- The Legal Aid Act to be fully implemented ensuring that children have access to lawyers
- To increase the provision of legal assistance in the provinces
- Establish an independent police complaints commission to fully and impartially investigate complaints regarding the police

### 8.4. Promote formal diversion away from the criminal justice system

It appears that girls are often being diverted from the criminal justice system. This is commendable, and in accordance with international standards. However informal diversion without support means that the girls end up back in the environments that lead them into conflict with the law.

Recommended targets:

- A clear policy on diversion and measures to prevent children coming into contact with the criminal justice system to be agreed by key stakeholders
- The responsibility of educating the wider community on the rights of children and diversion to be given to the police
- Ensure the implementation of the Criminal Procedure Bill 2010

### 8.5. Bring conditions of detention in line with international standards

For those girls who have broken the law, the basic rights afforded to them under the Beijing rules and the Bangkok rules should be assured. The Courts and the Prison system are advised to continue their efforts to end the detention of children with adults. A number of organisations have suggested that building more remand homes would be

one solution to this problem. However, as the majority of girls who are detained are not a danger to society, building more remand homes does not address the need. Instead, it is suggested that the MSWGCA build child protection centers where children in need of care and protection can be housed, counseled and reacquainted with their families. These centers would provide the space and opportunity to establish how best to meet the individual needs of girls in conflict with the law.

Recommended targets:

- Children should only be detained if they are a danger to the community
- All girls in detention to have access to, and resources for, education
- All girls in detention to have access to psychological support
- Girls and boys in detention to be kept completely separate from each other
- No children to be detained in adult facilities
- No further criminal detention facilities to be built, instead child protection centres to be established across the country
- Effective reintegration programmes for children who have been detained to be established

## 8.6. Give girls better access to education

The MSWGCA note that considerable advances have been made in promoting education since the Education for All Action Plan was launched.<sup>71</sup> However stakeholders pointed out that if there were more schools in the rural areas then girls would not have to travel such distances and therefore be far away from their families. Girls travelling far from home or living with 'aunties' are often vulnerable to being in conflict with the law.

Recommended targets:

- Build and resource more secondary schools in rural areas
- Sensitise families to the potential abuses committed by guardians or 'aunties'
- Ensure all girls are accessing education regardless of their socio-economic background
- Educate girls on their rights including their right to education.

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<sup>71</sup> Ministry of Social Welfare, Gender and Children's Affairs (2006) National Child Justice Strategy

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