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COUNTRY OF ORIGIN INFORMATION REPORT

SIERRA LEONE

MARCH 2006

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ANNEX

Annex A – References to source material

1. Scope of document

- 1.01 This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 15 November 2005.
- 1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- 1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- 1.04 The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- 1.05 The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- 1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- 1.07 The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- 1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by

government offices or subscription services, are available from the Home Office upon request.

- 1.09 COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.
- 1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- 1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.
- 1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.01 The Sierra Leone section of Europaworld.com states:

“The Republic of Sierra Leone lies on the west coast of Africa, with Guinea to the north and east, and Liberia to the south...English is the official language, while Krio (Creole), Mende, Limba and Temne are also widely spoken. The majority of the population follow animist beliefs, but there are significant numbers of Islamic and Christian adherents. The national flag (proportions 2 by 3) has three equal horizontal stripes, of green, white and blue. The capital is Freetown.” [1]

2.02 The World Population Prospects 2004 Revision Population Database states that the population of Sierra Leone is 5.5 million. [20]

2.03 However, the UNHCR, in comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, stated:

“It is not true that the ‘majority of the population’ subscribes to animist beliefs. On the contrary, the country’s population of about 5 million people is either Christian or Muslim. Whereas one cannot rule out the possibility of atheists being part of the population, this has hardly come to fore. The truth is that coupled with their religious beliefs, many Sierra Leoneans still believe in witchcraft and juju practices. According to UNHCR’s estimates corroborated from various sources and with no evidence to the contrary, it is estimated that [the] Muslim population is about 40%, and [the] remainder are Christians or [followers of traditional religious] practices.” [27] (p33)

2.04 The Commonwealth Local Government Forum’s country profile on local government in Sierra Leone states:

“Sierra Leone is divided into three provinces, Northern, Southern and Eastern, and one area, Western. Northern Province has five districts, Southern Province four districts, and Eastern province three districts. The Western Area has two divisions: Freetown urban (Area I) and Freetown rural (Area II). The capital city is Freetown and the official language is English.”

“A new system of local government was introduced following the local elections in May 2004. There is only one city and five town councils in the urban areas, and 13 district councils in the predominantly rural areas.” [23]

2.05 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“Sierra Leone’s transport infrastructure was severely neglected in the 1970s and 1980s and deteriorated substantially during the civil war...Many roads in and around Freetown, and parts of the Freetown-Kenema highway linking the capital to the east of the country, are in a poor state, although the hard-surface road linking the capital to Makeni and Kabala in the north is in fairly good repair. The six-month rainy period causes damage to road surfaces each year.”

“The Freetown international airport (Lungi) is served by regional and some intercontinental flights, although there is no national airline.”

“...Like the airport, the port, which benefits from an excellent national harbour, is in a poor state of repair. There is no railway network, although in the colonial period, rail lines stretched from Freetown port to many parts of the interior.” [14] (p21)

2.06 The UNHCR comments to the APCI on 8 March 2006 add:

“As a result of the war, the social infrastructure in the country was severely ravaged. The capital city Freetown is overpopulated with deplorable residential premises for the bulk of the population, not to mention the poor drainage and sewage system. Mounds of rubbish are a common site [sic] in the city with mongrels hovering all over, and the public transport system remains poor. Erratic supplies of electricity and water are the order of the day. The land line telephone system hardly works and even with mobile phones, communication is poor and at times unavailable. The road network in the country is poor and the rail system long ceased to exist. There are hardly schools and hospitals in the rural areas. It is true that ferry transport is erratic and thus unreliable, but security in terms of attacks is not an issue. The issue relates to safety concerns that may arise when ferries drift into the sea, and the potential danger of often unlit points, where the pilot is meant to berth. No attack reports have been documented in the last year.” [27] (p33)

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3. The economy

- 3.01 The US State Department 2004 Human Rights Report on Sierra Leone, published in February 2005, states that:

“The country had a market-based economy and remained extremely poor; per capita Gross Domestic Product (GDP) was approximately \$150, and the population was approximately 6 million. Approximately two-thirds of the working population engaged in subsistence agriculture. Limited agricultural production continued, and industrial mineral companies began rehabilitating mining sites to resume extraction; illegal diamond mining continued, but legal exports increased from \$75 million in 2003 to \$127 million by year’s end [2004]. Approximately 60 percent of the Government’s budget came from foreign assistance. The infrastructure was devastated by years of fighting and decades of corruption and mismanagement.” **[2a] (Introduction p1)**

- 3.02 The 26th report of the Secretary-General of the United Nations Security Council on the United Nations Mission in Sierra Leone, dated 20 September 2005, states:

“The economic performance of Sierra Leone remained stable and GDP increased to 7.4 per cent in 2004. The sustained GDP growth is supported by the improvement in a number of economic sectors, including agriculture, mining, construction, manufacturing and services. Government finances also improved in 2004, but remained below projections in the first quarter of 2005. High international oil prices, delays in aid disbursements, and incomplete fiscal adjustment continued to affect inflation rates. Although inflation declined to 7.5 per cent at the beginning of the year, as opposed to 14.4 per cent at the end of 2004, it increased to 11.1 per cent at the end of the second quarter of 2005.” **[12] (p6)**

“Despite continuing economic recovery, economic fundamentals remain, however, inadequate. Private sector growth is hampered by a fragile business environment characterized by poor physical and financial infrastructure, small-scale industries with a limited contribution to GDP, and a vast black market. Gross national savings are low, reflecting the depth of poverty in Sierra Leone and the overall weaknesses of financial institutions. This has resulted in limited financing for investments needed for private sector growth, especially small and medium-sized enterprises. The share of GDP devoted to investment was 19.6 per cent in 2004. However, most of the productive investments during the recovery period have been financed from foreign borrowing.” **[12] (p6)**

- 3.03 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“The UN Development Programme (UNDP) published its *Human Development Report 2004* in July [2005]. Sierra Leone was again ranked at the very bottom of the report’s human development index (HDI), which this time included 177 countries, compared with 175 countries in the 2003 report, 173 in 2002 and 162 in 2001. Sierra Leone has been placed last in each HDI from 2001-04. Although several of the country’s human development indicators have improved since the 2003 report, the improvements are marginal. The figures show just how much of a struggle life is for the majority of the population.” **[14] (p19)**

4. History

4.01 The UK FCO Sierra Leone Country Profile, dated May 2005, states that:

“Sierra Leone was founded by returned slaves from Britain and North America in 1787. The colony of Sierra Leone (roughly the current day Western Province around Freetown) was administered by the British. In 1896 the hinterland came under British control as a protectorate. Following the Second World War, the indigenous populations of the protectorate gained greater political voice, culminating in the election of Dr (later Sir) Milton Margai of the SLPP as Chief Minister in 1953 and later Prime Minister in 1958. He led the country to full independence on April 27th 1961.”

“The SLPP ruled until 1967 when the electoral victory of the opposition APC was cut short by the country’s first military coup. The military handed over [power] to the APC and its leader Siaka Stevens in 1968. He turned the country into a one-party state in 1978. He finally retired in 1985, handing over [power] to his deputy, General Mohmoh. Under popular pressure, one party rule was ended in 1991, and a new constitution providing for a return to multi-party politics was approved in August of that year. Elections were scheduled for 1992. But, by this stage, Sierra Leone was a failed state, its institutions had collapsed, mismanagement and corruption had ruined the economy and rising youth unemployment was a serious problem.”

“Taking advantage of the collapse, a rebel movement, the Revolutionary United Front (RUF) emerged, with backing from a warlord, Charles Taylor, in neighbouring Liberia, and in 1991 led a rebellion against the APC government. The government was unable to cope with the insurrection, and was overthrown in a Junior Officers coup in April 1992. Its leader, Capt Strasser, was however unable to defeat the RUF or secure his position within the junta. Indeed, the military were more often than not complicit with the rebels. He was in turn deposed in January 1996. His replacement, Major Maada Bio, under international pressure, agreed to organise elections in February 1996. The RUF refused to take part and continued the conflict. The elections were won by Tejan Kabbah and the SLPP. The new government signed a peace agreement, the Abidjan Agreement, with the RUF in 1996 but it failed to stop the rebellion. Kabbah’s government was subsequently overthrown in a further coup in 1997. The military junta, headed by Major Johnny Paul Koroma, invited the RUF to join government. The Kabbah government was re-installed in 1998 with the help of troops from ECOWAS.”

“The destructive force of the rebellion reached Freetown for the first time when the RUF, combined with renegade elements of the army, invaded the capital in January 1999. They were repulsed by the Nigerian troops of ECOMOG, but at great human cost. A second peace agreement, the Lome Accord of 1999, to be supervised by a UN peacekeeping force, brought the RUF officially into government. But, this collapsed in 2000 when the RUF attacked UN peacekeepers upcountry and threatened to invade Freetown again. Security was restored with the intervention of British troops in May 2000, the signing of the Abuja peace agreement in November 2000, together with the deployment of UNAMSIL [UN Mission in Sierra Leone] across the country. This allowed the gradual restoration of government authority throughout the territory. The war was officially declared over in February 2002.” [3]

4.02 The Sierra Leone section of Europaworld.com states:

“In early September 2001 the Government announced that presidential and legislative elections would take place, under the aegis of the UN, on 14 May 2002 (after a further postponement, owing to the continued uncertainty of the security situation).”

“...In preparation for the forthcoming elections, a three-week process of voter registration commenced in mid-January 2002. The disarmament of an estimated 45,000 former combatants was officially completed on 18 January. Later that month the UN and

the Government reached agreement on the establishment of a war crimes tribunal, to be known as the Special Court, which was to be based in Sierra Leone; the Special Court had a three-year mandate to prosecute crimes perpetrated from the end of November 1996.”

“...Following the completion of disarmament, the RUF announced its reconstitution as a political organization, the Revolutionary United Front Party (RUF), with the aim of contesting the elections.”

“...Presidential and legislative elections took place peacefully on 14 May 2002. Kabbah was elected to a second term in office by 70.1% of the votes cast, while Ernest Bai Koroma of the APC received 22.4% of the votes. The SLPP also secured an outright majority in the expanded 124-member Parliament, with 83 seats, while the APC won 27 seats and the PLP two.”

“...In early February 2004 the five-year programme for ‘disarmament, demobilization and reintegration’ (in which 72,490 former combatants, including 6,845 children, had been disarmed) officially ended.”

“...The SLPP Government suffered a reverse in the local elections in May 2004, when, in what was widely regarded as a vote of protest against the continuing poor state of the economy and the authorities’ failure to address corruption, the APC won majorities in the municipal councils of both Freetown and Makeni.” [1]

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5. State structures

THE CONSTITUTION

5.01 The Sierra Leone section of Europaworld.com states that:

“Following the transfer of power to a democratically elected civilian administration on 29 March 1996, the Constitution of 1991 (which had been suspended since April 1992) was reinstated. The Constitution provided for the establishment of a multi-party system, and vested executive power in the President, who was to be elected by the majority of votes cast nationally and by at least 25% of the votes cast in each of the four provinces. The maximum duration of the President’s tenure of office was limited to two five-year terms. The President was to appoint the Cabinet, subject to approval by the Parliament. The Parliament was elected for a four-year term and comprised 124 members, 112 of whom were elected by a system of proportional representation, in 14 constituencies, while 12 Paramount Chiefs also represented the provincial districts in the legislature. Members of the Parliament were not permitted concurrently to hold office in the Cabinet.” [1]

5.02 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“Prior to the May 2002 election, legislative power was vested in an 80-seat parliament comprising 68 elected members and 12 paramount chiefs. The legislature was inactive for a lengthy period as a consequence of the fighting in Freetown in early 1999. The constitution was amended in February 2002 to allow the election of members of parliament (MPs) under the district block representation system instead of a first-past-the-post constituency system. The May 2002 election saw the number of seats increase to 124; 112 members were elected on a proportional representational basis, while 12 paramount chiefs retained the right to sit as members.” [14] (p10)

5.03 The Constitution also provides for the protection of basic human rights such as life, liberty, security of person, the enjoyment of property, respect for private and family life, and the protection of law, and also provides for basic freedoms such as the freedom of conscience, expression, assembly and association. [5]

THE SIERRA LEONE CITIZENSHIP ACT 1973

5.04 The legal requirements for Sierra Leonean citizenship are set out in the Sierra Leone Citizenship Act 1973. The Act allows foreign nationals to become citizens, subject to certain conditions being met, but does not permit dual citizenship. According to the Act, citizenship can be acquired by:

- a person born in Sierra Leone or in another country, provided that “his father or his grandfather was born in Sierra Leone; and he is a person of negro African descent”, and he is not a national of another country.
- descent by a person born outside Sierra Leone, provided his father was a Sierra Leonean citizen. Citizenship can also be acquired by descent through the maternal line, provided that the mother was a Sierra Leonean citizen, and that the child did not acquire any other nationality by birth in a foreign country.
- naturalisation, subject to certain conditions being met as stated in the Act. [9]

5.05 The Act allows for voluntary renunciation of citizenship to Sierra Leonean citizens of full age (21) and capacity subject to certain conditions being met. The Act states that a “citizen who is of full age wishing to renunciate his citizenship must make a declaration renouncing his citizenship of Sierra Leone, the appropriate Minister shall, if he is satisfied that the person is, or on ceasing to be a citizen of Sierra Leone, will become:

- a citizen of a Commonwealth country, or of the Republic of Ireland; or
- a national of a foreign country,

cause the declaration to be registered, and thereupon that person shall cease to be a citizen of Sierra Leone.” [9]

5.06 The Act allows for deprivation of citizenship subject to certain conditions being met. The Act states that a minister can deprive a naturalised Sierra Leonean of his/her citizenship provided:

- the person concerned has “acquired the nationality or citizenship of a foreign country by any voluntary or formal act other than marriage”, or “voluntarily claimed and exercised in a foreign country or in any other country where there is in force any law conferring rights not available to Sierra Leone citizens generally any right under the law of that country being a right available only to citizens of that country, and that it would not be conducive to the public good that he should continue to be a citizen of Sierra Leone.” [9]
- the person concerned “has shown himself by act or speech to be disloyal to the Republic of Sierra Leone or its Government; or has, during any war in which Sierra Leone is engaged, knowingly and unlawfully traded or dealt with the enemy or engaged in or associated with any business carried on in such manner as to assist the enemy in that war; or has, within seven years of his becoming a citizen of Sierra Leone, been sentenced in any country to imprisonment for a term of not less than twelve months for an offence involving fraud or dishonesty.” [9]
- the minister is “satisfied that it would be for the public good to do so” and the “person has been ordinarily resident in a foreign [country] or foreign countries for a continuous period of seven years and has not, during that period, registered annually in the prescribed manner at a Sierra Leone Consulate, or notified the Minister in writing of his intention to retain his Sierra Leone citizenship.” [9]

THE POLITICAL SYSTEM

5.07 The US State Department 2004 Human Rights Report on Sierra Leone, published in February 2005, states that:

“The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, the May 2002 elections were marred by irregularities, although many observers judged them to be free and fair.” [2a] (Section 3)

“Presidential and parliamentary elections were held in May 2002; 11 political parties were represented in the elections. President Kabbah of the SLPP was re-elected with 70 percent of the popular vote. The RUFP fielded presidential and parliamentary candidates, but it won only 1.7 percent of the vote. In Parliament, the SLPP won 83 of the total 112 seats; only 2 other parties won seats. Only the SLPP was represented in the Cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, uneven voter registration, manipulation of vote counting, and partisan action by the National Electoral Commission (NEC). There also were reports of voter coercion by party bosses and traditional leaders.” [2a] (Section 3)

“In May [2004], the first local elections in 32 years were held. International and domestic monitors judged them free and fair at the time; however, shortly after the election, there was clear evidence of electoral fraud by the SLPP in Koya III District. Well after the

completion of the elections, evidence of widespread electoral fraud by both the SLPP and the All People's Congress also emerged." [2a] (Section 3)

THE ROLE OF THE PARAMOUNT CHIEFS

- 5.08 The Commonwealth Local Government Forum's country profile on local government in Sierra Leone states:

"The paramount chieftaincy is an important institution in the governance of Sierra Leone. Under the constitution the 'institution of Chieftaincy, as established by customary law and usage, and its non-abolition by legislation is guaranteed and preserved.' The government is committed to restoring the traditional role of paramount chiefs, including their administrative and customary judicial responsibilities, on the basis of the ruling houses existing at independence in 1961."

"Paramount chiefs, who may be male or female, are elected for life by chiefdom councillors, but may be removed from office by the government or the people, or may resign."

"...The basic political unit of the chieftaincy is the 'section', made up of a number of towns or villages, headed by a section chief or sub-chief. The paramount chief has jurisdiction over the sections within the chiefdom."

"Paramount chiefs and section chiefs form the political hierarchy, together with town chiefs and village headmen. In all chiefdoms one chiefdom councillor is elected by every 20 taxpayers in that chiefdom. Chiefdom councillors assist the paramount chief in the administration of the chiefdom and the dissemination of directives. Collectively they constitute the chiefdom council, presided over by the paramount chief."

"...Traditional leaders have a number of formal inputs into governance matters. At the national level, as members of parliament, they contribute to the policy debate. Paramount chiefs have an advisory role through the National Council of Paramount Chiefs (NCPC) established in October 2003. At the local level in the three provinces, paramount chiefs are represented on the district and town councils, and are members of ward committees." [23]

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THE JUDICIARY

- 5.09 The Human Rights Watch 2003 report "We will kill you if you cry – Sexual Violence in the Sierra Leone Conflict" states:

"Three systems of law – general, customary, and Islamic – co-exist in Sierra Leone."

"General law consists of the statutory law (codified) and common law (based on case law) mainly inherited from the United Kingdom, the former colonial power. General law is administered through the formal court system, which follows the usual Commonwealth structure, under which the High Court hears more important cases, and magistrates courts the less important ones, both civil and criminal. There is an appeal system, first to the Court of Appeal and then the Supreme Court, which is the ultimate court of appeal and also hears cases relevant to the interpretation of the constitution. The Court of Appeal and Supreme Court are located in Freetown. A High Court and magistrates courts are constituted in Freetown. The High Court was re-established in Kenema and Bo in 2002 and there are magistrates courts in Bo, Kenema and Port Loko. The court system in the provinces, which had a limited infrastructure before the [civil] war broke out in 1991, was virtually destroyed during the [civil] war – the High Court has not held hearings outside Freetown for six years – and was only gradually

being rehabilitated from 2002. Access to the judiciary for rural Sierra Leoneans is further limited by their lack of funds for lawyers, or even transport money.” [4b] (p15)

“...Customary law is defined by the 1991 constitution as ‘the rules of law by which customs are applicable to particular communities in Sierra Leone.’ Although there are sixteen ethnic groups in Sierra Leone, a general treatment of customary law is justified, as there are many fundamental similarities between the customary laws of these ethnic groups. Customary law has not been written down or codified and is only applied by the local courts. These courts operate in the provinces and not in the Western Area, which is historically where the Krio and the British colonizers settled. A chairman presides over the local courts with the assistance of chiefdom councillors who are knowledgeable in customary law. The chairmen in theory should be independent from the paramount chiefs who used to preside over the local courts before reforms were introduced both prior to and after independence.” [4b] (p15-16)

“...As the majority of Sierra Leoneans live in the provinces, customary law governs at least 65 percent of the population in relation to issues not reserved by statute to the magistrates courts or High Court. In practice, issues that should be dealt with in the magistrates courts and High Court are also dealt with under customary law. In addition to problems accessing the formal court system, rural Sierra Leoneans, in particular have historically always preferred to administer justice amongst themselves to ensure that good community relations are maintained in villages where the other residents are invariably relatives by marriage or descent, rather than turning to outsiders.” [4b] (p16)

“Although customary law is not applied in the formal court system, it is recognized and there is some interaction between the two systems. There is the right of appeal from the local courts to the District Appeal Court, where a magistrate sits with two assessors who are chiefdom councillors from the given area of the local court and knowledgeable about the customary law in their respective areas. The assessors advise the magistrate on questions of customary law, with the decisions remaining with the magistrate. Likewise, a decision of the District Appeal Court can be appealed to the High Court, with the High Court judge being advised by assessors with expertise in customary law.” [4b] (p16)

“Islamic law has been recognized by statute in Sierra Leone in relation to marriage, divorce, and inheritance among Muslims. Otherwise, Islamic law, if applicable at all, is considered part of customary law...Criminal *sharia* law is not applicable in Sierra Leone.” [4b] (p16)

- 5.10 The Final Report of the Truth and Reconciliation Commission of Sierra Leone, published in 2004, states:

“The independence settlement [1961] created two judicial tiers of contrasting character. The first, superior tier was set up to dispense English common law and its courtrooms modelled themselves on their English counterparts. There were three courts operating under English common law: the Supreme Court, the Court of Appeal and the High Court. They mainly served inhabitants of the capital Freetown and the surrounding Western Area. There were no Magistrates Courts until Act No. 31 of 1965 provided for their establishment.” [24] (Vol 3a, Ch 2, para 12)

“...The second tier consisted of local ‘courts’ in the Provinces, where over 80% of the population lived. The ‘courts’ were a facet of the traditional system of customary law and depended on the moral authority of Chiefs and community elders. Act No. 20 of 1963, which formalised this second tier, contained no provision for legal practitioners to have audience before the local courts.” [24] (Vol 3a, Ch 2, para 14)

“Local court officials lacked legal training. The Local Courts Act No. 20 of 1963 provided for their work to be supervised by judicial advisers or customary law officers. These officers were empowered to advise local courts in matters of law, train local court

personnel and exercise judicial review over decisions of local courts. However, declining interest in the rule of law and poor conditions of service meant that few such customary law officers were appointed. Local courts' personnel continued to act as they wished without heed to the integrity or the improvement of the law. Customary law was never codified." [24] (Vol 3a, Ch 2, para 94)

5.11 The USSD 2004 Report adds further:

"The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary at times was subject to corruption." [2a] (Section 1e)

"...The Constitution and the law provide for a speedy trial; however, in practice, the lack of judicial officers and facilities often produced long delays in the judicial process. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training." [2a] (Section 1e)

"Traditional justice systems continued to supplement extensively the central government judiciary in cases involving family law, inheritance, and land tenure, especially in rural areas. There were reports that local chieftains at times exceeded their mandates and executed harsh punishments. For example, in August [2004], there were reports of Councils of Chiefs administering flogging as punishment." [2a] (Section 1e)

"In April [2004], associates of the port director severely beat a port authority official investigating corruption. At the trial, the port director allegedly bribed all 12 jurors, and the suspect who had been arrested for the beating was subsequently acquitted and released. The jurors later were arrested and were in police custody at year's end." [2a] (Section 1e)

CUSTOMARY LAW AND THE ROLE OF THE PARAMOUNT CHIEFS AND LOCAL COURTS

5.12 The report "The Law People See: The Status of Dispute Resolution in the Provinces of Sierra Leone in 2002", published by the National Forum for Human Rights (Sierra Leonean NGO) in January 2003, states:

"In practice, the [paramount] chief often fulfils the role of judge in the customary law setting. While customary law is most institutionalized in the form of local courts, the public tends to consider the chief's audience [as] the initial formal forum of customary law adjudication. Even where local courts are accessible and operational, the people turn to the chief in their disputes when their informal mediations or arbitrations in auxiliary social groups fail. This is true even though district officers and Freetown officials speak against the practice and official government laws do not recognize chief's adjudications."

"There seems to be no rigid appeals structure within the customary law system. Those unsatisfied with a ruling have the option of appealing their cases up the hierarchy of chiefs, from their town all the way to the paramount chief of the chiefdom, and onto the local court, the district officer and the customary law officer...There seems to be no rigid governing structure, with each chiefdom and village developing its own pattern of resolving disputes."

"...The setting of the adjudication is less formal than that of the local court. Usually, a complainant locates the chief informally around the village, pays for a verbal summons to be served to the defendant, and the chief determines a time and place for the adjudication. Often, the procedure occurs in the chief's home, or more precisely in front of it." [25] (p23-24)

“...On a more practical level, the chief’s ruling is respected not only because of reverence, but also because the chief is considered capable of understanding the customs of his people. He usually holds strong historical ties to the region, particularly through family ties.” [25] (p26)

“...There seems to be a general sentiment among the people that the rich will always get justice, but the poor will be denied. Stories of chiefs’ partisanship, favouritism, nepotism, and unaccountability seem to be prevalent knowledge among the people. While going to the chief may be a better option from taking a case to the local court or to the SLP, bribes and unfounded rulings are expected nonetheless.” [25] (p28)

- 5.13 The National Forum for Human Rights report “The Law People See: The Status of Dispute Resolution in the Provinces of Sierra Leone in 2002” states:

“The most institutionalized organ of recognised customary law in Sierra Leone is the local court. It fulfils the flexible function of either the highest body of appeals within a chiefdom, or sections of a chiefdom, or as a court of first instance, depending on where the plaintiff brings suit. Even in some of the country’s most remote chiefdoms, the local courts meet weekly, and residents often come on foot from villages hours – or even days – away. Once at court, the proceedings have enough procedural formality to provide structure, and enough informality to offer an accessible forum for dispute-resolution.”

“The jurisdictional scope of the courts seems to vary from place to place, though the courts primarily handle cases of contract and debt. Some villages seem to have a more formal division of labor, with some categories of cases directed to the local courts and others to chief arbitrations, which are technically outside the law. At any rate, the cost of accessing justice at the local courts is often too high and the task of using the system (or even travelling on foot to court) too onerous.”

“...While the courts’ jurisdictions may vary, the structures are relatively uniform. As stipulated by the Local Courts Act of 1965, courts are comprised of appointed officers, including a court chairman, court clerk, a panel of elders, and chiefdom police who act as marshals during courts sessions. The court chairman is appointed by the paramount chief for three-year terms. Court chairmen are either chiefs themselves or hold highly regarded positions in society outside of the court post.” [25] (p17)

“As with other legal institutions in Sierra Leone, local courts face charges of corruption and an uncertain commitment to human rights. Predictably – for institutions where officials are unpaid, laws are unwritten, and the judges undereducated – there is an inherent mistrust of the system.” [25] (p21)

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THE SPECIAL COURT FOR SIERRA LEONE (SCSL)

- 5.14 The Special Court for Sierra Leone (SCSL) is an institution established in 2002. It has been monitored by international NGOs and other bodies in published external reports since its institution. Key accounts of the SCSL include the Human Rights Watch (HRW) reports “The jury is still out” of July 2002 [4d] and “Justice in motion” of October 2005 [4c], which are specifically concerned with the SCSL. The SCSL is also mentioned in updates to the HRW annual reports, the most current at point of writing being “World Report 2005”. [4a] There is a summary in the Report of the UN High Commissioner for Human Rights on the situation of human rights in Sierra Leone to the United Nations Economic and Social Council, dated 2 February 2005. [19] The USSD 2004 Report includes a short update on the SCSL. [2a] (Section 4) The SCSL runs a website at <http://www.sc-sl.org/> and has produced a Frequently Asked Questions factsheet (SCSL FAQ). [21]

THE ESTABLISHMENT OF THE SPECIAL COURT

- 5.15 A Human Rights Watch (HRW) report, "The jury is still out", published in July 2002, states:

"The Special Court came out of an initiative by President Ahmad Tejan Kabbah who, following the collapse of the peace process in May 2000, asked for U.N. assistance in establishing a mixed national and international court in Sierra Leone to try 'members of the RUF and their accomplices.' In August 2000, the Security Council adopted a resolution authorizing the U.N. secretary-general to enter into negotiations with the Sierra Leonean government to establish such a court." [4d] (p3)

- 5.16 The HRW report "Justice in motion", published in October 2005, states:

"Within the context of the dysfunctional condition of the national justice system since the end of the conflict, the Special Court for Sierra Leone was established in 2002 by agreement between the Sierra Leone government and the United Nations (U.N.). The court has a mandate to 'prosecute persons who bear the greatest responsibility' for serious crimes committed during the Sierra Leone war since 1996." [4c] (p1)

THE NATURE OF THE SPECIAL COURT

- 5.17 The HRW report "The jury is still out" states:

"The Special Court for Sierra Leone is a groundbreaking institution established by the United Nations (U.N.) Security Council that combines international and domestic mechanisms and laws. It is charged with bringing to justice those who bear the greatest responsibility for serious violations of international humanitarian law, and certain violations of Sierra Leonean law, committed since November 1996." [4d] (p3)

- 5.18 The SCSL factsheet further expands on the objectives of the SCSL:

"What crimes have they been charged with? The Accused are charged with war crimes, crimes against humanity, and other violations of international humanitarian law. Specifically, these crimes include murder, rape, extermination, acts of terror, enslavement, looting and burning, sexual slavery, conscription of children into an armed force, forced marriage and attacks on United Nations peacekeepers and humanitarian assistance workers, among others."

"What does 'greatest responsibility' mean? The Special Court will only try those who are believed to bear the 'greatest responsibility', meaning the leaders who are alleged to have directed and organized the crimes committed during the war. No rank and file combatants, simple foot soldiers, and children under the age of fifteen will be tried." [21]

THE CONSTITUENT PARTS OF THE SCSL

- 5.19 The SCSL factsheet states that there are eleven judges in all who preside over the court, and adds information about how they are selected:

"The Judges of the Special Court are nominated by the governments of the countries where they reside in addition to those being nominated by the Government of Sierra Leone. They are all appointed by the UN Secretary General." [21]

- 5.20 The SCSL factsheet continues, stating, in relation to the SCSL as a business unit:

"What does the Registry do? The Registry is responsible for overall administration and management of the Special Court. It is comprised of the Finance, Personnel and Procurement Sections, the Communications and Information Technology Section, the General Services Section, the Security Section, the Court Management Section, the

Witness and Victims Section, the Detention Facility, and the Defence Office. The Registry also serves as the official channel of communication for the Special Court and as such, accommodates the Press and Public Affairs Office and Outreach.”

“How many Sierra Leonean staff and how many international staff are there at the Special Court? There are 164 Sierra Leonean nationals and 130 internationals working at the Special Court.” [21]

WITNESS PROTECTION

5.21 The HRW “Justice in motion” report states:

“The Special Court provides a comprehensive scheme of protection and support for the hundreds of mostly Sierra Leonean witnesses, both victims and non-victims, who will testify. The court makes much effort to protect the identity of witnesses, and provides shelter for witnesses prior to and during testimony in safe houses around Freetown. The court also provides medical assistance and psychosocial counselling for witnesses. The court has taken a range of steps to respond to threats against witnesses that have been made in certain instances (despite ongoing efforts to avoid such threats). For a small number of witnesses considered to be particularly vulnerable to reprisal, the court has organized their relocation within Sierra Leone or abroad.” [4c] (p3)

“Witnesses are generally treated with respect and dignity, and receive support by staff from Witness and Victim Support (Witness and Victim Support Unit) in the courtroom. Witnesses have characterized the experience of testifying positively to court staff. Aware of the importance of assessing the condition of witnesses after they testify and return home, the Special Court provides return transport, and plans to make at least one follow-up visit to each witness after he or she is back home.” [4c] (p3-4)

SHORTCOMINGS OF AND DIFFICULTIES FACED BY THE SCSL

5.22 The HRW “Justice in motion” report outlines issues of concern and noted deficiencies of the SCSL in its analysis. [4c] (p4-6) These include disclosure of identifying information concerning protected witnesses; substantial delays; a lack of funds for various functions of the Defence Office, namely expert witnesses and international investigators; some deficiency in the quality of representation by defence counsel; substantial late disclosure of witness statements to the defence counsel by the prosecution; witness protection is still insufficient as people still suffer threats away from the court premises, and follow-up protection for witnesses is limited; public reportage of court proceedings is limited; and the SCSL should have a greater integration within the Sierra Leonean national justice system to have an effective legacy. [4c] (p5-6)

5.23 The HRW “Justice in motion” report adds further:

“There are two main obstacles beyond the court’s control which continue to undermine the court’s ability to bring justice as fairly and effectively as possible for crimes committed during the Sierra Leone conflict: inadequate and uncertain funding, and Nigeria’s continued shielding of Charles Taylor.” [4c] (p6)

5.24 The Economist Intelligence Unit’s 2005 Sierra Leone Country Profile adds to the HRW criticisms:

“The UN Special Court has suffered several problems since its establishment: key suspects have either died or fled into exile; it has twice had to replace its president after accusations of bias; and the lead prosecutor announced in March 2005 that he was stepping down from his post for family reasons...Also the purpose of the court proceedings has been questioned: many victims of the RUF’s brutality, as well as those who suffered under the Kamajors, have said that the outcome of the trials will make little difference to their lives. Several high-profile absences have diminished the relevance of

trials for many. And many amputees have argued that the demobilisation and reintegration benefits that the rebel and Kamajor fighters received far outweighs those that they, the victims, have been given.” [14] (p9)

THE SCSL’S RECORD OF ACHIEVEMENT

5.25 The USSD 2004 report states:

“The SCSL, the U.N.-Sierra Leone war crimes tribunal established in 2002 to try those who ‘bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law,’ indicted 13 persons in 2003: Former RUF leader Foday Sankoh; Sam ‘Maskita’ Bockarie, Sankoh’s deputy; RUF commander Morris Kallon; AFRC commander Akex Tamba Brima; RUF and AFRC/RUF commander Issa Sesay; CDF leader Sam Hinga Norman; AFRC commander Brima Kamara (AKA Bazzy); AFRC leader Santigie Kanu (AKA Five-Five); AFRC leader Johnny Paul Koroma (AKA JPK); RUF commander Augustine Gbao; Kamajor leader Allieu Kondewa; Kamajor leader Moinina Fofana; and former Liberian President Charles Taylor. Four of the 13 were not in custody at year’s end; Sankoh, who died in July 2003 from a pulmonary embolism while in custody; Bockarie, who was killed in May 2003 in Liberia; Taylor, who was exiled in Nigeria in 2003; and Koroma, who escaped from police custody in January 2003 and remained at large. All of those indicted were charged with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other serious violations of international humanitarian law. Specific charges included murder, rape, extermination, acts of terror, sexual slavery, conscription of children into an armed force, attacks on U.N. peacekeepers, and looting and burning of homes from 1997 to 1999.” [2a] (Section 4)

“Trials for CDF leaders Norman, Fofana and Kondewa began in June [2004], and trials for RUF leaders Sesay, Kallon, and Gbao in July. They were ongoing at year’s end.” [2a] (Section 4)

5.26 The HRW report “Justice in Motion”, published in October 2005, states:

“During the phase of holding trials, which began in June 2004, the Special Court continues to make significant strides towards bringing justice for atrocities that were committed during the Sierra Leone armed conflict. The Special Court’s accomplishments are all the more significant given the obstacles the court has had to overcome, including establishing an infrastructure in a severely underdeveloped country devastated by conflict, and in the face of limited and uncertain funding. Despite its achievements, some concerns remain regarding court operations.” [4c] (p2-3)

“...Only three years after its establishment, the Special Court is making major progress on trials. Three trials of nine accused are currently proceeding simultaneously before two trial chambers. As of August 2005, more than 150 witnesses had testified, and the prosecution had closed its case in one of the three trials. The appointment of Trial Chamber II in January 2005 was a major development that enhanced the court’s efficiency by enabling the third major trial to commence in March 2005.” [4c] (p3)

“Given the substantial progress made in what tend to be extremely complex cases, both trial chambers have overall demonstrated a strong degree of efficiency. The active interventionist style of courtroom management by Trial Chamber II also makes a useful contribution to addressing the need to fully protect the rights of the accused and the interests of witnesses while promoting the efficient administration of justice. Additionally, the Registrar has consistently promoted effective courtroom management, which has included the creation of a judicial services coordination committee to make recommendations on technical and logistical issues related to courtroom usage.” [4c] (p3)

THE TRUTH AND RECONCILIATION COMMISSION (TRC)

- 5.27 The Final Report of the Truth and Reconciliation Commission (TRC) of Sierra Leone, published in 2004, states:

“The creation of the Commission was provided for in the Lome Peace Agreement of 7 July 1999. Article IX of the Lome Peace Agreement provided a pardon and amnesty for participants in the conflict. The Commission was therefore viewed as the principal means of providing a degree of accountability for human rights abuses committed during the [civil war] conflict.” [24] (Vol 1, Ch 1, para 1)

“...The Truth and Reconciliation, 2000 (‘the Act’) was adopted on 22 February 2000. However, it was, strictly speaking, only ‘established’ on 5 July 2002, when the seven Commissioners appointed by the President were formally sworn in during a public ceremony.” [24] (Vol 1, Ch 1, para 4)

- 5.28 The Final Report of the TRC states that Section 6 of the Truth and Reconciliation Commission Act 2000 sets out the objectives of the Commission, which are:

- To create an impartial historical record of human rights abuses and violations of international humanitarian law related to the civil war from 1991 to the signing of the Lome Peace Agreement in 1999; to address impunity, to respond to the needs of the victims, to promote reconciliation and to prevent a repetition of the abuses.
- To investigate and report on the causes, nature and extent of the abuses, the context in which they occurred, and whether they were deliberately committed or authorised by any government, group or individual, and to report on the role of internal and external factors.
- To help restore the dignity of the victims and promote reconciliation by allowing victims to give an account of the abuses suffered, and allowing the perpetrators to relate their experiences, giving special attention to sexual abuses and to the experiences of children.
- To take any action that contributes to the fulfilment of the objectives of the Commission. [24] (Vol 1, Ch 1, para 6)

- 5.29 The USSD 2004 report states:

“On October 5 [2004], the TRC, established in 2002 to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators from the civil war, released its final report. The report contained a separate child-friendly version, since children played such a large role as both victims and perpetrators of violence during the war. The report concluded that years of bad governance, endemic corruption, and denial of basic human rights created the conditions that made the conflict inevitable. The Commission offered a number of recommendations on legal, political, and administrative reforms, but, by year’s end, the Government had taken no concrete action. By the time the TRC’s hearings were concluded in July [2004] approximately 10,000 citizens had participated in the process.” [2a] (Section 4)

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LEGAL RIGHTS/DETENTION

- 5.30 The USSD 2004 Report states that:

“The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.” [2a] (Section 1d)

“...The law requires warrants for searches and arrests in most cases; however, arrest without warrant was common. There were judicial protections against false charges; however, prisoners often were detained for prolonged periods on false charges. Detainees have the right of access to family or counsel; however, access to counsel was often delayed, and family visits were restricted at maximum-security Pademba Road Prison. There are provisions for bail, and there was a functioning bail system; however, international observers described frequent cases of excessive bail. Many criminal suspects were held for months before their cases were examined or formal charges were filed.” [2a] (Section 1d)

“There were numerous instances of arrest without charges for purely civil causes; arrests for breach of contract or debt cases were the most common. For example, in March [2004], police reportedly detained a woman in Koidu because of a private business debt.” [2a] (Section 1d)

“During the year [2004], police arrested demonstrators.” [2a] (Section 1d)

THE DEATH PENALTY

- 5.31 The Amnesty International (AI) report “The Death Penalty: List of Abolitionist and Retentionist Countries” (updated version of October 2005), states that Sierra Leone is a country which has the death penalty in force as a punishment for ordinary crimes. [6a]
- 5.32 The United Nations High Commissioner for Human Rights Report on the Situation of Human Rights in Sierra Leone, dated February 2005, states:

“The death penalty remains in the statute books. Sierra Leone is not party to the Second Optional Protocol to the International Covenant on Civil and Political Rights. Although the death penalty has not been implemented since the execution in October 1998 of those convicted of treason, courts still impose it. On 20 December 2004, the High Court of Sierra Leone sentenced 10 men to death by hanging for their roles in an alleged attempted overthrow of the Government.”

“In its report published in October 2004, the Truth and Reconciliation Commission (TRC) recommended the abolition of the death penalty and repeal of laws authorizing its use. As an interim measure, TRC also recommended a moratorium on and commutation of all death sentences. The recommendations of TRC on the death penalty are classified as imperative and as such the Government is statute-bound to implement them. Section 17 of the TRC Act (2000) requires the Government to ‘faithfully and timeously’ implement the recommendations of the Commission.” [19] (p5)

The UNHCR, in comments submitted to the Advisory Panel on Country Information on 8 March 2006, stated:

“The death penalty is not in force for ordinary crimes. Perhaps that was the case during the war, but not today. Capital offences are clearly defined in general accord with the tenets of the English common law. By virtue of Section 79 of the Criminal Procedure Act, this provides that capital punishment can only be meted [out] in the following offences (Unbailable) – treason; murder; robbery with aggregation [sic – aggravation?]. There is no evidence that petty offenders have been put to death.” [27] (p34)

- 5.33 The Amnesty International 2005 Report on Sierra Leone states that:

“In late December [2004], the High Court in the capital, Freetown, passed death sentences on nine former members of the RUF and AFRC and one civilian after convicting them of treason. Another defendant was sentenced to 10 years’ imprisonment and four were acquitted. The charges related to an armed attack in January 2003 on the armoury at Wellington barracks, on the outskirts of Freetown, in an

apparent attempt to overthrow the government. Johnny Paul Koroma was said to be implicated but had evaded arrest.”

“These death sentences came shortly after the Truth and Reconciliation Commission had recommended the repeal without delay of legislation authorizing the death penalty, a moratorium on executions pending abolition, and commutation by President Ahmad Tejan Kabbah of pending death sentences. None of these recommendations has yet been implemented. Fifteen other prisoners were reported to be under sentence of death.” [6b] (p3)

INTERNAL SECURITY

5.34 The USSD 2004 Report states that:

“Among the Government’s security forces, the SLP [Sierra Leone Police] officially has primary responsibility for internal order; however, on occasion, the RSLAF and UNAMSIL shared responsibility with police in security matters. The RSLAF is responsible for external security under the Ministry of Defense. Civilian authorities maintained control of security forces throughout the year [2004]. Some members of the security forces committed human rights abuses.” [2a] (Introduction p1)

“The SLP, which has primary responsibility for maintaining internal order, received insufficient resources, lacked investigative or forensic capabilities, and was widely viewed as corrupt and incompetent. During the civil war, numerous officers were killed or fled their posts, which resulted in a reduction of the country’s police force from approximately 9,500 officers to 7,000. Budget constraints have impeded recruitment efforts, as have the lack of basic educational skills of applicants, many of whom had no schooling during the civil war. During the year [2004], the Inspector General of Police continued efforts to increase SLP personnel levels, to bring more accountability to top SLP officials through systematic rotations, and to assume primary security responsibility from UNAMSIL. There were approximately 7,900 police officers by year’s end.” [2a] (Introduction p1)

The UNHCR, in comments submitted to the Advisory Panel on Country Information on 8 March 2006, stated:

“...part of the basic equipment the police lack is, transport, radio communication gadgets, including proper uniform. The police are also generally corrupt and incompetent. Forensic facilities are just not available.” [27] (p34)

The UNHCR also adds, in the same set of comments, regarding the UNAMSIL peacekeepers:

“The International community in the country, and in particular UNAMSIL peacekeepers, have been accused of engaging in acts of Sexual Exploitation and Abuse, including soliciting sex from prostitutes, and several cases in this respect have been documented. In the second half of this year the SRSG [Special Representative of the Secretary General] barred all UN staff from parking their vehicles along the beach and other places frequented by sex workers.” [27] (p34)

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PRISONS AND PRISON CONDITIONS

5.35 The USSD 2004 Report states that:

“Prison conditions improved in some locations during the year; however, conditions in most facilities were poor. International human rights observers who visited maximum-

security Pademba Road Prison reported that prisoners had adequate access to food, medical care, recreation, and vocational skills training. However, in May [2004], an inmate in the men's unit at Pademba Road Prison presented a formal complaint to the Freetown Magistrate regarding inadequate medical treatment. In September [2004], newspapers reported that 15 Pademba Road prisoners began a hunger strike to protest [about] the poor conditions at the prison, including inadequate food and unsanitary living quarters. After visits to the Western Area, Kono, Bombali, Kambia, Port Loko, and Kenema District, human rights observers reported that conditions frequently fell below minimum international standards because of overcrowding, unhygienic conditions, and insufficient medical attention. Such conditions resulted in numerous deaths during the year." [2a] (Section 1c)

"Many problems resulted from the poor state of the judiciary; for instance, case backlogs in the courts led to severe overcrowding. There were approximately 1,400 detainees in facilities built for about half that number. For example, Pademba Road Prison, which was designed to house 325 prisoners, held approximately 840 prisoners. In November [2004], a Commonwealth judge inspected Pademba Road Prison and described the conditions as 'deplorable'." [2a] (Section 1c)

"...Conditions in holding cells in police stations were extremely poor, especially in small stations outside of Freetown. During the year [2004], international monitors visited the SCSL detention facilities and reported that they met acceptable standards." [2a] (Section 1c)

"Government policy precluded family visits to prisoners at Pademba Road Prison except in exceptional circumstances and on a case-by-case basis; however, the International Committee for the Red Cross (ICRC) provided a messaging service that allowed prisoners to communicate with their families." [2a] (Section 1c)

"...International monitors, including UNAMSIL and the ICRC, had unrestricted access to visit Pademba Road Prison and other detention facilities, including the SCSL detention facilities. Prisons Watch, a local human rights group, reported on detention facilities throughout the country. Unlike last year [2003], there were no reports that human rights groups were restricted from visiting detention facilities." [2a] (Section 1c)

5.36 The Amnesty International 2005 Report on Sierra Leone states:

"The High Court trial of some 90 former RUF members and renegade soldiers known as the 'West Side Boys' was repeatedly adjourned. In July [2004] they rioted in protest at the Maximum Security Prison, Pademba Road, in Freetown. Arrested in 2000 but not charged with murder and other offences until 2002, they remained without legal representation."

"Of a group of 21 military personnel detained without charge or trial in Pademba Road prison since 2000, 18 were released without charge: two in May and another 16 in August. Three had died in 2003, one in March and two in December, apparently as a result of medical neglect."

"At least two other prisoners died in Pademba Road prison in 2004, highlighting the life-threatening conditions which continued in prisons and police cells despite regular monitoring and some improvements."

"Ibrahim Bah, aged 16, died in February [2004] after being severely beaten by staff at the Kingtom Remand Home for juvenile offenders in Freetown following an escape attempt. Two other boys required hospital treatment. Despite prompt investigation by the police, assisted by UNAMSIL, the suspected perpetrators remained at large."

"Immediate measures were taken to protect children at the home and the incident prompted a review of the juvenile justice system by UNAMSIL and the UN Children's

Fund (UNICEF), in cooperation with government authorities, aimed at reforms to include revised legislation, training and directives for the police and judiciary.” [6b] (p3)

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MILITARY SERVICE

- 5.37 The “Sierra Leone Military Profile 2005”, published by indexmundi.com, states that the Sierra Leonean Army does not have a compulsory conscription scheme. Recruitment into the Sierra Leonean armed forces is on a voluntary basis only. [18]

THE EDUCATION SYSTEM

- 5.38 The Sierra Leone section of Europaworld.com states that: “Primary education begins at six years of age and lasts for six years. Secondary education, beginning at the age of 12, also lasts for a further six years, comprising two three-year cycles.” [1]
- 5.39 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“In 1988 Sierra Leone had 2,262 primary schools, 232 secondary schools, 16 teacher-training and technical colleges, and two university colleges (Fourah Bay College in Freetown and Njala University College in Southern province). Education modelled on British lines has a 200-year history in Sierra Leone but, like all other social services, has been in decline for the past three decades. Teachers have been underpaid, schools neglected and the quality of teaching has generally been poor. The [civil] war caused the closure or destruction of many provincial schools and colleges, including the university campus at Njala, leaving much of the rural population without access to education. The situation is recovering, with the first phase of the donor-supported post-war support programme focusing on reconstruction and rehabilitation of physical infrastructure, including schools; in some areas parents have helped rebuild schools and have paid teachers from their own resources. However, it is likely to be some years before all damage is fully repaired. Members of the political and business elite prefer to send their children to school overseas.” [14] (p19-20)

SCHOOL ATTENDANCE RATES

- 5.40 The USSD 2004 Report states that:
- “The law requires school attendance through primary school; however, only 42 percent of school-aged children were enrolled in school, according to UNICEF. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency [civil war], but, by year’s end [2004], the majority had been rebuilt. A large number of children received little or no formal education. Formal and informal fees largely financed schools, but many families could not afford to pay the fees. The average educational level for girls was markedly below that of boys, and only 6 percent of women were literate. At the university level, male students predominated.” [2a] (Section 5)
- 5.41 The United Nations High Commissioner for Human Rights Report on the Human Rights Situation in Sierra Leone, dated February 2005, states:
- “The rate of annual enrolment in primary and secondary education is very low and not commensurate with the actual population of children, who constitute over half of the population of Sierra Leone. Enrolment is also lopsided in favour of boys. A study conducted in Port Loko district by UNAMSIL Human Rights Section showed that during the 2003/04 academic year 47,108 boys and 32,719 girls enrolled in primary education. During the same period, 4,315 boys and 2,027 girls enrolled in secondary education. The remarkable difference between the number of children enrolled in primary education and those in secondary education – indicative of a very high dropout rate – is

extremely alarming, as is the lopsidedness in favour of boys. The same trend is replicated in Kambia District, in the North where 30,287 boys and 20,975 girls enrolled in primary education during 2003/04 but only 3,117 boys and 640 girls in secondary education. Government efforts to increase female enrolment in the North by providing free schooling and school materials to girls in secondary education has had little impact on enrolment of girls.” [19] (p10)

“The information generated from the above studies in Port Loko and Kambia which, relatively speaking, is representative of the situation nationwide, indicates that an estimated 85 percent of children, mostly girls, who enrolled in primary education are likely to drop out before they reach secondary education. This phenomenon, if not addressed, would impact negatively on the economic, social, cultural and political future of the country. It also has the potential to jeopardize any chances for lasting peace in Sierra Leone.” [19] (p10-11)

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MEDICAL SERVICES

5.42 The Economist Intelligence Unit's 2005 Sierra Leone Country Profile states:

“Healthcare in Sierra Leone was undermined by the massive displacement of civilians during the civil war, which overwhelmed an already inadequate healthcare system. Provincial cities were inundated with civilians fleeing the violence, resulting in overcrowding, malnutrition, outbreaks of disease and the collapse of overburdened social services. Most healthcare is now provided by humanitarian and church organisations through a barely functioning health ministry. Sierra Leone also faces hazards from malaria, still the main health problem, as well as epidemics associated with poverty and poor hygiene, such as tuberculosis, typhoid, cholera and periodic rural outbreaks of Lassa fever.” [14] (p20)

5.43 The United Nations High Commissioner for Human Rights Report on the Human Rights Situation in Sierra Leone, dated February 2005, states:

“A recent study conducted by UNAMSIL Human Rights Section in Port Loko district revealed that malaria remains the prime killer-disease, followed by acute respiratory infection – pneumonia – diarrhoea, malnutrition, internal diseases such as hernias, and tuberculosis. While these diseases can be associated with levels of poverty and limited health services, it is worth underlining that most of the victims are children and women. To date there are no comprehensive official figures on HIV/AIDS infections, but anecdotal information points to a high incidence of the pandemic.” [19] (p11)

“Hospitals and health centres throughout the country are ill-resourced and underfunded. Additionally, low salaries of health-care personnel, including doctors, has contributed to most of the medical officers leaving or planning to leave the country for better-paid jobs abroad.” [19] (p11)

“...The shortage of doctors and qualified medical staff in Sierra Leone has led to the prevalence of the quack doctors known as ‘pepper doctors’. These are mainly untrained and constitute hazards to unsuspecting citizens. Often their interventions lead to further health complication[s] or death...The prevalence of quack doctors and an increase in street non-registered and unlicensed pharmacies as well as sales of expired or fake drugs remain major challenges for the health sector.” [19] (p11)

HIV/AIDS

5.44 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“A survey by UNAIDS carried out among the general population in Sierra Leone in 2002 found that that [the] HIV infection rate for adults (aged 15-49 years) was 1.4% in the country as a whole and 2.3% in Freetown. However, almost all the factors that have contributed to rapidly rising rates in other countries are present, and small-scale surveys have produced profoundly disturbing though not yet statistically sound, figures. For example, in February 1999 the army tested 1,099 male civilians interested in becoming military officers, in ten locations, and found an infection rate of 21.3%, compared with 7.8% in 1994, when 1,723 men were tested. In 1997 an infection rate of 7% was found among women attending ante-natal clinics in three cities, with the rate rising by 1.5% annually. A 1996 survey of police found an infection rate of 8.6%. The HIV/AIDS infection rate is thought by non-governmental organisations to have risen to 4-5% in 2005, similar to elsewhere in West Africa. Although this represents a large increase from 2002, it remains well below the infection rates in Southern Africa.” [14] (p20)

- 5.45 The United Nations Integrated Regional Information Network (IRIN) report dated 20 January 2005 states:

“The government of Sierra Leone has launched a programme to provide free antiretroviral (ARV) drugs to 300 people living with AIDS, Professor Sidi Alghali, director of the National AIDS Secretariat (NAS) said.”

“He told a workshop for training medical staff in the use of ARV drugs that 15 people had already started receiving the medication, which prolongs the life of people living with AIDS and improves their state of health.”

“Alghali said the government had provided US \$180,000 to fund the initial one-year programme, which was being run by the Sierra Leone Treatment Action Group (SILTAG), a local non-governmental organisation.”

“Dr Brima Kargbo, the leader of the treatment team at NAS, said his organisation had so far identified 206 people living with AIDS in Sierra Leone.”

“About 28 of them were presently receiving antiretroviral treatment from private medical practitioners, but they were having to pay about 220,000 Leones (\$73) per month for their drugs, he added.”

“This government-sponsored programme uses the generic drugs Tiomune and Duvoir, which are produced in India and are much cheaper.”

“Kargbo said this treatment - delivered free to people living with AIDS – would cost the government 47,600 Leone (\$17) per patient per month.” [16b]

INFANT AND MATERNAL HEALTH CARE

- 5.46 Infant and maternal health care in Sierra Leone is very poor as noted by a United Nations IRIN report dated 28 January 2005, which states:

“A pregnant woman is more likely to die giving birth in Sierra Leone than in any other country in the world.”

“Health experts blame a shortage of medical staff equipped to deal with complications that can occur during labour, as well as the financial and logistical impracticalities of getting from home to hospital.”

“In this West African country struggling to emerge from a decade-long civil war, mothers die in 1,800 of every 100,000 live births, according to the 2005 global report from the United Nations Children’s Fund (UNICEF). That’s roughly two women out of every 100 that have a baby.”

“Sierra Leone’s children fare even worse. Some 17 percent of all children die before they reach their first birthday and a quarter die before they reach the age of five.”

“Samuel Pratt, who works as a UNICEF health officer in the capital Freetown, attributes Sierra Leone’s high maternal mortality rate to the fact that many pregnant women turn to traditional birth attendants. These attendants are usually women from the community, who have received no formal education.”

“...But even if a pregnant woman persuades her partner to let her attend a clinic and raises the money needed to pay for the bus fare and the consultation fee, she is not guaranteed [sic] to receive proper healthcare. There are simply not enough doctors and nurses available to meet Sierra Leone’s needs.”

“...There are only 284 community health officers available to serve Sierra Leone’s five million inhabitants, half the number required to staff all the country’s community health centres, according to UNICEF.”

“...Nationwide there is a doctor or community health officer for every 31,300 inhabitants. However, coverage varies considerably.”

“It is best in the capital Freetown, where there is one doctor or community health officer for every 20,500 inhabitants. But it [is] worst in Koinadugu district in the north of the country, there is only one qualified medic for 226,100 inhabitants.”

“...UNICEF has been working with Sierra Leone’s government and local and international aid groups to address the poor healthcare for mothers and children. It has been training district health staff, supplying vitamins to mothers and babies, and helping prevent common diseases.” [16c]

MENTAL HEALTH CARE

5.47 The Economist Intelligence Unit’s 2005 Sierra Leone Country Profile states:

“Given the destruction Sierra Leone has experienced, post-war activity has focused mainly on resupplying basic services. However, mental health issues remain largely neglected. A large, but indeterminate, number of people have suffered conflict-related stress and there is only one hospital (Kissy, in Freetown) that provides (extremely basic) services for what has become a huge problem.” [14] (p20)

5.48 The Kissy Mental Hospital is Sierra Leone’s only mental health hospital. A World Federation for Mental Health newsletter, published in 2002, reports on a visit made by Florence Baingana, a World Bank Senior Health Specialist, to the Kissy Mental Hospital. The newsletter states:

“...The hospital [Kissy] was built in the mid 1800s and for the most part, has not been renovated since then.”

“I [Baingana] had a note that allowed me entrance and a tour. The staff member in charge happily agreed to take me round. He informed me that he was a nursing aide. There is only one psychiatrist and one psychiatric nurse in the whole country of 5 million people. Non-specialist staff like medical officers and general nurses are not willing to work at Kissy Mental Hospital.”

“As we walked to the very first ward, which he called the acute male admission ward, he suddenly said ‘watch out where you step.’ I was about to step into what looked like human excrement. In the first ward, there was not a single bed or mattress. The patients were all chained to rings in the floor. Most patients were naked. The ward had no door or windows. It was in a very dismal state.”

“We made a tour of the whole hospital. The wards progressively got better but most patients were still chained to the beds. The reason given was the lack of adequate staff, no isolation rooms and inadequate medications. An attempt was made to provide some art materials as recreation but the drawing was carried out while the patients sat on the beds to which they were chained. The occupational therapy room was overgrown with weeds, and so was the mortuary.”

“Kissy Mental Hospital is the only psychiatric facility in Sierra Leone. There are no psychiatric services of any kind in any of the other hospitals. The only outpatient mental health service in the whole country is the private clinic of the only psychiatrist. Following ten years of civil conflict, some NGOs have attempted to introduce mental health and psychosocial services.” [11]

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6. Human rights

6A. HUMAN RIGHTS ISSUES

GENERAL

6.01 The USSD 2004 Report states that during 2004:

“The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. One man died in police custody during the year. Security forces raped women and children; members of UNAMSIL were accused of murdering a prostitute. Although conditions in some prisons improved, many detention centers were overcrowded and unsanitary, which resulted in numerous deaths during the year. Members of the SLP continued to arrest and detain persons arbitrarily. There were reports of extortion by police. Prolonged detention, excessive bail, and insufficient legal representation remained problems. The Government at times limited freedom of speech and the press during the year...Violence, discrimination against women, and prostitution remained problems. Female genital mutilation (FGM) remained widespread. Abuse of children was a problem; however, numerous children who fought as child soldiers continued to be released and participated in reintegration programs during the year. There were reports of trafficking in persons, and new anti-trafficking legislation was passed by the Parliament. Residents of non-African descent faced institutionalized political restrictions. Forced labor continues to be a problem in rural areas. Child labor remained a problem.” [2a] (Introduction p1)

6.02 The Amnesty International 2005 Report on Sierra Leone states that during 2004:

“The human rights situation continued to improve with increased security and stability. Trials began before the Special Court for Sierra Leone but the government of Nigeria continued to refuse to surrender former Liberian President Charles Taylor to the court. Publication of the Truth and Reconciliation Commission’s report was expected to contribute towards reconciliation and prevention of human rights violations. The trial of some 90 former combatants charged with murder and other offences in 2002 was stalled, but 18 others associated with the former armed opposition were released after prolonged detention without charge or trial. Effective administration of justice was seriously compromised by deficiencies in the national justice system.” [6b] (p1)

6.03 The Human Rights Watch “Essential Background: Overview of Human Rights Issues in Sierra Leone” report, published in January 2005, states that:

“The human rights situation has vastly improved since Sierra Leone’s devastating civil war was officially declared over in January 2002. However, implementation of the rule of law remains weak and questions remain about the government’s willingness to guarantee economic, social, and cultural rights. The mismanagement and corruption of public funds, coupled with high unemployment among young adults, a drastic increase in basic commodity prices, and continued insecurity within the sub-region, render Sierra Leone vulnerable to future instability.” [4a] (p1)

“Sierra Leone’s civil war was characterized by egregious human rights abuses on all sides but especially by rebel forces. A confluence of factors helped end the war, including the deployment of a 17,000-member United Nations (U.N.) peacekeeping force known as UNAMSIL, a U.N. arms embargo against neighbouring Liberia, and the commitment of British troops to stop a rebel advance against the capital, Freetown, in 2000. Despite the disarmament of some 47,000 combatants, and the successful completion of presidential and parliamentary elections in 2002 and local elections in 2004, the deep rooted issues that gave rise to the conflict – endemic corruption, weak rule of law, crushing poverty, and the inequitable distribution of the country’s vast natural resources – remain largely unaddressed by the government.” [4a] (p1)

- 6.04 The 26th report of the Secretary-General of the United Nations Security Council on the United Nations Mission in Sierra Leone, dated 20 September 2005, states:

“Gains continue to be made with respect to the situation of human rights in the country. The decentralization of Government and the creation of new structures at the district level have enhanced participation in governance and the exercise of political rights at the local level. Political activities including debates among the candidates for the elections to be held in 2007 have remained peaceful so far. There were no reports of arbitrary killings, extrajudicial executions or a pervasive pattern of gross human rights violations except in the area of female genital mutilation, which is widespread in the country. Allegations of violations of other civil and political rights have been routinely investigated and prosecuted, although there were instances where the Government did not act in a timely and transparent manner to investigate them.” [12] (p6)

“...Furthermore, a culture of respect for human rights and basic freedoms has yet to be fully established. Civil society remains weak and does not have the capacity to serve as a countervailing factor for the protection of human rights and fundamental freedoms.” [12] (p7)

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FREEDOM OF SPEECH AND THE MEDIA

- 6.05 The USSD 2004 Report states:

“The Constitution provides for freedom of speech and of the press; however, the Government at times limited these rights in practice.” [2a] (Section 2a)

“More than 50 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with opposition political parties. Reporting was often politicized and inaccurate, in large part because of poor training of journalists, insufficient resources, and a lack of commitment to objectivity. Corruption among journalists was widespread. The number of newspapers fluctuated weekly. Newspapers openly and routinely criticized the Government and its officials, as well as opposition parties and former rebel forces.” [2a] (Section 2a)

“...The Independent Media Commission regulated independent media outlets. Although it was an independent body, some media observers alleged that the Government influenced the Commission. The annual license fee for single channel radio stations previously was \$2,000 (4 million Leones when established in 2002), but, because radio journalists and media monitors claimed that this fee was prohibitively expensive and would limit severely the number of independent radio stations, the fee schedule was revised downward during the year.” [2a] (Section 2a)

“...In September [2004], the SLP assaulted two journalists outside the CID. Allegedly, the journalists had gone to CID headquarters seeking information. No action was taken against the officers responsible.” [2a] (Section 2a)

“In September [2004], members of the ruling party, the SLPP, reportedly beat a journalist because of a story he was investigating. No further action was taken in this case.” [2a] (Section 2a)

- 6.06 The BBC Sierra Leone Country Profile, dated August 2005, states:

“Media freedom in Sierra Leone has its limits; media rights monitors have reported that high-level corruption is a taboo subject, with the authorities using libel laws and the courts to target errant journalists.”

“Broadcasters face many challenges, including unreliable electricity supplies, a shortage of funds and a lack of advertising revenue.”

“The UN Mission in Sierra Leone (Unmasil) operates some radio services, broadcasting news of UN activities and human rights information, as well as music and news.”

“FM relays of BBC World Service and Radio France Internationale are on the air in Freetown.”

“Dozens of newspapers are published in Freetown, despite low literacy levels. Most of them are privately-run and are critical of the government.” [15]

- 6.07 The Sierra Leone section of the “Attacks on the Press 2004” report, published by the Committee to Protect Journalists (CPJ), states that:

“Dozens of private newspapers operate in the capital, Freetown, including several private dailies; many publications regularly criticize the government. However, sources say that political divisions and a lack of training threaten the credibility of many local publications. A wide variety of privately owned and community radio stations, in addition to the state-owned Sierra Leone Broadcasting Service, air news across the country. According to local sources, broadcast media remain the most influential sources of information, which has low rates of literacy.” [8]

HUMAN RIGHTS ABUSES COMMITTED AGAINST JOURNALISTS

- 6.08 The CPJ “Attacks on the Press 2004” report states that:

“Sierra Leone has continued its efforts to rebuild after a brutal, decade-long civil war officially ended in January 2002.” [8]

“...Peace remains fragile, but it has contributed to an improvement in press freedom and human rights. During the height of the war, Sierra Leone was the most dangerous country in Africa for journalists. Local reporters were threatened, attacked, and even killed by Revolutionary United Front rebels, while also facing detention and harassment from the government.” [8]

“...Despite these improvements, repressive laws that criminalize press offenses remain on the books. In particular, journalists want the government to repeal the 1965 Public Order Act, which criminalizes libel and holds newspaper vendors, printers, and publishers liable alongside editors and reporters in libel suits.” [8]

“In October 2004, *For Di People* Editor and Publisher Paul Kamara, a veteran journalist and controversial figure, was sentenced to two years in prison under the act for articles criticizing President Ahmad Tejan Kabbah.” [8]

“Kamara was convicted of two counts of ‘seditious libel.’ He was taken into custody and transferred to the Pademba Road Prison in Freetown, where he remained at the end of the year. The charge dated from October 2003, when Kamara and three workers at the John Love Printing Press were detained and charged in connection with articles alleging that Kabbah was a ‘convict’ and that he was constitutionally unfit to hold office. The article detailed a 1967 commission of inquiry into fraud – allegations at the Sierra Leone Produce Marketing Board at a time when Kabbah helped oversee the board. Brima Sesay, chief printer at the printing press, was convicted of printing seditious libel, and he paid a fine; two other printing press employees were acquitted.” [8]

“The judge also recommended a six-month ban on *For Di People*. According to local sources, Sierra Leone’s media regulatory body, the Independent Media Commission, was expected to rule on the recommendation but had not by year’s end. However, in the aftermath of the verdict, *For Di People* [italics] stopped publishing for several weeks because the staff feared government retribution, according to a source at the paper. The paper began publishing again in late 2004.” [8]

“According to local journalists, the verdict underlined the necessity of eliminating the Public Order Act and other legislation that criminalizes press offences, even though some local sources say the tense relations between *For Di People* and the government are not typical of the press as a whole. In a report given to Kabbah on the same day that Kamara was sentenced to prison, Sierra Leone’s Truth and Reconciliation Commission called on the government to repeal laws criminalizing seditious and defamatory libel and recommended a moratorium on prosecutions under those laws. According to the commission’s statute, the government is required to implement its recommendations faithfully and in a timely manner.” [8]

“In addition to repressive laws, local journalists face the threat of violence, both from security forces and criminal elements. In January [2004], police assaulted and threatened journalists from the private newspaper Awoko who were attempting to report on a police scuffle near its offices in Freetown. In July and August, gang members attacked two journalists working for the Freetown-based community radio station Citizen FM in retaliation for stories about criminal activity in the neighbourhood where the station is based, according to local sources.” [8]

“...Local journalists say that insufficient resources and a lack of training are among the largest obstacles they face. Sierra Leone’s news outlets and press corps are highly politicized, and chronic financial difficulties make it difficult for journalists and media organizations to remain independent.” [8]

- 6.09 The UNHCR, in comments submitted to the Advisory Panel on Country Information on 8 March 2006, adds, after mentioning the Kamara case:

“In yet another incident, a journalist by the name of Harry Yansaneh, who allegedly was occupying the premises of a woman Parliamentarian, died as a result of injuries occasioned by her children’s assault. The children then fled to the United Kingdom. They were not charged. The Member of Parliament was charged and released on bail. A Coroner’s inquest was recommended, but then documents tendered by the Coroner after the inquest papers were not signed and thus lacked legal efficacy. The Coroner was suspended for a while, but his decision that the Member of Parliament be charged continues to be challenged by her Attorneys as faulty at law.” [27] (p34-35)

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FREEDOM OF RELIGION

- 6.10 The USSD 2005 International Religious Freedom Report on Sierra Leone, published in November 2005, states:

“The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Government at all levels strives to protect this right in full, and does not tolerate its abuse, either by governmental or private actors. There is no state religion.” [2b]

“Religious holidays celebrated as national holidays include the Muslim Eid-al-Adha, the Prophet Muhammed’s birthday, and Eid al-Fitr holidays, and the Christian Good Friday, Easter Monday, and Christmas holidays.” [2b]

"The Government has no requirement for recognizing, registering, or regulating any religious groups." [2b]

"...The generally amicable relationship among religions in society contributed to religious freedom, and interfaith marriage is common. The Inter-Religious Council (IRC), composed of Christian and Muslim leaders, plays a vital role in civil society and actively participates in efforts to further the peace process in the country and the subregion. Christian and Muslim leaders worked together with the National Accountability Group and the Anti-Corruption Commission to address the problem of corruption in society." [2b]

- 6.11 Although there is a generally amicable relationship among the various religious groups, violent clashes between people belonging to different religious groups do sometimes occur. The USSD 2005 International Religious Freedom Report on Sierra Leone reported on two incidents between religious groups that took place in 2005:

"On May 19 [2005], an altercation between an Anglican schoolteacher from St. Philip's Primary School and a Muslim woman began when the teacher and her students allegedly blocked the way of the Muslim woman who was trying to cross a street in East Freetown. The students reportedly taunted the Muslim woman, calling her a 'debul' (a masked devil). When the woman started to fight the students, the students allegedly tore the woman's clothes and her veil. Approximately 20 Muslim men rescued the woman and threw objects at the Catholic school. Although police came to the scene, they made no arrests. On May 20, approximately 100 persons, mostly youths and allegedly carrying sticks, knives, and copies of the Qur'an, gathered outside St Philip's Church to protest the previous day's incident. The group threw objects at the church and broke most of the building's windows. After the incident, church leaders cancelled Sunday religious services and closed the school. The IRC hosted a series of meetings between the two groups to discuss the issue. Church services resumed on May 29, and the school re-opened on June 2. The Inspector General of Police settled the dispute between the schoolteacher and the Muslim woman, and both signed an agreement that the matter had been resolved and no future action would be taken." [2b]

"On April 21 [2005], a public holiday for the Prophet's Birthday, a group of Muslims in Rokupr burned the igbala (hut or shrine) where the local hunting society stored its traditional hunting masks so that the group could not stage its traditional parade. A local newspaper reported and police confirmed that the Muslims burned the masks because they believed that the pagan tradition was a desecration of the Prophet's birthday. Police arrested several persons after the incident and were still investigating the case at the end of the period covered by this report." [2b]

RELIGIOUS GROUPS

- 6.12 The USSD 2005 International Religious Freedom Report states:

"Reliable data on the exact numbers of those who practice major religions are not available; however, most sources estimate that the population is 60 percent Muslim, 30 percent Christian, and 10 percent practitioners of traditional indigenous religions. There is no information concerning the number of atheists in the country." [2b]

"Many syncretic practices exist and many citizens practice a mixture of Islam and traditional indigenous religions or Christianity and traditional indigenous religions." [2b]

"Historically most Muslims have been concentrated in the northern areas of the country, and Christians were located in the south; however, the 11-year civil war, which officially was declared over in January 2002, resulted in movement by major segments of the population." [2b]

FREEDOM OF ASSOCIATION AND ASSEMBLY

6.13 The USSD 2004 Report states:

“The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.” **[2a] (Section 2b)**

“Several large demonstrations took place during the year [2004], including opposition party political rallies. Although some demonstrations were marred by violence, most were relatively peaceful. There were no reported incidents of violent demonstration[s] during the year in Freetown; peaceful social and cultural assemblies and parades were frequent.” **[2a] (Section 2b)**

“In February [2004], the Government refused an assembly permit to the Methodists Women’s Organization, a local civil society group. The Government claimed the group’s rally could incite problems. The Methodist Women appealed the Government’s response, but they were unsuccessful. **[2a] (Section 2b)**

“In February [2004], Kono authorities reportedly harassed members of the Campaign for Just Mining, a local civil society group, after it hosted a public discussion regarding mining practices in the district. Also in Kono, police harassed and intimidated area agencies that met to discuss mining practices.” **[2a] (Section 2b)**

“In March [2004], the Criminal Investigative Division (CID) arrested five men wearing shirts that called for the release of CDF leader Samuel Hinga Norman. The men were reportedly protesting peacefully outside of the SCSL, where Norman was being held. Reportedly, the men were arrested for the controversial message on their clothing. Other protestors standing outside of the SCSL calling for the extradition of former Liberian President Charles Taylor were not arrested.” **[2a] (Section 2b)**

“The Constitution provides for freedom of association, and the Government generally respected this right in practice. There were numerous civic, philanthropic, and social organizations, and the registration system was routine and non-political. Throughout the year [2004], the Revolutionary United Front Party (RUF), the political party formed from the RUF, continued to exist, although it had serious problems with membership and organization.” **[2a] (Section 2b)**

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EMPLOYMENT RIGHTS

6.14 The USSD 2004 Report states:

“The Constitution provides for the right of association, and, in practice, workers had the right to join independent trade unions of their choice. Police and members of the armed services were prohibited from joining unions. Approximately 30 to 60 percent of the workers in the formal sector in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers have met with little success. All labor unions generally joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership.”

“The law does not prohibit antiunion discrimination against workers or employer interference in the establishment of unions; however, there were no reports of such cases during the year [2004]. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.” **[2a] (Section 6)**

6.15 The USSD 2004 Report also states that:

“Workers had the rights to strike, although the Government could require 21 days’ notice; workers exercised this right in practice.”

“No law prohibits retaliation against strikers, even for a lawful strike; however, the Government did not take adverse action against the employees and paid some of them back wages.” [2a] (Section 6)

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PEOPLE TRAFFICKING

6.16 The USSD 2004 Report states that:

“During the year [2004], Parliament passed legislation that prohibited trafficking in persons; however, there were reports that persons were trafficked from and within the country.” [2a] (Section 5)

“The country was one of origin, transit, and destination, for international trafficked persons. The majority of victims were women and children. There was no quantitative study on trafficking, and no specific figures existed on the number of persons trafficked. Children were trafficked from the provinces to work in the capital as laborers and commercial sex workers and to diamond areas for labor and sex work. Persons were trafficked from neighbouring countries for domestic and street labor and for commercial sex work. People were trafficked out of the country to destinations in West Africa, including Nigeria, Cote d’Ivoire, Guinea, and Guinea-Bissau for labor and sex work. Persons were also trafficked to Lebanon, Europe, and North America. The country served as a transit point for persons from West Africa and possibly the Middle East.” [2a] (Section 5)

GOVERNMENT EFFORTS TO TACKLE PEOPLE TRAFFICKING

6.17 The USSD 2005 Trafficking in Persons Report, published in June 2005, states:

“The Government of Sierra Leone does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government is severely challenged by the lack of resources in the country to address trafficking and is still grappling with many competing needs since coming out of an 11-year civil war in 2002. However, despite lack of resources, the government has made meaningful efforts during the reporting period to address trafficking in the country.” [2c]

“...During the year, the government’s efforts to investigate, arrest, prosecute, and convict traffickers increased. The Sierra Leone Police (SLP) now host biweekly meetings of a newly created anti-trafficking task force and are working to better coordinate anti-trafficking measures throughout the country. Additionally, in 2004 the government convened a legislative working group and has drafted comprehensive anti-trafficking legislation. Legislative reforms and passage of the anti-trafficking law will increase the government’s ability to arrest and convict traffickers, but law enforcement will likely remain hampered by a lack of resources, personnel, and equipment. Despite the absence of an anti-trafficking law, the government opened trafficking-related investigations using other criminal ordinances and is currently working to convict one individual suspected of trafficking at least 47 children. The Office of National Security started compiling statistics of suspected human trafficking cases identified at the international airport; it identified 18 such cases in 2004. Sierra Leone lacks the capacity to sufficiently monitor its borders and official corruption is endemic and continues to impede anti-trafficking efforts.” [2c]

“...The government is aware of the need to prevent trafficking and has made modest efforts to devise a national strategy, but much work still needs to be done, particularly in training government officials. The Sierra Leone Police (SLP) now hosts a joint anti-trafficking action committee consisting of government and nongovernmental members. The committee has developed an anti-trafficking national plan, which will include a public awareness campaign. The government also, in cooperation with NGOs, sponsored an art exhibit, created by trafficking victims in a library and exhibition space in Freetown, which highlighted the issue. The SLP routinely uses the radio to speak out about the dangers of trafficking. Ministry of Social Welfare, Gender, and Children’s Affairs officials periodically travel throughout the country to educate women on trafficking. The government created a National Education Plan that will expand access to primary education, especially for girls and the rural poor.” [2c]

6.18 The USSD 2004 Report adds further:

“In an effort to combat the trafficking of persons into the sex trade, government authorities became more vigilant in their efforts to close brothels, which were perceived as perpetuating trafficking. The Government also began to publicize trafficking issues through government-sponsored radio programs and official statements in the press.” [2a] (Section 5)

STATE PROTECTION AND ASSISTANCE FOR THE VICTIMS OF PEOPLE TRAFFICKING

6.19 The USSD 2005 Trafficking in Persons Report states:

“The government remained unable to provide adequate protection and assistance to victims of trafficking during the reporting period. Efforts to protect victims were ad hoc amidst an absence of a formal policy for protecting trafficking victims. Limited care is available through the Ministry of Social Welfare, Gender, and Children’s Affairs. However, there are no shelters in the country that specifically assist trafficking victims. Nonetheless, the government has good cooperation and coordination with international organizations and NGOs and has worked considerably in the reintegration of child soldiers. Recently, 50 SLP officers received anti-trafficking training from an NGO, which included instruction on actions to be taken when encountering victims. Other law enforcement officials have benefited from training for trauma healing and sexual and gender-based violence conducted by NGOs and international organizations.” [2c]

FREEDOM OF MOVEMENT

6.20 The USSD 2004 Report states that:

“The Constitution provides for these rights, and the Government generally respected them in practice; however, there were frequent reports that police officers who ran security roadblocks outside of the capital often extorted money from motorists.” [2a] (Section 2d)

“The Liberian border remained officially closed, at times, due to the civil conflict in Liberia; however, authorities permitted refugees, returnees, and other persons to move between the two countries regularly. There were some unconfirmed reports of bribery or coercion at border crossing points. At year’s end, the border was open to official travel.” [2a] (Section 2d)

The UNHCR notes, in comments submitted to the Advisory Panel on Country Information on 8 March 2006, border problems in:

“...Yenga, approximately 340 km east of Freetown, along the country’s border with Guinea. Guinea forces occupy this area, following a claim by Guinea, that it is part of their territory. As a result Sierra Leoneans who have been resident in the area for a long time have persistently been harassed by Guinean forces.” [27] (p34)

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6B. HUMAN RIGHTS - SPECIFIC GROUPS

ETHNIC GROUPS

6.21 The USSD 2004 Report states that:

“The ethnically diverse population consisted of at least 13 ethnic groups that all spoke distinct primary languages and were concentrated outside urban areas; however, all ethnic groups besides the Krio used Krio as a second language. Little ethnic segregation was apparent in urban areas, and interethnic marriage was common. The two largest ethnic groups were the Temne in the North and the Mende in the South. Each of these groups was estimated to make up approximately 30 percent of the population. There were reports of interethnic tension.”

“Ethnic loyalty remained an important factor in the Government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.” **[2a] (Section 5)**

WOMEN

CONSTITUTIONAL RIGHTS OF WOMEN

6.22 “The Constitution provides for equal rights for women; however, in practice, women faced both legal and societal discrimination. In particular, their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. All women born in the Western Area, which is governed by General Law, had a statutory right to own property in their name. Some women born in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not. In the Temne tribe, women could not become paramount chiefs; however, in the Mende tribe, there were several female paramount chiefs. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women performed much of the subsistence farming and had little opportunity for formal education.” **[2a] (Section 5)**

6.23 The HRW report on sexual violence in the Sierra Leone civil war states:

“In theory, Sierra Leonean women are granted equal rights to men under the 1991 constitution, which provides as one of the ‘fundamental principles of state policy’ that the state ‘...[s]hall discourage discrimination on the grounds of place of origin, circumstances of birth, sex, religion,...’ [...] The equal rights of women are again underscored in the human rights chapter of the constitution. Under Section 27 of the constitution, however, discrimination is permitted, inter alia, under laws dealing with ‘adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law,’ which have direct bearing on the rights of women, as well as under customary law. This important contradiction in the constitution – similar to that in many African constitutions – has contributed to the low status of women in Sierra Leone, as it legitimizes the application of discriminatory customary law. No protection from discriminatory customary law can be sought under the constitution on the basis of sex. Customary and Islamic laws also continue to be widely applied, notwithstanding the fact that legislation provides that general law should prevail over customary law when customary law is ‘repugnant to statute or natural justice, equity, and good conscience.’ “ **[4b] (p16-17)**

“The rights of married women remain limited, particularly for those married under customary and Islamic laws, which govern most marriages. Women married under the general law have comparatively more rights.”

“A married woman's position under customary law is comparable to that of a minor: a woman is generally represented by her husband who has the right to prosecute and defend actions on his spouse's behalf. Sierra Leonean women can gain status through marriage as well as through their role as mothers: a woman's status within society and the polygynous household increases with the number of children she bears. Sierra Leone has one of the highest birth rates in the world, with the average number of children born to each woman estimated at 6.5. Most households are polygynous, apart from the monogamous Christians (approximately 30 percent of the population); under customary law, a husband can marry as many wives as he wishes. Muslims (60 percent of the population) can marry up to four wives.” [4b] (p17)

EDUCATION AND EMPLOYMENT

6.24 The USSD 2004 Report states that:

“In September [2004], the Deputy Minister of Education formally recognized a study conducted by the British Council, which revealed that girls were being denied an education more often than boys and that traditional beliefs were keeping women confined to the household.” [2a] (Section 5)

6.25 The HRW report on sexual violence in the Sierra Leone civil war states:

“Systemic discrimination against women starts in childhood, when many parents prefer to spend their scarce resources on the education of their sons rather than their daughters. According to the United Nations Development Programme's (UNDP) Gender-Related Development Index, females account for only 21 percent of the combined primary, secondary and tertiary gross enrolment ratio, compared with 32 percent males. This gender disparity illustrates not only that fewer girls attend school but also that their education is discontinued at an earlier age than boys. This is reflected in the literacy rate of persons over fifteen years: only 20 percent of females are literate compared to 40 percent of males.” [4b] (p21)

“The high illiteracy rate among women can in part be explained by the higher demand for female labor in the family. Girls are required to work in the house at an early age given that their mothers have to take care of the household and the children and do farm work. Another contributing factor to women's illiteracy is the harmful traditional practice of early forced marriage, which is very common in the provinces.” [4b] (p22)

“Sierra Leone's rural population is primarily engaged in subsistence farming, with women constituting 80 percent of the labor that produces 70 percent of the nation's food. This agricultural labor is generally not remunerated by cash wages and women have unequal access to land or technology. In Sierra Leone, the different ethnic groups continue to operate under communal and family land holding systems. Women can use the land for subsistence farming but the control and management of the land and any property on it is vested in the male head of the family. With the post-war resettlement process underway, war widows returning to their villages of origin often lack the legal means or community support to reclaim their families' properties.” [4b] (p22)

“...Due to the limited number of educated women, which is partly the result of the high demand for girls to perform household tasks at a young age, the preference of sending boys to school, and early forced marriages, few women are represented in the better remunerated professional or managerial jobs. Sierra Leone's crushing poverty and high unemployment have also meant that positions that in the West are perceived as women's jobs are often held by men in Sierra Leone, leaving even fewer openings for women. In the formal employment sector, women therefore constitute only 40 percent of

the clerical staff and a mere 8 percent of the administrative and managerial cadre. In the informal sector outside agriculture, where the cash returns are low, women are mainly involved in petty trading, soap making and tie-dying.” [4b] (p22)

- 6.26 As employment opportunities are limited for women, some women have become prostitutes as a means to support themselves, as noted by the USSD 2004 Report:

“Prostitution was widespread and not prohibited by law; however, prostitutes sometimes were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.” [2a] (Section 5)

SOCIETAL ATTITUDES TO DOMESTIC VIOLENCE

- 6.27 The USSD 2004 Report states that:

“Domestic violence against women, especially wife beating, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was common. Women suspected of marital infidelity often were subjected to physical abuse; frequently, women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives’ partners, beatings often continued until the woman named several men even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animalistic rituals to prove their innocence.” [2a] (Section 5)

- 6.28 The HRW report on sexual violence in the Sierra Leone civil war states:

“Societal attitudes to domestic violence are another indicator of the status of women and girls in society; physical violence against women and children is common in Sierra Leone. Indeed, under customary law, a husband has the right to ‘reasonably chastise his wife by physical force.’ If the husband is persistently cruel and frequently beats his wife to the point of wounding her or causing her great pain, the wife can divorce her husband, but under customary law a single act of physical and brutal force is permitted. A population-based assessment of war-related sexual violence in Sierra Leone carried out by Physicians for Human Rights among 991 female-headed households in camps for displaced people found that, although 80 percent of women surveyed expressed that there should be legal protections for the rights of women, more than 60 percent of the women believed that a husband has the right to beat his wife.” [4b] (p19)

- 6.29 The United Nations High Commissioner for Human Rights Report on the Situation of Human Rights in Sierra Leone, dated February 2005, states:

“Domestic violence against women is still prevalent. Although wife-beating and other forms of matrimonial violence are rife in the community, very few such cases ever reach the police/FSU [Family Support Unit]. Fewer such cases reach the courts, with the majority settled out of court. FSU is powerless to pursue cases where victims, mostly wives, are unwilling to have their husbands prosecuted. For example, in one case in Makeni a man beat up his wife and left her for dead in a farmhouse. After the intervention of the Human Rights Section the husband was arrested but the wife later pleaded for his release. Out-of-court settlements including locally arranged financial compensation to victims or relatives also limits judicial redress and encourages impunity within the community.” [19] (p9)

RAPE AND SEXUAL VIOLENCE COMMITTED DURING THE CIVIL WAR

- 6.30 The HRW report on sexual violence in the Sierra Leone civil war states:

"Throughout the ten-year civil war, thousands of Sierra Leonean women and girls were subjected to widespread and systematic sexual violence, including rape and sexual slavery. A survey of 991 female heads of households in communities of displaced persons carried out by Physicians for Human Rights (PHR) in 2002 found that approximately one of every eight household members (13 percent) had been subjected to one or more incidents of conflict-related sexual violence; among the actual respondents to the survey, the prevalence rate of incidents of conflict-related violence was 9 percent (94 out of 991). Based on this prevalence rate, as many as 50,000 to 64,000 internally displaced women may have been subjected to sexual violence as a result of the war. Adding extrapolated data for other types of victim, PHR calculated that as many as 215,000 to 257,000 Sierra Leonean women and girls may have been subjected to sexual violence in the conflict period. Although these figures are necessarily no more than estimates, they do give an indication of the widespread nature of sexual violence during the war." [4b] (p25-26)

"...Survivors of sexual violence mostly reported being raped by rebel forces, but were at times not able to identify which rebel faction the perpetrators belonged to or whether – especially given the frequent collaboration between soldiers and rebels – the perpetrators were indeed rebels or rather soldiers from the Sierra Leone Army (SLA). In addition, survivors explained that they often deliberately did not want to look at their rapists out of fear and because they did not want to make eye contact." [4b] (p26)

"...The RUF committed crimes of sexual violence - often of extreme - brutality - from the very beginning of the war when they invaded Sierra Leone from Liberia in March 1991. RUF rebels committed crimes of sexual violence in the course of their military operations, during which thousands of women and girls were abducted and forced to 'marry' rebel 'husbands.' These abducted women and girls were repeatedly raped and subjected to other forms of sexual violence throughout the duration of their captivity, which in many cases lasted years. During captivity, these women and girls were also made to carry out forced labor, including carrying heavy loads, cooking, cleaning, etc. Many women and girls have given birth to children fathered by rebels. Especially during the early years of the war, the RUF were assisted by Liberian forces, who also committed rape and other sexual violence." [4b] (p26)

"The AFRC committed crimes of sexual violence from May 1997, using the same tactics as the RUF. Sexual violence by the RUF and the AFRC continued to be committed after the signing of the Lome Peace Agreement on July 7, 1999, and they were joined in this by the West Side Boys, a splinter group of the AFRC formed after the signing of the Agreement." [4b] (p26)

"...Human Rights Watch has not documented any cases of sexual violence by the Sierra Leone Army (SLA) prior to the time of the 1997 AFRC coup. According to the survey conducted by Physicians for Human Rights, of seventy-five women and girls who reported having been raped and identified the rapists' affiliation, only three said they were raped by SLA soldiers. This may in part be due to the fact that survivors would have often found it difficult to distinguish between the rebel factions and the SLA." [4b] (p27)

"...Human Rights Watch has documented only a few cases of sexual violence committed by the pro-government Civil Defence Forces (CDF). The CDF movement consists of groups of traditional hunters and young men organized into militia. They were initially only deployed by the government in their own chiefdoms, in order to ensure their loyalty and discipline and make the best use of their superior bush knowledge. The government provided training, weapons and food to the units. The relatively small number of identified cases of sexual violence perpetrated by the CDF may be related to the CDF's internal rules that stipulate that warriors cannot have sexual intercourse before going to battle, as they would lose some of their protective powers that are bestowed on them during their initiation ceremonies. These powers are meant to make the fighters invincible and immortal. During the initiation ceremonies, the

fighters are also instructed not to harm civilians, and required to take an oath to that effect. Thus, it is likely that pro-government forces did not actually commit sexual violence on a widespread and systematic basis; however, the low number of identified cases may also be partially due to Human Rights Watch's human resource constraints, faced with the overwhelming number of abuses committed by the rebel forces." [4b] (p27)

"...Human Rights Watch has documented several cases of sexual violence by UNAMSIL peacekeepers, including the rape of a twelve-year-old girl in Bo by a soldier of the Guinean peacekeeping contingent in March 2001 and the gang rape of a woman by two Ukrainian peacekeepers in April 2002 near Kenema. There appears to be [a] reluctance on the part of UNAMSIL to investigate and take disciplinary measures against the perpetrators. Reports of rape by ECOMOG peacekeepers, the majority of whom were Nigerian, were rare." [4b] (p28)

"Both ECOMOG and UNAMSIL peacekeepers have sexually exploited women and solicited child prostitutes." [4b] (p28)

CURRENT LEGAL AND STATE PROTECTION FOR VICTIMS OF RAPE

6.31 The USSD 2004 Report states that:

"Rape was recognized as a societal problem and was punishable by up to 14 years' imprisonment. There were reports that some women and girls abducted during the war remained with their captors due to intimidation and a lack of options. There also were reports of the sexual abuse of refugees in refugee camps. Cases of rape were underreported, and indictments were rare, especially in rural areas. Medical or psychological services for rape victims were very limited. Rape victims were required to obtain a medical report to file charges; however, government doctors charged \$20 (approximately 50,000 Leones) for such an exam, which was prohibitively expensive for most victims. Human rights monitors urged the Government to eliminate or lower the cost of medical reports. The International Rescue Committee (IRC) expanded its operations since 2003; by year's end, it ran centers in Freetown, Kenema, and Kono to perform medical examinations and provide counselling for victims of sexual assault. The IRC also conducted workshops in Kono, Freetown, Kailahun, and Bo." [2a] (Section 5)

6.32 The HRW report on sexual violence in the Sierra Leone civil war states:

"The laws governing rape in Sierra Leone are very confusing even for persons working in the criminal justice system, such as members of the judiciary and police force. They are also archaic and date back to the British 1861 Offences Against the Person Act. Under this Act, rape is defined as 'the unlawful carnal knowledge of a woman without her consent by force, fear or fraud.' Penetration (however slight) is required to constitute the crime of rape. In addition, although a child is defined as a person under the age of sixteen, Sierra Leonean law makes the extremely unhelpful distinction between unlawful carnal knowledge of a girl under the age of thirteen and unlawful carnal knowledge of a girl between thirteen and fourteen years of age. The law is unclear about unlawful carnal knowledge committed against persons aged between fourteen and sixteen, although the few cases involving this age group that have gone to trial have reportedly been prosecuted as rape." [4b] (p19-20)

"Nor is the age of consent explicitly stated, although it is presumably by necessary implication sixteen years old. Marital rape does not exist under Sierra Leonean statutory law, and most Sierra Leoneans firmly believe that it is the duty of a wife to have sex with her husband even if she does not want to." [4b] (p20)

"Unlawful carnal knowledge of a girl under the age of thirteen, whether with or without her consent, is a felony and carries a maximum sentence of fifteen years imprisonment. Unlawful carnal knowledge of a girl between the ages of thirteen and fourteen, whether

with or without her consent, is, however, only considered a misdemeanour and carries a maximum sentence of two years. The language 'with or without her consent' refers only to cases of unlawful carnal knowledge that do not constitute rape; for example, an eighteen-year-old man who has sexual intercourse with a thirteen-year-old girl with her consent." [4b] (p20)

"...Rape of a person over the age of sixteen is considered a felony and carries a maximum sentence of life imprisonment. Indecent assault – sexual assault without penetration – on or attempts to have carnal knowledge of girls under the age of fourteen years carry the same maximum sentence as unlawful carnal knowledge of girls between the age of thirteen and fourteen i.e. only two years of imprisonment. No person can be convicted of unlawful carnal knowledge, indecent assault or attempted unlawful carnal knowledge 'upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused.'" [4b] (p20)

"...In addition to the legal confusion that exists in general law concerning rape, attempts by women to obtain the prosecution of rapists are frustrated by the collapsed state of the judiciary and the lack of effective law enforcement, which has contributed to the ongoing climate of impunity for offenders." [4b] (p20)

"The manner in which rape is dealt with under customary law is indicative of the societal values towards sexual violence and the low status of women and girls in Sierra Leone. Although all serious criminal cases should automatically be tried under general law, rape cases continue to be prosecuted under customary law in the local courts." [4b] (p21)

"...In addition to applying discriminatory laws, the local court system is problematic as women of some ethnic groups do not have direct access to the local courts, but must be represented by a male guardian. The situation is further exacerbated as the chairmen and chieftom councillors of the local courts are generally all male, which makes it difficult for women to bring cases of sexual violence as the women are often embarrassed and their cases are generally dealt with insensitively by the male court staff. The local courts are also prone to interference by the chiefs as well as the concerned parties, especially in cases dealing with sexual violence." [4b] (p21)

- 6.33 The Refugees International "Sierra Leone: Promotion of Human Rights and Protection for Women Still Required" report, published in March 2004, adds further:

"Although the SLP has improved in the past two years, there are still complaints of corruption, insensitivity to gender-based violence, and failure to investigate complaints of rape and domestic violence. The creation of Family Support Units (FSU) within the SLP is held up as proof of success of the UNAMSIL training, but the FSUs lack offices to privately interview victims, vehicles to investigate cases, and communication equipment. These units are seen as 'soft police work' by SLP leadership and are not considered a priority for funding as desperately needed new equipment becomes available. In addition, although female police officers have been hired, and the lower ranks of the SLP have been trained in gender sensitivity, the commanders have not. Female police officers are sometimes expected to do little more than cook lunch for the male police officers. Corruption within the police is still a huge issue. According to a human rights worker, 'It is hard to safeguard human rights when management is corrupt. I am not sure there is enough time left to sufficiently implement human rights into the police force.'" [26]

"The legal system in Sierra Leone is still very weak and that further impacts [on] human rights and protection issues...Rape victims are expected to pay to have rapes verified by doctors. Between the difficulty of reporting a violation to the police and getting the case to the magistrate, the entire system conspires to make rape survivors drop the case or negotiate 'justice' outside of the legal system with the perpetrator. The situation is even worse outside of Freetown, the capital. There are very few lawyers in the

districts and, despite some efforts by NGOs to train paralegals, there are few working courts in the provinces.” [26]

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CIVIL WAR HUMAN RIGHTS ABUSES COMMITTED AGAINST CHILDREN

6.34 The Final Report of the Truth and Reconciliation Commission of Sierra Leone states:

“The conflict in Sierra Leone impacted heavily on children, as their rights were systematically violated by all of the armed factions. Children suffered abduction, forced recruitment, sexual slavery and rape, amputation, mutilation, displacement and torture. They were also forced to become perpetrators and carry out aberrations violating the rights of other civilians.” [24] (Vol 3b, Ch 4, para 7)

“...While the total number of children associated with the fighting forces will in all probability never be completely accurate, the submissions of the various agencies to the Commission attest to the widespread use of children in this conflict, in total contravention of the rules applicable to conventional warfare.” [24] (Vol 3b, Ch 4, para 10)

“...A unique feature of the conflict in Sierra Leone was the forcible enlistment and use of child soldiers by all of the armed factions, including the pro-government forces. Among the chief perpetrator factions were the Revolutionary United Front (RUF), the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army (SLA) and the Civil Defence Forces (CDF).” [24] (Vol 3b, Ch 4, para 126)

“The RUF was the first to abduct and forcibly recruit child soldiers. With the passage of time, the RUF established a separate children’s unit known as the Small Boys Unit (SBUs) and Small Girl’s [sic] Unit (SGU) under various commanding officers. The government soon followed suit during the NPRC regime of Captain Valentine Strasser (1992-1996), significantly expanding the Army in part by bringing in children as recruits. Certain units of the Civil Defence Forces (CDF), the pro-government militia, also made use of children in their prosecution of the war.” [24] (Vol 3b, Ch 4, para 127)

“...Children were also used as forced labour by the armed groups. They were used as porters in both military and civilian capacities. The role of porters, or ‘human caravans’, included moving the properties of the armed groups, carrying looted properties away after raids and carrying arms and ammunitions to and from the war front.” [24] (Vol 3b, Ch 4, para 146)

“...During the conflict, girls were subjected to indiscriminate rape as a matter of course. They were raped wherever a member of an armed group encountered them, if the opportunity presented itself. Rape took place everywhere, both in and outside houses and in the bushes. The circumstances of rape depended on the whim or mood of the perpetrator and whatever pleased him.” [24] (Vol 3b, Ch 4, para 156)

“...Displaced children in refugee camps and displaced camps were also vulnerable to rape and sexual violence. According to the UNHCR/Save the Children UK report on sexual violations and exploitation, children were most vulnerable and experienced attempted rapes in locations such as the toilet and bathroom areas in the camps. Bathing and toilet areas, while divided on gender lines, were usually communal and were often located in the same vicinity. Adult male predators usually lay in wait for the girls, followed them and raped them. Children hawking goods or running errands such as fetching firewood were also attacked and raped. Sadly many of the children were attacked and raped by their adult guardians. Humanitarian workers meant to protect the children carried out the most deplorable violations.” [24] (Vol 3b, Ch 4, para 165)

“...Children were subjected to both mental and physical torture during the conflict. Severe beatings and punishment were inflicted on them, resulting in physical injuries, bleeding and internal injuries, permanent disability and in some cases death. Mothers suffered the mental anguish of watching their children being tortured and killed.” [24] (Vol 3b, Ch 4, para 182)

“...Thousands of children were killed during the conflict in Sierra Leone. Given their physical weaknesses and their vulnerability, they were often the first to die. While children were deliberately targeted by the armed forces, hunted down and killed, many also died in the crossfire. Others died because of their injuries and the fact that they had no access to any health care.” [24] (Vol 3b, Ch 4, para 189)

CURRENT CHILDREN’S ISSUES

CHILD TRAFFICKING

- 6.35 The United Nations High Commissioner for Human Rights Report on the Situation of Human Rights in Sierra Leone, dated February 2005, states:

“Trafficking involving children has internal and external dimensions. In the former case, children are trafficked within the country from their destitute parents usually in rural communities to relatives or other private individuals, mainly in the commercial centres. External trafficking involves moving the children outside of Sierra Leone. There have been several reported cases of external trafficking involving orphanages in Sierra Leone.” [19] (p6)

“...Trafficking is often associated with extensive child labour and sexual exploitation. This includes, but is not restricted to, agricultural work and often toiling in diamond mines in conditions akin to slavery. My [UN High Commissioner for Human Rights] previous reports to the General Assembly and to the Commission on Human Rights called attention to the widespread practice of using children, especially boys, some as young as 10, in the diamond mines of Kono, Tongo Field and Kamakwie. Nonetheless, this practice has unfortunately continued and the Government has so far not taken any decisive measures to respond to the situation.” [19] (p6)

“There are no available statistics on the extent of trafficking or the number of victims but anecdotal information points to a widespread pattern involving several persons and thousands of child victims...While the Government of Sierra Leone has the primary responsibility to address this issue, a panacea is impossible without international collaboration and assistance. I [UN High Commissioner for Human Rights] therefore urge the international community to support the Government of Sierra Leone in seeking durable solutions to this scourge.” [19] (p7)

CHILD LABOUR

- 6.36 The USSD 2004 Report states that:

“During the year [2004], the Government took important steps to create legal protections against the worst forms of child labor. The ministry also was charged with protecting children in the country’s vulnerable diamond mining areas; however, enforcement was not always effective.” [2a] (Section 6)

“...Children routinely assisted in family businesses and worked as petty vendors. Adults employed a large number of street children to sell, steal, and beg. In rural areas, children worked seasonally on family subsistence farms. Hundreds of children, including some who were 10 years old and younger, mined in alluvial diamond fields, working for relatives. Because the adult unemployment rate remained high, few children were involved in the industrial sector or the formal economy.” [2a] (Section 6)

“...The Constitution prohibits forced and bonded labor by children; however, such practices continued to exist. Unlike last year [2003], there were no reports of bonded labor by children in rural areas or that former RUF commanders forced children to mine diamonds. There were reports that children whose parents sent them to friends or relatives for education in urban areas were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.” [2a] (Section 6)

“During the year [2004], the Government made some progress in the areas of prevention and law enforcement related to impermissible child labor. Relevant government agencies facilitated the efforts of World Vision, an NGO that conducts reintegration programs for child laborers. In a national effort, World Vision registered 389 child prostitutes in Freetown and between 1,400 to 2,000 child miners in Kono, all of whom then had access to the NGO’s services.” [2a] (Section 6)

EARLY FORCED MARRIAGE

6.37 The Final Report of the Truth and Reconciliation Commission of Sierra Leone states:

“Early marriages pose a major challenge to the government of Sierra Leone as early marriages are permitted under customary law systems in Sierra Leone and involve the marriages of girls under the age of 18. There are four types of marriage in Sierra Leone: Christian marriage, Civil Marriage, Mohammedan Marriage and Customary law marriage. There is no minimum age of marriage applicable throughout Sierra Leone. Under Mohammedan and customary law even prepubescent girls below the age of 10 may be given in marriage.” [24] (Vol 3b, Ch 4, para 98)

6.38 “...In terms of customary law, girls as young as ten are permitted to marry and are capable of consenting to marriage, given their levels of maturity. Families usually coerce them into these marriages. There is often a significant difference in age between these young girls and the spouses chosen for them.” [24] (Vol 3b, Ch 4, para 100)

“The Commission has found that the practice of early marriage has contributed to the high levels of sexual abuse of girls and has led to society’s condoning of a practice that is detrimental to the development of young girls. It is also in clear contravention of international law to which the government of Sierra Leone is [a] signatory to [sic].” [24] (Vol 3b, Ch 4, para 101)

6.39 The HRW report on sexual violence in the Sierra Leone civil war states:

“The health of many women and girls in Sierra Leone is compromised by early forced marriage. Early forced marriages are very common in the provinces, where men often sponsor a girl from birth (paying for school fees, clothes, etc.) and marry her after she has been initiated.”

“Early forced marriage is one of the factors contributing to Sierra Leone’s high maternal mortality rate, since young girls have several children before their bodies are fully mature. At 1,800 maternal deaths per 100,000 live births, Sierra Leone’s maternal mortality rate is one of the highest in the world. This mortality rate translates to approximately 4,000 maternal deaths per year based on a total population of five million.”

“Girls who are forced to marry early not only miss out on education, but also on skills training opportunities and are therefore highly dependent on their husbands.” [4b] (p23)

THE PRACTICE OF FEMALE GENITAL MUTILATION (FGM)

6.40 A USSD 2001 Report on FGM in Sierra Leone states:

"Type II (commonly referred to as excision) is the form of female genital mutilation (FGM) or female genital cutting (FGC) widely practiced on women and girls in Sierra Leone. It is generally practiced by all classes, including the educated elite. Sierra Leoneans who live abroad sometimes bring their daughters back to Sierra Leone to participate in initiation rites that include this procedure. Type II is usually carried out within a ritual context. It is part of the passage from childhood to womanhood."

"Some estimates place the percentage of women and girls in Sierra Leone who undergo this procedure at 80 percent. Others put the percentage higher at 90 percent. All ethnic groups practice it except Krios who are located primarily in the western region and in the capital, Freetown."

"The customary power bases of women in Sierra Leone lie in the secret societies. Women who administer puberty rites are revered, feared and believed to hold supernatural powers. Membership in these secret societies, including *Sande* and *Bundo*, lasts a lifetime."

"Groups of girls of approximately the same age are initiated into these societies. Part of the ritual is the cutting. Girls initiated together form a bond and this sisterhood lasts throughout their lives. The girls take an oath that they will not reveal anything that happened during the puberty rite."

"It is believed that once initiated into the society, the girl has passed into womanhood. She now has adult status and can participate in society as a woman. The secret societies are supported by some members of the influential elite who are also members of the societies or who have relatives who are."

"Non-members of the secret societies are considered to be children, and not accepted as adults by society. They are generally barred from taking up leadership positions in Sierra Leone society. Children who come of age and have not gone through the puberty rite are liable to be forcibly seized to undergo the procedure." [2d]

6.41 The USSD 2004 Report states that:

"FGM was practiced widely at all levels of society, although with varying frequency. The less severe form of excision was practiced. UNICEF and other groups estimated that 80 to 90 percent of women and girls had undergone the practice; however, some local groups believed that this figure was overstated. FGM was practiced on girls as young as 5 years old. No law prohibits FGM. Although a number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects, active resistance by women's secret societies, in which FGM commonly occurred as part of initiation rites, countered efforts to stop the practice." [2a] (Section 5)

6.42 A United Nations IRIN report, dated 23 March 2005, about the practice of FGM in Sierra Leone, states:

"Young girls in Sierra Leone, who were traditionally circumcised at puberty, are having their clitoris cut out by secret societies at a younger and younger age, especially in the remote north of the country."

"The women who perform the crude operation with a long-bladed knife are also getting younger."

"...In many African societies, the circumciser is an older woman who has passed childbearing age – but not in Sierra Leone."

"...Young girls in Sierra Leone were traditionally circumcised at puberty, as part of the rites of passage to adulthood. The ceremony was usually performed after they had

undergone training for up to two years in household skills, such as cooking, sewing and curing illnesses with local herbs.”

“But today, in most cases, this period of apprenticeship has been pared down to just one or two weeks of preparation for the ritual of circumcision itself.”

“Age offers no protection from being circumcised. Olayinka Koso-Thomas, a gynaecologist who has been fighting against female circumcision for 30 years in Sierra Leone, said, ‘They even initiate babies and small children. Depending on the ethnic group, people do it at different ages: three, five, after secondary school, etc. The Sousous do it when the girls are 40 days old. The practice is more widespread in the north, where there are also more Muslims, who are more intransigent in sticking to the practice,’ she told IRIN.”

“In the face of widespread support for the practice among the country’s five million people, and government indifference to international pressure to ban genital cutting, AIM [Amazonian Initiative Movement], is one of a handful organisations actively fighting FGM.”

“...The organisation [AIM] has been talking to people in villages throughout the West African country, and claims to have persuaded about 400 women, many of whom double as midwives, to give up inflicting FGM on others by offering them alternative ways of earning money.”

“...Female circumcision is lucrative business for the women who perform the operation.”

“...It also brings cash into the hands of village chiefs, who charge a fee for every circumcision ceremony that takes place within their jurisdiction.” [16a]

- 6.43 NGO workers who have campaigned against the practice of FGM have encountered opposition to their work from people who are strong advocates of the practice. An Inter Press Service News Agency report about FGM, dated 19 April 2005, states:

“‘It is not an easy job. Sometimes I get booed and taunted. At crucial moments I get chased out of places where the practice is much more prevalent,’ complains 34-year-old Ann Marie Caulker, who is championing the campaign to end the age-old tradition of Female Genital Mutilation (FGM).”

“‘Here in the capital (Freetown), the practice is not widespread because of the cosmopolitan nature of the city. But in the predominantly conservative countryside, it is more or less a taboo to venture discussing FGM in public; a real tough challenge,’ she says.”

“Caulker’s strategy is simple. Through her Katanya Women’s Development Association (KADWA), she has recruited hundreds of young girls, aged between 12 and 18, the prime target for FGM, and placed them in skills training centres. The girls learn tailoring, dyeing, weaving, soap making and embroidery.”

“This is a cover to promote her cause, because of the hostility faced by anyone who dares speak out openly against FGM. In between training sessions, she organises lectures and discussions about the harmful effects of FGM and admonishes youngsters to resist attempts at getting them initiated into the ‘Bondo Society’, the local name for FGM.”

“There is as yet no law on FGM in Sierra Leone. In fact, there is no statute on children’s rights. However, the fact that children played a major role in the decade-long civil war that ended three years ago, mainly as conscripted combatants, has jolted the authorities into action.”

“The children are traumatised, many forced into marriages by rebel fighters or gang-raped and enslaved. The ministry of gender, social welfare and children’s affairs has drafted a bill aimed at protecting children’s welfare.”

“Francis Murray Lahai, a child protection officer at the ministry, says the bill was drafted with the help of experts hired by the UN Children’s Fund (UNICEF) and has much to offer children in post-conflict Sierra Leone.”

“In the bill there is an aspect dealing with harmful traditional practices like FGM, tattoos and any bodily inscription not in the interest of the child,’ Lahai says. ‘These will be proscribed and measures [will be] taken against people who may want to break the law.’”

“...But there is fierce opposition to the bill. ‘Female Genital Mutilation is an integral part of our culture. It shouldn’t be banned because it helps prepare our young girls for marriage and it curbs promiscuity,’ rants 24-year-old Marie Bangura who had gone through the initiation ceremony.”

“...One major problem facing anti-FGM campaigners is the massive illiteracy standing at about 75 percent especially in the interior of the country where UNICEF estimates 90 percent of the women have been circumcised. There, it is a display of affluence and power. Family heads save for a whole year proceeds from the farming activities to spend lavishly on ‘Bondo’ ceremonies.”

“Bondo Society is what holds us together as a community and keeps our traditional heritage. We cannot sit idly by and allow outsiders to destroy it. We will fight it out,’ 56-year-old Ya Ndigba Thulla, an initiator in Makeni, the northern regional capital, told IPS in an interview.”

“...The ‘Bondo Society’ and its practice of FGM is often used as a weapon of political campaign. Politicians from all sides win votes from women by extolling the virtues of the ‘Bondo Society’.”

“In the 2002 presidential elections, an influential female candidate, also a gender activist Zainab Bangura allegedly lost woefully at the polls because she was accused of campaigning against FGM.” [7]

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

6.44 The International Lesbian and Gay Association’s (ILGA) 1999 World Survey noted that under laws that pre-date Sierra Leone’s independence, male homosexual practices would appear to be illegal. No information is given regarding the legal status of female homosexual practices. The ILGA World Survey also does not state how the law is applied. [10]

6.45 In 2002, the Sierra Leone Lesbian and Gay Association (SLLAGA), a lesbian and gay NGO, was set up, and has since then provided support to homosexuals in Sierra Leone. The founder of the Association, FannyAnn Eddy, was murdered in September 2004. An Afrol News report about the murder, dated 13 January 2005, states:

“FannyAnn Eddy, aged 30, was found dead on the morning of 29 September 2004. While she was working alone in the SLLAGA’s offices in Freetown the previous night, her assailants had apparently broken in to the premises.

Ms Eddy was Sierra Leone’s most outstanding activist for the rights of sexual minorities, founding the SLLAGA in 2002. The group is providing social and psychological support

to a fearful and underground community of gays and lesbians in Sierra Leone. Ms Eddy was lobbying government ministers to address the health and human rights needs [of] sexual minorities.” [17]

The news report also noted:

“According to the conclusions of the Criminal Investigation Division of the Sierra Leone Police Force, FannyAnn Eddy was not the victim of a hate crime against sexual minorities, as originally feared. The police also deny earlier reports of alleged sexual violence committed against the gay rights activist.” [17]

SECRET SOCIETIES

- 6.46 The National Forum for Human Rights report “The Law People See: The Status of Dispute Resolution in the Provinces of Sierra Leone in 2002” states:

“Secret societies are single-sex communities that operate in the bush. The secret societies purport to fulfil only the functions of preparing men and women for adult life in the traditional tribal context. Membership in a secret society begins for both men and women with training for adulthood, initiation that usually includes circumcision and traditional ceremonies. However, further investigation indicates that secret societies play an integral part in everyday local life.”

“Unless an individual is initiated, s/he is neither considered a true tribal member nor an adult ready for marriage responsibilities. As a result, nearly everyone living in Sierra Leone’s provinces, particularly the rural parts, belongs to a secret society. Furthermore, the leaders of the community such as section leader, chiefs, or mammy queens, must attain respect and leadership positions within the secret society in order to hold their positions. As an individual rises in the hierarchy of one community, this corresponds to a rise in the hierarchy in the other. Every step upward in the secret society involves a distinct ceremony and initiation.” [25] (p31)

“...The secret society operates under its own, isolated legal system. The societies define their own laws, procedures, and punishments. They possess their own jurisdiction, and any conflicts or crimes arising ‘out of the bush’ stay within the secret society purview. It is unclear, however, whether secret society jurisdiction remains within secret society matters, or whether its borders span beyond into conflicts between secret society members, or even between members and nonmembers. The secret society world is religiously kept apart from the open community sphere in that it is a punishable crime to divulge any information about it to non-members. Furthermore, betraying one’s secret society invites curses on the individual and his or her close ones.”

“Secret societies have been an integral part of Sierra Leonean culture. They incorporate a spiritual and traditional element that is evidently highly prized by the entire Sierra Leonean community, since every person keeps it in such loyal secrecy. But secret societies, because of their lack of transparency and integrated impact on Sierra Leone’s governance and law, may be a bar to establishing true democracy, ending corruption, enforcing human rights, and implementing legal reform.” [25] (p32)

PEOPLE WITH DISABILITIES

- 6.47 With regard to the status of disabled persons in Sierra Leone, the USSD 2004 Report states that:

“There was no government policy or program directed particularly at persons with disabilities. No law mandates accessibility to buildings or provides assistance to persons with disabilities. Public facility access and discrimination against persons with

disabilities were not considered public policy priorities. There was no outright discrimination against persons with disabilities in housing or education; however, given the high rate of general unemployment, work opportunities for persons with disabilities were few. A few private agencies and organizations provided job training for persons with disabilities.” [2a] (Section 5)

“Despite the prevalence of those disabled by polio, there was little government assistance to this group. For example, in September [2004], the SLP evicted without notice residents at a facility for polio victims.” [2a] (Section 5)

“Some of the numerous individuals maimed in the fighting, or who had their limbs amputated by rebel forces, received special assistance from various local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received assistance through the demobilization process.” [2a] (Section 5)

HUMAN RIGHTS ACTIVISTS

- 6.48 A wide range of national and international human rights groups are active in Sierra Leone, as noted in the USSD 2004 Report:

“A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.” [2a] (Section 4)

“The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR by year’s end, and all reportedly were active. The majority of domestic human rights NGOs focused on human rights education, while only a few NGOs actively monitored and reported human rights abuses. The Campaign for Good Governance oversaw widespread monitoring activities.” [2a] (Section 4)

“Human rights monitors travelled freely throughout the country. Intensive reporting, data collection, and investigations continued in formerly rebel-held areas. Representatives of various international NGOs, foreign diplomats, the ICRC, and U.N human rights officers were able to monitor trials and to visit prisons and custodial facilities during the year [2004].” [2a] (Section 4)

“UNAMSIL had eight provincial human rights offices in addition to the UNAMSIL Human Rights Section in Freetown, which conducted training, monitoring, reporting, and advocacy throughout the year. During 2003, the UNAMSIL Human Rights Section led a campaign to establish a National Human Rights Commission as mandated by the 1999 Lome Peace Accord. At year’s end, legislation regarding the Commission’s mandate had been passed, but the commission members had not been appointed.” [2a] (Section 4)

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REFUGEES

- 6.49 The USSD 2004 Report states that:

“The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, in practice, the Government provided protection against refoulement, the

return of persons to a country where they feared persecution. The Government granted refugee status and asylum and cooperated with the U.N High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.” [2a] (Section 2d)

“The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention Related to the Status of Refugees or its 1967 Protocol. During the year [2004], the Government continued to provide temporary protection to Liberians who had fled the conflict in their home country. At year’s end [2004], there were approximately 47,000 Liberian refugees living in the country by year’s end, according to the UNHCR. Some camps, at times, were unable to provide adequate food or shelter for the influx of refugees, which sometimes caused instability in border areas. However, UNHCR reported that food provisions were made according to a U.N standard of 2,100 calories per day per person and that every family was given private quarters. UNHCR also reported that they were rehabilitating the shelters and that vulnerable persons received priority consideration.” [2a] (Section 2d)

“UNHCR and international aid workers reported that refugees were sexually exploited in camps by locally employed staff of international NGOs in exchange for extra food and other aid materials. Steps were taken to combat this problem by conducting sensitization campaigns and setting up mechanisms for reporting, investigating, and punishing those responsible; however, reporting and handling of these cases remained inconsistent.” [2a] (Section 2d)

INTERNALLY DISPLACED PERSONS (IDPs)

- 6.50 The United Nations High Commissioner for Human Rights Report on the Situation of Human Rights in Sierra Leone, dated February 2005, states:

“Almost all war-related internally displaced persons (IDPs) have been relocated and resettled in their communities of origin. With the stabilization of the situation in Sierra Leone, refugees began to return and several have been resettled. According to UNHCR-Kambia, from 2001 to November 2004, a total number of 271,749 returned safely to Sierra Leone. Of those 190,500 were from Guinea, 79,915 from Liberia and 1,334 from other neighbouring countries. UNHCR closed its offices in Kambia District in December 2004, signalling the conclusion of the resettlement programme for registered refugees willing to return to Sierra Leone from Guinea.” [19] (p9)

“The assisted voluntary repatriation programme involved collaborative work between various partners, including UNHCR and other United Nations agencies such as the World Food Programme (WFP), the Food and Agriculture Organization of the United Nations (FAO), as well as International NGOs, among them International Medical Corps (IMC), Deutsche Technische Zusammenarbeit (GTZ), government institutions such as the National Commission for Social Action (NaCSA), and locally based NGOs, among them International Islamic Youth League (IIYL), Caritas and ABC Development.” [19] (p9)

“The last major organized repatriation took place on 22 July 2004. Subsequent repatriations were ad hoc, targeting mainly unaccompanied children who were repatriated by the International Rescue Committee (IRC) and the International Committee of the Red Cross (ICRC). Most of these children have been relocated to their different homes and families with resettlement packages. However, a handful of them are still under the care of Caritas pending completion of the tracing of their family members.” [19] (p9)

UNHCR’S POSITION PAPER ON THE RETURNS OF FAILED ASYLUM SEEKERS TO SIERRA LEONE

- 6.51 The United Nations High Commission for Refugees' (UNHCR) position paper about the returns of failed asylum seekers to Sierra Leone, dated 1 January 2005, states:

"We write to provide UNHCR's position with regard to the return of unsuccessful asylum seekers to Sierra Leone. Our comments below are derived from UNHCR Headquarters' advice on protection considerations pertaining to Sierra Leone. This information is currently valid. We would emphasise that our overarching objective in providing country of origin information is to contribute to fair decisions that correctly and in a humanitarian spirit determine the protection needs and essential interests of refugees. We should also emphasise at the outset the need for each case to be examined on its own merits, with due regard to relevant country information, and to the specific circumstances of the individual applicant." [13]

"Our general advice is that the potential risks upon return should be carefully weighed on an individual basis, bearing in mind the general humanitarian issues that are raised by the situation in Sierra Leone. UNHCR wishes to stress that the following general information is pertinent to the issue of returns, and does not preclude the need for each asylum request to be thoroughly assessed in fair procedures and on its own merits." [13]

"Some important aspects of the general situation in Sierra Leone are the positive developments following the 1999 Lome Peace Agreement and subsequent cease-fire agreements. There has been a marked decrease in armed conflict since the elections in May 2002."

"At present Sierra Leone is economically devastated and the country's social indicators are among the worst in the world. The situation cannot be attributed solely to the war. Even before the war, Sierra Leone ranked as one of the least developed countries according to the UN scale for development. The tasks confronting the country, therefore, include not only repairing damage caused by the war, but improving former weak socio-economic infrastructure, which has been severely handicapped by the war." [13]

"UNHCR's main concern regarding returns to Sierra Leone is currently based on the lack of humanitarian infrastructure in [the] main areas of origin/return, rather than generalised security risks. It should be borne in mind that the situation in Sierra Leone is still in transition on the path from protracted conflict towards a stable democratic society governed by the rule of law. If durable change is to be achieved, then the advances of recent months will need to be consolidated over several years." [13]

"The daunting humanitarian situation is further compounded by the need to resettle and reintegrate hundreds and thousands of Sierra Leoneans, who were internally and externally displaced during the war to the areas most affected by the war." [13]

"Inadequate human and material resources and lack of governmental control in certain areas, such as Kono and Kailahun, continues to impede the maintenance of law and order. Moreover, the general humanitarian situation in these districts is especially dire, as basic facilities such as water, sanitation, health care and education are lacking. As humanitarian agencies have only just begun to work in these areas, there is no absorption capacity for large-scale returns. For these reasons, and until the situation improves, UNHCR advises extreme caution when considering the return of unsuccessful asylum seekers to Kono and Kailahun in particular." [13]

"In light of the foregoing, UNHCR would stress that the overall prospects for durable change would only be enhanced if Sierra Leoneans were allowed to return in a phased and orderly manner. Such an approach to returns will prevent the internal displacement situation in Sierra Leone being aggravated." [13]

“UNHCR would urge, therefore, that any returns of asylum seekers must take place in phases, with priority for return being given to those originating from the Western Area and other parts of the country where adequate humanitarian infrastructure exists. Those originating from Kailahun and Kono districts, where the level of destruction is highest, should be returned at a later stage, in order to avoid the possibility of a humanitarian crisis caused by large-scale returns to areas lacking infrastructure and basic services. UNHCR would be willing to provide further advice to Governments in this respect.” [13]

“UNHCR wishes to stress that the generally improved outlook for Sierra Leone does not obviate the need for caution and fairness when considering the return of unsuccessful asylum seekers. It is appropriate for such decisions to have regard to general humanitarian considerations, and the potential risks upon return should be carefully weighed on an individual basis.” [13]

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6C. HUMAN RIGHTS - OTHER ISSUES

THE SECURITY SITUATION

- 6.52 The 26th report of the Secretary-General of the United Nations Security Council on the United Nations Mission in Sierra Leone, dated 20 September 2005, states:

“The overall security situation in Sierra Leone has remained generally calm and stable during the period under review. Furthermore, the Government of Sierra Leone has taken further steps towards assuming full responsibility for the maintenance of security, thus further contributing to the consolidation of peace in the country.” [12] (p1)

“Despite funding shortfalls, the performance of the Office of National Security has continued to improve, as has, in particular, its coordination capacity. The national security structure has been consolidated country-wide by means of the provincial and district security committees, which bring together key local officials, including local councils, commanders of the Sierra Leone police and the Republic of Sierra Leone Armed Forces.” [12] (p1)

“Despite the current favourable security environment in the country, serious challenges remain, which include the limited progress in addressing the root causes of the conflict such as corruption, governance, widespread poverty, including massive youth unemployment, and the resulting public discontent. These represent a major threat to stability in Sierra Leone.” [12] (p1)

“While there are currently no external security threats to the country, the security situation in the subregion remains fragile, as there is a risk of spillover effects of the increased tensions in Liberia owing to the forthcoming elections, to be held in October [2005] and uncertainty over the political future in Cote d’Ivoire and Guinea. Furthermore, the Governments of Guinea and Sierra Leone need to urgently resolve the territorial dispute over the Yenga village border area in the east, which remains a potential catalyst for trouble.” [12] (p1-2)

“The situation in Liberia has continued to stabilize and the preparations for the October elections are proceeding peacefully. However, the situation in the border areas with Sierra Leone remains of concern and continues to be jointly monitored by UNAMSIL and the United Nations Mission in Liberia (UNMIL).” [12] (p2)

“The prevailing stable environment in the country has made it possible to achieve further progress towards the consolidation of peace. The Government of Sierra Leone had made commendable efforts towards the consolidation of constitutional order and State authority throughout the country. The effective devolution of State functions

through decentralization has ensured that an administrative machinery is now in place, contributing to overall political stability in the country.” [12] (p9)

“However, many root causes of the conflict in Sierra Leone are yet to be addressed. The long-term sustainability of the gains achieved so far will require sustained international involvement and support, especially through joint efforts by the United Nations and the donor community. Such involvement will be particularly important for Government programmes aimed at addressing key socio-economic issues, such as poverty, youth unemployment, illiteracy and lack of basic infrastructure. The presence of UNIOSIL will assist the Government in overcoming these challenges.” [12] (p9)

6.53 The Economist Intelligence Unit 2005 Sierra Leone Country Profile states:

“In early May 2005 the UN secretary-general, Mr Annan, said that the UN Mission in Sierra Leone (Unamsil) would be phased out by the end of 2005 as the country was calm enough for such a move. About 3,400 peacekeepers remain in the country following the end of the war in January 2002, down from a peak of over 17,000 at the height of the UN's stabilisation efforts. In his 25th report to the UN Security Council on Unamsil, Mr Annan requested that the council renew Unamsil's mandate for a final six months, ending in December 2005. The withdrawing of Unamsil is to start in mid-August and to be completed by December 31st.” [14] (p15-16)

“The government has been reluctant to countenance the complete withdrawal of Unamsil, which has continued to police the more remote areas of the country, particularly the borders with Guinea and Liberia. The government's armed forces still do not represent a credible body that could repel a militia invasion.” [14] (p16)

“...Although there appear to be no immediate major external threats to the country, some regional instability may affect Sierra Leone in the near future. Possible sources of instability include the yet-to-be resolved crisis in Cote d'Ivoire; uncertainty over events in Guinea if its president, Lansana Conte, who is in failing health, should die; and Liberia's first post-war elections, which are due to be held on October 2005. Unamsil's departure will take place after the polls, which are a concern owing to the collapse of Liberia's state institutions and the general lack of stability in the country.” [14] (p16)

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CORRUPTION AND GOVERNMENT EFFORTS TO TACKLE IT

6.54 In the 2005 Transparency International Corruption Perceptions Index (CPI) of 159 countries, published in October 2005, Sierra Leone is ranked as the 129th most corrupt country, with a CPI score of 2.4. The CPI defines corruption as the abuse of public office for private gain, and measures the degree to which corruption is perceived to exist among a country's public officials and politicians. It is a composite index, drawing on 16 surveys from ten independent institutions, which gathers the opinions of businesspeople and country analysts. The CPI scores range from 10 (not corrupt) to 0 (highly corrupt). [22]

6.55 The USSD Sierra Leone Country Commercial Guide FY 2004, published in 2004, states that in Sierra Leone:

“Corruption is endemic. In 2000, the GOSL [Government of Sierra Leone] promulgated the Anti-Corruption Act under which the Anti-Corruption Commission (ACC) is responsible for combating corruption. The penalties stipulated in the Act include imprisonment and fines. However, since the inception of the Anti-Corruption Commission, very few cases have been successfully prosecuted. The ACC has yet to have a significant impact on the high level of corruption in Government. Sierra Leone is a signatory to [the] OECD Convention on combating bribery. Bribery of foreign officials

is a criminal offense. Many investors identify corruption as a significant obstacle to investment. The National Accountability Group, a representative branch of the international anti-corruption NGO Transparency International operates in Freetown.” [2e]

“...Enforcement of the rule of law in Sierra Leone is irregular and inefficient. Businesses report that one must pay a bribe to see that a law is enforced, and then a bribe is sometimes paid by the offender to reduce of [sic] eliminate any penalties...Commercial fraud in the form of scams, especially on gold, diamonds and foreign exchange deals (black market) are present in Sierra Leone.” [2e]

6.56 The USSD 2004 Report notes that during 2004:

“Corruption in the executive and legislative branches was very common, according to some senior government officials, and the public strongly resented that government officials were widely assumed to divert public funds for private use. The President publicly supported the Anti-Corruption Commission (ACC), established in 2001. At year’s end [2004], the ACC had 135 corruption cases under investigation, had won 13 corruption cases, and had secured indictments against 6 high-level officials.” [2a] (Section 3)

6.57 The Economist Intelligence Unit 2005 Sierra Leone Country Profile adds further:

“The president, Ahmad Tejan Kabbah, claims to be resolutely committed to fighting corruption, but his government has taken few firm or consistent steps towards this end since regaining power in 2002. The Anti-Corruption Commission (ACC) has been forced to operate in a constrained environment by senior government members – in 2002 the assistant commissioner, Brendan Gibb-Gray (a UK Department for International Development appointee), resigned, claiming that the ACC was ineffective and that the government was not determined to root out corruption. The ACC was established to appease donors, but the government has endeavoured not to alienate its political allies through anti-corruption crackdowns – as illustrated by the acquittal on corruption charges in early 2002 of the former transport minister, Momoh Pujeh.” [14] (p12)

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