

# Children living in prison: Insights from Sierra Leone

A Report prepared by *AdvocAid* for the Quaker United Nations Office

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## 1.0 Introduction

Children living in prison in Sierra Leone are in an impossible position: they are submitted to the punishment for committing a crime without any access to the remedial mechanisms designed to ensure justice in the decision and delivery of such a punishment. These children, innocent of any offence, are faced with the deplorable health and sanitation conditions of prison in Sierra Leone, subjected to the confines of prison life and denied their most basic rights. While the policy that affords for children under the age of two to be in prison with their mothers is an important one given the care a mother is able to continue to provide, the state of Sierra Leone's prisons, and the judicial system that they are attached to, remain weak. This weakness manifests itself in often extremely lengthy periods on remand, a worrying lack of legal representation for those caught up in the judicial system and severe overcrowding in the country's prisons.

The weakness of Sierra Leone's judicial system also manifests itself in the often arbitrary implementation of policies that directly relate to children living in prison, and the absence of others. The aspect of arbitrariness encompasses decisions as to when a child is placed in or taken out of prison or when they are relocated with their mother from a prison upcountry to that in Freetown. The marked absence of other policies also impact on children in prison, something which is particularly evident in terms of the limited ability of prisoners to access legal aid or post-prison support services.

All of these have an enormous impact on the welfare of children and their mothers, both in prison and after their release. The physical effects of poor nutrition and health standards are perhaps the most visible signs of the impact of imprisonment but there are also heavy emotional, psychological and economic consequences. Prison remains an institution that exists on the margins of society in Sierra Leone, as do those who are subjected to it. Former prisoners, including children, are often faced with exclusion from their families and communities once they are released due to the stigma attached to the institution. The adverse impact on children and their mothers of such exclusion, both socially and economically, and both in terms of their immediate circumstances as well as their longer-term development as individuals, community-members and citizens cannot be underestimated.

Whilst the situation is grave, reform is possible. This report aims to articulate some of the current challenges in the prison system, and its ability to properly accommodate the children subjected to it, through an analysis of both existing policies as well as existing realities: this includes a look at prison conditions, the decision-making process regarding the placement of children in prison, the relocation of women and their children within the prison system, and some relevant issues that arise whilst they are in prison as well as upon their release. The report then examines the impact of current policies as well as spaces for change.

## **2.0 Context** - the situation of women and children in prison

### *Background to the research*

The Quaker United Nations Office (“QUNO”) commissioned this report as it is currently looking for more information about children who have committed no crime but who live in prison with their mothers. In particular, QUNO are seeking to learn about the policies, practices and experiences of children before and after they go to live in prison, in order to better appreciate the full impact prison life has on the child, parent and others.

In order to inform QUNO’s work, and make it practical, the organisation has commissioned a small number of studies from individuals and organisations in different countries. QUNO commissioned research in relation to Sierra Leone through AdvocAid<sup>1</sup>, on the particular problems faced by women prisoners and their children in Pademba Road Prison, Freetown, the high security prison located in the capital of Sierra Leone, and how these problems can be addressed.

This report thus analyses some of the current policies and practices concerning women and their children in prison in Sierra Leone, considers the reasons behind these policies and practices and comments on their impact, as well as illustrates their application (or non-application), and the attendant outcomes, through the use of key examples.

The general themes of the research include:

- the restrictions on when a child can enter or leave prison;
- the arrangements that have to be made before a child enters or leaves prison
- the effect that entering or leaving prison has on the child, the mother and those around them.

AdvocAid carried out the research for this report using a participative approach that attempted to solicit the views of a wide range of stakeholders and actors in order to ensure a balanced perspective of children living in prison, grounded in the views of those living through such situations. Semi-structured interviews were carried out in January 2008 with women and mothers in Pademba Road Prison, released female prisoners who had been incarcerated with a child, prison officials and medical staff and other relevant government officials. These interviews were also informed, contextualised and complemented by the almost two years of regular monitoring that has been carried out by AdvocAid in the women’s section of the prison. This monitoring has involved the documentation of cases, monitoring of trials, arranging legal aid, following up with family members, visiting children in orphanages and addressing other general welfare issues for women behind bars.

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<sup>1</sup> AdvocAid is an organisation dedicated to supporting women in Pademba Road Prison, Freetown, Sierra Leone, through education and the provision of legal aid.

*Situation of women in prison in Sierra Leone*

Following eleven years of exposure to violence during Sierra Leone's brutal civil war, extreme poverty and the denial and neglect of the rights of women has led to a marked increase of women and girls in conflict with the law. Increasingly, women are found incarcerated in the country's prisons either serving sentences or in detention awaiting trial.<sup>2</sup> This increase in the rates of incarceration of women has also meant an increase in the number of babies and young children living in prison and an increase in the number of families without their primary caregiver. Women's experiences in the prison system, and particularly their access to justice, is thus of critical concern to the broader development of an inclusive society, good governance and legitimate public institutions as the Sierra Leone peace building process continues.

The majority of individuals in Sierra Leone experience considerable difficulty in accessing justice due to illiteracy, unemployment, weak institutions and extreme poverty as well as a general lack of understanding of a complex legal system. There is no effective legal aid system in Freetown and the levels of poverty of the individuals in prison has resulted in a significant number of detainees and prisoners never having received basic legal assistance. Women, who systematically experience lower economic status, limited political power and socially marginalized roles are thus in an even greater position of disempowerment within the judicial system. Indeed, the laws upon which the judicial system is based are to a large extent discriminatory of women both in their letter and in their application.<sup>3</sup> It is trite to say that such realities put them in a disadvantaged position in accessing justice, which includes fulfilling bail conditions for their release pending trial and having a free and fair trial. This is made more serious by the fact that not only are female detainees marginalized within Sierra Leonean society as whole, they are also up against a system which bestows upon police wide discretion, regularly flouts fair trial provisions and continues to utilize the death penalty.<sup>4</sup>

Furthermore, legal fees are extremely expensive and inaccessible to the majority of the public. This has been aggravated by the shortage of qualified, practicing lawyers in the country.<sup>5</sup> In the absence of legal representation, hearings and trials are protracted, resulting in unreasonable delays in the judicial system.

Not only are the vast majority of the female inmates poor, often subsisting as petty traders before their incarceration, but they have also experienced regular domestic violence at the hands of their partners. Socially, polygamous relationships are still common, especially in the countryside of Sierra Leone, and jealousy between wives or girlfriends often leads to conflict between the women or their spouse. Many are illiterate and lack even basic skills. Furthermore, women are often in prison for alleged crimes committed by their male partners. AdvocAid has encountered many women imprisoned

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2 L.A.W.Y.E.R.S. (2005) 'Women In Prison In Sierra Leone'.

3 *Ibid.*

4 Mahtani and Phillips (2006), 'Death Penalty in Sierra Leone: Time for Change', LAWCLA.

<sup>5</sup> The Sierra Leonean Bar Association has approximately two hundred members in a country of approximately 5 million people. See an incomplete list of practicing attorneys at <http://www.slbar.sl/directory.htm>.

for 'fraudulent conversion' whereby they are imprisoned for the crime of incurred debts, debts which can be incurred by themselves, their boyfriends, husbands, other family members or business partners. Such an offence, a legacy of British colonial rule, has been stricken from the books across the Western world and in many other developing countries, with the alternative punishment of a fine being implemented in favour of prison terms. The continued existence of this crime in Sierra Leone, and its disproportionate impact on poor women, is one of the more visible manifestations of the judicial system working against society's most vulnerable and marginalised populations.

The consequences of the continued existence of such arbitrary prisonable offences and the extremely long proceedings faced by all in the judicial system on families and their well-being, particularly the children and the women themselves, is significant. Women are no longer able to function as the primary care givers in the family and because they have extremely limited communication with the outside world while inside the prison's walls, they are often unsure of the safety and care afforded to their children in their absence (as elaborated on in Section 3.4) As a result, the whole family suffers, especially young children, when an individual is held in prison without any possibility of ensuring that a case will advance and that appropriate legal representation will be provided.

#### *Prison Life*

As stated above, Pademba Road Prison is the maximum security prison in Freetown. It is extremely overcrowded, falls far short of meeting international prison standards and does not serve the current needs of its occupants or the country. As of January 2008, there are a total of 1,123 individuals incarcerated in Pademba Road Prison, either serving terms of imprisonment or awaiting trial. Approximately 160 staff members are employed at the prison and are responsible for the well-being of this huge population.<sup>6</sup> The prison, constructed in the early 1900s, is thus currently operating at approximately 350% capacity.<sup>7</sup> Of the total number of prisoners, female inmates represent a relatively small portion: in January 2008 there were 40 women in Pademba, three of whom are condemned to death.

The women's section is generally tidy, thanks to the efforts of the incarcerated women. However, the cells are open-air and exposed to the elements; cells often flood during the rainy season. Mattresses and blankets are filthy and old, they are recycled between prisoners, and there are no regular provisions for new supplies. The female section is extremely cramped and without adequate sanitary supplies or facilities. There are no toilets in the prison and female inmates are forced to urinate and defecate in plastic buckets, which they then must clean out and share. Furthermore, prisoners are at times unable to even access running water, as occurred for several weeks in February 2008, during which periods prisoners are unable to bathe.<sup>8</sup> The women lack any space for walking or exercising and are also without access to the mosque and chapel, which are located in the men's section. Quarters are cramped and privacy is extremely limited, with strip searches occurring in open areas, for example. In addition, there is extremely

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<sup>6</sup> Pademba Road Prison Records, January 2008.

<sup>7</sup> Pademba Road Prison was constructed in 1914 by the British and was designed to hold 320 prisoners.

<sup>8</sup> 'Disaster Looms in Prison', Premier News, February 2008

- Children Living in Prison: Insights from Sierra Leone (2008) -

limited medical care and medical supplies within the prison. Pregnant women<sup>9</sup> often deliver their babies within the female section of the prison itself, in the cell shared with approximately 10 other women. Only some births are attended by the prison doctor and many performed without any medical supervision. Infants are then subjected to the same inhumane conditions as their mothers, given the practice that children under the age of two remain with their mothers in prison. As of January 2008, there were 9 babies in the female section of Pademba.<sup>10</sup>

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<sup>9</sup> As far as AdvocAid is aware, the women are pregnant before entering the prison.

<sup>10</sup> Survey of babies in Pademba Road Prison (15.01.08). It should be noted that the population of the female section fluctuates regularly.

### 3.0 Policies and Realities

#### 3.1 Conditions of children in prisons

Children in Sierra Leone are incarcerated under two different schemes: children who are involved in the juvenile justice system (for those who have been charged with an offense) and children who are placed in prison with a parent. Neither scheme adequately protects the needs and rights of the child, and both schemes should be evaluated for critical reforms.

As one journalist aptly described, the current situation for children in prison, under either scheme, is dire:

*“in even a cursory review of child justice in Sierra Leone and three other African nations, a visitor found children locked up with adult criminals in a medieval prison; others recounted their weeks in police-station pens barely bigger than closets. Children languished in rehabilitation centers with little food, few beds, no activities, not even electricity. Some have stayed well beyond their sentences, simply because there is no money to send them home.”<sup>11</sup>*

A short background of children involved in the juvenile justice system is insightful. Given the extreme levels of poverty prevalent in Sierra Leone, which sits last on the Human Development Index,<sup>12</sup> and the high rates of orphanhood and separation from parents, confrontations with the law have become a fact of life for many children growing up in the legacy of a decade of civil conflict. Currently, there is no one in charge of juvenile justice matters in the Ministry of Justice. However, the phenomenon of juvenile offenders and the absence of dedicated services or facilities designed to meet the specific needs of such juveniles has been increasingly scrutinised in Sierra Leone and other West African countries. Efforts to better protect the rights of juvenile offenders have been supported largely through the UK government’s ongoing funding of judicial sector reform programmes.<sup>13</sup> The situation of babies in prison in Sierra Leone, however, and the impact incarceration may have on their development, remains largely undocumented and not well understood.<sup>14</sup>

The number of children in Sierra Leone’s prisons constantly fluctuates, with counts changing on an almost daily basis. However, at the time of writing, Pademba Road Prison was home to 9 babies in the female section. The approximate range over the past two years, as observed by AdvocAid, is anywhere from 5 to 11 babies in Pademba Road

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<sup>11</sup> Micheal Wines, , “For Young Offenders, Justice as Impoverished as Africa”, *New York Times*, 24 December 2006

<sup>12</sup> In the Human Development Report 2007/2008, Sierra Leone is ranked last of 177 countries. See [http://hdr.undp.org/en/media/hdr\\_20072008\\_table\\_1.pdf](http://hdr.undp.org/en/media/hdr_20072008_table_1.pdf)

<sup>13</sup> For example, the UK government is funding a 5 year judicial sector development programme that has a specific mandate to look at ways in which juvenile offenders are handled in the judicial system. See [www.jsdpsl.org](http://www.jsdpsl.org)

<sup>14</sup> The situation of juveniles in the prison system has been documented in several reports, including UNIOSIL prison report and NY times article, Michael Wines, December 2004 available at: [http://www.nytimes.com/2006/12/24/world/africa/24africa.html?\\_r=1&pagewanted=print&oref=slogin](http://www.nytimes.com/2006/12/24/world/africa/24africa.html?_r=1&pagewanted=print&oref=slogin)



prison at a given time. Babies are also often present in other prisons throughout Sierra Leone but as Pademba Rd Prison, the country's maximum security prison, has been deemed to have the best facilities for babies, most (not by no means all) imprisoned women with children are eventually relocated to this Freetown prison (as elaborated on in Section 3.3).

As most children in prison in Sierra Leone are under the age of two (as elaborated in Section 3.2), the availability of basic medical services as well as a sufficiently nutritious diet is of critical importance not only to their general development but also to their survival. Most babies in prison are still breast-feeding. However, those who have been weaned have access to the same food rations as are available to all prisoners, which usually consists of three small meals a day, most often consisting of rice and sauce.<sup>15</sup> While the medical personnel at Pademba state that pregnant mothers receive extra food rations, including items such as eggs, it was unclear if this was indeed the current practice.<sup>16</sup> As breast-feeding mothers are also on the standard, highly-limited diet, their breast milk thus lacks some or all of the nutrition needed by developing babies, thereby resulting in high rates of malnutrition amongst both imprisoned women and children. Mothers who are breastfeeding are not afforded extra food rations nor are any special supplements available for children.<sup>17</sup> Something as simple as access to child vitamins over the course of a few weeks made a noticeable improvement to the health of many of the babies in Pademba Road Prison.<sup>18</sup>

**Box 1.0** Insights into the health of babies in Pademba Road prison

In November 2007, an American pediatrician visiting an AdvocAid member in Freetown volunteered to examine and treat the children incarcerated in Pademba Road at that time.

With permission from the prison Doctor and nurse, he saw all of the children and their mothers. He remarked that all of the children were malnourished and suffered because there was no variety in their diet – no meat, no fresh vegetables or fruits, and no milk. Those children who were breast-feeding also suffered because their mothers were subject to the same dietary restrictions. None of the women received dietary supplements.

The children suffered from skin diseases (such as scabies) and ordinary skin rashes. Many had lingering effects of malaria (such as anemia). The Doctor noted that simple ailments such as fevers, diarrhea, chest colds, etc were not treated in a timely or effective manner. None had been given the vaccinations or immunizations typically given to newborns and young children.

<sup>15</sup> Such meals are composed of basic items such as rice and sauce, often made of ground potato leaf or casava leaf, with extremely limited protein.

<sup>16</sup> Interview with Moses Kargbo, prison nurse, Pademba Road Prison.

<sup>17</sup> See, for example, interviews with mothers in Pademba Road prison included as annex.

<sup>18</sup> AdvocAid donated supplies of baby vitamin drops to the prison medical team and the babies well-being noticeable improved during this period. Prison Services does not have its own resources to provide such basic health care supplies.

Unfortunately, the Prison does not have the resources to make such supplies available on a regular basis. While Pademba is staffed by a full time doctor and nurse, they operate with extremely limited resources, both in terms of finances and medicine, and are stretched beyond capacity given that they have the health of over 1000 prisoners in their care. Pademba Road Prison is rife with cases of malaria, typhoid and other communicable diseases as well as an absence of treatment available for more chronic conditions of prisoners.<sup>19</sup> Medical personnel in the prison noted that the babies held in Pademba Road regularly fall ill and they attributed many of these health problems to the overcrowding, poor sanitation standards and malnourishment experienced inside prison walls.<sup>20</sup>

Further, the prison does not provide baby clothing for imprisoned babies nor do prisoners or their children have access to basic precautionary health measures such as mosquito nets or soap for personal use. The prison doctor generally tends to enter the women's section when specifically summoned by a prison officer regarding a detainee's ill health and, while the nurses are tasked with monitoring on a daily basis, routine check-ups of prisoners and/or their babies in the prison are rarely conducted. The nurse at Pademba readily acknowledged that the conditions inside the prison were not appropriate or beneficial for children. Moreover, monitoring activities in the prison since 2006, as well as interviews with released prisoners, have revealed that the access of mothers to the extremely limited supplies for their babies is often dependent on the discretion and "good-will" of prison officers, rather than an impartial system of distribution based on need. Supplies that are donated by charitable organisations do not go directly to mothers and their babies but are often taken and distributed by prison officers – with guards sometimes taking supplies for their own families or distributing goods to favoured inmates. Mothers and their babies are thus often beholden to the officers and their unilateral decisions regarding who is lucky enough to receive a bar of soap or some nappies.<sup>21</sup>

A critical aspect of the current situation relates to how decisions are made regarding whether children should be placed within the prison system in the care of their mothers or whether alternative care should be arranged.

### *3.2 Placing children in prison – policies and practice*

In general, AdvocAid has found that official policies are not consistent with practice.

#### Opaque policies

When a mother is arrested and is held on remand within the Sierra Leone judicial system, there are three options regarding the care of her child(ren).

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<sup>19</sup> The state of health care available in the prison was recently highlighted with the case of Omrie Golley, a high profile former member of the RUF. He suffered from a string of illnesses whilst held in Pademba and had major difficulty in accessing proper treatment. See, for example <http://www.legalbrief.co.za/article.php?story=20071107085918547>

<sup>20</sup> Interview with Moses Kargbo, prison nurse, Pademba Road Prison.

<sup>21</sup> AdvocAid has brought in supplies, such as vaseline, talcum powder and vitamins, for the babies in Pademba Road Prison on several occasions and each time prisoners report that the guards take items for themselves or unfairly distribute them amongst the prisoners.

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The first is for the child to be placed in the care of family members, be they immediate or extended, in the same city or elsewhere in the country. The second option is one whereby the child is placed in the care of the state – represented by the Ministry of Social Welfare, Gender and Children, which then places the child in the care of a given orphanage, most often in Freetown.

**Box 2.0** The Experience of Amie (name changed to protect her identity)

In November 2006, AdvocAid members were asked by one prisoner, Amie, to locate her children. She was on remand for child abuse charges. However, she was not sure what had happened to her two children, ages three and one and a half, since being incarcerated in Pademba Road. AdvocAid was not given any clear answers from the Ministry of Social Welfare as to the location of the children. So AdvocAid members checked local orphanages and finally located the children at All As One, a privately funded NGO assisting orphaned children.<sup>22</sup>

A discussion with the Director of All As One elucidated the circumstances under which the children found themselves at the orphanage. The Director had been at the Law Courts in Freetown on other business when Amie was brought to court for the first time. A representative of the Ministry of Social Welfare took the children from Amie and gave them to the Director. The representative simply told the Director to take care of the children. The orphanage was not given money by the government for this care. The children are no longer at All As One, and Amie is no longer at Pademba Road, but AdvocAid is not aware as to whether the family has been reunited.

The third option consists of incarcerating the child with mother inside the prison. In relation to this third option, the official Prison Services policy is that such action is taken if the child is still of breast-feeding age – which has been determined to be from birth up to the age of two years old. This policy also relates to those babies who are born in prison. Prison policy dictates that for those women who enter prison pregnant, they must give birth inside one of the cells of the female section and are only transferred to a nearby hospital if there are serious complications. For these women who give birth within the prison, the infant will remain with them until they are two years of age and for those who enter prison and have a child below the age of two, the child will be placed in the prison with its mother.<sup>23</sup>

This policy seems to be generally adhered to, although there are currently babies in Pademba Road Prison who are over the age of two. Additionally, a survey carried out by AdvocAid found various discrepancies when it came to the implementation of prison policy.<sup>24</sup>

For example, some women had breast-feeding babies who were not in prison with them, whereas other babies in prison were no longer breast-feeding and were over the age of two.<sup>25</sup> As explained by prison personnel, some babies remain in prison after the age of

<sup>22</sup> See [www.allasone.org](http://www.allasone.org).

<sup>23</sup> Interview with Mr. Showers, Deputy Director of Prisons.

<sup>24</sup> Survey of babies in Pademba and interview with Mr. Ransford

<sup>25</sup> Survey of babies in Pademba road prison (15.01.08)

two given the difficulty of contacting family members who may be living up-country or who have lost touch with the mother while in prison.<sup>26</sup> While it was recognised on several occasions by various officials within prison services that babies should not be in prison for any length of time and that it is in the best interests of the child to leave prison as soon as they have finished breastfeeding, the reality is one that is more complicated. Prison Services must often take into account the availability of family members willing to care for the child before being able to release them, something which is quite difficult when family members are up-country and when there is extremely limited communication with those in prison.

Another complicated factor is that many incarcerated women are glad to have their children in prison with them. To some extent, caring for the children reminds them of their former life and breaks the monotony of the prison routine.

The relative flexibility in terms of policy implementation has subsequently contributed to the creation of a highly opaque process whereby decisions are made regarding the care of incarcerated women's children, and regarding when and in whose care they will be placed. Often, these decisions are made without the mother's consent or understanding. Furthermore, many of the mothers interviewed in Pademba were operating on the assumption that their child would be with them in prison for the duration of their sentence, which may not always be the case.<sup>27</sup> The fact is that many of the women in Pademba Road Prison are not informed of the appropriate policies and are often left in a situation whereby they are not aware of what constitutes proper procedure, what sort of measures they have recourse to, how long their babies will be with them in prison or even in whose care their other children, who are not behind bars, ultimately end up in.

Officials within Prison Services explained that the current policy, regarding children being incarcerated with their mothers only until the age of two, originated from the belief that children will be adversely affected to a greater degree by the experience of living in prison once they are over the age of two.<sup>28</sup> Officials voiced concern that, the older the child, the greater the impact of living in confinement will have on their development – psychologically, physically and socially. The social aspect arises from the discrimination and stigma that many of those who have spent time in the country's prisons face, often in terms of acceptance by their communities and families. This current policy is also designed to allow mothers to initiate breastfeeding with newborns and continue breastfeeding their baby during this two year period. This is something of critical importance given the extremely high rates of infant mortality in the country and the health benefits of exclusive breastfeeding, which is considered to increase chances of surviving infancy threefold.<sup>29</sup> However, in Sierra Leone the practice is often for mothers to continue breastfeeding their children well past the age of two, in order to supplement other food sources, something that often becomes impossible if the mother is in prison. Current policy regarding children in prison does represent an attempt to strike a balance between the need for babies to be able to breastfeed and the need to minimise the psychological and social impact of incarceration on the child.

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<sup>26</sup> Interview with Moses Kargbo, Prison Nurse, Pademba Road Prison

<sup>27</sup> For example, interview with Aminatta Koroma.

<sup>28</sup> Interview with Mr. Showers (as above).

<sup>29</sup> Unicef, 'Progress for Children: a report card on nutrition', May 2006  
[http://www.unicef.org/progressforchildren/2006n4/index\\_introduction.html](http://www.unicef.org/progressforchildren/2006n4/index_introduction.html).

Decision-making process – the role of Magistrates

Whilst current policy is implemented by Prison Services, it is actually the Magistrates who often make the initial decisions to place babies in prison with their mothers. Prison Services is then in a position where it must implement whatever decision is taken within the court system, rather than the institution being able to independently administer such policies in their entirety.

This decision-making power of the Magistrates is problematic given that many do not seem to take into account whether a woman appearing in front of them for sentencing is pregnant, or already has babies or young children in her care. Whilst one Magistrate interviewed by AdvocAid maintained that the majority of women bring their children into the courtroom with them and, hence the existence of the child is clear to the presiding judge, it is also evident that the issue of a woman's children and their care is not usually raised until *after* a bail application is made.<sup>30</sup> Because the entire judicial process is frightening and foreign to the women, especially if they do not have legal representation, women rarely speak to the Magistrate about their children and their needs.<sup>31</sup> While social services, such as officials from the Ministry of Social Welfare, should in theory be actively involved at this stage, in order to inform the court of the woman's situation and handle welfare issues with respect to her children, in practice they are most often absent from court proceedings.<sup>32</sup>

Furthermore, the Magistrates in the domestic system are enormously overworked, underpaid and under pressure to ensure that cases are heard as quickly as possible given the enormous case backlog that exists.<sup>33</sup> There are perhaps xx qualified Magistrates working in the domestic court system in Sierra Leone at the moment, making it virtually impossible to properly hear each case, resulting in the situation whereby little time is spent fully considering the ramifications of sentencing on the women themselves or their children – who are often dependent on them as primary caregiver.

This sentencing situation is particularly worrying given both the difficulty of the situation for many women with respect to bail requirements and the extremely lengthy periods of remand that most women are faced with once in the judicial system.

The excessively lengthy of stays inside prison in Sierra Leone reflects the slowness of the court system as well as the difficulties of fulfilling bail conditions. Many prisoners remain in prison despite the fact that the Court has authorised bail however the bail regime in Sierra Leone is very rigorous and excessive in many cases and the practice of releasing the accused upon his recognizance is seldom used.<sup>34</sup> Indeed, persons charged with non-bailable offenses such as murder and treason, constitute only 12.9% of the prison population, meaning that if bail were to be made liberal and affordable, the prison population could be reduced drastically. Further, it is especially difficult for women to obtain sureties as they are often detained far from their communities as many of the

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30 Interview with Magistrate

31 Ibid.

32 Ibid.

<sup>33</sup> Magistrates are paid a salary of slightly over 100USD a month

<sup>34</sup> UNOSIL, Behind Walls: An Inventory of Prisons in Sierra Leone, May 2007, 7 – 8.

prisons upcountry are not deemed suitable for women or children. A Magistrate interviewed commented that he would usually authorize bail for a woman with young children but they will often not have anyone to stand as surety on her behalf.<sup>35</sup> Courts should be encouraged to make increased use of s 79(7) of the Criminal Procedure Act 1965, which provides that the Court may dispose of sureties if doing so does not defeat the ends of justice, and at least depart from the use of sureties depositing title deed as a condition of bail.<sup>36</sup> The overwhelming majority of female prisoners in Sierra Leone are extremely poor and simply do not know anyone wealthy enough and willing to bail them

Thus, the situation in Sierra Leone is one where women (and consequently their children) are often in prison for months and years waiting for trial dates, without access to bail, and then subsequently serving sentences for petty crimes that have long since been become non-prisonable offences in other countries around the world.<sup>37</sup>

A further troubling aspect of the current process within the court system and its treatment of mothers and babies is with respect to the conditions at the law courts facilities in Freetown. The conditions of holding cells inside the law courts in which prisoners are confined whilst waiting for their case to be called are deplorable. Women were formerly placed in such holding cells with male prisoners, although this practice has changed over the past few years and women are now kept separately. The cells are extremely overcrowded and there are no benches inside. Thus, prisoners are forced to stand, often waiting an entire day for their turn in court. There is no food or water provided for either the women or their children (who are also often placed in the holding cell with their mother) unless family members come to the courts and provide such basic items, or unless a particularly kind prison guard happens to be willing to provide them.

**Box 3.0** Women and children in the court system – the experience of Haja (name changed to protect her identity)

The experience of women in Sierra Leone's court system, and the impact on them and their children, was painfully illustrated by a case that came up in the summer of 2007, which AdvocAid monitored.<sup>38</sup> The case involved Haja, a 26 year old woman accused of child stealing, a common offence in Sierra Leone in which the accused is thought to have kidnapped a child. Haja was several months pregnant when she was arrested in May 2007 and she eventually gave birth inside the women's section of Pademba Road prison, which was assisted by Dr. Coker, the prison doctor. She is also the mother of a 7 year old, in the care of family members up-country, and a 2 year old, placed in the care of the Ministry of Social Welfare, along with her new born who remains in prison with her.

Haja did not have any legal representation during her case and she eventually pleaded guilty to the first count of child stealing. After a few initial conversations with Haja about her situation, members of AdvocAid became concerned that she was suffering from mental illness and depression and brought in a counselor in order to assess her mental

<sup>35</sup> Interview with Magistrate.

<sup>36</sup> JSDP, Criminal Case Management Handbook, 17.

<sup>37</sup> The incurrence of debt, for instance, is no longer a prisonable offence in many countries, including the UK. Article 11 of the International Covenant on Civil and Political Rights stipulates the non-derogable right of a person not to be imprisoned merely on the ground of inability to fulfil a contractual obligation.

<sup>38</sup> Emails from SM, 17/08/2007 and remand statement.

state, as Prison Services does not provide any sort of psychological counseling or support services to prisoners. Given her mental state at the time of the crime, AdvocAid decided to arrange a lawyer who would be able to do a plea in mitigation in order for Haja's sentence to better reflect her circumstances. Once her court date for sentencing was finally decided upon, Haja and her newborn were transported from prison to the law courts and placed in a holding cell, where she and several other women were forced to stand for the entire day (she was also required to do this during her trial, whilst late in her pregnancy). Her case was not called that day and thus the whole process repeated itself subsequently without any notice given, meaning that there was no lawyer present for her sentencing. Haja was sentenced to several years in prison for her crime, although she herself was not fully aware of the length of the sentence she was given. Her baby continues to be with her in Pademba, never having experienced life outside of the walls of the prison.

In a subsequent interview with the Magistrate who presided over this case, he explained that while the Registrar advised to give her a conditional discharge due to her pregnancy, the Magistrate did not consider the written law to support such a move, especially given the seriousness of her offence.<sup>39</sup> Child stealing remains a highly political crime given the country's history of conflict during which children were captured for use by fighting factions. In the sentencing process, Haja's situation with respect to her own children was taken into account and her sentence was reduced from five years down to two years. No alternative of a fine was offered as the Magistrate considered that she was poor and the offence serious.

Once a decision has been reached by the Magistrate hearing the particular case of a mother and sentencing is carried out, whereby a decision is made regarding whether a child will be placed in prison with the mother, or alternative care will be arranged, the Ministry of Social Welfare, Gender and Children's Affairs often takes on a more active role in the process. It is the Ministry that is then charged with placing the children with an appropriate orphanage or in the care of willing and able family members who the prisoner has been able to maintain contact with while incarcerated. One interview with prison officials revealed an exceptional incident several years ago whereby a child who had been incarcerated with its mother was actually taken into the care of one of the prison officers.<sup>40</sup> What is particularly interesting to note is that neither the Superintendent nor the Officer in Charge of the female section, could actually recollect an incident where a child was taken from an imprisoned mother before their release and placed in the care of the Ministry of Social Welfare or an orphanage, because the child had become older than two years of age.<sup>41</sup>

### *3.3 Relocating mothers and their children*

An aspect of current policy with respect to placing babies in prison with their mothers is that of the relocation it often entails for those women arrested outside of Freetown. Pademba Road Prison, the country's maximum security prison, is considered the only prison in Sierra Leone to be properly equipped to accommodate children, despite its

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<sup>39</sup> Interview with Magistrate.

<sup>40</sup> Interview with Mrs. Thomas and Mrs. Jones.

<sup>41</sup> Ibid.

obvious deficiencies. It also happens to be the most over-crowded prison in the country, with all services under immense strain.<sup>42</sup>

Note that while Pademba Road is a far cry from a properly outfitted prison, many prisons in Sierra Leone were severely damaged as both a direct and indirect consequence of the conflict. The country's prisons were neglected and left to decay by the government but they were also expressly attacked and targeted by rebel forces, in attempts to both free certain prisoners as well as a symbolic act against the government power.<sup>43</sup> While there are plans to rehabilitate various prisons upcountry, this process has been slow and many remain partially destroyed. Pademba Road Prison was also targeted but the damage inflicted has largely been repaired. Furthermore, Pademba prison has a dedicated doctor and nurse on staff and while they have over a thousand prisoners in their remit, many prisons up country do not have any medical personnel. Some prisons in the country can still not accommodate women given the absence of any separate facilities for them.

Given the difficult situation with respect to adequate prison facilities in Sierra Leone, many women arrested upcountry are transferred to Freetown and imprisoned in Pademba Road. Official policy also dictates that all women with children in prison should be transferred to Pademba. However, various interviews with prison officials and prisoners revealed that this policy is not strictly implemented and that much discretion remains. For instance, a prison official with Kenema District prisons noted that of the eight women currently in the custody of Kenema District Prison, two had young children in prison with them, and there were no plans to transfer those woman to Pademba Road Prison in Freetown.<sup>44</sup> One woman was on remand, and the other was serving a short, two to three month sentence. This may account for the fact that no transfer has been made. However, faced with the extremely slow pace of the judicial system, women are often on remand for months and at times years, meaning that her and her child could potentially be imprisoned in a facility that is completely not equipped to effectively care for the child for an extended period of time. It is evident that many of the decisions related to the implementation of official policy relate to the amount of funding for things such as transport.

While it is appropriate for Prison Services to try to provide the best care possible for mothers and their children whilst in the prison system, the impact of relocation to Freetown on these prisoners can be severe. There is often no communication regarding the relocation of the female inmate and her child with family members or neighbours. They are thus often in a position where they do not know the whereabouts of the incarcerated woman and child. Similarly, women in prison who have been relocated are often unable to maintain contact with family members upcountry and ensure the continued care of other children who are not in prison with them, as elaborated below in Section 3.4. Furthermore, it is unclear why at times policies relating to relocation are implemented and why at times they are not: financial resources too often seemingly play a more eminent role than that of the welfare of the mother and her child.

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<sup>42</sup> UNIOSIL report.

<sup>43</sup> Malan and Meeks report.

<sup>44</sup> Interview with Mr. Williams



### 3.4 Issues Inside Prison and Upon Release

#### Communication

Most women in Pademba Road Prison have very little contact with the outside world, including their families, and their children. This phenomenon is particularly acute for those women from up country, who have been transferred to Freetown for their cases to be heard in the High Court or to serve out their sentence in Pademba. Women who are transferred to Freetown from the provinces often are not given the opportunity to inform their families of their re-location to Freetown and Prison Services does not do so either.

Once in Pademba Road, all prisoners are faced with enormous challenges in contacting those on the outside. Prisoners do not have access to telephones and are consequently unable to maintain any contact through this means of communication – one of the most affordable ones in Sierra Leone. While visitors are allowed into the prison at specified times for supervised visits, several released prisoners explained that the prison officers often extort money or sexual favours from those wanting to visit loved ones inside.<sup>45</sup> Additionally, family members are often unaware of the process for visiting inmates. For those from upcountry, the ability of family members to visit them in prison is often constrained by financial resources, given that transport costs are not insignificant. An added obstacle faced by those in prison to remaining in contact with family and friends is that of stigma. Many women in Pademba have been disowned by boyfriends or husbands and their families are reluctant to remain associated with them given the marginalization they fear in their own communities as incarceration remains subject to discrimination and enormous stigma in Sierra Leone.

Women in prison are thus often in a position whereby they do not know what has happened to their family in their absence, including whose care their children are in (if they are not in prison with their mother). They are often desperate for information and the situation causes many enormous distress and anxiety, taking a significant mental and emotional toll on both mothers behind bars and their children who remain on the outside and who are deprived of their care.

**Box 4.0** The difficulty of communication: Anna's situation (name changed to protect her identity)

The difficulty of the situation for mothers in prison and their ability to communicate with those outside of prison, is made strikingly clear by the example of Anna, a female prisoner in Pademba. Anna is mother to eight children in Kabala, a town in the Northern Province of Sierra Leone. She was unable to serve her sentence in Kabala as the prison there was not properly equipped to accommodate female prisoners and did not have a dedicated female wing. Anna was transferred to Freetown without being able to notify her family of this relocation.

Consequently, she had no idea what was happening regarding the care of her children in her absence. She was unable to contact family or neighbours to inquire and Prison Services did not provide her with any information nor did they facilitate communication with family members. Anna was understandably extremely distraught and anxious about her

<sup>45</sup> Interviews with PPJ members.

inability to ensure that her children were being properly looked after. Furthermore, her own children doubtlessly greatly suffered from the absence of their mother and the effective loss of their primary caregiver, with no adequate alternative care assured.

This state of unknowing, for both mother and her family, leads to enormous amounts of anguish and mental distress. The psychological stress and trauma inflicted by the inability to communicate with loved ones should not be underestimated. The provision of assistance to maintain contact and communication between prisoners and family members is something that is an obligation on the part of the Prison Service in other jurisdictions.<sup>46</sup>

### Child deaths in prison

As detailed above, sub-standard prison conditions in Sierra Leone impact significantly on the health of all prisoners. The health of young children in prison is particularly affected by the lack of basic hygiene and adequate food. Moreover, Sierra Leone has the worst under five child mortality rate in the world, with a staggering rate of 27%.<sup>47</sup> However, the lack of adequate record keeping at Pademba Road Prison, Prison Headquarters and the Ministry of Social Welfare makes it difficult to find accurate statistics on how many children living in prison with their mothers die every year in Sierra Leone.

In the year and a half that AdvocAid has been actively monitoring the situation of women in Pademba Road Prison, there was one known instance of a still born baby being delivered by an inmate.

#### **Box 5.0** The death of a child in prison

The prisoner, Tatu, is charged with murder and was about 5 months pregnant with twins when she was imprisoned at Pademba in September 2006. She has no lawyer and is still on remand. She gave birth at Cottage Hospital PCMH, which is unusual as most female inmates give birth in the prison cells. One of the twins was still-born while the other, Irene, survived. However, she is still very small for her age. The cause of death is not known and no post-mortem was conducted. Tatu was not shackled while giving birth but she states that she was not given proper medicine while at the hospital. The dead baby was given to Tatu's mother to bury, although she does not know where the burial was actually done. She did not ask whether she could attend the funeral as she did not think she would be allowed and it does not appear that Tatu had any access to counseling following her bereavement.<sup>48</sup>

Official policy regarding the death of a child living with their mother in prison is that the Prison Officials will bury the child if the mother's relatives cannot afford to. This service,

<sup>46</sup> UK case law, for example, articulates this obligation of the Prison Service *McCotter v UK 15 E.H.R.R. CD98*

Campbell v UK App.NO.7819/77; 14 D.R.186

<sup>47</sup> In Sierra Leone, 270 children out of 1000 born die before they reach 5 years old. 2006 statistics. UNICEF, The State of the World's Children, 2008 [http://www.unicef.org/sowc08/docs/sowc08\\_table\\_U5MR.pdf](http://www.unicef.org/sowc08/docs/sowc08_table_U5MR.pdf).

<sup>48</sup> Interview with Tatu (name changed to protect her identity)

however, would not be done to the same standard of funeral as a family would normally provide the child.<sup>49</sup> Policy regarding whether the mother is allowed to attend the funeral was uncertain. Some officials stated that the mother would be able to attend the funeral in plain clothes, accompanied by a prison officer, as is the allowance with respect to the funerals of other close relatives.<sup>50</sup> Other prison officials, however, stated that a prisoner would not be allowed to attend the burial of a child.<sup>51</sup> This may largely be due to a lack of resources to properly accompany a prisoner to the funeral place as the Prison Department struggles to even provide transport means for prisoners making appearance in the Law Courts at times. Indeed, most of the mothers interviewed in Pademba Road Prison did not know what their entitlement would be if their child died in prison and several felt that mothers would not be allowed to attend the funeral of their child.<sup>52</sup>

#### Release and post-prison support

The plight of children and their mothers in prison does not end with their release. Indeed mothers often face an entire new set of challenges linked to with their time behind bars that are not easy to handle, especially with a young child. For many women, release from prison simply involves the opening of the front gate and the women are instantly thrown back into the outside world, often without access to money, transport or means of communication with their family. This insecure situation is reinforced for those who were relocated to Freetown from elsewhere, with their release from Pademba Road often representing their first time in the city.

During the period of incarceration, women have some access to skills training, often through tailoring and cooking. This remains extremely limited however and Prison Services does not provide any formal post-prison support to women once they've been released. Any support that does occur is usually a result of the initiative of individual prison guards, who may take down the contact information for a woman as she leaves. Otherwise, there is no follow up with mothers or their children once their time in Pademba Road has come to an end

#### **Box 6.0** The insecurity of release: the case of Jamesina

Jamesina was in Pademba Road Prison, serving out a sentence for fraudulent conversion, after being transferred from Kono District prison in 2007. She was arrested in Kono, where she was living with her husband and children at the time, and was incarcerated with one of her children. Her husband was incarcerated in Pademba. Jamesina was effectively imprisoned for a crime committed by her husband as he had been unable to repay a debt he incurred with a diamond trader. Jamesina was in Pademba with her young child Mohamed. She did not know in who's care her other child, who remained in Kono, had been placed. When she was arrested, she had left her child with a neighborhood friend, but Jamesina was extremely worried as she doubted that the neighbour had the financial resources to continue caring for her child in her absence. When Jamesina's concern was brought to the attention of Prison Services they noted it and assured her that they would look into it. She never received an answer. However, AdvocAid independently followed up on the whereabouts of her

49 Interview with Mr Showers, Deputy Director of Prison.

50 *Ibid.*

51 Interview with Mrs Panaki, Chief Officer Female Section, Pademba Road Prison, 15.1.08.

52 For example, interview with inmate FY, 16.1.08.

child and were able to update Jamesina.

Once Jamesina had served her sentence out in Pademba, she and her child were released in Freetown – a city she had never been to before and where she did not know a single person. Prison Services did not provide her with transport money to return to Kono, nor did they provide any other funds in order to ensure that she and her baby would be able to eat or find a place to stay. The insecurity of her and her baby's situation is evident: released in a city without support or financial resources, former prisoners and their children are placed in extreme danger. They are effectively at the mercy of strangers, and their personal welfare is very much compromised as they are without adequate shelter or food. The case of Jamesina highlights the short-sightedness of prison policy when it comes to releasing mothers, including how the lack of post-prison support ultimately places women and their children back in vulnerable situations.

#### 4.0 The impact on children and ways forward

As succinctly described by a prison official, the actuality of being born in prison can greatly affect a child, as can the lifetime of stigma that they will have to endure because of it.<sup>53</sup> Prison officials have observed that many of the babies who spend substantive amounts of time in the women's section of Pademba Road Prison subsequently exhibit fear and trepidation around men, given their extremely limited contact with them in their lives. What is more, for those working in the system, they themselves often seem to regret that children and babies must be subjected to prison conditions and confinement given their innocence and the detrimental and visible impact it has on them.

Some of the more visible impacts on imprisoned children are with regards to their poor health and their small size. While the conditions in Pademba, and their impact on the health of the babies inside, was elaborated on in previous sections, most effects go undocumented. One consequence of a mother's imprisonment is often that of increased poverty levels. Women in Sierra Leone are important economic actors, with the majority in urban and peri-urban areas engaged in various informal trading activities, which represent an important source of income for households. Many women in rural areas are farmers as well as traders. Once a woman is imprisoned, she is no longer able to contribute to household income and her ability to earn an income is often adversely affected by her time in incarceration, given the stigma attached to the prisons as well as the loss of property and resources that often occurs in their absence. Women who are released are often poorer than when they went in. Many return to their homes only to find that their boyfriends or husbands have left them, their property items have been stolen, housing taken over, and the list goes on. It can be an extremely difficult process of re-establishing themselves and the impact on children's welfare, and their attendant ability to access basic education and health care, is significant.

The case of baby Mohamed, a resident of Pademba Road prison, is one that visually demonstrates the burden of life behind bars on even the smallest of persons. He has yet to crack a smile, to giggle or shriek, during his life which has been led entirely within the confines of prison.

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<sup>53</sup> Interview with Moses Kargbo.

Something must change with the system that allows such injustices to be carried out. Indeed it seems that while reform within the judicial system in Sierra Leone has been happening bit by bit over the past few years, with an increasing amount of interest and funding coming from donors such as DFID and the European Commission, there are also shorter term alternatives to the system that should be better capitalized on. Community mediation is a very important alternative that has not been well developed in Sierra Leone. This type of mediation would ultimately act to avoid entering into the formal legal system and rely on the capacities of the community to resolve disputes and decide on appropriate measures for a given dispute. Prison officials themselves pointed to community mediation as a potentially useful way of avoiding prison for pregnant women and mothers and their children. Such mediation techniques and capacities do not however always exist within communities naturally and training and accompaniment of this work is needed.

Related to community mediation efforts and the attempt to resolve disputes outside of the formal judicial system are initiatives linked to paralegal work. In Sierra Leone various projects have demonstrated the enormous impact that trained paralegals can have on resolving various disputes at a community level in a fair and impartial way.<sup>54</sup> They are less costly and much faster than any effort through the courts. They are also able to take into consideration the special needs of mother's and their children.

Such alternatives to the regular judicial system would however need to be run in parallel with efforts to reform the formal sector. While a certain priorities for this reform are listed below, from a broader perspective what should underlie all of these efforts is a perspective that the judicial system is less about punishment and more about rehabilitation that takes into account the humanity of each person who enters it.

### ***5.0 Reform of legal system***

Key areas of the judicial system are having egregious effects on mothers and their babies. Some of these areas, which need urgent reform, include:

- **Review of the sentencing patterns of the Courts.** There is an urgent need to ensure that excessive sentences are not given for minor crimes, debt cases are non-imprisonable offences and the circumstances of a woman with a young child is taken into special consideration as mitigation.
- **Access to justice.** There is an urgent need for more pro bono representation and the establishment of a legal aid system that can facilitate this. Vulnerable sectors of society need to be prioritized in terms of access to such services. Priority groups should include juveniles, poor women, and specifically, suckling mothers whose children risk spending their early lives in prison awaiting trial and/or serving unnecessarily long sentences.
- **Reform of the bail regime** so as to make it more liberal, less expensive and more accessible to those who are afforded it in the first place.

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<sup>54</sup> See for example the work of TiMAP in Sierra Leone, a programme supported by the World Bank

- **Improved prison conditions.** Prisons in Sierra Leone are overcrowded and under-resourced. They have been neglected during the years of conflict and continue to be neglected in the post conflict period in the midst of security-sector reform processes. They are not a priority area for government or donors and remain woefully inadequate in terms of the most basic health and sanitary standards.
- **Access to information.** Prisoners need to know what the regulations and provisions are with respect to sentencing guidelines. They need to be able to effectively communicate with family members. They need to know who is taking care of their children in their absence. They need to know their rights.
- **Separate detention facilities for mothers and their children.** Juvenile remand homes exist in Sierra Leone and an equivalent should be established for mother's and their children as well as pregnant women as they also have special needs. These facilities would need to be adequately resourced to ensure that they met health standards and acted to protect and care those within its remit.
- **Ensure that prisons are rehabilitation-focused,** rather than punishment-driven. This means that prisons offer services to prisoners that will assist in their rehabilitation, such as vocational training for both men and women, literacy classes, conflict mediation training and so on.
- **Strengthen alternative dispute resolution mechanisms.** Capacity building in terms of paralegal services is urgently needed as are relevant conflict-resolution mechanisms at a community level. These should aim to incorporate the positive aspects of customary justice mechanisms. Such mediation efforts would help to decongest the number of cases in the courts and offer an alternative to lengthy prison terms.
- **Special care and attention to the needs of children.** The judicial system in Sierra Leone is under resourced and overburdened as it is, however, the special circumstances and needs of children must not be forgotten. This relates to their time inside prison as well as upon release, with the provision of appropriate post-prison support services.

## **Annexes**

Please see attached documents of incorporation and interview transcripts