



Sierra Leone – Researched and compiled by the Refugee Documentation Centre of Ireland on 18 July 2014

Information on criminal justice system – fair trial

The 2014 Bertelsmann Transformation Index report on Sierra Leone, in a section titled “Rule of Law”, states:

“The judicial system consists of three main courts: the Supreme Court, the Court of Appeals and the High Court of Justice. The president appoints, and parliament approves, justices for these courts. At the district level, there are magistrate courts. At the local level, chieftaincy courts administer customary law.” (Bertelsmann Foundation (1 January 2014) *Bertelsmann Transformation Index (BTI) 2014 - Sierra Leone Country Report*, p.9)

This section of the report also states:

“In the wake of a reform of the judicial system supported by the United Kingdom Department for International Development (DFID), Sierra Leone established a legal framework aimed at ensuring the rule of law, at least in theory. There is evidence that the judiciary has demonstrated independence in several instances, and a number of trials have been free and fair. However, corruption, underqualified personnel and scarce resources, among other factors, continue to impede the judiciary from enforcing a credible and enduring rule of law.” (ibid, p.9)

The 2014 Freedom House report on Sierra Leone, in a section titled “Rule of Law”, states:

“The judiciary has demonstrated a degree of independence, and a number of trials have been free and fair. However, corruption, poor salaries, police unprofessionalism, prison overcrowding, and a lack of resources threaten to impede judicial effectiveness.” (Freedom House (26 June 2014) *Freedom in the World 2014 - Sierra Leone*)

The US Department of State country report on Sierra Leone for 2013, in a section titled “Denial of Fair Public Trial”, states:

“The constitution and law provide for an independent judiciary; however, the judiciary at times was believed to have acted under government influence, particularly in the dismissal or acquittal of some corruption and electoral cases. In addition to the formal civil court system, local chieftaincy courts administered customary law with lay judges; appeals from these lower courts were heard by the superior courts. The limited number of judicial magistrates, high court fees, and few lawyers, restricted access to justice for most citizens. Some districts lacked resident magistrates, contributing to lengthy delays in the administration of justice.” (US Department of State (27 February 2014) *2013 Country Reports on Human Rights Practices – Sierra Leone*, p.8)

In a section titled “Trial Procedures” this report states:

“The law provides for a fair trial; however, in practice, the lack of judicial officers and facilities regularly resulted in repeated long delays. Some cases reportedly were adjourned 40 to 60 times. Trials are public, but the accused do not have the right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, in order to expedite cases the attorney general frequently exercised his power to determine that cases be heard by a judge alone. Defendants generally enjoyed a presumption of innocence. While defendants have the right to be present and to consult with an attorney in a timely manner, many were not afforded access to counsel. The law provides for attorneys at public expense if defendants could not afford their own; however, state-appointed attorneys were overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants generally did not have adequate facilities to prepare their defenses. Defendants can confront or question witnesses against them, present witnesses and evidence on their own behalf, and access government-held evidence relevant to their cases. Police officers, many of whom had little or no formal legal training, prosecuted a majority of cases on the magistrate level. Although the law provides defendants with the right to appeal, delays in the appeals process were excessive, sometimes lasting more than two years.” (ibid, pp.9-10)

A report from the UN Committee on the Elimination of Discrimination Against Women, in a section titled “Access to justice” (paragraph 12), states:

“The Committee notes the measures adopted during the period under review to reform the justice system and further facilitate women’s access to justice, including through the adoption of the new Justice Sector Reform Strategy and Investment Plan (2011-2014), and the Legal Aid Act in 2012, and the 2011 Local Courts Act. It is, however, concerned that, despite those measures, women’s access to justice remains limited. The Committee is particularly concerned about the lack of independence of the judiciary, inadequate court infrastructure, the lengthy trials and delays in particular in cases of sexual violence, capacity constraints and lack of due process guarantees, and the insufficient capacity-building on existing legislative frameworks for judges, prosecutors, lawyers and relevant law enforcement agents. The Committee is further concerned that many recommendations made by the Truth and Reconciliation Commission have not yet been implemented, and that reparation for victims of the civil war, including women victims of sexual violence have thus far been inadequate.” (UN Committee on the Elimination of Discrimination Against Women (28 February 2014) *Concluding observations of the Committee on the state report on implementation of the Convention on the Elimination of All Forms of Discrimination against Women*, p.4)

An IRIN News report states:

“People don’t believe too much in the formal system because of the delay. A simple case that we can handle in two or three days... could sit in the magistrate’s court [lowest court] for months,” said Matthew Jibao Young, head of the Mende ethnic group in Sierra Leone’s urban Western Area, comprising

Freetown, the capital, and the surrounding peninsula communities. Every month he deals with dozens of disputes ranging from abusive language to debt and witchcraft. A recent briefing by the Overseas Development Institute (ODI), a British think-tank, noted that most of Sierra Leone's population seek justice and security through 'non-state' actors such as provincial or village chiefs, paralegal practitioners, professional associations, unions, and traditional 'secret societies' that regulate the country's sexual, social and political conduct." (IRIN News (31 May 2012) *Sierra Leone: Serving justice outside the courts*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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