**United Nations Development Programme** 

**BTOR-Field Trips-Town Hall Meetings on Bail and Sentencing-25-30 July, 2017**

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| **Purpose of Mission: to p**articipate and monitor the Judiciary Town Hall Meetings under the Bail and Sentencing Project  | **Location:** Team 1: Kono, Makeni, Port Loko and FreetownTeam 2: Kailahun, Kenema, Bo and Moyamba |
| **Mission Member(s)****Team 1: (25-27, July and 29 July)**1. Louise S. Aaen, INL Project Manager
2. UNDP Driver

**Team 2: (25-30 July, 2017)**1. Walter-Neba Chenwi, ROL Programme Specialist
2. UNDP Driver
 | **Period and travel dates inclusive**:Team 1: 25-27 July 2017 and 29 July 2017Team 2: 25-30 July 2017  |
| 1. **Summary**

The main objective of the field mission was in relation with the *Promoting Transparency in Sierra Leone’s Judiciary* project, *Output 1: Sentencing and bail policies and guidelines are adopted by the mandated judicial authorities.* UNDP’s presence at the outreach sessions was to support respective events on the field and to collect information and perceptions from participants on the application of bail and sentencing practices in the provinces to further inform the implementation of the *Promoting Transparency in Sierra Leone’s Judiciary* and strengthen UNDP’s support and collaboration with the Judiciary in achieving successful implementation of the project. **2. Background** A key activity, described in the project document to support the effective achievement of output 1 is to ensure in-depth and countrywide consultation with a broader variety of stakeholders in the justice and civil society sectors from the Western Area, the North, the South and the East.In March – May 2016 the WG held 11 national consultations across the country ensuring ample feedback on the present situation on bail and sentencing in the country from provincial justice stakeholders, local government, traditional leaders, women leaders, youth representatives and civil society. The consultations then were designed to achieve broader representation of the populace. The consultations concluded successfully and the comprehensive feedback and input received informed the further drafting of the Bail and Sentencing Regulations.In May 2017, the Bail Regulations were approved by the Rules of the Court Committee and the sentencing regulations are still awaiting the final approval of the Criminal Procedure Act.In accordance with output 1 of the INL project, the WG and the Judiciary have been committed to undertake wider stakeholders and a broad segment of the populace engagement on the instruments to ensure requisite knowledge of the new legislation is acquired before it is passed into law. To ensure outreach to the whole country, the WG was split into two teams and held one day workshop in Freetown and 7 at provincial headquarter towns. For each Town Hall meeting there were 150 invitees comprising judicial staff, police, corrections, local governments, paramount and district chiefs, unions, women’s representatives, and broader civil society, including CSO and CBO representatives. Furthermore, the WG members engaged in radio discussions to secure wider audience for the event. In some of the locations (Makeni, Kenema, Bo and Moyamba) the Town Hall meetings were broadcast live on local radio stations to ensure broader outreach of key messages on the Bail Regulations and current practices. **Key Issues emerging on Bail and Sentencing Regulations from Town Hall Meetings**Overall, over 1,200 participants attended the 8 Town Hall meetings. The attendance exceeded the expected 1,200 people initially invited. The massive attendance could be justified by the sensitive nature of the legislation to be discussed and people’s urge to learn from the Judiciary itself on what the normal practice on bail and sentencing is amidst the perceived numerous counter-interpretations on the same topic. The content of the new Bail and Sentencing regulations was presented by the Judiciary focusing on the following points:* Bail is a right and an accused person can only be deprived of his/her liberty for serious felonious crimes carrying death or life sentences;
* Being a right, bail must be considered by the court itself regardless of whether the accused/defendant has raised it himself or through his lawyer;
* The role of sureties is limited to ensuring the presence of the defendant in court and a surety is not mandated to accompany the defendant at all court sittings; the surety has the duty to inform the court about the non-attendance of the defendant at any sitting and the reasons therefrom;
* That women can stand as sureties on equal basis as men; and a surety is entitled to stand in for several defendants, however the Court can object to what is termed “professional” sureties, e.i. people making profit to stand as sureties;
* A surety will forfeit the guarantee of the bail condition rather than being arrested and detained in the event of an absconding defendant;
* Bail conditions to be set with due regard to the severity of the offence and not the sole consideration of the presiding court official;
* Depositing money to fulfil bail can only be used in cases where the complainant has suffered monetary loss (a sum of money);
* Any decision reached by a sitting court on bail must be penned down in writing and a copy given to the defendant for the purposes of appeal;
* The requirement of presenting title deeds has been curbed and now only limited to serious offences; equally, the requirement for identification documents has been broadened to include the presentation of secondary documentation on a person (e.g. driver’s license, a sworn affidavit from a local authority…etc.);
* Sentencing to take into account mitigating as well as aggravating circumstances; the fact that the convicted person is a first-time offender; caregivers and lactating mothers, handicapped and disabled persons only to be imprisoned in extremely exceptional circumstances;
* Community punishment order, suspended and deferred sentencing will be introduced through the approval of the revised Criminal Procedure Bill;

 **Key Discussion Points and Observations from Bail and Sentencing Regulation Town Hall Meetings**From the presentation on the Bail and Sentencing Regulations, discussions that ensured showcased practices that negated people’s fundamental rights to bail with potential for tension at community levels. The following key points were gathered from feedback from participants: * Corrupt practices from both the court and at police levels impede on the enjoyment of the right to bail;
* Unreasonable conditions set by presiding officials in relation to bail even for minor offences: e.g. requirement of landed property for minor offences;
* Requests made by some court officials for the deposit of amounts set for the bail bond;
* Serious delays in the processing of bail applications and verification of documentation provided to the court leading to influence peddling and corruption;
* Lack of knowledge on legal processes leading to magistrates initiating arbitrary processes against defendant (e.g. a magistrate court at district level remanded a female pregnant litigant for contempt of court leading to her detention for more than 15 days and the female litigant was only freed during the Town Hall meetings after intervention of the Judge from Freetown. Worth noting that the female defendant was brought to court on a debt charge. In another case at district level, a heavily pregnant female defendant (near delivery of her child) was charged to court for simple loitering (which has a maximum sentence of 3 month with option of a fine) but she was sentenced to 6 months imprisonment without alternative of a fine. She was only released with the intervention of the Judge from Freetown.
* Court officials exploiting the ignorance of court users on bail and sentencing to extort money through requests not related to normal practices on bail and sentencing;
* Limited knowledge on sentencing leading to arbitrary sentences.

The Judiciary has shown continued leadership and commitment to the bail and sentencing project which was evident also in the Town Hall meetings. Critical questions by the general public were answered openly but also with resolve. Examples of malpractices from Port Loko given by participants instigated the development of a fees and fines list to be posted in all Courts. This has already been acted upon by the focal point of the Working Group Justice Browne-Marke and the Public Relations Officer Moses Kamara.The Public Relations Officer had before commencement of the Town Hall meetings received approval by the Chief Justice for a comprehensive media and communications plan. This ensured live-coverage of several of the Town Hall meetings and also radio discussions before and after these as well as press releases and articles to Freetown based newspapers. Therefore, the Town Hall meetings ensured outreach to a much higher number than the 1200 invitees as the Communities were informed of key issues through these different media activities.**Conclusion**Output one (1) of the Project titled “Promoting transparency in the Sierra Leone Judiciary” was set out to ensure that *“Sentencing and bail policies and guidelines are adopted by the mandated judicial authorities”*. It would be safe to mention that the Town Hall meetings conducted from the 25 to 30 July, 2017 that aimed at bringing the draft regulations to the people is a progressive step moving closer to the final adoption of the regulations and reiterates the Judiciary’s commitment to ensuring implementation of the new regulations. Participants across all the 8 Town Hall meetings have presented the Judiciary with key facts that need to be worked on to ensure the adopted regulations are not adversely negated during implementation by corrupt practices, delays in processing bail applications as well as parallel bail conditions set by bail processing officers.  |
| **Distribution list:*** Governance Team Leader
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