



Justice and Corrections Update - December 2014

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Contact: dpko-cljas@un.org

Mali - Bringing Justice to Timbuktu and Beyond

When it established the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) in 2013, the Security Council specifically mandated the Mission to assist national authorities in rebuilding the rule of law and justice sectors. This is a central aspect of the Mission's overall mandate for stabilization, security and the extension of State authority throughout the country.

In this context, the efforts of the Justice and Corrections Section of MINUSMA have been focused on the re-establishment of judicial and corrections institutions in areas which were previously occupied by armed groups during the 2012/13 conflict. Under the most difficult security circumstances MINUSMA, in



Destroyed court archives at Malian courthouse 2013

close partnership with UNDP and donors, has provided extensive support to national authorities for the re-opening of seven courts and seven prisons in the regions of Gao and Timbuktu since February 2014. *(Continues page 2)*

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This Update is produced by the Criminal Law and Judicial Advisory Service (CLJAS). CLJAS is part of the Office of Rule of Law and Security Institutions within the United Nations Department of Peacekeeping Operations. We promote the rule of law by addressing issues related to both judicial and penal systems in conflict and post-conflict environments through UN peacekeeping and special political field missions. This Update highlights some of the important work of justice and corrections components working in peacekeeping missions around the world.

Mali Continued... Such support was provided by MINUSMA by: a) co-chairing, with the Ministry of Justice, weekly coordination meetings with key stakeholders, including UNDP, the European Union, the Netherlands and the ICRC on re-deployment plans, the refurbishment of facilities and the provision of equipment; b) facilitating the re-deployment of magistrates and prison personnel to these regions through MINUSMA air assets; c) refurbishing the prison in Timbuktu, one of the largest detention centres in the North; d) facilitating, through United Nations Police, the provision of security at key courts and prison facilities; e) regularly advising

and supporting court and prison personnel, including with regard to registries and by providing logistical support for major criminal investigations; and f) training 140 judicial and prison personnel in June and July 2014 on national and international criminal justice norms and standards.

The First Instance Courts in Timbuktu and Gao, as well as five Justice of the Peace courts in these regions, are now processing criminal cases and individuals are held in all seven prison facilities.

This was achieved despite major security, financial and material challenges.



La Maison d'Arret et de Correction de Gao, Mali, after refurbishment, July 2014.

Important lessons have been learned through this initiative and it could be replicated in similar situations in the future.



Para-legal officer and UNAMID Prison Affairs Unit staff facilitating legal aid services to a prisoner at Shallah Federal State Prison, El Fasher, Darfur, Sudan, November 2014



Legal aid services being provided to a female prisoner at Kheir Khanaga Women's Prison, El Fasher, Darfur, Sudan, November 2014

Promoting Legal Aid Assistance in Darfur

The ongoing conflict in Darfur has severely affected local institutions, including the judiciary and prisons. In addition to the rehabilitation of court houses and prison facilities, other interventions aimed at strengthening the criminal justice system as well as enhancing access to justice by providing legal aid to those in need, has been a priority for the Rule of Law Section of the African Union-United Nations Hybrid Operation in Darfur (UNAMID). A lack of access to lawyers is particularly acute amongst marginalized groups such as women, displaced persons and prisoners.

In order to address this issue, UNAMID closely coordinated with the Ministry of Justice, UNDP and civil society organizations to facilitate the establishment of legal aid help desks in prisons. Thus far, over 300 prisoners in Darfur have benefitted from legal advice through the scheme. UNAMID has also facilitated ad hoc "Legal Aid Day" initiatives in state prisons. At a recent legal aid day in Zalingei Prison 53 prisoners received legal advice.

CENTRAL AFRICAN REPUBLIC



Demonstrations in Bangui, October 2014



Demonstrations in Bangui, October 2014

GLOBAL FOCAL POINT

GLOBAL FOCAL POINT FOR POLICE, JUSTICE AND CORRECTIONS – CLJAS and the Police Division of DPKO, and UNDP are responsible for the management and oversight of the Global Focal Point for Police, Justice and Corrections, working to enhance the delivery of UN system wide rule of law assistance in post-conflict and other crisis settings.

FAST FACT

DPKO currently has approximately 308 Corrections and 258 Justice personnel deployed in field operations throughout the globe.

Bangui: Justice and Corrections Personnel Play Key Role in Efforts to Re-Establish Law and Order

The Justice and Corrections Section (JCS) of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) began implementing a number of initiatives since MINUSCA assumed its full responsibilities on 15 September 2014. These initiatives include supporting the national authorities to reinstate the criminal justice system, restore law and order, and fight impunity.

Pursuant to the mandate to adopt “Urgent Temporary Measures” to support national efforts to investigate and prosecute serious crimes committed during the conflict, JSC Judicial Affairs Officers are advising on draft legislation for the establishment of a special prosecution office to investigate and prosecute serious crimes, and for a special national court to try such cases. The Global Focal Point for Police, Justice and Corrections arrangement has been utilized to coordinate DPKO, UNDP and OHCHR initiatives related to the special court.

In the corrections area, JCS Corrections Officers, are working to improve security and conditions of detention at the overcrowded Central Prison in Bangui.

The JSC is also supporting the national authorities to reduce the prison population by assisting in the review of prisoner files and verifying that incoming prisoners are properly processed and recorded. MINUSCA’s corrections personnel have also been instrumental in the training of national corrections officers. Since October 2014, extensive training has been provided to 44 national officers in the area of prison management and human rights.

Strengthening and Expanding Partnerships: DPKO and ICPA Cooperation

In the spirit of cooperation to address the multifaceted problems facing prison systems in post-conflict countries, corrections representatives from UNAMID, MINUSMA, UNAMA, UNSOM and UN Headquarters participated in the 16th Annual Conference of the International Corrections and Prisons Association (ICPA) in October 2014, in Windhoek, Namibia.

Heads of prison services and other partners pledged to work together with DPKO to address the many challenges facing prison systems, particularly those in developing and post-conflict environments.

UNMIL Provides Critical Assistance in Response to the Ebola Virus

In response to the Ebola virus disease (EVD) crisis, the United Nations Mission in Liberia (UNMIL) has played a critical role to support national justice and corrections institutions. The UNMIL Corrections and Prison Advisory Service is successfully assisting the Liberian Bureau of Corrections and Rehabilitation (BCR) to prevent the risks of an EVD outbreak in Liberian prisons, which would have severe public health and security implications.

From the outset of the crisis, the UNMIL Corrections Section has been supporting the Government in the development of advisory notes, budgetary proposals, and an operational plan with guidelines on the prevention and management of EVD in prisons.

For example, in order to create space in the Monrovia Central Prison to enable the isolation of new prisoner admissions, the UNMIL Corrections Section assisted the BCR in developing a plan for the release and/or transfer of female prisoners from the prison.

Throughout the crisis, UNMIL seconded Corrections Officers

have maintained their presence in the prisons in order to provide



comprehensive support to their fellow national prison officers, who are implementing preventive management measures related to EVD. UNMIL also worked with the BCR to develop the EVD screening form for new prison admissions. In collaboration with the Ministry of Health and Social Welfare and the International Committee of the Red Cross, UNMIL continues to support the BCR in risk reduction planning, and special training on health and the use of Personal Protective Equipment.

Because the risks of an EVD outbreak in prisons are escalated by overcrowding and poor living and sanitary conditions, the Judiciary and the Ministry of Justice have reinforced their

commitment to decreasing the prison population and mitigating risks related to overcrowding. Liberian authorities have been successful, with support from UNMIL, in reducing the total prison population by 26% through a combination of initiatives, such as reducing pre-trial detention times and using alternatives to detention.

In addition, the Global Focal Point for Police, Justice and Corrections arrangement has been utilized to coordinate efforts to support the rule of law aspects of Ebola in Liberia. Necessary stocks of medical, sanitary and protective equipment have been procured and distributed through a jointly funded project covering police, justice and corrections institutions.



UNMIL support to Liberian Prisons.





Mr. Carl Alexandre, Deputy Special Representative of the Secretary-General (Political and Rule of Law) MINUSTAH (Right) with the Haitian Minister of Justice and Public Security, Mr. Jean Renel Sanon (Left).

Focusing Efforts on Key Jurisdictions in Haiti

Since its establishment in 2004, the justice components of the United Nations Stabilization Mission in Haiti (MINUSTAH) have played an important role in supporting the justice institutions in the country. As MINUSTAH foresees a progressive transition of its functions to national authorities and other partners, it has become increasingly important for the Mission to focus its efforts on key core objectives to be accomplished by December 2016 and thereby contribute to sustainable peace and security in Haiti.

On 1 July 2014, MINUSTAH started a new initiative in support of the main judicial institutions in the regions of Port-au-Prince, Cap-Haïtien and Les Cayes. As

noted by Mr. Carl Alexandre, Deputy Special Representative of the Secretary-General (Political and Rule of Law), “the basic idea is to have an immediate impact in improving the functioning of the Haitian judicial system in the largest population centres of the country”. Given the ongoing transition through the Consolidation Plan of the Mission, MINUSTAH is now focusing existing resources in a limited number of “model jurisdictions”, instead of across the country.

This new targeted initiative is aimed at achieving key tangible and measurable results in these regions, including on the issues of prolonged pre-trial detention and prison overpopulation. As part of this initiative, it is anticipated that

the percentage of the total prison population held in prolonged pre-trial detention in Port-au-Prince, Cap-Haïtien and Les Cayes will be substantially reduced from the current rate of 74.42% by June 2015. The criminal justice chain should also be improved through this approach by increasing the efficiency, effectiveness and collaboration of the Haitian National Police, the judiciary and the corrections service in these regions.

MINUSTAH has learned over the years that the implementation of any effective criminal justice policy requires the sharing of responsibilities between political decision-makers and justice personnel. Ensuring national ownership for new and existing initiatives is therefore essential and a collaborative framework for this purpose has been established at the highest level between MINUSTAH and the Haitian authorities.



Creating a “Peace Square” in Haiti.



THEMATIC FOCUS: Addressing Prolonged and Arbitrary Detention in Post-crisis Settings

Strengthening rule of law institutions in countries emerging from conflict, combatting impunity and reducing the prevalence of serious criminal conduct are essential to peace and security and among the most immediate and pressing challenges that every peacekeeping operation faces. Central to DPKO efforts to promote the rule of law and respect for human rights is the need to address prolonged and arbitrary detention, particularly cases where detentions have no legal basis or where persons have been detained for excessive periods beyond the time-limits stipulated by the law.

The recent mass prison breakout from La Croix des Bouquets Prison in Haiti in August 2014 in which 300 prisoners escaped, several mass breakouts in the Democratic Republic of Congo in 2014 (Bukavu Prison in June, Butembo Prison in October and Kikwit Prison in November) and the simultaneous hunger strikes in six prisons in Afghanistan in November, highlight the problems posed by prison overcrowding, poor conditions and prolonged and arbitrary detention and the threat these pose to peace and security. Most recently, on 24 November 2014, detainees at Bangui's Ngaragba Prison in the Central African Republic started a violent riot during which they seized weapons and shot and threw grenades at UN peacekeepers, injuring four. A representative of the prisoners submitted a list of four demands to the Government, three of which related to the need for better access to justice through the expedient treatment of their cases and improved conditions.

While there is increasing recognition of the importance of addressing these rule of law challenges, justice and corrections officers make up a small share of peacekeeping personnel and access to



programmatic funds, particularly relating to prisons, remains limited. Despite these constraints, DPKO justice and corrections personnel have been supporting national authorities to limit the use of pre-trial detention, while also working to ensure safe, secure and humane conditions in prisons.

Strengthening the efficiency of criminal justice systems, including on detention issues, calls for a coordinated, holistic and multi-faceted approach by UN missions. UNMISS, for example, had a specific mandate to advise and support the Government of

South Sudan "to end prolonged, arbitrary detention" and provided assistance on an array of procedural and substantive issues. This included the registration of undocumented detentions, the renewal of expired remand warrants, identifying detentions directed by customary courts and unauthorized institutions, the use of bail, other non-custodial measures, court liaison officers within prisons and mobile courts. UNMISS also supported inter-institutional coordination in the form of Remand Review Boards, including for juveniles, and the facilitation of visits of judges and prosecutors to prisons. This resulted in the national justice authorities redressing over 7,500 cases of prolonged and arbitrary detention since 2012. One less tangible, but still important impact of this work has been to increase the level of awareness and change the mind-set of judges, prosecutors and prison officials regarding prolonged and arbitrary detention.

In the Democratic Republic of Congo, MONUSCO has been providing both technical and logistical support to inspections by local justice authorities of detention facilities, as well as helping organize mobile court sessions within detention camps and prisons (in some cases in hearing rooms established through DPKO Quick Impact Projects).

In the first six months of 2014, MONUSCO facilitated over 350 joint inspections of places of detention with national authorities, identifying 679 cases of irregular detention. As a result of these interventions, 195 detainees were released. MONUSCO also provides advice to both justice officials and administrative staff on how to remedy the legal and organizational issues that prevent cases being dealt with in a timely fashion and organizes general training courses on court management.

In other missions, justice and corrections officers have played a key role in facilitating coordination amongst national authorities. For example, in Liberia the nationally-led Case Flow Management Committee, supported by UNMIL, has reviewed the appropriateness of pre-trial detention and made recommendations for action to the relevant justice authorities. In Haiti, the main instrument supported by MINUSTAH to reduce pre-trial detention is the “comité de suivi de la chaîne pénale”, bringing together local justice actors on a regular basis. Each committee is chaired by the Chief Justice and/or the Chief Prosecutor of the region with the participation of MINUSTAH who makes the committee aware of concrete cases to help resolve blockages and to seek the release of persons in prolonged detention. With varying degrees of success, these committees have proved to be efficient in strengthening collaboration among relevant national stakeholders and setting the ground for proper case management systems and the use of practical alternatives to pre-trial detention. In Les Cayes, with MINUSTAH support, 261 cases were reviewed from May 2013 to the end of January 2014, resulting in the release of 68 detainees. In Fort Liberté, the committee was able to reduce pre-trial detention to a rate of 27% by February 2014, the lowest rate of pre-trial detention in the country. The

pre-trial detention rate in Haiti, however, remains high, due partly to a general increase in arrests by the police.

Efficient and transparent record keeping throughout the criminal justice chain is a safeguard against the risk of abuse of pre-trial detention. Accordingly, in Liberia UNMIL supports the national training institution for the justice sector by delivering a comprehensive training programme for judicial personnel on a newly developed judicial record keeping system.

SOUTH SUDAN

“Our teams in the states have been performing a tremendous service by activating the release of illegally detained persons. Our teams are following up on cases to ensure proper treatment in accordance with the laws. Their interventions are leading to an enormous amount of physical releases of illegally detained persons.”

Judicial Affairs Officer, United Nations Mission in the Republic of South Sudan

Mobile courts and courts located within prisons have been recognized as an efficient measure to extend the reach of the formal justice system in post-crisis environments. In Liberia, prison-based courts hear bail applications and have succeeded in reducing the numbers of remand prisoners. Following UNMISS assistance to the judiciary to implement a mobile court initiative in 2013 in Juba Prison, 486 cases were heard over a span of three months thereby significantly reducing the number of pre-trial detainees in the most populated prison in the country. In the Democratic Republic of Congo, MONUSCO facilitated the building of a courtroom in Ndolo Prison, Kinshasa.

A major contributing factor to prolonged and arbitrary detention is the lack of legal representation. In Liberia, South Sudan, and Darfur, Sudan the missions together with UN partners have supported access to justice programmes. In Liberia, the Mission has assisted the deployment of public defenders in all 15 counties of the country, including neglected rural areas. UNMISS supported the South Sudan Law Society to develop a pro-bono case referral system and to establish legal aid clinics to offer free legal services in six states (out of 10).

Undertaking assessments with the full participation of national stakeholders is essential in order to accurately determine the rule of law needs and challenges in relation to detention issues. UNAMA's report, *Arbitrary Detention in Afghanistan: A Call for Action*, represents a good example of the important analytical role of missions. Divided into two volumes, the report was a collaborative effort between the human rights and rule of law components of the Mission and was completed with the support and cooperation of the justice and security institutions of Afghanistan. Volume One provides national-level policy makers and legislators with a detailed analysis and makes recommendations for a range of possible changes to laws, policy and procedures to combat arbitrary detention. Volume Two, targeted at practitioners and trainers, explores, in a practical manner, patterns of arbitrary detention, root causes, legal issues and possible solutions.

Addressing the various factors that result in prison overcrowding and prolonged and arbitrary detention not only requires sustained efforts and adequate financial and human resources but also the strong political engagement of Mission leadership. In Liberia, following the Ebola crisis, UNMIL has advocated strongly for preventative and mitigating measures to be taken to reduce the risk of transmission to the prison population. The Minister of Justice is now chairing a working group of relevant national and international justice actors to identify and implement solutions to reduce the prison population through an accelerated bail programme, probation and the withdrawal of cases where there is no reasonable prospect of a conviction. There has been a reported 26% decrease in the prison population as a result of this reinforced commitment of the Judiciary and the Ministry of Justice to decongest prisons. MONUSCO has advocated with the national authorities for the deployment of sufficient judges and staff to ensure the functioning of the courts, as the shortage of magistrates outside the capital city is one reason for the inability of the justice system to deal promptly with criminal cases.

The problem of prolonged and arbitrary detention highlights the need to ensure that DPKO efforts to strengthen the national police in post-conflict

settings are matched by equally robust efforts to strengthen justice and corrections. The failure to combat widespread arbitrary detention early on in a post-conflict setting can erode the population's confidence in its government and undermine endeavors to instill the rule of law, promote good governance and protect human rights. Increased international support is critical. In South Sudan, as a result of the new and more limited Security Council mandate, the programme of the UNMISS Justice Advisory Section working directly with the authorities to address prolonged and arbitrary detention has ceased. Many prisoners still live in inhuman conditions without the possibility of challenging the grounds for their detention. In other mission settings such work is continuing but needs increased focus, resources and political will. Best practices developed through the delivery of UN multi-faceted assistance are serving to lay the foundations for our future work in this area. We need to build on the impetus created from the activities undertaken to date and continue to strengthen our political, operational and substantive engagement on this issue.

For any enquiries, comments or feedback about this article please contact Charles Briefel, Senior Policy Officer, CLJAS, DPKO at: briefel@un.org

For more information see:

<http://www.un.org/en/peacekeeping/issues/ruleoflaw>

Please feel free to contact us at:

dpko-cljas@un.org

