

# **ELECTIONS and HUMAN RIGHTS**



## ***A Guide for the Sierra Leone Police***

- Core Values
- Code of Conduct
- Human Rights
- Essentials of Elections



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## **Preface**

**The Sierra Leone Police**, also referred to as the Force for Good, will need to rely on the collaboration of all Sierra Leoneans to succeed in protecting them and their property. In the course of their service, Police Officers must set a good example of respecting, protecting and promoting human rights. UNAMSIL will make every effort to provide the necessary support to this important process. The present manual and the subsequent materials and training courses for the Sierra Leone Police on human rights, elections and security matters are part of UNAMSIL's contribution to build a police force in Sierra Leone which is effective and respectful of human rights.

The Police play a crucial role in the establishment of government authority and the rule of law. A constitutional government is put in place after free and fair elections. It is the duty and role of the Police to ensure incident-free elections. This duty is not limited to the voting period but starts from the beginning of the electoral process, including the registration of voters to its end, when the final results are announced. It must be noted that successful elections do not depend on police action on the voting day alone, but on whether citizens have had the opportunity to exercise their right to register as voters, and have been given the opportunity to listen to all the political candidates in order to make informed choices.

In collaboration with the Electoral Commission, the Police must ensure that all those seeking offices have the right to campaign freely in all parts of the country, to propagate their message and to spell out their manifestos to the electorate.

The imperatives of peace, development and human rights demand that the will of the people remains supreme, and the will of the people is demonstrated through their ability to make free choices of those they wish to lead them. Citizens must be protected from threats and intimidation. This pivotal freedom is enshrined within the Sierra Leonean Constitution. The role of the Police is therefore clear; it is to ensure effective compliance with the legislative framework upon which transparent and free election can happen to the joy and benefit of all involved. It takes neutrality, integrity and commitment and I believe the Sierra Leone Police can demonstrate these qualities during the coming elections. I also hope that you will find this simple manual and other publications of the United Nations on human rights and on elections useful companions to the on-going capacity building of the Sierra Leone Police.

Ambassador Oluyemi Adeniji  
Special Representative of the Secretary-General  
Chief of the United Nations Mission in Sierra Leone  
January 2002

## Foreword

**This pamphlet** is the bold, new and pragmatic quest of the Sierra Leone Police (SLP) assisted by UNAMSIL CIVPOL, Civil Affairs and Human Rights components. Its aim is to provide the democratic core values and principles to members of the Sierra Leone Police to help it face the challenges of policing a free and fair democratic election.

It is bold in the sense that it sets out decisive guidelines and it is new because it sets a precedent with a pragmatic approach aimed at restoring public confidence in the ability of the SLP to police the Presidential and General elections using a firm but fair process. It cannot be over-emphasized that the method of policing the upcoming elections must be acceptable to the local and international communities at large.

The manual is set out in a number of parts. There is guidance on the relevant electoral law and a Code of Conduct is provided. Together they provide the moral obligations that will enable the SLP to be truly accountable to the community over the provision of the final results of the election. Public acceptance of Police neutrality can be asserted by its adherence to the Universal Declaration of Human Rights.

The principles contained in the manual rest upon the transformation process that the Sierra Leone Police embarked upon in 1998 when it sought to achieve a meaningful FORCE for GOOD.

Keith Biddle

Inspector General of the Sierra Leone Police

January 2002

# **I. SIERRA LEONE POLICE CORE VALUES AND OPERATIONAL PRINCIPLES**

## **Our Duty:**

We will provide a professional and effective service which:

- ☐ Protects Life and Property;
- ☐ Achieves a peaceful society;
- ☐ Takes primacy in the maintenance of Law and Order.

## **Our Values:**

We will respect Human Rights and the freedom of the individual and we will be accountable for any wrongdoings;

We will be honest, impartial, caring and free from corruption.

## **Our Priorities:**

We will respond to local needs;

We will value our own people;

We will involve all of us in developing our policing priorities.

## **Our Aim:**

To win public confidence by offering reliable, caring and accountable police services.

## II. CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

The Code of Conduct for Law Enforcement Officials which applies to Sierra Leone Police(SLP) is annexed to the United Nations' General Assembly Resolution 34/169 of 17 December 1979

### *Article 1*

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

### **Commentary:**

(a) The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

(c) Service to the community is intended to include the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.

(d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of



prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

## ***Article 2***

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

### **Commentary:**

(a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

(b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights<sup>1</sup>.

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<sup>1</sup> African Charter on Human and Peoples' Rights, African Charter on the Rights and Welfare of the Child and Constitution of Sierra Leone(1991)

### **Article 3**

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

#### **Commentary:**

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

(c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme

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measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

#### ***Article 4***

Matters of a confidential nature that are in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

#### **Commentary:**

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

#### ***Article 5***

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

## Commentary:

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly, according to which: "[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]."

(b) The Declaration defines torture as follows:

". . . torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."

(c) The term "cruel, inhuman or degrading treatment or punishment" has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.<sup>2</sup>

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<sup>2</sup> Later, the UN General Assembly stated that the term 'cruel, inhuman or degrading treatment or punishment should be interpreted so as to extend the widest possible

## ***Article 6***

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

### **Commentary:**

(a) "Medical attention", which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics should be secured when needed or requested.

(b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgment of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

(c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

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protection against abuses; whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time. See footnote to the Principle 6 of "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly resolution 43/173 of 9 December 1988.

## ***Article 7***

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

### **Commentary:**

(a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

(c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

## ***Article 8***

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where

necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

**Commentary:**

(a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.

(b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.

(c) The term "appropriate authorities or organs vested with reviewing or remedial power" refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.

(d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in

accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.

(e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.



### **III – THE ROLE OF THE SIERRA LEONE POLICE IN UPHOLDING HUMAN RIGHTS**

By Patrice Vahard

UNAMSIL, Human Rights Field Coordinator

#### **SECTION ONE: Human Rights And The Constitution Of Sierra Leone**

##### **Human rights**

Human Rights are commonly understood as those rights, which are inherent to all human beings. The concept of human rights acknowledges that every human being is entitled to enjoy his or her human rights without distinction as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Human rights laws legally guarantee these rights, protecting individuals and groups against actions, which interfere with fundamental freedoms and human dignity. However, the law does not establish human rights. Human rights are inherent to all human beings. Treaties and other sources of law generally serve to formally protect the rights of individuals and groups against action or abandonment of action by Governments, which interfere with the enjoyment of their human rights.

##### **Some characteristics of Human Rights**

The most important characteristics of human rights are as follows:

Human rights are founded on **respect for the dignity and worth** of each person.

Human rights are **universal**, meaning that they are applied equally and without discrimination to all people.

All human rights – civil, political, economic, social and cultural are **inalienable**, in that no one can have his or her human rights taken away other than in specific situations determined by law. Some human rights can also be limited, under certain exceptional circumstances such as during a state of emergency for example freedom of movement.

Human rights are **indivisible, inter-related and inter-dependant**, therefore, it is insufficient to respect some human rights and not others.

### **Violations of Human Rights**

Most human rights violations are committed by agents of the State. It is also true that other abuses are perpetrated by non-state actors such as rebel groups. Violations of human rights can take place at the work place, at home and in the street. In this document, attention is given to the role and responsibilities of police officers.

When a government fails to protect or respect the fundamental rights of its citizens as required by international law and/or its own constitution, it commits a human rights violation. For

example, if a suspect in police custody is tortured by an officer of the Sierra Leonean Police, the government is considered to be in violation of the internationally recognized right not to be tortured. *Governments violate rights mainly through their agents acting in their official capacities.* As a police officer in the Sierra Leonean Police Force, you are considered an official agent of the Government of Sierra Leone, and when your actions go against human rights commitments made by your government, you are committing a violation for which your government will be blamed and for which you will be held accountable before a court of law.

Why is it important for the Police to be familiar with human rights?

While some police officers violate human rights knowingly, there are a large number of police officers in Africa and around the world who simply do not know when they are violating people's rights except in the case of flagrant violation. Most of these officers undergo little or no training and graduate from Police-training-colleges with a mistaken notion of their role vis-à-vis their society. It is important to include a topic on human rights in the police refresher-trainings so that those officers who may have missed it can have a second opportunity to learn how to protect and respect human rights.

### **Some human rights challenges to the Police**

#### ☐ ***Right to life.***

Article 3 of the Universal Declaration of Human Rights (hereinafter referred to as UDHR) provides as follows: 'Everyone has the right to life, liberty and security of

person'. With the exception of the death penalty, the Sierra Leone Constitution affirms this principle under Section 16:

“No person shall be deprived of his life intentionally except in the execution of the sentence of a court in respect of a criminal offence under the laws of Sierra Leone, of which he has been convicted”.

***Interpretation and comment.*** Police officers around the world have on some occasions, been responsible for beating to death or summarily executing suspects in their custody. Such behavior should not be tolerated within the Sierra Leone Police. Any officer suspected to be responsible of this behavior should be brought to justice. No person, including a police officer, has the right to arbitrarily take away another person's life. Human life must be respected and safeguarded at all times. It is particularly important for police officers to understand that the protection of human life is their utmost duty and that they should not themselves be involved in arbitrary actions that may result in the violation of this fundamental right.

***Freedom from all forms of torture.***

Article 5 of the UDHR states as follows: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. This right is replicated almost identically by Section 20 of the Constitution of Sierra Leone which forbids torture in all its forms. This right is non-derogable. Under no circumstances is torture allowed!

***Interpretation and comment.*** During arrest and interrogation of suspects, police officers are to make sure that this right is respected at all times and that no person in their custody is

*treated in an undignified manner irrespective of the gravity of the offence which he is suspected of having committed. There have been numerous cases around the world of suspects being tortured or being subjected to serious indignities by police especially during incommunicado and pre-trial detention. This is illegal and governments are obliged to ensure that whoever is responsible for acts of torture faces disciplinary measures or a court of law for his/her actions. Torture can be both physical and psychological; you do not have to physically assault somebody for an act to qualify as torture. If, for example, you make a detainee under your care believe that you are going to kill his/her relative, you may be responsible for an act of torture even if you neither kill the relative nor physically harm the detainee. As a police officer you must desist from all actions -no matter how minor- that reduce or disregard the dignity or medical care of the suspect. Forced physical exercises, slapping, and intentional denial of food for prisoners are all prohibited. There is an international Convention against Torture<sup>3</sup>, which has the following description of torture:*

“The term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such

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<sup>3</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by Sierra Leone in April 2001

pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

*Note:* On some occasions, police officers torture suspects on orders from their superiors. This is not justification for torture. Article 5 of the United Nations Code of Conduct for Law Enforcement Officials states that 'no law enforcement officer shall invoke superior orders... as a justification of torture or other cruel, inhuman or degrading treatment or punishment'. The same principle is established in the Convention Against Torture.

*So as a police officer you are expected to treat suspects humanely and not to blindly obey orders that may result in the torture of people under your immediate care or supervision. It is unlawful for officers to order their subordinates to carry out acts of torture. Subordinates have the right to refuse such unlawful commands.*

#### ☐ ***Freedom from arbitrary arrest and detention:***

Both the Sierra Leonean Constitution and the Universal Declaration of Human Rights contain clear provisions protecting all people from arbitrary arrest and detention. The Constitution of Sierra Leone states, "no person shall be deprived of his personal liberty except as may be authorized by law" (Section 17). Any arrest or detention carried out arbitrarily -that is to say, contrary to existing law- is unlawful and amounts to a human rights violation. The Universal Declaration of Human Rights establishes

the same principle: 'No one shall be subjected to arbitrary arrest, detention or exile' (Article 9).

**Interpretation and comment.** *An arrest or detention is deemed arbitrary or illegal when it is not made in strict conformity with existing legislation and the goal pursued by the law. Under the Sierra Leonean Constitution, a police officer is authorized to arrest or detain a person "upon reasonable suspicion of his having committed or of being about to commit a criminal offence". An arrest under Sierra Leone law can also be justified where it is made "for the purpose of bringing a suspect before a court of law or tribunal, as the case may be, in execution of the order of the court". When you arrest a person on suspicion of his having committed an offence, it is your responsibility to ensure the person is promptly brought to a court of law or tribunal and charged with a recognizable offence within the period provided for by the Constitution. The Sierra Leonean Constitution says that where the offence for which you are planning to charge your suspect is an ordinary one, you can hold the suspect for a period not exceeding 72 hours; and where the suspected offence is a capital one, for example murder, you may hold the suspect for a period not exceeding 10 days. Holding a suspect beyond the period prescribed by the Constitution is illegal and amounts to a violation of the fundamental rights of the suspect. If at the end of the prescribed period you have not prepared charges against the suspect, you must release him/her or risk being in violation of human rights.*

□ **Freedom of expression and assembly:**

Section 25 of the Sierra Leonean Constitution states: "Except with his own consent, no person shall be hindered in his enjoyment of freedom of expression, and for the purpose of this section the said freedom includes the right to hold opinions and to receive and impart ideas and information without interference". The Constitution

further provides for other related freedoms such as freedom of assembly and association as well as the right to form or belong to political parties or trade unions of one's choice. This right is affirmed by Article 19 of the Universal Declaration which says: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

***Interpretation and comment.** In some countries, including in Africa, police officers have routinely been used by repressive governments to disperse peaceful meetings and demonstrations convened lawfully. This is wrong and amounts to a violation of human rights. As a police officer, you have the duty to protect anybody who is voicing an opinion publicly or privately whether or not you or your government agrees with the opinion in question. People are free to express themselves as they please, to associate with whomever they please, and to believe in and practice any religion or faith as long as they do not break any existing law.*

□ ***Right to privacy.***

This is another right that is universally acknowledged, both by Sierra Leone law and international law. Section 22 of the Sierra Leonean Constitution states: "Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others of his premises, or interference with his correspondence, telephone conversations and telegraphic and electronic communication". Article 12 of the Universal Declaration of Human Rights provides for the same right: "No one shall be subjected to arbitrary interference with his privacy,



family, home or correspondence, nor to attacks upon his honor and reputation; everyone has the right to the protection of the law against such interference or attacks”.

***Interpretation and comment:*** *In the course of their investigations, police officers sometimes have to carry out searches and this means going into private residences of the suspects or other people. This must be done with due regard to the privacy of the individuals concerned. Unless strictly necessary for the performance of his duty, a police officer must desist from entering or searching homes without warrants, and all searches must, to the extent possible, be done in the presence of a member of the household or the suspect himself.*

### ***Presumption of innocence:***

Article 11 of the Universal Declaration of Human Rights is clear on this issue: ‘Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial which has had all the guarantees necessary for his defense’. This right is also provided for both under the Constitution of Sierra Leone and under criminal law.

***Interpretation and comment:*** *It is essential that all police officers fully understand the concept of presumption of innocence and apply it strictly in the performance of their duty. Poor understanding and application of this concept has led to many human rights violations by police officers. In many police cells, suspects are routinely treated as criminals even before they have been charged with any offence before a court of law. As a police officer, you always need to remind yourself that the ultimate person who decides on the guilt or innocence of the suspect is a judge or magistrate after hearing prosecution evidence, witness testimony and the defense. You should*

*have no firm opinions about the suspect's guilt or innocence and you should afford him/her all the dignity due to him/her as a human being. If the person is found guilty, the court will declare so and will pronounce the punishment due to the person. As a police officer, your role is only to bring this person before a judge, charge him with an offence recognizable under the law of Sierra Leone, provide the evidence and leave the matter to the court, which possesses competent jurisdiction over such matters. Remember that your work is not to punish suspects whether or not you arrest them while committing what you consider a criminal offence. Do not be tempted to play the role of a judge, because there are judges who are professionally trained to do this work.*

□ ***Freedom of movement:***

Section 18 of the Sierra Leone Constitution states: "No person shall be deprived of his freedom of movement, and for the purpose of this section the said freedom means the right to move freely throughout Sierra Leone, the right to reside in any part of Sierra Leone, the right to enter and leave Sierra Leone, and immunity from expulsion from Sierra Leone". This right is bolstered by Article 13 of the Universal Declaration of Human Rights, which says that 'everyone has the right to freedom of movement and residence within the borders of each State'.

***Interpretation and comment:*** *Freedom of movement is universally recognized and police officers are particularly exhorted not to restrict this right in any way except where a suspect is in custody or where the restriction is in pursuance to a legal order made under a state of emergency. People have a right to move freely and police officers should facilitate, not hinder the movement of the public. It is*

*also important to mention that this right is extended to non-Sierra Leoneans within the country (i.e. refugees). As police officers in Sierra Leone, you should respect the right of refugees to seek political asylum in your country and you should not harass them simply for being present in Sierra Leonean territory.*

*This right can only be restricted under exceptional circumstances as earlier indicated.*

## SECTION TWO:

International Principles And Standards  
Applicable To Sierra Leone Police

*The following standards were adapted in consultation with the Sierra Leone Police training department from a pocket book on human rights for the Police published by the United Nations High Commissioner for Human Rights and the Center for Human Rights in 1996 under the title "International Human Rights Standards for Law Enforcement".*

### **General Principles**

All human beings are born free and equal in dignity and rights.

International human rights law is binding on all States and their agents, including law enforcement officials.

Law enforcement officials are expected to know, and to apply, international standards for human rights.

### **Policing in Democracies**

The will of the people is the basis of the authority of government.

In democracies, the will of the people is expressed in periodic and genuine elections, which are by universal and equal suffrage.

Everyone has the right to take part in the government

of his country, directly or through freely chosen representatives.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law. Limitations on the exercise of rights and freedoms shall be only those necessary to secure cognition and respect for the rights of others, and to meet the just requirements of morality, public order and the general welfare in a democratic society.

All police officers are part of, and have a duty to serve, the community.

### **Non-discrimination in Law Enforcement**

Law enforcement officials shall at all times fulfill the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts.

Law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

All persons are equal before the law, and are entitled, without discrimination, to equal protection by the law.

In protecting and serving the community, police shall not unlawfully discriminate on the basis of race, gender, religion, language, colour, political opinion, national origin, property, birth, or other status.

It shall not be considered unlawfully discriminatory for police to enforce certain special measures designed to address the special status and needs of women (including pregnant women, and new mothers), juveniles, the sick, the elderly and others requiring special treatment in accordance with international human rights standards.

The recruitment, hiring, assignment and promotion policies of police agencies shall be free from any form of unlawful discrimination.

### **Police Investigations**

The following principles should be fully taken into consideration and observed at every stage of police investigations, including the interviewing of witnesses, victims and suspects, personal searches, searches of vehicles and premises, and the interception of correspondences and communications:

Everyone has the right to security of the person.

Everyone has the right to a fair trial.

Everyone is to be presumed innocent until proved guilty in a fair trial.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.

No one shall be subjected to unlawful attacks on his honor or reputation.

No pressure, physical or mental, shall be exerted on suspects, witnesses or victims in attempting to obtain information.

Torture and other inhuman or degrading treatment is absolutely prohibited.

Victims and witnesses are to be treated with compassion and consideration.

Confidentiality and care in the handling of sensitive information are to be exercised at all times.

No one shall be compelled to confess or to testify against himself.

Investigatory activities shall be conducted only lawfully and with due cause.

Neither arbitrary nor unduly intrusive investigatory activities shall be permitted.

Investigations shall be competent, thorough, prompt and impartial.

Investigations shall serve to identify victims; recover evidence; discover witnesses; discover cause, manner, location and time of crime and identify and apprehend perpetrators.

Crime scenes shall be carefully processed and evidence carefully collected and preserved.

## Arrest

### *Definition*

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment defines "arrest" as :

*"..the act of apprehending a person for the alleged commission of an offense or by the action of an authority."*

To arrest someone is to deprive him or her of his/her liberty. In law enforcement, the usual purposes of arrest are :

- to prevent a person from committing, or continuing to commit, an unlawful act;
- to enable an investigation to be carried out in relation to an alleged unlawful act committed by the person arrested; or
- to present a person before a court for consideration of any charge against him or her.

Everyone has the rights to liberty and security of the person and to freedom of movement.

No one shall be subjected to arbitrary arrest or detention.

No one shall be deprived of his/her liberty except on such grounds and in accordance with such procedures as are established by law.

Anyone who is arrested shall be informed, at the time of the arrest, of the reasons for his/her arrest.



Anyone who is arrested shall be brought promptly before a judicial authority.

Anyone who is arrested shall have the right to appear before a judicial authority for the purpose of having the legality of his/her arrest or detention reviewed without delay, and shall be released if the detention is found to be unlawful.

Anyone who is arrested has the right to trial within a reasonable time, or to be released.

Detention pending trial shall be the exception rather than the rule.

A record of every arrest must be made and shall include: the reason for the arrest; the time of the arrest; the time of transfer to a place of custody; the time of appearance before a judicial authority; the identity of officers involved; precise information on the place of custody; and details of interrogation.

The arrest record shall be communicated to the detainee or his/her legal counsel.

The family of the arrested person shall be notified promptly of his/her arrest and place of detention.

Where necessary, an interpreter shall be provided during interrogation.

## **Detention**

### *Definition*

International human rights standards and most national legal systems make a distinction between “detainees” and “prisoners”. A detainee is a person who is deprived of personal liberty but has not been convicted of an offence. A prisoner is a person deprived of personal liberty as a result of having been convicted through lawful legal proceedings.

Pre-trial detention shall be the exception, rather than the rule.

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

No detainee shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment, or to any form of violence or threats.

Juveniles are to be separated from adults; women from men; and pre-trial detainees from convicted persons.

Decisions about the duration and legality of detention are to be made by a judicial or equivalent authority.

The detainee shall have the right to be informed of the reason for detention and any charges against him/her.

Detainees have the right to contact with the outside world, to visits from family members, and to communicate privately and in person with a legal representative.

Detainees shall be kept in humane conditions whereby facilities are designed to preserve health; and shall be provided with adequate food, water, shelter, clothing, medical services, and items of personal hygiene. In addition every detainee must be given the time and space to exercise.

The religious and moral beliefs of detainees shall be respected.

No one shall take advantage of the situation of a detained person to compel him to confess, or to otherwise incriminate himself or another person.

Measures for discipline and order shall be only those set out in law and regulations shall not exceed those necessary for safe custody, and shall not be inhumane.

### **The Use of Force**

Non-violent means are to be attempted first.

Force is to be used only for lawful enforcement purposes and only when strictly necessary.

No exceptions or excuses shall be allowed for unlawful use of force.

Use of force is to be always proportional to lawful objectives.

Restraint is to be exercised in the use of force.

Damage and injury are to be minimized.

A range of means for differentiated use of force is to be made available.

All police officers should be trained in the use of the various means for differentiated use of force.

All police officers should be trained in the use of non-violent means.

### **Civil Disorder**

All measures for the restoration of order are to respect human rights.

No exceptions shall be allowed with regard to the right to life; the right not to be subjected to torture; the prohibition of slavery; the prohibition of imprisonment for failure to fulfill a contractual obligation; the prohibition on *ex post facto* laws; the recognition of everyone as a person before the law; or the right to freedom of thought, conscience and religion.

Restoration of order should be achieved without discrimination.

Any limitations on rights shall be only those determined by law.

Any action taken, and any limitations on rights, shall be solely for the purpose of securing respect for the rights and freedoms of others, and for meeting the just requirements of morality, public order and the general welfare.

The independence of the judiciary shall be maintained.

All wounded and traumatized persons are to be immediately cared for.

### **Armed Conflict**

During armed conflicts and under occupations, police are to be considered non-combatants, unless formally incorporated into the armed forces.

Police have the right to abstain from fulfilling their functions under occupations, by reason of conscience, and this shall not result in an alteration of their status.

International humanitarian law applies in all situations of armed conflict; as stated in the article 3 common to the four Geneva Conventions of August 1949 which reads as follows :

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be

bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrage upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

The scope of the above-mentioned Common Article 3 is detailed in the 1977 Geneva Protocol II Additional to the Geneva Convention of 12 August 1949, Related to the protection of Victims of Non-International Armed Conflicts.

### **Protection of Juveniles**

The Convention on the Rights of the Child, which Sierra Leone has ratified, defines the child as *"every human being below the age of eighteen, unless under the law applicable to the child maturity is attained earlier"*.

Children are to benefit from all the human rights guarantees available to adults in criminal proceedings. In addition, at least the following rules shall be applied to children:

Children shall be treated in a manner which promotes their sense of dignity and worth; which facilitates their reintegration into society; which reflects the best interests

of the child; and which takes into account the needs of a person of that age.

Children shall not be subjected to torture; to cruel, inhuman or degrading treatment or punishment; to corporal punishment; or to life imprisonment without chance of release.

Detention or imprisonment of children shall be an extreme measure of last resort, and detention shall last for the shortest possible time.

Children shall be separated from adult detainees.

Detained children shall be allowed to receive visits and correspondence from family members.

A minimum age for criminal responsibility shall be established.

Non-judicial proceedings and alternatives to institutional care shall be provided for.

The child's privacy shall be respected, and complete and secure records are to be maintained and kept confidential.

The use of physical restraints and force on children is to be exceptional, employed only when all other control measures have been exhausted and have failed, and shall be employed for the shortest possible time.

Weapons shall not be carried in juvenile institutions.



Discipline shall respect the child's dignity, and shall instill in the child a sense of justice, self-respect and respect for human rights.

Officials dealing with juveniles shall be specially trained and personally suited for that purpose.

Periodic, as well as unannounced, visits of inspectors to juvenile facilities shall be provided for.

Parents are to be notified of any arrest, detention, transfer, sickness, injury or death.

### **The Human Rights of Women**

Women are entitled to the equal enjoyment and protection of all human rights in the political, economic, social, cultural and all other fields.

These rights include, *inter alia*, the rights to life; equality; liberty and security of the person; equal protection under the law; freedom from discrimination; the highest attainable standard of mental and physical health; just and favorable conditions of work; and freedom from torture and other cruel, inhuman or degrading treatment or punishment.

Violence against women is a crime and must be treated as such, including when it occurs within the family.

Violence against women can be physical, sexual or psychological, and includes battering, sexual abuse, dowry-

related violence, marital rape, harmful traditional practices, non-spousal rape and violence, sexual harassment, forced prostitution, trafficking in women, and exploitation-related violence.

Police shall exercise due diligence to prevent, investigate and make arrests for all acts of violence against women, whether perpetrated by public officials or private persons, in the home, the community, and in official institutions.

Police shall take rigorous official action to prevent the victimization of women, and shall ensure that re-victimization does not occur as a result of the omissions of police or gender-insensitive enforcement practices.

Arrested or detained women shall not suffer discrimination, and shall be protected from all forms of violence or exploitation.

Women detainees shall only be supervised and searched by female officers and staff.

Women shall be detained separately from male detainees.

Pregnant women and nursing mothers shall be provided with special facilities in detention.

Law enforcement agencies shall not discriminate against women in recruitment, hiring, training, assignment, promotion, salary or other career and administrative matters.

Law enforcement agencies shall recruit sufficient numbers of women to ensure fair community representation and the protection of the rights of female suspects, arrestees and detainees.

### **Police Command and Management**

Police officers should at all times fulfill the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Police officers should not commit any act of corruption. They shall rigorously oppose and combat all such acts. Law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Every law enforcement agency shall be representative of and responsive and accountable to the community as a whole.

The recruitment, hiring, assignment and promotion policies of police agencies shall be free from any form of unlawful discrimination.

Clear, complete and accurate records shall be maintained regarding investigations, arrests, detention, the use of force and firearms, victim assistance, and all matters of police activity.

Training and clear guidelines shall be made available on all matters of police activities affecting human rights.

Law enforcement agencies shall make available a range of means for the differentiated use of force, and shall train officers in their use.

Reporting to and review by superior officials must follow all incidents of the use of force or firearms.

Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take action.

Officials who refuse unlawful superior orders shall be given immunity.

Confidential information is to be handled securely.

All police officers shall be of appropriate mental and physical character.

All police are to be subject to continuous and effective reporting and review procedures.

Police officers shall develop strategies for law enforcement that are effective, lawful and respectful of human rights.

### **Community Policing**

Police officers should:

Seek to establish a partnership with law-abiding members of the community.

Adopt a policy and plan of action related to communities.

Recruit from all sectors of the community.

Train officers to deal with diversity.

Establish community outreach and public information programs.

Liaise regularly with all groups in the community.

Build contacts with the community through non-enforcement activities.

Assign officers to a permanent neighborhood beat.

Increase community participation in policing activities and community-based public safety programs.

Use a creative problem-solving approach to develop responses to specific community problems, including non-traditional tactics and strategies.

Effective mechanisms shall be established to ensure internal discipline and external control, as well as the effective supervision of law enforcement officials.

Provisions shall be made for the receipt and processing of complaints against law enforcement officials made by members of the public, and the existence of those provisions shall be publicized.

Law enforcement officials, who have reason to believe that a violation has occurred, or is about to occur, shall report the matter.

Investigations shall seek to identify victims, recover and preserve evidence, discover witnesses, discover cause, manner, location and time of the violation, and identify and apprehend perpetrators.

Crime scenes shall be carefully dealt with.

Superior officers shall be held responsible for abuses if they knew, or should have known, of their occurrence and did not take action.

Police are to receive immunity from prosecution or discipline for refusing unlawful superior orders.

Obedience to superior orders shall not be a defense for violations committed by police officers.

### **III. POLICE AND ELECTIONS IN SIERRA LEONE**

By Blair Mc Knight, Adama Diakhate  
UNAMSIL, Civilian Police Officers and  
Patrice Vahard, Human Rights Field Coordinator

#### **AN OVERVIEW OF ELECTORAL ISSUES**

### **THE SIERRA LEONE NATIONAL ELECTORAL COMMISSION (NEC)**

#### **1. Mandate of the NEC**

The current National Electoral Commission (NEC) was established in March 2000 pursuant to Section 32 of the 1991 Constitution of Sierra Leone. There has been a Commission responsible for elections since Sierra Leone achieved its independence in 1961. The NEC Mission Statement, as outlined in their Strategic Plan 2001-2005, dated February 2001 states<sup>1</sup>

The National Electoral Commission (NEC) is a public institution whose mission is to organise, conduct and supervise all public elections and referenda, register all eligible voters, demarcate constituency boundaries and make regulations for the efficient performance of its functions.

The NEC also seeks to impartially serve all stakeholders in the electoral process, and to undertake voter education programmes for the citizens of Sierra Leone as a means of promoting and sustaining democracy and good governance.

On the 22 of January 2002 the Parliament passed the National Electoral Commission Act, 2001 which extended the mandate of the current NEC.

## **2. Structure of the NEC<sup>2</sup>**

The NEC is comprised of five Commissioners, one of whom is the Chairperson. The incumbent Chair is the Chief Electoral Officer and Returning Officer for all national elections. He is a member of the Commission for registration of political parties. The Commission is supported by a Secretariat comprised of public servants and headed by an Executive Secretary that reports to the Commissioners and is administratively responsible for the effective operation of the Commission. Their Headquarters are in Freetown. Each province and the Western area is headed by an Electoral Commissioner and supported by a District Electoral Officer and other technical support staff.



## **SECTION ONE: ELECTION RESPONSIBILITIES FOR ALL POLICE OFFICERS**

### **1. International Standards for Police Officers in Time of Elections**

With respect to elections, it is the responsibility of all police officers to ensure:

- a. Freedom of association for those legally gathered or peacefully assembled;
- b. All voters who behave according to the law may move about freely;
- c. Maintenance of public order to enable free passage of the voters;
- d. All those eligible to vote can do so without fear and/or intimidation, and;
- e. Act in a manner which is consistent with the rights and freedoms guaranteed through the Universal Declaration of Human Rights, remembering that these take priority over all internal laws and regulations.

### **2. Responsibilities for All Police Officers**

Police have a duty and responsibility to assist the National Electoral Commission (NEC) and other Government authorities in conducting a free and fair national election in Sierra Leone. It is important to note that the responsibility and duty of Police Officers run throughout the entire electoral process starting from the registration to the announcement of the final results and the installation of

elected officials. To carry out such task, they must do everything possible to ensure the safety and security of:

1. Voters;
2. Electoral Materials;
3. Polling Staff;
4. Election Officials;
5. National and International Observers, and;
6. Polling premises.

During the course of the elections police must remain impartial and work to ensure that the independent functioning of the judiciary is maintained. Any limitations on individual civil rights shall be solely to secure respect for the rights and freedom of others and protect morality, public order and general welfare.

## **POLICE READINESS**

### **Potential Disruptions to Elections**

The local civilian police agencies are responsible for “providing a safe and secure environment for all persons.” There are many possible threats to public order and human rights during the campaign, election day and post election periods. Police Commanders must plan for, and ensure that their police officers are ready to respond to and act on any or all of the following:

#### **1. Before Election Day**

- a. Violent political campaigns and demonstrations;

- b. Road blocks to prevent free access to public meetings;
- c. Threats or actual deployment of explosive devices at campaign rallies, campaign offices, political figures, or public buildings;
- d. Attempts to physically disrupt political meetings;
- e. Attacks on political party offices;
- f. Attempts to assault, intimidate or injure party candidates or workers;
- g. Kidnapping or illegal detention of candidates
- h. Attacks on dwellings of political personalities or their supporters;
- i. Removal or destruction of campaign materials, posters, signs etc, and;
- j. The obstruction of peaceful and legitimate campaigning.

## 2. **On Election Day**

- a. Threat to the security of election materials, ballot box, ballot papers, voters list...
- b. Restrictions on free movement of voters;
- c. Intimidation, threats, or harassment of voters;
- d. Threats to election officials, observers, or monitors;
- e. Attacks/disturbances at polling places;
- f. Threats to peace and order outside polling places;
- g. Intimidation or harassment near polling places;
- h. Disobedience of election rules: disrespect of the election boundary, campaign, use of speakers and other public address systems near the polling box

### **3 During the Counting of the Ballots**

- a. Attacks on, or disruption at, counting centers;
- b. Threats to the security of election materials, ballot box, ballot papers, voters list...
- c. Intimidation, threats of harassment of election officials; and;
- d. Ensuring the safety and security of the premises where the counting is taking place
- e. Securing the transportation of the ballots;

### **4 After the Election**

- a. Disruptions at celebrations/gatherings;
- b. Acts/threats of reprisal or revenge;
- c. Attacks on victory parades or intimidation of the losing candidates;
- d. Threats to a safe environment during:
  - i. Announcement of results,
  - ii. Installation/transition period for winning candidates.

## **SECTION TWO:**

# **ELECTION RESPONSIBILITY FOR SENIOR POLICE OFFICERS**

## **Operational Planning for Senior Police Officers**

It is essential that police begin planning early for any forthcoming elections. They must examine the current environment within which they operate, take inventory of the resources available to them, and understand the responsibilities and requirements of police before, during and after elections. During the planning stage the following should be taken into consideration:

- a. ***Knowledge/Intelligence gathering***
  - i. Senior Police Officers must understand the basic rules, regulations and laws concerning elections;
  - ii. Ensure all officers understand the duties/responsibilities of police officers during elections;
  - iii. Gather and record information on the times/locations of campaign meetings, potential threats, or related investigations underway.
- b. ***Personnel***
  - i. Identify the numbers of personnel available for deployment;
  - ii. Determine the personnel requirements for each election phase.

c. ***Logistics***

- i. Identify all available equipment (numbers and conditions of vehicles, radios, weapons, etc);
- ii. Develop a list of the material resources available to be deployed in the event that large numbers of personnel need to be deployed to one specific police district.

d. ***Analysis***

- i. Evaluate the threats/risks in relation to planned/active disturbances, meetings, rallies, polling stations, voter routes, etc.;
- ii. Identify all the various Polling Stations' locations (prioritize those which are potential problem sites - include those stations that bound your own).
- iii. Identify a place for possible mass detention in the event of large scale riots; make plans for logistics.

e. ***Action***

- i. Based on your analysis, prepare a detailed action plan (5 W's) for police deployment during the election period.

***Nota Bene : All Senior Police Officers are required to review and discuss their operational orders and plans for deployment with their personnel during the period leading up to the elections.***

# **SPECIFIC CONCERNS RELATED TO POLLING STATIONS**

## **1. DEFINITION**

A Polling Station means a room or clearly defined and designated area where a voter, whose name is on the Final Voters' List, may vote. A polling place means a building where one or more Polling Stations are provided for the purpose of voting during an election.

## **2. SECURITY**

No weapons or arms are allowed in the Polling Station unless the Polling Staff requests the assistance of security personnel. Details of any disturbance will be reported to NEC officials.

## **3. THREAT**

If there is a threat to peace and order, an outbreak of violence, or the presence of weapons within or near a Polling Station, the Chairman of the Polling Staff shall:

- a. Ensure that the threat to peace and order, or an outbreak of violence, or the presence of weapons, is removed from the Polling Station immediately, and
- b. If the threat, outbreak of violence, or presence of weapons cannot be removed immediately, the Chairman of the Polling Staff shall suspend voting for as long as it takes to restore peace and order to the Polling Station. If

the Presiding Officer deems it necessary, he may call upon the assistance of the police or security forces outside the polling Station to restore peace and order within the Polling Station.

#### **4. SECRECY OF VOTING**

**No person shall:**

- a) Interfere with a voter, who is marking the ballots,
- b) Attempt to obtain any information regarding which political party, coalition or independent candidate for whom a voter has voted, is voting or about to vote, nor
- c) Prevent or attempt to prevent a person from exercising the right to vote.

#### **5. CAMPAIGN MATERIAL**

Political parties and candidates must remove all campaign material in or around the Polling Stations. No election campaign material or communication device can be displayed or broadcasted at a Polling Station, nor around any entrance to the Polling Station.



## General Guidance

- a. **Chain of command** - Develop an organizational chart which identifies each officer and the associated supervisors (i.e., to whom they report) for each area of responsibility;
- b. **Special Teams** - Classify and record the various special skills or abilities of police personnel.  
Deploy personnel so as to take advantage of their respective strengths, in consideration of the policing requirements. Identify any special units that you have formed or that are available for deployment. These may include CID, SSD, Traffic Control, as well as possible local security personnel at the polling stations, volunteer groups. Make provision for emergency services including fire and medical services
- c. **Inspection** - conduct a pre-deployment inspection to ensure consistency and proper functioning. This inspection includes items such as: uniforms, weapons, vehicles, special equipment for example video/binoculars/megaphones, ammunition, radio, diversionary devices, smoke grenades, tear gas - *as applicable*.
- d. **Police Public Relations** - dedicate a team or at least a police officer with the responsibility of handling media queries and cases of general complaint against the police. Such officers should be fully abreast of major developments affecting the Police in order to provide adequate answers to queries and requests at all times.

## Additional General Guidance

Information should be provided and special instructions should be developed and issued to subordinate personnel regarding the following:

Deputy Commander,  
Operations Officer,  
Team Supervisors,  
Base Radio Operators,

Support services with contact names/ numbers for medical/ambulance services, fire services and tow-trucks.

Alert these services prior to "E" DAY to ensure they have contingency plans to support activities.

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<sup>1</sup> Reference document: "National Electoral Commission Strategic Plan, 2001-2005", Freetown, Sierra Leone. February 2001. pp. 3-4.

<sup>2</sup> Reference document: "Election Observation Operational Plan" (draft) dated 04 July 2001. Mr. Hilary Miezah, Elections Coordinator, UNAMSIL, Freetown, Sierra Leone. pp. 1-3.

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