

Namati Case Study – AdvocAid, Sierra Leone



Briefly describe the situation of the project you wish to feature as your case study:

This case study looks at AdvocAid's life-changing work in relation to the death penalty. AdvocAid supports women in Sierra Leone that have been detained or imprisoned, providing them with free legal advice, representation, education and welfare support as well as post prison support.

Sierra Leone remains a patriarchal society, in which women are under-represented and disadvantaged. When it comes to the law, women in Sierra Leone are disadvantaged in both the traditional and formal governance systems. Imprisonment is closely related to poverty, both as the reason for women's offences and because women often cannot afford legal services or to pay fines or bail. Poverty in Sierra Leone is stark: 73% of the population live in multidimensional poverty with 52% of the population living on less than \$1.25 a day.

When AdvocAid was formed in 2006, the death penalty was still part of Sierra Leone's constitution and five women were sentenced on death row. AdvocAid has represented all five of these women, with four being rightfully released and the last still having her appeal heard. Scores of women have fallen afoul of the law because of poverty, illiteracy, or just misfortune, as this case study demonstrates.

Thanks to the campaigning of AdvocAid and its partners, the country is a de facto abolitionist one and the government confirmed to the United Nations in 2014 its commitment to abolish the death penalty through legislation (delayed due to the Ebola crisis).

Briefly describe the original problem:

On 26 May 2003, a lady referred to as 'MK' was arrested and detained in Sierra Leone, for the murder of her step-daughter. Between 2003 and the beginning of her trial in March 2005, MK received no legal advice or assistance. It

was only at the start of the trial that she was allocated a state-assigned defence lawyer, who was so busy, he had just three meetings with her of less than 15 minutes each. MK was illiterate, exhausted, terrified and all on her own. She suffered a miscarriage whilst in prison, and had no hope left in life. All for something she hadn't done.

MK's husband had accidentally sat on the six month old baby, suffocating it. Together, they tried to revive the baby, but to no avail. They were both arrested, and he told the police that she had poisoned the baby with battery fluid - they believed him. He told MK to confess and that the matter would be resolved in a "fambul way" (a traditional family way). MK thumb printed a confession (which she was not able to read) that was later used against her in trial. "I said that I was guilty because my husband told me to."

On 19 March 2005 MK's trial went before a judge – unable to understand English, she had no idea what was happening throughout the proceedings, spending the whole time in tears. The defence failed and MK was found guilty by a jury of murder. She was sentenced to death and transferred to a maximum security prison – placed in solitary confinement for three weeks, she was on suicide watch.



Unable to read, write or pay for a lawyer, MK had to rely on the state-provided Prison Welfare Officer to file for appeal which was not properly done or followed up on. When she was convicted, neither the judge, her defence counsel nor prison officials had informed her she had just 21 days to appeal. Furthermore, her file wasn't sent to the President's office for further review as mandated by law.

MK spent six years in a small, dirty cell in the notorious Pademba Road Prison – an unfit-for-use building with a capacity of 300, then housing no less than 1400 inmates.

Describe the process of addressing the problem:

Shortly after MK's sentencing, the civil society organisation AdvocAid was founded. AdvocAid met MK in Pademba Road prison in one of their literacy classes for women in prison in 2006. They took on her case and began the long process of trying to obtain her court file from the provinces which took several months due to poor filing procedures and the court system trying to rebuild after the decade long civil war.

AdvocAid hired a lawyer who filed an appeal before the Court of Appeal in October 2008, but her case was rejected due to being out of time. MK was devastated when she heard this news and almost fainted in court. After years of trying to push forward this case, AdvocAid were severely disappointed and frustrated.

AdvocAid did not give up and continued to strategize. They drafted

a policy paper (21 Days: Enough Time to Save Your Neck?) and began lobbying various sectors of the justice sector for reform. They reached out to senior Sierra Leonean lawyers, lawyers in the UK and the specialist UK NGO, Death Penalty Project, for support.

They also began a campaign with civil society organisation's in Sierra Leone to have the women on death row pardoned and intensified their lobbying against the death penalty. They wrote press releases detailing the stories of women on death row, conducted numerous radio and TV programmes and reached out to the women's movement to back their cause. They realised they needed to make the issue of the death penalty a personal one. People started to connect to the unjust stories of these women and to contact AdvocAid asking how they could support.

During this period of time, AdvocAid was also rethinking its approach to providing legal services. They began utilising the paralegal model, seeing that paralegals could provide more time and therefore support to clients, as well as follow up with courts. They also began a Duty Counsel system where lawyers were hired on a part time basis to work solely for AdvocAid which strengthened their ability to provide dedicated legal services and allowed more monitoring and accountability.

AdvocAid's legal officer, Simitie Laval, worked tirelessly to pursue justice for MK. In November 2010, AdvocAid succeeded in ensuring

MK's matter was put back on the court listings and the Court of Appeal agreed to hear the case. This was in main due to the important human rights issues it raised.



Describe any major obstacles to resolving this problem, and how you attempted to overcome them:

Challenges confronting AdvocAid and MK were mainly to do with Sierra Leone's archaic and under-resourced legal system.

A system in which case files regularly go missing, appeals are not lodged, wrongful convictions go without redress and the vast majority of detainees go without representation, meaning needless months and years are spent on remand.

Working just a number of years after the Sierra Leone civil war, the country was still finding its feet. War crimes tribunals commenced in 2005 when the country had only just had its first local elections in more than three decades (2004).

What changed as a result of your organization's actions regarding this problem?

Numerous holes were found in the case, and were cited as grounds for the

case to be reconsidered; these included MK's husband, the primary witness, having never been cross-examined.

On Thursday 3rd March 2011, MK's case was heard by the Court of Appeal.

With dedicated legal support on her side, the case against MK was quickly unravelling. The Court agreed to allow the extension of time to hear the case on human rights grounds, despite the restrictive provisions in the Courts Act 1965. This was a rare act of judicial activism in Sierra Leone, creating a positive precedent now for many other appeal cases.

The court agreed with the AdvocAid counsels' representing MK, that various procedural irregularities highlighted in the trial were fundamental and therefore rendered the trial a nullity. The judge overturned the earlier ruling, and the prosecution dropped its case against her.

On that day, MK was released from death row, six years after her sentencing and eight years after her imprisonment. She was the longest serving woman on death row in Sierra Leone.

As well as providing legal aid and representation, AdvocAid believes fundamentally in providing holistic support to clients. Since its inception, AdvocAid has established literacy and numeracy classes in prisons – this aims to ensure that women will be better equipped and have brighter prospects upon release. As well as this, AdvocAid offers welfare support to women – the small offering of sanitary items in prison, clean clothes upon release or the money to pay for public transport home can make a huge difference to a woman's mental and emotional

wellbeing. Most times, the woman will have been neglected by her family and relatives and, upon going home, will find that their items have been looted and they have been rejected by the community.

Release was hugely daunting for MK – she was afraid of returning home to her husband and was tragically estranged from her son who had been just eighteen months old when MK was imprisoned. With AdvocAid's support however, she had some aspirations. MK had been a student in AdvocAid's classes whilst on death row and achieved basic literacy and numeracy skills. Upon release, she aspired to start a small business in order to provide herself and her family with an income.

AdvocAid has continued to work closely with MK, providing her with vital post-prison support. Today, in 2015, we are still in touch with her and supporting her dreams. AdvocAid has enabled MK to attend a vocational training centre to receive the skills and training required to set up her own business, through funding the fees and transportation costs. Whilst these classes are on hold due to the Ebola outbreak, she will recommence them shortly. AdvocAid also provided her with a community and confidence to rebuild her life. MK is a regular member of our GoBifo (Moving Forward) Ex Prisoner Support Group and provides support to other women. We have also enabled MK to tell her story several times on local and international media and to become an advocate for other incarcerated women.

MK's case is tragically not a one-off. AdvocAid has worked with four other women on death row to provide them with the legal representation they deserve. We have succeeded in securing

release for all four of them.

As well as this, AdvocAid has campaigned tirelessly with partners to amend Sierra Leone's position on the death penalty. In 2011, the Government commuted the death sentences of all prisoners to life imprisonment. Whilst it is yet to be abolished outright, Sierra Leone is now a de facto abolitionist country and the government has committed publically to its abolition.

This is a huge achievement in a country with such a weak legal system – we cannot allow people to be sentenced to death within a system that is inefficient, discriminatory, under-resourced and on too many occasions, wrong.



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