

Innovative Efforts, Proven Results:

How **Timap for Justice** Provides Legal Aid in Sierra Leone



OPEN SOCIETY
JUSTICE INITIATIVE

Introduction

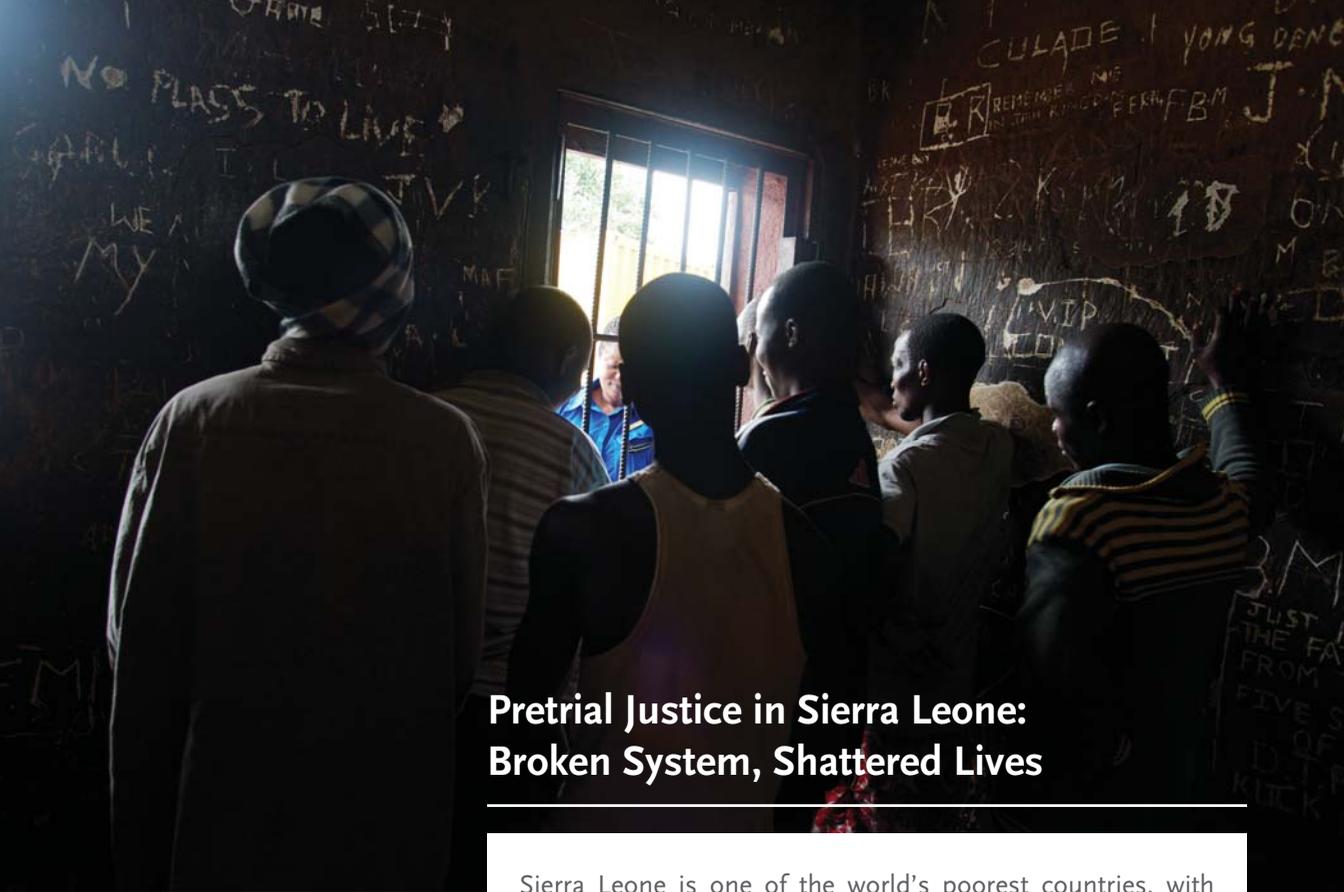
In Sierra Leone, over half the people in jail have not been convicted of any crime. They should be considered innocent until proven guilty, but instead sit behind bars awaiting trial. Many languish in jail for months or even years, held on trumped-up charges that should be dismissed, unaware of their rights, unaware that they may be eligible for bail, and often unable to understand the language spoken in the courts.

In pretrial detention, they are exposed to violence and disease. Some will lose their jobs, and family ties often break down under the economic and emotional strains.

In 2009, Timap for Justice began an innovative project to provide frontline legal assistance to pretrial detainees, using local community members who have received basic legal training as paralegals. The project grew out of Timap's previous efforts using community-based paralegals to help people resolve noncriminal matters such as land disputes and child custody agreements. At police stations, prisons, and magistrates' courts, Timap's low-cost paralegals offer basic information and assistance to suspects immediately after their arrest and through the early stages of the criminal justice system. By working in police stations and intervening on behalf of detainees for police bail, surety release, or the dismissal of charges, the project focuses first on preventing innocent people from entering the criminal justice system, and thus limiting excessive detention. Timap's early intervention both spares innocent people from jail and saves resources by not engaging prosecutors and judges in bogus cases. The project also intervenes at later stages of the process—prisons and courts—by seeking court bail and release pending trial for people who would otherwise be held in pretrial detention.

The Timap Criminal Justice Pilot is based on the hypothesis that early intervention in police stations, coupled with assistance in prisons and at courts, can minimise the mistakes and inefficiencies that lead to excessive and arbitrary arrest and prolonged pretrial detention. It upholds the rights of detainees and provides crucial support to police, prison, and court officials. In the pilot sites, it has been successful in increasing the rate of detainees released on bail by the police, significantly reducing the percentage of people held awaiting trial and ensuring that court processes run more smoothly (for example, by ensuring that witnesses are present when needed), while minimizing the amount and cost of representation that is required. This structure is an effective and cost-efficient way of providing crucial legal aid to people across Sierra Leone, especially in rural areas.

The results have been impressive: Timap's paralegals have succeeded in getting inappropriate charges dropped in 28 percent of cases, and have secured bail for an additional 55 percent of suspects. As a result of Timap's intervention, more people had charges dropped or were released on bail, and, therefore, fewer were left to waste weeks, or even months, in unnecessary pretrial detention.



Pretrial Justice in Sierra Leone: Broken System, Shattered Lives

Sierra Leone is one of the world's poorest countries, with two-thirds of the population living on less than \$2 a day. The country's legal profession is severely undersized, with fewer than 400 practicing lawyers serving a population of 5.7 million. Most of the lawyers live in Freetown, the capital, so for the vast majority of people legal services are unaffordable and inaccessible. Most pretrial detainees have no access to legal advice or assistance at any stage of their contact with the justice system.

“Those who do not have money, whenever they see a lawyer they become scared. Because they are afraid, they are marginalized; they have been left out. Most of the people we work with, they need empowerment.”

Timap paralegal working in Bo

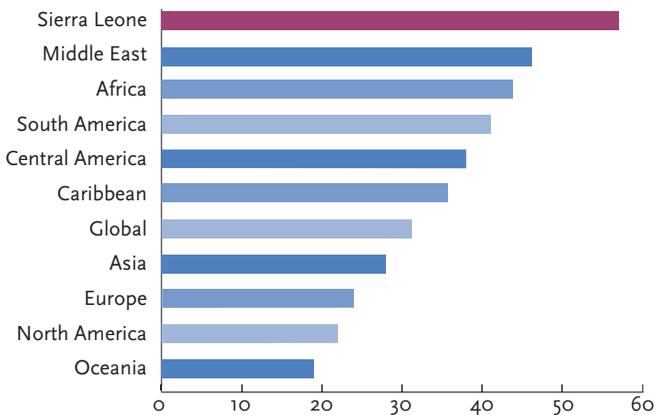
Sierra Leone's prison population has nearly doubled since 2004, reaching 3,281 in 2013, with over half of those detainees awaiting trial. While the country's overall prison population is not large, the imprisonment rate (or number of prisoners per 100,000 of the general population) is higher than the global average, and the percentage of all detainees who are awaiting trial is extremely high by international standards. Sierra Leone's law states that a person can be held in pretrial detention for either three days or 10 days depending on the suspected offence. But by some calculations the average duration of pretrial detention is 20 days, and some detainees have been held for years.



Detainees in Sierra Leone

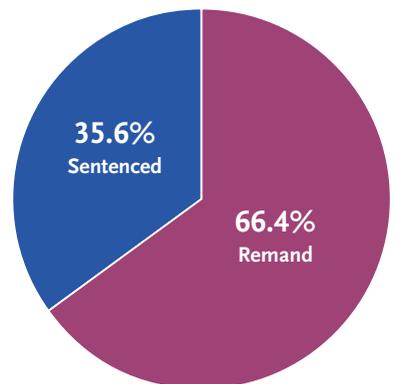
Government data provided to the International Centre for Prison Studies show 57% of the prison population is awaiting trial, while a study by the Centre for the Study of African Economies found that 66.4% of all prisoners were awaiting trial.

Pretrial detainees as a proportion of the total prison population



Source: The International Center for Prison Studies, www.prisonstudies.org. Data from March 2014.

Status of Inmates' Cases



Source: CSAE Inmate Survey, August 2009

Who Is in Pretrial Detention in Sierra Leone?

Pretrial detention—both in Sierra Leone and globally—primarily affects the poor. Most pretrial detainees are married men and the primary income-earners in their households. On average, each detainee at the time of arrest was financially supporting four people, including young children. Many support large extended families with multiple generations of dependents. In this way, the pretrial detainee population in Sierra Leone is similar to that across sub-Saharan Africa.

A survey of the cases handled by Timap paralegals shows that most pretrial detainees are accused of minor or non-violent crimes. Larceny (or petty theft) is by far the most common charge, while others include minor offences such as loitering. The vast majority of pretrial detainees are not accused of violent crime and would appear to pose little or no danger to society or the integrity of their case if they were released pending trial.

Lack of Access to Legal Assistance and Information

Those arrested in Sierra Leone face two major problems: the lack of legal representation (especially acute in rural areas where there are virtually no lawyers), and lack of information about the criminal justice process. One study found that over 60 percent of detainees were not advised of their rights—including their right to legal representation—at the time of their arrest. As a consequence of these two factors, the vast majority received no legal assistance—and those who did were dependent on their families to pay for it. Timap's paralegals address both the lack of representation and the lack of information by advocating for individual clients and educating groups of detainees about their rights.

No Bail

Bail is granted relatively rarely in Sierra Leone. Pretrial detainees have the right to request bail or a surety, but most are unaware of this. Others may be aware of the right, but are stymied by officials who demand bribes to process bail applications. Those not granted bail are detained in prison to wait for their trial. There is no law protecting pretrial detainees from being held for months while their case is delayed or adjourned numerous times. In addition, unreasonably high bail bonds—at times equivalent to 25 times the average weekly earnings of detainees—mean that even those detainees who are granted bail often cannot afford it.

Moreover, the situation is complicated by a two-tiered system in which both the police and the court can issue bail. When suspects who were released on police bail appear at court, the police bail is automatically revoked, but court bail is not automatically granted. This becomes a problem when a court does not sit or does not get to the cases of such detainees in the course of a day. In such instances, these detainees are sent directly to prison (where pretrial detainees are housed with convicted prison-

“The police are now referring cases to paralegals because they know the worth of what we do. And also the court refers cases that have been in court for a very long time to us. So our relationship with them is very good.”

Timap paralegal, Makeni Prison



ers) to wait upon their next court hearing, which might be months away. It has been one of the program’s priorities to ensure that court bail is granted to those detainees who were free on police bail prior to their court hearing. Furthermore, Timap has been advocating for overall termination of such bail practice.

Courtroom Complications

Constant adjournments can dramatically delay the start of a trial and affect how long it lasts. Other inefficiencies can delay hearings, including a shortage of guards for transporting prisoners and a lack of petrol for vehicles.

English is the official language of the court system in Sierra Leone. But most people do not speak English, and even fewer can read it. One survey found that only 10 percent of detainees could speak English, putting them at an obvious disadvantage when trying to follow court proceedings or read official statements. Three-quarters of detainees said they had made a statement in their local language, but only 40 percent ever read what was written down for them, and only two percent wrote it themselves. Translators are generally not available to detainees.

How Paralegals Help

Timap recruits paralegals trained in basic criminal law and criminal procedure and provides them with the necessary skills to work with pretrial detainees, community members, and justice sector officials.

Timap paralegals go to police stations and prisons every day to provide basic information and assistance to suspects immediately after their arrest and through the early stages of the criminal justice process. The paralegals are supervised by lawyers who take up cases where there is a need for further assistance.

An external evaluation of the Timap project found that, in comparison to control sites where paralegals did not work, Timap's paralegals reduced the number of new arrivals in prisons and increased the share of detainees receiving bail. In addition, the share of detainees being held without trial or conviction was reduced by 20 percent.

Initially, Timap's project on pretrial detention employed seven paralegals and one lawyer; that number increased to 13 as further opportunities arose. The paralegals now work in four districts—Bo, Tonkolili, Kenema, and Bombali—representing roughly 35 percent of Sierra Leone's population and incorporating five prisons, seven police stations, four magistrates' courts, and two high courts.

Strategic Early Intervention

The project's primary focus is on police stations. By intervening early in the criminal justice process, the paralegals help resolve problems as they emerge—problems that might become magnified if left unaddressed. If a suspect is unaware of the right to request bail at a police station, he or she may endure a lengthy period in pretrial detention, which can have tragic consequences for the detainee, as well as for his or her family and community. The presence of paralegals also provides an external check on the system and helps minimise the risks of arbitrary detention, bribe taking, and ill-treatment.

The paralegals also work with prison officials, court registrars, prosecutors, and other criminal justice actors to help push stalled cases through the system.

Community Outreach

Paralegals hold ad hoc community meetings as well as regular monthly “community dialogues” where they invite justice sector officials to discuss with citizens key topics such as bail, the role of sureties (that is, people who will vouch for the suspect and ensure he appears in court), and detention time limits. The meetings provide an opportunity to address community concerns, demystify the roles of justice sector officials, and build community trust.

Timap’s community dialogue meetings and advocacy efforts in local communities have led to an increase in local knowledge of the criminal justice process. The direct result of this is an improved understanding of rights in general, and an appreciation of bail and the importance of court attendance in particular. Through Timap’s education efforts, there are now more people willing to serve as sureties, and a 0% rate of jumping bail.

Case Management

Client records are tracked using client numbers to ensure confidentiality and stored both in individual ledgers and a central database.

Daily Tasks

	<p>Arrested and Transferred to the Police Station</p> 	<p>At the Police Station</p> <ul style="list-style-type: none"> • Meet with suspects and review their cases • Check that the suspect knows and has been informed of his/her rights • Explain the criminal justice process
<p>Diversion</p> <ul style="list-style-type: none"> • Discuss with police cases that could be diverted away from the criminal justice system 	<p>Charged and Brought to Court within 72 Hours</p> 	<ul style="list-style-type: none"> • Provide basic advice • Help suspects to apply for police bail • Locate family members • Help trace potential sureties • Help suspects apply for bail
<p>In the Community</p> <ul style="list-style-type: none"> • Liaise with family and community members and potential witnesses • Monitor hearing dates • Provide basic legal advice • Refer complex cases to a lawyer 	<p>Pretrial Release Pretrial Detention</p> 	<p>At the Remand Prison</p> <ul style="list-style-type: none"> • Monitor hearing dates • Provide basic legal advice • Refer complex cases to a lawyer • Liaise with family and community members and potential witnesses
	<p>Trial</p> 	<p>At the Court</p> <ul style="list-style-type: none"> • Advise and prepare suspects for their hearings • Observe the trial • Note legal points and date of next hearing

The Results

At Police Stations

- Assisted **70%** of people held at police stations
- Secured police bail for **50%** of suspects
- Demonstrated that charges should have been dropped in **28%** of cases
- Secured court bail for **55%** of suspects

Thirteen paralegals were able to reach a significant proportion of those facing pretrial detention by systematically going to the police stations on a daily basis. The statistics show how a small group of well-trained individuals can have a significant impact.

This small group of paralegals is successful in securing release—either without charge or on bail—for approximately 80 percent of the people they assist at police stations. These people were then able to return to their families and communities and report for court, without being exposed to the negative effects of lengthy pretrial detention.

The Centre for the Study of African Economies (CSAE) at Oxford University conducted an evaluation—funded through research grants from the International Growth Centre/DFID and the Open Society Foundations—of the impact of the Timap’s pilot project. A few key findings of the evaluation are listed below:

In Prisons

20%

The decrease in pretrial detainees as a percentage of the overall prison population in sites where Timap paralegals work.

In Courts

55%

The percentage of suspects granted court bail when Timap paralegals intervened.

vs.

29%

The percentage of suspects granted bail in areas where Timap does not work.

Results at police stations located within the pilot sites

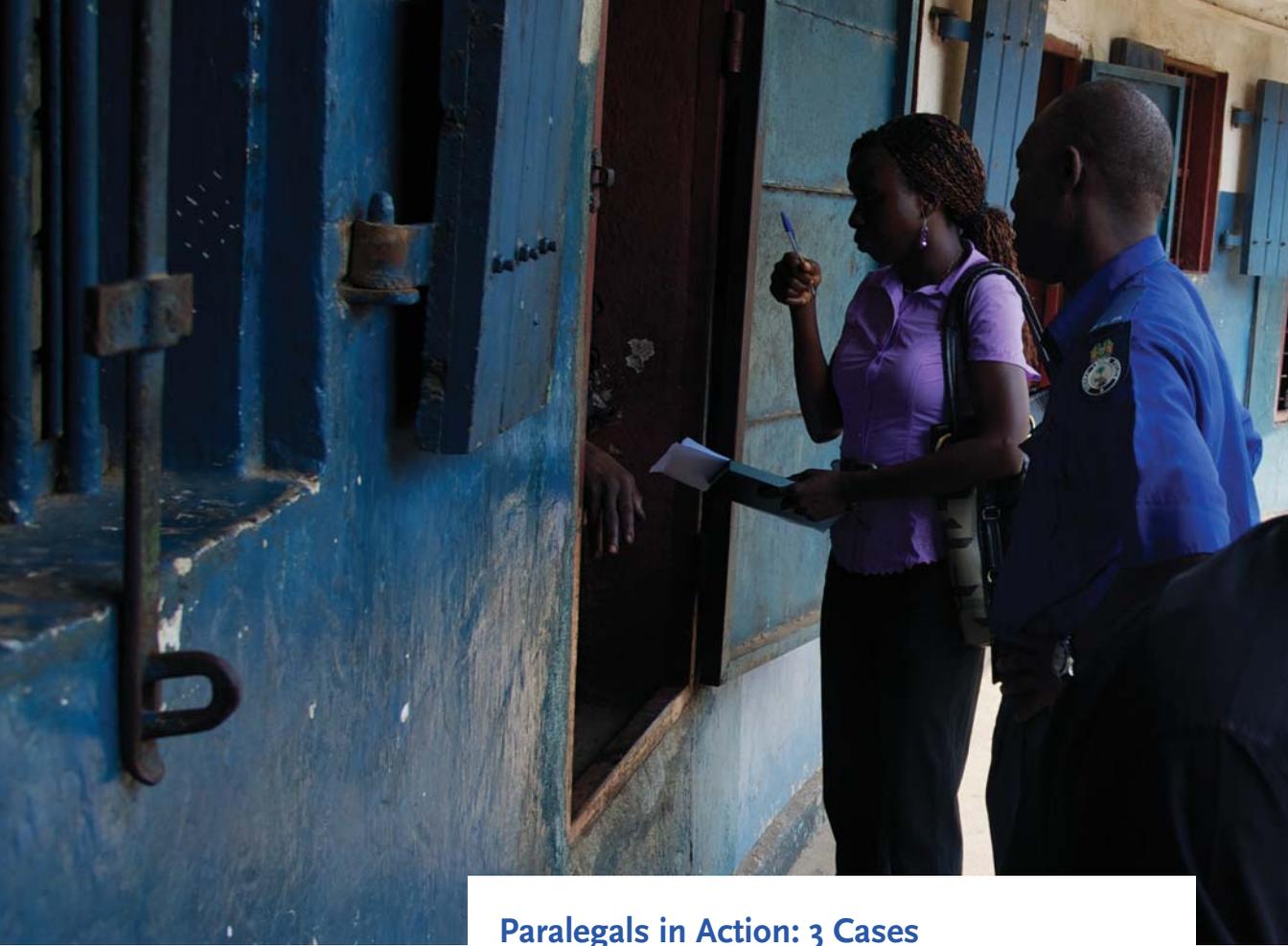
	Suspects Provided with Assistance	Secured Police Bail	Charges Dropped at the Police Station
2011	5,659	53%	26%
2012*	7,657	52%	54%

* from April 2012 TIMAP worked in 4 sites (new-Kenema)

Bail rates in magistrates’ courts

Sites	Bail Given	Bail Denied	Total	% Bail Given
Timap Project Sites	977	797	1,774	55%
Control	392	973	1,365	29%

Source: CSAE Court Surveys, 2009–2010



Paralegals in Action: 3 Cases

After a murder, local police arrested 48 people near the scene of the crime, including children and pregnant women, and charged them with loitering. Only after the intervention of a paralegal were they released.

A 40-year old man was granted bail, but still spent two years in prison awaiting trial because he could not contact his family, who lived near the border with Liberia, to get them to stand surety for him. Timap paralegals secured the man's release.

During national elections, a young man who could not read was arrested and charged with attempting to vote twice. He was held at a local police station in Bo, where he told a paralegal that he had accidentally been given the wrong person's voting slip due to a mix up. After the paralegal investigated, charges were dropped and the young man released.

Although young men comprise the majority of Timap's clients, women and children also benefit greatly from Timap's work. Detention not only deprives the detainee's dependents of a breadwinner, it imposes financial burdens on the dependents, with new spending needed on food, blankets, and medication for the detainee, plus travel to visit him, and sometimes bribes. A 2011 survey of pretrial detainees in Sierra Leone found that, on average, the total expenses incurred by a family during the detention of a family member is equivalent to about 8 months of the median earnings of detainees.

Shaping the Future

In May 2012, Sierra Leone became the first country in Africa to formally recognize paralegals as primary justice service providers: a new legal aid law recognizes the important role that paralegals can play in the criminal justice system. During debate on the new law, Frank Kargbo, Sierra Leone's minister of justice and attorney-general, highlighted how Timap's work in police stations contributed to reducing unnecessary pretrial detention, among other benefits. Sierra Leone's Justice Sector Reform Strategy and Investment Plan II (2011-2014) also called for expanding paralegal services nationwide. The Timap criminal justice pilot project, with offices in four of the country's 12 districts, provides a model that can be expanded to deliver further support for criminal justice services across the country.

Timap's work in police stations has shown how paralegals can keep people out of an overburdened criminal justice system by resolving issues before they go to trial.

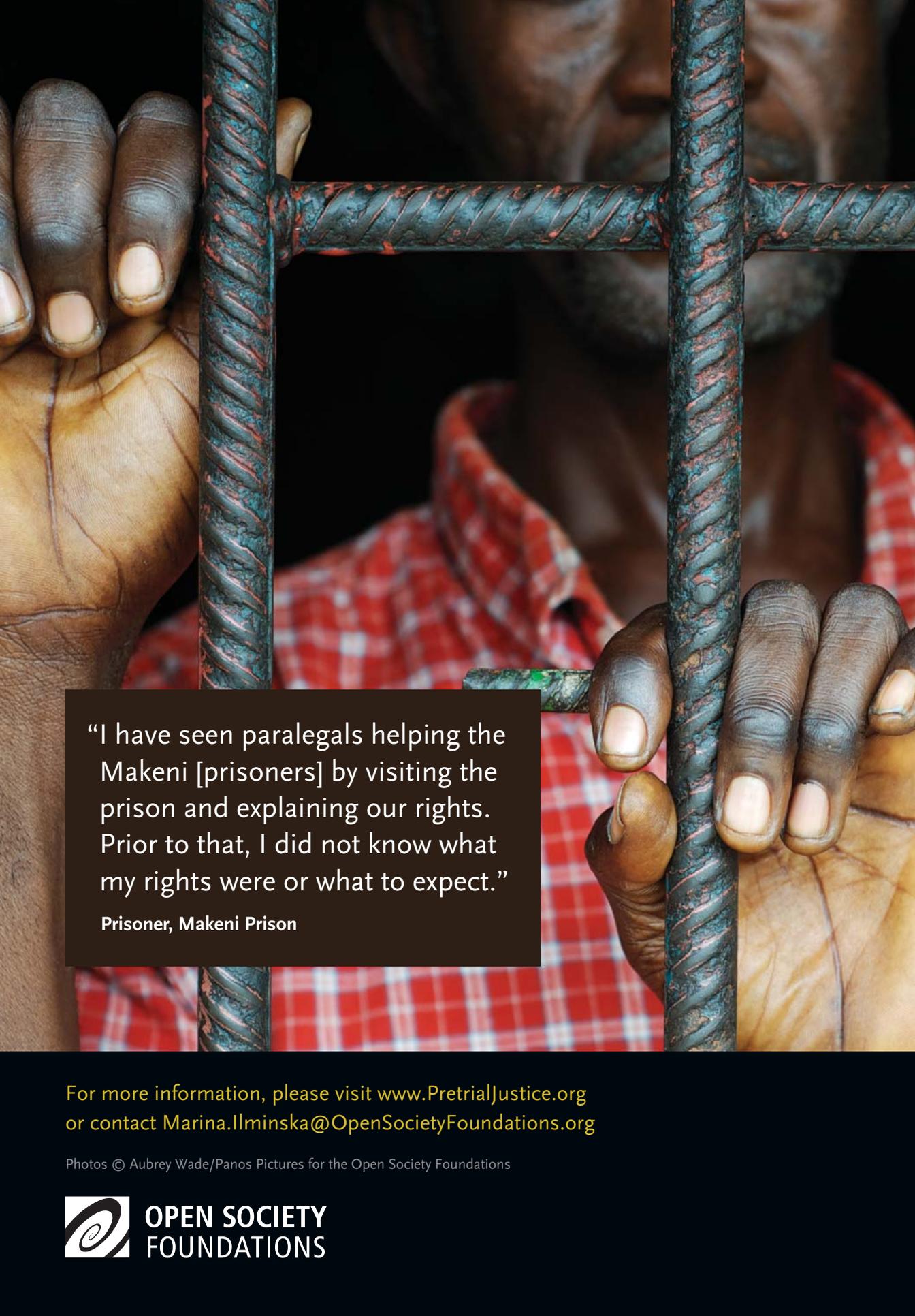
At a comparatively low cost, a small group of paralegals and lawyers has produced measurable improvements in suspects' ability to win access to bail and knowledge of their rights, which in turn reduces pretrial detention.

Everyone gains as a result. Fewer pretrial detainees mean the police and the courts save time and money, while suspects can remain with their families until they appear before a court. In the meantime, they remain free from the violence, corruption, and health risks associated with pretrial detention, and are better able to support their families and contribute to the economy.

“Government officials should consider us as partners in development.”

Timap paralegal

The findings in this document are based on Timap's data collection, an external evaluation conducted by the Centre for the Study of African Economies (CSAE) at Oxford University and a study on the socioeconomic implications of pretrial detention conducted by Prison Watch Sierra Leone and Timap for Justice in collaboration with the United Nations Development Programme and the Open Society Justice Initiative.



“I have seen paralegals helping the Makeni [prisoners] by visiting the prison and explaining our rights. Prior to that, I did not know what my rights were or what to expect.”

Prisoner, Makeni Prison

For more information, please visit www.PretrialJustice.org
or contact Marina.Ilminka@OpenSocietyFoundations.org

Photos © Aubrey Wade/Panos Pictures for the Open Society Foundations



**OPEN SOCIETY
FOUNDATIONS**