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“Human Rights for Women in Liberia (and West Africa): Integrating Formal and  
Informal Rule of Law Reforms through TCC’s Community Legal Advisor Project”

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**Human Rights for Women in Liberia (and West Africa):  
Integrating Formal and Informal Rule of Law Reforms through TCC’s  
Community Legal Advisor Project<sup>1</sup>**

An Essay

by

Paul J. Zwier

**I. Introduction.**

Ariana is 8 years old. She was brought into the police hut just before the delegation from Emory University arrived (2007) as part of its evaluation of GBV program being conducted by The Carter Center (TCC) in the part of Liberia called the Hinterlands. She emerges from the police chief’s room, just as the delegation has come out from its meeting with the policeman in charge of prosecuting sexual assaults. Ariana looks scared. She has trouble walking.

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<sup>1</sup> This article is motivated, in substantial part, by a need to better understand the relationship between formal rule of law rights for women, in particular, and economic development more generally. Also it is motivated by a need for a better understanding the theoretical foundations for the work of Emory University’s Institute for Developing Nations (IDN), and in particular its support of The Carter Center’s (TCC) work in Liberia in its rule on law initiatives regarding gender based violence. IDN, as the name implies, is an interdisciplinary institute that provides research support for those governments, NGOs and other actors who seek economic and cultural progress in third world countries. IDN is designed to provide a scientific basis for these strategic actors. Can IDN, or any non-Liberian actor, for that matter, ever provide a sufficient “scientific” basis for TCC’s rule of law initiative to combat gender based violence in that country?

By way of personal background, I was asked to join Emory’s IDN delegation to Liberia because of my recent experience in Liberia with Lawyers Without Borders (LWOB). The LWOB trip was a conference in Liberia in the summer of 2007 that taught trial advocacy skills to Liberian judges and lawyers. What IDN found confirmed my own impressions from this earlier experience in Liberia.

Pewee Flomoku (as of 2014, TCC’s Chief of Party for its Liberian office<sup>2</sup>) immediately stoops to talk to Ariana. She starts to cry and steadies herself by clutching Pewee’s arm. After some whispers, Pewee turns to report that she was brought by a young man from her village to the police, having been pushed into a smoldering fire by her “crazy uncle.” Pewee asks whether Ariana will be taken to the area health clinic to be examined. The Chief of police shrugs and says he doesn’t have a scooter to transport her. After some time figuring out his options, Pewee scoops her up and jumps in the TCC vehicle, and takes her to a nearby UN run health clinic. It is at the end of the day; the doctor, at first, declines to examine the girl. He says he has no jurisdiction to treat her. Finally, after much discussion, the doctor gently takes Ariana into the examining room. When he returns Ariana to Pewee, he asks to speak with Pewee privately.

Pewee then asks Ariana if she wants to go home. She says yes. There is no place else for her to go. She says she is usually locked in the house during the day, while her mother goes off to work. She says she hates to spend the day inside, and often sneaks outside. That is how she came to be outside, when the man pushed her into fire pit. On the way home she is at times silent and sullen, and then angry and crying. She pleads with Pewee not to tell her mother what happened.

On arriving at the village, a number of children run out to meet us. Ariana holds her head high and walks to a hut and ducks inside. We meet a man there who says that Ariana is a bad tempered girl and shouldn’t be left outside. He says that her mother is not yet back from her work, but promises to keep an eye on her till her mother returns.

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<sup>2</sup> <https://www.cartercenter.org/news/pr/liberia-070914.html>

After dropping Ariana off, Pewee is obviously distraught. The UN doctor who examined Ariana, saw burns and scars on her lower legs and thighs. He didn’t think it was the first time she had been in the fire. He also says he saw bruising inside of her upper thighs, and around her bum. He thought it looked consistent with bruising that occurred after a sexual assault. Had she been raped in the village? Or by the police at the police station? When Pewee asked the UN doctor if he would be willing to document his examination, the doctor refused.

To complicate matters further, Ariana is not only a member of a minority Muslim tribe in Liberia, the Mandingo, but Pewee also thinks that Ariana is mentally disabled. “She is simple.” What should Pewee do? The TCC? The delegation from Emory? The delegation continues the next day with its assessment of the TCC’s other GBV programs. Pewee promises to look in on the girl and her mother and report back. A few days later Pewee reports that he talked to the mother. The mother is very concerned with her daughter’s safety, but has no options. She promises to enlist the help of a neighbor to watch out for her daughter. Other than that there is little she can do. She needs the work to support herself and family. There is no father in the picture.

To Pewee and TCC, the problem of gender based violence is no longer just a theoretical issue of rule of law and development but a real world dilemma balancing traditional rule of law strategies with TCC’s mission of compassion and the development of human rights in Liberia.<sup>3</sup> While the Human Rights Community is insistent that Liberia

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<sup>3</sup> Other have study this dilemma between insisting on formal rule of law strategies in countries where GBV is prevalent and the lack of capacity for formal rule of law to deliver on it promises. See, Gary A. Haugen, Victor Boutros, *THE LOCUST EFFECT: WHY THE END OF POVERTY REQUIRES THE END OF VIOLENCE*, Oxford University Press, Oxford England, 2014, at 26, (where authors argue that only focusing on remedying exacerbating factors in the society (i.e. attitudes towards women and vulnerabilities resulting

institute formal rule of law strategies that criminalize rape and sexual violence, the lack of police and community health resources makes many of these efforts a false promise: promising that young women and girls will be protected by the law, yet the reality is that law enforcement lacks the capacity to deliver on those promises. On the other hand, if NGOs like TCC focus simply on the effects or symptoms, and ignores the causes of violence, it may only be putting band aids on wounds that will not heal.

Following this incident with Arianna, and many others that surface to its attention from different aspects of its work in Liberia, TCC would renew its dedication to its efforts at developing effective strategies to combat gender based violence (GBV) in Liberia. Its work provides a case study for how NGOs get drawn into individual strategies for combatting GBV, and the effectiveness of both formal and informal rule of law strategies at trying to find an effective remedy. It will also show how the TCC was led to attempt an integrated approach to developing rule of law through its Community Legal Advisor Project.

This article will first describe the problem of GBV in Liberia, its current status, and the debate about its cause. It will discuss the problems that result through trying to address the problem of GBV through both formal and informal rule of law development strategies, including both traditional and customary dispute resolution processes within the Liberian setting. It will also describe the reasoning behind TCC’s support of traditional and community based projects, including its use of NGO social science research in helping it monitor the progress being made in fighting GBV. It will be a tale of discouragement as assessment showed the continuing prevalence of GBV. Next the

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from poverty through focuses on education and health care) shows a misunderstanding of the solution, that focusing on factors are not sufficient without police protection and rule of law).

paper will discuss what led TCC to develop its Community Legal Advisor (CLA) Project. It will describe the project and its implementation. Finally it will look at the research attempts to measure CLA’s success and predict whether funding of additional CLAs will likely be effective in combatting GBV. It will conclude by making some modest observations about whether CLAs might work elsewhere in Africa, or in the developing world, and the promise and dangers of using individual paralegals as a major tool in combatting GBV.

## **II. Gender Based Violence in Liberia**

### **A. The History of GBV in Liberia: A Debate about Cause and Formal Strategies**

Liberia is still recovering from a fourteen-year civil war (1989 – 2003) that decimated the country’s social and economic infrastructure, and witnessed the use of rape and other forms of SGBV as a common weapon of war. The violence that occurred during the war left an estimated 250,000 dead, and almost 2 million displaced.<sup>4</sup> During the war, rebel groups and government forces alike employed fear campaigns designed to systematically suppress local populations through sexual violence against men, women, boys, and girls. These groups used everything from random acts of individual killings, (pick out one in 7 individual caught in lines in military check points), wholesale slaughter of parents in villages, the recruitment of child soldiers; and other human rights violations.

Localized studies – some predating the end of the civil war, – have long indicated a high level of abuse of women. A 1994 survey of 205 women in Monrovia found that

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<sup>4</sup> United Nations Secretary-General. (2003). *Report of the Secretary-General to the Security Council on Liberia*. Retrieved from: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2003/875](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2003/875)

49% had experienced physical or sexual violence from combatants during the civil war.<sup>5</sup>

While it appears that the civil war resulted in a significant increase in all forms of GBV in Liberia<sup>6</sup>, the end of hostilities in 2003 did not appear to have resulted in meaningful decrease of the same. Two studies conducted by the World Health Organization found that over 70% of the participants had been raped. The first (a 2004 study with 412 participants) found that 77.4% had been raped, and that 64.1% of those were gang rapes.<sup>7</sup> A 2005 study in Lofa, Nimba, Grand Geddeh, and Grand Bassah counties, with 1216 participants, found that 72.1% had been raped, with 70.1% of these involving gang rape.<sup>8</sup> In 2005, the Government of Liberia also conducted a study involving 1628 women in 6 counties and found that approximately 75% of the respondents were raped during the civil war.<sup>9</sup>

The cause of the pervasiveness of the problem is widely perceived to be the attitude of Liberian men toward women and girls.<sup>10</sup> Some observers argued that traditional attitudes are the source of the problem. Others argue that pre-colonial attitudes were different because women: had power to own property; had separate inheritance rights, and had the ability to take their case to the “palava hut” if they were raped or physically abused, in which a committee of elders (usually men over 45) engage in mediation of

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<sup>5</sup> Shana Swiss, Jennings, Peggy J. Aryee, Gladys V., "Violence Against Women During the Liberian Civil Conflict", *JAMA*, 279(8) (1998), pp. 625-629.

<sup>6</sup> One challenge in analyzing the effect of the Liberian civil war on the incidence of GBV is the lack of pre-war data. Gerald Erchak gives one of the few pre-war analyses of the issue: Gerald M. Erchak, "The Position of Women in Kpelle Society", 76 (2) *American Anthropologist* 344 (1974). Based on time spent in Liberia during the 1960s, Erchak concludes that the move of communities into the cities resulted in a loss of the community-structure which would traditionally have protected Liberian women from abuse. (These studies deal with the specific problem of post-war SGVB.)

<sup>7</sup> World Health Organization, "County Cooperation Strategy: Republic of Liberia", (2004)

<sup>8</sup> Marie-Claire O. Omanyondo, "Sexual Gender-Based Violence and Health Facility Needs Assessment: Lofa, Nimba, Grad Gedeh and Grand Bassa Counties, Liberia", (2005)

<sup>9</sup> Lois Bruthus, "Zero Tolerance for Rapists", *Forced Migration Review*, 27 p. 35.

<sup>10</sup> Such were the beliefs expressed by all the Liberians and NGO we talked with.

local disputes.<sup>11</sup> Women could get the chief, or in some counties, a women’s committee, who exercised parallel power to the chief, to order that the treatment stop and provide reparations.<sup>12</sup>

Under this later view, men were seen to have started to treat women differently in 1949, when the Tubman government (part of the settler oligarchy of freed slaves) negotiated cooperation with Hinterland Chiefs by providing the Chiefs with the power to settle domestic disputes according to certain colonialist assumptions about what would be fair. These colonialist assumptions may have assumed a nonexistent sexist attitude toward women, and may have given rise to increased discrimination against women rather than inscribing traditional cultural practices.<sup>13</sup>

Others have argued that attitudes that lead to violence against women were at least substantially exacerbated by the Liberian civil war. Young men coming of age during the civil war, whose parents may have been killed before them (often while they watched), were frequently taken from their homes, made child soldiers, and taught to terrorize, rape, and kill as a strategy of war and governmental control. NGOs report that these young men post-civil war are the most violent actors.<sup>14</sup> Many men express openly their disdain for women and girls, even describing dating difficulties post war—how difficult it is to

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<sup>11</sup> The author observed starting in 2007 and continuing to the present, a spirited debate both within the IDN delegation, and among NGOs in Liberia, about the cause of men’s attitudes towards Liberian women. Ezekiel Pajibo, *Traditional Justice Mechanisms: The Liberian Case*, International IDEA (Institute for Democracy and Electoral Assistance), 18, (2008).

<sup>12</sup> Mary Moran, ;

<sup>13</sup> This argument is the same that one sees in the literature about the true nature of human rights for Asian women: women of the Philippines and Indonesia are said to have had original rights that were subsequently perverted during pre-colonial times by the colonialist assumptions about the appropriate rule of law. Dinusha Panditaratne, *TOWARDS GENDER EQUITY IN A DEVELOPING ASIA: REFORMING PERSONAL LAWS WITHIN A PLURALIST FRAMEWORK* 32 N.Y.U. Rev. L. & Soc. Change 83 (2007)

<sup>14</sup> Shana Swiss, Jennings, Peggy J. Aryee, Gladys V., "Violence Against Women During the Liberian Civil Conflict", *JAMA*, 279(8) (1998), pp. 625-629.

“get a ‘date’ without a gun.”<sup>15</sup> The attitudes these young men express are said to be born out of sociopathic personalities shaped in 15 years of civil war, and not a part of indigenous Liberian culture.<sup>16</sup>

To many the question of causation seems superfluous to rule of law initiatives.<sup>17</sup>

Some NGOs have argued that whatever the cause, the beliefs are so deep-seated as to be seen as a Liberian man’s natural rights.<sup>18</sup> In particular one NGO has argued that making

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<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> After all, The Carter Center, as client, might also be said to “own” the decision. It has itself decided that it wants to move beyond its post conflict focus on monitoring elections presumably because elections, by themselves, have been ineffective at truly transforming Sub Saharan African independent states. In addition The Carter Center wants to support the Truth and Reconciliation Commission (TRC), and while so far it is having a mixed effect, because the TRC is dependent, in part, by progress being made in the development of the rule of law.

The morality of the effort by The Carter Center to promote rule of law based strategies seems a foregone conclusion, based on all that has already been arranged and consented to. The Liberian transitional government signed on to International norms regarding the treatment of women. See, The Universal Declaration on Human Rights, G.A. Res. 217A, U.N. GAOR, 3d. Sess, at art. 22-27, U.N. doc. A/810; Female genital mutilation, domestic violence, and rape within marriage have all come under the human rights prohibitions within the application of first generation rights, resulting in governmental action and reform. See. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Dec. 18, 1979 1249 U.N. T.S. 14 (1979) (Liberia is a signatory).

So, with the consent of the country, and foundations in both international and national law, and the request of the client, why ask about the philosophical foundations of such work?

Underneath the research questions, however, are philosophical questions. Should TCC be engaged in this project at all, even as a partner, or should it be left to Liberians alone to deal with whether women are thought of as property, and denied equal protection of its laws, and for equal opportunities? I want to hold up the question raised by Barbara Brilliant: that from the perspective of cultural relativism, what assumptions are an international NGO making when it promotes “human rights” for women under the law, in the face of a culture that believes that women are a man’s property? What is the theoretical basis for trying to affect a shared view of international human rights for women, as the foundation for development of strategies to combat violence against women? Shouldn’t indigenous populations be able to choose the “traditions” or cultural values it wants to live by, based on its own understanding of what is best for its survival?

<sup>18</sup> One of the most powerful, credible figures we met on our trip to Liberia raised these concerns. Sister Barbara Brilliant, head of the Mother Patern College of Health Sciences nursing school, was adamant that “rule of law” projects were doomed to fail. She expressed a number of objections: 1) that any rule of law strategies would be ineffective because the Liberian court system is inherently corrupt and ineffective; 2) that NGO efforts will also be ineffective because they will not commit the resources, nor stay the course long enough to bring about lasting change; and 3) that rule of law initiative are inferior to a “public health” effort because a public health effort truly respects Liberian culture and Liberian values, and Liberia’s own capacity to change these norms and behaviors.

It is this last reason that we should focus on most carefully. Should The Carter Center drop its efforts at assisting Liberian government to “criminalize” violence against women in favor of a strategy that would seek only to treat the health consequences of violence against women, and leave any change in behavior to undirected developments within Liberian culture itself? Under Sister Brilliant’s vision, clinics

GBV a “rule of law initiative” is counterproductive—that it should be seen as a public health issue, and not a matter of right or wrong, morality, religious, or otherwise, and a matter of criminal law.<sup>19</sup>

Still, there is added weight given to the argument that GBV is not a product of the indigenous Liberian culture and by attributing the behavior of men to the sickness of war, men can relinquish their power over women for face saving reasons. When combined with an argument from history that the true culture of Liberia granted the equivalent of human rights to women, the present male attitudes might be exposed for what they are, rather than given the imprimatur of indigenous cultural heritage.<sup>20</sup>

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of nurses, doctors and psychologists would be instituted to treat the broken pelvic floors, STDs, including HIV-AIDS, and bruises, broken bones, and psychological scars left on women and children. She also envisioned that taking a public health approach would not just stop in treating the physical harm but would also train counselors to seek to empower their patients by giving strength in themselves to combat the violence, and then to seek strength from their existing relationships with other women and family members (including other non-police organizations in their community). She envisioned that such empowerment strategies would prevent gender based violence and would also lead to change in the behavior of the perpetrator of the violence.

Is Sister Brilliant right in her approach? Of course, one way to answer this question is by research. One could measure the consequences of such strategies that place faith in the ability of societies to know how best to “transform” themselves, and simply provide information to the Liberians on how it is doing. TCC could support research with Liberian institutions, to measure prevalent theories of whether violence does bring about more violence: whether if a Liberian was abused as a child, is he or she more likely to abuse his or her spouse and or child. (I realize these may be separate questions) Or, instead, one could ask, if sons know their fathers hit their mothers, or raped young girls, are they more likely to engage in the same behavior as an adult? It seems pretty obvious that it would contribute to violence against women, but perhaps, if proven empirically, such evidence would help the Liberian government’s dialogue with men about the harm they do to women and children. In addition, then, armed with this information, the Liberians could seek to measure the benefits of public health strategies v. rule of law strategies.

Brilliant’s argument also raises theoretical questions about whether law leads to behavior change, or whether law simply follows the norms that bubble up in the community itself.<sup>18</sup> Does criminalizing the behavior really deter it? If not, The Carter Center might advise the Ministry of Justice to delay its implementation of the criminal code in the Hinterland. Instead, The Carter Center might choose to measure whether public health strategies and counseling lead Liberian women to develop self coping mechanisms that diminish gender based violence. Of course, one other option is to not see these strategies in conflict but rather as a necessary part of an overall strategy to combat violence against women. (I will return to this last point after doing some theoretical work. I hope to suggest a strategy that will marry the research needs with some assumptions drawn from philosophy and religion.)

<sup>19</sup> Id.

<sup>20</sup> On the other hand, the historical argument is a difficult one. How can an anthropologist discover the true traditional role of women in Liberian society? How far does one go back in history to make this argument? Should one go back to pre-1949 Hinterland regulations, for a time when the chiefs were not given such an

As strong, then, as these anthropological and historical arguments may be, there was and still is resistance from whatever source in Liberia, to laws that promote human rights for women in the face of prevalent attitudes to the contrary.<sup>21</sup> Many NGOs have expressed pessimism that human rights for women can be promoted by rule of law.<sup>22</sup> One Liberian NGO was particularly skeptical of TCC’s work to combat GBV. Its spokesperson told the delegation in 2007 to “go home, and save yourself the time and trouble. Rule of law initiatives victimize the women and do more harm than good.”<sup>23</sup>

Among Liberian men we met in 2008, it was prevalent for them to express their rights to discriminate against Liberian women. We were told unapologetically of a man’s right to beat his wife, “as a sign of his love.” Furthermore, many men stated that women don’t have rights because they are property, and to justified spousal rape therefrom, “because you can’t rape your property.”<sup>24</sup> Some young men openly admitted to the author that to “date,” even by forcing the date by means of a gun, was a man’s cultural right.<sup>25</sup> Those who preach international human rights for women are seen as “colonialist western interlopers,” who are not to be trusted. These continue to be the views of both Liberian men and women, and the TCC was well aware of the resistance to any efforts that were

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official dominant role by the settlers? How reliable are present recollections of what roles mothers and grandmothers served in various communities, and how can one generalize one view from even single experiences or memories? How many recollections from how many sources will form a sufficient basis to determine what the true state of culture was regarding women’s role and position in Liberian society? Is such a research effort worth the potential findings? In any event, as we will see later in the paper, the main take away is that any persuasion that is needed of male attitudes must be taken up by Liberians themselves. If seen as an effort from the outside, the persuasion is often met with significant resistance.

<sup>21</sup> Sister Barbara Brilliant, Liberian Council of Churches.

<sup>22</sup> We found skepticism expressed by male church leaders at a meeting of the Liberian Council of Churches, In addition there was skepticism about our efforts from the Liberian Women’s Bar Association, and from Traditional Women’s Groups, as well as from the staff at the US embassy.

Thomas E. Kelly, *Export Western Law into the Developing World, the Troubling Case of Niger*, 7 *Gobal Jurists Iss 3 Frontiers*, Art. 8

<sup>23</sup> Id. Sister Barbara Brilliant

<sup>24</sup> Conversations between author and 90 male students at Covington University.

<sup>25</sup> Focus Group Interviews with Liberian students of Cuttington University, March 11, 2008.

seen to come from the outside.<sup>26</sup> It initially, then focused its efforts with the Ministry of Justice, and worked to provide technical and legal support to the drafting of new legislation.

### **B. Liberian Formal Justice System Responses to GBV**

President Ellen Johnson-Sirleaf prioritized addressing GBV related issues since her election in 2005 and the Government of Liberia (GoL) has worked to address GBV through the revision and implementation of several domestic laws. In 2001 the Gender and Development Act was passed, which defined the mandate for the Ministry of Gender and Development (MoGD). The MoGD advises the government on all matters affecting the development and welfare of women and children, and is primarily responsible for the implementation of the Universal Declaration of Human Rights and other related international rights based instruments.<sup>27</sup> In 2005, with the recommendation of the MoGD, the GoL passed a Rape Law, which was amended shortly thereafter in 2006. The finalized law expanded the definition of rape to include penetration by the penis and any other foreign objects; raised the age of consent from 16 to 18; raised the rape of a minor, gang rape, rape that results in permanent or serious bodily injury to the victim, and rape with the threat of a deadly weapon to first degree felonies punishable by life

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<sup>26</sup> TCC did initially see some benefits to rule of law development in Liberia’s history with the common law. Liberia started with a history of a common law adversarial system, based on a constitution that guarantees equal rights for all of its citizens. There will be a need to overcome resistance to formal law structures, especially in the Hinterlands, but Liberia’s common law history, at least in Monrovia, goes back to late 19thc.

<sup>27</sup> Ministry of Gender and Development. [Online] Available at: [http://www.mogd.gov.lr/index.php?option=com\\_content&view=article&id=68&Itemid=107](http://www.mogd.gov.lr/index.php?option=com_content&view=article&id=68&Itemid=107)

imprisonment; and deemed rape in all other cases as a second degree felony punishable by a maximum sentence of 10 years imprisonment.<sup>28</sup>

In order to implement this legislation, the GoL created several governing bodies and guidelines. The Women and Children Protection Section (WACPS) was established in 2005, under the Liberian National Police (LNP) to institute an office in each of Liberia’s fifteen states. With US\$1.6 million in grants managed by the United Nations Development Program (UNDP), the WACPS provided a separate space and trained staff to deal with GBV.<sup>29</sup> In addition, the GoL adopted the 2006 National GBV Plan of Action and the 2007 National Action Plan for the Implementation of UNSCR 1325 to help implement the Rape Law. In 2008, the UN/GoL Joint Program on SGBV was established to support the implementation of the National GBV Plan of Action and to respond to the national priorities outlined in the Poverty Reduction Strategy. In order to address the backlog of SGBV cases, Criminal Court “E” was designated in 2009 to preside over trials of sexual offences and the GBV Crimes Unit was established under the Ministry of Justice (MoJ) to prosecute perpetrators of GBV. Criminal Court “E” is equipped to conduct *in-camera* trials (trials held in private) for rape cases, thus protecting the identity of the victim and witnesses in accordance with international standards. The practices of Criminal Court “E” were hoped to be more successful, because they lower the barriers to accessing justice within larger communities, and work to de-stigmatize GBV by

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<sup>28</sup> National Transitional Legislative Assembly of the Liberia National Government of the Republic of Liberia (2006). *An Act to Amend the New Penal Code Chapter 14 Sections 14.70 and 14.71 and to Provide for Gang Rape (2006)*.

<sup>29</sup> Reddy, D., *Managing sexual and gender-based violence (SGBV) in Liberia: Exploring the syncretisation of Western and traditional approaches*, in *Department of Geography*. 2014, University of Bergen: Norway.

promoting it as a criminal offense.<sup>30</sup> Most recently, in 2011, the National Action Plan for the Prevention and Management of GBV (2<sup>nd</sup> Phase) was revised to expand GBV interventions in psychosocial, health, legal, security/protection, and coordination areas.<sup>31</sup>

Furthermore, the GoL has attempted to mainstream gender issues by requiring each ministry to consider gender in their strategic plans and program implementation. The limited operational success of this effort is evidenced by the publication of SGBV Crimes Unit activities, which references minimal trainings held, staff trained, and measured improvements in record-keeping.<sup>32</sup> Interviews conducted with MoGD civil servants suggest that evidence exists to show what aspects of programming have been implemented, including the introduction of MoGD GBV reports, mapping tools, and a streamlined case reporting system through a partnership with the NRC.<sup>33</sup> However, due to the insufficient documentation of this programmatic activity, and lack of quantitative results, it is hard to readily determine what impact the GoL’s gender equity initiatives have had on SGBV prevalence rates.

Much additional law reform work was completed to supplement women’s rights, including new laws about dowry, (making dowry a gift to a women’s family, not conditioned on a women staying in marriage) and a women’s right to own property,

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<sup>30</sup> This opinion was supported by Richard Reeve, Head of Research and New Initiatives at International Alert, during our informal interview with him on June 11, 2012.

<sup>31</sup> Liberia also introduced several other law amendments addressing the Penal Code on Rape, Equal Rights of the customary marriage law of 1998, Domestic Relations Law and Truth and Reconciliation Commission Act. See also Amnéus, D. (2011) ‘Insufficient legal protection and access to justice for post-conflict sexual violence’ in *Development Dialogue*, 55, 75-76.

<sup>32</sup> Abdulai, E.S. (2010) *Evaluation: Strengthening of Prosecution of SGBV Offences through Support to Sexual and Gender-Based Crimes Unit*. Monrovia: Republic of Liberia and the United Nations Population Fund.

<sup>33</sup> Norwegian Refugee Council [NRC] (2009) *Preventing and Addressing Sexual and Gender Based Violence (SGBV) in Liberia- July 2009*. [Online] Available from: [http://stoprapenow.org/uploads/features/Update\\_2\\_Liberia\\_final.doc](http://stoprapenow.org/uploads/features/Update_2_Liberia_final.doc)

(again providing women with the ability to accumulate property that would remain hers, even after a death or divorce of a spouse).<sup>34</sup>

### **What About Informal Rule of Law Projects? TCC tries Customary Law and Education**

Immediately after the civil war, the TCC felt there was a need to also understand its own instincts to engage in informal strategies for responding to GBV. It attempted to implement and evaluate the effectiveness of non-formal rule of law projects. After all, informal efforts have been part of the mix of tools to combat GBV at least since 2005. But there too, it, as well as other international NGOs, encountered resistance. If TCC was to be effective in informal efforts, it needed to understand the pitfalls of other NGOs working in this area.

Through assessment visits and subsequent studies<sup>35</sup> of Liberia, TCC was informed that Liberians, including government actors,<sup>36</sup> remained suspicious of NGO efforts in the ADR area to combat GBV, and moreover, gave a number of political and theoretical reasons why they were resistant to western efforts to bring about “rule of law” and “human rights” in their country. This was the case, even if NGOs worked through traditional women groups, and other education programming.

First were the political reasons.<sup>37</sup> President Johnson-Sirleaf’s government walked a tight rope between instituting much needed reforms of its court and institutions without creating a backlash from remnant tribal power structures that use unpopular

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<sup>34</sup> Much of this work had been completed or would soon to be completed at the time of our visit in 2007.

<sup>35</sup> In particular, see Niels Nagelhus Schia and Benjamin de Carvalho, “Nobody Gets Justice Here!” Addressing Sexual and Gender-Based Violence and rule of Law in Liberia. Norwegian Institute of International Affairs, 2009.

<sup>36</sup> Chief Justice Lewis of the Liberian Supreme Court was among the skeptics.

<sup>37</sup> Of course, American liberation of Iraq is seen a prime example. But one need only look at the history of missionary movements, or US interventions in South and Central America, to realize the pitfalls of interventions, no matter how well intentioned.

reforms to solidify opposition support and undermine popular support for the government. Some in the government reported concerns that any reform effort might provide the opposition with a tipping point that would undermine popular support of the President.

Second were theoretical reasons. A review of the literature in the area shows that “rule of law” initiatives are particularly suspect as means to reform of GBV in Africa.<sup>38</sup> Liberian NGOs expressed resistance to further efforts from the west. They questioned whether existing data was being exaggerated to draw more donor resources to combat the problem. Additionally, some worried that the divide between the law on the books, and the law in practice, would undermine the rule of law. Until the infrastructure and resources could be brought to bear to rebuild the courts, and insure the independence of judges, it would be counterproductive to emphasize human rights for women. This same skepticism was expressed about NGO funded mediation programs.

Further resistance came from the anthropologists. For example, reaction to the missionary movements, even when well intentioned, often exacerbated conditions for and treatment of women in West African countries. Aren’t all interventions from outside the country doomed to failure? How can one ever know whether a law or particular intervention will produce the desired results? And how can one guard against Western values and research biases subverting Liberian cultural values? Moreover, what gave donor’s the right to insist on their definitions of human rights for women are imposed on Liberians?

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<sup>38</sup> For example see, Thomas E. Kelly, Export Western Law into the Developing World, the Troubling Case of Niger, 7 *Global Jurists Iss 3 Frontiers*, Art. 8

Finally, then, TCC and other efforts to develop “rule of law” - especially for women - was led to ask, assuming it could overcome these other objections, what the best way to overcome cultural relativism objections is. What is the strategy that will likely produce the best effect for building rule of law regarding human rights for women? Should the focus be on building up the traditional courts and criminal justice system? Or, should the focus instead be on reclaiming traditional or customary approaches to resolving disputes involving violence against women? Would the best strategy be to do all of the above?

What the TCC attempted was to take a close look at traditional and customary law, and develop strategies through each of these legal regimes. Like with case law reform efforts through the courts, TCC also saw some advantage in Liberia’s history with ADR. Indeed, ADR in Liberia might predate ADR in the US. Perhaps first employed in the Palaver Huts of Liberia,<sup>39</sup> and then integrated into American culture – ADR forums are being recycled as an optional strategy for rule of law development in West Africa, and Liberia in particular. Given the success such strategies have had in Malawi and in Sierra Leone, TCC examined whether its methods would also likely work through traditional women’s groups in Liberia. TCC includes as part of its strategy a role for Traditional Women’s groups in Liberia, as well as training programs for Chieftaincies, as part of its capacity building efforts.

TCC next tried an approach that built capacity of Liberian lawyers and judges, and at the same time, encouraged institutional capacity among the chiefs to lead and peacefully resolve disputes. TCC believed honoring the best of Liberian traditions

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<sup>39</sup> Paul Richards et al, “Community Cohesion in Liberia: A Post-War Rapid Social Assessment,” 21 Social Development Papers 38 (2005).

concerning women would be the best strategy to promote changing conditions for women. Its strategy to try simultaneous efforts should make provision for the integration of the community-based methods with the formal system in order to provide legitimacy to the project for women’s rights, and to best insure that community peacemakers don’t devolve into centers for the protection of male-dominated rule, and the continued maltreatment of women and children.

What TCC learned is that what must be a part of the discussion is the very human importance of individuals making individual difference in the lives of real people with real problems. These NGO and Liberian actors, it was thought, would avoid the problem of creating destructive dependencies and help bring about a change in morale and cultural understanding necessary to start Liberian women on the road to their obtaining full human rights.

### ***Liberian Customary Justice System Responses to GBV***

As we have seen, Rule of Law in Liberia was paralyzed by the civil war conflict. The formal system ceased to function and customary systems deteriorated as communities were torn apart by violence. Despite the GoL’s post-conflict efforts to better address GBV, the formal justice system in Liberia was still struggling to adequately handle GBV cases. TCC suggested that current measures to prevent and prosecute GBV “are often disconnected or not based on the needs on the ground”, and their impacts are unclear or indeterminable.<sup>40</sup> These weaknesses are further exacerbated by a lack of financial, infrastructure, and human resources within the court system. This lack of

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<sup>40</sup> De Carvalho and Schia (2011) ‘Sexual and gender-based violence in Liberia and the case for a comprehensive approach to the rule of law’ in *Journal of International Relations and Development*, 14(1), 136.

resources, in turn, limits institutional and human capacity to research and follow-up on GBV cases.<sup>41</sup>

In addition there is a measureable Liberian skepticism of the formal justice system. A 2009 study by the United States Institute for Peace (USIP) found that even when they could use the formal system, Liberians often prefer a justice system that is locally relevant and consistent with community norms.<sup>11</sup> The USIP study highlighted several features of the community-based systems that aggrieved parties seem to prefer, including:

- lower direct court costs and lower transaction costs;
- physical accessibility of community leaders;
- use of local dialects and absence of legal terminology;
- perceived lower susceptibility to undue influence; and
- overall transparency.

Given these preferences, it was thought that the normative approaches of the customary system will remain relevant, even as the Western-modeled formal system slowly expands its reach. Is there a way to effectively increase the use and impact of the formal and customary systems and keep them from being seen as a zero sum game with the formal system? In 2013, one study of Liberia that focused on reforming rather than replacing customary institutions, for instance through curriculum interventions was seen as having some limited affect. Blattman et al. (2013) find a significant reduction in unresolved land disputes and property destruction due to community-level training in alternative dispute resolution in Liberia, but mostly null effects on economic behavior, community-level violence, and norms about legal dispute resolution.

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<sup>41</sup> International Crisis Group (2006) *Liberia: Resurrecting the Justice System*, Africa Report N°107- 6 April 2006. Brussels: International Crisis Group.

As a result, many Liberians lack confidence in the formal justice system, (some, including the traditional system), given it has yet to effectively provide the mental, psychological or medical reparations that victims and survivors of SGBV need.<sup>42</sup> A 2009 study conducted by the United States Institute for Peace (USIP) recognized the majority of Liberians are dissatisfied with the formal justice system, with 57 percent of reported cases not being taken to a third party for resolution. This study equated these high levels of dissatisfaction to three main short-comings of the country’s formal justice system: timeliness; accessibility; and affordability. Participants in the study viewed the courts as “ineffective and failing to enforce-or even to get to the point of making-judgments against offenders.” Liberians also reported an array of fees associated with the formal system, “including registration fees, gas money for police investigators, requirements that victims pay the cost of food for the detained accused, lawyers’ fees, bribes, and indirect costs such as money for transportation and time spent away from livelihoods.” These fees, along with a lack of transparency and impartially, make the formal system inaccessible to many Liberians, particularly those living in rural, impoverished regions.<sup>43</sup>

Thus, due to access barriers and local preferences, rural Liberians pursue justice almost entirely through traditional means. Although the GoL states that all SGBV cases must be processed through the formal justice system, a 2008 survey by Oxford University found that rural Liberian citizens took only four percent of criminal cases to the formal courts. Instead, rural Liberians typically depend on chiefs, elders, and spiritual leaders,

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<sup>42</sup> For further details, see Omanyondo, M.C. (2005) *SGBV and Health Facility Needs Assessment (Lofa, Nimba, Grand Gedeh and Grand Bassa Counties) Liberia*. Monrovia: World Health Organization; Siddiqi, B. (2012) *Enhancing Legal Empowerment through Engagement with Customary Justice Systems*. Rome: International Development Law Organization.

<sup>43</sup> Isser, D. (2009) *Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options*. Washington DC: United States Institute of Peace.

commonly males, to resolve disputes based on widely accepted cultural paradigms. This patriarchal structure tends to reinforces gender norms and focus on reconciliation, as opposed to punitive action.<sup>44</sup> Therefore, SGBV cases are generally not resolved in compliance with international rights-based norms and Liberian laws.<sup>45</sup> For example, within customary courts, rape may be rectified by the perpetrator and his family paying the victim’s family, or sometimes even marrying the victim.<sup>44</sup> Overall, the lack of infrastructure in a RoL system that balances customary and formal justice mechanisms exacerbates the challenges GBV victims face in accessing justice.<sup>46</sup>

Women are particularly vulnerable to these problems accessing justice, as they have less access to information about their legal rights and do not have adequate access to legal aid. The United States Agency for International Development (USAID) evaluation of Liberia’s RoL initiatives found that women in particular face issues in accessing the formal justice system.<sup>47</sup> Graph 1 demonstrates seven major factors identified by women and RoL experts in Bong, Montserrado, and Nimba, Counties that restrict or prohibit women from accessing the formal justice system. The top three issues women reportedly face in the justice system are: fair and effective enforcement of court rulings; corruption; and public rights awareness. This evidence suggests that although the GoL has attempted to overcome certain customs that perpetuate inequitable practices of inheritance, marriage, and SGBV, serious challenges remain in implementing domestic policies.

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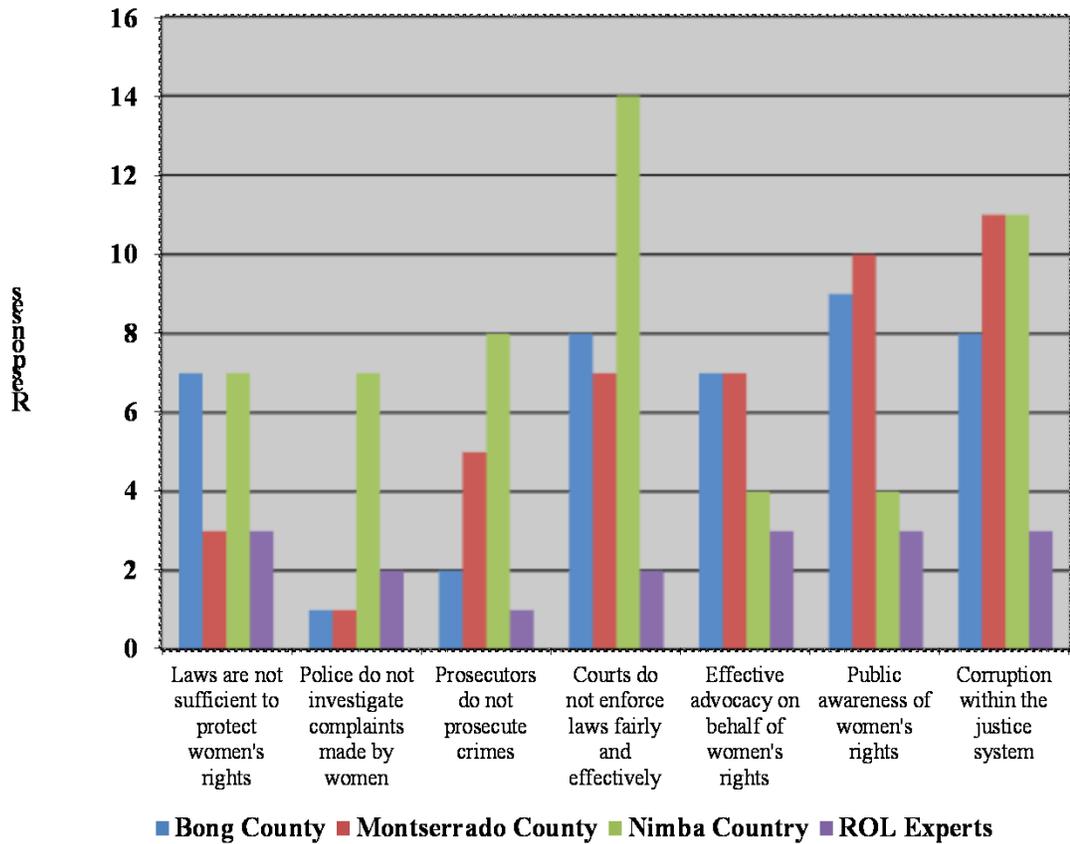
<sup>44</sup> Flomoku, P., & Reeves, C. L. (2012). *Formal and informal justice in Liberia*.

<sup>45</sup> Id.

<sup>46</sup> For further details on Liberia’s dual justice system, see Sandefur and Siddiqi (2011) ‘Rights or Remedies? Shopping for Justice in Liberia’s Dualistic Legal System’ in Harper, E. (ed.) *Working with Customary Justice Systems: Post-Conflict and Fragile States*, 109-126. Rome: International Development Law Organization [IDLO].

<sup>47</sup> See United States Agency for International Development [USAID] (2009) *Evaluation of the Rule of Law Programs in Liberia*. Washington DC: United States Agency for International Development, 11.

Graph 1



### **ADR and International Human Rights for Women.**

There are two different ADR methods or informal methods that needed assessment in terms of how they might help provide for human rights for women. These were, first, traditional “customary” approaches to solving “personal” disputes. Second, TCC looked at Court “sanctioned” programs, including those that are certified, and monitored by the Court.

#### **A. Distinguishing Customary Law from Traditional Practices in Liberia**

There is an important distinction to be made between customary law and traditional practices. Customary law in Liberia, as referred to in this paper, is state-sanctioned law - law applied by local chiefs in government courts. Traditional practices, on the other hand, are methods of reconciliation that are used by the communities outside of the state-sponsored system. While the supposed purpose of a dualistic (in reality, pluralistic) legal system like Liberia’s is to allow a community to continue its traditional practices, the origin of its customary law is no different than that of its statutory law - that is, the national government. The following passage provides a good overview of this point:

Historians and anthropologists have recently come to understand . . . that what colonial officials treated as immutable customary law was itself the product of historical struggles unfolding during the colonial period. Indigenous law, defined by Starr and Collier as “preconduct native law” may have influenced customary law, but it was not the same thing. [Martin] Chanock has shown . . . that customary law was shaped by the complex interplay of European beliefs about locals and African representations of themselves. He reminds us, moreover, that European beliefs themselves often conflicted, as did African representations. Missionaries, settlers, administrators, and anthropologists all came to Africa in the twentieth centuries with interests and ideas of their own that colored their understanding of local culture and affected their views about native policy. These interests and ideas played themselves out in conflicts surrounding the establishment of both laws and institutions of the colonial period. In the process of these struggles influential Europeans called into being what they expected to find in Africa.<sup>48</sup>

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<sup>48</sup> Mann and Roberts, *Law in Colonial Africa*, 3-58, @21-22 (1991)

This understanding of the history of customary law in Africa helps to undermine its legitimacy and authority (at least from an outsider’s perspective), and it also leaves us in a difficult analytical position. That is, if the supposed history of the law turns out to be a fabrication, what are we left with? Has the law been satisfactorily delegitimized? Has the populations continued use of these “customary” law as the primary method for the resolution of disputes legitimized them?

Castellani and Nielsen identify the following as the primary practical problems that stem from Liberian customary law: 1) customary law courts deal with cases that should be beyond their jurisdiction; 2) chiefs often use the imposition of fines as a way of getting the salaries the Ministry of Internal Affairs is supposed to pay; and 3) some chiefs use those they have sentenced as personal servants or laborers.<sup>49</sup>

Setting aside the customary law, let’s examine instead the variety of traditional practices whose use may be encouraged.

### **The Palaver Hut.**

The Palaver Hut is a place where West Africans have traditionally gathered to resolve disputes. The term carries in it a description of a special physical structure, and a particular process for resolving disputes. A Palaver Hut is usually a circular structure constructed of clay and bamboo or wood, with a thatched roof. Decomposed leaves and other organic materials are plastered on the interior and exterior for preservation and decoration. In West African villages, the Palaver Hut is the place where guests are welcome.<sup>50</sup> It is a place where every disputant is welcomed, fed,<sup>51</sup> and looked after in terms of their health and safety. Each is asked: Are you well? Each is looked after and

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<sup>49</sup> {Francesco Castellani and Henrik Nielsen, "People's Access to Rights in Liberia", (2007),@48}

<sup>50</sup> <http://www.oyepalaverhut.org/palaver.htm>

<sup>51</sup> Id. The feeding is not elaborate. After the greeting each party is offered kola nuts and some water.

listened to, in order to establish the fundamental conditions of respect and dignity necessary for problem solving.

The Palaver Hut may become an important symbol, a call for disputants to remember their traditions, as a way for Liberians to resolve intercultural disputes, as well as disputes between tribes and genders. The very act of building, or rebuilding, the Palaver Hut can bring Liberians together. For example, in the Cavalla Kingdom in Liberia, the “Bodio” village spiritual leader selects the location of the hut. In other villages, the village elders or chief selects the location. All the villagers participate in the construction of the hut, feasting and celebrating the completion. The children especially look forward to the Palaver time because they can strip down, mix water and clay, splash and jump, pounding the clay with their feet as they dance to the rhythms of the village drummers.<sup>52</sup>

Following the greeting, the format used by the spiritual leader or chief is familiar to the mediator. Each side presents its case, and the leader makes sure that each feels respected and listened to in the process. In the exchange of narratives, the leader is careful not to show disapproval or personal judgment against anything that the disputants have to say. Then the leader asks the parties to discuss what solutions might be in order, whether compensation, or apology, or promises regarding future behavior. The decision arrived at is usually arrived at by consensus, rather than imposed by the leader. The parties can also indicate their disapproval by getting up and turning their back on the leader and walking out.

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<sup>52</sup> Id.

Of course, to women’s rights advocates, the Palaver Hut presents some difficulties. It is usually presided over by men. In GBV disputes, the men usually tell of their attitudes towards their wives, or women, in general, which includes the view that women are property, and that it is their right to discipline, or even beat their wives. Yet, the process still has some advantages. The community is made aware of the situation. Women in attendance can also act informally to provide support for the women who is being abused. They can also express their disapproval with a leader’s judgment by walking out. The process has the added advantage of not victimizing the women abused. And, most importantly, it is cheaper and can be quicker, where the women have the courage and fortitude to bring her situation to the attention of the Palaver Hut.

In addition, a new parallel women’s group process has surfaced, which shows some promise. Mary Moran, an anthropologist who has worked in the Grebo community, describes traditional women’s groups that have been helping reform the way that women are being treated in Liberia.<sup>53</sup> In addition, The Carter Center has been partnering with these traditional women’s groups to help them work both informally, and with a political action group in the Liberian legislature, to bring about legal reforms and property rights for women. This group has also formed partnerships with a number of NGOs in Liberia to help set up clinics, hospitals, church and other community groups to raise awareness of the plight of Liberian women and children. Still, there remains significant skepticism among the international human rights community that these traditional methods will

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<sup>53</sup> Mary Moran, Series editor, *Women and Change in the Developing World* (Lynne Rienner Publishers); general editor, *American Ethnological Society Monographs Series*; associate editor, *Journal of Anthropological Research*; *Civilized Women: Gender and Prestige in Southeastern Liberia* (Cornell University Press, 1990);

prove effective without some assistance. At the very least, as we will see, it is hard to measure their impact on the incidence of SGVB in Liberia.

### **Court Sanctioned ADR**

On the ADR side, the West Point Women for Health and Development (West Point Women) have been working with women in Monrovia’s West Point slum to both identify cases that need the attention of the court, and to informally mediate the cases that come to their attention. Headed by Nelly Cooper, five women serve as neighborhood first responders in cases of domestic violence and rape. Working with the American Refugee Committee (ARC), the International Rescue Committee (IRC), and the Association of Female Lawyers of Liberia (AFELL), these women have developed a protocol for handling the cases that come to their attention. Over the last year these women receive from 2-5 calls a week concerning women who are alleging spouse abuse. In cases of rape and physical abuse, these women will see to the transportation of the victim to a health care facility. In the most serious of cases, they call ARC or IRC, who arrange for a social-psychology counselor to meet the women at the hospital. The counselor serves as a case worker and will give information about shelters that might help out, as well as advise the subject of her rights to prosecute her partner for the abuse. The woman is then given a frank and realistic picture of the difficulties she faces in prosecuting formally and advised about alternative strategies that she might employ, such as the option for someone to mediate the dispute.

For example, in 2009 the ARC has been called to consult on over 500 cases. It reports that 350 have resulted in complaints being made to the police. Of these, there is

no data to correlate these numbers with successful prosecutions. In addition, while there is some anecdotal information about how the 150 cases have been handled, there has been little systematic country wide look at what types of cases these are, and what happens to the victims. The IRC case worker does have a form that she is given to collect information about the case, but IRC lacks the ability to correlate its data nor analyzed it to determine how these cases have been handled, and with what effect on the women who has been abused. Until recently, the combination of Liberia’s lack of capacity to measure itself and to provide legal representation for individual victims has kept it from being able to measure the effectiveness of its attempts to integrate IRC resources with its formal legal system.

The reports from the IRC and its 2007 studies were as follows:

Four years after the end of the war, violence against women and girls was still widespread in Liberia. More than half of the female population was indicated to have experienced some form of violence in the preceding 18 months. More than 75 percent of adult women were indicated to have experienced domestic violence, and between one quarter and one third of adult women were indicated as having been raped outside of marriage, in the same period. Among married (and separated and divorced) women over 70% were indicated to have experienced marital rape during this interval. Marriage is identified as a risk factor for both sexual and non-sexual violence. Husbands and boyfriends were reported as the perpetrators of the vast majority of reported violence, but incidents were approximately fifty times more likely to be reported to police if perpetrated by strangers rather than intimate partners.

Violence against girls is also prevalent among the sample population. One in 4 girls was reported as having experienced some form of violence, with more than 1 in 10 girls reported as being raped. It was more common for rape of a girl to be reported to the police or court, but this still occurs less than half of the time. While the case definition for domestic violence adopted included any act of physical abuse in the home, the focus of questions was not explicitly on the treatment of children and cultural norms of discipline, and are likely to have resulted in an under-reporting of child abuse in the household involving non-sexual physical violence. Furthermore, all reports of abuse of children relied on secondary reports, which is also likely to have resulted in an under-estimate of actual incidence.

Niels Nagelhus Schia and Benjamin de Carvalho, “Nobody Gets Justice Here!”  
Addressing Sexual and Gender-Based Violence and rule of Law in Liberia. Norwegian  
Institute of International Affairs, 2009, presented a sobering assessment of International  
NGO efforts that focused on informal methods:

The international response to SGBV in Liberia—in spite of having been  
touted as one of the great success stories in implementing UNSC resolution 1325  
by the UN and the Liberian government—has so far at best been misguided.

The issue of SGBV tends to be fragmented and the response to it  
addresses specific issues which often fit the narrow agendas of international  
donors rather than taking into account the needs of the institutions of the rule of  
law as a whole. While these quick impact projects may be necessary, then tend to  
take up too much focus, and hinder a holistic approach to reforming the rule of  
law institutions. As long as no one in Liberia gets justice, women and children  
will not get it either—regardless of how many police stations and courthouses are  
built. The international response to SGBV in Liberia focuses too much on  
symptoms and too little on causes.

Instead of addressing the dual system of customary and statutory law, and  
finding out how then can work together and complement each other, internal actors  
often act out of an understanding of Liberia as a terra nullius—a place where noth  
of what existed prior to the UN’s intervention can be used. Paradoxically, areas  
which do resemble a terra nullius such as the training and competency of judges and  
magistrates in the statutory system, little has been done to address it through training  
new personnel.

Why wouldn’t the ADR methods themselves have a measurable impact on GBV?

It is because the downsides of ADR are the same, regardless of settings. ADR over time  
lacks accountability (no reports to the community of results, often results are kept  
confidential, to appeals process, to protect against corruption, and little to provide the  
“educative” affects from formal processes).

### **III. Continued Attempts to Measure the Effects of Law Reform, both Formal and Informal methods.**

While law reform was being implemented, the international community continued  
to try to measure what was going on and what was working or not working. A 2007 study

by the International Rescue Committee and the Columbia University Program on Forced Migration and Health found that one-fifth of the sample population in Montserrado County and more than one-quarter of those surveyed in Nimba County had been raped or otherwise sexually abused.<sup>54</sup>

The Government of Liberia also indicated that there were 568 rapes reported throughout the country in 2006, and that the number of reported cases was continuing to rise.<sup>55</sup> Medecins Sans Frontieres (MSF) reported that 6,494 rape victims (including men and children) sought treatment at their clinics from 2003-2007; in 2007, 72% of alleged victims were under 18 years of age, and 42% of those were under 12.<sup>56</sup>

TCC and other NGOs were baffled by the prevalence of GBV. While these numbers were already high, discussions with in-country partners of TCC suggested that the incidence of GBV may be higher, as many women do not have access to health care, and/or are unwilling to speak about their experiences for fear of stigmatization in their communities. Moreover, these studies may have been further under reporting GBV, capturing only its most extreme aspects. For example, a 2007 report included the following additional forms of GBV in Liberia: “genital mutilation through excision practices among certain ethnic groups, and ‘forced’ marriages of minor women, who then work under slave-like conditions, and widespread violence against wives suspected of

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<sup>54</sup> Cindy Shiner, “New Study Spotlights Sexual Violence” [www.allAfrica.com](http://www.allAfrica.com), 5 December 2007; See also, Spangaro, J., Zwa A., Ranmunthugala G., Steinacker L., (2013). What is the evidence of the impact of initiatives to reduce risk and incidence of sexual violence in conflict and ost-conflict zones and toher humanitarian crises in lower-and middle-income countries? A systematic review. London: EPPI-Centre, Social Science Research Unit, Institute of Education, University of London.

<sup>55</sup> “UN official urges action against rape in Liberia,” Sep 3, 2007, <http://afp.google.com/>

<sup>56</sup> “Stories they need to tell supporting survivors of sexual violence in Liberia” 16 April 2008, [http://www.msf.org.za/articles/article\\_Liberia\\_SexualViolenceSurvivors\\_160408.html](http://www.msf.org.za/articles/article_Liberia_SexualViolenceSurvivors_160408.html)

adultery and witchcraft.”<sup>57</sup> Female genital mutilation, though widespread, seemed not to be as widely discussed as it is in the reform efforts of other African countries; Fuest suggests that this is due to the strength of the Sande in Liberia.<sup>58</sup>

Again, in October of 2008 the TCC gathered data on sexual abuse and violence against women from the United Nations Police (UNPOL), the Liberian Ministry of Gender (MoG), NGOs, and other sources.<sup>59</sup> At first look, the public education campaigns appeared to have been paying off. At least more and more cases were being reported to the police and lodged at court. However, the gaps between the numbers reported, lodged, and tried remained significant. In 2006, 75 cases relating to sexual violence were lodged; of these, seven were tried, all of them successfully. In 2007, 763 sexual offences were reported to the police, of which 165 were eventually lodged at court; of these, only 25 made it to trial, with only 15 resulting in convictions.

Between May and September 2013, GBV Crime Unit in the Justice hub in Gbarnga, a city in Bong County, Liberia, recorded a total of 115 sexual offences in Bong, Lofa and Nimba Counties. 46 cases were tracked and 69 additional cases referred for victims to receive further support. Among the 46 tracked cases were 43 statutory rape, 1 (one) gang rape, (1) one sexual assault and one (1) sodomy all in the three counties alone in Liberia out of a total of 15 counties.

In terms of prosecution, the Gbarnga hub also reported that eleven (11) rape cases were on trial, seven (7) convictions and three (3) acquittals. Twelve (12) Grand jury Hearings were held with all the defendants subsequently indicted.

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<sup>57</sup> Francesco Castellani and Henrik Nielsen, "People's Access to Rights in Liberia", (2007) at 41

<sup>58</sup> Veronika Fuest, "'This is the Time to Get in Front': Changing Roles and Opportunities for Women in Liberia", African Affairs, (2008), pp. 1-24 at 21.

<sup>59</sup> Email from Anthony Valcke, Director of the American Bar Association Africa Law Project in Liberia, October 1, 2008; UNPOL Daily Situation Reports, January 2007-July 2008.

The overall rate of case disposition for cases in all Circuit Courts remained extremely low. In 2010, according to the UNDP, ‘End of Term Report and Analysis of Circuit Court and Cases Heard’, there were 557 cases listed in the dockets of the circuit courts in the 10 counties reviewed. By the conclusion of the court term, 26 had been tried, 50 had been otherwise disposed of, and 480 remained pending as 14 percent of docketed cases were tried or otherwise disposed of. This compares with 9 percent of cases tried or otherwise disposed of and 91 percent pending in the February 2010 term.

While the Ministry of Justice was aware of these figures but the Liberian legislature found it difficult to provide funding for a new specialty domestic violence court. Also funding of formal prosecutions of these cases seemed halting at best. And there has been little training of lawyers (one day advocacy programs) and little training of judges in how to try these cases. TCC found it vital to the success of these efforts that formal training of judges and lawyers occur, so that cases can be robustly defended and successfully tried, and rule of law effects thus maximally enhanced. Yet the education efforts were hampered by turf wars between the Liberia Supreme Court and the Ministry of Justice. Also the total number of graduates coming out of the Liberian law school in Monrovia did not keep up with the demands for prosecutors and defenders. Law graduates gravitated to private law commercial practices rather than take jobs in public sector.

The UNDP had set up a number of projects to try and address the gaps in Liberia GBV formal justice projects. Both UNDP’s Democratic Governance Office and Office for Security and Protection have been working to support the new Court on Sexual

Violence.<sup>60</sup> In addition, it has set up a watchdog office to report on the progress being made prosecuting cases.<sup>61</sup> Its latest report was pre-Ebola, in 2009, and no updates have occurred since then. In 2009 there appeared to be a rise in the use of Rape line.

Furthermore, the Australian government supplied technical support to the UNDP and the court appeared to have been successful in providing staffing and computer support to most of courts. Still, progress in the counties outside of Monrovia has been hard to measure, especially since the outbreak of Ebola in March, 2014. And the TCC was dismayed at the continuing lack of real progress on the ground in combatting GBV.

### **Prevalence of SGBV in Liberia**

For purposes of TCCs own evaluation of its programs it defined SGBV as violence that is directed against a person on the basis of their gender or sex, including acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.<sup>62</sup> Typically, reference to SGBV covers a range of acts

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<sup>60</sup> UNDP, Timely Justice for Rape Victims in Liberia, <http://www.lr.undp.org/content/liberia/en/home/ourwork/democraticgovernance/successstories/justice-rape-victims.html>

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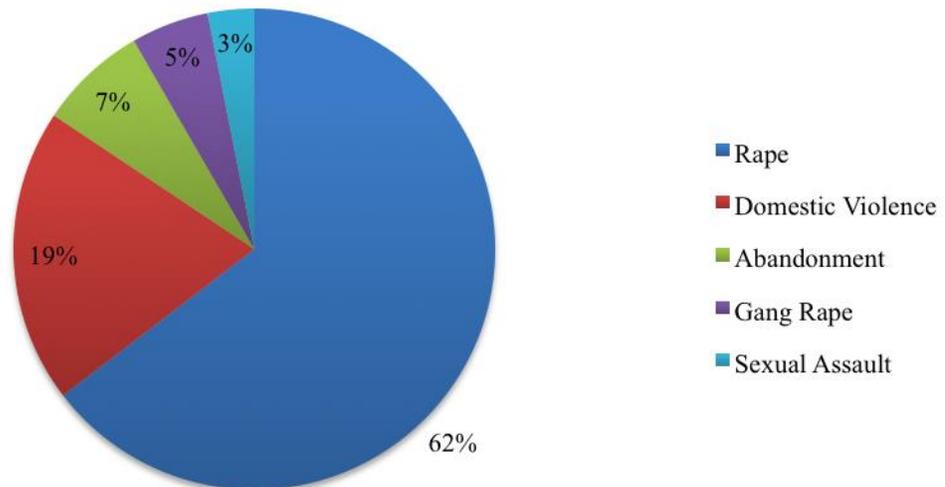
<sup>61</sup> Id.

<sup>62</sup> This definition was taken from the Norwegian Refugee Council (2009). While many organizations tend to prefer the UN definition of SGBV, the NRC’s definition is more comprehensive as it includes both men and women as opposed to emphasizing women only.

including, but is not limited to: rape; gang rape; sexual slavery/exploitation; forced marriage; sodomy; female genital mutilation (FGM); and forced sexual relations between two individuals against their will. According to the Norwegian Refugee Council (NRC), the five most prevalent forms of SGBV in Liberia are rape, domestic violence, abandonment, gang rape, and sexual assault, as displayed below in Graph 2.<sup>63</sup>

Abandonment is defined here as a consequence of SGBV, whereby the victim is either divorced or abandoned for reporting incidents of SGBV.

**Graph 2.** *Five most prevalent types of sexual and gender based violence in Liberia.*<sup>64</sup>



While figures on the prevalence of SGBV in Liberia vary, it is widely observed to remain pervasive throughout all 15 counties.<sup>65</sup> The Liberian Government’s Gender-Based

<sup>63</sup> Dziewanski, D. (2011). *Assessment of Gender-Based Violence (GBV) Data in Liberia*. Oslo: Norwegian Refugee Council, 13.

<sup>64</sup> Graph adapted from: Dziewanski, D. (2011). *Assessment of Gender-Based Violence (GBV) Data in Liberia*. Oslo: Norwegian Refugee Council, 13.

Violence National Plan of Action of 2006 is often referred to for its alarming conclusion that 90.8 percent of Liberian women experienced some form of abuse or sexual violence during the conflict. The World Health Organization (WHO) further estimates that 81.6 percent of Liberian women have experienced a form of SGBV at some point in their lives.<sup>66</sup> Conversely, the results of a survey produced by Berkeley estimates only 12 percent of women experienced sexual violence during the war, while 27 percent witnessed the rape or sexual abuse of a woman during the war.<sup>67</sup>

The Berkeley study also estimates that currently 26 percent of women continue to experience violent beatings from their partner. The 2007 Liberia Demographic and Health Survey (LDHS) estimates that up to 44 percent of women over the age of 15 have experienced physical violence in a domestic setting at some point in their lives, both during and after the conflict.<sup>68</sup> The LDHS survey also indicates that up to 29 percent of women experienced this domestic violence in the 12 months preceding the survey. Another study by Callands et al. found 41 percent of women reported being the victim of moderate violence (i.e. having been pushed, slapped, punched, or having had her arm twisted or hair pulled), 20 percent identified as the victim of severe violence (i.e. having been kicked, choked, threatened, or attacked with a weapon), and 11 percent indicated being the victim of sexual violence, all perpetrated by their current or most recent

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<sup>65</sup> Republic of Liberia. (2006). *National Plan of Action for the Prevention and Management of GBV*. Monrovia: Republic of Liberia.

<sup>66</sup> Omanyondo, M.C. (2005). *Sexual Gender-Based Violence and Health Facility Needs Assessment (Lofa, Nimba, Grand Gedeh and Grand Bassa Counties) Liberia*. Monrovia: World Health Organization, 26.

<sup>67</sup> In discussion with a member of the Berkeley survey team, we were told that although their survey brought out SGBV figures that are much lower than those that are usually quoted, these figures were higher than those in other “post-conflict countries” where they performed similar studies, such as in Uganda.

<sup>68</sup> Republic of Liberia. (2008). *Liberia Demographic and Health Survey [LDHS] 2007*. Monrovia: Republic of Liberia.

partner.<sup>69</sup> Whereas the survey results demonstrate a large range of SGBV incident levels in Liberia, TCC was convinced that domestic violence represents a prominent form of SGBV in Liberia.<sup>70</sup>

Recent studies suggest that the nature of SGBV in post-conflict Liberia has evolved from militarized sexual violence, opportunistic sexual violence, and SEA, to SGBV primarily committed by individuals who are known to the victim.<sup>71</sup> The 2007 LDHS survey found 80 percent of ever-married women who have ever been abused reported

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<sup>69</sup> Callands, T. A., Sipsma, H. L., Betancourt, T. S., & Hansen, N. B. (2013). Experiences and Acceptance of Intimate Partner Violence: Associations with STI Symptoms and Ability to Negotiate Sexual Safety among Young Liberian Women. *Culture, Health & Sexuality, 15*(6), 680–694.  
doi:10.1080/13691058.2013.779030

<sup>70</sup> With the practical challenges of SGBV research in mind, it is important to note the nature of SGBV in Liberia. While data indicates that women constitute the majority of SGBV victims, girls, boys, and men also are victims of SGBV. A study carried out by the United Nations Mission in Liberia (UNMIL) Legal and Judicial System Support Division in 2008, found that out of 2,952 interviews with male and female participants in Liberia who reported rape, 61 percent were between the ages of 10 and 19 and 13 percent were aged 0 to 9 years old.<sup>72</sup> Another report produced by the Government UN GBV Joint Program found 46 percent of rape cases reported to the Liberian National Police in 2007 involved children under the age of 18. A Joint Programme of the Government of Liberia and the United Nations. *Combating Sexual and Gender Based Violence in Liberia*. [Online] Available from:  
<http://stoprapenow.org/uploads/features/SGBVemail.pdf>

Similarly, Médecins Sans Frontières (MSF) estimated 85 percent of 658 rape survivors who reported to Monrovia’s Gender-Based Violence Clinic in Benson Hospital were below 18 years of age, while almost half (48 percent) were between the ages of 5 and 12. This same MSF study also revealed 18 percent of the 658 rape victims were boys and men. This unpublished data was referenced by Mendy Marsh, Program Coordinator for Christian Children’s Fund Liberia, in “Addressing Sexual Violence in Liberia” Panel Discussion, December 6, 2006, United Nations Secretariat, New York. Similarly, a separate statistical study by Johnson et al. showed that during the war 32.6 percent of male combatants experienced sexual violence, compared to 42.3 percent of female combatants. Johnson, K., Asher, J., Rosborough, S., Raja, A., Panjabi, R., Beadling, C., and Lawry, L. (2008). Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Liberia. *The Journal of the American Medical Association, 300*(6), 689. While rape and sexual violence is generally under-reported, this seem especially true when reporting males as victims of rape and sexual violence, due to a combination of confusion, shame, fear, guilt, and stigma.

The occurrence of sexual violence in conflict and post-conflict settings is generally characterized into four categories: militarized sexual violence; opportunistic sexual violence; sexual exploitation and abuse by peace-keepers and humanitarian workers (SEA); and sexual violence by family or community members exacerbated by weakened structures. Spangaro, J., Zwi, A., Adogu, C., Ranmuthugala, G., Davies, G. P., and Steinacker, L. (2013). *What is the evidence of the impact of initiatives to reduce risk and incidence of sexual violence in conflict and post-conflict zones and other humanitarian crises in lower-and middle-income countries?* London: EPPI-Centre, Social Science Research Unit, Institute of Education, University of London.

<sup>71</sup> Republic of Liberia. (2008). *Liberia Demographic and Health Survey [LDHS] 2007*. Monrovia: Republic of Liberia.

current or former husbands, partners, and other close relatives as the main perpetrators of violence against women. As one 2007 LDHS participant said, “GBV is not like before... it’s not finished but it is not like before. Now, GBV is mostly by neighbors, people that you know.”<sup>72</sup> Female respondents argued this shift in perpetrators of domestic violence is “directly linked to the increased status of woman, on the one hand, and men’s perceived loss of power and authority on the other”.<sup>73</sup> Women’s increasing access to technical training and economic opportunities, reportedly creates tensions within spousal relationships. Some male respondents reported perceiving women’s empowerment as an encroachment on their sphere of influence, thus, driving them to assert their authority and masculinity through violence towards women. As evident within these LDHS findings, when addressing SGBV is important to understand how gender norms are embedded in traditional social structure.<sup>74</sup>

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<sup>72</sup> Republic of Liberia (2011) *In-depth Study on Reasons for High Incidence of Sexual and Gender Based Violence in Liberia: Recommendations on Prevention and Response*. Monrovia: Government of Liberia/UN Joint Programme on Sexual and Gender Based Violence.

<sup>73</sup> Republic of Liberia. (2008). *Liberia Demographic and Health Survey [LDHS] 2007*. Monrovia: Republic of Liberia.

<sup>74</sup> This wide range of SGBV data suggests that less can be inferred about the extent of SGBV in Liberia than one might hope. Researchers have identified four main limitations in the SGBV research process that should be noted: lack of a universal definition of SGBV, varying methodologies for defining indicators and collecting data, logistics of conducting research, and under-reporting of SGBV incidents. The quantitative and qualitative desk review found that SGBV was defined in a number of different ways, ranging from specific definitions such as verbal assault and gang rape, to broad definitions like intimidation or aggression. The review of research tools used to assess SGBV in Liberia also revealed that while many studies assess how Liberians perceive violence in relationships, they do not assess the severity of violent acts in a standardized fashion. In addition, logistical constraints such as poor access to rural communities, human capital, and the lack of psychosocial services, creates difficulties in obtaining good individual level responses to questions about SGBV. These methodological and logistical constraints complicate data compatibility, make it difficult to reconcile data sets, and limit the comprehensiveness of the study. On top of these issues, SGBV cases are typically underreported due to the sensitive nature of the issue. In traditional Liberian society, rape is associated with shame. Many survivors who report rape are shunned by their family and many never marry. Others are considered ‘damaged goods’ and forced to marry their rapist. **Error! Bookmark not defined.** Wanting to avoid this stigmatization, many victims do not report SGBV. As a result, gaps and constraints in the data leave much to be discovered about SGBV and, therefore, prevalence estimates must be understood with this caveat.

In addition, a 2013 study by Sandefur and Siddiqi shows the complexity of the relationship between formal and informal rule of law systems in Liberia. Parties will soon engage in “forum shopping” between systems to produce the best results for the particular party. Each system, then, on its own measure, will not show an overall improvement in satisfaction for rule of law development or as a means to combat GBV.

Sandefur and Siddiqi create a simple model of forum choice to demonstrate the tradeoffs the poor and socially disadvantaged face between the repressive aspects of customary law and the formal system’s high costs and punitive approach to justice. Using survey data on over 4,500 legal disputes in rural Liberia they found that plaintiffs facing a disadvantageous pairing under the custom—e.g., women suing men—are more likely to choose the formal system and are relatively happier when they do. Of course for the men who lost, this produced the contrary opinion that the formal system was rigged against them.

What Sandefur and Siddiqi found in 2013 confirmed what TCC had discovered in its work starting in 2006. It had noticed that for many (especially) men, and bad outcomes, but women also, from the impact of court fees, and bribes, and the inability of the formal court system to address real relief for violence (the perpetrator thrown in jail often took away the victims means of support) that only 18 % of disputes found their way to the courts, and over half were settled neither in court or in traditional systems. TCC’s experience led it to try a new hybrid approach to providing support in the fight against GBV. Something else would need to be done. It led it to start its CLA program.

#### **IV. The Carter Center’s Community Legal Advisors Program.**

From its experience with cases like Arianna’s, its frustrations with efforts at both support for the formal system and the traditional and customary dispute resolution processes, TCC has also been involved in setting up with the Catholic Justice and Peace Commission (JPC) a Community Legal Advisors Program (CLA) as an attempt to try to bridge of role of Liberia’s formal legal system with its informal community structures.<sup>75</sup> TCC<sup>76</sup> and JPC supervise first 32, then 45, and most recently increased to 54 community legal advisors working in Liberia. Their responsibilities are described as follows:

Specifically, CLAs:

- Provide information on rights and the law;
- Help people interact with government, courts, and traditional authorities;
- Mediate small-scale conflicts; and
- Advocate for justice.

Community legal advisers have offices in the primary cities in each county of operation. In addition, each county has a specified "mobile team" to visit extremely rural areas and to ensure that geographic contiguity to primary cities is not a precondition for the quality of justice one receives.<sup>77</sup> While the CLAs are Liberians, they are none-the-

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<sup>75</sup> Another effort that also bears notice is Northwestern University School of Law’s PASI (Paralegal Advisory Service Institute.) First working in Malawi, and now in Kenya, Benin, Uganda, and Niger. it has shown some significant success at providing women with access to justice and legal services. Directed initially at prison reform, it trains in country paralegals to represent prisoner detainees in obtaining court hearings. It has since branched out to teach paralegals to do the same for women who have been subjected to sexual abuse and violence. <http://akhilak.com/blog/2010/05/21/feature-friday-paralegal-advisory-service-institute/>

<sup>76</sup> The Carter Center Liberia project managers and bios are as follows:

<sup>77</sup> President Carter explained the idea for the CLA project as follows:

*An often overlooked yet critical element to achieving this aim [of post-conflict reconstruction] is the prioritization of the restructuring and empowerment of community-based justice mechanisms that have been damaged or discredited by the war. Doing so gives ordinary people an active stake in the transition to a more just society and provides some means for people to protect themselves, their communities, and their country from injustices that can lead back to war... Despite the successes of [community-based primary health care approaches], a comparable idea*

less guests in the communities they work in. They are taught a community-entry strategy that even though they may have grown up in the areas in which they work, they are still supposed to see themselves as guests, working in partnership with, and as support to, existing structures. In local custom, experience has taught them the need for the exercise of common courtesy as their supervisors suggest meeting with the local chief prior to talking with a community, especially if a guest will be addressing topics that might challenge local authority such as legal reform of inheritance or property rights of women.

Established in 2007, the CLA program was seen as creative attempt to bridge the gap between formal legal systems, often miles away from individual communities, and both legal information about existing rights and legal institutions. Furthermore, the CLA program is also meant to offer mediation as way of providing service to individual Liberians. TCC, as well as other NGOs have been hungry for information about how well such advisors have been performing and have tried to evaluate the program success. These efforts at evaluation have shown the difficulties of assessing the effectiveness of these projects in developing rule of law and combatting GBV.<sup>78</sup> They none-the-less

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*that access to justice should be rooted in community-based services has yet to be embraced in a similar manner.*

<sup>78</sup> Using these broad categories, 38 percent of disputes were taken to the customary system, while just 4 percent were taken to the formal system. In addition, 58 percent of disputes were not reported to any forum, and were either resolved by the disputing parties themselves or left unresolved. Table 1 disaggregates these patterns by dispute category. In line with Prediction 1 7While we made every effort to communicate to respondents that 'reporting' taking the dispute to any third party for mediation or adjudication, it is possible that respondents did not fully understand reporting to the lowest rungs of the customary system, artificially increasing the number of disputes that were taken to 'no forum'.  
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from the theoretical model, there is a clear tendency for violent crimes to be taken to the formal system (25.8 percent of murders, 21.2 percent of rapes and cases of sexual abuse) while the civil cases that dominate the sample are very rarely taken to the formal system (1.5 percent of the debt disputes and 1.4 percent of the family or marital disputes, which together comprise almost

suggest some encouraging evidence that their efforts are moving Liberia in the right direction.<sup>79</sup>

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two-thirds of the sample).

<sup>79</sup> More specifically TCC implements its program in partnership with local civil society organizations, the Ministry of Internal Affairs and the Ministry of Justice. Community-based paralegals are recruited from the counties in which they work, and typically possess secondary school or college education. They are trained periodically in mediation, advocacy, formal law, and the roles of the different legal agencies. They are mandated to provide free-of-cost legal advice and services to local residents. In particular, they assist individuals and communities with a wide range of disputes, by providing information about the law and their individual rights, advocating on their behalf to customary and formal authorities, and directly mediating disputes if so requested.

With some exceptions, paralegals generally wait for potential clients to approach them with live disputes or grievances. These may range from child and spousal support cases, to disputes over land, debt, labor, or property, to violent crimes such as assault and gender-based violence. Paralegals assess the client’s initial story to see if it constitutes a ‘case’, i.e. where action of some sort is viable (as opposed to, for example, clients coming to talk about losses during the war, or crimes committed by unknown parties who cannot be identified or tracked down). If the dispute or grievance constitutes a ‘case’, paralegals decide whether or not to accept it depending on their existing caseload and the merits of the case. Paralegals encourage their clients to state what action they would like to take—for example, take the case to court, arrange a mediation to attempt to reconcile, advocate on behalf of the client to relevant authorities, etc. (Notable exceptions are murder, rape, and other forms of violence where paralegals refuse to mediate and strongly advocate taking the case to a formal authority.) Paralegals lay out these and other options, and provide some information about the laws and processes involved and the likely outcomes. If the client chooses to take the case to a formal authority, the paralegal becomes an informal legal advisor and advocate, guiding the client through the procedures and looking over the shoulder of authorities to ensure that due process is being followed. This is usually enough for the large majority of cases that do not formally make it into court. For cases that go to court, under some circumstances the paralegal could refer the client to in-house lawyers maintained by the Carter Center who may choose to represent the client. Lawyers also provide a limited range of other legal services that require formal legal assistance, such as filing bail applications in court, but even in those instances the paralegal is responsible for following up on the procedures.

Mediation, easily the most popularly selected recourse, is conducted along standard and familiar procedures of conflict resolution. Paralegals receive mediation training from the Carter Center’s lawyers as well as other organizations such as the American Bar Association’s local office. Mediation typically begins with the paralegal issuing an invitation (or multiple invitations, as required) to the other parties involved in a dispute. Invitations carry some weight, both because they are issued as written documents—a rarity in local dispute resolution—and because NGOs hold a great deal of sway in rural Liberia and are widely perceived as external, formal actors.

Mediation is conducted at a mutually agreed upon venue, and may be held over multiple sessions if so needed. If parties agree upon an outcome, the paralegal writes out a formal mediation agreement and leaves a copy with both parties. Though paralegals have no means of enforcing the agreement, they maintain a close watch on the case for at least three months after case resolution and check in periodically with their clients. If the agreement is reneged upon, paralegals may offer to reopen a case and pursue an alternative means of recourse if the client so desires.

Paralegals also play broader roles as individual and community advocates. They may approach traditional authorities, employers, government agents, or other informal actors as needed to advocate on behalf of their clients, which might be individuals or communities. They also play a broader social role that often goes beyond that of a legal representative—for instance, they may take on extreme cases of injustice *suo moto*, or in exceptional circumstances switch their allegiance to the other party—for example, if approached by a husband who has been beating his wife. To date, the paralegal program has taken up over 4,000 disputes, ranging from land and property to gender-based violence and child support.

Till 2009, paralegals were only based in the major towns in each districts. The high cost of travel, both in terms of time, transport, and the social cost incurred by individuals in taking a dispute to an outside third party, meant that new cases came predominantly from urban or peri-urban areas. From February 2009, the program added on a mobile outreach component as a means of extending its scope to more remote communities beyond the reach of the town-based paralegals. ‘Mobile paralegals’ were deployed on motorbikes to 160 villages across five of Liberia’s fifteen counties: Bong, Grand Gedeh, Lofa, Maryland, and Nimba. Program communities included mining towns and plantations, border towns with high refugee populations, and a large number of remote towns inaccessible by road. Each paralegal was assigned to ten communities in her or his county, and required to make two visits per month to each community, during which they would conduct information sessions, take new cases, follow up on ongoing cases, or check in on resolved cases. Paralegals follow a strict protocol when arriving in the village. They begin by greeting the local leaders, who over time have become familiar with the aims and objectives of the program. They then follow up on ongoing cases, e.g. meeting with either party to a dispute, providing information to a client, etc. Depending on their workload, they also conduct information sessions that typically take the form of a community meeting. Each session covers a broad topic, typically related to women’s rights (domestic violence, rape, spousal and child support, inheritance, etc...), or rights to land, labor rights, etc. On occasion they make forays into laws governing witchcraft and ‘sassywood’ (trial by ordeal), the structure of the legal system and local administration, political participation, etc. This expansion means that, in principle, the program can

bring (the content of) the formal law literally to the doorstep of those it serves.

Furthermore, the ‘mobile’ model allows a relatively small number of paralegals to cover a large number of communities on a flexible schedule, making it a relatively cost-effective, labor-intensive approach to extending the reach of the formal legal system—and one with potential for scaling up.<sup>80</sup> Finally, this expansion provided a unique opportunity for a randomized evaluation of the program, expanding as it was into communities that had little prior experience of this sort of intervention and that were typically far from the reach of the formal legal system.<sup>81</sup>

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<sup>80</sup> Indeed, neighboring Sierra Leone is at the time in the midst of a government-sponsored national expansion of a very similar program.

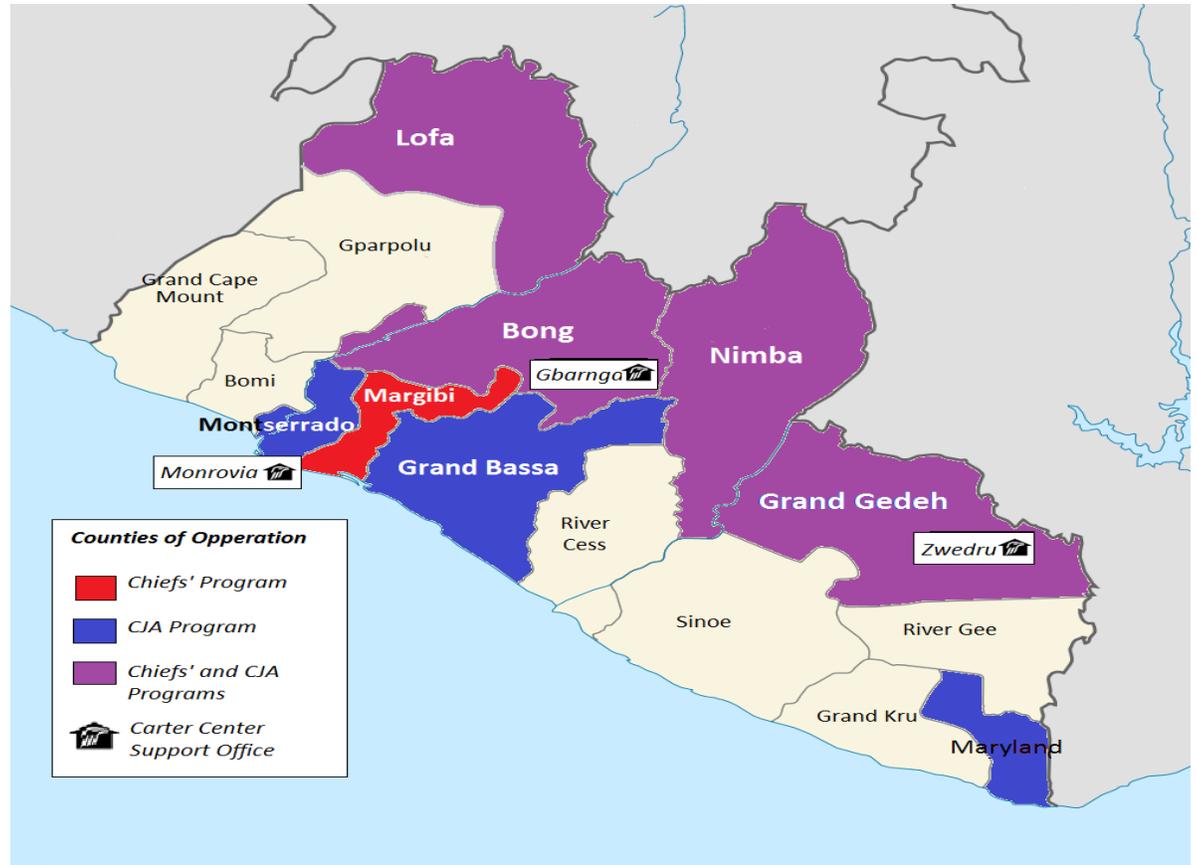
<sup>81</sup> **The Carter Center – An NGO response to SGBV, From TCC web cite.**

The Carter Center’s (TCC) Access to Justice Program in Liberia aims to strengthen peace in Liberia by enhancing citizen ownership of government and the provision of justice (Figure 1). This goal is addressed through four main avenues: strengthening the administration of justice; providing civic education on the rule of law; improving access to justice; and sparking policy dialogue and reform. In partnership with the Catholic Justice and Peace Commission (JPC), TCC is working to provide a network of Community Justice Advisors (CJAs). These CJAs help fill a critical gap in the provision of justice to marginalized citizens in seven counties. To date, 52 local citizens have been trained as CJAs to provide free legal advice, mediation services, and civic education to guide individuals and communities through the various statutory and customary options available for resolving disputes. Isser, D. (2009) *Looking for Justice; Liberian Experiences with and Perceptions of Local Justice Options*. Washington DC: United States Institute of Peace.

Since 2008, TCC supported legal support service has opened over 8,000 cases through the CJA project. Also, through TCC’s capacity building work with customary leaders, more than 1,200 traditional leaders, women, and youth in rural communities around the country have received rule of law and dispute resolution training. Civic education has directly reached over 150,000 people in approximately 1,200 communities (see Figure 1). With TCC support, customary leadership has effectively intervened to manage several major existing and potential internal conflicts. TCC also has helped support a number of policy processes, including on-going work to harmonize the dual justice system, increase support to legal and judicial reform initiatives, and define a formal role for non-lawyers in the justice sector.

Back to the Sindefur and Siddiqi 2013 studies, not only were these researchers measuring the forum shopping and attitudinal impacts of the competing formal and customary traditional systems, but they had the opportunity to measure the CLA

**Figure 1.** Access to Justice Program in Liberia – Current Activities 2014-2016



Particular focus is directed to capacity and knowledge strengthening for women and youth in order to develop their participation in rural decision-making on matters that affect their lives. TCC training has consistently focused on property rights and violence prevention that are of particular, but not exclusive, concern to women. TCC’s approach to violence prevention education, including sexual and gender based violence, largely focuses on working with both women and men to educate them on means to prevent violence and the benefits of a violence free-community. As part of this, TCC actively encourages women and youth participation in community decision making through inclusive dialogues and collective problem solving. Significant cultural barriers that make it difficult for women and youth to feel that they have a genuine stake in community decision making. As such, it is equally important to approach these issues in ways that encourage reflection and ownership of change. Only 4 cases of FGC recorded between 2008 and 2012. Republic of Liberia (2011a) *Gender Based Violence Annual Statistical Report 2011*. Monrovia: The Ministry of Gender and Development, 2.

programs impact on community attitudes. They then applied their findings to try to determine the effectiveness of TCCs Community Legal Advisors program to try to determine whether it produced better outcomes than the existing combination of customary and formal dispute resolution systems.

In a randomized trial of the CLA program designed to overcome this tradeoff, by offering *probono* mediation by community paralegals trained in the formal law, the Sindefur and Siddiqi study found that plaintiffs offered legal aid are significantly more satisfied with case outcomes, pay fewer bribes, and report large material gains in terms of household and child food-security. Furthermore, both demand for and impacts of the program are greater for plaintiffs facing poor odds in the customary system. Their results suggest that there are large socioeconomic gains to be had from improving access to the formal law, by making its institutions more competitive with the organizational forms of the custom.

Legal empowerment requires engaging with, and supporting, a variety of dispute resolution forums that address the challenges poor and marginalized communities face. Such an approach seeks to deliver more tangible, immediate gains than offered by capacity building at the highest levels of the state system. While certain categories of disputes depend on high-level state legal institutions, justice reform efforts also need to respond to the challenges average Liberians confront daily. Such challenges include disputes over rights and entitlements at the local level, access to resources, accountability of local officials, legal identity, and civil disputes.

*The Carter Center – Outcomes*

TCC classifies SGBV cases into six subcategories: domestic violence; rape; sexual violence; forced marriage; child trafficking; and FGM. Domestic violence is the most common SGBV case brought to CJAs, comprising 60 percent of all SGBV cases. Rape and other sexual violence are the second and third most common, totaling to 31 percent of all SGBV cases recorded. Approximately only 4 percent of all SGBV cases brought to CJAs are early or forced marriage and child trafficking cases, and FGC cases are even less common (around 1 percent).<sup>82</sup> It is worth noting that case types reported to CJAs differed significantly from cases reported to governmental agencies. Over a four-month period in 2011, roughly 61.9 percent of all cases reported to the MoGD were rape-related, and only 18.3 percent were related to domestic violence.<sup>83</sup> Considering the inaccuracies and under-reporting of SGBV data discussed above, it is difficult to determine to what extent case brought to CJAs or governmental agencies reflect actual nationwide SGBV trends.<sup>84</sup>

Further analysis of the 5,258 cases opened by CJAs from 2007 through 2012, revealed that females reported the majority of child abandonment/neglect cases (91%), pregnancy/wife neglect cases (90%), domestic violence cases (85%), and rape/other sexual violence cases (83%).<sup>85</sup> This evidence supports the theory that female clients bring SGBV cases to CJAs far more frequently than male clients do. In addition, this evidence

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<sup>82</sup> Only 4 cases of FGC recorded between 2008 and 2012, representing around

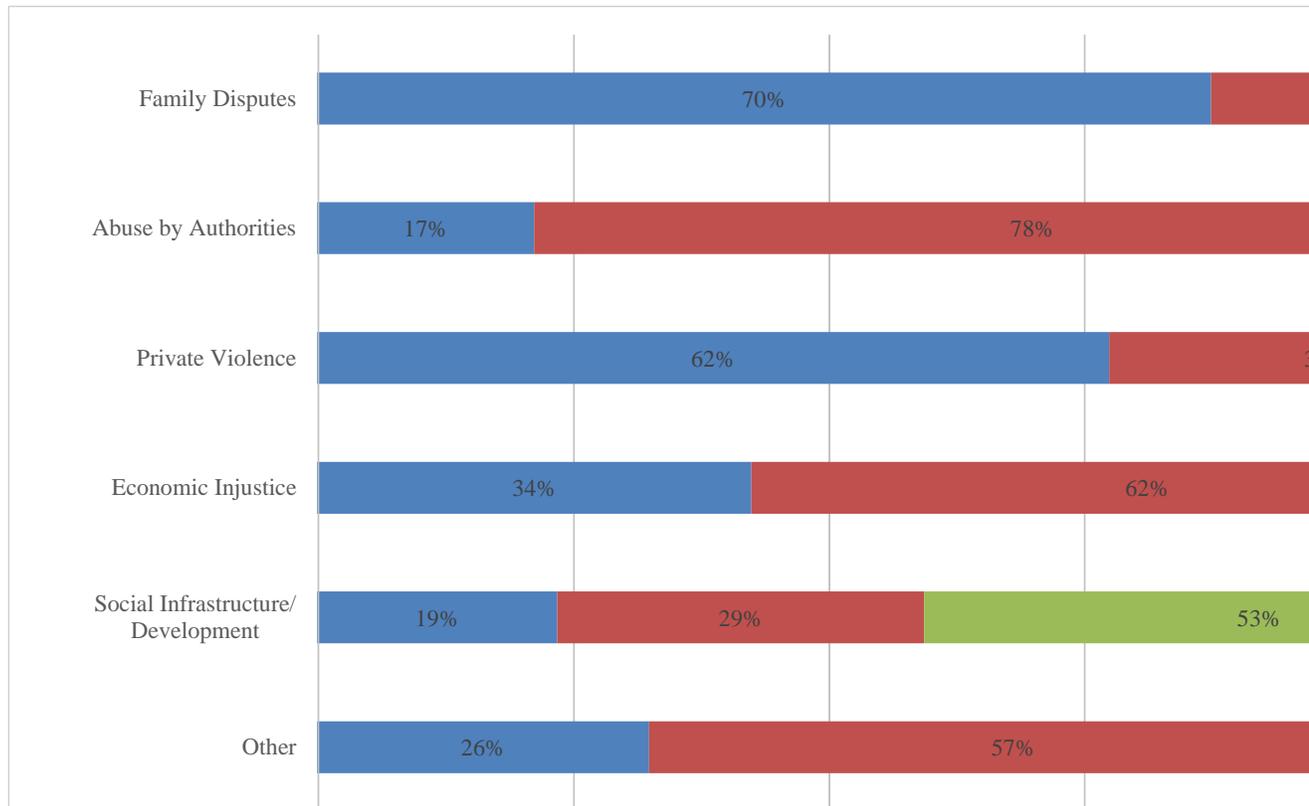
<sup>83</sup> Republic of Liberia (2011a) *Gender Based Violence Annual Statistical Report 2011*. Monrovia: The Ministry of Gender and Development, 2.

<sup>84</sup> While case-type data cannot be treated as reliable and statistically representative, this data can give practitioners an idea of the prevalence of SGBV-related cases. Specifically, it shows the types of cases that ordinary Liberians will take to fairly low level, non-state justice practitioners for resolution.

<sup>85</sup> Both rape and sexual violence and domestic violence case types fell under the private violence category in our data analysis, of which there were 750 cases recorded in total. Of the total 5,258 cases opened by CJAs in this time period, 109 were categorized under rape and sexual violence, *however an additional 214 cases of domestic violence were also reported during this time.*

demonstrates that CJAs are providing a needed service by addressing SGBV crimes and providing practical options for redress. Graph 3 depicts the distribution of cases types between 2007 and 2012, segregated by male, female and mixed clients. Only case types with a significant difference between male, female and mixed clients are displayed.

**Graph 3.** *Distribution of case type by gender*



Yet, even with its sampling of cases, TCC was still not sure exactly what the relationship between the CLAs and improving conditions. After all, the CLAs seldom dealt with SBG cases directly. Like with any scientific study, without being present during the intervention it is difficult to be confident as to the impact of any one CLA’s presence in the community. TCC then also took a look at what it believed to be representative case studies to better understand what it was seeing in the data. Its

examination showed the pitfall in drawing more than correlations from the data, as opposed to causal explanations.<sup>86</sup>

### ***The Carter Center - Impact***

As noted, TCC considers cases that have been resolved positively to be a measure of positive impact, and vice versa. However, it acknowledges the impossibility of

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<sup>86</sup> The following two case studies selected from the Access to Justice Program support the need for tailored responses when addressing the unique nature of each SGBV case. CJAs are trained to recommend various courses of action based on the SGBV crime and the victim’s preference for resolution. In domestic violence cases, CJAs are instructed to “respect the client’s choices about what action to take and must never try to influence the client’s choices in any way.”<sup>86</sup> This approach is taken for two primary reasons: first, the safety of the survivor is the CJAs primary concern, and only the survivor knows what will keep him/her safe. Second, a domestic violence survivor has had his/her power taken away, thus empowering the survivor to make decisions on how to handle the case helps the individual to re-exert some control over their body and life. If a client requests a domestic violence case be mediated, CJA’s are responsible for organizing a mediation session in compliance with the procedures for that specific case type. However, CJAs are instructed never to mediate a rape case. In accordance with the Liberian rape law, all rape cases are referred to the police. See The Carter Center and the Catholic Justice and Peace Commission (2011) *The Catholic Justice and Peace Commission & Carter Center’s Community Legal Advisor Manual*. Atlanta: The Carter Center and the Catholic Justice and Peace Commission, 55 and 57.

#### *Case Study 1: Elizabeth P., Domestic Violence*

In July of 2008, a client named Elizabeth P. brought a domestic violence case to CJA A.B. Wleemogar. Elizabeth came to Wleemogar because her partner had beaten her during an argument. However, when Wleemogar came to Elizabeth’s village to investigate the claim, Elizabeth denied ever having had a problem. Later, during a ceremony to welcome Elizabeth’s partner’s new wife, Elizabeth and her partner had a dispute in which her partner again beat her. After this second incident, Elizabeth returned to Wleemogar for help. Wleemogar informed her that her partner had committed the crime of assault under Liberian law and that they would help her to file the case with the Liberia National Police if she chose to. He also explained that the JPC commonly mediates disputes among people. Elizabeth requested that Wleemogar mediate the case, and they travelled to Elizabeth’s village to talk to her partner. After hearing testimonies from both parties, Wleemogar discovered that the violence within the relationship was due in part to economic tensions. Elizabeth’s partner agreed to be open and honest about his income, provide Elizabeth with a stipend for her children’s clothes, and secure their relationship as marriage by paying Elizabeth’s dowry. Both parties signed, and later they signed a separate agreement where Elizabeth’s partner agreed not to engage in domestic violence.

#### *Case Study 2: Nancy, Domestic Violence*

Nancy recently brought a serious domestic violence case to Linda, a JPC CJA. After her boyfriend physically attacked and verbally abused her multiple times, Nancy attempted to end their harmful relationship. Angered by Nancy’s desires to end the relationship, her boyfriend poured acid on her face and torso in a public space in their village. Nancy’s face and body were severely burned. Her boyfriend was arrested and charged in the dispute, but was released back into the community because of constraints in the formal justice system (i.e. the lengthy pre-trial period caused by a major backlog of cases). Fearful of her personal security, Nancy requested Linda’s services to resolve the matter. Linda explained various aspects of the criminal justice system to Nancy, and assisted her in meetings with the County Attorney. The perpetrator was re-arrested, found guilty, and sentenced to five years in prison. Nancy cites Linda’s training in psychosocial counselling as a key component that contributed to the successful resolution of the matter. She is now determined to help those who find themselves in similar situations, and frequently attends public meetings to speak out against domestic violence. However, she continues to be afraid of the situation when her former boyfriend comes back to her community in five years.

assessing the outcome if the CJA had not intervened and, therefore, cannot definitively determine the positive impact of the CJA’s intervention.<sup>87</sup> The inability to assess CJAs impact against non-intervention was explored by the Centre for the Study of African Economics (CSAE) survey.<sup>88</sup> CSAE data suggests that CJA clients were more likely to report that they were better off, had an improved relationship with the other party, and had an improved relationship with the community as a whole.<sup>89</sup> Furthermore, a program evaluation conducted by USAID recognized TCC’s work with local leaders, particularly in the South-eastern counties on domestic disputes and SGBV resolution, as impactful and successful.<sup>90</sup> In sum, by providing legal assistance, raising awareness on RoL roles and responsibilities, and training traditional leaders to resolve disputes, it is believed TCC strengthened the administration of SGBV justice within Liberia’s formal and customary legal sectors. While measuring the true impact of any public awareness program is always problematic, it is clear that TCC’s programmatic efforts have significant impact potential.

TCC also engaged Lorien Pratt and Mark Zangeri to run Quantellia,<sup>91</sup> a World Modeler, in an effort to try to use “Big Data” in measuring the impact of the CLAs on

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<sup>87</sup> For example, taking Elizabeth’s case study described in footnote 85, we know that Wleemogar helped Elizabeth stop her husband from beating her, but we do not know what the outcome would have been had Elizabeth found another way to resolve the dispute. Perhaps solving it alone, or with the help of local traditional leaders or the police would have led to a better outcome than that facilitated by Wleemogar.

<sup>88</sup> It is worth noting that although the CSAE survey did not achieve the sample size needed to merit statistical significance, the initial results showed that going to see a CJA was better than resolving a case through other means.

<sup>89</sup> Siddiqi, B. and Sandefur, J. (2011) *Preliminary Data from Mobile Community Legal Advisor Impact Evaluation* (Unpublished).

<sup>90</sup> United States Agency for International Development [USAID] (2009) *Evaluation of the Rule of Law Programs in Liberia*. Washington DC: United States Agency for International Development.

<sup>91</sup> **Quantellia’s World Modeler**

Quantellia’s World Modeler software is a desktop platform creating and interacting with simulations of complex systems, including the impact of decisions as they play out over time. By using World Modeler, decision makers and stakeholders gain a shared understanding of the complexities of a situation like that in

combating SGBV. Using economic modeling that businesses and governments have long used to try to measure the impact of everything from advertising, to the effectiveness of individual programming, Pratt and Zangeri used Sindefur and Siddiqi 2013 studies against data in had on the overall economy of Liberia, including data on overall economic development in West Africa, data on global warming, data on Ebola an it impact, etc., to try to run a regression analysis to determine the impact of CLAs on the overall development of the economies of the various counties where they were used. The model theorized that if women were subjected to less violence and felt more secure, they would be free to engage in more and better economic activities, which in turn, would produce resources that would allow the community to spend more for itself on security and prevention of violence against women, that would then eventually lead to less resources needed for CLAs.

Of course, the model was admittedly fragile, because its attempt to measure was for a limited period of time,(had too few data points), and tried to control so many variables

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Liberia. This allows them to systematically analyze the elements of a decision that matter, such as the decision levers available (what can be changed), key assumptions, important outcomes, and the cause-and-effect chains that connect these elements. It also supports connection to data sources, so that as the situation changes, these can be immediately reflected in the model.

Building a model in World Modeler is an iterative process, whereby model elements can be added as they are recognized or discovered, allowing for decisions to be made despite the existence of incomplete data, and creating a “learning platform” where a qualitative model can be systematically enhanced to be more fact-based over time.

A short video showing model construction in World Modeler can be found at <http://youtube/QTGSdYvCWYQ>.

Modeling in World Modeler begins by translating invisible mental models into a model diagram. This is then reviewed and refined, moving from a qualitative to a quantitative model, and gradually increasing the accuracy of data and rules upon which it is based, as various collaborators and reviewers make improvements.

From this point of view, the model discussed here is at an early “sketch” stage, as it is based on a single round of interviews, assumptions about certain aspects of the cause-and-effect links, and limited data. Despite its limitations, this model provides a valuable starting point for further refinement and an immediately useful mechanism to stimulate discussions that lead to greater alignment of understanding of the complex situation in Liberia.

See, Lorien Pratt and Mark Zangeri, Oauntellia LLC, The System Dynamics of Aid: Understanding The Carter Center’s CJA Program in Liberia, January 25, 2014.

that if it missed any one variable, or if the measurement of any one variable was skewed, then its results would also be skewed. Still, the modeling was instructive as to the challenge an NGO like TCC would face in determining what made the CLA program successful. How would it measure the quality of the CLAs themselves, the willingness of Chieftaincies in any given area, the quality of the supervision by TCC, the potential for *capture* by local actors, and the tendencies to be influenced in the long run by bribes or other power factors, that would affect either the accuracy of the measurements about effects, or the outcomes (in individual cases, or in the public attitudes towards the CLAs themselves)?

#### **IV. Conclusion**

##### **A. Assumptions about Human Nature, Liberal Democracy and the Rule of Law**

It is important to realize the assumptions that the human rights community<sup>92</sup> makes in trying to influence rule of law developments for women’s rights in Liberia. These assumptions are made explicit here in order to better understand their strategic priorities.<sup>93</sup> The first assumption is that humans share the following beliefs: that to be human means to be capable of empathizing with others in order to discover the “right” way that other humans ought to be treated. A second assumption is that empathy that directs individuals to the “other” can bubble up in the experiences of humans, once they are not gripped by fear or focused on survival. In other words, if extreme poverty and joblessness is pervasive, then the resistance to women’s’ rights is seen as a zero sum

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<sup>92</sup> Michael Perry, Johann VanderVyver,

<sup>93</sup> For more on the theoretical underpinnings of these paradigms see, for example, Carothers, *Promoting the Rule of Law Abroad*, 3–7; Erik Jensen, “The Rule of Law and Judicial Reform: The Political Economy of Diverse Institutional Patterns and Reformers’ Responses,” in Erik G. Jensen and Thomas C. Heller (eds.), *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, (Stanford: Stanford Law and Politics, 2003); or Deval Desai, Deborah Isser and Michael Woolock, *Rethinking Justice Reform in Fragile and Conflict-Affected States*, World Bank (2011), 245–46.

game. The more the woman has the less the man has, and as a result, the less capable a man may be of experiencing the empathy for women who suffer from GBV. Addressing extreme poverty seems to be a foundational condition for the development of rights for women.

The “other” directedness of humans can be facilitated by education in the form of theatre, art, and through law. In addition, “shared experiences” of empathy and right attitudes towards women can be facilitated by conversations, forums, and meetings where stories are presented, advocates speak, the audience listen with respect, and consult and confer till a “right” decision can be reached.

NGO efforts to intervene in Liberia proceed from these assumptions. It is important to remember, that these are the very assumptions that provide support for the classic common law approach to “rule of law” development. The common law gives to a jury a forum to learn of the disputes regarding how women are treated in their communities. The jurors are “other” directed as they have no stake in the outcome, and then discuss and debate based on custom, common sense, and conscience, the experience of each, till they speak a verdict that evidences the conscience—the experience of each—till they speak a verdict that evidences the conscience of the community.

And the jury system is theoretically already in place in Liberia. The question is, how can its capacity to be rebuilt, and its support be rebuilt, so that the self-reinforcing loop of just outcomes, security and economic development can start to work? As we have seen, in a country where the ideals of the common law courts are seldom realized due to poverty’s corrupting effect on the police (requiring fees to investigate) jurors (soliciting bribes) on lawyers (taking bribes to judges and bribing witnesses) on judges

(taking bribes) the distance between the common law in theory and law in practice is huge. In the end, the court process in Liberia may be so flawed that it does not have a legitimate educational function regarding the rule of law.<sup>94</sup>

What then has been gained by this analysis so far that might help direct the effort at Rule of Law reform in Liberia or other post conflict countries? As of 2009, significant progress had seemed to have been made on traditional ROL projects. Legislative reforms had been completed that made rape a crime, and defined and criminalized statutory rape and made it criminal, as well as spousal rape and assault. These new laws were declared in force in the “hinterlands” as well as in Monrovia.

USAID also reported that significant funds had been spent on capacity building in the formal criminal justice system.<sup>95</sup> Magistrate salaries had been increased. Up to \$8 million had been spent on Justice Sector Projects for capacity building at the Supreme Court, and through the Ministry justice for the City Solicitors/County Attorneys, and

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<sup>94</sup> **Alex Barney’s Working Paper**

One of the most significant challenges to addressing GBV in Liberia is the lack of resources. This was perhaps best illustrated in Bong County, where members of the Liberia National Police’s Bong County Gender Crimes Unit had only bicycles or taxis with which to pursue investigations. Members of the Bong County Youth Association noted the members of the communities with whom they worked were unlikely to turn to the police with GBV complaints, given that the typical community is a two to three hour drive from the police station, or a six to eight hour walk. This difficulty in accessing the police is especially significant in the case of rape victims, not only because of the challenge of making the trek, but also because of the medical examination requirements that Liberian courts impose in cases of sexual abuse. Women are expected to preserve the evidence of the assault until they are seen by the medical examiner.

Low salaries for the police and judiciary also present a problem, as the result tends to be additional costs for the victim. There are reports of victims being required to pay fees in order to file complaints with the LNP. Victims and the accused alike may be required to pay basic costs behind the investigation - for example, that of the taxi service used during the investigation. Further ways in which the lack of resources undermines efforts to combat GBV and the legitimacy of the Liberian justice system in general include the resulting makeup of the jury pool and the overcrowding of the prison system. Juries tend to include only older members of the community who are not otherwise able to work, and reportedly have difficulty following the issues.

MSF-run hospitals are known to provide good care for rape victims - and yet going to an MSF clinic has its own problems. As with many international NGOs, MSF postings last between six months and one year. If the medical examiner has left the country by the time of the trial (which is likely, given the pace of the court system), the case will likely be dismissed for lack of evidence.

<sup>95</sup> [http://pdf.usaid.gov/pdf\\_docs/Pdaco233.pdf](http://pdf.usaid.gov/pdf_docs/Pdaco233.pdf)

Public Defenders. In 2009 the USAID report was discouraging. In part through the data gathered by TCC and other NGOs it found that Liberian were overwhelmingly negative toward the formal justice system.<sup>96</sup>

USAID attribute the lack of progress to a number of factors, including:

- lack of political will for reform by high- level GOL officials in all three branches (limited political buy-in, conditionality or accountability for most rule of law programming);
- legal gaps and deficiencies in the law (outdated criminal, civil and administrative laws, sanctions and weak enforcement mechanisms);
- lack of administrative, management and enforcement capacity of key justice institutions to implement legal reforms;
- inability of justice sector officials and the public to access the law itself (both the laws and court decisions are virtually inaccessible for most Liberians and many rural Liberians cannot read English);
- lack of legal rights awareness and societal consensus on reform priorities and issues (including how to reform “competing” justice systems formal, traditional and tribal justice systems);
- limited access to transparent, fair and efficient justice in either the capital or rural counties (lack of law school graduates, private lawyers, county attorneys, public defenders, paralegals and qualified judges);

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<sup>96</sup> Id. And it is not just the 2009 USAID report. US Embassy briefings already in the summer of 2007 (the word from the US Embassy in 2007 was that the President Ellen Johnson Sirleaf (the first women president of an African state) had just survived a coup attempt) and subsequent visits by IDN in March and October of 2008, (in 2008 United Nations Mission in Liberia (UNMIL) scheduled to phase down their presence in 2008, the situation in Liberia was reported to be tenuous at best, and not unlike that faced by women in the rest of West Africa, from Sierra Leone to the Congo). and then again in the summer of 2011, and backed by studies in 2013<sup>96</sup> and 2016,<sup>96</sup> reveal a bleak and uncertain future for human rights for women in Liberia.

- the high cost of accessing the justice system for most impoverished Liberians (court fees and time and expenses traveling to distant courthouses);
- lack of a focused rule of law strategy within post-conflict Liberian context; lack of donor coordination and collaboration; and
- unchecked endemic corruption throughout the justice sector and lack of accountability within the justice sector.

As of 2014 USAID continued to take the position that the primary weapon to address GBV was to criminalize all forms GBV.<sup>97</sup> While admitting that some progress seems to have been made on issues of genital mutilation and early marriage through informal rule of law projects,<sup>98</sup> it continues to hold to the position that formal rule of law, and in particular, criminalizing behavior, is the most important significant method to combat gender violence. Its recommendation are focused on legislative reforms, procedural reforms and capacity building, legal assistance and legal clinics, legal

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<sup>97</sup> USAID, *Equal Rights, Equal Justice: Toolkit for Addressing Gender-Based Violence Through Rule of Law and Development Projects*, September, 2014

<sup>98</sup> *Id.*, at viii.

Informal justice systems pose a particular challenge for implementers addressing GBV through ROL programming. In many countries informal, traditional or religious justice mechanisms are more accessible than the formal justice system and are often perceived as more responsive to the justice needs of the population. In countries that have experienced prolonged conflict and instability, non-state justice institutions may be the only means of resolving disputes for many people. Furthermore, such institutions can sometimes be more effective in addressing some harmful practices, such as early marriage and female genital mutilation/cutting (FGM/C), than the formal structure that focuses on criminal sanctions. However, advocates for women and GBV survivors tend to approach working with the informal justice sector cautiously because its institutions generally are not accountable to the state, often reinforce patriarchal and discriminatory values, and can perpetuate harmful practices. ROL project designers must carefully assess how best to engage with the informal justice system to ensure that victims receive justice and perpetrators are punished.

education, fighting corruption through watchdog and monitoring activities, and litigation strategies as most important tools in the fight.<sup>99</sup>

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<sup>99</sup> **Legislative reform** is critical to establishing the illegality of certain forms of GBV and the required response. Law reform projects can include drafting new laws on GBV, amending existing national legislation to bring it into compliance with international principles, and adopting supporting laws, such as guarantees of free legal aid and victim and witness protection.

Effective implementation of the law is dependent on the existence of clear policies and procedures. **Procedural reform** and **capacity building for legal professionals** are separate activities that are often coordinated during implementation. Articulating a legal and policy framework that expresses “zero tolerance” for GBV is considered a good practice. Procedural reform can include the development of internal policies and protocols that govern how law enforcement and justice agencies respond to GBV, or the creation of new institutions (such as domestic violence police units, fast-track courts for sexual violence cases, or “one stop” justice centers) that improve the implementation of the law. Capacity building projects can entail sensitization of key stakeholders in ROL projects, but most often are designed to introduce new policies and procedures. Stand-alone **legal tools** (such as judicial benchbooks or case law compilations) can be introduced through training programs and provide guidance that legal professionals can use in their daily work. A critical factor in the effectiveness of projects that aim to introduce new procedures, policies, and training programs is the involvement of senior leadership in the relevant institutions. Not only will the engagement of high-level officials ensure that the policies and materials that are developed will be responsive to the operating conditions, but their leadership will help foster new behaviors among subordinates.

In addition to reforming the justice system response to GBV, legal assistance is critical for victims trying to access justice. Around the world, many victims lack knowledge of the available legal remedies, are unable to travel to district centers to apply to law enforcement bodies or cannot afford to hire an attorney. **Legal assistance** may be provided by attorneys or paralegals through local legal service centers or ministry of justice legal aid programs. **Legal clinics**, based in law schools, can also play a role in increasing free services for GBV victims. Legal advocates—whether they are attorneys, paralegals, or law students—regularly assist victims in navigating the legal process and reduce incidents of revictimization.

**Legal education** offers an opportunity to shape how the legal profession as a whole understands GBV. Continuing legal education for judges, prosecutors, defense counsels, lawyers, court employees, or paralegals on GBV can be offered outside of a training program and institutionalized as a part of professional legal development. Similarly, the topic of GBV should be included in law school curricula in such core courses as constitutional law, criminal law, family law, poverty law, and human rights. Legal aid attorneys and paralegals assist in bringing the law to the community level, while **legal literacy** and **awareness-raising projects** take a broader approach to educating the general public. Legal literacy projects can improve women’s and girls’ knowledge of their rights, the legal protections for victims of GBV, and how to access the justice system. General awareness campaigns can be used to increase societal understanding of the legal prohibitions against GBV and to raise the consciousness of witnesses and encourage them to report violence. Such campaigns are key to ending the culture of silence that surrounds most forms of GBV. ROL projects offer the unique entry point of bringing legal expertise and law enforcement information to anti-GBV messages to complement work done in other sectors.

Endemic corruption in the justice system can prevent GBV victims from obtaining redress. ROL projects can **address corruption** through strengthening the laws on official misconduct and ensuring that the justice system is regularly monitored. Projects can be designed to build the capacity of the justice system to police itself and to investigate and respond to misconduct in GBV cases (for example, if the police release the perpetrator after receiving payment or judges permit improper evidence in GBV cases). **Watchdog and monitoring activities** conducted by independent organizations are also instrumental in shedding light on where bias in the justice system may prevent victims from obtaining redress.

When there is sufficient evidence of systemic failures of the justice system, **strategic litigation** may be an appropriate means to put pressure on national governments and push for further measures to prevent and respond to GBV. ROL activities could include capacity building for legal organizations to take cases to regional human rights courts to argue that the state has failed to meet the due diligence standard.

B. Some Observations on TCCs battle against GBV.

As we have seen, the social science research shows that formal rule of law strategies – those that focus on new laws and courts and judicial and police training—have not led to a measurable decrease in GBV. Conversely, neither have International NGOs that focus on informal strategies: those that rely on either traditional methods (through chieftancies trained in mediation) or ADR, (through womans’ groups and Palaver Huts) had a measurable impact.<sup>100</sup> At least one study provides more particularized understanding as to why. Ironically, it turns out that the existence of both strategies creates forum shopping incentives that keep either from working. The overall impact may be that community support for formal methods is hampered by the existence of both systems.

There is some support in both the experience of the TCC’s Community Legal Advisors on the ground in Liberia, and from research models created to try to anticipate their effects, that a Community Legal Advisor – a person trained on the formal and informal systems, and can themselves provide mediation services for cases not involving sexual assault—may have a significant impact on creating the cycles of security and progress and economic development that can lead to measurable improvement in the lives

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Domestic legal remedies, such as class action lawsuits, may also be a means of bringing attention to state misconduct or inaction.

ROL programming offers a unique area of expertise for USAID to act upon its Agency-wide commitment to preventing and responding to GBV. Justice sector actors are important figures of authority and they send powerful messages when they enact and enforce laws, investigate incidents of GBV, apply the law without discrimination, and enforce sentences for perpetrators of violence. Strengthening the justice chain for victims of GBV will ultimately lead to improvements to the justice sector that will benefit women, men, girls, and boys.

<sup>100</sup> This is consistent with finding of studies of GBV across Africa. See, Gary A. Haugen, Victor Boutros, *THE LOCUST EFFECT: WHY THE END OF POVERTY REQUIRES THE END OF VIOLENCE*, Oxford University Press, Oxford England, 2014, at 26.

of women and children in Liberia. Yet there are some important caveats that need to be made to these findings.

- The measuring period of improving conditions was brief, and economic conditions may have been interrupted by the Ebola Crisis. This shows the fragility of economic development measures and how they may be affected by any number of variables that can skew the results being measured and the causes that are in play.
- Multivariate regressions using “Big Data,”<sup>101</sup> that can control for measures of everything from economic conditions generally, to global warming, clean water, gap between rich and poor, and impacts of war, population and resources, democraticization, population and resources, global convergence of IT, health issues, capacity to decide, peace and conflict, status of women, transnational organized crime, energy, science and technology, and global ethics, will not be able to account for local dynamics, nor future catastrophes that can fundamentally change the priorities within a nation.
- Still such modelling is very useful for describing the logical relationship between basic economic development, security, and peaceful resolutions of disputes, that may accelerate economic development, and in turn can lead to improved formal justice system capacities, and further improve conditions for women and children in Liberia.

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<sup>101</sup> See, Lorien Pratt and Mark Zangeri, Oauntellia LLC, *The System Dynamics of Aid: Understanding The Carter Center’s CJA Program in Liberia*, January 25, 2014.

- The education is a vital component of the success of the CLA --that the CLA can add information and processing suggestions directly to the disputant parties and chieftancies that can “grow” awareness in the parties in importance of security and need for dignity for women and children. They can create the “space” for discussions that can lead to the recognition of the beauty and creativity found in each individual, that sparks the progress toward equal treatment and rights for women.
- That as with all human institutions, their success will depend on the character of its leaders, its ability to find and to develop CLAs of high character and ability, and the ability to reward, monitor, and evaluate the CLAs to insure the integrity of their efforts.
- That eventually the need for CLAs should diminish, (and to keep them from acting out of self interest, to protect their continued importance in the community), TCC will need to find CLAs other roles in their communities, or find ways to intergrate them into the Liberian government in other capacities.

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