



“Nobody Gets Justice Here!”

Addressing Sexual and Gender-Based Violence and the Rule of Law in Liberia

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Executive Summary

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, they 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 they can work together and complement each other, international actors often act out of an understanding of Liberia as a *terra nullius* – a place where nothing 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.

Addressing SGBV in Liberia requires a comprehensive response, which takes into account all the institutions of the rule of law as well as addressing the underlying causes behind it rather than reactively patching up the symptoms.

NGO Manager: Gender is mainstreamed into all activities. Gender is already at the heart of all our activities. We are now working on making gender more tangible.

Researcher: What does that involve?

NGO Manager: That's what we are trying to find out.

1. Introduction

This report addresses the implementation of gender perspectives in post-conflict reconstruction efforts in the case of Liberia through the broader conceptual implementation of UN Security Council (UNSC) resolution 1325 “On Women, Peace and Security” and the construction of physical units for the protection of women and children, the Women and Children Protection Sections (WACPS) adjacent to Liberian National Police (LNP) stations throughout Liberia. In addressing specific measures undertaken within the framework advanced through the UN’s work on implementing UNSC resolution 1325, we have sought to address the extent to which these measures address the root causes of sexual and gender-based violence (SGBV). To what extent have the policies promoted by the UN worked to address the problems of vulnerable groups, and to what extent have they taken into account the needs ‘on the ground.’ We have paid specific attention to the relation between projects and processes aimed at addressing SGBV, and the more general processes for (re)constructing and strengthening the institutions of the rule of law. The report rests on fieldwork undertaken in Liberia in December 2007, May 2008, and January/February 2009.

Rather than providing aid for relatively limited and isolated projects, we make the case for the international community and donors to address SGBV within a wider and more comprehensive framework including *all* rule of law institutions, and not focus on short-term issues and rapid impact projects which fit within the relatively narrow priorities of Western governments. Furthermore, we argue that addressing SGBV effectively cannot be undertaken without understanding how “modern” statutory and traditional or customary systems of justice function and interplay.

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Based on the general implementation of UNSC resolution 1325, visits to the WACPS, and interviews with NGO workers, UN officials and Liberian government officials, we argue that the UN’s efforts to address SGBV in Liberia in the context of rule of law reform and reconstruction are caught up in a reductionist view of what post-conflict reconstruction entails. Unrealistic expectations based on a Western understanding of the effectiveness of formal and centralized processes and institutions at the expense of a ‘thick’ understanding of the situation and the causes of SGBV lead the international community to state an unrealistic framework of normative expectations to be fulfilled. As such they do not address the root causes of SGBV, nor the political, cultural and economic characteristics of violence which is specifically Liberian and need to be addressed in order to improve the security of women and children in Liberia.¹

2. Gender Issues in Peacekeeping and Post-Conflict Liberia

Since the end of the Cold War traditional peacekeeping dealing with monitoring and observation has gradually been replaced by broader peacebuilding operations which involve educational, cultural and technical responsibilities – the construction of national structures and the establishing of social order and democracy. These developments are also reflected in various UN Reform reports beginning with Boutros Ghali’s *Agenda for Peace* (1992) and in several UN missions throughout the 1990s. The missions in the former Yugoslavia and Somalia marked a shift as they had a mandate to use force in order to protect humanitarian aid. Later, UN missions such as the ones in Kosovo, DRC, Sierra Leone, Liberia and Côte d’Ivoire took this further as their aim was to install law and order in the society at large (Pouligny 2008). The Security Sector Reform (SSR) training of civil, military and police personnel in peacebuilding operations thus became an important meeting point between “doctrines” and implementation. This peacebuilding trend came as a result of the changing nature of conflicts and the increasing effects of these conflicts on civilians. Women and children are especially vulnerable in these conflicts which severely impact their health, economy, and human rights.² Additionally violence against women and children is common and has been used as

¹ See also Ellis (2007), Tonkin (2006) and Moran (2006).

² See for instance Heynes (2004) and Swiss (1993).

a military strategy in conflicts.³ Eventually, the importance of women's experiences in civil wars and active participation in peacebuilding processes and post-conflict situations became recognized internationally, and was formalized in 2000 through UNSC resolution 1325.⁴ With the passing of this resolution, and the follow-up resolution 1820 (in 2008) on sexual violence in situations of armed conflict, gender issues and sexual violence have become anchored at the core of UN peacekeeping missions. Increasingly, problems specific to women and children which in the past were left unaddressed have been framed, addressed and attended to by UN peacekeepers and peacebuilders in peacekeeping missions.

Especially in Liberia, the UN is generally understood to have enjoyed great success in addressing the gendered-based violence (GBV) agenda, including sexual violence (SV): As the United Nations International Research and Training Institute for the Advancement of Women (UN-INSTRAW) reports,

For the first time in a post-conflict country, national governmental institutions, the United Nations, and civil society organizations have worked together to build an inclusive policy document for the implementation of UN Security Council Resolution 1325. On International Women's Day 2009, the Government of the Republic of Liberia, headed by President Ellen Johnson Sirleaf, launched its national action plan on women, peace and security. (UN-INSTRAW 2009)

The determination of President Sirleaf in addressing gender issues together with the UN and including women in peace processes is generally considered a great success. As stated by one commentator in the aftermath of the International Women's Colloquium, "Liberia [is] Africa's inspiration on gender equality" (Murimi 2009)

Liberia is still recovering after 14 years of war, that started with the National Patriotic Front (NPFL)⁵ initiated uprising against the government in 1989 and ended with the signing of the Comprehensive Peace Agreement in Accra, Ghana on 18 August 2003. The Peace talks were mediated by the Economic Community of West African Countries (ECOWAS) and the deployment of the ECOWAS Mission in Liberia (ECOMIL) prepared the ground for the United Nations Mission of Liberia (UNMIL). UNMIL was established the same year as an integrated mission with a multidimensional mandate to support the peace

³ See for instance Skjeie et al. (2008).

⁴ UN S/RES/1325 (2000).

⁵ The NPFL was at that time led by Charles Taylor.

process.⁶ The war completely destroyed the country leaving it half a century back in time. 270 000 people had been killed, as many as one-third of the Liberians had been displaced and the country’s institutions, infrastructure and economy was in ruins.⁷

In 2005, Liberia was able to hold elections and Ellen Johnson Sirleaf became the first woman to be elected as a head of state in Africa. Today the situation in Liberia is improving, as reflected both by the longest period of stability since the war started in 1989, but also by the World Bank’s *Worldwide Governance Indicators*. According to this comprehensive index which includes 205 countries, Liberia has between 2005 and 2007 shown the best improvement in the world in controlling corruption and advanced 72 places from 185th to 113th on the list (World Bank 2008). Still, the UN’s Security Council (UNSC) is worried about the regional situation in West Africa and fear that instability in neighboring countries can affect the situation in Liberia (UNOWA 2009; Securitycouncilreport.org 2009).⁸ There are still sporadic riots in the capital Monrovia, and throughout the country which the Liberian government is having difficulties in handling on its own, largely due to the weak security sector. The Liberian National Police’s (LNP) and the justice sector are often inefficient, and the police are still not allowed to carry guns. Additionally, poor infrastructure, a high level of analphabetism, corruption and a generally weak state, contribute to give the Liberian government severe problems in achieving control not only in the regions, but also in the capital Monrovia. Criminality is one of Liberia’s major problems today, and crime rates of violence against women are overwhelming.⁹ In 2009 rape is on the most frequent crime on the LNP’s crime statistics and the frequency of sexual exploitation of women is reported to be high (UNMIL Office of the Gender Adviser 2009). Women who are raped will often be expelled by their men, and the family which is the cornerstone of the society disintegrates. As such, violence and abuse of women and children continues to be a serious problem for the victims, but also a comprehensive challenge for the Liberian government and society at large.

⁶ UNMIL was established by Security Council resolution 1509 of 19 September 2003 to support the implementation of the ceasefire agreement and the peace process; protect United Nations staff, facilities and civilians; support humanitarian and human rights activities; as well as assist in national security reform, including national police training and formation of a new, restructured military (UNMIL 2009a)

⁷ See for instance CIC (2009: 111)

⁸ As of 31 January 2009 the UN has 11,963 total uniformed personnel, including 10,595 troops and 167 military observers; 1,201 police; supported by 489 international civilian personnel, 975 local staff and 206 UN Volunteers (UNMIL 2009b)

⁹ In 2005 the WHO estimated that 90% of the female population had been physically and sexually abused during the war.

2.1 The Implementation of UN Security Council Resolution 1325 in Liberia

Since UN Security Council Resolution 1325 was unanimously adopted in 2000, gender issues have become a central concern to peacekeeping operations and they have been highlighted on the political, military, development and humanitarian agenda in order to build peace in war-torn societies. The resolution established women's role as more than merely passive victims and caretakers. The resolution clearly incorporates (i) a gender perspective in training and in peacekeeping operations, (ii) it advocates the full participation of women in decision-making and in conflict resolution and peace processes, (iii) it highlights the protection of human rights of women and girls, and (iv) promotes gender mainstreaming in the UN reporting systems as well as programmatic implementation mechanisms. The resolution points out the necessity of including women as active players in peace processes and in recovery phases.

As a result of the resolution 1325 the Office of the Gender Advisor (OGA) was established in every UN mission and was given the mandate to support, monitor and coordinate 1325, and later also resolution 1820. But as this office does not have field officers, they have to ensure that other sections have the necessary capacity and knowledge on the content in these resolutions.¹⁰ In Liberia, the OGA has had an important role in integrating gender issues into other UN and national guidelines, strategies and action plans. The OGA also works with actors outside the UN mission. They promote gender policy recruitment and provide guidelines for training on gender, Gender Based Violence (GBV) and Sexual Violence (SV) for the armed forces of Liberia and the Liberian National Police (LNP). This work has among other things resulted in a gender advisor in LNP based in Monrovia. Furthermore the OGA works towards NGOs that are present in Liberia, and are assisting a gender expert network.¹¹ OGA also works closely with the Government of Liberia (GOL) and the ministry of gender, which has for instance resulted in the Liberian national action plan on 1325 (LNAP).

This national action plan was prepared by the Liberian government as a response to the UNSG, DESA (Department for Economic and Social Affairs) and OSAGI's (UN office of the Special Advisor to the Secretary-General on Gender Issues and Advancement of Women) encouragement for member states to develop national strategies for the implementation of 1325 (see Government of Liberia 2009). President

¹⁰ The OGA in UNMIL consists of one senior gender advisor (P5) and one gender affairs officer (P3). Additionally the office has a training gender officer (UNV), a communication gender officer (UNV), a national professional officer (NPO) and two administrative employees.

¹¹ For instance the Women's NGO Secretariat of Liberia

Ellen Johnson Sirleaf launched the plan at the International Women’s Colloquium on the International Women’s day in 2009. This comprehensive four years plan for 2009-2013, which also incorporates some of the content of 1820, sets time limits for implementation and will work as a monitoring tool for the GOL and the UN in order to advance gender equality in the country. The LNAP was a product of collaboration between the UN through the UN International Research and Training Institute for the Advancement of Women (UN-INSTRAW) and the UNMIL OGA, civil society organizations, and the GOL through the Ministry of Gender and Development. LNAP complements the Poverty Reduction Strategy (PRS) and the UN/GOL Joint programmes.

LNAP identifies protection, prevention, participation and empowerment as the four key areas for implementing the goals defined in resolution 1325 and 1820. Each pillar identifies strategic issues and priority areas to be addressed and the plan includes expected outputs and indicators. Monitoring and impact evaluation is highlighted activities and the LNAP promotes the mainstreaming of the plan into other already existing strategies such as the PRS. In order to strengthen these activities the LNAP promotes an “Observatory” with participants from Government Ministries, key women groups, the 1325 National Steering Committee, NGOs and other relevant actors. The UN will monitor the four year plan, but responsibility for the implementation rests with the GOL.¹²

On the issue of security for women and children and the justice system, the LNAP seeks to promote an examination of the system in order to identify “[...] gender blind codes of conduct underpinning the statutory and traditional systems”. Furthermore the plan points out the necessity of enhancing the collaboration between the MoJ and the Judiciary, harmonization of the statutory and traditional justice systems, and to strengthen the capacity of the justice sector and the judiciary in order to improve women and girls’ access to justice.

Today, almost nine years after the resolution was passed and the LNAP launched, one would assume that the implementation of 1325 was systematically and widely incorporated in UN peacekeeping op-

¹² UN agencies are also assisting GOL in implementing four joint programmes that are complementary to the LNAP. The first of these deals with prevention and response to Sexual and Gender Based Violence (UN JP SGBV) stating that a holistic approach to addressing the issues of SGBV is necessary. When it comes to combating SGBV, however, much of the strategy rests on the WACPS of the LNP. As to increasing the ability of attorneys to address and prosecute SGBV, the plan aims at training 10 county attorneys in GBV. Given the dire lack of attorneys today, it is doubtful whether this is sufficient. The second focuses on food Security and nutrition (UN JP FSN), and seeks to target groups of women farmers in order to improve their livelihoods and their agriculture production capacity. The third program deals with gender equality and women’s economic empowerment, and the fourth program promotes the employment and empowerment of young women and men.

erations. Liberia, with a female president, a female UN SRSO (the only currently serving female SRSO) and the first all female unit of United Nations peacekeepers deployed by India, may give an impression of a post conflict country where the content of 1325 is well implemented and has had a successful impact.¹³ However, one of the most critical tasks for the Liberian government today is to create a foundation for legitimacy, accountability, sustainability and putting an end to impunity. As such, the dimension of representation seems to be much more developed than the security and welfare dimension (Reisinger 2009 and Mehler and Smith-Høhn 2006). Combating violence against women and children is one part of this puzzle. In a study from 2004, the UNDP estimated that between 60 - 70% of Liberian women had been subjected to some form of sexual violence during the war. In 2009 UNICEF stated that gender-based violence is still rampant and that the majority of the reported rape cases being perpetrated against children aged 10-14 years (UNICEF 2009). These acts were committed by combatants from both government and rebel groups. In spite of all the efforts made these numbers have continued to stay at a very high level after the peace agreement was signed and UNMIL established in 2003.

3. Women and Children Protection Sections (WACPS)

Through campaigns against SGBV (including the recent 1325 theme song which was aired on radio nationwide) the substance of resolutions 1325 and 1820 and LNAP is well known. The implementation process, however, has been cumbersome and the implementation of the resolutions has had limited impact outside of the international and national bureaucracy elites based in Monrovia.

3.1 “A Dream Come True”

How is the implementation of measures aimed at countering SGBV improving the situation of women and children? Based on field visits to Women and Children Protection Section (WACPS) and interviews, we illustrate how many of the measures tend to fragment the holistic understanding necessary to address SGBV within the larger framework of rule of law, and how many of the measures implemented fit narrowly with the agenda derived from UNSC resolutions rather than addressing the root causes of SGBV.

¹³ About the “Ellen-factor” see Reisinger (2009) and Mehler and Smith-høhn (2006)

Based on priorities in accordance with UNSC resolution 1325 and through a grant of USD 1.6 million from the Norwegian Government administered through UNDP, the Liberian National Police (LNP) has now been able to establish Women and Children Protection Sections (WACPS) in over twenty locations in Liberia. These sections are meant to address the protection of women and children, especially against SGBV, by giving them a place to report safely, understanding, and support. As we were told by a local NGO: “One of our employees witnessed by chance a women wanting to report a GBV case to the LNP, but they did not allow her to report it in other ways than in front of everyone.” Establishing the WACPS is meant to address these issues.

In our fieldwork in 2008 and 2009, we were able to visit WACPS facilities of four counties in Monrovia, Robertsport, Vonjama and Tubmanburg. Based on this, it is clear that while the WACPS may be a right step, not only do challenges remain, but the establishment of such a specialized unit without taking other rule of law institutions into account may in turn lead to new problems.

While having been recognized from the UN as representing a landmark effort, these sections nevertheless do not function as intended. There is a dire lack of resources for running these sections. Furthermore, GBV is not addressed in a comprehensive manner. Thus, police officers involved in the WACPS, in spite of often being well-trained, willing and qualified, often go through the motions rather than addressing the substantive challenges facing women and children.

3.2 A Broken Dream?

In spite of the efforts made by international actors to have the Liberian National Police’s (LNP) Women and Children Protection Section (WACPS) working to provide women and children with a special recourse to justice institutions, a number of challenges remain unaddressed. Many of these challenges are also a product of how these sections were established and funded ,the lack of a coherent and comprehensive understanding of the functioning of justice institutions in Liberia, the challenges reforming or building these institutions represent, and how these new institutions are to interact with traditional institutions and practices.

In September 2005, UNICEF proudly announced that 25 officers of the LNP had completed their certification in “women and children protection” and were to staff the newly established WACPS of the LNP. This had been established by UNICEF in collaboration with the

LNP and the United Nations Mission in Liberia (UNMIL) Civilian Police (CIVPOL). These police officers had been given training in order to “improve their skills and techniques in managing and handling sexual violence cases” (UNICEF 2005).

Three years later, there is a WACPS of the LNP in every county capital in Liberia. DSRSG Henrietta Mensa-Bonsu, has touted the success of the WACPS and stated that “more and more women and children are coming out to report crimes”

Throughout the entire country, new LNP county headquarters have been constructed or renovated by UNDP with funding from the Norwegian government. In order to assist the LNP in addressing issues affecting women and children, all new LNP buildings now have a WACPS. A representative of the Norwegian government stated that the construction of WACPS is “a dream come true.” UNMIL can now proudly confirm that “WACPS are now active in 21 locations throughout Liberia” thanks to a contribution of USD 1.6 million from the Norwegian government (UNMIL 2008a) (the biggest WACPS is yet to be constructed, adjacent to the LNP national headquarters in Monrovia). UN Police Commissioner Henrik Stiernblad proudly stated that “Women and children need not be subjected to further victimization.” (UNMIL 2008c).

Finally, the Special Representative of the Secretary-General (SRSG) Ellen Margrethe Løj praised the Norwegian effort for understanding that “the recovery and development of Liberia’s rule of law institutions requires an additional bolster to both human and financial resources” (UNMIL 2008d; Norwegian Embassy in Côte d’Ivoire 2008).

In spite of these efforts, however, UNMIL has been forced to recognize the fact that “sexual violence against women and children remains a central reality of life in Liberia” (UNMIL 2008b):

[...] reported rate of rape cases remains the same during the year – on average 54 reported cases per month countrywide. Only during this year Women and Children Protection Section of UNICEF handled 2,352 cases of which 707 were Gender Based Violence (GBV) including sexual violence. Out of the 707 cases, 272 were sent to court, 235 pending and 200 cases withdrawn. 124 survivors of sexual violence 0-35 years of age (3 boys, 116 girls and 5 women) accessed psychosocial care, protection and medical services at the two Safe Homes. 98 were reintegrated into their families and communities, 26 are

currently receiving services at the Safe Home, established by UNICEF for sexually violated girls (UNMIL 2008b)

The figures we are talking about here are limited to *reported* cases.

The problems surrounding the WACPS are in many ways symptomatic of the way in which post-conflict reconstruction is managed by international donors and the UN in general, namely that there is lack of coherence, no comprehensive and deep understanding of how the issues sought addressed relate to each other, and an undue channelling of resources into projects that fit with the donors’ perspective rather than the needs of the community. Sexual and gender-based violence, the protection of women and children is no doubt an important task; it also fits within the Scandinavian priorities, and is therefore an attractive way to contribute.

Not all police county headquarters have separate buildings for the WACPS. In some police stations the WACPS consists simply of one room dedicated to women and children protection (such as the one in Robertsport), in which the officers dedicated to this work supposedly have their working space. This is however not necessarily the case. These rooms are in practice used for different purposes, including in some instances providing accommodation for police officers undertaking training programs.

Other WACPS are more impressive. In Tubmanburg, for instance, the WACPS is more imposing and modern than the main police station, and employs about half of the police officers in the city. Their facilities are more modern than the main police station, including two PCs stacked on a dusty shelf. Police in Bomi County was reported to have one vehicle and two motorcycles. Here too, rooms in the WACPS were used for accommodating police officers.

3.3. The Morning After: Few Resources and Little Coherence

The WACPS were established with the intention of addressing the pressing concerns the international community had with GBV in Liberia. That women and children now have a dedicated section within the LNP which deals with GBV no doubt will ensure that these issues are addressed by the police. The question which nevertheless remains, is what happens once a crime is reported to WACPS. For instance, one of the issues the establishment of WACPS was meant to address is the relatively high degree of impunity for GBV crimes.

In a country where judges in many cases do not have knowledge of the penal code, and where the police only rarely possess investigative

tools and skills, it is doubtful whether the establishment of the WACPS alone will lead to a higher rate of conviction. Furthermore, the problems may be exacerbated by the fact that victims who do report crimes lose faith in the institutions of justice, as reported criminals seldom face convictions.

The problem here is that specific donor programs wish to address specific issues which may be in line with priorities in the donor country rather than with a specific coherent and comprehensive approach to judicial reform. Furthermore, while the institutions of rule of law are to some degree present in Monrovia, they often lack outside of the capital. As one NGO worker involved in GBV work explained, “No place outside of Monrovia has all the pieces of rule of law”. The major international presence in Liberia is in Monrovia, and as such inferences about the spread of rule of law institutions in general, and the WACPS in particular to the whole country must be done carefully – if at all.

As the WACPS are based mainly in county capitals, reporting crimes which have taken place in other places is an enormous challenge for victims of SGBV. The police has little presence in rural areas, and transportation is scarce. As an NGO advisor on rule of law said, “No place outside of Monrovia has all the pieces of rule of law, i.e. prison, state attorney, sober judge, holding cells, etc.” In rural areas, reporting a crime thus requires the victim to make the journey to the nearest WACPS in order to report it. This can be both practically and economically challenging. As an NGO worker confirmed to us, “In rural areas police are available but needs to be pressed by the victims.”

Furthermore, the police lacking the most basic form of logistics, cannot provide the victim with much help to return. Many counties have only a limited amount of vehicles, some counties count only a single police car, and even fewer means available to pay for fuel. Victims reporting to the police are thus often left in the difficult position of having reported a crime and identified the perpetrator (who more often than not is known to the victim), without the police having the means to investigate or even follow up on the crime.

Problems with addressing SGBV through the court system thus start already as a crime is reported. While the police is where investigation starts, few officers have received the training necessary to undertake their tasks. One rule of law expert exclaimed to us that “UNMIL is a training disaster!” As we experienced in police stations in the counties UNPOL’s security requirements often made it impossible for them to assist the LNP as they were supposed to. The fact that UNPOL were not giving the proper level of logistical support to the LNP was con-

firmed to us by many interviewees. The result being largely that the LNP are “incapable of upholding the rule of law.”

Faced with a dire lack of infrastructure and resources, the question for the LNP is also why these cases should be prioritized. Why should one, for instance, use the only police vehicle available in the county and the little fuel available to the police to drive often up to hundred kilometres and investigate a crime which took place days before, when the perpetrator has most certainly fled the premises, one police officer asked us. Thus it can take up to 3-4 days before the police can get to the scene of a crime. In rape cases, the LNP has only 72 hours to collect evidence. However, due largely to lack of proper equipment and training, there is no proper scientific backup for police investigation. This was confirmed to us by a government official: “We lack the equipment to investigate. If we had a ‘forensic tester’ [sic.] then everything would be solved.”

While it is doubtful that the provision of equipment alone will solve the issues, as much of the equipment provided is incompatible with Liberian police methods, there is a case to be made for inquiring into how these methods can be made efficient and secure. As it is now, both Liberian women, NGO workers and UN officials confirmed to us that victims reporting a crime are too often asked to put money in towards solving the crime: “Assuming the police gets the perpetrator, then the victim will be asked to contribute money.” a legal expert told us.

3.4 Where to Report a Crime and What to Do About It

Once a crime has been reported, the police need to investigate. However, as the police has little mobility due in large part to lack of vehicles and fuel, victims often have to pay for the police to come and investigate. Depending on where the crime took place, this can be quite an investment required on the part of victims of GBV. Furthermore, as the police lacks both investigative resources and manpower, perpetrators are most often not caught, as escaping the scene of the crime during the presence of the police is all that is required in order to avoid arrest. The police have no means to follow up on crimes committed, and most often, crimes end up in the “Kept In View” category (KIV).

As an NGO worker explained, few rapes against adults are reported. As a Liberian woman in the West Point area of Monrovia explained, “especially married women are often ashamed to report rapes.” Many reported cases are children as there is an expectation of getting something in return. “A raped child is no longer as valuable for marriage.” But prosecution often fails, as does the customary system: “There is

widespread impunity, and perpetrators are often the power holders in traditional communities.” The problem is further exacerbated by the fact that rape often happens within families and in small communities. As a local NGO worker told us, “rape in Liberia is usually between family members. In communities it is not reported, as communities are small.”

Many SGBV cases are thus never reported to the police. For reporting to the police is often difficult in rural areas for reason of lack of infrastructure and transport: “It’s difficult to report to the police as there is no way of contacting them in the countryside.” Therefore people often go to the traditional system. Reporting cases to the police can also be difficult, and result in stigmatization. During our work in Liberia, we were told about some NGOs that worked towards helping the LNP – or more accurately pressing the LNP – to arrest people found guilty of SGBV crimes in rural areas. However, these NGOs are few and while they may be able to show some extent of success, other NGOs question their methods. As one local NGO worker explained it, “The mindset among NGOs is that ‘we’re humanitarians so we don’t facilitate arrests.’”

3.5 Where Is the Prosecution?

There is nevertheless progress. As one local NGO worker explained: “We are breaking down a culture of impunity [towards SGBV]. Three years ago there were no arrests.” But in spite of the progress accomplished, there is still a long way to go: “The culture of impunity makes people feel completely helpless. There are too many perpetrators so it’s difficult to punish them.” Taken into account the situation only a few years ago, progress is being made. As one UN officer working with UNMIL’s Gender Section reminded us, explaining why a number of GBV related activities had not started before: “I don’t want to be defensive, but imagine how this country was before!” But while prosecutions of SGBV are taking place, the question which needs to be addresses is whether these are proper processes. In the absence of forensics and DNA testing. Thus, most convictions happen either through concession or witness corroboration.

But challenges remain in terms of assuring that reported cases of SGBV are properly handled once reported. As an NGO worker said, “the problem is both the capacity and the mental attitude: judges don’t take it [rape] seriously.” This issue was raised by other interviewees as well, one worrying that “some attorneys treat rape as less than petty robbery as there is no property stolen.” This understanding of the problem was widespread among the people we have interviewed.

Many of them blamed UNMIL for this, one even going as far as arguing that “the legal and judicial support of UNMIL has failed.”

However, placing the blame on the UN alone would not give an accurate depiction of the situation. As a former UNICEF official complained to us, the “whole rule of law agenda has stalled in Liberia” and in spite of the UN’s many efforts, it is still “difficult [...] to get the ministry of justice and judiciary in one room.” Furthermore, in spite of pressure from UNMIL, it has taken the judiciary over two years to establish a unit for GBV. The institutional framework within which the Liberian Government addresses SGBV may also be at fault, as the agenda is embedded in the Ministry of Gender, an institution seen as largely lacking power within the government.

Other people we spoke with expressed worries as to whether the establishment of a GBV prosecution unit at the Ministry of justice would yield the results wanted. One NGO worker told us about the frustration NGOs felt with the unit, as they were only interested in funding and no input on substance. The capacity of the unit was also largely questioned, as were their effect so far: “The GBV prosecution unit at the Ministry of Justice produces a 350 page manual on the prosecution of GBV. No one will read it.”

As the situation is now, a number of people are jailed without having been prosecuted (the number was reported to be higher than 100). “People are being kept in jail without evidence, and no one is doing anything about it” one interviewee complained. The problem here of course is not limited to the fact that proper prosecution routines are largely absent, but also to the fact that certain SGBV crimes (e.g. rape) must be indicted before Circuit Courts as magistrates are not the right level. The records of the cases, however, are seldom passed on.

The point here is not to minimize the efforts made by international donors and the UN, nor to minimize the efforts put into addressing SGBV by UN personnel who often work in terrible conditions and under great pressure. Addressing the problem of SGBV in Liberia at this stage cannot be done without international support. However, these efforts so far have tended to fit the donors’ own agenda rather than the needs on the ground. One consequence of this is that efforts to reform and (re)build rule of law institutions by the international community are often done without the necessary knowledge of how the administration of justice functions in Liberia. Furthermore, it is often done without addressing the consequences these efforts on other rule of law institutions. As a result, efforts such as the WACPS do not function as well as they were intended. Budgets for logistical follow up are not provided for, the equipment provided does not fit the work-

ing routines of the LNP, and while the WACPS might function to some extent when looked upon separately, when seen in relation to other rule of law institutions, the efforts seem misplaced as few efforts are made at addressing the system comprehensively. Only providing for a safe place for women and children to report to the LNP has only a marginal effect in terms of addressing the culture of impunity towards SGBV, as little happens after a crime is reported.

4. Addressing SGBV and the Rule of Law

While the building and establishment of the WACPS is a step in the right direction, the fact that the sections are not part of a larger and more comprehensive effort to (re)build the institutions of the rule of law, may in the long run undermine the efforts to combat GBV. As one NGO worker said to us in Monrovia, “What’s in it for the victims? Why should they report a rape when they know the perpetrator and nothing ever really happens?”

4.1. Addressing Rape: Customary and Statutory Systems

The efforts to address SGBV and the impunity of perpetrators as well as the general (re)building of the institutions of the rule of law must be seen in the context of which functions the new institutions are to fulfil, and which ones are already addressed through the traditional “justice” system. Rather than seeking to supplant the traditional system, one needs to understand how these systems can supplement each other. In this respect it is important to understand how they interact in practice today. As became clear to us, victims of GBV do not always get their cases investigated. As one police officer told us, once a victim has reported a crime the police “investigate, but sometimes compromise.” Recourse to the WACPS in other words is still no guarantee that the case will be investigated or passed through the court system. As long as the international community lacks an understanding of how the traditional system works, there is little chance that effective measures to counter GBV in rural areas will succeed.

The problem is further aggravated when taking into account the fact that many SGBV issues and crimes are addressed through the customary law system and monetary settlements: “If the perpetrator is known, the case is often compromised through a monetary settlement. Even in some cases the perpetrator is invited to marry the girl.”

Throughout the NGO community, there is a sense that the customary system does not address SGBV as a severe enough crime. “SGBV is a problem in the communities, but it is not reported. It is compromised at the traditional level” an NGO worker on legal reform told us. This was also confirmed to us by a Liberian government official, who stated that “All cases of GBV are not reported. The Chief sometimes deals with it, and forces to pay a certain amount, then lets things continue.” The same official further explained that the traditional system is “so much embedded in our life” that “wives take beating as something normal, as part of their cultural way of living.” Furthermore, in spite of the new rape law constituting rape between husband and wife as a crime, “within homes, if the Chief is called upon, it’s treated as a family matter” the government official stated.¹⁴

4.2 SGBV and the Rule of Law: A Fragmented Approach

As a UN official said to us, “The UN tends to fragment vulnerable issues. SGBV has become fragmented and rape has taken all the attention.” As an NGO worker told us. “GBV tends to be equated with rape at the expense of other forms of gendered violence.” Other issues which the UN generally condemns, such as Female Genital Mutilation (FGM), a practice which 10 UN agencies united in condemning on 27 February 2008, have also been absent from the UN’s agenda in Liberia. In spite of FGM being widespread in Liberia, rape seems to have taken large parts of the agenda on gender issues, at the expense of other problems. An official in UNMIL’s Gender Section confirmed to us that “A few NGOs address it [FGM] but it’s not a priority of the government.” Others made the case that the government is willing to some extent to address FGM, but that the legislative is divided on the issue. As was confirmed to us by a UN official, “The UN work on ‘harmful traditional practices’ has been in the pipelines for years, but the government are not keen on dealing with the issue.” FGM as a form of gendered violence has thus been entirely absent from the UN’s agenda, in spite of the international condemnation of the practice. It has been put in the shadow of rape, and been disconnected from SGBV: “Rape is easier to tackle than FGM: the government blames the conflict and most cases are in rural areas” a UN official explained to us.

This fragmentation of SGBV also seems to have happened at a higher level, where SGBV policies are implemented without taking into ac-

¹⁴ There are a number of issues related to the way the victims themselves perceive the importance of the administration of justice, and possibly even the pressure they experience from their community. As a UN human rights officer reminded us, “The release of perpetrators of mass killings in December 2008 happened after pressure from the victims.” This is telling of the sisyphian task one faces when attempting to address the question of mindsets and beliefs.

count the broader processes of (re)building rule of law institutions. As one interviewee put it, “there is no question that rapes are *bad*, but the response is devised wrongly.” In many cases the understanding of the root causes of SGBV is entirely absent from the policies of the UN. For instance, when asking about the understanding of the causes of rape which informed the response the SGBV devised by the UN, none of the interviewed UN officials were able to answer. Asked about the cause of rape, one official in UNMIL’s Gender Section told us (in January 2009) that “We are doing our research.” UNMIL’s first report on the causes of rape was reported to be in the pipelines. Whether this report will have an effect on the policies pursued by UNMIL remains to be seen. As one UN official told us: “The problem we have with these [strategies] is that we have hundreds and hundreds of strategies. It’s just madness! It’s why nothing ever gets done.”

It also seems to be the case that efforts to address SGBV have taken the centre of the stage, at the expense of other processes such as judicial reform and training new legal specialists, and fighting corruption. Increasingly, corruption is being singled out as a big challenge in Liberia (see for instance *The Christian Science Monitor* 2008). As one interviewee told us, “[GBV work] is diverting the attention from the *serious* problem, corruption. It detracts the attention from corruption. The government today is massively corrupt.” The problem, according to this legal specialist was that too much emphasis was put on addressing solely SGBV, and that other more problematic issues were left unaddressed: “GBV is the most *overlooked* problem of violence in Liberia.” Explaining that “Everyone looks at GBV at the expense of a holistic picture of the criminal justice system. The problem is the legal system as a whole.”

In terms of SGBV and the problem of impunity, the question according to people we interviewed was not so much the fact that the system was biased against women, but that “GBV programs are not addressing the root causes of why people can’t get justice.” This central issue of concern still remained largely unaddressed, as the work to address GBV today addresses largely the symptoms without addressing the cause. As one interviewee explained: “Why can’t victims of rape not get justice? It’s not because they’re women; not because they’re victims of rape; it’s because *nobody* gets justice here!”

4.3. Liberia: Terra Nullius?

There is a tendency from the UN towards treating the traditional customary system as bad. However, with the current lack of resources and qualified magistrates, both systems will likely continue to coexist for a long time. As a government official told us, “The traditional sys-

tem must remain in place, as there is a lack of resources and the state or government system is relatively new.” Furthermore, she explained, “The traditional system is essential to carry out justice as long as the government system is establishing itself. But some cases should be brought in front of the government. Domestic violence can be handled by the traditional system but not rape and armed robbery. We cannot get rid of the traditional system now.”

However, within the UN system there is little understanding of the traditional customary system. Illustrative of this lack of understanding of Liberian traditional institutions, is the fact that most UN people we interviewed had only a marginal understanding of the Liberian penal code. As a case in point, most UN personnel and NGO workers we spoke with saw it as a great success that rape had been introduced in the penal code as a crime in 2005 as the result of pressure from the international community. Symptomatic of this lack of knowledge of the judicial system is IRIN News (the Integrated Regional Information Networks, which is part of the UN Office for the Coordination of Humanitarian Affairs) which in their country profile of Liberia state that “Liberian law prohibits domestic violence; however, violence against women has become widespread. Several NGOs have programmes to help abused women and girls, and to increase awareness of their rights. [...] In December 2005, parliament passed legislation to make rape illegal.” (IRIN 2007) Such a view is wrong. The new rape law did not constitute rape as a crime, as rape was already on the statutes. It did *modify* and add to these laws with for instance making new provision for rape within a marriage and against engaging with minors between the age of sixteen and eighteen. However, the view advanced by most representatives of the international community we met during three fieldworks in Liberia goes to show the extent to which the UN system lacks the knowledge to address SGBV and the rule of law in a comprehensive manner.

The terra nullius fallacy is also evident in the logistical support provided to the LNP. The equipment provided for the WACPS included PCs and electric generators. However, computer literacy is often limited, and the generators require fuel which is used for driving. The dire lack of resources to actually go and investigate crimes seems to be a much more pressing affair than providing top of the line computer equipment. This equipment cannot be used because of lack of computer literacy and because of lack of electricity and fuel. Indeed, it was unclear to us why these computers had been provided in the first place, as the working methods of the police did not require them. The logistical support provided for the WACPS were provided without having taken into account the working methods of the local police,

their needs, and without having made any attempts to budget for running costs.

But having the two systems work alongside each other also represents challenges: “The problem with customary law is that no one has ever mapped the customs in Liberia. This represents a problem in terms of getting them [the two systems of law] to work together,” Anthony Valcke of the American Bar Association told us. “Customary law needs to be mapped.” What we to a large extent witness in Liberia is what Sarah Cliffe and Nick Manning identify as “the fallacy of the terra nullius”, namely the inability of the UN to take into account pre-existing institutions and the assumptions that everything must “start from zero” (Cliffe and Manning 2008: 165)

4.4 Avoiding the Terra Nullius Fallacy

For taking stock of how the system works before an intervention is a prerequisite for understanding how to intervene efficiently and productively. As Erik Jensen has emphasized in the case of rule of law institutions, the interplay between statutory and traditional customary systems may in many cases be more efficient and enjoy a higher degree of legitimacy than the imposition of a “modern” statutory system. The problem according to Jensen is that the expectations from programs installing “formal laws and legal institutions” are too high:

These expectations are driven by a set of assumptions about the *number* of outcomes that can be achieved through rule of law assistance and *when* they can be achieved. The number is unrealistically high and the timing unrealistically short. We expect too much, too soon, with too little money, too much emphasis on technical precision, and too little on the embedded political, economic, and cultural dynamics that surround institutional change (Jensen 2008: 129).

Simply imposing a new set of formal laws and institutions without understanding how the customary traditional system works, as has largely been the case in Liberia, may not work: “one needs to understand what is being handled well through informal mechanisms based on custom and convention and what strategic issues are not being handled well through those mechanisms or not handled at all.” (2008: 122) With reference to the UN mission to East Timor, Jensen comments that “UNTAET was slow to realize the role and value of traditional justice, perhaps because some presumed that the traditional system of justice lacks mechanisms to meet international standards of human rights, especially gender equality.” (2008: 132) Based on our fieldwork in Liberia and the interviews we undertook there, it can

seem like the UN is once again trapped in a place seeing what it expects to see rather than what is on the ground. The response devised in such cases is generally the recourse to standard responses, which in the case of the UN and Western NGOs is a propensity to build institutions and institutional responses based on a Western liberal model (see Sending 2009) combined with the imperative of results-based management. In addressing the institutions of rule of law, this often leads to a strong belief in formal and centralized institutions, as well as measures where the output is clear and measurable. We have sought to show how such measures in the case of the WACPS can lead to a fragmentation of thorny issues which must be seen interrelated. As we have shown, institutional responses to SGBV cannot be effective unless the rule of law institutions as a whole function properly. As UN DSRSG Henrietta Mensa-Bonsu for the Rule of Law stressed in an inaugural speech on June 7 2009, “the justice system will only be as good as individuals, make it.” (UNMIL 2009c) However, too few efforts to date have been made to train new people to take on these important tasks, and the rule of law institutions lie fallow. What was inaugurated that day was a newly-constructed building.

Conclusion

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.

As we have shown in the present report, 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, they 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.

We are not thereby reducing SGBV to a legal problem or an issue of rule of law. A working justice system is necessary to address SGBV but may not be sufficient. But also in addressing the root causes behind SGBV the UN stumbles in the dark. Why so many men rape women and children – sometimes less than a year old – in Liberia is a serious and difficult question. UNMIL, UN agencies in Liberia are

only now trying to tackle it. Instead, the bureaucratic machinery becomes entangled in small manageable projects which show quick progress – but also contribute to an understanding that the issues are being dealt with when they often are not. 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 they can work together and complement each other, international actors often act out of an understanding of Liberia as a *terra nullius* – a place where nothing 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.

Addressing SGBV in Liberia requires a comprehensive response, which takes into account all the institutions of the rule of law as well as addressing the underlying causes behind it rather than reactively patching up the symptoms.

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