LIBERIA: RESURRECTING THE JUSTICE SYSTEM

Africa Report N°107 – 6 April 2006

International Crisis Group
WORKING TO PREVENT
CONFLICT WORLDWIDE

TABLE OF CONTENTS

EXECUTIVE SUMMARY AND RECOMMENDATIONS ..... **i**

I. INTRODUCTION **1**

II. CRISIS IN THE STATUTORY COURTS **3**

A. JUSTICES OF THE PEACE COURTS 3
B. MAGISTRATES' COURTS 4
C. CIRCUIT COURTS 5

III. THE DIVIDE BETWEEN THE CUSTOMARY AND STATUTORY SYSTEMS **6**

A. EXECUTIVE OVERSIGHT OF CUSTOMARY LAW 7
B. NON-STATE SPONSORED CUSTOMARY LAW 8
C. CHALLENGES WITHIN CUSTOMARY FORUMS 8
D. ENGAGING LEGAL DUALISM 9

IV. COMMUNITY-BASED APPROACHES **11**

A. COMMUNITY-BASED PARALEGAL PROGRAMS: A CASE STUDY FROM SIERRA LEONE 11
B. LAW REFORM AND DISSEMINATION 13
C. GENDER JUSTICE 14
D. LAND TENURE 16

V. HARDWARE AND SOFTWARE REFORMS **17**

A. BUILDING AND REFURBISHING COURTS AND PRISONS 17
B. TRAINING JUDICIAL OFFICERS 18

VI. FOSTERING JUDICIAL INDEPENDENCE AND ACCOUNTABILITY **19**

A. JUDICIAL INDEPENDENCE FROM EXECUTIVE INTERFERENCE 19
B. FUNDING AND SALARIES 20
C. CONSTITUTIONAL REFORM 21
D. JUDICIAL APPOINTMENT AND ACCOUNTABILITY MECHANISMS 22

VII. CONCLUSION **23**

APPENDICES

A. MAP OF LIBERIA 24
B. GLOSSARY OF ABBREVIATIONS AND ACRONYMS 25
C. ABOUT THE INTERNATIONAL CRISIS GROUP 26
D. CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA 27
E. CRISIS GROUP BOARD OF TRUSTEES 29

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

Africa Report N°107 **6 April 2006**

LIBERIA: RESURRECTING THE JUSTICE SYSTEM

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Reform of the justice system needs to be a top priority for Liberia's new government and donors alike.[1] After fourteen years of civil war, the system is in shambles. Impunity prevails, and in this atmosphere, the government cannot adequately address economic governance, transformation of the military and reconstruction of war-scarred physical infrastructure – all primary areas for reform and reconstitution in 2006. Courts that do not prosecute those who siphon resources from government coffers impede progress in all other areas. Within the next six months, stronger and impartial mechanisms are required in both the statutory and customary law systems, and community-based justice programs should be created.

Strong and ruthless leaders manipulated all institutions in pre-war Liberia to maintain and legitimise their power. The culture of corruption and impunity helped spark and nurture the conflict, and numerous challenges continue to paralyse the justice system. The statutory law system and the state-sponsored customary law system do not work in partnership, and executive oversight of customary law through the ministry of internal affairs has meant there is no judicial review of chiefs' judgments or their abuses of power. Liberians remain uninformed of their rights and how to pursue them. Even before the conflict, the justice system suffered from an historical lack of independence from the executive and failed to operate as an impartial forum since access to it was dependent on economic or social capital.

In many parts of the country, courts have ceased functioning. Magistrates conduct hearings on their balconies or in private homes because of crumbling or demolished courthouses. Prisoners languish for months and years in pre-trial detention because the courts lack personnel, bookkeeping, and case management skills. Low salaries and deplorable working conditions for judges, magistrates and justices of the peace nurture widespread corruption. Magistrates' courts often apply civil procedure in criminal cases because they lack relevant legal texts. Justices of the peace, many illiterate, operate renegade justice forums after being instructed to cease hearing cases. Judicial officers are helpless as ex-combatants on the lawless Guthrie Plantation brazenly insist no court has jurisdiction over them.

Important reforms needed within a half year include a nationwide court-rebuilding project, training programs for judges, magistrates, justices of the peace and customary law officials, and dissemination of legal texts. Government, civil society, and donors should also make creation, funding, and support of community-based justice programs in rural areas a primary focus of their efforts. The reform agenda should reflect that justice is as important in the countryside as in Monrovia. Community-based programs would empower individuals and communities who rarely interact with formal power structures and do more for less money by providing paralegal services, getting information and legal texts to customary officials, encouraging local dialogue around gender justice, soaking up the energy of unemployed youth and helping people navigate both statutory and customary systems.

The Liberian justice system is an amalgam of internal and imported statutory law; U.S. common law; state-sponsored African customary law, in which chiefs and local administrators exercise judicial powers; and African customary law that operates beyond state oversight, within Poro and Sande power associations, councils of elders, and other forms of dispute resolution. The two forms of customary justice have continued and even thrived despite the upheaval of war. Governments and donors pay scant attention to the interface between statutory and customary law but in Liberia customary law is the primary arena in which citizens look for justice. Reforming only the statutory system would mostly benefit urban elites, who are most likely to avail themselves of that system. A working relationship should be nurtured between the statutory and state-sponsored customary law systems, including by training customary officials and strengthening

[1] In this report the term "justice system" is used to refer not only to the judiciary and the courts, including such lower officials as magistrates and justices of the peace and their courts, but also to the customary law system. "Justice reform" is likewise used in preference to "judicial reform" when referring not only to the statutory court system, but also to the customary law system.

the appeals process of the customary system by facilitating appeals to the statutory courts.

Sustained reform of the justice system requires the legal and judicial fraternities to lead the effort. They must be central players in design and implementation. A decade of war pulverised what was already a dysfunctional system. It will take even longer to rebuild it and create one that provides justice and protection for businesses and potential investors, men and women, elders and youth, rich and poor alike.

This period is the most hopeful in recent Liberian memory. Justice reform can succeed if the government puts it prominently on the agenda, community-based approaches to justice are taken, and donors deliver money quickly and in sufficient quantities.

RECOMMENDATIONS

Short-term reforms (to be commenced within six months)

1. Donors should:
   - (a) fund a major project, to commence immediately, to rebuild and refurbish magistrates' courts and circuit courts in all counties;
   - (b) continue and strengthen efforts to disseminate legal texts, including copies of the constitution and the codes of civil and criminal law and procedure, to all magistrates' and circuit courts;
   - (c) provide magistrates' courts and circuit courts immediately with necessary resources for record keeping and case management, including typewriters and stationery; and
   - (d) support civil society organisations financially and technically in designing and implementing community-based justice programs.
2. The higher-level judiciary, including the chief justice and other Supreme Court justices, should:
   - (a) design, with financial and technical help from donors, legal training for justices of the peace, magistrates, circuit court judges and state-sponsored customary law officials in such areas as procedure and jurisdiction, application of legislation, case management, ethics and gender sensitivity; and
   - (b) ensure that no children are held in detention in violation of the juvenile code.
3. The government should require judges who have accepted circuit court positions to go immediately to and remain at their posts.
4. Civil society organisations, with donor financial support and technical assistance, should:
   - (a) design and implement community-based justice programs, especially in rural areas; and
   - (b) disseminate knowledge of the rape bill throughout the country.
5. UNMIL should address the problem of ex-combatants on Guthrie Plantation, who refuse to submit to the jurisdiction of statutory courts, contribute to the culture of impunity, and pose a serious threat to civilians, by resolving – with force if necessary – the illegal occupation of that plantation.
6. The legislature should pass the Finance Autonomy Bill so that the judicial branch has adequate funding that the executive cannot arbitrarily reallocate.

Medium-term reforms (to be commenced within one year)

7. The government should:
   - (a) strengthen the relationship between statutory law and state-sponsored customary law by revising the ministry of internal affairs' oversight of state-sponsored customary law by ensuring that only the judicial branch hears appeals from customary law officials on judicial, as opposed to executive, decisions;
   - (b) establish a law reform commission to revise the archaic Rules and Regulations Governing the Hinterland of Liberia and review laws involving gender, commerce, labour and citizenship;
   - (c) advance gender justice by reforming laws that restrict women's rights and drafting progressive, gender-sensitive legislation including in the areas of domestic violence and reproductive rights;
   - (d) start tackling corruption in the justice system by raising the salaries of judicial officers, within the broader context of civil service reform; and
   - (e) organise consultative national conferences to establish a broad consensus on its reform

agenda, possibly to include constitutional reform, and form a commission to address questions of constitutional reform, whose findings should accompany those of the national conferences.

Long-term reforms (to be commenced within the next two years)

8. The higher-level judiciary, including the chief justice and other Supreme Court justices, in order to address corruption and accountability problems within the justices of the peace courts, should:

   (a) advocate inclusion of justices of the peace on the judicial payroll so as to attract qualified individuals;

   (b) uphold literacy and qualification standards for justices of the peace by conducting a serious vetting process before submitting applications to the executive for re-appointment; and

   (c) include justices of the peace in judicial training activities.

9. The judiciary, including the chief justice, other Supreme Court justices, and circuit court judges where applicable, in order to ensure accountability within the statutory courts, should:

   (a) enforce the requirement that justices of the peace and magistrates submit quarterly activity reports and use them to conduct a strict review process by circuit courts, with performance benchmarks;

   (b) insist that circuit courts submit quarterly activity reports for review by the Supreme Court; and

   (c) issue a revised code of conduct for judicial officers and lawyers, with procedures for complaints and provision for sanctions, including a Judicial and Prosecutorial Council to receive complaints of misconduct from police, other judges and prosecutors, defence councils and ordinary citizens and to forward its findings to an independent body.

10. The government should foster judicial independence and fight corruption in the justice system by creating a Judicial Service Commission to appoint judges, comprised of representatives – the majority not appointed by the president – from all levels of the judicial branch and from the ministries of justice and internal affairs, the Liberian National Bar Association and the Arthur Grimes School of Law, as well as non-lawyers.

11. Civil society should play a watchdog role in the reform process by:

   (a) monitoring court performance and compiling statistics;

   (b) publicly evaluating judicial performance; and

   (c) reviewing the workings of disciplinary mechanisms for judges.

Dakar/Brussels, 6 April 2006

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

Africa Report N°107 **6 April 2006**

LIBERIA: RESURRECTING THE JUSTICE SYSTEM

I. INTRODUCTION

Prisoners in the Kakata correctional facility in Margibi County, the majority of whom have been detained for months and even years without trial, desperately slip papers with meticulous lists of their names and time in pre-trial detention through the bars of their cells and ask visitors to deliver them to the courts. Ignorant of the judicial system's severe dysfunction, they assume the judges are simply unaware of their existence. In the same county, paramount chiefs have illegally detained people on their private property after state-sponsored customary law trials. Alleged rapists and murderers have walked free in Grand Cape Mount County because its circuit court has been inoperative for five years.

Liberia will not have lasting peace and stability unless it drastically overhauls its failed justice system. The culture of impunity marked by the lack of impartial institutions was a primary catalyst for the wars in Liberia, Sierra Leone, and Côte d'Ivoire.[2] There is a crisis of confidence in the Liberian justice system because powerful individuals have used it as a political tool through which to exercise and legitimise their power.

Rebuilding Liberia is like transforming a large block of wood into a sturdy table. Although the raw material is rich, each of the four legs must be solid and stable or the entire table could collapse. In Liberia, the four legs are good elections, economic governance reform, a restructured military and justice reform. Liberia has achieved transparent elections and is working at reform of economic governance and the military but it is only now being recognised that justice reform is so vital that failure to move on it could sabotage the other three.

Justice sector reform has sometimes been a hard sell in post-conflict environments. Weakened governments are desperate for resources to address multiple problems, all of which demand immediate attention. In Liberia its low priority has been reflected in meagre court budgets. However, in post-conflict societies, it is essential to reform the justice system and establish the rule of law as soon as security is restored and reconstruction begins.

In 2003, the Security Council authorised the UN Mission in Liberia (UNMIL) to take charge of judicial reform during the transitional period. UNMIL's Legal and Judicial System Support Division (LJSSD) has made some small strides: it assisted in reopening the Arthur Grimes School of Law at the University of Liberia; trained 150 county and city attorneys (public prosecutors); and oversaw "quick impact" projects that have led to the refurbishment and rebuilding of thirteen county court structures. But lack of funding, donor focus on the security sector, a difficult relationship with the transitional chief justice and management issues hampered its reform goals. The UK Department for International Development (DFID) gave $250,000 to the International Bar Association (IBA), working under the auspices of the International Legal Assistance Consortium (ILAC), to refurbish courts and train judges, but this initiative failed because of the lateness of judicial appointments and ILAC and IBA's difficult relationship with judicial representatives and UNMIL LJSSD.

In the past two years the justice system has not received serious or sustained attention. UNMIL estimates over half of the 300 justices of the peace, whose main qualification is supposed to be literacy, are illiterate. Only three of 130 magistrates are lawyers.[3] Circuit courts are dysfunctional, allowing cases to stall in the preliminary hearing stage without reaching trial. Incidents of mob justice are a direct result of lack of faith in the police, corrections systems, criminal investigations and the justice system as a whole.[4] Chiefs applying customary law under the ministry of internal affairs levy high fines, adjudicate criminal cases outside their jurisdiction and are complicit in forced labour practices. The judicial branch has always been little more than an appendage of the presidency, with successive presidents appointing all judicial officers and removing

[2] See Crisis Group Africa Briefing N°36, *Liberia: Staying Focused*, 13 January 2006; Crisis Group Africa Report N°98, *Liberia's Elections: Necessary but Not Sufficient*, 7 September 2005; Crisis Group Africa Briefing N°82, *Cote d'Ivoire: No Peace in Sight*, 12 July 2004.

[3] Crisis Group interview, magistrate judge, Monrovia, 12 January 2006.

[4] "Mob violence resurfaces", *The Analyst*, 11 August 2005; J. S. Sherman, "Mob justice and the failure of Liberia's judicial system", *The Liberian Observer*, 15 August 2005.

those showing any independence. Dependence on the executive is entrenched practice.

The weak judicial system has forced businesses to shun the courts and turn to politicians and other traditional fixers. Business transactions outside the judicial system have inevitably resulted in higher transaction costs. A Liberia without courts that can enforce contract rights will not attract job-creating long-term investors.

Another challenge is the culture of impunity that continues to reign on Guthrie rubber plantation in Bomi and Grand Cape Mount Counties, which poses a grave security threat and is symptomatic of a court system unable to prosecute ex-combatants who continue to commit crimes. Ex-LURD fighters illegally occupy the plantation, terrorising civilians there and in surrounding towns. Police have reported acid attacks on the plantation and a rise in domestic violence, often between ex-combatants and women whom they kidnapped and held as sexual slaves during the war.

The ex-combatants have created a military structure in the camp and exercise judicial powers over civilians on the plantation. They have threatened chiefs and magistrates with violence in cases where the latter have insisted they respond to criminal charges. Townspeople express concern the ex-combatants are negatively influencing young men who live in the towns and mimic their illegal activities, especially violence against women.[5] The fear is palpable. As a town chief remarked, "the ex-combatants brag and say 'just wait until the UN leaves'".[6] The political cost of doing nothing about Guthrie plantation, as well as Sinoe plantation in the east, is great. The new government does not yet have a functioning army, and it is up to UNMIL to flush out the ex-combatants as a matter of urgency, as was done in Sapo National Forest and the Monrovia Freeport.[7]

Donors and the government are beginning to realise that failure to reform the justice system early on could place other reforms at risk.[8] In late 2005, donors established a Rule of Law Committee, comprised mainly of international partners, to prepare for the transition to the elected government and address human rights, legal, judicial and police reform issues. Although donors must quickly provide significant technical and financial assistance, experience has shown that judicial reform is a long-term project requiring commitment from the highest levels of government. Only with that commitment is the investment of donor time and money warranted. A determined justice minister and chief justice are necessary to push through reforms.[9]

The legal and judicial fraternities, including high-level judges and lawyers, must be central players in the process or they will act as spoilers. They were behind removal of a provision of the Governance and Economic Management Assistance Plan (GEMAP) that would have introduced foreign judges into the country. They got what they wanted and now should make sacrifices for the common good, including taking judicial posts and providing legal services in rural areas. They must champion not only higher salaries but also improved legal knowledge and stronger judicial accountability mechanisms.

This report lays out the challenges facing the justice system and suggests reforms. The fundamental question is how ordinary Liberians, old and young, rich and poor, access justice in their communities and whether the nature and quality of this justice is suggestive of a country that has disavowed war.

Despite Liberia's many serious problems, euphoria marked the January 2006 inauguration of President Ellen Johnson-Sirleaf, which culminated a successful election process. It is now time to transform the goodwill directed at the new government into action for positive change, with justice reform at its core.

[5] Crisis Group interviews, police officials, town chiefs, townspeople and magistrates, 14-19 January 2006.
[6] Crisis Group interview, 14 January 2006.
[7] See Crisis Group Report, *Liberia's Elections*, op. cit.
[8] Crisis Group interviews, international donors and observers, Monrovia, January 2006.

[9] The following individuals have been appointed and confirmed to the five-member Supreme Court: as chief justice, Johnnie Lewis; as associate justices, Francis Korkpor, Emmanuel Wureh, and Gladys Johnson.

II. CRISIS IN THE STATUTORY COURTS

A. JUSTICES OF THE PEACE COURTS

The statutory law system includes the Supreme Court, headed by the chief justice; circuit courts, headed by circuit court judges; magistrates' courts, headed by stipendiary magistrates; and justices of the peace courts, headed by justices of the peace (JPs).[10] The 300 JPs in Liberia's fifteen counties are notoriously corrupt and incompetent, charging excessive fees and meting out justice beyond their jurisdiction. Ultimately, in the words of a circuit court judge, each JP "has become a law unto himself",[11] though between half and 75 per cent are illiterate.[12] Many, such as Justice Tamba in Monrovia, remain in office illegally, after the expiration of their two-year appointments.[13]

Originally created to increase access to justice in communities far from magistrates' courts, the JPs have become a serious liability, operating in a legal universe in which they are unaccountable and unsupervised. Due to the limited number of fully operational magistrates' courts, they continue to work on the frontlines of the statutory system in most communities, and Liberians still flock to them for their justice needs.

JPs share concurrent jurisdiction with the magistrates' courts but are supposed to adjudicate an extremely limited range of civil and criminal cases.[14] Nevertheless, they commonly exercise authority worlds beyond their jurisdiction rather than send cases to the circuit courts. Rather than turn rape cases over to the police, they regularly handle them as civil torts, calling for perpetrators to pay damages to a woman's husband, father or brothers.[15] A town chief in Tubmanburg reported that JPs commonly decide cases involving the "shedding of blood", even though their criminal jurisdiction is limited to petty thefts. It is illegal for JPs to detain people, and in most cases they are not allowed to hold trials, but a JP in Ganta (Nimba County) uses his home as a detention facility, with his son as court bailiff.[16] In Grand Cape Mount County, a JP who deals with simple breaches of contract routinely locks people in his mud hut ("House of Consultation") until relatives post bail.[17]

Although it is illegal for JPs to hand down sentences, Crisis Group interviewed prisoners who alleged they had been sentenced to three-month jail terms in Margibi County after failing to pay the JPs bribes. Prison officials verified these claims. In one case, the JP conducted an assault trial and ordered the defendant to pay a $50 fee or go to jail. After the defendant failed to pay the entire fee, the JP imprisoned him.[18]

In November 2005, then-Chief Justice Henry Reed Cooper tried unsuccessfully to rein in the renegades. JPs are technically not permitted to serve until the president approves their reappointments. Cooper instructed circuit court judges to request that all JPs in their counties apply for such a presidential reappointment by sending letters of stated qualifications to circuit court judges, who were then to pass approved applications to him for forwarding to the president.[19] Crisis Group came across one of the few JPs in Bomi County who did formally apply for reappointment in the makeshift courthouse attached to his private home, sitting underneath the Liberian flag and patiently awaiting business. He admitted he continues to accept money from litigants while his reappointment is pending.[20] In Grand Bassa County, only eight of the 22 JPs currently active applied for reappointment.[21] The others continue to operate illegally. In Margibi County, all JP appointments have expired.

The effort to process applications for reappointment approaches the crisis in the JP courts as a relatively uncomplicated administrative matter. It does not address the enormous abuse of power by JPs, who invoke the

[10] Judgments of JP and magistrates courts are appealed to circuit courts, whose decisions are appealed to the Supreme Court. There are also specialised courts, including debt, taxation, probate, and labour courts, with decisions appealable to the Supreme Court, although most of these are not presently functioning.
[11] Crisis Group interview, circuit court judge, Buchanan, 20 January 2006.
[12] Crisis Group interview, UNMIL judicial representative, Monrovia, 17 January 2006.
[13] Crisis Group interviews, international observers, NGO representatives, court clerks, and judges, Monrovia, Buchanan, Tubmanburg, January 2006.
[14] JPs can adjudicate civil actions up to $50 for recovery of assets and $100 for debt payments. Criminal jurisdiction is limited to petit larceny. Liberian Judiciary Law, §8.3(a) (1) and §8.3(b).
[15] Crisis Group interview, NGO representative, Monrovia, 11 January 2006.
[16] Crisis Group interview, NGO representative, Monrovia, 17 January 2006.
[17] Crisis Group interview, international observer, Monrovia, 17 January 2006.
[18] Crisis Group interviews, prisoners and correctional officer, Kakata, 21 January 2006.
[19] Chief Justice Cooper's initiative was also designed to regularise the position of JPs on the judicial payroll.
[20] Crisis Group interview, JP, Bomi County, 19 January 2006.
[21] Crisis Group interview, court clerk, Buchanan, 20 January 2006.

formal authority of the state while wielding illegitimate judicial authority. The judicial branch must take the lead in policing its members. The fact that JPs are not included on the judicial pay roll, although they are technically judicial officers, is the primary reason why JPs exact excessive fees and fines; judicial corruption is perhaps at its worst at this level, since the JPs are forced to operate on a "pay yourself" basis. The chief justice and circuit court judges should advocate a long-term plan to put JPs on the judicial payroll so their courts are no longer used as revenue generating forums. Other longer-term reforms are also necessary. According to the Judiciary Law, JPs are not supposed to work until they have completed training.[22] The higher-level judiciary should strictly enforce this and uphold literacy standards so that JPs – the face of the statutory justice system for most Liberians – are qualified. Circuit courts should also ensure that JPs in their counties submit quarterly reports for review[23] and require that all JP court fees listed in the Judiciary Law be posted in their courts.

B. MAGISTRATES' COURTS

Liberia's 130 magistrates[24] receive miserably low salaries and lack proper facilities, sophisticated legal knowledge, access to legal texts, necessary court personnel and record keeping equipment. They must travel long distances over decrepit, war-scarred roads to collect a $22 average monthly salary in Monrovia and implement ad hoc court fees to supplement their salaries. The war decimated much of the country's physical infrastructure, and magistrates have been forced to conduct judicial business out of their own homes or in private houses rented by the government. A magistrate in Grand Cape Mount County regularly hears cases on his balcony. Most surviving courthouses have been reduced to concrete skeletons, in desperate need of repair.

Because they lack legal expertise – only three magistrates in the entire country have law degrees – and access to legal texts, magistrates often run courts that have only an improvised, uneven relationship with statutory law norms. Court officers such as associate magistrates, county and city attorneys, defence counsels, and bailiffs are rare. In five-county fieldwork, Crisis Group failed to find a single public defender or prosecutor in a courthouse during normal working hours.[25]

Magistrates universally complain about the absence of items such as typewriters and stationery. The Bomi County circuit court judge, revenue court judge, traffic court judge, and magistrate share one typewriter. Judges are sometimes forced to record court minutes long-hand, leading to delays, inaccuracies, and incomplete records. Because of the lack of record-keeping devices and the difficulties of recording long-hand, in many instances, no records are kept at all,[26] which hampers both timely adjudication and oversight. This is an area where donors could have a real impact within six months. Without great cost, they could give all courts in the country typewriters to improve processing of cases and administration of justice.

Magistrates' courts also lack vehicles for transporting prisoners from detention facilities to courthouses. A court bailiff in Kakata often escorts two or three prisoners at a time without handcuffs on the 30-minute walk, while encouraging them not to attempt an escape.[27] As a human rights activist asked, "three million dollars was spent on government vehicles. Why can't $3,000 be spent on used buses to transport prisoners to court?"[28]

Many magistrates, with limited legal knowledge and resources, try their best but their lack of legal training necessitates close circuit court supervision. The higher-level judiciary should compel them to file quarterly reports to the circuit courts for review.[29] More importantly, circuit courts should take their supervisory and managerial roles seriously, by ensuring that magistrates' courts function properly and handle cases within their jurisdiction.[30]

---

[22] Judiciary Law, §8.7.

[23] According to Judiciary Law §8.11, JPs must file quarterly reports to the circuit courts in their areas.

[24] Magistrates are appointed for four-year terms.

[25] Pacific Architects and Engineers (PAE), a U.S. Department of State contractor providing logistical support in Liberia, has launched a judicial reform project that provides one-on-one mentoring. PAE-employed prosecutors are working with the minister of justice and solicitor general, and PAE has also employed a case management specialist and a court finance and human resources specialist. A PAE-employed public defender is working with the chief justice to establish a public defender's office, which will be staffed at a level comparable to that of the prosecutor's office. One senior lawyer and three junior lawyers will be taken from a pool of fifteen new graduates from the Arthur Grimes School of Law.

[26] Crisis Group interview, NGO representative, Monrovia, 11 January 2006.

[27] Crisis Group interview, court bailiff, Kakata, 21 January 2006.

[28] Crisis Group interview, Monrovia, 17 January 2006.

[29] Judiciary Law, §7.10.

[30] According to the Judiciary Law, in civil proceedings magistrates courts may not adjudicate debt cases or recovery of property cases that exceed $2,000. In criminal proceedings, magistrates court original jurisdiction is limited to petit larceny. §7.3(a)-(b).

C. CIRCUIT COURTS

Although in August 2005 twenty circuit court judges were sworn in, at least five circuit courts remain completely defunct or barely operational. Following the Lofa County circuit court's opening ceremony on 22 August, the judge left Voinjama for Monrovia and never returned.[31] The circuit judge in Grand Cape Mount County has reportedly spent one night in Robertsport since taking office. For judges who have reported for duty, conditions are often very challenging: they work in courthouses that sometimes lack doors and windows and have spent their own money for desks and chairs. In October 2005, circuit court judges flirted with a boycott of the November term to demand higher salaries.[32] The scarcity of prosecutors also delays work.[33] The resident judge in the nearly dormant Rivercess County circuit court claimed not one lawyer has appeared before his court.[34]

Circuit judges in Sinoe, Zwedru, Rivercess, Tubmanburg, Buchanan, Kakata, Gbarnga, Sanniquellie and Harper have formally taken up their posts but several still reside in Monrovia – they are supposed to be resident in the counties – visiting their courts several times a week, for several hours at a time. UNMIL Human Rights and Protection in Margibi County lodged a verbal complaint with the justice ministry in June 2005, after the circuit judge's residence in Monrovia and erratic attendance prevented trials in the county.[35]

Circuit court inactivity is paralysing the justice system in parts of the country. Circuit courts have original jurisdiction in the most serious cases, including aggravated assault, burglary, rape, and murder. Magistrates' courts must refer such matters to them following preliminary hearings. If a circuit court does not function, the most serious cases languish in legal limbo. In some cases, magistrates step in to hear cases well beyond their jurisdiction. In others, they respect their jurisdictional limits and alleged murderers and rapists walk free. This leads to human rights violations, discourages community members from viewing the legal system as a viable option for addressing serious crimes, and strengthens the culture of impunity.

In December 2005, a rape case involving a 40-year-old man and an eleven-year-old girl in Robertsport, the seat of the non-functioning Grand Cape Mount County circuit court, was on the verge of being settled as a private dispute until the girl's parents were encouraged to take the case to court. After being informed of an interpretation of the criminal procedure code that allows magistrates to transfer cases to an alternative circuit court when defendants cannot receive fair trials within their jurisdiction, the Robertsport magistrate sent the case to circuit court in Monrovia for adjudication.[36] Except for this recourse to the criminal procedure code, an alleged child rapist would have been freed simply for lack of a functioning court in the locality. Suspects in rape, murder, and burglary cases in Grand Cape Mount County routinely evaded prosecution because of the inactive circuit court. However, the primary solution for the crisis in the circuit courts cannot be to send county cases to the capital, when the criminal circuit courts there are backlogged, and prisoners in Monrovia Central Prison wait months and even years for trial.

Lack of facilities is sometimes the primary reason for a circuit judge's refusal to take up his post but not always. The U.S. refurbished the circuit court in Grand Cape Mount County in 2005; it is in excellent shape but stands silent and empty. Circuit court judges have accepted nominations and stayed in Monrovia, allegedly collecting their salaries and attending official functions without presiding over a single trial or conducting a single preliminary hearing. An international observer noted: "The people who get paid the most often are the people who stay in Monrovia and don't do their jobs in the counties. The judges who are actually doing their jobs upcountry – it's harder for them to get paid".[37]

The repercussions of non-functioning circuit courts are so harsh – including effective impunity for murderers and rapists – that the government should immediately force the resignations of circuit judges who have physical structures in which to work but refuse to do so. In the medium term, the chief justice should ensure that judges who do not meet certain attendance requirements are not paid. In the longer term, the Supreme Court should require circuit court judges to file quarterly reports and should scrupulously review these. Liberian lawyers and judges have also suggested that these reports be made public and the chief justice make unannounced visits to the circuit courts to ensure that attendance and high performance

[31] "Bi-Monthly Report, August-September 2005", UNMIL Human Rights and Protection Section, November 2005.
[32] "Annual Situation Report on Liberia: January 1-December 31, 2005", Liberian Catholic Justice and Peace Commission, January 2006.
[33] In March 2006, Solicitor General Tiawon Gongle removed all public prosecutors from the government roster as only two or three were trained lawyers, as the law requires.
[34] "The lack of lawyers hampers court in r'cess", *The Analyst*, 13 February 2006.
[35] Crisis Group interview, international observer, Monrovia, 21 January 2006. Because of the time required to hear a case properly, a judge would have to stay overnight or forego basic procedural norms.
[36] The Temple of Justice houses the Montserrado County criminal and civil circuit courts as well as the Supreme Court.
[37] Crisis Group interview, Monrovia, 17 January 2006.

standards are upheld.[38] The legal fraternity successfully resisted foreign involvement in the justice system, as proposed in the original GEMAP draft. In return for the faith placed in them, they must better police their own members, with disbarment the ultimate threat for unethical and unprofessional behaviour.

[38] Crisis Group interviews, lawyers and judges, Monrovia and Buchanan, January 2006.

III. THE DIVIDE BETWEEN THE CUSTOMARY AND STATUTORY SYSTEMS

The government is unlikely to increase the number of JPs, magistrate and circuit courts significantly in the immediate future, so must engage state-sponsored traditional justice forums to ensure that customary law systems deliver judgments in line with the fundamental principles of national law. The aim of any engagement with such forums should be to ensure that local actors do not take advantage of the statutory system's weakness to acquire abusive prerogatives over ordinary citizens.

Africans throughout the continent generally use customary law to address up to 80 per cent of all disputes;[39] yet, donors and governments have commonly ignored the complex issues surrounding the relationship between customary and statutory law in justice reform efforts. Donor discussions about customary law in Liberia rarely get past vague generalities; previous studies of the judicial system have not adequately addressed the relationship between the formal and informal justice systems.

The deep divide between statutory and customary forums and the hesitancy of government and donors to pay adequate attention to the latter is perhaps a result of the continued neglect of Liberia's interior. Liberia has experienced significant movement from the country to the city but, as in much of West Africa, too little notice has been taken of the countryside. The historically deep division between the capital and rural areas has led to ignorance of the way the customary law system operates and little knowledge among Liberian elites and foreign observers of how ordinary citizens deal with justice needs in light of a statutory system in disrepair.

The development community has often viewed formal statutory systems as logical entry points for justice reform, with the idea that ordinary citizens will prefer them, if they function adequately, to customary justice forums. This may be short-sighted. A Liberian NGO recently completed a study on conflict resolution in four counties that found people preferred traditional means of resolving disputes, and it is not considered good community spirit to go to the formal courts.[40] The Liberian state has historically been a predatory one that has tried to co-opt traditional systems in order to strengthen its own power, resulting in scepticism regarding the state and its institutions. Certainly,

[39] Laure-Hélène Piron, "Donor Assistance to Justice Sector Reform in Africa: Living Up to the New Agenda?", Open Society Justice Initiative, February 2005.
[40] Crisis Group interview, NGO representative, Monrovia, 17 January 2006.

Liberians also rely on customary justice because the statutory system is often non-existent in poor, rural communities. However, although the statutory system's inaccessibility and impenetrability partially accounts for rural citizens hesitant reception of the U.S.-derived formal system, there may also be aspects of customary law that are simply more appealing to many.

The war, accompanied by massive displacement, disrupted traditional justice forums but as communities have re-established themselves, they have reverted to customary law to resolve disputes. Crisis Group fieldwork found that customary law continues at the state-sponsored level, exercised through chiefs, governors representing minority ethnic groups in towns, and local officials under the ministry of internal affairs, as well as in forums operating outside the state, such as Poro and Sande societies and councils of elders in townships and displaced persons (IDP) camps.

A. EXECUTIVE OVERSIGHT OF CUSTOMARY LAW

Liberia's government-created customary courts, which adjudicate cases in the countryside, are housed in the executive branch, under the ministry of internal affairs. Locally-elected town chiefs, clan chiefs, and paramount chiefs enjoy original jurisdiction in customary law cases. If a customary dispute arises within a town, the town chief and village elders will intervene, call witnesses, assess fines, and issue a judgment. Clan chiefs adjudicate disputes between towns. Final judgments in town chief and clan chief courts are appealed to paramount chief courts. Town chiefs and clan chiefs also transfer complex cases they cannot resolve to paramount chiefs through a referral procedure. Final judgments in paramount chief courts are appealed to district commissioners and superintendents, and finally to the ministry's Office of Tribal Affairs in Monrovia. Circuit courts are empowered in principle to review customary law decisions [41] but this appellate process through the statutory courts is very rarely used.

The Rules and Regulations Governing the Hinterland of Liberia, which provide a procedural framework for adjudication of customary law cases and were revised in 2000, lay out the executive appellate framework.[42] The Rules and Regulations Governing Local Government Officials of the Political Sub-Divisions of Liberia state that chiefs preside over all domestic and cultural matters; although commissioners and superintendents are charged primarily with administrative duties, the regulations empower them to review all matters coming out of the chiefdoms.[43] In urban and semi-urban areas with a mix of ethnic and religious groups, ethnic and Muslim "Governors", operating as local authorities under the ministry, adjudicate the customary claims of residents of the same ethnic and religious affiliation.

At Liberia's founding, the state established the dual system to ensure that statutory law would govern "civilised" people – Americo-Liberians and missionaries – while customary law would regulate "natives". The non-Christian, indigenous Africans, who were considered "uncivilised", could not use the statutory system,[44] and chiefs could not adjudicate cases to which a "civilised" person was party.[45] State-sponsored customary law was the compromise between the government's attempt to co-opt the traditional sphere and villages' desire to maintain their autonomy. Although the constitution, statutory laws and common law of the formal legal system now govern all Liberians, the archaic Rules and Regulations Governing the Hinterland still refer to the adjudication of cases for "civilized people" and "natives".[46]

The state often used local commissioners and superintendents as a form of indirect rule, and executive oversight of customary law ensured that it maintained a measure of control over the traditional realm. The state perhaps also gave local government officials judicial powers to review customary cases in the belief that they, not judges, would have the necessary intimate knowledge of local customs. In 1907, the Supreme Court ruled that only the judicial branch could exercise judicial powers, and executive oversight of customary courts was unconstitutional; [47] nevertheless, the basic structure of state-sponsored customary law still exists.

[41] Judiciary Law, §3.4.

[42] Revised Rules and Regulations Governing the Hinterland of Liberia, Ministry of Internal Affairs, 7 January 2000.

[43] The Rules and Regulations Governing Local Government Officials of the Political Sub-Divisions of Liberia (Revised Edition), ministry of internal affairs, 24 February 2005.

[44] Crisis Group interviews, academic and anthropologist, Monrovia, 13-19 January 2006.

[45] Crisis Group interview, anthropologist, Tubmanburg, 19 January 2006.

[46] The rules are almost identical, in language and administrative structure, to those in Anglophone African colonies like Sierra Leone and Ghana in the 1930's and 1940's. The structure of the customary system outlined by the Liberian "Rules of the Hinterland" is oriented toward a system of indirect rule in which local chiefs do much of the state's "dirty work", from collecting taxes to dealing with small, time-consuming adultery and land cases. In return, they receive broad powers that allow them to enrich themselves at villagers' expense. Ironically, while Anglophone ex-colonies have mostly revised or abandoned such laws because of their fundamentally anti-democratic logic, Liberia – never a colony – has maintained them.

[47] Philip A.Z. Banks III and Peter Sevareid, "Liberia", draft report prepared for "The Role of Informal Justice Systems in

The war destroyed many of the small structures, usually close to administrative buildings, from which customary courts previously worked[48] but the cases continue in chiefs' residences and communal spaces. Crisis Group met with chiefs and ethnic governors working under the ministry of internal affairs who routinely adjudicate matters involving adultery, spousal maintenance, marriage, theft, domestic violence, and land disputes and whose decisions are appealed to commissioners and superintendents.[49]

B. NON-STATE-SPONSORED CUSTOMARY LAW

Liberia also has customary law systems that operate outside executive review. The Poro and Sande power associations, commonly referred to as secret societies, initiate males and females into adulthood, resolve community disputes and condemn members who have defied established social norms. Leaders believed to wield magical and spiritual powers secretly hand down harsh justice in the Poro forest; the more visible to the outside world the inner workings of the associations are, the less power they are believed to possess.[50] Communities also settle disputes within independent social spaces, including "house palavers" in which the eldest male relatives in towns resolve cases between extended family members.[51]

Forms of dispute resolution that draw on customary law have also developed in IDP camps.[52] For instance, the Conneh camp in Kakata, which houses nearly 11,000 IDPs, is divided into five zones, each with an ethnically mixed council of elders who routinely referee disputes, including debt cases, domestic violence, adultery, and spousal maintenance. The investigative committees send particularly complex issues to the Liberian Repatriation Refugee Resettlement Council (LRRRC).[53] A more recent post-war occurrence has been the establishment of committees in towns such as Tubmanburg comprised of community leaders and elders who engage in dispute resolution.

The state-sponsored and outside-the-state customary law systems often share personnel. Setting clearer standards in the realm of state-sponsored customary law would make clearer to those operating in the "invisible" system the limits of allowable practice.

C. CHALLENGES WITHIN CUSTOMARY FORUMS

Discrimination and inequity within customary law forums is common. The decisions of town, clan and paramount chiefs working under the ministry of internal affairs are often marked by bias and excessive fines, and they do not receive independent review from statutory courts. Unpaid and untrained chiefs often wield judicial powers over and above their mandated authority and are routinely complicit in forced labour practices.

Fines are often the driving force behind decisions. Although Crisis Group interviewed chiefs who insisted they only accepted "cold water" or small tokens of appreciation for their judicial services, human rights offices routinely receive complaints about excessive fines.[54] The ministry of internal affairs is supposed to pay chiefs for their administrative and judicial services but rarely does. Consequently, chiefs use fines and fees levied in customary law cases as revenue sources.

Chiefs also routinely preside over criminal cases outside their jurisdiction and sentence people for crimes the statutory courts should handle. Due to the dearth of correctional facilities and blatant opportunism, some chiefs illegally detain people and employ forced labour on their private property. Chiefs' homes often double as jails; in places like Bondiway in Margibi County, UNMIL Human Rights has routinely freed people from the paramount chief's home.[55] Illegal detention and forced labour practices partly result from chiefs' ignorance of their proper judicial role, but some take advantage of the void left by the dysfunctional statutory system to exploit ordinary people who do not know their rights. Chiefs also have economic incentives to overstep their jurisdiction and levy higher fines, as they retain a percentage or flat fee. Forced labour has roots in the debt bondage that was

Fostering the Rule of Law in Post-Conflict Societies", a project of the U.S. Institute of Peace and the Fletcher School of Law and Diplomacy, 28 February 2005.

[48] Crisis Group interviews, longtime Liberia observers, Monrovia, 11 January 2006; see Peter Sevareid, "The Case of the Unreturned Goat: Dispute Resolution by a Mano Court in Liberia", *Temple International and Comparative Law Journal*, (1993).

[49] Crisis Group interviews, Grand Cape Mount, Margibi, Bomi, and Grand Bassa Counties, January 2006.

[50] For more information on Poro and Sande power associations see Crisis Group Report N°87, *Liberia and Sierra Leone: Rebuilding Failed States*, 8 December 2004.

[51] See Banks and Sevareid, "Liberia", op. cit.

[52] As of 18 February 2006, 24,336 IDPs in formal camps had not received return packages. UNMIL source, February 2006.

[53] Crisis Group interviews, Conneh IDP camp co-chairman and camp dwellers, Kakata, 21 January 2006.

[54] Crisis Group interviews, human rights observers, Monrovia and Tubmanburg, 11-21 January 2006.

[55] Crisis Group interview, UNMIL human rights officer, Monrovia, 21 January 2006.

common in West Africa in the nineteenth and early twentieth centuries.[56]

In a country of crushing poverty, disproportionate penalties and forced labour practices have severe consequences, not only for the individuals punished, but also for whole families that often rely on one breadwinner. In Sierra Leone, where disproportionate penalties in customary courts persist, the notion that excessive fines levied on young men in customary courts were a catalyst for the war has reached the level of cultural mythology, recounted in rural communities throughout the country.[57] Although excessive customary fines may have played a less direct role in the Liberian war, intergenerational struggles between youths and the chiefs and elders, who have monopolised land and other resources and used the customary system to consolidate their power, contributed to the conflict.

The important and difficult questions regarding gender justice that customary law raises are discussed below. Customary law also endorses extreme practices such as trial by ordeal, during which the accused is subjected to severe pain, normally by a hot knife placed against the skin. Wounds that fester are allegedly signs of guilt. There have also been reports of trial by ordeal victims forced to eat poisonous fruit or jump into fires.[58] In a 1940 case, the Supreme Court found trial by ordeal unconstitutional[59] but the Rules Regulating the Hinterland continue to authorise it so long as the poisonous sassywood bark is not used or the life of the accused otherwise endangered. The ministry of internal affairs, in violation of the constitution and a judicial mandate, licenses "ordeal doctors" to perform these rituals.[60]

In late 2005, the ministry licensed a trial by ordeal for the residents of a small town in Grand Cape Mount County, who believed that witches were responsible for its lack of schools and healthcare facilities. Residents conducted the licensed trial on the alleged witches' possessions inside the dormant county circuit courthouse.[61] The fact that the only trial that has taken place in the circuit court for five years has been a ritual practice, condemned by the judicial branch but condoned by the executive, speaks volumes about the state of the justice system and the executive's unwillingness to enforce the judicial decision that outlawed trial by ordeal.

D. ENGAGING LEGAL DUALISM

Although the constitution recognises customary law by empowering the statutory courts to apply it as well as statutory law,[62] there is a growing movement to abolish its formal recognition. The University of Liberia wants to host a national conference to begin a dialogue on strengthening statutory law and gradually removing the legal dualism through citizen education programs.[63] However, it is unlikely that dismantling the state-sponsored customary law system would eliminate or even lessen the practice of customary law. The result would most likely be similar to what has happened in other African countries that have formally abolished traditional courts: citizens will continue to turn to traditional methods of dispute settlement.

It might also be short-sighted to abolish formal recognition of customary law when the inaccessibility of the statutory system leaves no truly viable alternative for rural Liberians who live days away from the nearest statutory court. Any serious discussion of the removal of legal dualism should be in the context of a strong, fair and far reaching statutory system that can handle the justice needs of all. How to address discrimination within state-sponsored customary law forums? First, one should not ignore that what often seem like "local" values may be only the values of those within the customary system who have power and are, therefore, intent on maintaining the current structure and not necessarily of those whom the system has disempowered. Customary law is not, nor has it ever been, the embodiment of a transcendent homogenised value system.[64] There is often the tendency to treat custom as inherently static, as if progress and change have no place in Liberian culture. Contention exists within the customary realm, which means there is room for internal negotiation of its future and direction.

A more viable interim solution to challenges within customary law forums would be the internal strengthening of state-sponsored customary law through short-term reforms such as creation of rural community education and paralegal programs, reform of the antiquated Rules Regulating the Hinterland, and training of customary

[56] The debtor would provide an able-bodied person whose labour would constitute the interest until the entire loan was paid. See G. Schwab, *Tribes of the Liberian Hinterland*. (Cambridge, Mass., 1947).
[57] Crisis Group interviews, NGO representatives, Freetown, 13 November 2005.
[58] K. Houreld, "Put your hand in hot oil: on trial in Liberia", Reuters, 25 November 2005.
[59] *Tenteah et al v. Republic of Liberia*.
[60] Revised Rules and Regulations of the Hinterland, op. cit., Article 73.
[61] Crisis Group interviews, human rights monitors, Tubmanburg and Monrovia, 14-17 January 2006.
[62] Chapter VII, Article 65.
[63] Crisis Group interview, University of Liberia representative, Monrovia, 13 January 2006.
[64] Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, (Princeton, 1996).

officials, and medium-term reforms such as strengthening the appellate process between the customary and statutory systems, which could significantly reduce illegalities in the former.

A parallel/hybrid system that acknowledges various customary systems may be the best interim solution but it will be necessary to ensure that it does not lead to unequal and illegal forms of justice. The state can address this by having the statutory system deal with excesses and blatant injustices in the customary system and prevent chiefs from wielding judicial powers without independent judicial review. As noted circuit courts are technically empowered at present to hear appeals from state-sponsored customary law forums but rarely do, because of the lack of operating circuit courts, the distance between circuit courts and most towns in a county and the fact that ordinary citizens lack the knowledge or financial resources to file such appeals. Crisis Group did, however, meet with a magistrate and town chief who noted that statutory courts have sometimes enforced damages awarded in customary cases, as well as with elders who spoke of a land dispute that began in a paramount chief's court twenty years ago and was later appealed to a circuit court.[65]

Executive oversight of state-sponsored customary law decisions through the appellate process in the ministry of internal affairs has been practised for over a century; in the medium term, the new government must seriously address this executive appropriation of judicial responsibilities. In Sierra Leone, where customary law court chiefs also operate under auspices of the executive, there is mounting pressure to redefine them as judicial officers.[66] Such a move may be more difficult in Liberia, where capacity problems are even greater, and the customary court system has not been as formalised as Sierra Leone's, which is a colonial by-product. Customary chiefs in Liberia exercise both executive authority – on matters such as the collection of taxes and supervision of sanitation measures and the construction of roads and bridges – and judicial authority – on matters such as marriage, child maintenance, debt, and petty theft. The government must make a firm distinction between executive oversight of customary chiefs' executive and judicial duties. Chiefs should remain under the ministry but the executive should review only their executive activities. The judicial branch should assert its prerogatives by insisting that only its statutory courts should consider appeals from the judicial decisions of customary chiefs. The government should ensure that customary law cases stop at the level of the paramount chiefs and can only be appealed subsequently to the statutory courts, which could employ customary experts to assist on those appeals. While perhaps imposing some greater burden initially on the statutory court system, over time this would ensure a more consistent and just approach to their judicial authority by customary chiefs. Community-based legal programs, such as those described below, can also assist customary chiefs in dispensing justice and reduce the burden on statutory courts.

[65] Crisis Group interviews, Gbahfoboi Gbakandakai Medina and Robertsport, 14 January 2006.
[66] Crisis Group interviews, Freetown, Makena, Bo, November 2005.

IV. COMMUNITY-BASED APPROACHES

A. COMMUNITY-BASED PARALEGAL PROGRAMS: A CASE STUDY FROM SIERRA LEONE

> "We must bring the court down to the community level. There must be a reconciliation between the courts and ordinary people".[67]

Beyond the breakdown of the judicial system, many obstacles limit Liberians' access to justice. Magistrate and circuit courts are often geographically out of reach, and people are frequently unable to use the statutory system because they lack education and financial resources. In addition, there is a psychological divide that deters rural communities from turning to the statutory system. As a judicial monitor noted, "people often say that the constitution is not their constitution – that the constitution does not apply to them because they are tribal people".[68] Obstacles also exist in customary forums, where local power dynamics render ordinary people unable to stand up to chiefs who abuse their authority.

It does not make sense to pour money into revamping a legal system that will remain inaccessible to most people. How, for instance, without legal awareness and assistance, does a rape victim know she can report the crime to police and file her case in the nearest statutory court instead of asking her male kin to negotiate a private settlement with the perpetrator's family, as is common practice? How does a villager reject a paramount chief's insistence that he work off a debt by labouring on the chief's property? Rights based knowledge is almost non-existent. If civil society and international organisations do not create and fund access to justice programs, and the government does not insist on their vital importance to justice reform, Liberians will remain unaware of both their fundamental rights and how to realise them. The government, civil society, and donors should give creation and funding of community-based justice programs immediate priority.

Such programs can address the social, economic, and psychological barriers that severely limit access to justice by combating discrimination in the statutory and customary systems, educating ordinary people about their rights, assisting communities with the peaceful mediation of conflicts, disseminating specific laws, engaging unemployed youth as rural based volunteers, and helping individuals navigate the customary and statutory systems. They would be especially important in rural areas where resources are most limited and the need for rights-based education and assistance is most urgent.

Although the justice system has had a significant institutional breakdown, reformers should not dismiss creation and funding of community-based justice programs for the future. Inventive programs like community-based paralegal services could help communities navigate the current statutory and customary justice forums and strengthen their legal literacy and rights-based approaches in rural settings as more courts and judges are created in the coming years.

An example of a successful community-based paralegal program that could prove a useful model for Liberia is an innovative Sierra Leone justice program, Timap for Justice.[69] In November 2005, Crisis Group observed the organisation's work in Freetown, Bo, and Bumpeh. Although the two countries' justice problems are not identical, they share many similarities, including dual legal systems and failed judicial institutions in the midst of crushing poverty.

The creation of Timap for Justice, a joint venture of the Open Society Justice Initiative and the Sierra Leone National Forum for Human Rights, was partly in response to a lack of lawyers – only 100 in the country necessarily limits formal legal aid for poor citizens.[70] Although Liberia has twice that number,[71] 200 in a population of three million make legal aid programs equally challenging. Moreover, most lawyers are in Monrovia. There is a dearth of lawyers willing to work in the rural areas. Liberian NGOs, such as the Foundation for International Dignity (FIND), have been involved in small legal aid practices for years but mostly limited to the capital.

The absence of rural lawyers sparked creation of a human rights rural volunteer pilot project, which operated from 2000 to 2003 in Bomi, Bong, and Nimba Counties and was sponsored by the Foundation for Human Rights and Democracy (FORHD) and Amnesty International Netherlands. Its goal was to use local

[67] Crisis Group interview, human rights observer, Monrovia, 21 January 2006.
[68] Crisis Group interview, Monrovia, 17 January 2006.

[69] "Timap" means "stand up" in Krio. Crisis Group interview, Timap for Justice representative, Makeni, 14 November 2005.
[70] Vivek Maru, "The Challenges of African Legal Dualism: an Experiment in Sierra Leone", Open Society Justice Initiative, February 2005.
[71] UNMIL Revised Discussion Paper for the Rule of Law Task Force, 14 December 2005. Many other Liberian nationals trained as lawyers are resident outside the country, especially in the U.S.

resources and capacities to cultivate a culture of rights and bring officials accused of misconduct to justice. Although paralegal help was a stated aim, the main focus was on raising human rights awareness and reporting human rights violations.[72] It was a step in the right direction but in the absence of formal countryside legal aid programs, what is most needed are rural-based paralegal programs that can assist individuals with everyday justice needs and encourage community-level action.

There are numerous organisations in Sierra Leone with objectives similar to those of the FORHD/Amnesty International Liberian pilot project. They conduct important educational activities but often lack a nuanced understanding of law. Timap for Justice's founders, concerned that many organisations were not transforming the rhetoric of rights into daily action, created one to fill the void. By solving the everyday justice needs of ordinary citizens, it is proving town by town, case by case, that justice need not be a far-off ideal but can be an everyday reality. Each of eight offices throughout the country, staffed by paralegals, handles on average twenty cases per month; in its two years, the organisation has dealt with over 1,000 cases of domestic violence, child abandonment, corruption in government services and disproportionate penalties levied by customary officials.

In Sierra Leone, like Liberia, cases are rarely appealed from the customary to the statutory system. However, when customary court decisions are unjust, Timap for Justice may seek recourse in the formal system. Crisis Group observed a debt case that Timap for Justice appealed to the statutory courts and obtained a ruling in favour of its client.[73] Timap for Justice also aims to strengthen customary law from within by working in partnership with open-minded chiefs.[74] For instance, after six young girls fled to the organisation's offices to escape female circumcision, Timap for Justice began organising community-level dialogue around this sensitive issue within the chiefdom.[75]

The organisation, however, does not simply encourage individuals to turn immediately to the statutory and customary justice systems to solve their disputes. Mediation is one of its main advocacy tools; in this way, it offers both access to the statutory and customary systems and a viable alternative to them. Timap refuses to mediate either rape or domestic violence cases even though customary law encourages this. It refers those cases to the statutory system. Community-based mediation programs have already begun in Liberia. In 2004, Community, Habitat, Finance International (CHF) launched Locally Initiated Networks for Community Strengthening (LINCS), a program funded by the U.S. Agency for International Development (USAID), in 70 communities in Zorzor, Salayea, and Voinjama districts of Lofa County.

LINCS established and trained Community Peace Councils, comprised of elders and youth, men and women, and all ethnic groups, to foster reconciliation between Mandingoes and Loma[76] and mediate land disputes, domestic disputes, minor theft cases, and disputes relating to reintegration of ex-combatants.[77] CHF International, in coordination with the American Bar Association (ABA), will also soon devise "a standardised and culturally sensitive mediation model which could be used throughout Liberia as an alternative dispute resolution process connected to various legal processes".[78]

Timap for Justice paralegals were all born and raised in the chiefdoms where they work and thus have intimate knowledge of local dynamics and customary law as well as at least a secondary school education and community work experience. They are given initial training in statutory law, government, and paralegal skills and then receive ongoing training and supervision from lawyers. Crisis Group observed a full day of such training, which involved quizzes on legal subjects, case strategy and administrative matters such as case management. Crisis Group also travelled with the organisation's co-directors as they visited paralegal offices in the south and

[72] "Human Rights Volunteers in rural Liberia: Lessons Learned of a training program", joint project of the National Human Rights Centre of Liberia and the Special Program on Africa of Amnesty International Netherlands, 2004; Crisis Group interview, NGO representative, Monrovia, 17 January 2006.

[73] Crisis Group observation of customary case appealed to district appellate court, Bo, Sierra Leone, 14 November 2005.

[74] In some instances, customary officials initially resented paralegal presence. The paralegals organised repeated community meetings with authorisation of the chiefs in order to convince the chiefs they wanted to work as partners, not to take their power. One paralegal noted that they have now been accepted by the chiefs and that the local courts and paramount chief often refer cases to her office. Crisis Group interview, Bumpeh, 15 November 2005.

[75] Crisis Group Email from Timap representative, 8 February 2006.

[76] For more on ethnic tensions between Mandingoes and Loma, see Section IV D below.

[77] Crisis Group Email from CHF International representative, 7 March 2006; "Managing Emerging Flashpoints", *The Analyst*, 13 December 2004.

[78] Crisis Group email from CHF International representative, op. cit.

reviewed monthly case reports prepared by the paralegals.

The organisation, which is directed by two lawyers, also litigates a few cases involving particularly severe injustice. A co-director noted: "There is a saying in Sierra Leone: 'bear with it'. The idea is that people must learn to live with arbitrary suffering and that the weak must bow to the powerful. Timap is trying to counter this notion, and impact litigation is one of the most powerful tools in doing so".[79] This principle has transformed not only the communities in which they work but the paralegals themselves, one of whom remarked: "The organisation has given me a strong heart and mind…It has given me a power that I didn't have before to approach authorities on the grassroots level".[80]

In Liberia similar community-based justice programs could absorb the energy of unemployed youth. Trainers in each province could prepare young people to be rural volunteers assisting paralegal activities. By engaging different levels of the community in the process, such programs would also demonstrate that the pursuit of justice involves responsibilities as well as rights, and social transformation is a bottom-up phenomenon.

Community-based paralegals in Liberia could assist in solving ordinary people's justice needs by ensuring that fines and fees levied by chiefs in customary cases are in accordance with an overhauled Rules Regulating the Hinterland and helping community members appeal cases to the statutory courts when necessary. By enhancing the quality of justice delivered, the programs would gain legitimacy to persuade communities to engage in dialogue about the discriminatory provisions within customary law itself.[81]

There has already been some discussion about creation of a community-based paralegal program in Liberia, perhaps in part modelled after Timap for Justice.[82] A Liberian NGO with experience in legal aid or justice issues and desire to break out of the Monrovia-centred mindset would be ideal to partner with an international organisation that could supply technical expertise and funds.[83] Sustainability is important, and donors should make it a priority to fund programs that seek to bring justice down to the grassroots level.

B. LAW REFORM AND DISSEMINATION

Strengthening judicial institutions, however successful, will be inadequate if those institutions are implementing ineffective laws. Within the next year, the government should establish a law review commission to examine laws passed during and before the transition and suggest areas – including gender, commerce, labour and citizenship – for new legislation.[84] The commission should consult broadly with the most relevant constituencies such as business and labour leaders, workers, and civil society NGOs, and engage the public with radio programs on its draft proposals.

The government must also make reform of the outmoded Rules Regulating the Hinterland a medium-term priority. The Rules, which read like a colonial treatise and still use rhetoric from the era of "settlers" and "natives", were last revised in 2000 but do not reflect constitutional and legal developments. Any proposed reform of them may benefit from experience in Sierra Leone, where a law reform committee has produced a draft revision of the equally archaic Local Courts Act, which governs customary court procedure. Publication of the revised act is to be followed by a sensitisation program for customary officials throughout the country.[85]

Rewriting of laws, however, is only the first stage in the law reform process and in many ways the easiest. If new laws are to be implemented, they must be made widely known to lawyers, judges, and the general public. Judicial officers often lack access to relevant procedural and substantive law. A magistrate in Bomi County routinely applied civil procedure in criminal cases because he lacked the criminal procedure code, and judges sometimes have a copy of the constitution as their sole legal reference. Legislation is currently only printed in handbills. There is a need for formal codification of all laws and distribution to all lawyers and judges. A long-time observer of Liberia noted: "If judges and lawyers do not have the laws against which to practice this is all absurd".

The ABA, which recently launched a legal documents program in Liberia, is printing and disseminating

[79] Crisis Group interview, Makeni, 14 November 2005.
[80] Crisis Group interview, Bumpeh, 15 November 2005.
[81] Crisis Group interview, community based paralegal program representative, Freetown, 13 November 2005.
[82] Crisis Group interview, human rights activist and NGO representative, Monrovia, 18 January 2006.
[83] It is not clear such an organisation now exists, but those such as FIND and FORHD have begun to engage the issues.
[84] For more on citizenship issues see Crisis Group Report, *Liberia's Elections*, op. cit.
[85] Crisis Group interview, DFID representative, Freetown, 17 November 2005.

documents to courts. The Cornell University Press is printing the majority of the volumes of Liberian case law for free. Such programs are commendable, and within the next six months donors should continue and strengthen similar initiatives, ensuring the dissemination of legal texts to every magistrate and circuit court in the country. Community-based justice programs could also take on the task of disseminating them to customary officials and the public at large.

The new rape bill illustrates the interconnection between law reform and community dissemination. On the initiative of the Association of Female Lawyers of Liberia (AFELL), the transitional legislature adopted a progressive law in December 2005, which came into force in February 2006. It is landmark legislation in the fight to end gender-based violence but still faces numerous implementation hurdles, including the lack of funds for broad dissemination and community sensitisation programs.

AFELL began drafting the bill in 2003, against the backdrop of the war's rampant gender-based violence. During the months of intense fighting preceding the departure of Charles Taylor, gang rapes increased dramatically, with reports of the rape of children as young as eight-months and of combatants using gun butts on women and fingers on infants. The draft bill sought to strengthen and expand the definition of rape beyond penile penetration in order to fully encompass the horrors of the act.

The new law makes the more extreme forms of rape a non-bailable offence; raises the age limit for statutory rape to seventeen; and notes that rape is not limited to females. Proposals to recognise marital rape and to include a possible death penalty for gang rape were dropped during legislative hearings. The drafters produced radio programs on the bill, held a public forum in Monrovia that included representatives from Bong and Bomi Counties, and opened the dialogue up to the international community in Liberia.

Despite the unfortunate removal of the spousal rape provision and the failure to make rape a non-bailable offence in all circumstances, passage of the law was a defining moment for women's rights in Liberia. But that was only the first step in tackling the gender-based violence that terrorises women throughout the country. In December 2003, the legislature passed a similarly progressive inheritance bill that guaranteed women's property rights and condemned the practice of widow inheritance,[86] but this bill has never been publicised around the country, and women remain unaware of their rights under it.[87] If civil society organisations do not receive adequate funding to disseminate the rape bill widely and appropriately sensitise the population, it will meet the same fate.

AFELL has designed an innovative travelling program to disseminate the rape bill throughout the country, including simplified explanations through theatre and songs, but it is still struggling for the funds. Donors need to step in within the next six months.

C. GENDER JUSTICE

The post-conflict reform period is a unique opportunity to modify laws that restrict women's rights, bolster women's access to justice, and ensure that the justice system respects the rights of Liberians of both sexes equally. Sexual and gender-based violence against civilians was one of the most insidious trademarks of Liberia's brutal wars. Continued violence against women is both a result and symptom. The peace process largely ignored gender issues but the increased number of households headed by women in the wake of a fourteen-year civil conflict necessitates a serious focus on women's legal status. Gender justice requires both statutory reforms and community-based engagement.

The motto "Let Justice Be Done to All Men" is conspicuously written on the front of the Temple of Justice in Monrovia, and for many Liberians has been all too literally applied. Justice in Liberia has always had a gender dynamic, whether through laws that restrict women's rights, judges, lawyers and customary officials who lack sensitivity regarding the complex power dynamics in domestic and family cases, or social and economic realities that limit equal access to the courts. Much has been made of the fact that Ellen Johnson-Sirleaf is the first elected female head of state on the African continent, undeniably an historical moment. But unless the hope and enthusiasm that prompted women from across the continent to flock to celebrate to her inauguration is transformed into sustained and intense focus on gender rights, there will be, in the words of a Liberian women's rights activist, "one Ellen and no Ellen after her".

Gender-based violence continues to plague communities around the country, and women are without recourse to justice. When Crisis Group researchers recently asked

[86] A practice in which a widowed woman and her marital property are inherited by one of her dead husband's surviving male relatives. In the most extreme cases (rare today), the woman would be forced to choose a husband from her husband's lineage even against her will.

[87] For more on the inheritance bill and land tenure law gender effects, see Crisis Group Report, *Liberia and Sierra Leone*, op. cit.

participants in a town hall meeting in Grand Cape Mount County about the frequency of such violence, the elder men and chiefs quickly responded that it was not a pressing issue, while the women remained notably silent. After the gathering, however, several women told the Crisis Group researchers that women were indeed routinely physically abused, rape and sexual assault remained serious problems, and young men accused of assaulting women refused to be subjected to chiefly authority.[88] The women described abuse cases that should have been criminal matters for the police and the statutory courts but said they felt recourse to the chiefs, however fruitless, was their only option.

Community members often view rape and other sexual violence as matters to be settled privately, outside the judicial system. The Buchanan city magistrate said only three rape cases were filed in his court in 2005. In two towns 30 minutes outside Buchanan, with a combined population over 1,300 people, residents and chiefs asserted rape simply did not occur.[89] The Kakata magistrates court receives reports of only three or four rape cases per year, a shockingly low number since Margibi County has one of the highest incidents of rape in the country.[90] The social stigma attached to rape and sexual violence is so great that the crimes are routinely underreported. That they rarely are publicly adjudicated strengthens the belief they are not real crimes.

Rape continues to flourish in IDP camps, and child rape may be on the rise. In November 2005, four incidents were reported incidents within a week in Bomi and Grand Cape Mount Counties, all of children under twelve. In 2005 a six-month old was reported raped in Banga, Margibi County. The National Child Rights Observation Group documented 48 child rapes in 2005 in eight counties, including seven gang rapes in Monrovia.[91]

Domestic violence is another widespread crime that remains in the shadows. Crisis Group spoke with police, human rights officers, town chiefs, IDP camp managers, and ordinary men and women who expressed concern over its significant increase.[92] Community members often view domestic violence as an internal community issue, not a crime, and bring cases that cannot be solved at the family level to the chiefs for resolution.

Most cases affecting women are adjudicated at the customary law level, and it is most often men who interpret and apply customary law, which necessarily marginalises women's voices. Liberia recently signed over 100 human rights and good governance treaties, yet there is often a stark distinction between the international principles of gender equality and the local systems that regulate women's lives, sometimes relegating them to the status of perpetual minors. The dual legal system presents a special challenge in terms of advancing women's rights, as it sometimes provides a way out for leaders who pass progressive legislation and sign treaties but lack the political will to enforce the rights on the ground.[93]

Cases of "woman palaver", involving accusations of adultery, are a significant portion of the state-sponsored customary law docket. The adjudication of these cases tends to revolve around payment of adultery damages to cuckolded older men with multiple younger wives. The Rules Regulating the Hinterland condone the idea of women as property by listing fines to be paid to husbands, including $100 for first wives and $10 for all subsequent wives. Chiefs have most often levied these heavy fines on young men whom older men have lured into liaisons with their junior wives. Many young men unable to pay the fines have been forced to work them off with interest by labouring on older men's lands.[94] Although the 2003 inheritance law states that "no customary husband shall aid, abet, or create the situation for his customary wife to have illicit sexual intercourse with another man for the sole purpose of collecting damages",[95] town chiefs told Crisis Group they continue to apply these fines in woman palaver cases. Chiefs also routinely handle woman palaver cases involving maintenance issues, in which women claim their husbands fail to support them or their children financially. Women often bear the brunt of the fallout of woman palaver cases in terms of violent retaliation.[96]

Some argue abolishment of customary law would advance gender justice but bias also pervades the statutory system. This view treats the statutory and customary systems as two separate legal universes when in fact they have historically interacted and intersected.[97] Certainly, the state

[88] Crisis Group interviews, Medina, 14 January 2006.
[89] Crisis Group interviews, Varde Town and Thomas L. Frazier Town, 20 January 2006.
[90] Crisis Group interview, UNMIL human rights officer, Monrovia, 21 January 2006.
[91] "Sexual abuse of children still rampant, report says", IRIN, 22 February 2006.
[92] Crisis Group interviews, Monrovia, Tubmanburg, Kakata, Medina, Varde Town, Thomas L. Frazier Town, January 2006.

[93] L. Polgreen, "Women's rights laws and African custom clash", *The New York Times*, 30 December 2005.
[94] See Crisis Group Report, *Liberia and Sierra Leone*, op. cit.
[95] "An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages", 1 December 2003.
[96] Crisis Group interview, humanitarian worker, Monrovia, 13 January 2006.
[97] Because customary law had a huge impact on important areas such as property, land, and labour, it became an arena for negotiation between pre-colonial African polities, Christian missionaries, colonial administrators and emerging African elites. The anthropological argument that African customary

is obliged to address blatant injustice within the customary forum by legislation. But the justice reform agenda must also address the social and economic factors that limit women's access to justice in both the customary and statutory realms.[98]

Much can be done to strengthen gender rights and reform the justice system's insensitive treatment of these delicate issues. Judges are often insensitive when handling family and gender-based violence cases, particularly in the context of rape. Some magistrates have argued that women's indecent dress provokes rape, and the dress code, not the rape law, needs to be strengthened. One even advocated the arrest of women who bare their mid-riffs. Human rights and women's rights activists are so concerned with the way courts deal with rape and family issues that some propose special courts to deal with gender and family cases.[99]

The legal and judicial fraternity should lead in the fight for gender justice by insisting that judges, prosecutors and customary officials receive gender-sensitivity training to address the biases that permeate both statutory and customary systems. Police, who sometimes arrest suspects, investigate crimes and dispose of cases themselves without forwarding them to courts, must also receive training in rape and domestic violence cases.[100] Family support units in local police stations might increase the number of women reporting sexual assault and domestic abuse. Because of the stigma surrounding rape, closed courts should be considered. Community-based justice programs are essential for informing both sexes about gender justice and ensuring the application of customary law in regard to gender justice is aligned with the basic principles of statutory law.

A gender quota system, like those in African countries with many female jurists, might be useful after an infusion of money to jumpstart the statutory system in the first stages of reform. However, being female is not enough to ensure that judges will exhibit the sensitivity and awareness to adjudicate gender-based cases properly. All judicial officers would benefit from sensitivity training.

If constitutional reform proceeds, drafters should ensure that the document includes strong guarantees of gender equality. A number of areas in the penal code dealing with gender rights are also in need of reform, including domestic violence and reproductive rights. The government should ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which contains strong guarantees regarding reproductive rights, female genital circumcision, and economic and social welfare rights and could prove a catalyst in advancing progressive domestic gender legislation.

D. LAND TENURE

Community-based approaches to fostering reconciliation should also be useful in dealing with tensions sparked by land tenure and ownership disputes. Chiefs' handling of land cases is controversial, specifically in the north, where the war and massive displacement have led to multiple claims between Loma and Mandingoes in Lofa County and Gios, Manos, and Mandingoes in Nimba County. State-sponsored customary law on land ownership has historically favoured the power of elder men at the expense of women, young men, and newcomers. Crisis Group has argued that:

> This dynamic has had three major social effects. In some cases, it has fuelled ethnic tensions, particularly between Loma, Mano and Gio "landowners" and Mandingo "newcomers" in northern Liberia. Within each village and chiefdom, hierarchical relations have been hardened between groups, creating a kind of class distinction. Finally, it made life precarious for young men and all women, as neither group had guaranteed access to land….As the overall security situation improves, refugees and IDPs return to their villages. These otherwise positive signs have become a source of growing concern particularly in Nimba County, where the Gios and Manos consider themselves the "landowners". Frustrated Mandingoes are said to be "running out of patience"

law, specifically state-sponsored customary law, as we now know it is the product of historical processes and interactions, was a sharp break from legal anthropology, which characterised it as the original, pre-colonial legal structure, untouched by the outside world. The former argument envisioned African customary law as a social construct, malleable to the needs and demands of colonial administrators and the shifting needs and realities of Africans. Sally Engle Merry, "Review Essay: From Law and Colonialism to Law and Globalisation: Martin Chanock. Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia", *American Bar Foundation Law and Social Inquiry* (2003). In the Liberian context, Americo-Liberian settlers in essence took the place of colonisers.

[98] Anne Helum, "Human Rights and Gender Relations in Postcolonial Africa: Options and Limits for the Subjects of Legal Pluralism", *American Bar Foundation Law and Social Inquiry* (2000); Anne M.O. Griffiths, *In the Shadow of Marriage: Gender and Justice in an African Community* (Chicago, 1997).

[99] Crisis Group interviews, Monrovia and Tubmanburg, 18-19 January 2006.

[100] Officers of the Liberian National Police who served under previous administrations will be removed by the end of 2006, using a £3.9 million-fund contributed by the British government.

and threatening to use any means to recover land and property seized during their absence.[101]

The situation in Nimba County, where most Mandingoes are relatively recent arrivals (since the 1960s), is tense, and there too the state must impose itself to ensure equitable settlements of disputes, many of which trace to the ambiguous relationship between land ownership and use rights. Because land is always revocable by traditional landowning lineages in customary law, many Mano autochthones[102] feel they are within their rights to reclaim what was abandoned by Mandingo "strangers" during the war. Mandingoes in turn say that even if the land was borrowed, the houses still standing there often were built by them. Matters can get ugly, especially in majority Mano towns.[103]

The government must seriously address the inter-ethnic tensions that have been fuelled by land ownership and tenure issues. On 20 February 2006, President Johnson-Sirleaf inaugurated the Truth and Reconciliation Commission and stressed the need for inter-ethnic unity and support for community-based groups operating outside Monrovia.[104] Community-based justice programs could play an important role in engaging villages in community-level dialogue on land ownership and inter-ethnic tensions and encourage reconciliation between Mandingoes and their Loma, Bandi, Kpelle, Mano and Gio neighbours.

[101] Crisis Group Report, *Liberia and Sierra Leone*, op. cit., which analyses the effects of traditional land tenure laws.
[102] Autochthon is the term used by anthropologists and sociologists to describe those who claim "first-arrived" status in a community. In this part of West Africa, autochthony is often highly contested, constantly renegotiated and a conflict source.
[103] Crisis Group Report, *Liberia's Elections*, op. cit.
[104] "Gov't inaugurates Truth and Reconciliation Commission", *The Analyst*, 21 February 2006.

V. HARDWARE AND SOFTWARE REFORMS

A. BUILDING AND REFURBISHING COURTS AND PRISONS

The lack of court buildings and correctional facilities handicaps the justice system's ability to do business. There is a critical need for immediate hardware reforms; donors should launch an intense court rebuilding project in the next half year. The U.S. and UNMIL have sponsored limited court refurbishment but there has been insufficient focus on building new court structures. The Liberian government never prioritised funding public buildings in the interior, and years of war either significantly damaged or destroyed many courts that did exist.

Functioning courts are often housed in dilapidated buildings. The Temple of Justice in Monrovia is fatigued and decayed. Its judges and clerks pooled their money to buy necessities such as desks and chairs but the court remains shockingly unbefitting of the central seat of justice. The unsightly building smells of urine and is peppered with peeling paint, cracked windows, and broken furniture. Courts in the interior are even worse off. The court in Upper Buchanan has no roof or doors. Magistrates' courts in Grand Bassa County are often held in school classrooms. Judges frequently must preside in their own homes or houses rented by the government.

Prisons are operational in Monrovia, Kakata, Sanniquellie, Gbarnga and Buchanan[105] but most counties have no correctional facilities. This places judges and courts in a quandary. A frustrated magistrate remarked: "The police can bring people to the court, but if you find them guilty where will you send them? There are no correctional facilities so there is no power behind judgments".[106] The lack of prisons has strengthened the use of traditional holding methods such as elders employing forced labour. Local officials and the police sometimes turn to makeshift methods: town superintendents have illegally detained people for days, and the police often use small rooms in their stations, a practice which has led to escapes.

Most courts have historically been housed in the same buildings as local government offices. The physical mixing of the executive and judicial branches is not ideal, and judges express concern, citing instances of interested local

[105] "Sixth Progress Report of the Secretary-General on the United Nations Mission in Liberia", 17 March 2005.
[106] Crisis Group interview, magistrate, Robertsport, 14 January 2006.

officials meddling in cases.[107] Courts once housed in administrative buildings and now destroyed should be rebuilt separately. Given resource limitations, state buildings that survived the war and house both judicial and executive quarters probably must remain that way.

B. TRAINING JUDICIAL OFFICERS

Judges, magistrates, JPs , town chiefs, clan chiefs and paramount chiefs all need comprehensive jurisdictional, procedural, and substantive training, including gender-sensitivity training, in areas directly pertinent to the subject matter of their cases. The judicial fraternity must be advocates not only for higher salaries but also for enhanced legal expertise through training. The judicial branch, led by the chief justice, should design a program for judicial officers and customary officials within the half year, and donors should provide financial and technical expertise.

Many serious cases in the statutory system routinely languish in the preliminary hearing stage without ever reaching trial because judges lack the expertise and resources to manage their dockets. Delays and backlogs plague the statutory system, and many people turn to customary law because the rural forums often provide justice more quickly. Entire circuit court terms may pass without judges deciding any case. Judicial officers need training in courtroom administration and case management skills, including adherence to timetables, logistical management of trials, and the more extensive use of pre-trial conferences to encourage settlements.

Jurisdictional training is also vital. Judges, magistrates, JPs and customary officials often waste precious court time presiding over cases that are beyond their jurisdiction. JPs, magistrates, and customary chiefs have incentives for adjudicating as many cases as possible, as each offers opportunity for court fines and fees that can be pocketed. Simple jurisdictional ignorance is also a problem. As ordinary Liberians generally lack access to legal assistance, jurisdictional issues are usually not addressed. By habitually hearing cases that do not belong in their courts, judges slow down the cases that are ripe for adjudication.

Support should also be given the Arthur Grimes School of Law, which graduates 30 to 40 lawyers per year.[108] The law school should push the envelope of legal education with technological advancements like online legal research and new courses such as environmental law and human rights law that would encourage students to enter public service. However, better training without parallel improvements in court infrastructure and salaries is likely to be fruitless since many well-trained judges and public service lawyers would enter private practice, as has happened with some of the 150 county and city attorneys trained by UNMIL.[109]

The inability of untrained judicial officers to manage their dockets has resulted in one of the most serious symptoms of the hemorrhaging judicial system: the high percentage of prisoners languishing in pre-trial detention in flagrant violation of due process. Up to 95 per cent of prisoners are on pre-trial detention,[110] often in unhygienic and poorly ventilated prisons.[111] Two of 32 inmates at Kakata Prison have been awaiting trial since early 2004, and none have been sentenced, save for two illegally incarcerated by JPs. Only eleven of 320 prisoners in Central Monrovia Prison have been sentenced.[112] In August 2005, the Catholic Justice and Peace Commission filed an unsuccessful claim in criminal circuit court in Monrovia on behalf of 43 inmates, claiming unlawful imprisonment.[113] There are no public defenders outside Monrovia, and inmates go months, even years, without access to lawyers or contact with the judicial system.

To address lengthy pre-trial detention, USAID funded a $15,000 three-month project to launch an UNMIL Case Flow Management Committee, in collaboration with FORHD, which by November 2004 had expedited the cases of 189 prisoners.[114] The committee still operates, although the number of pre-trial detainees trapped in legal limbo remains a serious problem deserving sustained attention.

Some of the greatest abuses in pre-trial detention involve juvenile justice. There are no juvenile rehabilitation centres and only one juvenile court in the entire country,

[107] Crisis Group interviews, magistrates, Tubmanburg and Buchanan, 19-20 January 2006.
[108] The Indiana University School of Law in the U.S. is involved in a constitutional reform project in partnership with the Arthur Grimes School of Law. The ABA has a legal clinic at the Arthur Grimes School of Law.
[109] UNMIL Judicial reported instances in which county and city attorneys trained to work in the provinces subsequently went to Monrovia. Crisis Group interview, UNMIL Judicial representative, Monrovia, 17 January 2006.
[110] Crisis Group interview, international observer, Monrovia, 21 January 2006.
[111] "Bi-Monthly Report", UNMIL Human Rights and Protection Section, op. cit.
[112] Crisis Group interview, UNMIL Corrections representative, Central Monrovia Prison, 17 January 2006. That prison was designed to hold 180 prisoners. "Crumbled system leaves prisoners languishing in jail without trial", IRIN, 20 February 2006.
[113] "Annual Situation Report", Catholic Justice and Peace Commission, op. cit.
[114] Crisis Group interview, NGO representative, Monrovia, 17 January 2006.

which according to an international observer who monitored it in 2005 is presided over by a judge who appears for two hours weekly and is administered by a clerk who appears for two hours daily. The clerk routinely imprisons minors until he collects payment for their release, in brazen violation of the juvenile code, which clearly states juveniles must be released to their guardians without bail unless a hearing reveals exceptional circumstances dictating imprisonment.[115] As of January 2006, seventeen minors were housed in an eight-foot by six-foot cell in Central Monrovia Prison, in the same hallway as 320 adult inmates. A juvenile holding cell behind the Temple of Justice is administered by detention officials who illegally question witnesses, hand down judgments and accept bail money. In an average week it receives 40 children and sends two to court. [116]

The executive and judicial branches must address juvenile justice as a matter of urgency so that no children are held in detention in violation of the juvenile code. NGOs should monitor the situation and expose violations.

[115] Crisis Group interview, international observer who monitored juvenile court, Monrovia, 17 January 2006; see Judiciary Law, §11.41.

[116] Crisis Group interview, international monitor, Monrovia, 17 January 2006.

VI. FOSTERING JUDICIAL INDEPENDENCE AND ACCOUNTABILITY

A. JUDICIAL INDEPENDENCE FROM EXECUTIVE INTERFERENCE

Although the justice system faces an internal crisis regarding the functioning of its courts, it has historically experienced an external crisis in its relationship with the other branches of government. The Liberian judicial branch of government has a constitutional mandate to operate as a separate arm of government[117] and ensure that legislative and executive actions conform to constitutional norms, but the constitutionally centralised powers of the executive paradoxically undermine judicial authority and render it extremely difficult for the justice system to perform its constitutional responsibilities. Separation of the executive and judicial branches has been almost nonexistent; as noted, often even physical separation is lacking, since most courts are housed in administrative buildings and state houses. A justice system that is the political puppet of the executive cannot garner the respect of the citizenry.

Since the first presidential election in 1847, when Joseph Roberts defeated Samuel Benedict, the president of the Constitutional Convention, the judicial branch has had second class status. Roberts chose Benedict, a private lawyer who had been vilified for defending a murder suspect, as the first chief justice, some say as a way of putting a subservient stamp on the judicial branch's role. From its inception, the judicial branch has been weaker than the executive and legislature, although the executive eventually co-opted the legislature as well. [118]

Supreme Court justices are supposed to be appointed for life but presidents have used the tactic of Joint Resolution ("J.R.") to remove summarily those who exhibit sparks of independence. From 1913 to 1967, at least eight met this fate, with no hearings on the validity of the action.[119]

[117] Chapter 1, Article 3.

[118] The legislature was equal until the 1930s, when President Edward Barclay used sedition laws against his enemies. William Tubman bribed the legislature to ensure loyalty. Crisis Group interview, political scientist, Monrovia, 11 January 2006.

[119] The following justices were removed by Joint Resolution: A.J. Woods (1913); T. McCant Stewart (1914); James N.F. Russ (1928); O. Natty Davis (1956); Lewis K. Free (1966); Joseph Findley (1967); Stephen B. Dunbar (1967); Joseph Kennedy (1967). Stewart, a fiercely independent associate justice subjected to the "J.R." tactic in 1914, filed a complaint with the Supreme Court in 1915 and was denied relief. In 1961, C.A. Cassell, an early Tubman attorney general, was disbarred

Presidents have also used the justice system to oppress political opponents and legitimise political violence. Samuel Doe blatantly disregarded due process and detained without charge critics of his brutal policies, including such major figures as G. Baccus Matthews, D. Karn Carlos, Oscar Quiah, Amos Sawyer, Dr Beyan Kesselly, D.K. Wonzeleah, Dr George Klay Kieh, Alaric Togbah, and Aloysius Toe.[120] Executive influence over the justice system continued under Taylor, who is said to have dictated desired outcomes in Supreme Court cases. That the executive and legislative branches do not always respect and enforce court decisions underscores the judicial branch's weakness.

In her inaugural address, President Johnson-Sirleaf declared an end to the "imperial presidency".[121] But much must be done to ensure that the entrenched practice of executive domination of the judicial branch does not continue, including short-term reforms such as judicial budgetary independence; medium-term reforms such as raising judicial officers' salaries and initiatives for constitutional reform and decentralisation; and longer-term reforms such as reorganisation of the judicial appointment process to lessen a president's power to handpick judicial officers and strengthening of judicial accountability mechanisms.

B. FUNDING AND SALARIES

The judicial branch lacks financial autonomy: while its budget is determined by the legislature, funding can and is regularly reallocated between the different parts of the justice system by the ministry of finance. While it is common elsewhere for the executive to determine the size of judicial budgets, the arbitrary exercise of this power in Liberia in the past has compromised judicial independence. The judicial branch's budget should be protected from political interference by creation of a core judicial budget that includes judges' salaries and basic operating expenses as agreed between the executive and judiciary – to be managed solely by the courts.[122] A Financial Autonomy Bill, which would grant the courts such authority under direction of the chief justice, has been presented to the legislature,[123] which should act on it without delay.

It is also necessary to strengthen judicial independence on the individual level by addressing corruption and ensuring that judges are beholden only to the law, not the highest bidder. Justice is for sale in Liberia: judges routinely take bribes and are subject to undue influence. Although corruption tends to be most entrenched at the JP level, it pervades all ranks of the justice system.[124] Ordinary Liberians view judges and courts as easily corruptible, less concerned with the validity of claims than with how much each side is willing to offer.

Corruption in the courts cannot be addressed without focusing on the meagre wages and poor conditions that give rise to the shadowy dealing that permeates the court system. The justice system is not considered a prestigious profession in Liberia, and the low pay does not attract the most talented lawyers. The challenging work conditions have birthed a system rife with judges who are under-qualified, underpaid and thus vulnerable to bribes. As an international observer noted, "How can you expect someone making $20 a month to turn away a $300 bribe? You can't pay scandalous wages and then get on your high horse about corruption".[125]

Magistrates receive on average $22 a month. To get paid, civil servants must go to Monrovia, so travel costs often take a large portion of this. For instance, a magistrate in Tubmanburg earns $20 per month but spends half in the Monrovia round trip. One in Buchanan pays $14 of his $26 monthly wage for travel.[126] For judges in more distant Harper in the south east or Voinjama in the north west a Monrovia trip would exceed their monthly salaries – even assuming there was a check to collect. It is not uncommon for judges to receive salaries two or three months late. Charles Taylor paid them nothing for two and a half years.[127]

Liberia needs to attract talented and dedicated people to the justice system – indeed, all civil service sectors – and retain them. But this will only occur if the financial benefits

after commenting at an international conference that the judiciary was the weakest link in government, subject to executive influence. A.D. Wilson, chief justice and Tubman's first cousin, was there and helped initiate disbarment. Philip A. Z. Banks, III, "The Independence of the Judiciary in an African Society: The Liberian Experience (Part One)", *Liberian Law Journal*, vol. 7, no. 1 (June 1981).

[120] "Reforming the courts", *The Analyst*, 28 July 2005.

[121] Ellen Johnson-Sirleaf, presidential inaugural address, Monrovia, 16 January 2006.

[122] Governments can increase or decrease the court system's budget to meet the needs of operational efficiency, but the institutional independence of the judicial branch may be at risk if core court expenditures such as judges' salaries and essential running costs are consistently reallocated by the executive, which has been the case in Liberia.

[123] "The Dimensions of Corruption in Post War Liberia, Rebuilding the Pillars of Integrity and Strengthening Capacities", commissioned by UNDP-Liberia, December 2005.

[124] Crisis Group interview, NGO representative, Monrovia, 11 January 2006.

[125] Crisis Group interview, Monrovia, 13 January 2006.

[126] Crisis Group interviews, magistrate judges, Tubmanburg and Buchanan, 19-21 January 2006.

[127] "ILAC Report: Liberia", International Legal Assistance Consortium, 2003.

are adequate. Discussions regarding creation of a "living wage" are gaining momentum. As a Liberian activist noted, "we have to address the minimum wage issue. The government has been complicit in the abuse of workers.…If the government is serious about fighting corruption, then they have to get serious about this issue".[128]

Implementation of a living wage would have positive reverberations, not only for judicial officers, but for all civil servants, as well as plantation and other workers. A Liberian NGO recently completed a study of wages and expenditures in the context of corruption and found that judges, with their $22 average monthly salary, spend between $180 and $280 a month. Corrupt practices may make up most of the difference. The organisation calculated a living wage at $150.[129] Although it is unlikely wages will be increased six-fold in the near future, eliminating ghost employees, streamlining special allowances,[130] revising laws to keep more profits in country, and implementing GEMAP procurement, budget and accounting reforms could triple salaries. The government should forge ahead with proposed plans for more extensive use of government pay masters in the interior so travel costs do not continue to drain civil servants' wages.[131]

Although donors are generally hesitant to contribute to civil servant salaries, they might consider "topping up" by creating a trust fund that pools money earmarked for judicial and other government reforms and using the interest to increase salaries of judges and other civil servants. To ensure sustainability, this would need to be linked to the national budget, with donors progressively lessening their contribution as the government is able to increase salaries on its own.[132]

[128] Crisis Group interview, Monrovia, 18 January 2006.
[129] Crisis Group interview, NGO representative, Monrovia, 11 January 2006.
[130] Law school graduates who become judges are given "special allowances" from the budget of $800 per month on top of $30 salaries. If the government streamlined these to create a flat wage of $500 per month, it could use the savings to raise salaries for non-legally trained judges. Crisis Group interviews, magistrate and international observer, Monrovia, 12-13 January 2006.
[131] The World Bank and the U.S. Treasury are trying to open branches of the Central Bank of Liberia in the interior and supporting more use of government paymasters. Crisis Group email correspondence, international observer, 1 March 2006.
[132] For more information on the potential use of the top-up mechanism, see "Sierra Leone: Legal and Judicial Sector Assessment", Legal Vice Presidency, the World Bank, May 2004.

However, some of Liberia's most brazen thieves have been officials who were also receiving generous salaries. There must be a fundamental change in how corruption is perceived. In conjunction with better salaries, such measures as civic education programs that nurture a collective culture of intolerance for corruption are needed. An independent anti-corruption commission with prosecutorial authority would also help strengthen a collective revolt against corruption. Although the penal code already grants the courts jurisdiction over embezzlement, bribery, and other economic crimes, it may be years before they are operating with the efficiency and independence that would enable them to handle high-profile cases.

C. CONSTITUTIONAL REFORM

The constitution centralises power in the executive and gives most of this to the president, thus converting the concept of constitutional checks and balances to the theoretical. The president's authority to appoint and dismiss all judges is dangerous in the context of an historically weak and politicised court system. Constitutional reform aimed at creating a system of genuine checks and balances should be a medium-term priority. There is need to weaken the president's powers and strengthen local governance,[133] an effort that is particularly important for a society recovering from violent conflict. Power-sharing arrangements ensure governmental accountability and the full participation of local actors in designing the direction of the country.

It would be good to begin exploring the constitutional reform agenda within six to twelve months, not only because the process is arduous but also because it can be very political. If the start is delayed several years, constitutional reform risks morphing into a referendum on the new administration's performance, not the draft constitution's merits. Others argue that an early constitutional reform process would help redefine the justice sector's flawed institutions and serve as a blueprint by which to measure proposed laws and legal reforms.[134]

Constitutional reform, however, should not be an excuse to refrain from immediate justice reform. The new government must deliver tangible improvements to long suffering Liberians. Ideas alone, however progressive, cannot transform lives. The government must strike a balance among multiple priorities. Big picture reforms

[133] For a discussion on establishment of regional local governments, see Crisis Group Report, *Liberia's Elections*, op. cit.
[134] Crisis Group interviews, international observers, January 2006.

such as constitutional restructuring must be accompanied by bottom-up reforms such as getting county courts working. The government should organise consultative national conferences to establish a broad consensus on its reform agenda, which may include the constitution. The findings of a constitutional commission of judges, lawyers and civil society should accompany those of the national conference.

D. JUDICIAL APPOINTMENT AND ACCOUNTABILITY MECHANISMS

As explained, the president nominates and, with consent of the Senate, appoints all judges. In the context of an historically domineering executive, this has weakened judicial independence and allowed the president to put political cohorts in positions of judicial authority. One way to ensure that judges are not extensions of the executive is to establish, by statute or constitution, judicial service commissions to select judges.

In 2000, the Supreme Court recommended creation of such a commission but the president (Taylor) would have had the power to appoint the majority of its members. A commission with a firm executive stamp is unlikely to remain autonomous.[135] Ideally, a judicial service commission would have eighteen to twenty members, the large majority of whom would neither be appointed by the president nor drawn from the senior judiciary. Potential members thus might include representatives not only from the ministries of justice and internal affairs and the various levels of courts but also from the Liberian National Bar Association and the Arthur Grimes School of Law, as well as distinguished non-lawyers. The commission might also help with judicial reappointments by evaluating judges' performance based on pre-set criteria.

To adequately serve the public, the judicial branch must also be accountable. Many judges lack the necessary legal knowledge and technical expertise. The judicial branch, led by a determined chief justice, should design strong accountability mechanisms, with benchmarks and guidance for court and case management, and monitor performance. All JPs, magistrates, and circuit court judges are legally required to provide quarterly reports of all matters regarding the functioning of their courts but these are seldom submitted and even more rarely assessed.[136] A strict review of them would help hold accountable judges who do not reach minimum standards. As one judge noted, "there need to be checks and balances within the judiciary itself".

Stronger mechanisms are also required to address misconduct. In 1999, the Supreme Court issued the Judicial Canon for the Moral and Ethical Conduct of Judges and Lawyers, which the judiciary should review, revise and disseminate to lawyers and judges, many of whom are not even aware of its existence.

There is a little known Grievance and Ethics Committee that fields public accusations of judicial misconduct and has historically included the chief justice, minister of justice and president of the Liberian National Bar Association, among others. It forwards findings to the chief justice, who makes and publishes a final ruling. This process gives too much power to the chief justice, who has final say in all disciplinary matters. The judicial branch should consider forming an independent, broadly publicised oversight mechanism, with members not solely drawn from the most senior levels of the judiciary and Ministry of Justice, to receive accusations of misconduct from police, other judges and prosecutors, defence councils, and ordinary citizens. Investigative results could then be sent to another independent body to consider and rule on.

The Liberian National Bar Association, the Arthur Grimes School of Law, the media, and civil society NGOs could also hold the judicial branch accountable by monitoring court performance, compiling statistics, evaluating performance, reviewing the working of disciplinary mechanisms, and making all this available to the public.

---

[135] Lovemore Madhuku, "Constitutional Protection of the Independence of the Judiciary: A Survey of the Position in Southern Africa", *Journal of African Law*, School of Oriental and African Studies, University of London, 2002.

[136] Crisis Group interviews, judges and lawyers, Monrovia and Buchanan, January 2006.

VII. CONCLUSION

Justice reform will be successful if five criteria are met: 1) a clear understanding of the challenges facing the justice system; 2) the government's practical, unwavering commitment; 3) leadership by the judicial and legal fraternities; 4) community-based approaches to reform; and 5) long-term donor commitment. Government representatives, lawyers, judges, civil servants and donors must devise a justice reform program in consultation with civil society and remain engaged throughout the process.

Justice reform is also essential if related initiatives are to succeed. For instance, if GEMAP is to further economic transparency and punish looters of state funds, it requires an independent, accountable judicial system with revitalised infrastructure, guided by well-paid, trained and equipped judges. The justice system must punish economic crimes that undercut the state's progress. A strengthened justice system would entice qualified Liberian lawyers in the diaspora to return and draw capable lawyers inside the country to public service law.

Classical judicial reform that focuses on the statutory system is necessary but not sufficient to provide all Liberians access to impartial and fair adjudication bodies. A reform agenda that does not address the interface between the statutory and customary systems as well as the need for community-based justice programs would be doomed to deliver partial justice. More dissemination of information about new laws and citizens' rights and responsibilities could have a significant impact. During the elections, even a little civic education made a difference. Liberians who had been sensitised that it was their right to keep their ballots secret refused to disclose their votes. Community-based activities, with a sustained focus on gender issues and the urban/rural divide, would both inform people of their rights and help them navigate the justice systems.

Long-term justice reforms that rebuild and strengthen collapsed institutions would help ensure Liberia does not slide back into catastrophe but also impact throughout the region. Impartial institutions that fairly adjudicate disputes between the powerful and the powerless would help end impunity throughout West Africa. Liberia was the catalyst for West Africa's deadly wars. A Liberia driven by the unwavering principle of justice could become the anchor of its peace.

Dakar/Brussels, 6 April 2006

APPENDIX A

MAP OF LIBERIA

Map No. 3775 Rev. 6 UNITED NATIONS
January 2004

Department of Peacekeeping Operatons
Cartographic Section

APPENDIX B

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

ABA	American Bar Association
AFELL	Association of Female Lawyers of Liberia
CHF	Community, Habitat, Finance International, international organisation focusing on social, economic and environmental development
FIND	Foundation for International Dignity, Liberian NGO
FOHRD	Foundation for Human Rights and Democracy, West African NGO
GEMAP	Governance and Economic Management Assistance Plan
IBA	International Bar Association
IDP	Internally displaced persons
ILAC	International Legal Assistance Consortium, international consortium of NGOs providing technical legal assistance in post-conflict societies
JP	Justice of the Peace
LINCS	Locally Initiated Networks for Community Strengthening, CHF International's community-based mediation program in Lofa County, Liberia
LURD	Liberians United for Reconciliation and Democracy, Sekou Conneh's rebel group
LRRRC	Liberian Repatriation Refugee Resettlement Council
NGO	Non-governmental organisation
PAE	Pacific Architects and Engineers, a contractor working in Liberia and providing logistical support
UNMIL	United Nations Mission in Liberia
LJSSD	Legal and Judicial System Support Division, UNMIL's judicial reform section
DFID	UK Department for International Development
USAID	United States Agency for International Development

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with over 110 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by Lord Patten of Barnes, former European Commissioner for External Relations. President and Chief Executive since January 2000 is former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates fifteen field offices (in Amman, Belgrade, Bishkek, Bogotá, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Pretoria, Pristina, Seoul and Tbilisi), with analysts working in over 50 crisis-affected countries and territories across four continents. In Africa, this includes Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda, the Sahel region, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Myanmar/Burma, Nepal, North Korea, Pakistan, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia, the Andean region and Haiti.

Crisis Group raises funds from governments, charitable foundations, companies and individual donors. The following governmental departments and agencies currently provide funding: Australian Agency for International Development, Austrian Federal Ministry of Foreign Affairs, Belgian Ministry of Foreign Affairs, Canadian Department of Foreign Affairs and International Trade, Canadian International Development Agency, Canadian International Development Research Centre, Czech Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union (European Commission), Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Foreign Office, Irish Department of Foreign Affairs, Japanese International Cooperation Agency, Principality of Liechtenstein Ministry of Foreign Affairs, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Republic of China (Taiwan) Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Royal Norwegian Ministry of Foreign Affairs, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, United Kingdom Foreign and Commonwealth Office, United Kingdom Department for International Development, U.S. Agency for International Development.

Foundation and private sector donors include Carnegie Corporation of New York, Compton Foundation, Flora Family Foundation, Ford Foundation, Fundación DARA Internacional, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, Hunt Alternatives Fund, Korea Foundation, John D. & Catherine T. MacArthur Foundation, Moriah Fund, Charles Stewart Mott Foundation, Open Society Institute, Pierre and Pamela Omidyar Fund, David and Lucile Packard Foundation, Ploughshares Fund, Sigrid Rausing Trust, Rockefeller Foundation, Rockefeller Philanthropy Advisors, Sarlo Foundation of the Jewish Community Endowment Fund and Viva Trust.

April 2006

APPENDIX D

CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA SINCE 2003

CENTRAL AFRICA

The Kivus: The Forgotten Crucible of the Congo Conflict, Africa Report N°56, 24 January 2003

A Framework for Responsible Aid to Burundi, Africa Report N°57, 21 February 2003

Rwandan Hutu Rebels in the Congo: a New Approach to Disarmament and Reintegration, Africa Report N°63, 23 May 2003 (also available in French)

Congo Crisis: Military Intervention in Ituri, Africa Report N°64, 13 June 2003

The International Criminal Tribunal for Rwanda: Time for Pragmatism, Africa Report N°69, 26 September 2003 (only available in French)

Refugees and Displaced Persons in Burundi – Defusing the Land Time-Bomb, Africa Report N°70, 7 October 2003 (only available in French)

Refugees and Internally Displaced in Burundi: The Urgent Need for a Consensus on Their Repatriation and Reintegration, Africa Briefing Nº17, 2 December 2003 (only available in French)

Northern Uganda: Understanding and Solving the Conflict, Africa Report N°77, 14 April 2004

HIV/AIDS as a Security Issue in Africa: Lessons from Uganda, Issues Report N°3, 16 April 2004

End of Transition in Burundi: The Home Stretch, Africa Report Nº81, 5 July 2004 (also available in French)

Pulling Back from the Brink in the Congo, Africa Briefing Nº18, 7 July 2004 (also available in French)

Maintaining Momentum in the Congo: The Ituri Problem, Africa Report N°84, 26 August 2004

Elections in Burundi: The Peace Wager, Africa Briefing Nº20, 9 December 2004 (also available in French)

Back to the Brink in the Congo, Africa Briefing Nº21, 17 December 2004

Peace in Northern Uganda: Decisive Weeks Ahead, Africa Briefing N°22, 21 February 2005

The Congo's Peace is Failing: Crisis in the Kivus, Africa Report N°91, 30 March 2005

Shock Therapy for Northern Uganda's Peace Process, Africa Briefing N°23, 11 April 2005

The Congo: Solving the FDLR Problem Once and for All, Africa Briefing N°25, 12 May 2005

Building a Comprehensive Peace Strategy for Northern Uganda, Africa Briefing Nº27, 23 June 2005

Élections au Burundi: Reconfiguration radicale du paysage politique, Africa Briefing N°31, 25 August 2005 (only available in French)

A Congo Action Plan, Africa Briefing N°34, 19 October 2005

Katanga: The Congo's Forgotten Crisis, Africa Report N°103, 9 January 2006 (also available in French)

A Strategy for Ending Northern Uganda's Crisis, Africa Briefing N°35, 11 January 2006

Security Sector Reform in the Congo, Africa Report N°104, 13 February 2006

HORN OF AFRICA

Sudan's Oilfields Burn Again: Brinkmanship Endangers The Peace Process, Africa Briefing Nº13, 10 February 2003

Negotiating a Blueprint for Peace in Somalia, Africa Report N°59, 6 March 2003

Sudan's Other Wars, Africa Briefing Nº14, 25 June 2003

Sudan Endgame, Africa Report N°65, 7 July 2003

Somaliland: Democratisation and Its Discontents, Africa Report N°66, 28 July 2003

Ethiopia and Eritrea: War or Peace?, Africa Report N°68, 24 September 2003

Sudan: Towards an Incomplete Peace, Africa Report N°73, 11 December 2003

Darfur Rising: Sudan's New Crisis, Africa Report N°76, 25 March 2004 (also available in Arabic)

Biting the Somali Bullet, Africa Report N°79, 4 May 2004

Sudan: Now or Never in Darfur, Africa Report N°80, 23 May 2004 (also available in Arabic)

Darfur Deadline: A New International Action Plan, Africa Report N°83, 23 August 2004 (also available in Arabic and in French)

Sudan's Dual Crises: Refocusing on IGAD, Africa Briefing Nº19, 5 October 2004

Somalia: Continuation of War by Other Means?, Africa Report N°88, 21 December 2004

Darfur: The Failure to Protect, Africa Report N°89, 8 March 2005 (also available in Arabic)

A New Sudan Action Plan, Africa Briefing N°24, 26 April 2005

Do Americans Care About Darfur?, Africa Briefing N°26, 1 June 2005

The AU's Mission in Darfur: Bridging the Gaps, Africa Briefing Nº28, 6 July 2005

Counter-Terrorism in Somalia: Losing Hearts and Minds?, Africa Report Nº95, 11 July 2005

The Khartoum-SPLM Agreement: Sudan's Uncertain Peace, Africa Report N°96, 25 July 2005

Garang's Death: Implications for Peace in Sudan, Africa Briefing N°30, 9 August 2005 (also available in Arabic)

Unifying Darfur's Rebels: A Prerequisite for Peace, Africa Briefing N°32, 6 October 2005 (also available in Arabic)

The EU/AU Partnership in Darfur: Not Yet a Winning Combination, Africa Report N°99, 25 October 2005

Somalia's Islamists, Africa Report N°100, 12 December 2005

Ethiopia and Eritrea: Preventing War, Africa Report N°101, 22 December 2005

Sudan: Saving Peace in the East, Africa Report N°102, 5 January 2006

To Save Darfur, Africa Report N°105, 17 March 2006

Sudan's Comprehensive Peace Agreement: The Long Road Ahead, Africa Report N°106, 31 March 2006

SOUTHERN AFRICA

Dealing with Savimbi's Ghost: The Security and Humanitarian Challenges in Angola, Africa Report N°58, 26 February 2003

Zimbabwe: Danger and Opportunity, Africa Report N°60, 10 March 2003

Angola's Choice: Reform Or Regress, Africa Report N°61, 7 April 2003

Decision Time in Zimbabwe, Africa Briefing Nº15, 8 July 2003

Zimbabwe: In Search of a New Strategy, Africa Report N°78, 19 April 2004

Blood and Soil: Land, Politics and Conflict Prevention in Zimbabwe and South Africa, Africa Report Nº85, 17 September 2004

Zimbabwe: Another Election Chance, Africa Report N°86, 30 November 2004

Post-Election Zimbabwe: What Next?, Africa Report N°93, 7 June 2005

Swaziland: The Clock is Ticking, Africa Briefing Nº29, 14 July 2005.

Zimbabwe's Operation Murambatsvina: The Tipping Point?, Africa Report N°97, 17 August 2005

WEST AFRICA

Tackling Liberia: The Eye of the Regional Storm, Africa Report N°62, 30 April 2003

The Special Court for Sierra Leone: Promises and Pitfalls of a "New Model", Africa Briefing Nº16, 4 August 2003

Sierra Leone: The State of Security and Governance, Africa Report N°67, 2 September 2003

Liberia: Security Challenges, Africa Report N°71, 3 November 2003

Côte d'Ivoire: "The War Is Not Yet Over", Africa Report N°72, 28 November 2003

Guinée: Incertitudes autour d'une fin de règne, Africa Report N°74, 19 December 2003 (only available in French)

Rebuilding Liberia: Prospects and Perils, Africa Report N°75, 30 January 2004

Côte d'Ivoire: No Peace in Sight, Africa Report N°82, 12 July 2004 (also available in French)

Liberia and Sierra Leone: Rebuilding Failed States, Africa Report N°87, 8 December 2004

Côte d'Ivoire: Le pire est peut-être à venir, Africa Report N°90, 24 March 2005 (currently only available in French)

Islamist Terrorism in the Sahel: Fact or Fiction?, Africa Report N°92, 31 March 2005

Stopping Guinea's Slide, Africa Report N°94, 13 June 2005 (also available in French)

Liberia's Elections: Necessary But Not Sufficient, Africa Report, 7 September 2005

Côte d'Ivoire: Les demi-mesures ne suffiront pas, Africa Briefing N°33, 12 October 2005 (currently only available in French)

Liberia: Staying Focused, Africa Briefing N°36, 13 January 2006

OTHER REPORTS AND BRIEFINGS

For Crisis Group reports and briefing papers on:

- Asia
- Europe
- Latin America and Caribbean
- Middle East and North Africa
- Thematic Issues
- *CrisisWatch*

please visit our website www.crisisgroup.org

APPENDIX E

CRISIS GROUP BOARD OF TRUSTEES

Chair

Lord Patten of Barnes
Former European Commissioner for External Relations, UK

President & CEO

Gareth Evans
Former Foreign Minister of Australia

Executive Committee

Morton Abramowitz
Former U.S. Assistant Secretary of State and Ambassador to Turkey

Emma Bonino
Member of European Parliament; former European Commissioner

Cheryl Carolus
Former South African High Commissioner to the UK; former Secretary General of the ANC

Maria Livanos Cattaui*
Former Secretary-General, International Chamber of Commerce

Yoichi Funabashi
Chief Diplomatic Correspondent & Columnist, The Asahi Shimbun, Japan

William Shawcross
Journalist and author, UK

Stephen Solarz*
Former U.S. Congressman

George Soros
Chairman, Open Society Institute

William O. Taylor
Chairman Emeritus, The Boston Globe, U.S.

**Vice-Chair*

Adnan Abu-Odeh
Former Political Adviser to King Abdullah II and to King Hussein; former Jordan Permanent Representative to UN

Kenneth Adelman
Former U.S. Ambassador and Director of the Arms Control and Disarmament Agency

Ersin Arioglu
Member of Parliament, Turkey; Chairman Emeritus, Yapi Merkezi Group

Diego Arria
Former Ambassador of Venezuela to the UN

Zbigniew Brzezinski
Former U.S. National Security Advisor to the President

Kim Campbell
Secretary General, Club of Madrid; former Prime Minister of Canada

Victor Chu
Chairman, First Eastern Investment Group, Hong Kong

Wesley Clark
Former NATO Supreme Allied Commander, Europe

Pat Cox
Former President of European Parliament

Ruth Dreifuss
Former President, Switzerland

Uffe Ellemann-Jensen
Former Minister of Foreign Affairs, Denmark

Mark Eyskens
Former Prime Minister of Belgium

Leslie H. Gelb
President Emeritus of Council on Foreign Relations, U.S.

Bronislaw Geremek
Former Minister of Foreign Affairs, Poland

Frank Giustra
Chairman, Endeavour Financial, Canada

I.K. Gujral
Former Prime Minister of India

Carla Hills
Former U.S. Secretary of Housing; former U.S. Trade Representative

Lena Hjelm-Wallén
Former Deputy Prime Minister and Foreign Affairs Minister, Sweden

Swanee Hunt
Chair of Inclusive Security: Women Waging Peace; former U.S. Ambassador to Austria

Asma Jahangir
UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; former Chair Human Rights Commission of Pakistan

Shiv Vikram Khemka
Founder and Executive Director (Russia) of SUN Group, India

James V. Kimsey
Founder and Chairman Emeritus of America Online, Inc. (AOL)

Bethuel Kiplagat
Former Permanent Secretary, Ministry of Foreign Affairs, Kenya

Trifun Kostovski
Member of Parliament, Macedonia; founder of Kometal Trade Gmbh

Wim Kok
Former Prime Minister, Netherlands

Elliott F. Kulick
Chairman, Pegasus International, U.S.

Joanne Leedom-Ackerman
Novelist and journalist, U.S.

Todung Mulya Lubis
Human rights lawyer and author, Indonesia

Ayo Obe
Chair of Steering Committee of World Movement for Democracy, Nigeria

Christine Ockrent
Journalist and author, France

Friedbert Pflüger
Parliamentary State Secretary, Federal Ministry of Defence; member of the German Bundestag

Victor M. Pinchuk
Member of Parliament, Ukraine; founder of Interpipe Scientific and Industrial Production Group

Surin Pitsuwan
Former Minister of Foreign Affairs, Thailand

Itamar Rabinovich
President of Tel Aviv University; former Israeli Ambassador to the U.S. and Chief Negotiator with Syria

Fidel V. Ramos
Former President of the Philippines

Lord Robertson of Port Ellen
Former Secretary General of NATO; former Defence Secretary, UK

Mohamed Sahnoun
Special Adviser to the United Nations Secretary-General on Africa

Ghassan Salamé
Former Minister Lebanon, Professor of International Relations, Paris

Salim A. Salim
Former Prime Minister of Tanzania; former Secretary General of the Organisation of African Unity

Douglas Schoen
Founding Partner of Penn, Schoen & Berland Associates, U.S.

Pär Stenbäck
Former Minister of Foreign Affairs, Finland

Thorvald Stoltenberg
Former Minister of Foreign Affairs, Norway

Grigory Yavlinsky
Chairman of Yabloko Party and its Duma faction, Russia

Uta Zapf
Chairperson of the German Bundestag Subcommittee on Disarmament, Arms Control and Non-proliferation

Ernesto Zedillo
Former President of Mexico; Director, Yale Center for the Study of Globalization

INTERNATIONAL ADVISORY COUNCIL

Crisis Group's International Advisory Council comprises major individual and corporate donors who contribute their advice and experience to Crisis Group on a regular basis.

Rita E. Hauser (Chair)

Marc Abramowitz
Anglo American PLC
APCO Worldwide Inc.
Patrick E. Benzie
BHP Billiton
Harry Bookey and Pamela Bass-Bookey
John Chapman Chester
Chevron
Companhia Vale do Rio Doce
Peter Corcoran
Credit Suisse
John Ehara
Equinox Partners
Konrad Fischer
Iara Lee & George Gund III Foundation
Jewish World Watch
JP Morgan Global Foreign Exchange and Commodities
George Kellner
George Loening
Douglas Makepeace
Anna Luisa Ponti
Michael L. Riordan
Sarlo Foundation of the Jewish Community Endowment Fund
Tilleke & Gibbins
Baron Guy Ullens de Schooten
Stanley Weiss
Westfield Group
Woodside Energy, Ltd.
Don Xia
Yasuyo Yamazaki
Sunny Yoon

SENIOR ADVISERS

Crisis Group's Senior Advisers are former Board Members (not presently holding executive office) who maintain an association with Crisis Group, and whose advice and support are called on from time to time.

Oscar Arias
Zainab Bangura
Christoph Bertram
Jorge Castañeda
Eugene Chien
Gianfranco Dell'Alba
Alain Destexhe
Marika Fahlen
Stanley Fischer
Malcolm Fraser
Max Jakobson
Mong Joon Chung
Allan J. MacEachen
Barbara McDougall
Matt McHugh
George J. Mitchell
Cyril Ramaphosa
Michel Rocard
Volker Ruehe
Simone Veil
Michael Sohlman
Leo Tindemans
Ed van Thijn
Shirley Williams

As at April 2006