

# Gender-Based Violence and Access to Justice: Grand Bassa County, Liberia

Randi Solhjell and Debey Sayndee



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# Executive Summary

Liberia has a dual justice system: there is a formal court hierarchy under the judiciary (i.e. a statutory justice system), as well as a system of customary courts. In this project, we examine the issue of gender-based violence (GBV) in relation to these two systems. This report is based on fieldwork in Grand Bassa County, and builds on qualitative data (interviews and focus groups) and quantitative data (survey). The survey showed that the majority of respondents (96%) have access to forms of local justice, i.e. a justice system that is affordable and nearby. This also corresponds well with our qualitative data.

We have identified various challenges as well as potentials with both the customary and the statutory justice systems as regards GBV. First, the statutory system remains largely unavailable to the majority of the Liberian population, for reasons that include costs, travel distance, language and cultural barriers. That being said, the statutory system offers a more standardized procedure, with the potential of ensuring a more gender-equal form of justice compared to many of the customary systems. On the other hand, the customary systems are far more readily available, and are also efficient in handling various kinds of cases. However, there are also limitations, including the perceived low legitimacy of traditional authorities among youth as well as among influential organizations and institutions that support international human rights approaches, as women are often subordinate to men in the traditional institutions.

Both system have many potentials. The authorities in charge of customary law acknowledge their limitations in handling GBV cases, and many are also motivated to include perspectives from youth and women in today's Liberia. As the customary systems are available and affordable to most of the populace, there is much to be said for empowering and strengthening their roles and also improving communication with the statutory system. The statutory system is overburdened and could benefit from stronger working relations with the customary system.

# 1.0 Introduction

In this report, we examine how the interplay between different mechanisms and institutions for justice works in dealing with gender-based violence (GBV) in Liberia. What mechanisms operate when it comes to seeking justice for GBV crimes? What kind of justice do ordinary Liberians seek in such cases? We see GBV as a broad category of sexual, physical or psychological violence that operates through the construct of gender: the various roles allocated to men, women, girls and boys in society. GBV is not limited to violence against women as a general phenomenon, but is specific to situations where there are differences in power relations. These may be situations where, for instance, teachers abuse their authority by demanding sexual services from their pupils, forms of domestic violence (physical or psychological), or rape.

The project Mapping Gender-based Violence and Access to Justice: Re-traditionalisation in Liberia (GENTRA) is a research collaboration between the Kofi Annan Institute for Conflict Transformation (KAICT) at the University of Liberia, and the Norwegian Institute of International Affairs (NUPI), funded by the Norwegian Research Council. This is the second working paper from the project; based on fieldwork in Grand Bassa County, it discusses the various legal options chosen by Liberians as regards GBV cases.<sup>1</sup>

Liberia has a dual justice system: a formal court hierarchy under the judiciary, and a system of customary courts, consolidated in the 1943 Rules and Regulations Governing the Hinterland of Liberia (Herman & Martin-Ortega 2011, pp. 143–4, henceforth “Hinterland Regulations”). Historically, this dual system was established by the ruling freed Afro-American slaves – the “Americo-Liberians” – for two reasons (Brown 1982, pp. 481–2):

- 1) to extend their authority and keep tight control over the rural population, while retaining the positive aspects of tribal society such as the traditional social welfare system;
- 2) to ensure effective engagement with the rural masses, while maintaining the image of the central administration as concerned with the well-being and representation of the customary chiefs and the rural population.

Both the statutory and the customary systems are accepted and practiced in Liberia today. Isser et al. (2009) provide thorough documentation of the contemporary customary system, how it has survived years of

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<sup>1</sup> See Divon et al. 2015 for a study of Ganta, Nimba County.

civil war and has remained active and functional throughout the country, at all levels. We have found that customary systems have indeed survived, but are under pressure from certain national and international agendas that discourage traditional practices of justice regarding GBV. However, the statutory system is heavily overburdened and not fully functional when it comes to handling GBV cases. In our view, poor access to the statutory system combined with the disempowering of customary systems acts to limit justice in practice. However, there are positive features in both systems that can be further encouraged. For instance, improvements in the customary system could help the leaders to provide more effective and affordable justice, and support could be given to promote standardized case procedures as in the statutory system.

In preparing this report, we began with qualitative data collection through interviews and focus groups, consisting of authorities in both systems, civil society and sessions with men, women, boys and girls, on the topic of GBV in Buchanan and Grand Bassa more broadly. Second, the study consists of a survey (n=203) on preferences, knowledge and access to statutory and customary legal systems in urban, semi-rural and rural parts of Grand Bassa.<sup>2</sup> The report deals with both the qualitative and quantitative findings. Due to the sensitivity of this research project and the need for confidentiality, we have withheld all names in this report, and identify our informants solely by contextual background (e.g. customary authority, lawyer, or focus group with women at the central market) for the qualitative data.

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<sup>2</sup> The survey was also conducted in Nimba County (n= 200) in 2015.



## 2.0 Justice in Grand Bassa County and Buchanan City

Grand Bassa (see Figure 1) is a coastal county and its capital city, Buchanan, is easily accessible from Monrovia. The main highway from Monrovia to Buchanan is completely upgraded and paved, thereby reducing travel time and offering better safety. However, such improvements are yet to reach the rural sectors of the county where most of the population live.



Figure 1 County Map of Liberia, highlighting Grand Bassa County. Reserved rights of the Nations Online Project

Buchanan city has experienced the presence of UN peace operation in Liberia (UNMIL) and civil society programs over the last decade, with a range of sensitization and awareness campaigns. This has led to the widespread view that especially rape cases “cannot be compromised” – here meaning that such cases cannot be taken to the customary system for settlement between the parties or solved privately. In practice, this has proven difficult for several reasons, as we will discuss.

A gang rape in March 2016 on the outskirts of the city is illustrative of the challenges facing the current statutory system in Liberia. A young girl was raped by three men and died of the physical abuse sustained. The majority of our informants considered this to be a crime that needed statutory justice – it was not a matter to be settled between the victim’s family and the accused, as is common procedure in customary justice systems. For a case to proceed to the statutory system, evidence must be gathered. In cases of GBV, the victim must be examined at the public hospital, located in central Buchanan. However, the girl was not taken to the hospital for examination until three days after her death. This delayed and contaminated the post-mortem examination and made the evidence less reliable. In addition, it was difficult for the examining doctor to identify the cause of death and the links between cause of death and the allegations of rape.

Further, the Grand Bassa County public hospital has only two medical doctors, each receiving an average of 8 to 16 emergency cases daily, in addition to other patients.<sup>3</sup> The hospital report to be submitted to the eventual trial is often delayed two to three weeks due to capacity constraints at the *only* public hospital in the county. Moreover, the absence of public defenders in Buchanan resulted in this specific case being transferred to Monrovia. With the case transferred to Monrovia, the accused were set free due to lack of evidence, which in turn caused considerable distress to the victim’s family and frustration among the general public about the statutory system. Some of our informants argued that there would have been justice if the case could have been settled in the community where it took place.

In the interior or hinterland areas of Grand Bassa County, actual access to the statutory system is limited if not completely absent, so rural areas rely heavily on the customary system of justice. There are several reasons for this situation. First, in a county of approximately 8000 km<sup>2</sup>, there are barely 100 active police officers who, at the time of our research, had only one functioning car and one motorbike for the entire county.<sup>4</sup> The cost of fuel and the poor road conditions during the rainy season further obstruct access to the police. When a crime is committed, the people in remote areas turn primarily to their local chief, not the police, to get their case heard.

Second, using the statutory system entails various economic constraints, such as having to leave the farm for weeks to follow the case in Buchanan, and paying for a Monrovia-based lawyer to come to Grand Bassa. All public defenders registered for Grand Bassa live in

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<sup>3</sup> In discussion with hospital administration and doctors in Buchanan, April 23 and 25, 2016.

<sup>4</sup> Interview with the Central County Police station, Buchanan, April 20, 2016.

Monrovia and will travel to Buchanan only if their costs (per diem, hotel, and legal fees) are covered by the person seeking redress.

As one informant in a government ministry told us: “Access to justice is available for all, it is just not affordable.”<sup>5</sup> There are no formal restrictions on who has access to the statutory system, but in practice, the limitations of the formal court system concern matters like income and travel distance.

Third, above and beyond the practical and financial constraints, cultural barriers also influence access and choices concerning both the customary and statutory justice systems, not limited to the urban–rural divide. Both in Buchanan and the interior, many Liberians are unfamiliar with the statutory system. This can be due to language barriers like limited English skills and low literacy, to greater familiarity and access to tribal authority systems, and to well-established cultural customs for settling disputes. As one customary authority based in Buchanan stated:

We are a tribal people; we love our tribal court. We don’t speak English, many people don’t read and they can’t afford lawyers. (...) Now, the power is being taken from the customary system. We know our people; we know how to deal with our people.<sup>6</sup>

During the field research, the frustration experienced by the customary authorities at their loss of power was mentioned in various settings by informants who felt closer to the customary system. The awareness and sensitization campaigns in and around Buchanan have led to the perception that the customary chiefs are not supposed to proceed with judiciary processes regarding GBV cases, in particular serious crimes such as rape. Here the discourse that we encountered on several occasions was that rape cases must be taken to the police, and that they cannot be “compromised” (i.e. settled privately).

We hold that poor access to the statutory system, combined with the disempowering of customary systems, acts to limit justice *more generally*. On the one hand, the statutory system, with the broader public institutions like the police and the general hospital, faces severe limitations in offering timely and accessible justice to victims and the accused. On the other hand, the customary system, to which most Liberians do have access, is undermined when it comes to dealing with such cases. The next two sections discuss the types of customary and statutory systems in the county in further detail, before moving to the survey data.

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<sup>5</sup> Interview in Buchanan, April 19, 2016.

<sup>6</sup> Interview with tribal governor, in Buchanan, April 26, 2016.

## 2.1 Traditional Authorities in Grand Bassa County

The customary system has a four-tier structure. First, the superintendent is the highest authority in the county leadership and is under the local government structure. Second, the county is then divided into districts headed by district commissioners, and these districts are divided into chiefdoms headed by paramount chiefs. Third, these chiefdoms are subsequently subdivided into clans headed by clan chiefs or governors. Fourth, the clans relate to the towns, zones or sections as the case may be, and are headed by town chiefs, zone leaders or section chiefs, respectively. Figure 2 presents an organizational chart of the customary leadership in the counties.

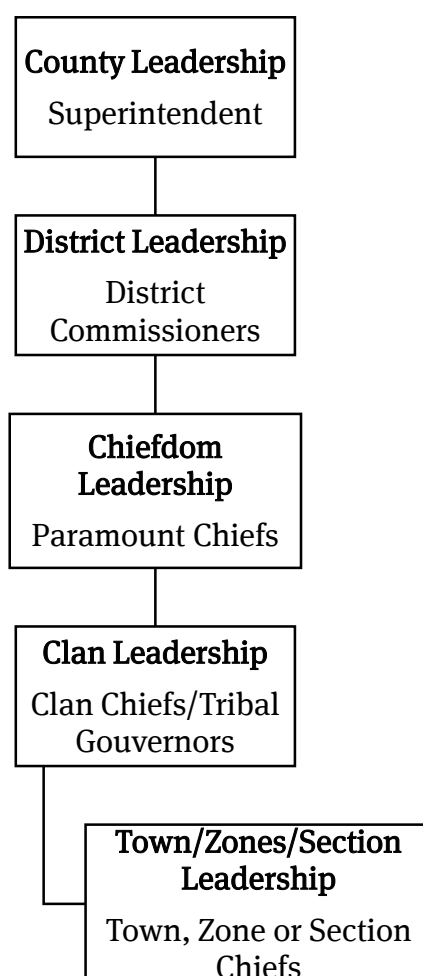


Figure 2 Customary Leadership Structure

We interviewed two district commissioners (both men), six tribal governors (one woman and five men), and several zone leaders and town

chiefs in the rural areas (mostly men but also some women).<sup>7</sup> Tribal governors are central traditional leaders in the Hinterland Regulation. Officially, their roles are described as follows:

The Tribal Governor is the representative of his tribal people within any given municipal area, and responsible to coordinate all administrative activities within his tribal people and the government of Liberia. Among his duties is to investigate all tribal matters between his tribal men and settle all disputes as the case may be from time to time.<sup>8</sup>

In practice, the governors we met dedicate their time to solving disputes within and between tribal communities, what N'Tow refers to as a “quasi-judiciary” role (2011, p. 8). The cases concern both criminal and civil issues, such as land disputes and thefts, and generally disputes that affect peaceful coexistence. During our visit, we discussed the types of cases they dealt with. Some were reluctant to state that they dealt with GBV cases specifically, others explained how they settle disputes among and within families. In particular, the tribal governors shared the historic development of their roles as they have experienced it, such as intervening in cases of rape:

We intervene in cases such as when men are beating on their wives, or women living with men when their dowry has not yet been paid. We look into all of these matters but some of the cases are above our control. In the case of rape and murder we turn it over to the modern court. (...)

In earlier days, there were high restrictions when it came to the issue of rape in our traditional setting. Like when I was growing up, a man raped a little girl in our village and the child died in the process. The traditional elders of the town excommunicated [*i.e. permanently expelled*] the man from the town.<sup>9</sup>

This perspective was typical for the governors, who argued that rape cases, especially those involving children, had to be taken to the police, while at the same time explaining how these serious crimes had been dealt with by the traditional authorities in the past. The way they used to be handled – either banning the perpetrator from ever returning to

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<sup>7</sup> A group meeting with zone leaders was arranged by the mayor’s office, allowing us to engage in a debate with some 40 zone leaders. In addition, the team interviewed zone leaders in all the areas where the survey was conducted.

<sup>8</sup> Article 24(c) of the Rules and Regulations Governing Local Government Officials of the Political Subdivisions of Liberia, cited in N'Tow (August 26, 2011).

<sup>9</sup> Key informant interview with tribal governor, April 25, 2016.

the community or by death – is in today’s Liberia often seen as conflicting with human rights. The human rights agenda was often interpreted as favoring the statutory system, as another governor explained:

We are not allowed to practice the traditions. People used to live longer and stronger in the past. The traditions... I loved that. They [*the government*] don’t allow you to practice this way today. They only want the state way. People lived longer before. Today, we have free speech, now everyone can talk. The traditions before were helping people in telling what was wrong and right.<sup>10</sup>

This view, however, did not mean that governors in general were opposed to human rights or that the statutory system was deemed wrong. As shown below, some of the governors went on to explain how the two systems could work better together by adapting human rights agendas in the Liberian context, especially by incorporating nuances on duties, not only rights, and parents’ rights:

In our traditional system, the only problem we are facing is human rights, especially child rights. If you discipline the child today, the child can go to the police. Discipline is not allowed. (...) I prefer a balancing, the new law [*statutory*] has some very good logic. The old law [*customary*] also has very good logic for children. They say today that “don’t beat your child”. That places a burden on poor parents. It is good to educate the child, but you cannot allow too much freedom. Only forced rights and no duties are not good. I think it is important to protect children from abuse, like forced labor. But it’s also important to pay attention to parents’ rights.<sup>11</sup>

In other words, they felt there was room for adapting traditional customs in contemporary Liberia, such as children’s rights – but they also felt fear and unease, in particular as regards the disempowering of customary authorities in providing moral guidance and dispute settlement.

At the local level, zone, town or section chiefs in Grand Bassa play a key role in dispute settlements due to their proximity to women and men based in rural areas. The group discussion with zone leaders gave rise to considerable debate as to whether and how GBV cases were handled where they lived:

*Zone leader A (woman):* In Gender Based Violence prosecution, the statutory law outweighs the customary law. Before, when GBV happened, the traditional women check the victim. When they find that it is true, the perpetrator is taken down the road for punishment.

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<sup>10</sup> Key informant interview with tribal governor, April 25, 2016.

<sup>11</sup> Key informant interview with tribal governor, April 26, 2016.

*Zone leader B (man):* Our customs, they are gradually being taken away. Not all actions were good, but there were solutions. Now they [*the government*] say that no rape cases are to be tried in your community, but if it happens, it is your responsibility. The police will not come. Zone leaders should be involved in these cases. People get confused. You can settle these cases in your office.

*Zone leader C (man):* The government has made GBV so grave and fearful like Ebola that no one wants to handle it. There are some elderly women who could handle GBV cases traditionally. What I am experiencing is that the Western culture is gradually taking our customs away. (...) The people who brought in the issue of rape have confused the people in the villages.<sup>12</sup>

In this group meeting, the different perspectives (again) indicated frustration that the customary leaders were being disempowered in their dispute settlement roles, while also experiencing that the modern court system and the police were not accessible for the villagers. If the customary leaders did attempt to practice dispute settlements, they would do so at their own risk, as they explained. Another point taken up (especially zone leader C), was that the rape law considered all sexual intercourse between adults above 18 with girls and boys below the age of 18 to be rape, and that was by some seen as alien to their culture.

The customary authorities with whom we spoke were all well aware of the judicial systems, both the statutory and the various customary practices when it came to GBV cases. The limitations that they saw, generally speaking, were related to frustration concerning the inefficiency of the statutory system and the restrictions emplaced on the customary system with regard to dealing with different GBV cases. In addition, some of the customary authorities expressed displeasure with what they saw as an approach based on international rights in contrast to their own traditional practices.

In our view, there are several difficulties relating to GBV cases being handled by the customary system. For one thing, power relations within the customary systems are traditionally held by elderly men. This may affect the status of women as well as the willingness of girls and women to come forward in sensitive cases closely attached to their gendered role in the community. For instance, we were told that women were considered subjects owned by their husbands and had certain obligations in the household. If these domestic duties were not carried out, some of the

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<sup>12</sup> Group meeting with forty zone and community leaders in Buchanan town hall, April 22, 2016.

customary authorities argued that the husband would have the right to punish his wife.<sup>13</sup> However, in cases where there were particular gender-related violations between men and women, women would talk to the women's committee in the community and men would speak to the male elders first before they were brought together to be heard. Moreover, there is a considerable generational gap between elderly men in these positions, on one hand, and the youth groups, both boys and girls, who have increasingly gone to live in the cities. There is an ongoing debate on how to adopt some of the positive aspects of customary justice, such as proximity, affordability and legitimacy, within the statutory system, which we will discuss in the next section.

## 2.2 Statutory justice and interlinkages with customary systems

Nationally, the statutory system consists of the Supreme Court (Monrovia), a Circuit Court in each county, Magistrates' Courts and Justice and Peace Courts (Herman & Martin-Ortega 2011, p. 144). The Circuit Court is the highest court in each county. Grand Bassa is no exception to this system and has a Circuit Court located in Buchanan, which was closed at the time of our field visit. This court, principally, deals with the most serious types of crimes, including statutory rape and murder. Appeals from the Circuit are sent directly to the Supreme Court. Magistrate Courts in Grand Bassa will also deal with such cases, though the most serious crimes will first go through the Circuit Court for preliminary hearing. The Justice and Peace Courts have jurisdiction only over certain civil and criminal cases, such as assets and debts payments or petty thefts.

In practice, the system faces multiple challenges and does not necessarily operate as officially envisioned. In conversation with a general practice lawyer and counsellor in a Magisterial Court in Buchanan, we asked specifically for his views concerning seeking justice for rape cases:

In my view, people come to the court if there is statutory rape. (...) In the city, we operate mainly statutory. But if the case is within a family situation, people tend to settle it between themselves. They compromise for different reasons. In most of the cases, people compromise cases before they reach the court because the perpetrators are the family breadwinners. If these men are sent to prison, what happens to the rest of the family? Some of the cases are very clear but it can be very difficult to prove the case.

In light of the constraint of SGBV cases when there is no logistic, the victim has to provide *[financially]* to get the perpetrators to court. *[As an example of the many challenges in cases not reaching the court:]*

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<sup>13</sup> In separate key informant interviews with two tribal governors in Buchanan, April 25 and 26, 2016.



A farmer has to leave his/her farming activities, and so birds eat up the rice crop. Few are willing to do this.<sup>14</sup>

However, the problem of cases reaching the court is also related to difficulties at the level of the police. In conversation with the police general-commander in Grand Bassa County and the office of the Women and Children Protection Section (WACPS)<sup>15</sup> in the county policy station, the challenges that they emphasized in access to justice for GBV cases related to logistical issues:

There are several delays, logistically. The crime scene can be contaminated when we arrive. For rape, the victim might not be able to go to the hospital early enough. For this section, we only have two vehicles for the entire county: one car and one motorbike. Another car is broken. This is a problem of access to justice. There are 126 police officers in the entire county. This is not enough. The county people don't feel the impact of the police. They don't get a taste of the police. To get to places, it is possible in the dry season. But in the rainy season, there is no mobility. The limited number of police in the county makes people not able to access justice.

(...)

I would like to see that [*customary*] chiefs build their capacity. They are the first contact person for many people. There should be an institution to support the chief. The community policing can be an institution to support the chief. All challenges go down to the logistics. We lack crime labs; we don't have forensic capacities. Mobility is an easy way to have access to justice.<sup>16</sup>

The potential linkages between customary chiefs and the police were in fact mentioned on several occasions during our field visit. Due to the limited presence of Liberian police in the hinterland combined with the daily contact many inhabitants have with customary chiefs, such as the town chiefs, there are many potentials in collaboration. This can be in the form of first line of contact in reporting crimes, facilitating better dialogue between the police and the local community, or strengthening the judicial capacity of the customary system through the support of the statutory system. One example: the Carter Center in Liberia supports a program called the Catholic Justice and Peace Commission that empowers traditional chiefs and local forms of justice.<sup>17</sup> When we interviewed

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<sup>14</sup> Key informant interview with general practice lawyer in Magistrate Court, Buchanan, April 25, 2016.

<sup>15</sup> The WACPS are physical units adjacent to over 30 police stations throughout Liberia, dedicated to SGBV cases (Schia and de Carvalho 2015).

<sup>16</sup> Central County Police in Grand Bassa, Buchanan, April 20, 2016.

<sup>17</sup> See [http://www.cartercenter.org/peace/conflict\\_resolution/liberia-access-justice.html](http://www.cartercenter.org/peace/conflict_resolution/liberia-access-justice.html) (accessed May 30, 2016).

members of the Catholic Justice and Peace program in Buchanan, they had the following to say regarding some of the challenges and opportunities involved in supporting the customary system together with rule of law in the statutory system:

Customary justice has certain limits. Some cases can be judged in these systems, others cannot. Together, the statutory and customary can work together. (...) The majority of people will not have access to formal court systems so that is why we work with the chiefs. If people are not happy with the town chief, they can go to the clan chief and so forth. People know their rights in the system.

Also, men's positions are changing in the community. There is an understanding towards gender equality. Women have both responsibilities and opportunities now. Gradually, women can speak up. GBV also affects cultural values, where girls and boys are not */traditionally/*allowed to have a say. This is why we involve women, youth and elders together in decision-making. These procedures matter. (...)

The customary system is not working like it used to. Money matters today. Fees are rising for customary system. We need the program to sensitize the chiefs, to educate them to help their people, so that people don't get chased away from justice.<sup>18</sup>

Through this program, efforts were being made to strengthen the customary system. At the same time, it was also recognized that there were limitations, like traditional gender roles and illegitimate fees (corruption), in this system as well. This program targeted adapting statutory law to the customary setting, while keeping the means of justice close to people.

Generational differences are key aspects of the transforming justice systems in Liberia. Due to various factors, urbanization is rising in Grand Bassa as in many other parts of Liberia. With this comes gradual pressure on statutory justice forms, as well customary justice authorities who play an increasingly important role in urban areas. Many young people in and around Buchanan experienced different generational gaps between the customary system and their preferences in seeking redress for GBV crimes. On the one hand, some girls and boys argued that serious cases of GBV should be settled in the modern courts; on the other hand, they also saw the difficulties — with families avoiding prosecution because they had sympathy with the perpetrator or that the police or court settled cases in ways seen as unsatisfactory. There was also discussion among the young people as to how certain practices in the customary system were problematic or debatable:

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<sup>18</sup> Interview with five members of the Catholic Justice and Peace Program, Buchanan, April 22, 2016.

*Boy 1:* In local societies, if you violate the rules of society, the female leaders and the male leaders [*depending on the issue and gender of those involved*] take you outside for discussion. The town chief will take charge of the case. Like using sassywood [*various forms of trial by ordeal*]. Is this even allowed anymore?

*Girl 1:* What I know is that there is FGM [*female genital mutilation*] in the villages. Where these harmful traditions take place... these practices should be abolished.<sup>19</sup>

Here, the educated youth residing around Buchanan questioned whether or not traditional practices were even allowed (sassywood) or harmful (FGM), which demonstrates a certain distance to customary forms of justice and practices. In other discussions, there was discussion as to whether or not to “compromise” cases of GBV, as well as what many saw as very harsh punishment in the modern courts as regards rape:

*Boy 1:* In the village, when there is rape, it’s likely to be compromised [*dealt with locally*], where there are no police due to the distance and associated causes.

*Girl 1:* As for me, I have understood that traditional leaders are advised not to handle rape and murder cases at community level.

*Boy 2:* I think that the punishment needs to be made more moderate in the modern courts, and then people will have a clear heart not to compromise rape cases in the community.

*Girl 2:* If there is GBV case they should go to the community leader before going to court or police. The modern court should accept this system. This could be effective if the police will start investigation only when the matters first reach the community level.<sup>20</sup>

These young people were well aware of the issue of “no compromise” for rape cases, but they also debated both the advantages and disadvantages of modern and customary forms of justice, indicating how both systems may work together. However, they felt that the potential punishment for rape cases in the modern courts seemed to work counter to intentions. The risk of life imprisonment for all cases of statutory rape led some families to settle these cases privately. However, in other discussions, views were more nuanced, with generationally differing views on what type of punishment perpetrators of rape deserved. In a group discussion with a women’s association based in Buchanan, we could

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<sup>19</sup> Focus group discussion with youth in EFSON College Grand Bassa, outside Buchanan, 22 April 2016.

<sup>20</sup> Focus group discussion with youth in Bassa High Community School, Buchanan, April 23, 2016.

note clear differences in how younger women spoke about the customary and statutory systems compared to older women:

*Younger woman:* The culture of traditional court is a court of compromise. In the traditional court, there are junior and senior elders. If your own uncle rapes you, the elders of the community will always compromise such a case because he is one of the elders. When I was growing up as a child there were things that happened to me that I could not disclose to my mother because the people *[in the village]* were so close to her – but that cannot happen today.

*Older woman* (head of association): When I was growing up, if an underage child was raped, the offended would be excommunicated from the village (...). Before, rape was a forbidden issue. Perpetrators were banished from the village and it [rape] was not handled at family level or as a family matter. But today, there are so many changes in our traditions, because of the NGO awareness campaigns and workshops.<sup>21</sup>

It is clear that the younger woman in this discussion felt there was injustice within traditional communities that favored elderly men, and that was not the type of justice she would like to see today. However, the older woman argued in favor of the strict moral norms that prohibited acts of sexual abuse, especially rape of minors that would lead to perpetrators being banned from the village. Yet, these traditions were dismissed as vigilantism in international NGO parlance: justice is to be served in formal court systems, as the older woman discussed. We now turn to the survey data, to identify some general patterns of justice in Grand Bassa among the urban and rural populations.

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<sup>21</sup> Group discussion with five women and two men in the Bassa Women Development Association, Buchanan, April 20, 2016.

### 3.0 Survey Data: Trends on Access, Choice and Preferences in Justice Systems in Grand Bassa

In the survey, we interviewed 203 persons in mainly rural areas in Grand Bassa, but also central Buchanan, with 53% female and 47% male respondents. The majority were of Bassa ethnic descent (74%), which represents the majority ethnic group in the county. The main age groups were respondents aged 20–39 (52%) and 40–60 (34%), with a few respondents older (8%) or younger but still 18 or above (6%). The vast majority of respondents saw themselves as Christians (93%), but there were a few Muslims (2%) and some who professed traditional beliefs (3%).

One question we asked in the survey was if the respondents had “access” to any form of local justice system – which was explained to everyone as meaning having to travel less than one hour to get to a local justice system and having to pay less than 50 Liberian dollars for access. The results are shown in Figure 3.

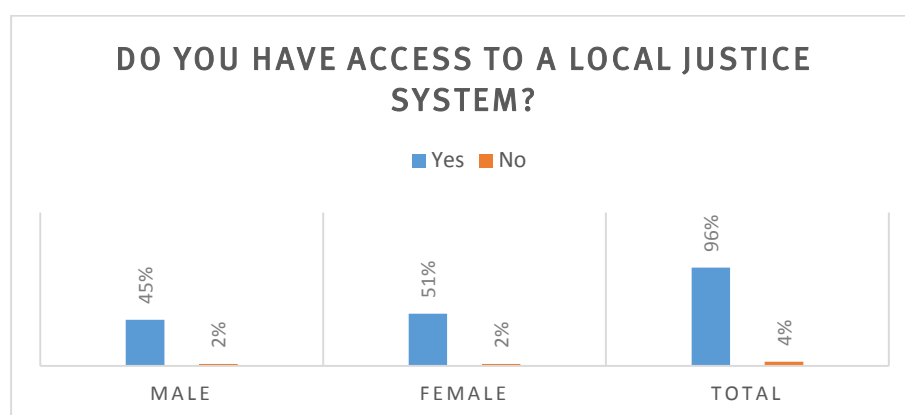


Figure 3 Access to local justice system

As we see, an overwhelming majority (96%) of the respondents said they had access to some form of justice locally. Thus, and with a few exceptions, there is reason to say that forms of local justice are widespread and are accessible to many Liberians in Grand Bassa. However, there was variation as to the kind of local justice that was available (see Figure 4).

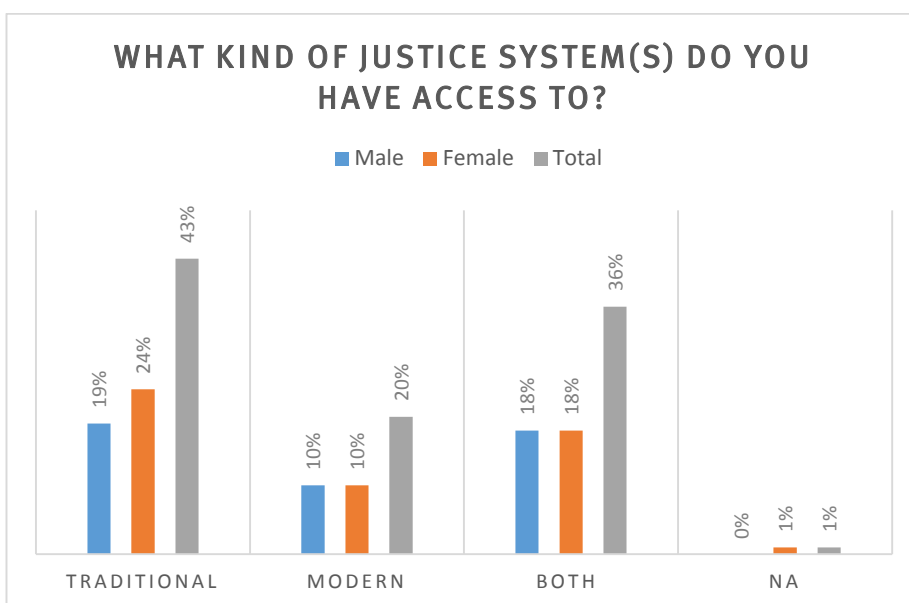


Figure 4 Types of justice systems

It is evident that most respondents had access to either only customary (43% total) or both customary and statutory (36%). Fewer respondents said that they had access only to the statutory court system (20%). Thus, respondents in Grand Bassa do have access to justice forms locally – mostly customary systems but also to some extent the statutory system. We also asked what forms of justice the respondents generally preferred, and then cross-tabulated with age (Figure 5):

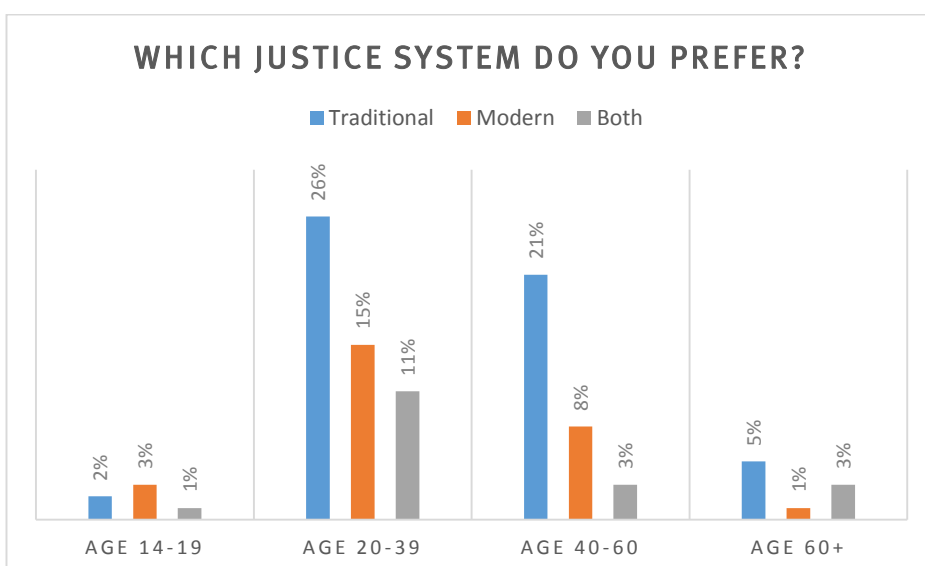


Figure 5 Justice preferences in general, controlling for age

We note a clear preference for using the customary justice system among the majority of the respondents, also in the younger group aged 20–39. As there were very few respondents among the youth group (below age 20) and the elderly (60+), it is difficult to know whether these figures are representative of youth and elderly people in general. However, members of the youth group in our sample indicated had a slight preference for the statutory system, whereas members of the oldest group preferred the customary system. Moreover, specifically regarding GBV, we asked respondents which system they would prefer if this happened to them or someone they knew (Figure 6):

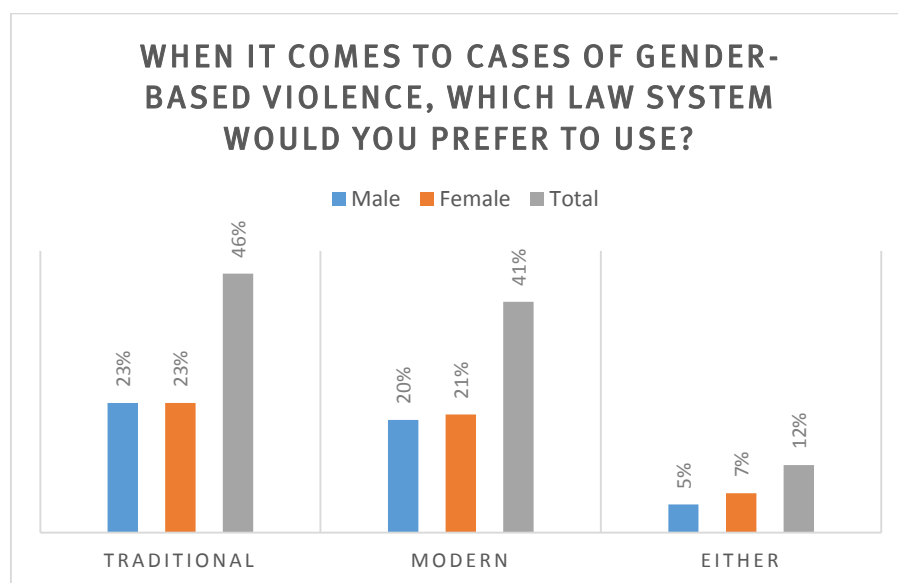


Figure 6 Justice preferences in case of GBV

From these data we can note a slight preference for the customary system (46%) among both men and women respondents in the case of GBV. However, there were also many who would prefer using the statutory system (41%) and the distribution is fairly equal among men and women in both cases. As discussed above, different forms of GBV make people seek to settle or pursue justice differently, ranging from cases of rape against minors to domestic disputes. What is clear is that there are differences between what type of justice people prefer in general (Figure 5) and what they prefer specifically as regards GBV (Figure 6). In general terms, the customary system is often preferred among rural and semi-rural based people, while there is a tendency to prefer the statutory system more often when it comes to GBV. This may be due to sensitization campaigns promoting the use of the statutory system and/or cultural aspects such as gender biases in the customary system that can have negative effects for women and girls who are victims of GBV.

Figures 7 and 8 show respondents' perceptions when it comes to felt justice in GBV cases when choosing either the customary or the statutory system.

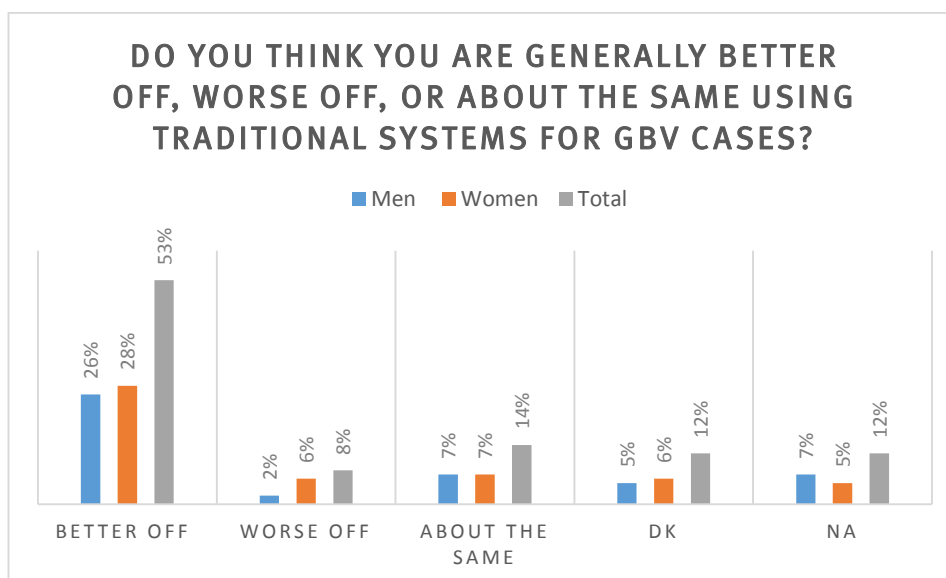


Figure 7 Felt justice in customary systems for GBV cases

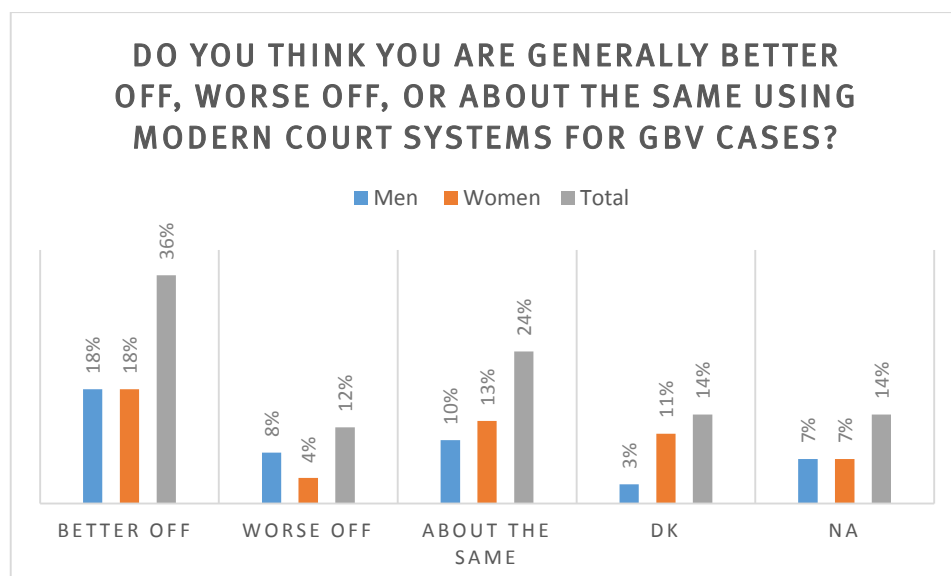


Figure 8 Felt justice in statutory systems for GBV cases

We can see a tendency for our survey respondents to feel that they would be better off using the traditional system for GBV cases (53%) rather equally distributed among women (28%) and men (26%), compared to



the modern courts (36%). In addition, more respondents either felt they would be worse off (12%) or about the same (24%) in the modern courts, compared to the customary system. Here we found some differences in perception when controlling for gender: fewer women said they would be worse off in the modern courts (4%), compared to men (8%), whereas the converse applies concerning customary courts, where only 2% of the men said they would feel worse off – as against 6% of the women. Here, however, it should be borne in mind that there were many who responded either Don't Know (DK) or Cannot/No Answer (NA): they might not be familiar with either of the systems as regards GBV cases. Nevertheless, we find noteworthy differences in perceptions of justice under the customary and the statutory systems, especially with regard to gender-related differences like status in society, inequality and livelihood.

## 4.0 Policy Implications and Conclusions

In this study, we have discussed some of the advantages and disadvantages of the customary and statutory legal systems in Liberia. We find that the country's current official support for legal pluralism is seriously undermined by the limitations and challenges identified in this study. The statutory system needs to be available everywhere, so that people may freely choose how and in which forms they would seek redress in matters that affect them. Here we have focused on cases of gender-based violence (GBV). Today, people living in Grand Bassa generally turn to the customary legal system in cases of grave offences simply because that is what is available to them.

The statutory system is expensive for ordinary Liberians and is riddled with challenges, such as limitations of the police and the logistical constraints of the courts. The high costs of accessing justice through the statutory system must be borne by the person affected. In addition comes the cost of legal fees usually imbedded in sub-charges such as transportation, lodging, and "facilitation" of the case in question. True, there are public defenders and prosecutors paid by public funds, but many additional charges are demanded from those seeking their services. Ordinary citizens find this both unaffordable and unfair, and so they turn to other forms of redress, including the customary justice system.

In view of the limited means and options for statutory justice services to most Liberians living in rural areas, there is an urgent need to seek ways of improving the customary system, which is already available to them. The customary system is used widely and can benefit from further support. The powerholders of the customary system admit to the inherent limitations, and express willingness to get help in making this justice system better and more acceptable. Giving them this support would be an effective way of enhancing justice and the rights of women.

With the harsh socio-economic situation prevailing in Liberia, the customary justice system is set to remain a default option for redress of violations for the foreseeable future. Surely, improving the customary system is an easier option than trying to make the statutory system readily available to majority of the populace. Key improvements needed in the customary system include the documentation and standardization of processes and outcomes of cases. This can promote greater accountability in the system.

Another area in need of reform concerns the gender balance and the composition of powerholders in the system. As in the statutory system, only individuals with certain qualifications serve in the customary system. It must be made clear what standards are required for proper exercise of customary duties. Fair consideration should be given to males and female entering the service of customary justice system. Adhering to these principles will facilitate monitoring and understanding of the customary system among government and other stakeholders, which in turn should lead to greater efficiency and justice to a larger share of the population.

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