



Focus Group Discussion with Soweis, May 2016.

Secret Societies and Women's Access to Justice in Sierra Leone: Bridging the Formal and Informal Divide

What is the issue?

Security sector reform is part of the new approach to state reconstruction that surfaced in the late 1980s, with international actors focusing efforts on "state building," or strengthening governmental institutions as a central component to reconstructing states emerging out of war (Paris and Sisk 2009). A hallmark of criticism of security sector reform however, is that they focus overly on the formal arms of justice and security, and marginalize customary justice alternatives. This is true even though in many countries, particularly where the state is weak,

it is clear that the state is not the only actor in security and justice.

These issues are at play in Sierra Leone, where customary actors have long been recognized as important in conflict resolution with roles formalized within the legal arena, in acts, statutes and laws. Thus, the line between what is formal and what is informal, or customary, is not so clear, as customary arrangements also have a degree of formalization and

function alongside the formal with clearly specified areas of responsibility. For example, paramount chiefs preside over local courts, and can also command chieftdom police for particular crimes over which they have clear jurisdiction, including carrying of arms and gambling, as well as the development of by-laws to address infraction in their communities. A third tier of actors comprises local leaders such as **Soweis** (heads of women secret societies), Mammy Queens (Female leaders), and religious leaders that can all be called on in the event of a crime.

Despite the existence of these customary arrangements, Sierra Leone has increasingly removed crimes such as gender-based violence (GBV) out of the jurisdiction of customary actors. The U.N. Inter-Agency Standing Committee (IASC) defined GBV in 2005 as, an “umbrella term for any harmful act that is perpetrated against a person’s will, and that is based on socially ascribed (gender) differences between males and females.” The following crimes were included as examples: **“(1) sexual violence, including sexual exploitation/abuse and forced prostitution, (2) domestic violence; (3) trafficking, (4) forced/early marriage, and (5) harmful traditional practices such as female genital mutilation, honor killings, widow inheritance, and others” (IASC 2005).**

Like many countries undergoing conflict, women suffered immensely from GBV during the civil war and post war saw concerted efforts to address this. Sierra Leone is signatory to UNSCR 1325 and 1820, domesticated through the Sierra Leone National Action Plan for 1325 and 1820 (SILNAP), of 2010. These resolutions recognize women’s vulnerability during war and advocate that women be included in any peace building negotiations, as well as post-war political arrangements. Largely through the collective work of local women’s rights groups and international pressure (Centre for Accountability and Rule of Law, 2007; Fofana Ibrahim 2015), parliamentarians also passed a series of bills in 2007 and 2012, collectively known as the Gender Justice Laws to address widespread discrimination and violence experienced by women and girls. The three laws, Registration of Customary Marriage and Divorce Act (2007), Domestic Violence Act (2007) and Devolution of Estate Act (2007) sought to address the rights of women in customary marriage;

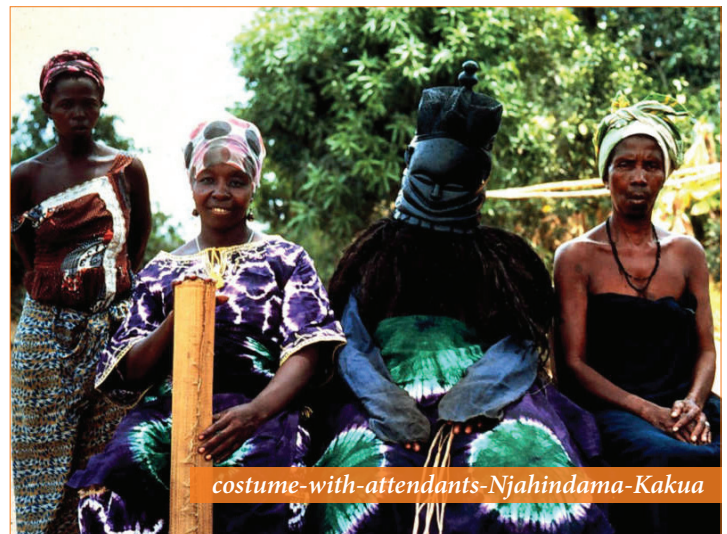


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raise the age of consent for marriage; made domestic violence a criminal offence; and addressed women’s property inheritance rights. The Sexual Violence Act (2012) sought to strengthen punishments meted out to perpetrators of sexual violence, and address issues relating to the prosecution of these offences, including lack of witness protection to victims as well as remedies and compensation.

Attempts to strengthen the law as well as move such crimes under formal jurisdiction illustrate concerns that traditional dispute mechanisms do not provide adequate recourse to justice for women (where justice is understood largely within a neoliberal human rights framework). Some point to the patriarchal structures that dominate in Sierra Leone and argue that a cultural and economic context wherein harmful and discriminatory practices remain widely accepted including female genital mutilation/cut, is not one that can properly address violence against women. Thus women are increasingly urged to report rape, assault, trafficking and crimes of a similar nature directly to the police and to charge these cases to court. On the other hand, others have argued that rather than giving in to the trend of formalization, it is important to try to see whether it is possible for some level of synthesis since, in many African contexts, informal systems and institutions are a relevant, if not primary source of authority for citizens.

A key question posed by this research is given the limitations of customary institutions in light of prevailing socio-cultural attitudes that undermine women’s equality, as well as poverty that contributes to their marginalization, is such synthesis really appropriate or desirable? Thus, while some have called for formal

systems to complement informal ones, and urge that both are taken into account during reform processes, understanding the nature of non-formal institutions, must precede this if we are to understand, if, when and how, they can actually help citizens access justice. Although informal sources of justice are important, on whose part do they administer justice? What kind of justice is dispensed? Do all citizens benefit equally? Is integration, or hybridity really desired? This research examined these questions through the prism of women's secret societies, particularly as pertains to women's access to justice for Gender Based Violence (GBV) crimes, as they are among the largest source of crimes affecting women in Sierra Leone today.

Why Secret Societies?

These institutions are women-headed and controlled, and wield considerable power in their communities. Research has indicated cases where men, including those in authority like chiefs, have acquiesced to the power of women in these societies. This led to the question of whether organizations that are primarily women based could provide better alternatives for women to access justice.

What did we do?

Data for this paper was collected from qualitative interviews and focus group discussions (FGDs). Semi-structured interviews were conducted with questions tailored to the different interview participants. Interviews were conducted with the following categories of people: participants affiliated with formal systems of justice, namely police and lawyers; civil society activists, including women's rights actors working on increasing women's access to justice; members of international and national NGOs, active in this sector; representatives of the Ministry of Social Welfare, Gender and Children's Affairs; as well as members of secret societies, including those in leadership roles like the Soweis. Two focus groups were also held with women and some men, including members and non-members of secret societies to understand their experiences with justice meted out by secret society members, one in Makeni in the North, and one in Kailahun in the East, to see how they experience both the formal and informal avenues

of security in their daily lives. The north of Sierra Leone is generally perceived to be most restrictive for women, and do not allow women chiefs, while the South and some parts of the East of the country do. The researcher also attended meetings on women's rights, justice and policing issues to get a better sense of the context in which justice for women operates. Research was conducted in short research trips over 2015-2016 in Sierra Leone, with semi-structured interviews conducted in Freetown, Bo and Kambia. Data for this paper was collected from qualitative interviews and focus group discussions (FGDs). Semi-structured interviews were conducted with questions tailored to the different interview participants. Interviews were conducted with the following categories of people: participants affiliated with formal systems of justice, namely police and lawyers; civil society activists, including women's rights actors working on increasing women's access to justice; members of international and national NGOs, active in this sector; representatives of the Ministry of Social Welfare, Gender and Children's Affairs; as well as members of secret societies, including those in leadership roles like the Soweis. Two focus groups were also held with women and some men, including members and non-members of secret societies to understand their experiences with justice meted out by secret society members, one in Makeni in the North, and one in Kailahun in the East, to see how they experience both the formal and informal avenues of security in their daily lives. The north of Sierra Leone is generally perceived to be most restrictive for women, and do not allow women chiefs, while the South and some parts of the East of the country do. The researcher also attended meetings on women's rights, justice and policing issues to get a better sense of the context in which justice for women operates. Research was conducted in short research trips over 2015-2016 in Sierra Leone, with semi-structured interviews conducted in Freetown, Bo and Kambia.

What did we learn?

Respondents indicated that in theory GBV crimes are under the jurisdiction of the police and customary arrangements, including Paramount Chiefs, elders, and trusted family friends are all encouraged to turn such cases over to them, to be eventually charged to court. However, at the formal level, despite attempts made to improve the sector, weak institutions for accessing



Heritage-trail

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justice at prevail and respondents noted a huge number of issues and drawbacks. In the security sector, for example, police are under-resourced and understaffed. According to Baker, in 2008 at least 70 percent of Sierra Leoneans did not have access to the formal justice system (Baker 2008), and instead, accessed justice through the network of community-based local courts that have functioned under paramount and local chiefs. Police also lack resources to follow up on crimes, including taking statements from victims and conducting investigative research. Women also faced problems in the justice sector. Similar to the Family Support Units (FSUs), there is a shortage of courts, particularly in the rural areas, and women have to travel long distances in many cases to access them. Because courts often have a backlog of cases, cases are frequently adjourned, posing a further deterrent, as women not only have to face transportation costs, but also repeated visits before their cases might finally be heard. The process itself was intimidating and forbidding for many women who were often illiterate: court sessions are conducted in English and the process of testifying in open court, often without a lawyer, on sensitive and painful topics all posed barriers.

The problems present in the formal sector means that victims are still often more likely to turn to the informal justice sector for redress of crimes. Here, respondents noted the availability of several avenues that victims could pursue. These included reporting the crime to a family friend or trusted community elder, or going to a section or paramount chief for adjudication, through the local courts. Types of adjudication differed from counseling, mediation, and attempts at reconciliation, to reprimand of the offending party, or a fine. However, because of cultural mores that are more accepting of crimes such as wife beating, or do not consider rape possible within the marriage bed, or accept and condone Female Genital Cut, respondents shared that counsel within these sources often encouraged women to reconcile with their husbands, discouraged women from reporting abuse within the household, or even encouraged girls to marry their rapists in the interests of reconciliation. Alternatively, poverty also meant that families would accept paltry fines that chiefs could also levy on perpetrators.

A Third Way?

While respondents reported problems with both customary and formal arrangements, they also detailed that NGOs are increasingly using community-based women's groups to help navigate the difficulties of the formal sector for justice resolution. These civil society actors were made up of members who received some compensation from supporting NGOs, or were members of groups that had been formed but were no longer receiving financial support. However, many communities were under-resourced, especially the most remote communities.

At the same time, interviews conducted with Soweis, general members of Secret Societies and CSO activists reveal a mixed picture regarding their participation in security and justice. While the literature paints a picture of a very active presence, interviews reveal a more nuanced story. Secret Societies were not the first point of reference when asked about the possible role that informal institutions could provide for women's access to justice; instead most people referenced civil society actors. Thus it would appear that while Secret Societies can play a role in enabling women to access justice, theirs is not a very big role, and in fact, is constrained in part by the State. Moreover, some have mentioned that the justice they mete out can also be questionable; for example, in cases between society members, justice was often skewed in favor of the more powerful/senior society member (Castilejo 2009). Others have noted that adjudications remain in line with a patriarchal context where women are marginalized. As Denney and Ibrahim write, drawing on Bledsoe (1984) and Fanthorpe (2007): "Secret societies teach initiates that a good wife obeys her husband and looks after his needs, putting her interests secondary" (2009: 4). In practice, this meant that battered wives might be counseled to return to their husbands, while the husbands would be admonished to not beat their wives. An additional concern raised was that they used tradition and culture to inform their decisions, and were not necessarily trained about available laws regarding some of the issues around which they adjudicated. Instead they used criteria such as the importance of safeguarding the honor of a family name or ensuring that peace was maintained over possibly seeking justice for aggrieved women.

Moreover, while Soweis have traditionally wielded enormous power in their communities, they are most associated with the practice of FGC, which is facing some contention in Sierra Leone, as a harmful practice, with some possible implications on the fear and reverence within which these women are regarded, at least in some quarters. On the other hand, in interviews with Secret Society members, they affirmed their standing as leaders and opinion shapers in their local communities, and their role in maintaining access to justice in their communities.

What are the policy implications?

For the majority of other respondents, there was some consensus, once prompted, that indeed secret society members could play a role in promoting justice for women. Both CSOs and Secret Society members mentioned that they do currently mediate but the issues they address tended to be smaller domestic disputes, especially those that were child related. These included pregnancy of underage girls, (where sex was consensual), disputes between mothers and children, encouraging girl school attendance, addressing peer pressure that for example, prevented children from attending school, or advocating for improved services such as improved access to water, which can help lower rates of teenage pregnancy in fetching water over long distances.

Although many respondents agreed that they could play a role in promoting justice for women, the consensus was that the role they played was ultimately problematic because their level of justice was one that prioritized keeping community peace, even to the detriment of the female aggrieved member. Prevalent cultural attitudes, which secret societies reinforce, suggest that despite their power, they could respond to crimes in ways that fail to challenge the behavior that contributes to violence against women or girls and not be likely to encourage punitive justice mechanisms against perpetrators. However, it is important to note that in interviews, many Soweis pointed out that while they were ready to assist women in securing punitive justice for serious crimes, including SGBV, their frustration

has been women's reluctance to pursue these issues following bribes, rather than their own reluctance. At the same time, they have been able to successfully intervene in minor domestic disputes, including helping to facilitate better relationships between parents and their children, and encouraging parents to send their children to school.

Given their presence across all communities in Sierra Leone, the respect which they largely still command, and the awareness that they concern themselves with women's issues, Soweis could be used as a resource to help women navigate formal avenues of justice. While they have been largely ignored in outreach efforts to sensitize women about their rights, with the focus on civil society actors created in some cases by international NGOs, Soweis could be involved in these outreach and sensitization efforts as well as be trained on how to assist women to access justice. Amid the calls from certain sectors, including international activists as well as human rights organizations operating within largely western frameworks to ban FGC, there are conversations underway in Sierra Leone about how to make these women more relevant outside of their cutting roles. Their widespread reach in rural communities in Sierra Leone would be a welcome way to increase the numbers of women with access to the service of mediators assisting them to navigate formal justice channels.

However, encouraging people to use formal channels of recourse when these channels are woefully inadequate in addressing these crimes also points to the need to strengthen the judiciary and the police to investigate and successfully prosecute these crimes so that women will be encouraged to report them. Also given the importance of the traditional sector in people's lives, as well as the weakness of the formal sector, it raises the question whether the state's attempts to move adjudication for these crimes into the formal sector is the most appropriate policy. For many people, customary arrangements can also deliver justice more swiftly than going through the formal court system. Despite attempts to marginalize them, the truth is, they have endured. This suggests that rather than ignore customary arrangements, focusing reform efforts on the formal sector, the state should explore how they can work alongside these institutions, encouraging them to assist in disseminating justice but targeting them for reform as well. This could include training and sensitization on women's rights, and engaging with male and female leaders on sources of women's socio-economic and political marginalization as well as ways to engender justice provided.

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