

**Safety Denied:  
Victim and Witness Protection  
In Sexual Violence Cases**

**A Joint Project of  
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## **Introduction**

### **I.**

During armed conflict or political instability, or in their aftermath, the pathway from sexual violence to a perpetrator's punishment is often strewn with barriers, leaving the victim subject to threats, emotional trauma, and physical ailments long after the initial crime. The country in which the conflict occurred may lack the full or appropriate legal and forensic tools to investigate and prosecute the crime. Social and cultural prejudices often implicate the victim in the cruelty done to her. Infrastructure—from courtrooms to prisons, from hospitals to safe houses—may be inadequate or even nonexistent, or it may compromise victim security and privacy. Law enforcement and other actors in the justice sector regularly lack requisite training, or there may simply be too few professionals to conduct investigations and try cases. Communities seeking to rebuild after violence rarely prioritize vindication of the rights of women, sexual violence's chief victims.<sup>1</sup> Political leaders often do not see sexual violence as a major crime, or worse, they may deploy such violence as a tool against their adversaries. As a consequence, governments in conflict often do not punish perpetrators of sexual violence, leaving victims at risk of further harm and fueling the rise of such criminality.

By contrast, an effective criminal process transforms the survivor from victim into protected participant, a witness, in the search for justice and accountability.<sup>2</sup> But a system suffering from legal, social, infrastructure, and political impediments discourages the victim from reporting the crime, speaking to investigators and testifying in court. Perversely, these barriers protect perpetrators and facilitate further violence (and the scourges associated with sexual violence, such as high HIV infection rates, persistent gender inequality, and claims for retribution). They make it nearly impossible to know the extent of the crimes and to have appropriate data with which to address them. Societies determined to confront sexual violence need to address this fundamental question: How can they create safe space for the victim to participate in the process of accountability? How can they tear down the barriers of prejudice, incapacity, and political aversion that stand in the way of victims coming forward? In short, what are the fundamental elements of witness protection in sexual violence cases?<sup>3</sup> These are the questions at the heart of this report.

Witness protection programs serve many purposes. They provide opportunities for victims to participate in a criminal process. They offer the hope of accountability. They give threatened witnesses a way to seek shelter far from the scene of their victimization. Witness protection also provides a space in which individual traumas may be treated, enabling a victim to move into a position with more control over her own life. Even beyond

the specific protection of witnesses in criminal trial, a protection program can beneficially address other social ills. Take, for instance, exposure to HIV. A number of high HIV burdened countries are the sites of armed or political conflict.<sup>4</sup> Even in countries with low HIV prevalence rates, sexual violence is a critical driver of HIV, as it renders its victims more susceptible to HIV than consensual sex. Unprotected sex carries a risk under any conditions, but the risk intensifies when sex is forced, as the resulting cuts and abrasions increase the likelihood of HIV transmission if the aggressor is HIV-positive. Girls are at exceptionally high risk of contracting HIV through rape because their genital tracts, not fully mature, are particularly vulnerable to abrasions that allow the virus to enter the body. For those victims who are HIV-positive, rape by an HIV+ perpetrator may cause re-infection, which further compromises their immune systems.

An effective witness protection program should ensure access to HIV testing and, in the event of a positive result, treatment, as well as services that would enable compliance with a treatment regime dependent upon regular food, consistent medication, rest, and access to medical professionals. Victims who know or suspect that the perpetrators of sexual violence have infected them with HIV bear a double stigma: that of sexual violence victim, and of person with HIV/AIDS. The stigma is so powerful that the women are often left to choose between justice and community. Most women end up remaining within their communities, but at a tremendous cost. As an activist working in a Kenyan NGO has said, “There are many reasons to remain silent.” Effective and comprehensive witness protection programs that provide access to justice as well as to crucial psychological and medical services help challenge the impunity that makes ongoing sexual violence—and, therefore, a further spread of HIV—inevitable.

## II.

This report is the culmination of research in which AIDS-Free World commissioned the International Justice Clinic of the University of California, Los Angeles (UCLA) Law School to explore the challenges of witness protection in sexual violence cases in the context of armed and political conflict. AIDS-Free World asked UCLA law students to map existing victim/witness protection practices in order to identify challenges, strengths, and essential constituent parts of effective witness protection for sexual violence victims. AIDS-Free World intended (and intends) to utilize this research to inform its ongoing project on legal accountability for sexual violence, and to enable it ultimately to advocate for strengthened victim/witness protection.

Working with UCLA Law School Professor David Kaye, UCLA law students first researched and identified several “case studies,” including victim/witness programs in Colombia, Liberia, and Sierra Leone, all of which were countries selected for their history and ongoing problems with crimes of sexual violence, both international and domestic, as well as concerns about the spread of HIV. Additionally, students examined the witness protection programs at the International Criminal Court (ICC), the International Criminal Tribunal for the former Yugoslavia (ICTY), the Special Court for Lebanon (SCL), and the Special Court for Sierra Leone (SCSL) on the premise that these programs, given their experience and

resources, might offer useful insights. Carey James, Jacob Mutert, and Jaimie Thomas researched the programs in the international tribunals in The Hague; Priyan Chandraratna, Farnoosh Hashemian, and Nicolle Kownacki examined programs in Colombia; Leila Moshref and Mary Tanagho looked at victim/witness protection in Liberia; Aleta Sprague and Taylor Vernon conducted research on Sierra Leone initiatives; and Keiara Auzenne and Vanessa Baehr-Jones Vanessa undertook general research. The researchers conducted dozens of interviews with court officials, prosecutors, witness protection officers, lawyers, activists, and other civil society representatives in Bogota, Monrovia, Freetown, and The Hague, as well as undertook extensive research examining court documents and decisions, NGO reports, and other relevant materials.

This report first examines how witness protection operates at the international level, primarily at the International Criminal Court in The Hague. Second, it presents three case studies in order to detail the kinds of challenges witness protection faces in post-conflict and ongoing conflict situations. Colombia, Sierra Leone and Liberia present vastly different experiences from international practice. For instance, witness protection at the ICC generally occurs in the context of efforts to hold senior officials responsible for the crimes of their subordinates, which is often very different from accountability for specific, lower-ranking perpetrators at the national level. Further, witness protection at the international level involves resources and funding that exceed the capabilities of many national programs. Still, the kinds of protections that must be offered to victim/witnesses are similar across the case studies—physical protection from further harm and retribution, psycho-social and medical support for those who participate in the criminal process, education of the wider community to tear down common prejudices that lead to further harm and impunity. This report aims to highlight the challenges in establishing effective witness protection programs while identifying questions for ongoing consideration and research.

This report suggests that governments must establish effective witness protection programs if they are genuinely committed ending impunity for sexual violence. In particular, the following elements require further investigation:

- **Law:** Deficits in legislation vary from country to country, when it comes to the law necessary to protect witnesses. In some situations—such as observed in Sierra Leone and Liberia—national laws clash with traditional law, in which case accountability may be secondary to reconciliation in the community or between families of perpetrator and victim. Others lack the law necessary to investigate and prosecute crimes of sexual violence. In still other situations, such as observed in Colombia, the law provides for investigation and prosecution, but isn't actually utilized to prosecute sexual crimes when other crimes, especially murder, are taken more seriously. The lack of prosecution of sexual violence undermines witness and victim security, leaving perpetrators free to continue to commit more crimes.
- **Infrastructure:** Basic elements of legal infrastructure are missing in Sierra Leone and Liberia. Courts often leave witnesses minimally protected, their identities

subject to disclosure. The prisons are ineffective at holding perpetrators, who may easily escape. Few safe houses exist to provide havens for those who wish to testify against their perpetrators. Too few trained judges, prosecutors, and private lawyers exist to try cases of sexual violence in a timely fashion. Any viable infrastructure is often distant from villages where such violence occurs. Few medical professionals and psychologists exist to provide essential services.

- **Psychosocial and medical support:** One of the areas in which international tribunals excel is the kind of support provided by trained psychologists with specializations in vulnerable populations. Protection involves not only physical protection but also treatment for the kinds of recurrent emotional and physical harms that often come from the trauma of sexual violence. This level of psychosocial and medical support is typically unavailable in Sierra Leone, Liberia, and Colombia.
- **Education and outreach:** Research thus far indicates that victim/witness protection depends not only on the mechanical aspects of courts and other facilities, but also on the existence of communities that support accountability for sexual violence. Widespread prejudice against victims of sexual violence leads to stigma and physical harm. Programs to support witnesses, even if they function effectively, will operate in a vacuum if the entire community is not engaged promote a broader understanding of why accountability for sexual violence is critical to ending it.

## **1. The International Criminal Tribunals in The Hague**

### **I. Introduction**

The International Criminal Court (ICC), the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) each have investigated and prosecuted sexual violence as war crimes, crimes against humanity or acts of genocide. These tribunals have greater resources than many national judicial systems and benefit from an extensive network of professionals inside the courts and beyond. Their three branches – Office of the Prosecutor (OTP), Judicial Chambers, and Registry – work together (with varying degrees of success in coordination) to provide a comprehensive set of protective mechanisms for at-risk victims and witnesses.

While this section focuses on the ICC, victim/witness protection in all international courts shares common advantages and challenges. Because these tribunals operate outside the country where the sexual violence occurred,<sup>5</sup> they are able to develop protective practices that, if undertaken in-country, might conflict with local cultures and traditions. Despite this and other differences, their victim/witness protection programs are sufficiently well-developed to serve as a source of guidance for national jurisdictions. More than a decade has elapsed since the ad hoc tribunals for the former Yugoslavia and Rwanda created victim/witness mechanisms for survivors of sexual violence, and the lessons learned have been applied to strengthen the programs at the ICC and other international or hybrid courts. National courts seeking to prosecute sexual violence, either as domestic or international crimes, can benefit from this extensive experience by taking some best practices—and avoiding the weakest—from these international programs.

### **II. Elements of Protection at the ICC**

#### **A. The Investigative Phase**

Within the ICC, several institutional actors work together to support victims and witnesses. Once the OTP has identified witnesses, it may request cooperation from the Registry's Victims and Witnesses Unit (VWU), which performs general risk assessments, tailored protective measures, counseling and other services as appropriate.<sup>6</sup> Within the Office of the Prosecutor, its Gender and Children Unit (GCU), comprised of staff members with expertise on investigating and handling cases involving sexual and gender violence, seeks to provide potential witnesses with "a human touch," integrating psychosocial support into investigations and interviews.<sup>7</sup> The VWU also serves to sensitize all organs of the Court to witness protection concerns, and therefore takes a leadership role on overall victim/witness protection policies and protocols. The VWU is authorized to provide the full range of services to all witnesses, including for the defense.

## ***Identifying Potential Witnesses***

Even before ICC staff contacts a witness, the Office of the Prosecutor sends “flying teams” to a situation area to assess the security environment for its investigators and potential witnesses. At this early stage, the OTP may request cooperation from the Victims and Witnesses Unit, which can send agents to the area to perform general risk assessments. To maximize protection for witnesses, the VWU seeks involvement at the earliest stages.<sup>8</sup> If the OTP deems the situation sufficiently safe, they will send investigators to the area who quietly attempt to identify potential witnesses so as to minimize the risk of victim exposure and harm. They may choose to use local intermediaries, medical clinics and local NGOs to identify witnesses.

## ***The Interview Process***

The Office of the Prosecutor is required to consider the best interest of the witness.<sup>9</sup> Investigators must not only assess the strength of the potential testimony, but also the physical and mental health of potential witnesses.<sup>10</sup> Prior to the interview, an investigator will develop a plan for safely and discreetly getting an interviewee to a meeting location, which might include a “back-story” for the witness to tell her community to explain her absence.<sup>11</sup>

The ICC has defined protection to include a witness’ mental, emotional and physical capacity to withstand the interview process. Consequently, psychologists conduct a short assessment to explore health issues, including any symptoms of post-traumatic stress. They examine witnesses’ fears, expectations, and interview preferences (e.g., gender of interviewer). The psychologist will determine if the interview may continue or, based on the assessment, should be terminated. A psychologist is required to end an interview at any time if the witness asks to stop, if the interview process is causing harm to the witness, or if the interview should be conducted at another time.

After the preliminary psychological assessment, the initial interview typically involves two investigators (one of whom takes notes), an interpreter, a psychologist and, if the witness chooses, a friend or family member. The investigators are trained to work with vulnerable witnesses, and the Gender and Children Unit is available to provide additional support if requested. The psychologist—who is either part of the Gender and Children Unit or the Victims and Witnesses Unit—monitors the interview to prevent re-traumatization. The investigators may provide basic amenities to enable the interview to occur, such as diapers, children’s toys, and nursing breaks for mothers.<sup>12</sup> However, because the investigators must take care not to offer any inducement that “rewards” the witness to speak, these amenities must be minimal.

The interview begins with the investigators introducing themselves, the Court, and the reason for the meeting. They explain the equipment being used and issues associated with security and the possibility of testifying. The investigators might also provide information about the types of protection measures that could be available, though they must be careful

not to promise any particular form of protection (especially relocation). Investigators strongly advise witnesses not to discuss their interaction with the Court with others outside the process, including close family members.<sup>13</sup> The interview will be halted if, after this discussion, an investigator feels the risks of renewed trauma are too high. However, if the witness would like to move forward with the interview, she will sign a consent form and the interview will begin.

The ICC's early attention to victims' emotional well-being was borne out of the experiences of the ad hoc tribunals, which were slow to utilize experts to assess and protect the psychological status of their witnesses. The ICTY and ICTR initially employed only investigators and interpreters to conduct interviews, and they often lacked specialized training in working with victims of sexual violence.<sup>14</sup> The ICTY reevaluated its procedures and began including trained psychological experts in the interviews and increasing the number of psychologists during interviews.

### ***After the Interview***

As witnesses often have legitimate concerns about reprisals (against themselves or family), the ICC developed a number of procedures enabling them to stay in touch and seek assistance if necessary. Investigators provide witnesses with mobile phones and a number to call in case of emergency, which appears as a local number but connects the witness to investigators.<sup>15</sup> Where available, the VWU will establish an Initial Response System (IRS), by which local authorities may provide emergency assistance in cases where the VWU is not able to act quickly enough, and where local authorities are deemed trustworthy. In the ad-hoc tribunals and the Special Court for Sierra Leone, the victim and witness sections establish and operate local field offices in the affected area.

The Court must act to help a witness threatened as a consequence of interaction with the Court. Because witnesses are often from marginalized groups, the distinctions between Court-related and other threats may be difficult to make, and the Court has some discretion to make these determinations.<sup>16</sup> Even if the threat is not court-related, investigators and the VWU will provide assistance if deemed necessary to preserve an important witness' availability to testify. However, OTP and VWU staff must be careful not to take action—even protective action—that appears to go beyond what is strictly necessary, as it may be perceived as an inappropriate inducement to provide evidence forbidden by ICC rules.

## **B. The Trial**

### ***Vulnerability/ Protection Assessment***

The Office of the Prosecutor and the Victims and Witnesses Unit ensure a witness's safety until she travels to The Hague to testify at trial. At that point the VWU has complete responsibility over a witness' protection until she returns home.<sup>17</sup> The "calling party," defense or prosecution, will submit a Witness Information Form highlighting any needs and vulnerabilities. The Gender and Children Unit may also submit information about the

witness gathered at the pre-interview psychological assessment.<sup>18</sup> The VWU will utilize this information, but is also obligated to make its own assessment about the witness' needs to maintain a neutral position within the Court. The VWU will assign each witness a grade corresponding to the level of protection required, ranging from no additional protection to relocation within the International Criminal Court's Protection Program.<sup>19</sup>

The Victims and Witnesses Unit handles (and pays for) all travel and accommodation arrangements for a witness's trip to the tribunal. This might include helping a witness acquire a passport, providing appropriate clothing, and conducting a medical exam to insure it is safe for the witness to travel. In some cases, a witness may choose bring a support person to alleviate the potential trauma of testifying. In those cases, the VWU will provide for the support person as well. A VWU agent will also accompany witnesses during their journey. Once a witness arrives at the tribunal, she is escorted to her accommodations and receives a briefing on what to expect.<sup>20</sup> Each witness receives a daily allowance and access to support services, including mental and emotional support.<sup>21</sup> During the waiting period prior to testifying, the VWU may plan activities or outings to prevent frustration and boredom.<sup>22</sup> The VWU familiarizes witnesses with the Court.<sup>23</sup>

### ***Actions by Chambers***

In order to protect witnesses during testimony, the judges is permitted to close proceedings to the public, permit witnesses to testify *in camera*, presenting evidence electronically, or allow a psychologist or family member to be present during testimony. At the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone, either party is allowed to request protective trial measures by motion, but the opposing party is given the opportunity to challenge the motion. The Court makes the ultimate decisions on protection; these decisions may be appealed, but the standard is so demanding on the challenging party that reversals are rare.<sup>24</sup>

### **C. After the Testimony**

#### ***Cooling Off Period***

The ICC's responsibility to ensure the ongoing safety of the witness does not end once she provides testimony. The Victims and Witnesses Unit delays returning the witness home immediately to determine if the return is safe. The VWU performs a risk assessment in the field to measure reactions to the witness' testimony in the community. The VWU also determines the witness' support needs upon her return home, such as medical care or counseling. The witness remains in a safe holding area while the VWU completes its assessment. Ideally, the VWU seeks to return the witness home within ten days after testimony, but in reality, she will only return once the situation is deemed sufficiently safe.<sup>25</sup>

The VWU will seek to mitigate any threats that emerge during the post-testimony risk assessment. Once a witness returns home, she is encouraged to live as she did before her

interaction with the Court. However, if a threat develops after she returns home, the party that called the witness will immediately notify the VWU.<sup>26</sup> The VWU takes the view that limited interaction with a witness is necessary to avoid suspicion, but this policy has been criticized for leaving witnesses feeling vulnerable.<sup>27</sup> The Office of the Prosecutor has begun to try to improve post-testimony monitoring and communications.<sup>28</sup>

### ***Protection Program***

If the Victims and Witnesses Unit is unable to mitigate the threats to a witness, the witness might enter a protection program involving relocation. Relocation is very difficult for witnesses and their families and is used only as a last resort.<sup>29</sup> The ICC and the other tribunals work with partner nations, upon formal agreement, to relocate witnesses and their families. The Victims and Witnesses Unit provides relocated witnesses with a stipend under the condition that they will attempt to secure their own financial independence as soon as they are able.<sup>30</sup> Although difficult to monitor in the relocation state, the VWU ensures the witness psychosocial support, crisis intervention, and access to medical care.<sup>31</sup> Relocated witnesses are monitored closely immediately after they testify and then, each year, the VWU performs a risk assessment to determine if these security measures are still needed.<sup>32</sup>

### **III. Questions for Further Consideration**

Providing testimony against perpetrators of violent crimes is an inherently risky proposition, and despite their many safeguards and mechanisms, international tribunals are unable to eliminate every danger to witnesses. By repeatedly discussing the incident, confronting the defendant at the tribunal during testimony, or being challenged through intense cross-examination, a victim may experience re-traumatization. She might be made more vulnerable at home because the tribunal and its protective units are too far away to help in emergency situations. The strange cultural, social, and geographical context in which the victim/witness is forced to testify may enhance her sense of isolation.

Conversely, international tribunals can access resources—human, financial, and material—that may be unavailable to domestic institutions. By taking the witness out of her community, international tribunals minimize—at least temporarily—the stigma of victimhood and its associated challenges. The ICC in particular has derived the benefit of other tribunals' experiences to create a comprehensive victim/witness protection program that considers multiple aspects of the witness' well-being, from the pre-investigation phase through post-testimony. Domestic prosecutors may find some of the ICC's best practices to be useful in developing local protection programs that address the security, psychological, medical and other needs of the whole victim.

The ICC experience raises questions to be considered in thinking about programs at the national level:

- How can local resources be developed and integrated into protection? The ICC has developed contacts with local NGOs and other institutions such as hospitals and occasionally private individuals to help identify potential witnesses, arrange the initial contact between the ICC and the witness and to assist the ICC in providing local emergency protection services. Those connections extend the ICC's capabilities and may be helpful for domestic programs with more limited budgets.
- Second, how might domestic programs thinking about utilizing in-country expertise? The ICC has sought to develop an extended network of experts and specialists. Some types of experts, such as country specialists, will not be necessary in domestic contexts. Others, however, such as psychologists and experts trained to handle sexual violence victims, may have applicability at all levels. In-house experts minimize the costs and delays in having to utilize outsiders and can help generate greater understanding amongst the whole program as these experts can share their knowledge with others on staff.
- Finally, what are the lessons to be learned from the ICC's holistic approach to witness protection that includes not only physical protection but also safeguarding the emotional and psychological health of the witnesses? Each witness is psychologically evaluated at the start of the process and then closely monitored. In addition, further services are available to meet the personal needs of each witness including childcare and allowances for food. Are there aspects of this comprehensive model that may be helpful at the national level?

## **2. Colombia**

### **I. Introduction**

For decades, Colombia has been embroiled in a violent conflict involving multiple armed groups.<sup>33</sup> Many domestic civil society groups and international organizations have documented instances of sexual abuse.<sup>34</sup> Colombia has recently begun to address accountability for international crimes committed during the conflict.<sup>35</sup> As part of that process, it has developed protection programs focused on the physical security of witnesses.<sup>36</sup> The programs in Colombia are based on a solid foundation of law, a part of Colombia's rich legal culture and rights-oriented discourse. Colombia's civil society organizations, moreover, are free to participate in the formulation and improvement of the protection programs. Indeed, the protection programs' underlying legal rules often resulted from civil society advocacy.

Colombia's infrastructure—its courts, prisons and other elements—offers strong opportunities for protection to be further developed. The government has also benefited from the support of foreign donors, especially the U.S. Government. The programs themselves are sophisticated. Individuals who qualify for protection under these programs often receive adequate physical protection that lasts for the duration of their risk. To help more victims gain access to these programs, several victim advocacy programs have been developed which will be described in detail below.

Notably, women, especially victims of sexual violence, face particular difficulty accessing such programs. Once they do obtain access, the programs, which concentrate primarily on physical security, seem not to address all of their varied needs. The government—with the prodding of civil society and the Colombian Constitutional Court—has sought to implement Colombia's expansive body of jurisprudence on witness protection and sexual violence accountability laws. Yet legal, cultural, and structural problems have hampered this process, limiting the reach of witness protection.

### **II. Mechanisms for victim/witness protection**

Colombian law has established a victim's right to protection.<sup>37</sup> To attempt to uphold this right, the government employs various sophisticated programs aimed at protecting human rights defenders, witnesses in criminal proceedings and those who participate in transitional justice proceedings under Colombia's special Justice and Peace Law.<sup>38</sup> Sexual violence victims may qualify to receive protection under one of two different protection programs run under the Office of the Attorney General (Fiscalia) or at the Ministry of Interior prior to entering the judicial process. They might also benefit from community-based protection and early alert mechanisms, depending upon their specific situations.<sup>39</sup> To help victims navigate these protection programs, several different victims' assistance and advocacy mechanisms have developed.

## **A. Programs**

While Colombia provides a variety of protection programs—including one for the protection of human rights defenders<sup>40</sup> and another general one managed by the public prosecutor<sup>41</sup>—the main conflict-oriented program is the Justice and Peace Law Witness Protection Program, created in 2007 within the Fiscalía. Its purpose is to provide protection to victims who participate in the criminal as well as truth and reparations processes under Law 975, the Justice and Peace Law. Following Constitutional Court orders, the program must comply with international protection standards, incorporate a gender perspective into the structure, design, and implementation of its safeguards, and provide a “life free of violence against women.”<sup>42</sup> This program advances women’s protection, in theory, but in reality, these laws are being implemented in a limited fashion.<sup>43</sup> Thus, the absence of adequate safety and protection for women remains a major obstacle for victims of gender-based violence seeking justice for their abuses.<sup>44</sup>

A Technical Risk Assessment Group (TRAG), an interdepartmental group comprised of members of the Fiscalía, National Police, and Ombudsman’s Office, assesses the seriousness of a victim’s risk.<sup>45</sup> In collaboration with other government institutions, the TRAG seeks to provide for the protected person’s education, health, or emotional well-being, as necessary, and preserve her personal and family welfare. Moreover, TRAG may recommend additional measures such as psychological assistance and legal counseling to the beneficiary and her family in their pursuit of access to justice.<sup>46</sup> The TRAG reassesses the risk situation of beneficiaries every six months and, depending on the findings, the protection may be modified, renewed or terminated. Where risk exists, TRAG informs the police department commander to adopt preventative and protective measures.<sup>47</sup>

## **B. Safeguards and Procedures**

### ***General protection***

Each of the institutions charged with implementation of the Justice and Peace Law (the Fiscalía, the Ombudsman, and the National Commission for Reparations and Reconciliation (NCR)) follows a similar procedure: an authoritative body assesses the seriousness of risk posed to the beneficiary and assigns the protection procedure for a specific period of time. The protections cover a full range of safeguards including providing physical protection through granting cell phones and a bullet proof vest, police patrols, and, in extreme cases, temporary or permanent relocation. The protection also covers families and may include psychological support, medical care, counseling services as well as financial assistance. The protection measures are usually available until the threat terminates, as long as the victim voluntarily participates in the process, follows the safeguards, and refrains from committing a wrongful act that seriously affects the protection procedure.<sup>48</sup>

## ***Victim Assistance***

Colombia has several programs to help victims access protection from the state, track the progress of related legal proceedings, and obtain psychosocial services and judicial counseling. One program is the new but small division within the government's Ombudsman Office to assist those who come forward under the Justice and Peace Law to access reparations, land restitution, psychosocial services, and potential physical protection.<sup>49</sup> Since 2009, the two government lawyers in this office have helped over 50 victims.<sup>50</sup>

Crime Victims Assistance Centers (CAVs), operated by the Fiscalía with the support of the United States Government,<sup>51</sup> provide assistance to victims and their families by serving as a liaison between victim/witnesses and prosecutors.<sup>52</sup> Each CAV includes a social worker, a psychologist, and a prosecutor in addition to several law students and other volunteers.<sup>53</sup> Victims come to the CAVs usually as family members of those who have been killed, but at any given time, up to 20% of beneficiaries are victims of sexual violence.<sup>54</sup> In addition to guiding the victims through the legal system and making referrals to psychosocial services, CAVs use technology to inform victims about the progress of their perpetrator's trial.<sup>55</sup> These novel programs, with US support, have been able to assist several hundred victims.<sup>56</sup>

The two victim assistance programs, while providing some of the exact services that victims of sexual violence might need, do not have the resources to help all of Colombia's thousands of victims navigate the many legal proceedings and protection services. As a result, civil society organizations must also play a significant role in identifying victims, particularly victims of gender-based violence who face obstacles accessing the justice system.<sup>57</sup>

## ***Victim Counseling***

The government makes limited psychological services available to the victims in protection programs.<sup>58</sup> To address the individualized psychosocial needs of the victim, the Ombudsman organizes workshops which provide victims with information about the services available and helps orient them in the legal process while paying special attention to any psychological or emotional difficulties.<sup>59</sup> These workshops have a maximum of fifty people and concentrate on methods to deal with victimization of oneself or one's family.

Under the Justice and Peace Law, the National Commission for Reparations and Reconciliation is charged with defending victims' interests.<sup>60</sup> The NCCR has established the National Victim Assistance Network, which coordinates efforts by the Ombudsman Office, NGOs, and universities to provide legal and psycho-social assistance for victims of paramilitary violence and help them receive protection. So far, out of more than 200,000 registered victims under the Justice and Peace Law, 21,000 victims have received some form of basic psychosocial assistance and direct legal aid including accompanying the victim to court, filling out paperwork, and explaining legal proceedings as well as victims' rights.<sup>61</sup>

### **III. Ongoing challenges**

Despite Colombia's extensive protection programs, as well as numerous laws targeting sexual violence,<sup>62</sup> women face difficulty accessing the protection programs. Witness protection programs in Colombia are not specifically tailored to victims of sexual violence and are not specifically designed to deal with the vast number of victims.

#### ***Failure to acknowledge sexual violence as widespread and systematic***

The Inter-American Commission on Human Rights, the UN Office of High Commissioner for Human Rights, the UN Special Rapporteur on Violence Against Women, and Colombia's Constitutional Court have recognized that conflict-related sexual violence in Colombia is widespread and systematic.<sup>63</sup> However, the Fiscalía treats conflict-related sexual violence as isolated, investigating it as case-by-case instances of violence rather than widespread problems stemming from senior-level neglect or plan.<sup>64</sup> Moreover, the government has not compiled reliable data on sexual violence, with underreporting of sexual violence a significant likelihood.<sup>65</sup> Women's distrust of the system, their fear of possible stigmatization, and an overall social acceptance of impunity for violence against women has led women, in some cases, to report violence against their male relatives but remain silent about their own experiences of sexual violence.<sup>66</sup> During investigations of crimes, law enforcement officers do not automatically ask women about such incidences of violence against themselves.<sup>67</sup>

The ongoing conflict has exacerbated the problem. The FARC guerrillas remain active in the jungle area, new underground groups of paramilitaries are reformulating in the rural areas, and the killings and kidnappings still occur.<sup>68</sup> As Colombia struggles to deal with the security situation, addressing sexual violence has not been among the top priorities. During the demobilization and Justice and Peace process, some paramilitaries have been willing to confess participation in mass killings, but have been unwilling to acknowledge that they also raped women.<sup>69</sup> Continued paramilitary connections to government officials, combined with these explicit denials, have led to a transitional justice mechanism that fails to address expressly sexual violence.

#### ***Insufficient Prosecutorial Support for Victims***

As the country transitions to a new accusatory system from its previous inquisitorial system,<sup>70</sup> prosecutors are not accustomed to working with victims under the new system. Colombia's prior legal system stressed a need for prosecutorial neutrality or even skepticism when dealing with a victim.<sup>71</sup> Many prosecutors lack sufficient training to interact with vulnerable victims.<sup>72</sup> This lack of training is especially important for prosecutors interacting with victims of sexual violence who may require advocacy of unique types of victim-assistance.

### ***Excessive complexity***

Protection programs addressing crimes of sexual violence are quite complicated and confusing to access. Not all victims will be eligible for protection. A victim of sexual violence whose case is being prosecuted might qualify for protection under the Fiscalía's protection program. Alternatively, if the perpetrator was a paramilitary and the victim wants to participate in the Justice and Peace process, the victim may qualify under Fiscalía's Justice and Peace Unit protection program. However, the amount of coordination between the Justice and Peace process and the Fiscalía for sexual violence cases appears minimal, leaving victims to navigate the system by themselves.<sup>73</sup> Obtaining protection under this complex system is difficult for a victim without the assistance of an advocate or lawyer, or without the Ombudsman office taking on her case.

### ***Inadequate Protection Mechanisms***

Though the programs are sophisticated, the programs seem to be inadequate to address the needs of the most vulnerable victim/witnesses. The protection programs conduct a risk assessment of the victim/witness, document a comprehensive record of the situation the victim faces, and assign her to a risk category. Law enforcement personnel are not properly trained to deal with victims of sexual violence,<sup>74</sup> which leads in some cases to risk assessments that are insensitive to sexual violence victims. Inadequate protection may include placing victims in safe houses where victim/witness liberty is extremely limited or even where their perpetrator (or other perpetrators) are also being protected as witnesses in separate cases; stationing security guards or armored cars outside the homes of victims, thereby attracting attention; and providing only low-risk but ultimately inadequate protection, such as cell phones.

That said, once victims already qualified for the protection program have been identified as requiring some sort of psycho-social and medical services, Colombia's system makes those services available to them for as long as the need for protection persists.<sup>75</sup> Victims requiring psycho-social services but not protection due to risk from participation in a criminal case will not qualify for these services, leaving the impression that the victims' needs are unmet. Though their needs are unmet, it is by the state generally, and not because of the protection program.

### ***Lack of focus on risk elimination and prevention***

Colombia does not presently dedicate protection resources to investigating the sources of threats or eliminating the risk in protection cases.<sup>76</sup> The lack of coordination between the criminal investigators and the witness protection programs has led to widespread impunity for those creating the risk for victim/witnesses. Because of this disorganization, protection needs can continue indefinitely, and victims continue to feel unsafe or as if their protection needs are unmet.

### ***Insufficient resources and training***

One overarching structural challenge to effective implementation of witness protection is the lack of funding available to train sufficiently all the relevant government personnel, as well as to expand gender-sensitive protection services to all victims of gender-based violence who are at risk. High turnover, for example at the Fiscalía, has meant that any training provided to staff has a limited institutional impact.<sup>77</sup>

### **IV. Questions for Further Consideration**

Colombia's witness protection programs have many assets. The programs are legally sophisticated. Though focused largely on providing physical protection, once a victim qualifies for protection, her chances of physical safety are greatly improved. Additionally, once victims enter a protection program, they are entitled to receive a broad range of psychological, social, and medical services for as long as the protection persists.

Despite these strengths, the process seems overwhelming to victims because multiple, overlapping programs exist with no clear, single entry point. Questions about the coordination between these different entities lead to concerns that many victims are unprotected. Victim advocacy efforts such as Crime Victims Assistance Centers, which provide multidisciplinary teams of social workers, psychologists, prosecutors, law students and other volunteers, to liaise between victims and prosecutors, seem to provide helpful assistance to enable victims to navigate these systems. The examination of victim/witness protection in Colombia to date suggests that clearer systems, combined with more prosecutor training on the particular needs of victims of sexual violence, would enable more women to come forward and give testimony in safety.

Like every legal system, the Colombian justice system for addressing sexual violence reflects the prejudices and stereotypes existing in the broader society. So long as stigmatization and impunity for sexual violence is acceptable, protection efforts will be of limited utility. It will be important to consider how to challenge existing perceptions that victims' reports of sexual violence are not always true and in good faith, as well as a pervasive sense that victims of sexual violence are valuable repositories of evidence rather than individuals with legitimate needs.

### **3. Liberia**

#### **I. Introduction**

Liberia faces significant challenges as it rebuilds from war and moves towards accountability.<sup>78</sup> The legacy of sexual violence from armed conflict is stark. The United Nations Development Programme (UNDP) conducted a study covering 1989 to 2003 that estimated that up to 70% of girls and women faced sexual violence during the conflict.<sup>79</sup> The former government's failure to address this mass violence reinforced local beliefs that sexual violence is not a serious crime.<sup>80</sup> However, President Ellen Johnson-Sirleaf's "war on sexual violence," a new national rape law, a court dedicated to rape cases, and a new Sex Crimes Unit suggest that Liberia is now serious about holding perpetrators of sexual violence accountable. Still, Liberia lacks a comprehensive government-operated witness protection program, resulting in reliance on a limited number of NGOs and incomplete protections for victims.

#### **II. Victim/Witness Protection Programs**

##### ***Women and Children Protection Section of the Liberian National Police (LNP)***

In 2005, the Women and Children Protection Unit opened in the LNP Headquarters in Monrovia, Liberia. This was the first national law enforcement facility providing protection to women and children. Officers in these units are trained to handle gender-based violence cases.<sup>81</sup> Once at the Unit, a female officer is supposed to be available to speak with the victim and assist her by referring her to counseling, or by reporting the crime to the Sexual Gender Based Violence Crimes Unit. From there, officers return to the scene of the crime to investigate and gather evidence. At this time, the Unit coordinates with non-profit organizations in the area so the victim can receive psycho-social counseling from NGOs such as Duport Road's Sexual and Gender-based Violence (SGBV) clinic, the International Rescue Committee (IRC) and THINK, Monrovia's primary safe home.

##### ***SGBV Crimes Unit, Ministry of Justice***

In February 2009, the Ministry of Justice opened the SGBV Sex Crimes Unit. The Sex Crimes Unit works with NGOs such as the IRC and THINK to provide protection and support for victims. While the Unit does not itself have a safe home, it connects victims with THINK, and with IRC-run safe homes outside of Monrovia. The Unit also works with NGOs to transport victims to court. Relocation of witnesses is costly and there is currently no budget for witness protection costs. However, the Unit continues to work with NGOs in order to provide some victim support before, during and after trial.

### ***The Rape Court, Court E***

Court E in Monrovia is dedicated to hearing rape and sexual violence cases, a specialized court aimed at protecting victims and prosecuting perpetrators. The Court began functioning in 2009 as a joint program of the Ministry of Justice, the Carter Center at Emory University, and the UN Peace Building Fund for Liberia. It attempts to protect victims from social stigma and other harm during the legal process. Victims testify in camera so they do not have to face their perpetrator.<sup>82</sup> Section 25.3 of the Sexual Offenses Division Act mandates that rape cases be held in camera. The victim sits in a witness room with one television where she sees everyone in the courtroom, and the audience in the courtroom can see no more than the victim's back.<sup>83</sup> The judge controls access to the courtroom, which is not open to the public. The Court also coordinates with the Sex Crimes Unit to protect victim/witnesses during trial. While the rape court exists only in Monrovia, the United Nations Population Fund (UNFPA) supports the government on SGBV issues and trained half of Liberia's 400 magistrates in witness protection, confidentiality and other areas vital to making a rape trial work.

### ***Rape Amendment Act***

With the help of the Association of Female Lawyers in Liberia (AFELL), the Liberian Government enacted legislation in January 2006 amending the Penal Code (the Rape Law). The amended law expanded the definition of rape to include penetration by any foreign object. It also raised the age of a child to 18 to be consistent with the Convention on the Rights of the Child. Thus, if a victim is under 18, she is deemed *not* to have given consent. The law makes rape punishable by ten years or lifetime imprisonment depending on the degree of the rape. The Act also requires in camera hearings for all rape cases.

### ***Safe Homes***

Currently, only two safe homes in Monrovia provide resources to victim/witnesses and victims in general. The Center for Liberian Assistance in Montserrado County has 18 beds and caters to girls and women aged 10-25. The Center provides a wide range of services to its residents, including sexual and reproductive health classes, basic birth control and skills training. The Center also employs two social workers, in direct response to the severe lack of psychosocial services in the country.<sup>84</sup> At this time, the Center receives no government funding, and private funding is lacking. As such, the Center is unable to provide services to more than a handful of victims at any one time. The other safe home, also in Montserrado County, is operated by THINK, a local NGO founded in 2003. The NGO operates an empowerment center/clinic, a juvenile transit center (to reunify victims of trafficking with their families), and a separate safe home for girls and women.<sup>85</sup> The location of the safe home is separate from the other two centers and is known only by NGO staff and the residents who live there. THINK has served over 1,000 women and girls through the safe home process, and over 800 girls through the juvenile transit center.<sup>86</sup> The NGO also takes a hands-on approach to the court cases of its residents, by transporting the victims to and from trial, as well as sending registered nurses to testify on behalf of the victims at trial.

These safe homes provide witness protection to victim/witnesses before, during and after trial.

### ***Campaigns to Increase Civic Education and Public Awareness***

Several NGOs, including Action for Community and Human Development (ACOHD), Women's NGO Secretariat of Liberia (WONGOSOL), the International Center for Transitional Justice (ICTJ), the International Rescue Committee, Action Aid, and the Carter Center, seek to expand education and understanding about rape, the Rape Law, and the criminal legal process throughout the country. ACOHD, in particular, focuses on the rural areas of Liberia in an effort to expand awareness about what constitutes rape and the importance of reporting. To cope with the high illiteracy rates, many NGOs utilize simple illustrative drawings to essentially “show” what rape looks like.<sup>87</sup> The NGOs also focus outreach efforts on boys and men.<sup>88</sup> Further, several NGOs have programs to specifically educate tribal leaders about the rape law, and to emphasize that certain crimes, such as rape, cannot be adequately adjudicated in the traditional tribal system, and must be reported to the proper authorities.<sup>89</sup>

## **III. Ongoing Challenges**

### ***Security and Reporting***

Some police stations—already often far from the homes of victims in rural areas—have a Women and Children Protection Unit in the station for victims of sexual violence; however, the units are ill-equipped to fully protect the victim when she arrives. The Units do not have shelters for the victims if they need safe accommodations. The Women and Children Protection Units exist in ten regional police headquarters in Liberia but have not been implemented nationwide.

### ***Slow Process***

Victims often remain in jeopardy for extended periods of time because of a lengthy trial process in rape cases. As the trial continues, victims' identity becomes harder to conceal as their absence from school, work, and community becomes more obvious, putting them in danger of stigma and retaliation. Trials often last for several months, forcing victims to wait for the resolution of the case. Since victims often travel far from home for trial, it becomes difficult for them to find a safe place to stay. The length of the trial poses challenges to protecting victims.

### ***The Prevalence of Traditional Justice***

In rural Liberia, sexual violence and rape are often dealt with through traditional means of mediation with the perpetrator via the chief or elders of the community. For example, after a rape, the victim's family and perpetrator's family might meet with the community elder or chief and come to a compromise to deal with the violence. The perpetrator's family

might pay the victim a small sum of money, or the chief may even recommend that the victim marry the perpetrator in some circumstances. The Carter Center in Liberia works with tribal and community leaders in five counties to modify and improve the traditional justice system.<sup>90</sup> A woman who is raped is expected to stay quiet about the crime committed against her or to have her family settle the injustice through some form of restorative justice (more typical of the tribal areas).<sup>91</sup>

### ***Inequality Faced by Women and Girls***

Aside from drastically unequal access to education and employment, women and girls continue to battle the notion that they are objects or possessions.<sup>92</sup> Prevailing stereotypes hold that women and girls seek out sexual encounters.<sup>93</sup> Community members often assume that victims of rape and other forms of sexual violence somehow contributed to the crime by “entic[ing] men into immorality and sin.”<sup>94</sup> Communities attach even greater prejudice to women who are known to have had multiple sexual partners, or who have engaged in prostitution.<sup>95</sup> Their testimony is also called into question, if not dismissed.<sup>96</sup> Women who reside in the Monrovia slum of West Point, in particular, face strong prejudice, and are assumed to be immoral or promiscuous by nature.<sup>97</sup>

### ***Stigma Attached to Rape Victims***

The stigma associated with rape causes women to hide their suffering rather than publicly pursue justice. Communal structures, centered on families and relations between neighbors, are so strong that “turning someone in” is often viewed as an assault on the community itself.<sup>98</sup> As reported by an NGO, one community targeted and blamed a group of girls victimized by incestuous tribal leaders was for reporting the crimes to the authorities. Former neighbors and even family members continually threatened the safety of these girls throughout the trial. After it was concluded, the girls were forced to relocate to a long-term safe-home, destroying previously intense community bonds, and resulting in further psychological trauma for the victims.<sup>99</sup>

### ***Lack of Education and Understanding of the Legal Process***

A lack of education undermines the ability of victims to claim their rights or advocate for their own protection. Many Liberians distrust the legal process and law enforcement.<sup>100</sup> Procedures designed to ensure due process and accurate investigations seem mysterious and inspire suspicion, resulting in a dearth of reporting of sexual violence crimes. Victim/witnesses further along in the trial process mistake delays and lengthy trials for inaction, often losing their motivation to testify.<sup>101</sup>

## **IV. Questions for Further Consideration**

A successful victim/witness protection program capable of rapid implementation will require careful tailoring to remain budget-conscious yet effective. In this regard, several NGOs have put forth a model that would transform the strong community structure, so

prevalent in Liberian society, from a source of danger to the victim to a source of protection for the victim. This model requires increased education and training on the community level, with a particular focus on tribal leaders taking ownership of the protection of their own community members. Such a model would reduce the need for other costly initiatives until more resources are available. This initiative allows for a victim to return home after her trial and her stay at a safe home, by making the community responsible and accountable for the victim's safety. This would not only reduce the cost of a victim's stay at a safe home, but would also allow the victim to be reintegrated with her family and community if she so desires. In order for such a model to be successful, community members would have to accept the victim and not stigmatize her for the crime she suffered. This model bears further investigation. However, it seems likely that it will only be successful with awareness training and education to address current attitudes toward women and sexual violence that result in community stigmatization rather than support.

## **4. Sierra Leone**

### **I. Introduction**

This section discusses victim and witness protection in Sierra Leone, particularly in the context of prosecuting post-conflict crimes of sexual violence.<sup>102</sup> Sierra Leone's brutal civil war, from 1991 until 2001, involved massive sexual violence, including an estimated 250,000 women raped, sexually assaulted or enslaved.<sup>103</sup> The Government of Sierra Leone signed the Lomé Peace Accord in 1999, which, in contravention of international law, granted "absolute and free pardon and reprieve" for all crimes committed by combatants prior to July 1999.<sup>104</sup> Notwithstanding that agreement, the Government also requested in 2002 that the United Nations set up a hybrid tribunal, the Special Court for Sierra Leone (SCSL), to prosecute those "who bear the greatest responsibility" for the most serious international crimes.<sup>105</sup> The SCSL's caseload is small, but at least three of those cases included sexual violence charges.<sup>106</sup>

The peace accord and the agreement to institute the SCSL provided the Government of Sierra Leone with excuses to forego domestic prosecutions of serious sexual crimes that occurred during the war.<sup>107</sup> The absence of domestic prosecutions has left many victims suffering silently with little recourse other than participation in the Truth and Reconciliation Commission.<sup>108</sup> The failure to address war-related sexual violence in Sierra Leone courts has rendered those courts inadequately prepared to address post-war sexual violence cases as well.<sup>109</sup>

Currently, no formal witness protection exists domestically in Sierra Leone and several barriers impede the creation of an effective program at this time.<sup>110</sup> While the Special Court for Sierra Leone's well-run witness and victim protection program might train, transition, and implement witness protection domestically as part of the SCSL's Legacy Project, the details of the SCSL Legacy Project are still a work in progress at the time of this report.<sup>111</sup> A combination of NGO activity and some governmental interest in addressing sexual violence provides a helpful basis for building a comprehensive victim and witness protection program, but significant work remains.

### **II. Nascent Programming**

Much of the infrastructure necessary to support a witness protection program does not exist in Sierra Leone. Legal reform, a more efficient and effective judiciary, community outreach, and better access to basic services for survivors are all necessary preconditions for a viable and sustainable witness protection program in Sierra Leone. Commitment on behalf of the government is critical, though civil society also has a significant role to play. Particularly in Freetown, many international NGOs, and somewhat fewer local NGOs, focus on sexual violence, women's rights, and judicial accountability.

### ***The Family Support Unit (FSU)***

The Family Support Unit (FSU) is the branch of the police charged with handling sexual violence cases. The creation of the FSU is a positive acknowledgement that sexual violence cases require specialized expertise. The FSU trains its 326 officers to handle domestic violence and sexual violence cases, though some civil society monitors question the adequacy of the training.<sup>112</sup> Moreover, the FSU's effectiveness, especially outside of the cities, is compromised due to high turnover of personnel, lack of transportation, a shortage of functioning and fully operational FSU offices in the provinces, and no reliable communication avenues for victims.<sup>113</sup> In many cases, FSU departments exist squarely within police stations, which enables sexual violence victims to avoid the stigma of reporting at a specialized location, but compromises the confidentiality of victims.<sup>114</sup>

### ***Safe Houses and Medical Services for Survivors***

The International Rescue Committee (IRC) has set up the Rainbo Centers, three medical centers that provide free counseling, medical exams and treatment to survivors of sexual violence.<sup>115</sup> The Rainbo Centers are located in Freetown, Kenema, and Kono. The FSU commonly refers patients to the Rainbo Center after they report an assault.<sup>116</sup> To discourage the use of such evidence to secure out-of-court settlements, the Rainbo Centers send patients' medical exam records directly to the FSU, rather than giving them to the patients themselves.<sup>117</sup> Staff members from the Rainbo Centers sometimes accompany survivors to court.<sup>118</sup> The Rainbo Centers are becoming independent of IRC, which raises some concerns about their sustainability and sources of funding.<sup>119</sup> Rainbo Center staff and other services providers lament the lack of safe houses for victims of sexual violence. One safe house currently exists in Freetown, while another, reportedly supported by a U.N. agency, has yet to be completed or staffed by the government.<sup>120</sup>

### ***Legal Reforms to Criminalize Sexual Violence***

With respect to formal legal mechanisms, the 2007 "Gender Acts," a set of three laws strengthening women's rights, represent a first step toward promoting accountability for sexual violence through the law. The legislation includes the Domestic Violence Act, which formally criminalizes domestic violence, including marital rape.<sup>121</sup> The Domestic Violence Act also provides for safe houses and gives a judge in a domestic violence case the discretion to implement protective measures for witnesses.<sup>122</sup> However, while all three of the acts were widely publicized, enforcement, particularly outside of Freetown, has been problematic.<sup>123</sup> Furthermore, even with the new laws in place, the stigma and potential social consequences from reporting remain quite high. The Parliament is poised to pass a new bill, the Sexual Offenses Act, which is intended to consolidate all of the previous legislation related to sexual violence that is scattered throughout several other acts.<sup>124</sup> The new and comprehensive law should make it easier for individuals and advocates to understand and exercise their rights.<sup>125</sup> Several NGOs that focus on women's political participation and government accountability also advocate for amending the constitutional provision that allows for discrimination against women through customary law, as well as

for a mandatory thirty percent quota of female representation in Parliament.<sup>126</sup>

### ***Developing Judicial Capacity***

The courts and local Family Support Units have developed diverse strategies to accommodate a greater proportion of reported sexual violence cases. For example, for a limited period of time, specific courts would hear all sexual violence cases on specific days, which provided for greater efficiency and enabled survivors and advocates to more easily navigate the legal process.<sup>127</sup> Some organizations have been advocating for the institution of a new court that would hear sexual violence cases exclusively, as in Liberia.<sup>128</sup> The International Rescue Committee and some other NGOs provide training to FSU staff and prosecutors, though, because of high turnover within the FSU, the effectiveness of such training can be short-lived.<sup>129</sup> Due to the limited number of lawyers in Sierra Leone, a couple of organizations train paralegals to assist people with legal services and educate them about their rights.<sup>130</sup>

Out-of-court settlements negotiated informally between families are common,<sup>131</sup> but the FSU also will mediate domestic violence cases if the violence is not “aggravated.”<sup>132</sup> Several organizations have expressed concern about the FSU’s use of mediation and also have noted other common FSU practices that tend to jeopardize the safety of women who report sexual violence.<sup>133</sup> The National Committee on Gender-Based Violence (NAC-GBV), composed of NGOs and government entities, recently conducted an evaluation of selected FSUs through four days of unannounced visits.<sup>134</sup> NAC-GBV compiled data from these visits to analyze some of the recurring deficiencies, which included inadequate recordkeeping, lack of confidentiality and no provisions for same-sex interviews of sexual violence victims.<sup>135</sup> These monitoring efforts are essential for identifying the current barriers to witness protection at many Family Support Units.

For those cases that do move forward for prosecution, accountability remains an issue. Some NGOs provide free legal services to victims of sexual violence, since their assigned police prosecutors are often inadequately trained and ineffective.<sup>136</sup> Other NGOs will send staff members to court with victims to simply monitor the proceedings, to promote efficiency and safeguard rights.<sup>137</sup> When NGOs are involved, judicial accountability improves.<sup>138</sup>

### ***Outreach Campaigns***

Many NGOs are conducting outreach campaigns in schools and communities. While reporting rates for sexual violence have increased since the war, it is not clear whether this is attributable to greater awareness of sexual violence or higher prevalence.<sup>139</sup> Women are also organizing politically and seeking to gain representation in Parliament, where a “Women’s Caucus” is beginning to focus on issues of particular relevance to Sierra Leone’s female citizens.<sup>140</sup> The passage of the 2007 Gender Acts is in fact largely attributable to the organizing efforts of female voters.<sup>141</sup> Women formed a coalition and showed up in mass to the debates in Parliament, putting pressure on representatives right before the election.<sup>142</sup>

On the government side, the Ministry of Gender, Social Welfare and Children's Affairs has developed a six-part National Gender Strategy Plan, which prioritizes awareness of sexual abuse and reproductive health rights.<sup>143</sup> The NAC-GBV also meets monthly and gives input to the Ministry about its policies. Thus, while government bodies and NGOs are beginning to address the challenges facing a reliable witness protection program in Sierra Leone, much remains to be accomplished.

### **III. Ongoing Challenges**

#### ***The Existing Legal Framework and its Enforcement***

The legal system in Sierra Leone contains three different sets of laws: formal law, customary law, and Muslim law. Although the Sierra Leone Parliament has undertaken some critical legislative reform efforts to address sexual violence and witness protection mechanisms, activists and lawyers bemoan the fact that recent and older laws governing sexual violence are overlapping, inconsistent or contradictory, and incomplete.<sup>144</sup> Additionally, Constitution still permits discrimination against women under customary law, which undermines many of the legislative reforms.<sup>145</sup> Finally, even when the law provides protection for victims of sexual violence, it is not always enforced.<sup>146</sup>

A patchwork legal regime related to sexual violence prevents legal professionals from knowing which law to apply.<sup>147</sup> For instance, despite the 2007 passage of the Domestic Violence Act, prosecutors still charge domestic violence cases under a number of other laws as well, including the Offenses Against the Person Act of 1861 and the 2007 Child Rights Act.<sup>148</sup> Among other contradictions, these laws vary in their definitions of sexual violence and the age of consent.<sup>149</sup> An effort to streamline and consolidate the criminal law with respect to sexual violence is evident in the draft Sexual Offenses Bill, but that undertaking is slow and somewhat uncoordinated, particularly as between different government ministries and the Law Reform Commission<sup>150</sup> (NGOs have also been providing input into the new draft).<sup>151</sup>

Finally, when the laws permit judges to provide more protection for victims of sexual violence, the judiciary reportedly does not always exercise their discretion.<sup>152</sup> According to numerous NGOs who advocate and monitor trials, children victims of sexual violence are supposed to testify in the judge's chambers; however, this practice is inconsistently utilized, and judges do not offer the opportunity to testify privately to adult women.<sup>153</sup> Additionally, the 2007 Domestic Violence Act enables judges to provide protective measures for victims, but they refrain from using these powers for a number of reasons, including the lack of sensitization and a dearth of resources.<sup>154</sup>

#### ***Capacity and Resources of the Justice System***

The resources and capacity of the justice system to handle sexual violence crimes are limited. The FSU is not equipped with forensic or DNA testing, which creates problems at trial where judges reportedly require physical evidence to convict accused perpetrators.<sup>155</sup>

Many victims travel long distances to visit the nearest Family Support Unit, which lessens the likelihood that physical evidence will be preserved. Other than the Rainbo Centers (three free clinics set up by the International Rescue Committee to assist victims of sexual violence), very few free or low cost medical centers for indigent victims of sexual violence exist.<sup>156</sup>

Police prosecutors, who are trained but are not attorneys (which seems to disadvantage them against defense attorneys, who often have greater legal experience and knowledge), try the cases that do reach court.<sup>157</sup> Observers report that courts frequently dismiss sexual violence cases due to legal and procedural errors by police prosecutors.<sup>158</sup> Beyond problems of legal training, police prosecutors do not receive proper instruction on representation of sensitive victims of sexual violence and have been reported to treat their own witnesses as adversarial at trial.<sup>159</sup> Sexual violence cases are often overlooked or postponed so frequently that the victim cannot afford to attend the trial, due to the expensive and multiple travel and other costs.<sup>160</sup>

Sexual violence victims also face several challenges with the judiciary. Only a small number of functioning courts exist in Sierra Leone, and even in Freetown, the cases take a long time to go to trial due to the judiciary's heavy caseload.<sup>161</sup> Outside Freetown, the jurisdiction of provincial magistrates encompasses large areas and they possess few resources.<sup>162</sup> Further, judges do not always use current copies of the law or are unfamiliar with newer laws like the 2007 Acts.<sup>163</sup> In addition, the courts do not employ court reporters, so the judge handwrites the opinions during trial and often needs translators to understand the numerous tribal dialects used in Sierra Leone.<sup>164</sup> All of these impediments lengthen the trial process and thus reduce the efficiency of the justice system, leaving many victims of sexual violence without access to the courts, much less witness protection. Civil society questions the independence of the police, judiciary, and higher government officials, which presents a formidable structural barrier to an effective witness protection system.<sup>165</sup> In rural areas, monitors of court proceedings report that the judiciary do not respect the victims and have even ridiculed them during their testimony.<sup>166</sup>

### ***Institutional Barriers to Prosecution of Sexual Violence***

Serious issues undermine accountability and public trust in the justice system and, thus, provide an institutional barrier for the creation of witness protection in Sierra Leone. Under the 2007 Domestic Violence Act, the discretion to charge crimes for these cases belongs with the judiciary.<sup>167</sup> The court is also empowered to refer a case for settlement when the assault is not aggravated and the complainant wishes to settle out of court.<sup>168</sup> However, the FSU uses its discretion to determine whether the domestic violence (the definition of which includes sexual abuse) rises to the level of an "aggravated" case.<sup>169</sup> This places significant power in the hands of the FSU personnel, who receive limited training in sexual violence,<sup>170</sup> and effectively grants the perpetrator a free pass for the first instance of domestic violence.<sup>171</sup> Some government officials have expressed the belief that family unity through counseling is the best course of action for non-aggravated domestic violence.<sup>172</sup> Settlements for sexual violence in the form of payments to the victim's family regularly

occur. These settlements undermine the seriousness of sexual violence cases and contribute to distrust of the police and judicial systems.<sup>173</sup>

### ***The Needs of Survivors of Sexual Violence***

An ideal witness protection program includes comprehensive services before, during, and after trial and provides physical and emotional protection and support for victims and witnesses.<sup>174</sup> Few medical facilities offer free or low cost physical and psychological assistance to survivors of sexual violence other than the Rainbo Centers.<sup>175</sup> Often, victims first go to the FSU or the police department where no FSU exists.<sup>176</sup> In general, a shortage of social workers and psychosocial assistance, a necessary element of witness protection, exists for victims of sexual abuse.<sup>177</sup>

### ***Cultural Attitudes Towards Women and Sexual Violence***

Cultural attitudes pose a challenge for women's rights and legal accountability for sexual violence in Sierra Leone.<sup>178</sup> Many Sierra Leonean citizens and government officials believe women often invite unwanted sexual violence through provocative dress, requests for material items from men, and flirtatious behavior.<sup>179</sup> All rape victims face some stigma in Sierra Leone, but older girls and married women encounter greater challenges in obtaining justice, as they are perceived to adults and therefore responsible for what happens to them.<sup>180</sup> Marital rape is a foreign concept in numerous parts of the country.<sup>181</sup> Many men, especially village elders and wealthier men, still pay families for child brides and some even marry the girls they sexually abuse,<sup>182</sup> which further complicates attempts to educate people about the crime of marital rape.<sup>183</sup> Cultural attitudes towards sexual violence create significant problems in the provinces where the chief of the village, and not the local magistrate using national laws, usually adjudicates sexual violence claims in the community.<sup>184</sup> This customary law justice system often leads to settlements in the forms of payment, apology, no punishment, or even forced marriage, depending on the circumstances surrounding the sexual assault.<sup>185</sup> Traditional laws and practices discriminate against women and children, and the majority of Sierra Leoneans in the provinces remain unaware of the rights and protections provided in the 2007 legislation.<sup>186</sup>

Women in Sierra Leone are marginalized throughout society.<sup>187</sup> Official discrimination in national and customary laws combined with gender biases towards women makes effective legislative reform challenging.<sup>188</sup> One manifestation of gender discriminatory attitudes is the fact that girls attend school later than boys and often do not receive secondary education because they marry and have children soon after primary school.<sup>189</sup> Families sometimes view their daughters within the home as commodities to be sold into marriage to support the family.<sup>190</sup> Polygamy persists, largely in Muslim communities, which further reduces the role of women in the household and makes reporting abuse more difficult.<sup>191</sup> Reporting domestic violence or sexual abuse to the police or FSU is often viewed as a serious threat to the fabric that holds families and the larger community together, which reduces the role of the criminal justice system in resolving these crimes.<sup>192</sup>

#### **IV. Questions for Further Consideration**

Due to a lack of both basic resources and genuine political commitment, barriers to legal accountability for sexual violence in Sierra Leone are formidable. Nevertheless, a variety of interventions could make a comprehensive witness protection program a viable possibility for the future. Some of the recurring suggestions for improving accountability discussed among government and NGOs include strengthening laws against sexual violence and providing for witness protection; increased resources for judicial reforms, training and personnel; operation of additional safe houses throughout the country; continuing community outreach, particularly in rural areas; and improved collaboration with the Special Court for Sierra Leone and international community to supplement training and basic resources.

## **5. Conclusion**

Statistics lead to strategies, which is why the project of identifying how many women have been subject to sexual violence is important. No one knows how many women in the world have experienced rape or other forms of sexual violence, but we do know it is too many. We know sexual violence in armed and political conflict alone to be a massive problem. In the Democratic Republic of the Congo, an approximate quarter of a million rape survivors endure, and a recent report estimates (or likely, underestimates) that a woman is raped nearly every minute in the DRC.<sup>193</sup> The war in Liberia produced multitudes of rape victims; by way of example, one study found that more than 40% of female combatants they interviewed had been raped.<sup>194</sup> Sierra Leone's war subjected an estimated 50,000 and 64,000 internally displaced women to sexual assault at the hands of fighters, and the Rwandan genocide memorial observes that 500,000 women experienced rape in 100 days.

Counting the number of women who have experienced sexual violence, or the number of rapes in any given situation, is important, but the seeming impossibility of the project should not deter action. There has been a fair amount of debate about sexual violence within the international community, but too few concrete steps. The appointment of Margot Wallström as the Special Representative on Sexual Violence in Armed Conflict, UN Security Resolution 1325 on Women, Peace and Security, and Resolution 1820, on sexual violence in armed conflict, all seek to address the scourge. Even more pointedly, Resolution 1960 of December 16, 2010 explicitly established a mechanism, a list for credible suspects of rape in war, which might be used to seek accountability for perpetrators. UN Member States clearly have recognized the scope and scale of the problem, but have been less than sure-footed in their response. Amidst much rhetoric, concrete mechanisms like the suspect list authorized by 1960 are welcome. But more is required.

Legal action to end impunity for sexual violence in conflict is, by now, a rallying cry of victims, member States, and activists alike. The failure to hold perpetrators legally accountable for their crimes erects massive barriers to the struggle to end sexual violence, but it also poses broader challenges to societies as a whole. As U.S. Secretary of State Hillary Clinton articulated, "... there should be no impunity for the sexual and gender based violence, and there must be arrests and punishment because that runs counter to peace."<sup>195</sup> However, it is clear to all actors that impunity is deeply entrenched and difficult to overcome.

If ending impunity is a critical strategy in achieving justice, establishing the rule of law, and ensuring peace, then it is important to examine the specific barriers that preserve impunity's status quo. Testimonies of rape survivors from armed and political conflicts in a range of contain common themes: even when survivors want to challenge the injustice of rape through legal action, they are impeded by fear. Legitimate concerns about bodily security and privacy prevent many survivors of sexual violence from reporting, much less aiding in the prosecution of, the crimes to which they have been subject. At the same time,

projects documenting sexual violence in a variety of armed and political conflicts reveal the consistent desire of victims to see justice served. A necessary response to these rational but crippling concerns is the provision of protective mechanisms that would ensure both protection and confidentiality.

Victim and witness protection mechanisms in the context of sexual violence are similar, in some ways, to protection programs connected to the prosecution of other kinds of crimes. Witnesses provide evidence critical to securing the conviction of perpetrators. Basic principles of justice for victims—including treatment with dignity; access to protection and privacy as well as to psychological, medical, or other essential services; and the right to be informed of their role in the legal process—should apply consistently in cases of sexual violence and other crimes, for example human trafficking, alike.

At the same time, different crimes, and the distinctive needs of victims and witnesses, require a customized approach to witness protection programs, superimposed on the basic principles. In cases of organized crime and crimes against humanity, “insider” witnesses (those who are part of the criminal enterprise or military organization who agree to testify against their former colleagues), may have particular needs because of the deep, mutual knowledge of witness and perpetrator. In the context of sexual violence, victims may have a range of psychological, medical, and other social needs arising out of the singular trauma of rape, including victims’ exposure to pregnancy and HIV. Other differences exist as well. In the international criminal landscape, witnesses may have less of a personal and individual stake in seeing their individual perpetrator prosecuted, whereas, in domestic sexual violence cases, the victims and witnesses are often seeking accountability for someone who has committed a crime directly against her.

Effective and comprehensive witness protection programs that provide access to justice as well as to crucial psychological and medical services help challenge the impunity that enables sexual violence. The importance of well-designed witness protection programs to combat sexual violence is clear. What requires further investigation is precisely how to institute effective programs with the necessary focus on sexual violence. To do so is no small task: governments must develop outreach and education programs; amend laws and policies; build expertise amongst law enforcement, judicial, and government sectors; connect to medical and psychosocial services providers; and muster considerable political will and financial resources. It is obvious that victim/witness protections must become a priority, because without sexual violence victims who are willing to come forward and assist, there will be no prosecutions. And with no prosecutions, impunity—and the continued commission of sexual violence crimes—is assured.

## 6. Endnotes

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<sup>1</sup> While sexual violence can be perpetrated against men as well as women, statistics and documentation indicate that women are overwhelmingly the victims. Furthermore, sexual violence against women is a manifestation of gender inequality in its most violent form. For these reasons, we focus on sexual violence against women in this paper.

<sup>2</sup> Projects documenting sexual violence in a variety of conflicts reveal the consistent desire of victims to see justice served. See *Speaking out on justice and peace at the Women's Court*, Women's Initiatives for Gender Justice, available at [http://www.iccwomen.org/news/berichtdetail.php?we\\_objectID=78](http://www.iccwomen.org/news/berichtdetail.php?we_objectID=78).

<sup>3</sup> We use the term "witness" to denote both victims/survivors and independent witnesses to crimes.

<sup>4</sup> For example, an estimated 1.5 million people are living with HIV in Kenya, and in Zimbabwe, adult HIV prevalence is approximately 14.3 percent. UNAIDS Report on the Global AIDS Epidemic, available at [http://www.unaids.org/globalreport/Global\\_report.htm](http://www.unaids.org/globalreport/Global_report.htm).

<sup>5</sup> With the exception of the hybrid Special Court for Sierra Leone, which operates both in The Hague and in Freetown.

<sup>6</sup> The Hague Interview #5. The Hague, October 25, 2010. Interview notes and references are on file with the authors.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> International Criminal Court Regulations of the Office of the Prosecutor, ICC-BD/05-01-09, Regulation 39 [hereinafter *Regulations of the OTP*] available at <http://www.icc-cpi.int/NR/rdonlyres/FFF97111-ECD6-40B5-9CDA-792BCBE1E695/280253/ICCBD050109ENG.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> Mahony, Chris. *The Justice Sector Afterthought*. Institute for Security Studies, 2010. eBook. 16. <http://www.reliefweb.int/rw/rwb.nsf/db900sid/SNAA-85Z3FQ?OpenDocument> [hereinafter Mahony, *Justice Sector Afterthought*].

<sup>12</sup> The Hague Interview #2, The Hague, October 24, 2010.

<sup>13</sup> *Id.*

<sup>14</sup> *ICTY Manual on Developed Practices*, <http://www.iccnw.org/?mod=victimsbackground>.

<sup>15</sup> The Hague Interview #1, The Hague, October 24, 2010.

<sup>16</sup> *Regulations of the OTP*, Regulation 45 (f), *supra* note 9.

<sup>17</sup> The Hague Interview #5.

<sup>18</sup> The Hague Interview #2.

<sup>19</sup> *Id.*

<sup>20</sup> International Criminal Court, Unified Protocol on the practices used to prepare and familiarize witnesses for giving testimony at trial, ICC-01/05-01/08-1081-Anx, 8 December 2010 [hereinafter *Witness Protocol*].

<sup>21</sup> The Hague Interview #5.

<sup>22</sup> *Id.*

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<sup>23</sup> Mahony, *Justice Sector Afterthought* at 45, *supra* note 11.

<sup>24</sup> The OTP or Defense must also demonstrate that they will be irreparably prejudiced if they cannot call the witness.

<sup>25</sup> See *Witness Protocol*, *supra* note 20.

<sup>26</sup> The Hague Interview #5.

<sup>27</sup> Mahony, *Justice Sector Afterthought* at 39, *supra* note 11.

<sup>28</sup> The Hague Interview #1.

<sup>29</sup> *Id.*

<sup>30</sup> Mahony, *Justice Sector Afterthought* at 55, *supra* note 11.

<sup>31</sup> International Criminal Court, *Summary Report on the Round Table on the Protection of Victims and Witnesses Appearing Before the International Criminal Court*, 29 January 2009, available at [http://www.icc-cpi.int/NR/rdonlyres/19869519-923D-4F67-A61F-35F78E424C68/280579/Report\\_ENG.pdf](http://www.icc-cpi.int/NR/rdonlyres/19869519-923D-4F67-A61F-35F78E424C68/280579/Report_ENG.pdf).

<sup>32</sup> Mahony, *Justice Sector Afterthought* at 32, *supra* note 11.

<sup>33</sup> These groups include the Revolutionary Armed Forces of Colombia (FARC), which remains active in the country, and paramilitary groups like the United Self-Defense Forces of Colombia (AUC). Though the paramilitary groups have demobilized over the last decade, several splinter groups that are closely related to the paramilitaries have begun to reformulate. Stephanie Hanson, *Colombia's Right-Wing Paramilitaries and Splinter Groups*, COUNCIL ON FOREIGN RELATIONS (2008), available at <http://www.cfr.org/colombia/colombias-right-wing-paramilitaries-splinter-groups/p15239>.

<sup>34</sup> While precise numbers are difficult to ascertain due to underreporting of sexual violence, in 2009 alone, there were 55 documented cases of sexual violence perpetrated by the police, military forces, FARC, ELN, paramilitary groups, and other guerilla organizations. See "Tercer Informe de Seguimiento Al Auto 092 de 2008, June 2010.

<sup>35</sup> The Justice and Peace Law of 2005 regulates the process of demobilizing the paramilitaries and other illegal armed groups in Colombia. The law also has a transitional justice component to it by outlining procedures to prosecute and sentence paramilitary leaders. See Colombia: The Justice and Peace Law available at <http://www.cja.org/article.php?id=863>.

<sup>36</sup> See "Tercer Informe de Seguimiento Al Auto 092 de 2008," June 2010.

<sup>37</sup> Relying on Article 2 of the Constitution (guaranteeing Colombians a right to life and dignity), Constitutional Court decision T-496/2008 held that women in situations of conflict were particularly vulnerable and had specific protection needs. The Court ordered the Ministry of Interior and Fiscalia General to revise programs to protect victims and witnesses of armed conflict, consistent with national and international standards.

<sup>38</sup> Fiscalia's General Witness Protection Program is regulated by the legislation Law No. 418 of 1997. Constitutional Court, Decision T-558/2003, established the Ministry of Justice Protection Program. See also, Constitutional Court decision T-T496/2008, which held that women in situations of conflict were particularly vulnerable and , established the specific protection needs of women to protection. The Court ordered the Ministry of Interior and Fiscalia General to revise programs to protect victims and witnesses of armed conflict, consistent with national and international standard.

<sup>39</sup> The *Preventive Security Project*, established in 2004, aims to train at-risk groups to identify risk and adopt self-protection measures. So far, the program has conducted 85 trainings of a total of 3,256 people. The *Ombudsman's Early Alert Program*, established in 2001 under Colombia's Ombudsman Office, is constitutionally charged with the protection of human rights of Colombian citizens. To fulfill this mandate, in

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2001, the Office created a special unit of Early Warning System to monitor and assess risk posed by the armed conflict to the vulnerable populations. Threats are further referred to police and local authority to address, though rarely are the police able to identify and hold accountable the source of the threat. See Special Rap report on extrajudicial killings, 2009.

<sup>40</sup> In 1997, in response to the ongoing killing and disappearance of human rights defenders, the Ministry of the Interior and Justice established the National Protection Program for Human Rights Defenders. The program offers protection against violence by armed actors targeted at human rights organizers, journalists, union leaders, internally displaced people (IDPs), women leaders, witnesses in cases of crimes of human rights before they enter the judicial process, and government officials who work on issues of peace and human rights. To determine the seriousness of risk, for each specific case, the Regulatory and Risk Evaluation Committee at the Ministry of the Interior consults with the national police and the Security Administration Department and decides on the protective measures that shall be adopted. As of 2010, 10,610 defenders were benefiting from Ministry's protection measures, and only in 2009, 3,052 new beneficiaries were added to the program. "La Ruta de Protección," Ministerio del Interior y de Justicia República de Colombia, 2007.

<sup>41</sup> Under the general witness protection program, the Fiscalía protects witnesses at risk because of their participation in the criminal process. Under the law, the prosecutor requests protection, while a team of investigators assesses the risk to the witness and admits her to the program. Following the assignment, the national police administer protection measures. Often, the duration of the protection correlates to the criminal proceedings; as the case ends, the Fiscalía considers the threat to end as well. Moreover, protection may be terminated if the witness refuses to submit to judicial procedures. The Fiscalía's program categorizes risk and adapts the protection according to three levels: low, where the witness is given self-protection guidance; medium, where risk is monitored; and high, where the witness is put under direct protection. *Good Practices in the Protection of Witnesses in Criminal Proceedings Involving Organized Crime*, United Nations Office of Drugs and Crime, 2008, available at <http://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf>.

<sup>42</sup> See Constitutional Court decision T-496/2008, *supra* note 38.

<sup>43</sup> As of June 2009, the Justice & Peace Program had granted protective measures to 235 victims and witnesses in Medellín, Barranquilla and Bogotá. In addition in auto 092, the Constitutional Court issued individual orders of protection for 600 displaced women in the country.

<sup>44</sup> See Law 975, Decree 3570 (2007), Decree 1737 (2010), and Power Point Presentation 2 of Colombia Ministry of Interior and Justice (on file with authors). Also Tercer informe de seguimiento al Auto 092 de 2008; *Corporación Sisma Mujer, Alianza Iniciativa de Mujeres Colombianas por la paz, DeJusticia; July 2010; NGO Third Monitoring Report on Status of Implementation of auto-092 and T-496 available at [http://www.dejusticia.org/interna.php?id\\_tipo\\_publicacion=2&id\\_publicacion=816](http://www.dejusticia.org/interna.php?id_tipo_publicacion=2&id_publicacion=816)*.

<sup>45</sup> Power Point Presentation 2 of Colombia Ministry of Interior and Justice (on file with authors). The Ombudsman Office (Defensoría del Pueblo), a Colombian State entity, was established 1992 by Decree 41 with a Constitutional mandate to promote and disseminate human rights, prevent and protect civilians against violations of human rights and international humanitarian law. The section of the Ombudsman Office which directly deals with protection of women victims of sexual violence is part of the *Defensorías Delegadas* sector in a division group called *Derechos de la niñez, juventud, y las mujeres* (Division of the Ombudsman for the Rights of Children, Youth, and Women). See Misión del Defensoría del Pueblo (Mission Statement of Ombudsman Office), available at [http://www.defensoria.org.co/red/?\\_item=0101&secc=01&ts=1](http://www.defensoria.org.co/red/?_item=0101&secc=01&ts=1).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* See also UNODC, *Good Practices for the Protection of Witnesses in Criminal Proceedings involving Organized Crime*, *supra* note 41.

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<sup>49</sup> See Defensoría delegada para los derechos de la niñez, la juventud y las mujeres, [http://www.defensoria.org.co/red/?\\_item=040301&secc=04&ts=1](http://www.defensoria.org.co/red/?_item=040301&secc=04&ts=1), and Defensoria del Pueblo, Guía de Orientación Jurídica y Psicosocial para la Atención a las Víctimas.

<sup>50</sup> Colombia Interview #10, Bogota, January 20, 2011.

<sup>51</sup> The United States is a major actor with regards to judicial reform and strengthening law enforcement in Colombia, and has played a large role in establishing the CAV program. The CAV centers are modeled after programs that are currently operating in Department of Justice Attorney's Offices throughout the United States. The United States is a major actor with regards to judicial reform and strengthening law enforcement in Colombia. See U.S. Department of Justice through the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), *available at* <http://www.justice.gov/criminal/opdat/worldact-programs/latin-caribbean.html>.

<sup>52</sup> See <http://bogota.usembassy.gov/media/success-stories/vac-may2009.pdf>.

<sup>53</sup> Dozens of Colombian law students are involved with clinical work at CAV including students from Universidad La Gran Colombia, Universidad Libre de Colombia, and Universidad Santo Tomas. CAVs serve a secondary purpose of training these law students and staff about the accusatory system. CAV Presentation – Informe de Gestión, January 2011 (on file with authors).

<sup>54</sup> CAV Presentation-Informe de Gestión, January 2011, *supra* note 53.

<sup>55</sup> Press release from United States Embassy in Colombia, "Victim/Witness Assistance Centers," (on file with authors).

<sup>56</sup> CAV Presentation-Informe de Gestión, *supra* note 53.

<sup>57</sup> *Correcting Course - Victims and the Justice and Peace Law in Colombia*, International Crisis Group, 2008, [hereinafter *Correcting Course*], *available at*: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/colombia/029-correcting-course-victims-and-the-justice-and-peace-law-in-colombia.aspx>. This report discusses the lagging implementation of the Justice and Peace Law in Colombia, commenting on the country's transitional justice process.

<sup>58</sup> Guía para la Orientación Psicojurídica a las Víctimas de la Violencia Generada por el Conflicto Armado Interno, "Enfoque y Alcance de la Gestión Defensorial desde la Unidad de Atención Integral a Víctimas" Defensoría del Pueblo. 3rd edition, at 17.

<sup>59</sup> See Defensoría delegada para los derechos de la niñez, la juventud y las mujeres, *available at* [http://www.defensoria.org.co/red/?\\_item=040301&secc=04&ts=1](http://www.defensoria.org.co/red/?_item=040301&secc=04&ts=1), and Defensoria del Pueblo, Guía de Orientación Jurídica y Psicosocial para la Atención a las Víctimas.

<sup>60</sup> Primer Reporte de Avances en Indicadores, Comisión Nacional de Reparación y Reconciliación, June 2008.

<sup>61</sup> See *Correcting Course*, *supra* note 57.

<sup>62</sup> Colombia recently enacted Decree 1257, which prohibits violence against women in the public and private spheres. Also, the Colombian Penal Code considers sexual slavery and rape during conflict as crimes of war. Crimes such as rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography, receive sentences between 4 and 40 years imprisonment, and rape victims are constitutionally protected from evidentiary measures that involve an unreasonable, unnecessary, or disproportionate invasion of their privacy. IACHR, *Access to Justice for Women Victims of Violence in the Americas*, para. 255 (2009).

<sup>63</sup> See Inter-American Commission on Human Rights, *Annual Report of the Inter-America Commission on Human Rights 2009*, *available at* <http://www.cidh.oas.org/annualrep/2009eng/TOC.htm>; UN Special Rapporteur on Violence Against Women, Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000), 2001, *available at*

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<http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/8a64f06cc48404acc1256a22002c08ea?OpenDocument>; UN General Assembly, *Report of the Working Group on Universal Periodic Review, Colombia*, January 9, 2009, A/HRC/10/82; ; and UN High Commissioner for Human Rights (OHCHR), *Report on the Situation of Human in Colombia*, February 3, 2011, A/HRC/16/22. *See also* Colombian Constitutional Court Decision A-092 of 2008 (“Sexual violence against women is a an habitual practice that extends, systematically and invisibly, throughout the context of the armed conflict in Colombia, as are sexual exploitation and abuse on the part of the illegal armed actors, and, in some isolated cases, on the part of individual agents of the Public Forces.”).

<sup>64</sup> Colombia Interviews #1, #4.

<sup>65</sup> For example, until only recently, a case of a female who was a victim of rape and homicide would be registered under the murder case statistics, and the gender dimension of the crime would not be recorded. Prosecution might proceed on the murder case, without serious investigation of the rape or its connection to the conflict. Interview with OHCHR; Interview with Sisma Mujer. *See also* United Nations, *Report submitted by Ms. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (November 1-7, 2001), E/CN.4/2002/83/Add. 3, March 11, 2002, para. 45.

<sup>66</sup> Colombia Interview #15.

<sup>67</sup> *Id.*

<sup>68</sup> *See The Virtuous Twins: Protecting Human Rights and Improving Security in Colombia*, International Crisis Group, 2009, available at [www.crisisgroup.org/.../twins\\_\\_\\_protecting\\_human\\_rights\\_and\\_improving\\_security\\_in\\_colombia.ashx](http://www.crisisgroup.org/.../twins___protecting_human_rights_and_improving_security_in_colombia.ashx); *see also* Human Rights Watch, *Paramilitaries' Heirs: The New Face of Violence in Colombia*, February 3, 2010, available at <http://www.hrw.org/en/reports/2010/02/03/paramilitaries-heirs-0>.

<sup>69</sup> Interview with official from Colombian Ombudsman Office. *See also* Human Rights Watch, *Breaking the Grip? Obstacles to Justice for Paramilitary Mafias in Colombia*, February 2008, available at [.http://www.hrw.org/en/reports/2009/01/28/breaking-grip](http://www.hrw.org/en/reports/2009/01/28/breaking-grip).

<sup>70</sup> The adversarial system was implemented in four phases in Colombia, with full implementation on January 1, 2005. Two main features have changed from the previous inquisitorial system: 1) prosecutors now have full control over the direction of a criminal case and 2) the trials now have a significant oral component involving live witnesses – a striking contrast to the previous system that relied almost entirely on writing. To be sure, Colombian prosecutors can and do assist some victims in obtaining protection. As described above, when the Fiscalía asserts that a victim-witness can provide valuable information in a criminal case and is at risk as a result of that participation, the victim-witness would fall under the auspices of the Fiscalía’s witness protection program. Especially in organized crime and drug-trafficking cases, that victim might end up receiving very effective protection.

<sup>71</sup> Colombia Interview #13.

<sup>72</sup> *Id.*; Colombia Interview #4.

<sup>73</sup> Colombia Interview #15.

<sup>74</sup> *Id.*

<sup>75</sup> We note that this may not correspond with the extent of time for which a need for psycho-social services might persist, but as everything is handled on an individualized basis, it is hard to generalize a conclusion from this.

<sup>76</sup> UN High Commissioner for Human Rights (OHCHR), *Report on the Situation of Human in Colombia*, February 3, 2011, *supra* note 63.

<sup>77</sup> Colombia Interview #15.

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<sup>78</sup> 63.8% of Liberians live below the poverty line, and the country's literacy rate is 58%. WORLD BANK, Liberia Data available at <http://data.worldbank.org/country/liberia>. (last visited February 4, 2011).

<sup>79</sup> United Nations Development Programme, December 14, 2004. *Liberia: No Impunity for Rape – A Crime against Humanity and a War Crime*, available at <http://www.amnesty.org/en/library/info/AFR34/017/2004/en>. (last visited February 4, 2011).

<sup>80</sup> *Id.*

<sup>81</sup> UNICEF Liberia Representative Angela Kearney says, "In post-conflict Liberia, this is a great contribution to all of the efforts that are underway to protect women and children from sexual abuse and exploitation and to continue breaking down barriers. UNICEF New women and children protection section for Liberia's police, available at [http://www.unicef.org/media/media\\_28159.html](http://www.unicef.org/media/media_28159.html).

<sup>82</sup> Section 25.3 of the Sexual Offenses Division Act mandates that rape cases be held in camera. However, while the rape court in Liberia allows a victim to testify in camera for her safety, her back is visible and the court audience can hear her voice. Thus, there may still be danger to the victim if the audience is able to identify her by seeing her back and hearing her voice.

<sup>83</sup> THE DAILY OBSERVER, Cllr. Amara Momo Sheriff. *Is the New Rape Law Unconstitutional? Part II*, available at <http://www.liberianobserver.com/node/8326>.

<sup>84</sup> *Id.*

<sup>85</sup> Liberia Interview #14, Paynesville, Monrovia, Liberia, Jan. 14, 2011.

<sup>86</sup> *Id.*

<sup>87</sup> Liberia Interview #4.

<sup>88</sup> *Id.*

<sup>89</sup> Liberia Interview #3, Monrovia, Liberia, Jan. 11, 2011.

<sup>90</sup> Liberia Interview #17, Monrovia, Liberia, Jan. 14, 2011.

<sup>91</sup> Liberia Interview #3.

<sup>92</sup> *Id.*

<sup>93</sup> As one Monrovia newspaper article suggests: "Nowadays, women walk the streets barely naked. Breasts, upper thighs, and females' under-wears [sic] which were regarded in times past as unspoken taboos, are deliberately brandished in the full flare of the public eye." "Liberia: Rising Sex Scandals," Analyst Liberia, April 8, 2010, available at <http://allafrica.com/stories/201004080773.html>.

<sup>94</sup> This op-ed piece, from a prominent Liberian newspaper, further opines, "The best way to curtail the high rate of rape within our society is for men to abstain from falling for half-naked women who ply the streets at night. In addition, young and old women alike should always be mindful of their dress code before going on the streets or entertainment centers." Edward N. Boakai, "Rape: Prevalence and Solutions," The Daily Observer, May 7, 2010, available at <http://www.liberianobserver.com/node/6212> (last visited Feb. 12, 2011).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Liberia Interview #12, Sinkor, Monrovia, Liberia, Jan. 13, 2011.

<sup>98</sup> Liberia Interview #2, Paynesville, Monrovia, Liberia, Jan. 10, 2011.

<sup>99</sup> *Id.*

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<sup>100</sup> Liberia Interview #11, Monrovia, Liberia, Jan. 13, 2011.

<sup>101</sup> *Id.*

<sup>102</sup> The following research is based on interviews that took place in Freetown and Makeni, Sierra Leone from January 24<sup>th</sup> through January 28<sup>th</sup> 2011. We met with senior government officials in the Family Support Unit, the Ministry for Gender, Social Welfare and Children's Affairs, and the Department of Public Prosecutions. Additionally, we talked to attorneys, social workers, educators and other staff members of domestic and international non-governmental organizations including: Peace Links, International Rescue Committee, Center for Accountability and Rule of Law, 50/50 Group, Concern International, Forum for African Women Educationalists, National Human Rights Commission, Save the Children, Rainbo Center, LAWYERS, Campaign for Good Governance, LAWCLA, and the Women's Center for Good Governance and Human Rights.

<sup>103</sup> *We Will Kill You If You Cry: Sexual violence in the Sierra Leone conflict*, Human Rights Watch, Vol. 15, No. 1 (A), January 2003.

<sup>104</sup> Lomé Peace Accord, 7 July 1999, available at <http://www.sierra-leone.org/lomeaccord.html>

<sup>105</sup> Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, 16 Jan. 2002, Art. 1.

<sup>106</sup> The three cases that include sexual violence charges are the AFRC case, the RUF case, and the Charles Taylor case.

<sup>107</sup> Sierra Leone Interview #4, Freetown, January 25, 2011.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*; Sierra Leone Interview #3, Freetown, January 25, 2011.

<sup>110</sup> Mahony, *Justice Sector Afterthought* at Chapter 8, *supra* note 11, citing a recent perception survey carried out by the Special Court's witness evaluation and legacy project that stated current protective measures in Sierra Leone include self-reporting, protective custody, and refusal of bail, though much of this data comes from police interviews; Sierra Leone Interview #2, Freetown, January 24, 2011.

<sup>111</sup> Sierra Leone Interview #2.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*, explaining that there is only one vehicle in the eastern province, none in the south, and two in the north. An FSU hotline is also supposed to be available for victims to contact the FSU directly. Sierra Leone Interview #3.

<sup>114</sup> Sierra Leone Interview #3.

<sup>115</sup> Sierra Leone Interview #3; Sierra Leone Interview #11, Freetown, January 27, 2011.

<sup>116</sup> Sierra Leone Interview #11.

<sup>117</sup> Sierra Leone Interview #2; Sierra Leone Interview #11.

<sup>118</sup> Sierra Leone Interview #11; Sierra Leone Interview #9, Freetown, January 26, 2011.

<sup>119</sup> Sierra Leone Interview #7, Freetown, January 26, 2011.

<sup>120</sup> Sierra Leone Interview #3, Sierra Leone Interview #7, and Sierra Leone Interview #9, January 26, 2011. The existing safehouse, on the outskirts of Freetown, is operated by the Women in Crisis Movement.

<sup>121</sup> Domestic Violence Act of 2007, Part II. The other two acts passed simultaneously included the Devolution of Estates Act, which establishes that spouses inherit property from each other equally, and the Registration of Customary Marriage and Divorce Act, which establishes eighteen as the minimum age for marriage and requires registration and consent of both marital parties.

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- <sup>122</sup> Domestic Violence Act of 2007, Part IV, par. 23(d); Part III, par. 11(2).
- <sup>123</sup> Sierra Leone Interview #4.
- <sup>124</sup> Sierra Leone Interview #15, Freetown, January 27, 2011.
- <sup>125</sup> Sierra Leone Interview #3; Sierra Leone Interview #7.
- <sup>126</sup> Sierra Leone Interview #5, January 25, 2011, Freetown.
- <sup>127</sup> Sierra Leone Interview #4; Sierra Leone Interview #11.
- <sup>128</sup> Sierra Leone Interview #2; Sierra Leone Interview #13, Freetown, January 27, 2011.
- <sup>129</sup> Sierra Leone Interview #3.
- <sup>130</sup> One of the most active of these organizations is Timap for Justice, <http://www.timapforjustice.org/>.
- <sup>131</sup> Sierra Leone Interview #1, Freetown, January 24, 2011; Sierra Leone Interview #2.
- <sup>132</sup> Sierra Leone Interview #2. *See also* Domestic Violence Act of 2007, Part IV, par. 20 (providing for alternative dispute resolution of non-aggravated domestic violence where complainant consents).
- <sup>133</sup> Sierra Leone Interview #7; Sierra Leone Interview #8, Freetown, January 26, 2011; Sierra Leone Interview #3.
- <sup>134</sup> Sierra Leone Interview #3.
- <sup>135</sup> NAC-GBV, Family Support Unit of the Sierra Leone Police (FSU/SLP), Follow-up Monitoring Visit Report, May 2010.
- <sup>136</sup> Sierra Leone Interview #12, Freetown, January 27, 2011.
- <sup>137</sup> Sierra Leone Interview #11.
- <sup>138</sup> Sierra Leone Interview #7.
- <sup>139</sup> Sierra Leone Interview #1; Sierra Leone Interview #11; Sierra Leone Interview #4.
- <sup>140</sup> Sierra Leone Interview #4; Sierra Leone Interview #5. However, there is some concern that women's groups focus only on the needs of "elite" urban women and neglect poorer, rural women.
- <sup>141</sup> Sierra Leone Interview #4; Sierra Leone Interview #5.
- <sup>142</sup> Sierra Leone Interview #4.
- <sup>143</sup> Sierra Leone Interview #6, January 26, 2011.
- <sup>144</sup> Sierra Leone Interview #15; Sierra Leone Interview #3.
- <sup>145</sup> Sierra Leone Interview #13, January 27, 2011; Sierra Leone Interview #14, Freetown, January 27, 2011. Section 170 of the Sierra Leone Constitution inscribes discrimination against women by allowing customary laws that are largely unwritten, inconsistent, and paternalistic to remain in force and undermine new laws.
- <sup>146</sup> Sierra Leone Interview #12, January 27, 2011; Sierra Leone Interview #10, Freetown, January 26, 2011; Sierra Leone Interview #4.
- <sup>147</sup> *Id.*; Sierra Leone Interview #15.
- <sup>148</sup> Sierra Leone Interview #9; Sierra Leone Interview #12.
- <sup>149</sup> *Id.*

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<sup>150</sup> The Law Reform Commission of Sierra Leone is an independent body established under the Law Reform Commission Act of 1994 as amended to keep under review all the laws of Sierra Leone, statutory or otherwise for the purpose of their reform, development, codification or consolidation.

<sup>151</sup> Sierra Leone Interview #15; Sierra Leone Interview #7.

<sup>152</sup> Sierra Leone Interview #15; Sierra Leone Interview #12; Sierra Leone Interview 13; Sierra Leone Interview 7.

<sup>153</sup> Sierra Leone Interview #12; Sierra Leone Interview #2; Sierra Leone Interview #9. While several of our interviewees mentioned that child victims were supposed to testify in chambers, we were unable to provide a statutory basis for this practice in the Child Rights Act. Judges maintain the discretion to separate adult women who are victims and/or witnesses of domestic violence under s11(2) of the 2007 Domestic Violence Act but this protection is not utilized which, in part, is explained by cultural attitudes towards adult women and the role of women in marriage discussed in part e.

<sup>154</sup> The 2007 Domestic Violence Act s10-17; Sierra Leone Interview #12.

<sup>155</sup> Sierra Leone Interview #2; Sierra Leone Interview #12, noting that the FSU should collect more circumstantial evidence to corroborate cases at trial.

<sup>156</sup> Sierra Leone Interview #3; Sierra Leone Interview# 11, explaining that many victims go to the FSU and then are referred to the Rainbo Center which further hinders evidence collection for prosecution.

<sup>157</sup> Sierra Leone Interview #15, citing that sometimes state attorneys try high profile cases, but pursuant to s66 of the Sierra Leone Constitution and the Law Officers Act of 1965 police can be granted authority to prosecute criminal cases and this is necessary due to the severe shortage of state attorneys.

<sup>158</sup> Sierra Leone Interview #12, explaining that such deficiencies in legal training have caused police prosecutors to not actively participate and advocate for sexual violence victims at trial.

<sup>159</sup> Sierra Leone Interview #12.

<sup>160</sup> Sierra Leone Interview #9; Sierra Leone Interview #12.

<sup>161</sup> Sierra Leone Interview #15; Sierra Leone Interview #12.

<sup>162</sup> Sierra Leone Interview #14; Sierra Leone Interview #12.

<sup>163</sup> Sierra Leone Interview #12.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> Sierra Leone Interview #14.

<sup>167</sup>The 2007 Domestic Violence Act s20(1)(a)and(b); Sierra Leone Interview #14.

<sup>168</sup> *Id.* s20(1)(a)and(b); Sierra Leone Interview #2; Sierra Leone Interview #3.

<sup>169</sup> Sierra Leone Interview #3; Sierra Leone Interview #2, explaining FSU officials engage in “family talks” as part of their “peace building capacity” when the crime is not aggravated.

<sup>170</sup> Sierra Leone Interview #3; Sierra Leone Interview #12.

<sup>171</sup> Sierra Leone Interview #3.

<sup>172</sup> Sierra Leone Interview #2; Sierra Leone Interview #4, explaining that given the alternatives, namely paternalistic customary law, the FSU’s use of mediation is a source of hope to some women and an improvement from the way domestic violence was previously handled.

<sup>173</sup> Sierra Leone Interview #14; Sierra Leone Interview #4.

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<sup>174</sup> Mahony, *Justice Sector Afterthought* at Ch.4, *supra* note 11, noting that the Witness and Victim Section (WVS) of the Special Court for Sierra Leone (SCSL) interprets its mandate as “protection physically, psychologically, and financially.”

<sup>175</sup> Sierra Leone Interview #3; Sierra Leone Interview #11.

<sup>176</sup> Sierra Leone Interview #4.

<sup>177</sup> Sierra Leone Interview #3; Sierra Leone Interview #11.

<sup>178</sup> Sierra Leone Interview #4; Sierra Leone Interview #14.

<sup>179</sup> Sierra Leone Interview #7; Sierra Leone Interview #10.

<sup>180</sup> Sierra Leone Interview #10.

<sup>181</sup> Sierra Leone Interview #4.

<sup>182</sup> Although this practice is illegal under s2(1)(a) of the Registration of Customary Marriage and Divorce Act of 2007 which states the legal age to marry is 18 and requires the consent of both parties.

<sup>183</sup> Sierra Leone Interview #10; Sierra Leone Interview #14.

<sup>184</sup> Sierra Leone Interview #12; Sierra Leone Interview #8.

<sup>185</sup> Sierra Leone Interview #4.

<sup>186</sup> Sierra Leone Interview #8; Sierra Leone Interview #14, cautioning against the practice of International NGO’s informing women in villages to act on the rights given to them under the national 2007 acts not enforced under traditional laws.

<sup>187</sup> *See generally, Sierra Leone: Women face human rights abuses in the informal legal sector*, Amnesty International, May 17, 2006, available at:

<http://www.amnestyusa.org/document.php?lang=e&id=ENGAFR510022006>; Interview 4; Interview 7.

<sup>188</sup> *Id.*

<sup>189</sup> *See Education Statistics: Sierra Leone*, UNICEF, Division of Policy and Practice, Statistics and Monitoring Section, May 2008, available at: [http://www.childinfo.org/files/WCAR\\_Sierra\\_Leone.pdf](http://www.childinfo.org/files/WCAR_Sierra_Leone.pdf); Sierra Leone Interview #8; Sierra Leone Interview 1#0.

<sup>190</sup> Sierra Leone Interview #4; Sierra Leone Interview #14.

<sup>191</sup> Sierra Leone Interview #8.

<sup>192</sup> Sierra Leone Interview #2, stating that men think the role of the FSU is to divide their families; Sierra Leone Interview #4, explaining that many women, even the educated, feel that the FSU and progressive legislation harms traditional values.

<sup>193</sup> Amber Peterman, PhD, Tia Palermo, PhD and Caryn Bredenkamp, PhD, *Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of the Congo*, *American Journal of Public Health* 1060-1067 June 2011, Vol 101, No. 6.

<sup>194</sup> Johnson et al., *Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Post-conflict Liberia*, *JAMA The Journal of the American Medical Association*, 300(6):676-690 (2008).

<sup>195</sup> Jeffrey Gettleman, “Clinton presents plan to fight sexual violence in Congo,” *New York Times*, August 11, 2009, available at [http://www.nytimes.com/2009/08/12/world/africa/12diplo.html?\\_r=1&partner=rss&emc=rss](http://www.nytimes.com/2009/08/12/world/africa/12diplo.html?_r=1&partner=rss&emc=rss).