

# Between Law and Society

Paralegals and the Provision of Primary Justice Services in Sierra Leone

*With a New Foreword by George Soros*



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# Foreword

*by George Soros*

Across the globe, billions of people are effectively excluded from the rule of law. Denied access to legal advice or the courts, they live with daily injustices and have little hope of redress. As a result, they are cheated by employers, driven from their land, preyed upon by the corrupt, and victimized by violence.

Legal redress is especially hard to come by in Sierra Leone, one of the world's poorest nations. Decades of war virtually destroyed the country's formal legal system, leaving only a handful of lawyers and judges to try to meet the justice needs of over six million people. Their alternative is the customary system of justice dispensed by village chiefs that can be arbitrary and unfair.

So what is Kadiatu T. to do when a police officer beats her and steals from her? Where can Macie B. turn for justice when her husband accuses her of being a witch and refuses to pay child support? These women, whose stories are told in the pages that follow, are representative of those who suffer without access to justice—a group predominantly made up of the poor, women, minorities, and others victimized by discrimination.

The lack of access to justice is a problem not limited to those affected—it is also a brake on economic development and at its extremes, a threat to political stability and human security. The answer, I believe, is to foster legal empowerment of the poor: providing the tools that enable them to use the law to protect their rights and advance their interests. Legal empowerment has the potential to address the myriad problems faced by poor people every day, from birth registration to property disputes, corruption, and police abuse.

As documented in this volume, legal empowerment produces concrete benefits because it helps people achieve recognition of rights and interests that are typically denied them. It helps the disadvantaged increase their freedom and agency through

greater participation in family, community, and governmental decision making. It affirms women's inheritance, citizenship, labor, and other rights, and reduces gender violence. Through the reform of land registries, or laws governing microbusiness or credit, it helps lift the income and assets of poor people through the reform of property and labor laws. And it strengthens the hand of those seeking to correct unequal treatment and hold government officials accountable for their actions.

The work of Timap for Justice produces just such benefits. Since its inception as a project of the Open Society Justice Initiative in 2003, Timap's paralegals and lawyers have helped solve their clients' everyday justice problems and show them that justice is possible. But perhaps more important, Timap cultivates in its clients a sense of their own ability to act. For example, their work with the Gbonkolenken Youth Council did not just help to recover three million Leones in embezzled money, but also taught the young members of the council how to stand up to official corruption.

Since the publication of the first edition of this report in 2006, Timap's work has been widely praised; it has attracted support from a Japanese government trust fund managed by the World Bank, served as the model for a legal empowerment project in Liberia organized by the Carter Center, and been an inspiration for similar organizations worldwide. In 2009, the government of Sierra Leone agreed to develop a national paralegal program based on Timap's work. The Open Society Justice Initiative is now actively supporting similar legal empowerment projects around the world, while working alongside the United Nations Development Programme, the World Bank, and others to foster a concerted global effort.

Legal empowerment of the poor lies at the intersection of human rights and development and has the potential to transform both fields, and many lives. The results of this important work, as depicted in this book, speak to the power and promise of empowering poor people to use the law on their own behalf.

George Soros  
New York City  
December 2009

# Preface

The Open Society Justice Initiative, an operational arm of the Open Society Institute, works around the world to increase access to justice. Partnering with local actors, we support a wide range of initiatives to develop legal capacity for open societies.

The Justice Initiative publishes this account of paralegal services from Sierra Leone because we believe it is both significant and replicable. As a promising method of legal empowerment that fits between legal education and legal representation, community-based paralegal programs may provide a crucial middle ground between much more expensive lawyer-focused approaches and the somewhat inchoate strategy of empowerment through legal education for lay people. As the narratives from the case files of Timap for Justice—the Justice Initiative’s partner in Sierra Leone—demonstrate, the paralegal model combines knowledge and use of the law with the more flexible, creative tools of social movements. Paralegals relate to lawyers and the formal legal system in a manner not unlike the way primary health workers relate to doctors and the formal medical system: acting as a dynamic presence at the front-line, with a wider set of tools and aims; a force which, when necessary, facilitates communication between the people and the experts. If paralegal programs are well adapted to the contexts in which they work, they have the potential to synthesize modern and traditional approaches to justice and to bridge the often gaping chasm between law and society.

Paralegal programs of different stripes exist in Africa, South and East Asia, Latin America, Europe, and North America. In South Africa, paralegal programs emerged in the 1960s and provided critical assistance to nonwhite South Africans to navigate and defend themselves against the Byzantine codes of the apartheid regime. Since 1994, South African paralegals have focused on areas such as pension benefits, the rights of people living with AIDS, employment issues, gender-based violence, and land restitution. Similar community-based paralegal efforts exist in other parts of Southern Africa, including Zimbabwe, Namibia, and Zambia.

While many paralegals work as generalists, responding to the varied justice needs of the communities in which they are based, others are trained to specialize in particular issues or methods. Paralegals in the Philippines working with the farmers' organization Kasama have focused on helping farmers to realize the promises of land reform legislation, including the conversion of plots from share tenancy to leasehold status and the recovery of the full share of crop proceeds owed to the farmers under law. In Bangladesh, the Madaripur Legal Aid Association (MLAA) began in the late 1970s to employ a modified version of a traditional approach to mediating conflicts. Village-level paralegals trained by MLAA work with mediation

**Paralegal programs can be an important and cost-effective component of any justice system. But to reach that potential, more investment—especially long-term investment—is needed.**

committees to achieve peaceful resolutions to intra-village disputes; they also refer egregious, criminal cases for formal legal action.

Paralegals with the Paralegal Advisory Service (PAS) in Malawi focus on assisting criminal detainees and prisoners. PAS paralegals, formally recognized by the Malawi justice system, run educational clinics on rights and procedures inside the prisons. The paralegals help pre-trial detainees to fill out bail applications and to track down

relatives who can serve as sureties. The paralegals also meet directly with police and prosecutors to review cases, and often succeed in facilitating detainees' release on bail or, in some instances, dismissal for want of evidence.

These existing efforts are only a brief sample of the paralegal programs operating around the world. Considered against the promising diversity of these efforts, community-based paralegal programs have received relatively little attention—compared to legal education and attorney-centered legal aid—from legal scholars and major institutions involved in human rights and development. The paralegal approach is not widely acknowledged as an important component of strategies for delivering justice services or for achieving justice-sector reform and development. Support for paralegal efforts is piecemeal and *ad hoc*—often coming under the auspices of country-level “governance” or “social development” programs—rather than systematic or widespread.

The Justice Initiative firmly believes that paralegal programs can be an important and cost-effective component of any justice system. But to reach that potential, more investment—especially long-term investment—is needed. The Justice Initiative is proud to have played a role in the success of Timap for Justice. We hope that the following report from Sierra Leone will lead others to consider supporting Timap and paralegal programs around the world.

# Introduction

Law and justice investments in the developing world can be roughly divided into two categories. One set of investments focuses on state institutions: on improving the effectiveness and fairness of the courts, the legislature, the police, and the health and education systems, among others. A second set of investments, sometimes termed legal empowerment, focuses on directly assisting ordinary people, especially the poor, who face justice problems. There are two primary reasons for complementing state-centered reforms with this second type of investment. First and simply, institutional reform is slow and difficult, and there is a need to tend to those wounded by broken or bad systems. Second—and this reason conceives of the poor as agents rather than victims—lasting institutional change depends on a more empowered polity.

One conventional method of providing legal empowerment is legal services, including representation in routine criminal and civil matters, and public interest “impact” litigation. Legal services, at their best, can achieve concrete victories for the powerless against the powerful: an arbitrarily detained juvenile is released, workers receive their wrongfully unpaid wages, an unjust law is overturned. But legal services have serious limitations. Lawyers are costly, courts are often slow, ineffective and corrupt, and, perhaps most significantly, the solutions afforded by litigation and formal legal process are not always the kinds of solutions desired by the people involved. A second method, which has received increased support in the last 20 years, is legal and human rights education. Education is a critical first step in giving people power. But education alone is often inadequate to change a person’s or a community’s capacity to overcome injustice.

The Open Society Justice Initiative collaborated in 2003 with a Sierra Leonean organization, the National Forum for Human Rights, to initiate the rural paralegal effort in Sierra Leone that has become the independent NGO “Timap for Justice.” Timap for Justice has indeed begun to demonstrate the powerful impact that parale-

gals can have, even in conditions of severe poverty, state failure, and a bifurcated legal system. The program has developed a creative, versatile model to advance justice, one which combines education, mediation, negotiation, organizing, and advocacy. The efficacy of the Sierra Leonean paralegals is due in large measure to their knowledge of and association with the law and to the program's capacity to litigate in some cases, but also to their familiarity with the social milieu of their clients and the potential for fostering self-help and amicable resolutions. The program strives to solve clients' justice problems—thereby demonstrating concretely that justice is possible—and at the same time to cultivate the agency of the communities among which it works. The program uses a synthetic approach to Sierra Leone's dualist legal structure, engaging and seeking to improve both formal and customary institutions.

In this report, the qualities that make Timap an effective community-based paralegal program are highlighted in three stories, and then examined in greater detail.

# From the Files: Three Justice Problems

## Pa Lansana and a Paramount Chief's Interference in the Customary Legal System

Pa “Musa Lansana”<sup>1</sup> is a Temne-speaking farmer from Maqui Village, Kholifa Rowalla Chiefdom, in northern Sierra Leone. At sixty-five, he walks with the deliberateness and dignity of someone who has lived longer than most men in his community ever will. He is the patriarch of the Lansana family in Maqui.

The Lansanas hold a large and fertile plot of land in Maqui. For several generations the Lansanas have allowed other village farmers to plant and harvest palm trees on sections of their land at no cost. In 2004, because of a series of family tragedies, the Lansanas’ financial situation became dire, and the extended family faced considerable difficulty in feeding and schooling all its children.

Pa Lansana and his brothers decided to ask for a contribution of five gallons of palm oil from each of the families who harvested on Lansansa family land. According to Pa Lansana, all but two families welcomed the chance to show their appreciation for land from which they had benefited for many years. However, two families, headed by “Pa Jamil” and “Pa Kanu,” refused. This began an expensive misadventure in the customary justice system.

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<sup>1</sup> Names have been changed to protect client confidentiality.

In Sierra Leone, as in many other African countries, the law is bifurcated: a formal legal system based on that of the former colonial master (in this case Great Britain) coexists with a customary system based, in principle, on traditional approaches to justice. Pa Lansana resorted to the *de facto* first tier of the customary justice system: the village chief's court. The vast majority of village and section chiefs adjudicate claims within their localities, issuing summonses, conducting hearings, making judgments, and collecting fines. These courts have existed for generations, and although they are outlawed by the statute that lays out the architecture of Sierra Leone's modern dualist legal structure, they continue to play a significant role in rural life.

**Pa Lansana paid 5,000 Leones to inform “all those harvesting palm oil on my land without my consent” that he would be hiring a sorcerer for the purpose of cursing the offenders.**

Every step in a chief's adjudication costs money. Pa Lansana paid 2,000 Leones (US\$ 0.75)<sup>2</sup> to the village chief to issue a summons for Jamil and Kanu to report to the chief. When they refused, he paid the same chief another 5,000 Leones to inform “all those who are harvesting palm oil on my land without my consent” that he, Pa Lansana, would be hiring a sorcerer for the purpose of cursing the offenders.

The sorcerer, however, did not produce the result Lansana was hoping for, so he decided to file his case in the “local court” in Magburaka, part of the customary legal system. Unlike chiefs' courts, local courts are the legally recognized institutions of the customary legal system. After filing in local court, Pa Lansana received a letter from Pa Roke, the acting paramount chief, or executive ruler, of Kholifa Rowalla Chiefdom. It turns out that Pa Jamil and Pa Kanu were both related to the paramount chief Pa Roke. The letter informed Lansana that Pa Roke was removing his case from local court and that he, Pa Roke, would personally settle the matter. Pa Lansana protested this removal but to no avail.

During a series of hearings, the paramount chief levied fine after fine against Lansana: for speaking out of turn, for stating that his right to his land was immune to interference by chiefs, for challenging the paramount chief's right to hear the case. Lansana was also charged 20,000 Leones to pay transport costs for all the section chiefs to congregate in Magburaka to discuss his case. In all, Lansana paid 67,000 Leones to the paramount chief and apologized for the statements deemed offensive. These were all procedural fines, levied before the paramount chief actually decided the case. To put the fines in perspective, the minimum wage for a day laborer in Sierra Leone is 21,000 Leones per month.

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<sup>2</sup> Dollar estimates are based on a conversion rate of 2,650 L./\$.

What was Pa Lansana to do? His family, already facing a financial crisis, was now almost penniless. Pa Roke's removal of the case from local court was a flagrant violation of the law, but no one in the chiefdom, including the local court chairman, dared question the paramount chief's authority.

## Kadiatu T. and the Police Officer Who Beat Her

"Kadiatu T.," a woman in her thirties with simple clothes and a weathered face, lives in Clinetown, a neighborhood in the east of Freetown. She sells cigarettes and occasionally sex to make a living. In September 2004, a drunk, off-duty police officer asked Kadiatu T. to give him a cigarette on credit. Kadiatu T. gave him the cigarette. The officer then asked for a plastic bag. She said she didn't have any. The officer beat and kicked her in her back, mouth, and belly until she was unconscious. Bystanders stole her money and the stock of cigarettes she had been carrying atop her head.

Kadiatu T.'s boyfriend borrowed money from friends and relatives to pay for medical treatment. The two of them filed a complaint against the officer with the Complaints Discipline and Internal Investigations Department (CDIID) at police headquarters in Freetown. They inquired every week but after a month the department had taken no action. The CDIID representative would only say that the department was "looking into the matter."

Kadiatu T. began to lose hope that she would receive compensation for her medical care and the loss of her money and wares. The officer, meanwhile, continued to work in the Clinetown station, unchecked and unapologetic. He laughed at her, telling people, "What does she think she can do to me?" There is a phrase in Krio, "na fo biya no mo"—"one should bear, nothing more." People advised Kadiatu T. to bear the suffering life had dealt her and move on and forget and survive.

## Macie B. and the Family that Rejected Her as a Witch

"Macie B." is a 26-year-old woman from Guala Village, Bumpeh-Gao Chiefdom, in the south of Sierra Leone. Her first and second children had died at around one year of age. When her third child also became sick during his second year, her husband and his family brought her to a diviner, who decided Macie B. had a secret she needed to confess to save the child's life. During intense questioning, Macie B. confessed to being a witch. She explained that in a dream she had made a pact with a coven

of witches that each would offer a close relative to be sacrificed. She had given her first two children to the witches in a dream before their deaths, and recently, in another dream, she had given her third child to the same witches.

On hearing her “confession,” Macie B.’s husband and his family wanted nothing to do with her. They refused to spend more money on her or the child’s health care, and sent her to live with her parents. Within a few weeks, the third child also died, which, according to the husband and his family, proved the veracity of Macie B.’s confession. By this point, Macie B. was already pregnant for the fourth time. Because of her poverty, she received no prenatal care in the first seven months of her pregnancy and was not getting enough to eat. Her own family, viewing her with suspicion, did not want her at home.

Macie B. told Timap that her confession, made under great pressure, was untrue. She said she wanted to take care of her health and the health of the baby she would have, but that both her own family and her husband’s family had turned away from her.

These three disparate stories are examples of the kinds of justice problems that poor Sierra Leoneans face. Where should these people turn? What would it take to protect human rights in these situations? Before considering these questions, we will sketch briefly some features of the context out of which these stories arise.

# Context

Sierra Leone comprises some 30,000 square miles and about six million people in the middle of the Mano River Basin, south and west of Guinea and north of Liberia. The country emerged in 2002 from an 11-year civil war that involved the rebel group the Revolutionary United Front (RUF); multiple factions and incarnations of the Sierra Leonean Army; several civilian defense forces; and, near its end, West African and United Nations peacekeeping troops.

Despite the particularities of Sierra Leone's recent history, Timap's work in Sierra Leone offers lessons for other efforts to develop primary justice services under conditions that are characterized—as Timap's are—by three factors: the rule of autocrats; the coexistence of two legal structures, one formal and one customary; and/or the absence or failure of state institutions.

## The Rule of Big Men

Among themselves, and even in the newspapers, Sierra Leoneans refer to President Tejan Kabbah as “di pa”—“the father.” They speak of the other ministers, and leaders in general, as “di big man dem,”—“the big men.” Power in Sierra Leone is concentrated in the hands of big men at every level, from Pa Kabbah down to the village chief, the school principal, the head of the village farmers' association. Any attempt to succor justice in Sierra Leone must address the question of how it will grapple with the rule of big men.

## The Dualist Legal Structure

Of Sierra Leone's two legal systems, the formal is concentrated in Freetown, the nation's capital. Five of the nation's 10 magistrates sit in Freetown, while the other five rotate among 12 provincial magistrate courts. Of 12 high court judges, ten presently sit in Freetown while one sits in the southern provincial capital, Bo, and another is assigned to rotate among the provinces.

**The United Nations Development Programme, which ranks countries according to an aggregation of data on health, education, and standards of living, placed Sierra Leone 176th on the list of 177 countries ranked in 2005.**

The customary legal system continues to have far more practical relevance for the vast majority of Sierra Leoneans than the formal legal system. Customary law varies by tribe, is not codified, and is often applied unfairly. Local courts, with chairmen appointed by paramount chiefs, act as arbiters of customary law. Favoritism and excessive fines are common in the local courts. Substantive and procedural unfairness is exacerbated by a lack of independent review. Within the chiefdom, few but the

paramount chief and the elders he favors have any power over the way the local courts function. Customary law is supposed to comply with the national constitution and it should not contradict "enactments of parliament" or "principles of natural justice and equity." But these nominal limitations are seldom if ever enforced.

## Violence and a Failed Social Infrastructure

In documenting the country's 11-year civil war, the Sierra Leone Truth and Reconciliation Commission collected voluntary statements that recorded some 40,000 human rights violations against civilians, including 4,500 killings and 6,000 abductions. Analysts of the war agree that violence committed against civilians far exceeded the losses suffered by any of the belligerent parties. Human Rights Watch and others have shown that sexual violence of extraordinary brutality was committed systematically by various parties to the conflict, especially the RUF, as a weapon of terror. The majority of combatants still live in the country.

Violence lies just beneath the surface of everyday life. Too frequently it erupts, in a dispute between husband and wife, in a fight between *poda poda*<sup>3</sup> drivers, in a policeman's confrontation with a street vendor like Kadiatu T. Addressing the consequences and, ideally, the causes of this violence is a critical challenge for those who would take on the justice problems of the Sierra Leonean poor.

Of those Sierra Leoneans who went to war, many did so out of their disaffection with an ineffective, unequal social infrastructure. Eleven years of civil war made a bad thing much worse. In name, Sierra Leone possesses the complete anatomy of a modern state—ministries of health, education, and welfare, a transit authority, a police force—but each organ is profoundly dysfunctional. The United Nations Development Programme, which ranks countries according to an aggregation of data on health, education, and standards of living, placed Sierra Leone 176th on the list of 177 countries ranked in 2005.

The failed social infrastructure is in a reciprocally causal relationship with the poor economy. Terrible roads render markets difficult to access. Terrible health and education systems create a shortage of healthy, educated economic actors. A lack of economic development, in turn, leaves the government with minimal resources and the majority of people too poor to fulfill their basic needs. Seventy percent of Sierra Leoneans live below the poverty line determined by the Sierra Leone government.

Massive corruption in Sierra Leone kindles both economic and social-structural failure. The government, assisted by some of its donors, conducted a study in 2004 to track the flow of state resources. It found that of 1.7 billion Leones worth of essential medicines supposedly transferred from the central government to district hospitals, only 96 million Leones worth of drugs were actually reported received at the district level. That means 94.3 percent of the drugs simply disappeared without explanation.

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<sup>3</sup> “*Poda poda*” is the Sierra Leonean name for the mini-vans used for public transport which are found all over Africa.

# Intervention: Why Community-Based Paralegals

This reality cries out for several kinds of change. One need is for serious reforms to the state institutions: to rein in state corruption, democratize political power, construct a more effective social infrastructure, and engage some of the contradictions in the dualist legal regime. The bulk of post-war reconstruction efforts has fallen into this broad category, with assistance from the United Nations Mission in Sierra Leone, the United Nations Development Programme, and the British, U.S., European, and other governments.

The premise of Timap's work in Sierra Leone is that there is also an urgent need for justice efforts on the other side of the lines of power, working directly with poor Sierra Leoneans. Even if successful, state-centered reforms tend to progress only slowly. People like Pa Lansana, Kadiatu T., and Macie B. suffer in the meanwhile, and one reason to undertake justice work with common Sierra Leoneans is to assist them and the thousands of people like them. A second reason, one that conceives of people like Pa Lansana as agents of transformation, is that lasting institutional change depends on a more empowered polity. Justice services for the poor can hope to contribute to the process of reform from below.

If justice services for the poor are a worthy priority, what should they look like in the context of the rule of big men, a dualist legal structure and a failed infrastructure? Criminal legal aid would involve too narrow a swath of the justice problems people

encounter. Some human rights organizations in Sierra Leone undertake a mixture of education and advocacy activities, but they tend to lack an understanding of law and government and, relatedly, a rigorous method with which to approach ordinary people's problems. The broader conception of "community legal services" is more attractive: applying the rigor of legal practice to the wide range of justice problems communities face.

Lawyers, however, are hard to come by. There are only about a hundred practicing lawyers in the country and more than ninety of those are located in the capital, Freetown. The Lawyers' Center for Legal Assistance, based in Freetown, provides much-needed legal assistance to indigent clients, but the Center is unable to meet demand—suggesting the need for more legal aid—and its activities are largely limited to Freetown and provincial headquarter towns. Moreover, under Sierra Leone's dualist legal structure, lawyers are barred from practicing in the customary courts; yet these are the institutions of most practical relevance to the majority of Sierra Leoneans.

For these reasons, and based on experience in the field, the Sierra Leonean National Forum for Human Rights (NFHR) and the Open Society Justice Initiative (the "Justice Initiative") collaborated to initiate a program to deliver basic justice services at the chiefdom level through community-based paralegals. That program has evolved into an independent Sierra Leonean organization called Timap for Justice.<sup>4</sup>

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<sup>4</sup> "Timap" is Krio for "stand up" or, in some cases, "team up."

# Methodology

The program was co-founded and is co-directed by an American-trained lawyer and Justice Initiative fellow, Vivek Maru, and a Sierra Leonean lawyer, Simeon Koroma. After a needs assessment process, five chiefdoms were selected, three in Bo District in the south and two in Tonkolili District in the north. Thirteen paralegals, all of whom have at least a secondary school education, were recruited and hired from the chiefdoms where they now work. Before starting work they received training in law, the workings of government, and paralegal skills. The directors continue to train and supervise the paralegals as the work goes on.

Timap's paralegals are laypeople, and more than half have only a secondary school education. For most of them, this work is their first exposure to law. For the designation "paralegal" to have meaning, then, and for their association with the law not to be empty, Timap believes it is paramount that the paralegals receive continuous supervision and training from lawyers. The attorney-project directors spend more than half of every month traveling among the program's eight offices, reviewing paralegals' handling of cases, working directly with selected clients, and providing training on pertinent areas of the law or the workings of government. On the other hand, formal law and government represent only a part of the resources upon which Timap draws (more on legal syncretism below). Indeed, the paralegals have greater expertise than do Timap's directors with regard to the customary law and institutions in their own localities; they also best understand the clients' needs and limitations. Paralegals and supervising lawyers discern the program's synthetic path together; their interactions must be dialogic rather than didactic in either direction.

Common issues the community-based paralegals work on include domestic violence, child abandonment, corruption, police abuse, economic exploitation, abuse of traditional authority, employment rights, right to education, and right to health.

The paralegals use diverse methods to tackle individual and community problems. For individual problems (a woman beaten by her husband, or a juvenile wrongfully detained), they provide information on rights and procedures, mediate conflicts, and assist clients in dealing with government and chiefdom authorities. For community problems (the prevalence of domestic violence in the community, or a police practice of detaining juveniles with adults), they engage in community education and dialogue, advocate for change with both traditional and formal authorities, and organize community members to undertake collective action. In a small number of cases, chosen either because the injustice is particularly severe or because of the possibility of legal impact, the directing lawyers provide direct legal representation or high-level advocacy.

Community oversight boards, appointed by community members and approved by the program directors, monitor the paralegals' work to ensure that the program is serving the needs of the chiefdom.

Timap strives to serve clients and communities with some of the rigor and professionalism of the practice of law. The paralegals follow a standardized system for maintaining case files, for tracking and following up cases, and for recording their own efforts. Paralegals are bound to uphold client confidentiality; Timap considers its files to be "privileged." Coordinators can trace a paper record in any case, and paralegals and coordinators frequently go over cases to think critically about the choices made and strategies taken.

The paralegals' caseloads have risen as the character and quality of their work have become known within the project areas. By June 2005, each of Timap's eight offices was handling an approximate average of 20 new cases (including both individual and community-level problems) per month.

## Creativity and Flexibility

Timap for Justice works in a barren institutional landscape. Because state institutions are poorly functioning, understaffed, and often thoroughly corrupt, Timap's staff take on a much wider range of functions than a typical legal services program would. Villagers in Tikonko Chiefdom approached Timap paralegals in June 2004 to complain that they were cut off from basic services because of the condition of the feeder road that connected their village to the main road. In response, paralegals organized village residents for a day of voluntary, collective road maintenance. Other cases which begin as child neglect complaints result, through mediation, in a reunion between husband and wife. Following up with the clients, the paralegals end up providing their own form of family counseling.

Mediation—wherein paralegals seek the voluntary settlement of disputes—is one of the most powerful and commonly used tools. If both parties to a conflict are interested in a settlement, the paralegals conduct a structured, six step mediation process. The mediations include all of the parties involved, as well as family elders or other mutually respected people from either side to act as witnesses.

Mediation works well, in part because it resonates with customary law’s emphasis on reconciliation and community cohesion rather than punishment. One of the traditional roles of chiefs, in fact, is to help their constituents to resolve conflicts peacefully. Chiefs are not violating the Local Courts Act if the parties come to them voluntarily and they refrain from imposing fines or penalties. But chiefs’ courts like the ones Pa Lansana encountered are quite common, and chiefs are often biased by bribes or by the status—“bigness,” as it were—of the parties. The same is true of formal legal institutions like the police. One police officer in Gbonkolenken Chiefdom complained to a lawyer who came to assess the program that people in the chiefdom were taking their problems to the “human rights” office rather than to the police force. When asked why, the officer candidly stated: because the human rights people don’t take money.

Timap’s own resolution initiatives do not reflect a desire to supplant either customary or formal dispute mechanisms. To the contrary, much of its work is in helping clients to access and navigate both sets of institutions. But by offering a free and fair alternative for the mediation of conflicts, Timap provides healthy competition among mechanisms and may helpfully dilute some of the authority currently concentrated in the community’s big men.

In addition to employing unconventional tools, Timap’s paralegals tackle an eclectic range of challenges—mediating land disputes, fighting wrongful detention, helping farmers apply for a grant of seed rice. The common denominator is that in each case the office takes its direction from the justice needs of the communities in which it works.

## The Power of Law and the “Human Rights” Imprimatur

Many Sierra Leoneans, especially those in rural areas, perceive the legal system and the government in a way not unlike the way they perceive black magic: as something to be feared rather than understood. Timap’s work draws on the tradition of community empowerment, seeking to demystify these institutions, by educating people about them, by guiding people through the process, and, most important, by proving that law and government can be made to serve ordinary citizens.

At the same time, Timap makes strategic use of the awe with which the law is perceived. Though it has no statutory authority, the project has demonstrated that sometimes just the color of law—“human rights” ID cards, typed letters on letterhead, knowledge of the law, and, importantly, the power to litigate if push comes to shove—causes many Sierra Leoneans to treat the Timap office with respect.

When the Sierra Leone Farmers’ Association delayed sending seed rice to a particular village in Kakua Chiefdom in June 2004, paralegal John Macarthy went with village leaders to visit the SLFA official, who had been holding out for a bribe. Macarthy told us that the official trembled as soon as he saw “human rights” on Macarthy’s ID card. Rice was soon delivered.

When a mother of three children complained in Magburaka that the children’s father had abandoned his responsibilities, paralegal Michael Luseni wrote to invite the father, “Ahmed D.,” to our office. Ahmed D., a vice principal of a school in Lungi two days away by public transport, dutifully reported the following week. Our paralegal conducted a mediation in which father and mother agreed on a specific monthly maintenance payment to be paid by Ahmed D. to our offices and collected by the mother there.

## Litigation

In addition to training and supervision by lawyers, a second crucial pillar for Timap’s association with the law is litigation. The organization’s litigation capacity is small: only Simeon Koroma, the Sierra Leonean director, is qualified to practice in Sierra Leonean courts. Accordingly, Timap focuses litigation efforts on cases where the injustice is most severe and/or presents an opportunity for significant legal impact. Litigation is a critical tool in effectively addressing clients’ problems when other methods fail. And because litigation—or even its looming presence as a tool at Timap’s disposal—carries significant weight in Sierra Leone (word spreads like wildfire when a lawyer visits the countryside). Timap’s capacity to litigate adds strength to the paralegals’ work as advocates and mediators.

Timap’s lawsuits typically arise from situations in which the paralegal alone was unable to obtain redress, either because of the nature of the harm or because of the unwillingness of the parties involved to respond to paralegal advocacy and/or negotiation. In one case, the office secured the release of a young mother who was wrongfully jailed at the insistence of a local “big man” who was feuding with her family. In another case, Timap is suing for healthcare costs on behalf of market women who were injured when a truck driver whom they had paid for transport negligently drove off the road.

Contrary to what some Sierra Leoneans may believe, however, litigation is not magic. In addition to being slow and expensive, it is only as good as the law. One of the defining characteristics of human rights advocacy is to push for change and redress in situations where, in any empirical sense, an enforceable right does not yet exist. Timap is no exception: it, too, often advocates beyond any capacity to enforce, placing a premium on the ability to strike and maintain a delicate balance between compulsion and cooperation.

A common problem concerns maintenance payments for neglected children. If two parents are separated, the custodial parent is entitled to support from the spouse under Sierra Leonean law, but the maximum monthly payment the courts can enforce is only 400 Leones.

In the provinces, there is one advantage: parental responsibility is also a requirement under customary law, and customary law has no such monetary limits. Timap has assisted scores of mothers to negotiate livable maintenance agreements with the fathers of their children.

The paralegals have developed creative ways of making more generous agreements sustainable. One farmer in Gbonkolenken Chiefdom, “Yusuf J.,” agreed that 15,000 Leones per month was a reasonable amount for the mother of his children to ask for, but insisted that he would be incapable of keeping up with the payments every month. A farmer’s earnings, he explained, are seasonal: after the harvest he could probably pay 30,000 Leones but after planting, 15,000 Leones would be impossible. Gbonkolenken paralegals proposed that Yusuf J. pay a minimum of 5,000 Leones every month and then ensure that within every six months, on his own schedule, a total of 90,000 Leones was paid. Both parties and their families were pleased with this proposal, and Yusuf J. has complied with the agreement to date.

But if a father in a maintenance case chooses to hire a lawyer and fight the case in the formal courts, Timap will have to argue that the regulations on maintenance payments are outdated and ought to be overlooked. It is an argument they might well lose, and a potential challenge they must continually try to forestall.

## Departure from the Lawyer-Client Paradigm

As noted earlier, Timap often takes a more neutral position, rather than the adversarial stance common to legal representation, in handling disputes. This is not only avoidance of needless conflict; it is also an equitable tenet in a society where legal assistance is scarce. As one of Timap’s directors put it, “We are, after all, the only provider of paralegal services in the places where we work. In a dispute between

two parties within the community, it would be arbitrary of us to favor the party who happens to approach our office first.”

Rather than the particular persons who file complaints, then, Timap conceives of its ultimate duty as being toward the entire community and toward basic principles of justice and democratic equality. Wherever possible, Timap’s staff aim, as customary law aims, for mutually acceptable reconciliation; hence mediation is one of the paralegal’s most well-worn tools.

Timap’s commitment to principles of egalitarian justice and universal human rights sometimes requires it to depart from both customary law and the express interests of parties to a dispute. For example, it would not condone a domestic mediation agreement requiring a husband to beat his wife sparingly, or “only when justified,” as a common local formulation would have it. Despite the fact that wife-beating is acceptable under customary law, Timap’s line on domestic violence is a hard one. Nor will it mediate rape cases, though this is the traditional approach to rape. In both these instances paralegals cite formal law as justification for the policy, but in fact Timap would maintain these stances regardless of what the formal law stated.

From its inception, Timap has defined the paralegal’s role to include both assisting individual clients *and* addressing community problems. To that latter end, it has supported communities in their pursuit of economic and social-structural development. Residents in Kutumhan Section of Bumpeh Chiefdom, for example, came together in early 2005 under the leadership of the section chief to repair collectively local roads. The young men doing the work objected to the schedule set by the section chief for two reasons: first, they lacked adequate tools, and second, the road work was preventing them from properly preparing their farms for the rains. Paralegal Joseph Sawyer mediated between the youths and the chief to arrive at a new timetable for the road repairs that would not interfere with farm work. Sawyer also helped the section apply to a local NGO, Network Movement for Justice and Development, for a grant of tools that allowed the road work to proceed more efficiently.

In other instances, paralegals have worked to improve the democracy and effectiveness of existing community organizations. The Gbonkolenken Youth Council was near collapse in 2004, with members accusing the leadership of corruption and incompetence. Timap paralegal Daniel Sesay was asked to lead an investigation and

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helped the council recover three million Leones in embezzled money and property. He prepared a report and organized a public “truth” hearing, persuading members of the Youth Council to admit their transgressions and commit to plans for remediation.

Community actions also occasionally allow Timap to address some of the root causes of common problems. In June 2004, the principal of a secondary school, the Magburaka Boys’ School, locked a student in his office, beat him with electrical cables, and kicked and punched him. Paralegal Michael Luseni assisted the student to obtain

medical care and approach the police.

However, the police were unwilling to prosecute the principal, who had a record of abuse, because of his status as a big man in the community, and because physical punishment is a sadly unremarkable feature of school discipline. Director Simeon Koroma declared that Timap would pursue private criminal prosecution (permissible in Sierra Leone) against the principal. Just that state-

**The principal of a secondary school locked a student in his office and kicked and punched him. The police were unwilling to prosecute the principal because of his status as a big man in the community.**

ment—before a single paper had been filed—created an uproar. The principal led all the teachers in a rally to the courthouse, and people all over town as well as the radio and print press discussed the fact that the human rights people might go after the Boys’ School principal.

The boy who had been beaten enrolled into a good school in Makeni, and the principal—who despite his bravado and stage tactics, feared the consequences of a criminal investigation—now allows our paralegals in Magburaka to monitor the school regularly. The paralegals are preparing a workshop at the school on the rights of the child and student-teacher relations. Their hope is that this dialogue and their regular contact with the school—all extrapolated from an individual case—will lead to inroads against a persistent community problem.

## Engaging and Reforming Legal Dualism

Timap’s approach to Sierra Leone’s dualist legal structure is pragmatic: drawing on both sets of institutions, it will typically follow the course that will best achieve the clients’ interests and the interests of justice. Sometimes, as in Pa Lansana’s case, it can use both, employing the formal legal system to check unfairness and exploitation in the customary law system.

But Timap's paralegals are not missionaries for the formal legal system, seeking to banish or limit customary law. Customary law institutions deserve respect both for their link to tradition and because for most Sierra Leoneans they are far more accessible and relevant than their formal counterparts. Indeed Timap's paralegals—constructive and collaborative far more than they are coercive—are a force for improving the customary system from within. Local court chairmen in Bumpah, Gbonkolenken, and Kholifa Rowalla chiefdoms all consult them informally when handling difficult cases. The paralegals hold community meetings to engage people in dialogue on justice issues in the chiefdom, and identify fair-minded chiefs and elders who can assist with internal advocacy for the progressive evolution of customary law.

Finally, paralegals sometimes serve as bridges between the two regimes. One effect of legal dualism is that rural people are marginalized from and fearful of the structures of government and the formal legal system. When Timap assists rape victims to seek police prosecution, it is trying to bridge that distance and fear. Similarly, Daniel Sesay's advocacy with the education ministry regarding school conditions is an attempt to connect rural constituents with the central government bodies which ought to be serving them.

Timap's hope and promise are that these piecemeal, grassroots efforts will contribute to a reform of the dualist legal structure that better combines the strengths of both systems and that takes its direction from the experiences of ordinary Sierra Leoneans.

# From the Files: Three Justice Problems, Revisited

## Pa Lansana Gets His Money and His Respect Back

After spending his last Leone paying fines to the paramount chief, Pa Lansana approached the Timap office. Paralegal Michael Luseni recorded Pa Lansana's story in the form of a statement which he read back to Pa Lansana before Pa pressed an inked thumb on the paper. Michael, speaking in Krio, pointed out that the actions of Paramount Chief Pa Roke violated the Local Courts Act, which prohibits chiefs from constituting courts. In the event of unfairness in the customary courts, Michael said, the law gave Pa Lansana the right to appeal the case to the district appeals court or approach the customary law officer.

Just learning these facts changed Pa Lansana's understanding of his predicament. He hadn't known there was law on his side. Michael offered to draft a letter and advocate with the local court supervisor to call the customary law officer's attention to the matter. Pa Lansana was enthusiastic. He felt he was starting to have a fighting chance.

Michael's efforts succeeded. He managed to awaken the local court supervisor to the implications of this breach of process; the supervisor in turn raised the issue with the customary law officer. Both officer and supervisor visited the chief. The chief,

faced with a government lawyer from Freetown, a bigger—that is, more powerful—person than himself, agreed to send the case back to the local court and even refunded some of the money Pa Lansana had paid in fines.

Pa Lansana was moved. For a chief to change his stance or to return fines was unheard of. Michael, meanwhile, paid a diplomatic visit to Pa Roke to ensure that their relations were not badly damaged. An angry paramount chief could shut down one of Timap's offices in a day. Pa Roke knew that Michael had advised Pa Lansana, but Michael's exact role was never made clear. Pa Roke accepted Michael's implicit request for no-hard-feelings. Pa Lansana later went on to win in the underlying matter before the local court.

## Kadiatu T. Obtains Compensation and an Apology from the Police

After a month of inaction from the police internal disciplinary department, Kadiatu T. and her boyfriend came to the Timap office in Freetown. Paralegal Jow Williams assured Kadiatu T. that if indeed she was beaten in the way she described then the officer had committed a serious violation of the law and a serious breach of appropriate police conduct. Jow's subsequent interviews at the police station and in the neighborhood generally confirmed Kadiatu T.'s story, including the officer's bravado after the incident.

**Paralegal Jow Williams assured Kadiatu T. that if she was beaten in the way she described then the officer had committed a serious violation of the law.**

Jow wrote a letter on Timap letterhead to the police officer, recounting the allegations and stating that, if true, they were quite serious. Jow invited the officer to visit the Timap office to tell his side of the story. A letter from a "human rights" organization holds power for many Sierra Leoneans. The officer reported to the office and, after some discussion, conceded his wrongdoing. Jow informed him that Timap would monitor the proceedings in the police disciplinary board and, depending on the outcome, would consider the possibility of a civil suit for damages. Fearing this possibility, the officer asked if there was anything he could do to settle the matter. Jow said he would discuss things with Kadiatu T. and get back to the officer.

After leaving, the officer approached senior officers to "beg for him" to Kadiatu T. To "beg" in Sierra Leonean culture is to acknowledge wrongdoing and ask for forgiveness. Kadiatu T. accepted the senior officers' pleading on the officer's behalf, the officer's own apology, and a promise that the officer would pay her 138,000 Leones,

which is no small sum in Sierra Leone. She also agreed to drop her complaint with the internal disciplinary board of the police. Timap for Justice did not find out about the arrangement until Kadiatu T. came to the office the following week to report that the officer had paid only part of the money he had promised. Jow spoke to the senior officers who, in turn, spoke to the officer and eventually all the money was paid.

Was justice done? The client received what she wanted most: compensation for her losses. But one might argue that a police officer managed to buy impunity for an illegal and vicious act. On the other hand, as the paralegals and Kadiatu T. insisted, it is a rare and remarkable thing for several police officers to publicly “beg” forgiveness from a poor woman cigarette-seller. Fear of the human rights office—and not the police discipline board, which had taken no action on the complaint—led to this apology and settlement. People in the neighborhood paid great attention.

## Macie B. Stays with Her Family—For Now

Macie B.’s family members brought her to Timap’s office in Bumpeh town. “What do you want us to do with this child?” they asked. “She is a confessed witch. She gave three of her children to witches to be eaten. Her husband’s family has returned her to us and left the village. We haven’t money to support her; we fear her ourselves. What do you human rights people have to say about this?”

Timap’s local paralegals, Joseph Sawyer and Elizabeth Lebbie, were at a loss. Under customary law, Macie B.’s confession was enough to justify the husband’s family “returning” her, and her own family’s refusing to take her in. Under formal law, her family had no obligation to care for her because she was no longer a child. The Bumpeh paralegals set aside their own beliefs in witchcraft and focused on helping Macie B. Was there any way to keep this pregnant woman from being abandoned and outcast?

The paralegals, speaking in Mende, appealed to love rather than law, telling Macie B.’s parents: “We are happy that you came to talk to us. We have listened, and we respect the seriousness of the situation. We want to remind you, though, that this is your daughter. You brought her into this world. She has nowhere else to turn.” They also tried a bit of reasoning: because her husband’s family stopped pursuing medical help once she confessed, the deaths may well have been due to neglect rather than witchcraft.

The family decided to continue to house Macie B., but food remained scarce in their household. Co-directors Simeon Koroma and Vivek Maru gave a small amount of their own money so Macie B. could visit the clinic for prenatal care and purchase

some additional food. (Timap's wish list includes a small emergency fund in each office for such purposes.) Maru suggested that once the baby was born, the program could approach the husband's family for maintenance payments, an obligation under formal law. But the family had now left Bumpah Chiefdom for Freetown, and Koroma and the paralegals argued that the family's strong position under customary law would make it nearly impossible to collect.

One of the community oversight board members, a part-time diviner, offered to prepare a meal and ceremony for Macie B. after the birth of the child to exorcise the witch without harming Macie B. If Macie B. could be perceived to have been de-witched, her own family and perhaps even her husband's family would accept her again and she could rejoin the fabric of her society. Macie B.'s problem involved human rights—her right to basic health and food—but the partial solution Timap offered did not involve law at all.<sup>5</sup>

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<sup>5</sup> Timap's intervention succeeded in helping Macie B. become reintegrated into her husband's family and the community. Despite this, her baby subsequently died, a tragically common occurrence in a country with the highest infant and child mortality rates in the world.

# Cost Effectiveness

For an impoverished society, the cost effectiveness of Timap's program is a paramount virtue. Timap plans to expand its operations in 2006 from five chiefdoms to ten, and from 13 paralegals to 23. Timap's proposed annual budget for the program—after expansion—is only US\$ 260,000 (including salaries for two lawyers, 23 paralegals, vehicle costs, and overhead). Timap estimates that it successfully resolves 80% of its cases. (A newly instituted tracking system will enable Timap to gather exact and comprehensive data on resolution rates.) After expansion, with 23 paralegals each resolving 80% of their 10 cases per month, the organization will be able to resolve a total of 2,208 cases per year, which works out to US\$ 117.75 per resolution.

Once Timap expands to 10 chiefdoms, the program will be covering an area of 736,000 people. (This excludes Freetown because, though Timap handles many cases there, the population is large —951,000— and there are other service providers, so Timap can't be said to be serving the entire population.) Discounting an estimated \$10,000 for Freetown operations, the program costs average \$0.34 per person covered.

A cost of US\$ 117.75 per case resolved is a bargain, even by Sierra Leonean standards. Even if one could find lawyers willing to work in rural areas and take the kinds of cases Timap's paralegals address, the costs would be prohibitive: more than five times the cost of the paralegal approach.

# Conclusion

Paralegals deserve a significant place within the global strategy for justice-sector reform. Current justice-sector investment focuses heavily on top-down institutional reform. Within the less-supported, bottom-up, legal empowerment side of justice sector investment, the two major methods are 1) formal legal aid and 2) human rights education. Legal aid can produce concrete victories but is slow, expensive, and methodologically narrow. Education is a crucial first step for empowerment but its impact is limited when unconnected to concrete changes in people's everyday lives.

Paralegals constitute a powerful, under-appreciated third methodology that employs a flexible and dynamic set of tools (including mediation, advocacy and sparing, strategic doses of litigation) to achieve concrete solutions to justice problems.

Paralegals are currently supported on a piecemeal, *ad hoc* basis, and deserve to be supported more widely and systematically. Paralegal programs adapt themselves to their unique contexts and work dialectically with national and local social movements. International donors could expand support without crushing local autonomy by operating like foundations rather than implementers, supporting the paralegal work that emerges from the ground. The exception to this rule might be situations in which civil society is so damaged that sparks from outside are necessary. This was the rationale behind the Justice Initiative's initiating a paralegal effort in Sierra Leone.

Another useful role for international organizations would be to help paralegal programs learn from one another. For the most part, paralegal efforts seem to have developed organically and independently. One issue around which international dialogue would be useful is the setting of appropriate standards for how and whether one should qualify to work as a paralegal. While a well-run and well-conceived paralegal program can be very powerful, a poorly run and poorly conceived paralegal program can do more harm than good. Some countries, such as South Africa and Zimbabwe, have already worked to professionalize paralegal work, establishing courses, exams,

and certification. Other possibilities are worth considering as well, such as requiring a minimum number of hours spent under the supervision of lawyers per month, or asking paralegal programs to go through a certification process which evaluates whether each program as a whole is capable of ensuring the competence of its paralegal staff. Although paralegal standards should probably be country-specific given the diversity of socio-legal contexts, paralegal movements could benefit from comparative dialogue with their counterparts in other places.

# Appendix I: Paralegal Programs in Other Nations

In most places, paralegals work without any form of recognition from the state. In South Africa, whose paralegal movement has a particularly long history, a proposed Legal Council bill would recognize paralegals as legitimate service providers. South African paralegals are largely funded by independent donors, but the national legal aid board has incorporated some paralegals into its “justice centers,” which focus primarily on criminal legal defense but also provide some civil legal aid. The legal aid board also sponsors some partnership arrangements in which university law clinics provide litigation support to clusters of paralegal offices working on a particular issue. The South African Legal Aid Board’s support for not only lawyers but also paralegals and university-based clinics is unusual.

Both Nigeria and Mongolia, in part as a result of advocacy by the Open Society Justice Initiative, are considering granting statutory recognition for paralegals.

The Malawi Paralegal Advice Service (PAS) may be the strongest example of paralegals working in cooperation with government. PAS paralegals are authorized to work within the prisons, to fill out bail and sentence appeal applications, and to meet with police prosecutors for the purpose of negotiating cases. Although these paralegals are currently funded by independent donors, one can imagine the Malawi government eventually funding PAS paralegals. The paralegals make the government’s own system work more efficiently, saving the government money by eliminating the housing and feeding costs of wrongfully detained prisoners. The Malawi program is an outstanding example worth promoting in other countries. Indeed, PAS and Prison Reform International have facilitated the development of similar pilot programs in Benin, Kenya, Uganda and Tanzania. Something that both advances human rights and saves the government money makes for a great sell.

But in exchange for greater recognition and sustainability, a close relationship with government may cost in independence. PAS paralegals cannot, for example, comment publicly about the conditions in the prisons where they work; this is one of the conditions under which they are granted access.

Seeking governmental integration or government funding should not be the goal, then, in every context. Paralegals in many places play a critical role in assisting

ordinary people to challenge and contest repression and injustice dealt by the state. This was the situation when paralegals first gained importance in South Africa, and this is the case in Zimbabwe today. The fact that the Zimbabwean government is shutting down paralegal offices is all the more reason that such work deserves independent funding.

Today's South Africa offers the beginnings of a middle ground between integration and independence: the South African legal aid board is funded by the government but structurally autonomous from it. Paralegals receiving funding from the legal aid board are not hampered from challenging the government.

But such middle ground might only be available in countries where democracy is strong enough to welcome its critics, and where there is some acceptance within government of the possibility of change from below. In places where these conditions do not prevail, independent paralegal programs can be a powerful force for democratization.

# Appendix II: Characteristics of a Successful Community-Based Paralegal Program

Sierra Leone is a distinctive context and Timap's work is adapted to the particular historical and socio-legal challenges there. But there is a coherent, generalizable approach to be distilled from Timap's efforts, and from successful community-based paralegal programs worldwide. The characterizations below are partly descriptive and partly prescriptive and draw on the specifics of Timap's experience as well as the elements that Timap shares with community-based paralegal programs elsewhere.

## The Essence of the Paralegal Approach

- 1.) Paralegals are lay people working directly with the poor and otherwise disadvantaged. Paralegals have two kinds of training:
  - Substantive: In formal law and the functions of government.
  - Skills: In mediation, investigation, negotiation, advocacy, organizing, and community education.
- 2.) Paralegals take a creative, flexible approach to finding solutions to people's justice problems, using a mixture of the skills listed above. The precise blend of methods varies according to the needs of a given case.
- 3.) Paralegals are connected to lawyers in two ways:
  - They receive training and ongoing supervision from lawyers.
  - Lawyers take up litigation and high-level advocacy for a sub-set of the cases which come to paralegals. Cases are chosen for litigation when a.) the paralegal is not able to solve the case on her own; b.) the harm or injustice is severe; and c.) there is a possibility of significant legal impact.

# Paralegals Can Produce Successful Justice Outcomes

Paralegals are able to achieve impressive results to justice problems because of:

- 1.) Dogged, sophisticated, culturally-sensitive advocacy. This ongoing advocacy takes place within individual mediations, with powerful people like police officers and chiefs, in community education efforts and other interactions.
- 2.) The confluence of: a.) a knowledge of, and facility with, formal law and government; and b.) a knowledge of the community and facility with more community-oriented, social movement-type tools. Few social agents possess both kinds of knowledge and tools.
- 3.) Crucial among formal legal tools is the background threat of, and the sparing but strategic use of, litigation and high-level advocacy. These are often the teeth behind paralegals' ongoing advocacy on the ground.
- 4.) Paralegals bridge law and society. In poor communities, formal law and government are often experienced as foreign, absent, and/or abusive. Paralegals help marginal communities to access the formal system and make it work for them.
- 5.) In addition to building bridges between marginal communities and the formal system, paralegals also engage in internal justice development within the community. Such efforts include helping community organizations to become more democratic and advocating with chiefs and customary officials for progressive evolution of customary law.

## Paralegals Form an Important Complement to Formal Legal Aid

The paralegal approach complements formal legal aid in several important ways:

- 1.) Paralegals are much less costly than lawyers.
- 2.) It is possible to train a large and widely spread cadre of paralegals, while in some places the supply of lawyers is restrictively small and concentrated.
- 3.) Paralegals tend to be closer and more in touch with the communities they serve. They are “of” those communities, while lawyers are often perceived as outsiders and elites.

- 4.) Paralegals have a wider and more flexible set of tools at their disposal, including community education, mediation, and community organizing. Most lawyers would not know how to handle many of the problems paralegals address. Unlike many lawyer-centered legal aid programs, paralegals need not assume that formalistic legal solutions are the correct approach to every problem. They can draw on their broader set of tools and reserve the use of litigation for when it makes strategic sense.
- 5.) Paralegals are more capable than lawyers of straddling dualist legal systems. Timap engages both formal and customary institutions in a way that formal legal aid programs cannot.
- 6.) Paralegals need not limit themselves to an adversarial approach. Voluntary mediation is one of their most powerful tools. The paralegals' focus on harmonious reconciliation rather than adversarialism resonates with traditional approaches to justice and is especially useful for dealing with intra-community conflict.
- 7.) Paralegals are generally able to contribute to their clients' empowerment more than lawyers can. This does not necessarily take place in every case, but results from: a.) paralegals' being closer to the communities with which they work; and b.) paralegals' use of empowerment-promoting tools like community organizing and community education.

The **Open Society Justice Initiative** uses law to protect and empower people around the world. Through litigation, advocacy, research, and technical assistance, the Justice Initiative promotes human rights and builds legal capacity for open societies. We foster accountability for international crimes, combat racial discrimination and statelessness, support criminal justice reform, address abuses related to national security and counterterrorism, expand freedom of information and expression, and stem corruption linked to the exploitation of natural resources. Our staff are based in Abuja, Almaty, Amsterdam, Brussels, Budapest, Freetown, The Hague, London, Mexico City, New York, Paris, Phnom Penh, and Washington, D.C.

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One of the poorest nations in the world, Sierra Leone has just 100 lawyers to serve a population of six million people. So what happens to Pa Lansana when he is cheated by a corrupt local chief, or to Macie B., who is accused of being a witch? The formal legal system of courts and lawyers is, literally, unreachable for them, and the customary system common in rural areas is often unfair.

*Between Law and Society* tells the story of a pioneering organization, Timap for Justice, determined to provide justice services in Sierra Leone. By training paralegals and navigating between Sierra Leone's formal and customary legal systems, Timap is securing justice for Pa Lansana, Macie B. and people like them.

Featuring stories from Timap's case files, *Between Law and Society* examines conditions in Sierra Leone, why and how the paralegal approach works, and characteristics of a successful community based paralegal program.

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