

**"THE IMPORTANCE OF LEGAL SUPPORT TO VICTIMS
AND THE SPECIFIC IMPROVEMENTS MADE TO THE
LIBERIAN JUSTICE SYSTEM IN ADDRESSING
GENDER BASED VIOLENCE"**

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EXECUTIVE SUMMARY

As the first decade of the current millennium rapidly approaches its end, there is a clear acceleration in the attempt by the United Nations and International Movement to reach collective opinions on issues concerning sexual gender based violence, eleven years after the Beijing Declaration and its Platform for Action.

Since Beijing, in September of 1995, fundamental research, information dissemination and educational activities have been undertaken. To date, millions of women's rights movement worldwide have been created to focus on the issues of gender prejudice. Sadly, however, these approaches have by now become a matter of routine. But we stand confident on the provisions of UN Security Council Resolution 1325 of October 2000, which incorporates positive and comprehensive outcomes for women's equality and participation in all areas of governance.

There exists clear legal foundation in every country of the world for the development of policies supporting gender equality. The conventional image of humanitarian challenge under legal protective system, national and international, remains attentively vigilant, to protect the equality of women, men and children. Of course, there has been progress along the way, but the practical effects of such progress are still insufficient to diminish or change the direction that has taken place thousands of years ago in the organization of human affairs when it comes to institutionalized gender imbalance.

Ladies and Gentlemen, I speak here as a critic to the work we have done in Liberia for the period 1994 – 2006 for the passage of stringent laws to prevent and eliminate discrimination against women and to protect the human rights of women and children from gender based violence.

Indeed, a large proportion of our population are still victims of various forms of human rights abuses. Oppression of women is a conspicuous and tragic fact based on tradition, and violence and sexual abuse against adult women of all ages, boys, girls and even babies are permanent in our daily life. More people have been raped including women, children and babies. Even, after the passage of our laudable Rape Law during and subsequent to our civil war rather than prior to, women in Liberia are still dispossessed of their inheritance rights, not for lack of legislations, but because we are still bonded by tradition, in a society that looks upon women as objects for domestication, incapable of contributing positively to the national agenda.

Indicatively, the expression of "Human Rights" has come in general use only after the promulgation of United Nations Charter in 1945 and the adoption of the Universal Declaration of Human Rights three years later. Since then, immense hope has been rekindled among populations of the world appertaining to individual freedoms for independence and national sovereignty, universal education, access to information and above all, the opportunity to participate in political life, along with the rights to hold opinions and express those opinions appropriately. Along the way, new moral concepts and principles applicable to an epoch have been introduced that foster "unity and justice in human affairs".

INTRODUCTION

Ladies and Gentlemen, let me start off by welcoming the enthusiastic position of the United Nations and all other international movements in promulgating legal instruments that address the global problem of gender inequality. It is a global challenge that all populations, women and men, must attain self-esteem, moral discipline, and equality in the workplace and at home. These essential elements promote equality of the sex and of course protect the rights of women and children.

In the attainment of gender equality, we must strike a balance between science and political consciousness on the one hand, and morality on the other. Political and scientific knowledge are vital to economic issues but moral values are of utmost importance to the realization of social justice and gender equality. Moral values comply with principles that unify people, which are largely reflected in universal conventions.

The objective of this brief statement is to consider some broad dimensions of the rule of law in Liberia for Gender Equality and all forms of discrimination against women and children. At this stage, it is convenient to note that the equality proviso worldwide over the past three decades, provided basis for challenging laws that result in unequal outcome for women in connection to employment opportunities, spousal support, sexual assault, sexual harassment, sexual orientation, pregnancy, forced marriage, genital mutilation, sexual violence against women, etc.

Specifically, we intend to bring to your consciousness the nature and scope of gender based violence in Liberia and the legal interventions that have been put in place to serve as a deterrent for this heinous crime categorized as Sexual Gender Based Violence (SGBV) to include rape and other forms of discrimination.

In this light, it is important to define the rule of law in each country in terms of the use of its characteristic-based customs subject to the constraints of judicial processing. These constraints include notably supernatural influence in political and occurrences collectively in social behaviors. Consequently, the importance of legal support to victims represents the interaction of its internal characteristics and that is generally within the bond of tradition. The complexity of the process to improve justice system in addressing gender-based violence is compounded by the evolution of system of courts as well as the inter-relationships between and among them.

In essence, the basic rule of law does not vary from country to country, at least in current times. Indeed, it is fundamental that all countries need law (constitution and jurisprudence) to address daily matters of policy, connected to the long-term objectives to be pursued, to enable social structure to continue and progress, to maintain the confidence of the community by the development of principles of social justice. These are essentially concerned with the environment in which a country operates and extends broadly to a clear legal foundation for gender equality.

BACKGROUND OF GENDER-BASED INEQUALITY IN LIBERIA

To understand the issues of gender based inequality in Liberia is first to look at the history of Liberia century before the Independence Day in 1847. One basis of variation was geographical. The arrival of Americo-Liberian former slaves created a highly complex political, social and economic situation. It was not a simple case of one country colonizing another. It was a relationship that concern more than sixteen tribal societies vis-à-vis the western-oriented former slaves. At that time, women in Liberia differed markedly in what role they subsequently played in the economy and the society and in the patterns of family relations.

The society was based on the oppression of all women. Power was attributed to men. At that time, women were no more than domestics as polygamy was the core of the social life and still functions. Nevertheless, it is with great pleasure to note that despite the community orientation against women, some advanced women (the former slaves) were the pillars of vehement enthusiasm, during the contention for independence, as evidenced by designing of our national flag by eleven of them. For the first time in Liberian history in the 1950s, women were granted suffrage, few years after the National Convention in 1959, the Liberian Women Social and Political Movement was formed. This organization had two folks, one that led to greater freedom for the advanced educated women living in urban areas, and the other, to the more oppressed and socially enslaved hinterland women. They had no desire of ruling; their approach was to prepare an outline capable of developing and preparing the mind of every woman for their emancipation.

It is interesting to note that the marked improvement in the Liberian justice system in addressing gender-based violence can be attributed to the combined interventions of institutions and individuals that have over the years fought against the systematic oppression of women, before, during and after the civil war. It could, however, be misleading to imagine that addressing gender-based violence rests solely on policies to be reinforced by judicial decision. It is still a conspicuous and tragic fact that tradition significantly influences the resolution of gender-based violence. By limiting the spheres of activity of women participation in the life of the nation, women have been denied basic human rights and educational opportunities. They are subject to violence and are precluded from realizing their true potential. The generation of women who are now at the age of forty, living in the countryside cannot foresee a free society based on sexual equality, but the generation of those who are now fifteen should have the hope to see a free society in which their equal participation will be guaranteed.

THE MAGNITUDE OF GENDER BASED VIOLENCE IN LIBERIA

Gender based violence includes sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence.

The exact magnitude of gender based violence against women in Liberia has not been established, as there exists no reliable and comprehensive data on gender based violence in Liberia.

There exists some random assessment covering limited interviews within few sub-political divisions of the country. On the other hand, the visibility of gender inequality is so apparent that data is not a pre-requisite to evaluate the gender inequality. When more boys have been sent to schools rather than girls; when the illiteracy rate in Liberia has been quoted as 86% from which 60% of this percentage represents women and wherein 10% have not reached the elementary school, there exists room for grave concern in Liberia. Then the issue of gender equality for Liberia is not for tomorrow.

A study sample on sexual and gender based violence in six political subdivisions in Liberia conducted by the World Health Organization in September of 2005 revealed the following:

Out of 1,628 women and girls who participated in this study, 90.8% of them were subjected to one or more multiple violent acts during and after the conflict; 82.8% reported being detained against their will, and 80.1% of women and girls were threatened with a weapon.

Additionally, 73.8% of the women and girls that participated in the study said they were forced or threatened with arm to give oral sex, anal sex and vaginal sex; 75% of them were raped and 70.1% was gang raped. The victims include babies as young as 18 months and women from adulthood to over 65 years.

The degree of amplitude of rape in Liberia is immeasurable – for based on its intensity, nature and scope, there can be no physical or psychosocial healing. For when an innocent baby of 18 months is sexually abused by a male of 59 years with the use of his fingers until the child bleeds into unconsciousness; or when a child of twelve years is constantly raped by her guardian of 42 years, and is now presently permanently handicapped in a wheelchair, or when a child of eight years cannot play within her school grounds without being abducted by an adult male of 46 years and raped to the extent that the medical doctors have revealed that due to the damage done internally she cannot bear forth a child, then this issue of rape has indeed reached cataclysmic proportion even beyond the conflict.

DEVELOPMENT IN LIBERIA'S JUSTICE SYSTEM IN RESPECT OF GENDER BASED VIOLENCE

Because of the inclusiveness of gender based violence, it is imperative that countries of conflict or those emerging out of conflict review their laws and statutes in order to determine whether they are indeed responsive to present day realities. Against this background, the Association of Female Lawyers of Liberia (AFELL) embarked on a massive awareness and sensitization campaigns in the displaced centers, towns and villages, conscientizing our population on the need to break the silence surrounding crimes of gender based violence. It was important to educate our population that these acts are indeed criminal in nature and that there are proper judicial foras to seek legal redress against perpetrators and bring medical relief to the survivors.

AFELL's first endeavor was to advocate for the constitution of the Juvenile Court which was established some 27 years ago to respond to the behaviors of juvenile delinquents, but never constituted. Secondly, the dichotomy which existed in our law and provides for two systems of marriage (statutory and customary) but discriminates against wives under customary marriage from inheritance was repealed in 2002, granting the female the right to inherit from her deceased spouse and not to be given up in marriage against her will to the deceased brother or uncle.

THE RULE OF LAW AND ITS IMPLEMENTATION IN LIBERIA

When morality ran amok in Liberia with the commencement of our civil war in 1989 that spanned a decade and four years, there was a complete breakdown of law and order including the entire justice system. Consequently, there is a dire need for a holistic reform of the judicial system to retrain judges, lawyers, magistrates and other support staff of the system.

Laws are not static but progressive, hence, with our 14 years of civil strife, the need for retraining and capacity building to include both the physical and material cannot be overemphasized.

Against this background, the new Rape Law repealing Section 14.70 under Chapter 14 of the Penal Code was passed by the Legislature and became effective on January 17, 2006 one day following the inauguration of Africa's first female president.

What distinguishes this law from many others is that it has the highest political will with respect to its implementation. To the extent that one of the first pledges of our President in her inaugural address was her full and unconditional support to the implementation of the amended Rape Law is indeed a statement which all Liberian activists against rape should stand on, and indeed, we are standing on these words.

THE NEW LEGISLATION ON RAPE

Following three years of tedious and aggressive awareness and sensitization and education for prevention and response on this heinous crime of rape, the new law, repealing Section 14.70 of the New Penal Code was passed by the legislature and became effective on January 17, 2006.

What is the intent and purpose of this new legislation?

- It expands and refines the definition of rape to include any foreign object, and not just the penis.
- It harmonizes the age of the child, vis-à-vis the provision of the Convention on the Rights of the Child (CRC) to anyone under the age of 18 and does not have the capacity of consent for sex.
- It provides for gang rape and holds the solicitors and perpetrators accountable under the same penalty with sentencing set for life imprisonment.
- It provides for 1st degree felony rape under the age of 18 years and sets the sentence for life imprisonment.
- The sentencing for rape as a 2nd degree felony was raised from 7 years to 10 years.

OBSTACLES FOR IMPLEMENTATION OF THE RAPE LAW

Since the passage of the new rape law on January 17, 2006, there has been a reported increase in the crime of rape. This could be attributed to the confidence which has been established between the victims' families and the advocates during the awareness/sensitization campaigns coupled with the response system that have been put into place to accommodate victims in Safe House with appropriate medical/psychosocial counseling.

It could also be attributed to the work of AFELL and other similar human rights institutions which offer free legal aid services to victims/survivors.

The obstacle for implementation of the new law rests on several factors to wit:

- Social readjustment
- Economic difficulty
- Constant threats on the victim, in the case of the former fighters
- Compromise by family members and friends
- Tradition and culture – when the chiefs and elders decide to sit in judgment on the matter

- When the matter reaches the Court itself the issue of abandonment of these cases are frequent for the following reasons:
- The delay in the adjudication of the matter. The Criminal Courts A, B and C, which have adjudication over these cases are open for three terms yearly. Each term is for 42 days. There are 16 Circuit Courts in Liberia but these courts are not functioning to full capacity. Additionally, other cases are heard besides rape and gender based violence. This occasions delays experienced in the prosecution of sexual offenses. Hence, we are advocating for the creation of a **"FAST TRACK COURT"**

To date, under this new rape law, a total of three Life Imprisonment sentences have been rendered against the perpetrators following the due process of law.

The Recent Ruling – July 2006

In the recent Rulings of the Judge in Criminal Court "A", the rapist was firstly sentenced to seven years imprisonment for having raped a nine-year-old girl, and with a burst of public outcry, the Judge rescinded his previous judgment and sentenced the perpetrator to life imprisonment in accordance with the provisions of the New Rape Law.

Nevertheless, still bonded by his perception of gender inequality ingrained by tradition, the learned Judge following his ruling, described the Rape Bill as "wicked!" What are we to deduce from such an utterance coming out of such a learned Judge?

GENDER EQUALITY – A MORAL OBLIGATION

For the first time in our history, our laws have removed everything that denied women rights. Irrespective of this, tradition, habit and attitude - overtly or covertly, consciously or unconsciously – continue to strangulate women in the national law and the United Nations Charter of 1945, and victims are turning to us for help. Of course, the important thing is not the law. In the cities, these laws are faring well to address the issues of gender-based violence, but in the hinterland, they remain dead letters. This is due to the influence of the elders, a tradition that is harder to combat than the legislation.

In our modern life, people worldwide wonder whether gender equality could ever be a reality. My answer is: Despite worldwide advancement of political and civil rights movements for women, and regardless of the acceptance of the principle of equality, full equality has not been achieved even in the industrialized countries. There is a problem! After these reflections regarding legal provisions and problems of application on national and international laws, the time has come to review the humanitarian actions carried out by the United Nations and International Movement in accordance with their respective mandates.

We can presume that issues regarding the advancement of women are not likely to be debated on morality. Often, morality is subordinated to Human Rights and Justice. Morality always stems from the interests of the victimized groups. Interestingly, morality is intimately associated with issues surrounding the search for justice.

Indeed, we are in a world of change, the challenge of change, and we hope to adjust to it. We must adjust to it. We must adapt and equip ourselves to meet the challenge of changing our generation. We must look forward to education and training that will render the individual productive and not destructive. However, this change should rely on the countryside, which therein lies its significance and strength. The experience of all liberation movements has shown that the success of change depends to the extent of women's participation. I firmly believe that good government is the one that would do everything to awaken the national consciousness of its people to the realization that it is morally imperative to provide the citizens, especially the women, all of the rights preserved in the Universal Declaration of Human Rights.

The election of a woman President in my country signals a change in direction for Liberia. We want to make sure the Government will put the right mechanisms in place for change. This is the challenge of our time! This is what is required for the emancipation of women. For the problems now confronting the Liberian women in the countryside can be solved only by a radical break with our sadly deep-rooted habits and behavior.

We have to replace the old method practiced in this dependency society, against the will of the majority. The women represent 52% of the population. We have to marshal a sense of moral discipline in our younger generation of boys and girls who for the past fourteen years of the civil crisis vehemently antagonized the old society with a vengeance that belied their youth. We must now harness and redirect their energies into a constructive force for this struggle to emancipate the women through the length and breadth of our territories.

Indeed, no law, no convention, and of course no pecuniary resources are able to vanquish the tradition. Without an inter-generational solidarity, without this conscious and moral discipline of the Liberian people, the women's cause is hopeless. While condemning those old habits, attitudes and institutions with tendencies to hinder the advancement of women, we must have a clear understanding of human nature to reshape fundamentally all the institutions and promote the relevance of modern thinking for all issues regarding gender equality in Liberia. Each of the issues facing women in Liberia would be examined from this point of view, from the pressures of the new generation - urban and rural - the challenge of education for all (children, adolescents and adults), the challenge of religious pluralism to the question of political democratic system and a new national order.

The transformation of the Liberian society on this scale is to raise the question of influence on the early childhood experience on the formulation of the adult

personality. because people are self decision-makers, responsible for their own behavior and capable of changing it.

That is the task we should pursue in educating, training and stimulating the entire growing generation. The aim of training, educating and teaching the youth should be to impregnate them with moral attitude. This is of immense importance when we consider the question of good governance and its appropriateness to honesty, good conduct and justice, which are the core of approach on the question of basic social rights as well as gender-based violence.

RECOMMENDATIONS

1. There should exist a clear linkage between humanitarian assistance and development which will facilitate the smooth reintegration process in countries emerging from conflict.
2. The form of vocational training since 1994 is inadequate for long-term subsistence. With 5% of the population (150,000 young ex-combatants) having been trained and continue to be trained in vocational skills such as tie-and-dye and soap making, etc. this nine months training is insufficient to enable them to enter into the workforce.
3. A robust sensitization and advocacy campaign on sexual and gender based violence must be undertaken within a multi-sectoral framework to involve related institutions.
4. A comprehensive review of all existing laws and statutes with the objective of adapting to present-day realities and national concerns so that the issue of gender based violence and gender inequality will be highlighted.
5. Maximum attention must be given to introduce modern education to the youth to include respect for family, human value and morality
6. Critically analyze and review the historical realities of the Liberian society in relation to the widespread of sexual and gender based violence with the view to clarify the current situation and envisage the perspective for a new Liberia.

THE WAY FORWARD

We need to readjust our vision of Liberal History so as to see Liberia as a single body that should be evolved into every single unit, from the family to the village, from the city to the nation state. From there, we can take the further step that our education has been developing to support a higher social design.

The issue of changing our national outlook brings to fore the question of dependency, which is a fundamental factor on gender-based violence. After 15 years of civil war, we are confronting the task of economically reviving the entire country, by reorganizing and restoring both agriculture and small-scale industries based on modern science and technology. We realize perfectly well that the attainment of these developments is contingent on electricity, which does not exist in Liberia. However, in the event electricity is provided, illiterate people would be unable to deal with it. Elementary literacy is insufficient to understand what electricity is – what is needed is the knowledge of how to apply it technically in the family first, and then in industry and agriculture. We must realize that this can be done only based on modern education.

The new generation is confronted with a far more complex task. The attainment of gender-based equality does not lie only in the law but on the problems of economics. In Liberia, we are faced with the task of building a nation. We can accomplish that task only by assimilating all modern knowledge; only if we are able to transform tradition to modern culture and read and write counsels, recipes, prescriptions, and interpret the law into our living reality, which give unity to our immediate work.

In so doing, the international community too has a greater role to play. Assistance to Liberia should be linked to development. The international community must now match its words with concrete action by bringing in measurable development to Liberia that could improve the lives of the common person in their towns and villages.

At that time, fundamental social rights should not be eroded and the principle of equal treatment of women and men should be fully respected. The Government should, where necessary, adopt labor law and social legislation and practice to facilitate the introduction of quota arrangements for the recruitment of men and women.

For this present decade, modern education for all young women and men is the preliminary step. Measures in the field of gender-based equality should complement and support efforts to achieve economic recovery and growth in the volume of durable treatment of men and women. It is, to such a degree, we should aid structural change and the improvement of law for gender-based violence.

Appendix 1

Circuit Courts in Liberia

