

**AN EVALUATION OF THE WAY THAT PARALEGALS AT THE  
TIMAP PROGRAMME IN MAGBURAKA, SIERRA LEONE, DEAL  
WITH FAMILY CASES**

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## **Executive Summary**

This study focuses exclusively on family cases brought to the Timap office at Magburaka, Northern Sierra Leone.

Despite any specific issues I raise throughout the course of this study, in my view the Timap Programme in Magburaka is doing fantastic work. It provides a user-friendly forum for disputes which have a huge impact on individual happiness and family harmony. Paralegals are impressively pro-active, client focused, imaginative, problem-focused and practical, traveling far and at all hours of the night to help clients.

The Paralegals do not get bogged down in law, but have a clear enough understanding of it to use it accurately as and when necessary. They act at the interface of national, international and customary law, and do an excellent job of engaging and combining the strengths of all three. They have earned considerable respect in the community and make the most of opportunities to educate the community and individuals, engaging people at all levels in dialogue. By such means they appear gradually to be succeeding in improving the customary system from within.

As such the Programme seems to offer services which are more appropriate to the nature of family disputes than most formal systems seem capable of, both in terms of the procedure used and the speed of dealing with cases. Indeed they provide space for some types of cases, notably family arguments, for which there is no forum in other systems. They seem to be meeting the needs of ordinary Sierra Leoneans and succeed in reaching traditionally marginalized members of the community, including women and young people, who otherwise have little access to justice or power in the community and their relationships.

## **Recommendations**

1. Funding should be sought as a priority to pay for medical reports necessary for prosecutions where necessary.<sup>1</sup>
2. Further attempts should be made to recruit a female Paralegal/ staff member.

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<sup>1</sup> Part of the strategy on the implementation on the gender acts, will consist of trying to eliminate this payment, either by working through the health service or through FSU funding, and attempts are also being made to widen the pool of medical practitioners who can provide the report. As such, funding may just be a temporary measure.

3. Mediations should always be held in private when there is a strong age or power differential.
4. Consideration should be given to giving a little more advice on how to end a relationship if the client so demands, especially in domestic violence cases.
5. Thought should be given to how the Programme should address instances where community harmony does not coincide with what is best for the individual and how this may affect Timap's position in the community.
6. In cases involving children or unusually vulnerable persons, consideration should be given to Paralegals carrying out some kind of assessment of the home/ family, on whether the home is a suitable place for that person to live.
7. In those cases where there is no informal follow-up, there should be a formal follow-up, perhaps three months after the issue is settled, where both sides are interviewed face to face and on their own, particularly in cases involving children and vulnerable persons.
8. Consideration should be given to involving Community Oversight Boards more in the day to day work of Paralegals, providing more training sessions and/or updates as necessary.
9. Timap Paralegals should play a key role in the implementation of the new legislation on family law.

This report was funded by the Family Law Bar Association of England and Wales and is entirely independent. I would like to thank the whole of the office at Magburaka, and the management of Timap, for their openness, frankness and enthusiasm, working far beyond working hours to help with this assessment. I would also like to dedicate the report to Ed Sawyer who helped facilitate the research.

Lotta Teale 13<sup>th</sup> August 2007

## **Purpose of the Report**

The purpose of this report is to evaluate to what extent the Paralegal Programme is satisfying the community's and individuals' needs in resolving disputes within the family. It assesses the extent to which the Programme manages to achieve some of its stated aims, including synthesising and combining the strengths of formal and traditional approaches to justice. The evaluation also sought to discover whether the Paralegals' interventions have a lasting impact and if so what that looks like. Ultimately, the report tries to identify any specific challenges facing the Programme, and offer some input into building on the Programme's strengths.

## **Background: Timap for Justice as an organization and the Magburaka office**

Timap for Justice, meaning 'Stand up' for Justice in Krio, is an organization aiming to provide basic justice services in rural Sierra Leone, using the services of Paralegals. The organization consists of 25 Paralegals across 13 offices in the Northern and Southern provinces and in Freetown. Each office also employs a Community Oversight Board ('COB') made up of members of the community to ensure the organization is meeting the community's needs, including providing feedback, facilitating access to the community and advising Paralegals on customary issues. The Programme employs two lawyers, one based in Freetown and one currently overseas. The Programme is funded by international donors, and offers its services free of charge to the communities in which it works.

Timap uses a range of mechanisms according to the circumstances of the case, including mediation, community organising, education, negotiation, advocacy and litigation. It seeks to find fair, practical and concrete solutions to justice problems, and aims to find creative means of doing so, combining and improving formal and customary law and mechanisms. The Programme aims to empower ordinary Sierra Leoneans through their intervention, raising clients' knowledge, capacity, and confidence to stand up for themselves and solve problems on their own in future. Litigation is used only sparingly, but Timap emphasizes that the ability to litigate, and the threat of doing so, is an important factor in others taking the organization seriously, and encouraging the use of alternative means of resolution. Great emphasis is placed on Paralegals taking initiative, and working in a timely, rigorous, professional and client-focused manner.

This study was undertaken in one of the offices in the Northern Province, at Magburaka, a small town of 17,700<sup>2</sup> half an hour's drive from Makeni, the administrative centre of Bombali District. At the time of the study, three Paralegals were working in the Magburaka office, and all on a wide range of cases. Other cases dealt with by the office include, among other things, land and property cases, environmental cases, personal injury, contract and employment cases.

### **Family law and procedure in Sierra Leone**

Sierra Leone has two systems of justice alongside each other, one being the traditional customary system, the other the common law system inherited from colonial days. While the common law system dominates in Freetown, the hinterland is mostly governed by customary law. The common law system consists of Magistrates courts, a high court, a court of appeal and a supreme court. The formal court system was decimated by the war in Sierra Leone, from 1991 – 2002, and is only now starting to recover with the assistance of various organizations, most notably the Justice Sector Development Programme (JSDP), funded by the British Department for International Development. In 2002 there were only 6 magistrates courts outside Freetown; since then, JSDP has expanded the network, also introducing circuit courts, where Magistrates spend a few days in each area: however, access to the formal system remains minimal. There is also a shortage of lawyers in Sierra Leone, with a total of 135 in the whole country, in a population of approximately 5 million, only four of which lawyers are based outside Freetown.<sup>3</sup> There is no legal aid system and access to free legal advice or representation from lawyers is extremely limited.

The traditional justice system is thus the normal recourse for justice for most of the population. There are different methods of traditional justice, including family mediation before elders, adjudication by chiefs and before local courts. The difficulties involved in accessing justice through such methods for family disputes will be discussed in this study.

Customary law varies throughout the country according to tribe and location, and is mostly unwritten. However, there is widespread concern that human rights standards are rarely adhered to in any of these traditional dispute resolution mechanisms. Although the Constitution of Sierra Leone prohibits discrimination there is an exception in the Constitution to allow for

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<sup>2</sup> [www.travelpost.com/AF/Sierra\\_Leone/Northern/Magburaka/1857034](http://www.travelpost.com/AF/Sierra_Leone/Northern/Magburaka/1857034)

<sup>3</sup> Sierra Leone Bar Association website

discrimination in areas involving ‘adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law.’<sup>4</sup> As such, in most instances of dispute within the family discrimination is permitted in law.

Reports of the failure of the law to adequately protect women are commonplace and widespread. On occasion women are forced to leave with nothing but the clothes they are standing in<sup>5</sup>, and women are regularly forced in practice to marry their deceased husband’s brother in order to stay in their home, a practice known informally as ‘widow inheritance’<sup>6</sup>. Levels of domestic violence are high, an accurate figure being impossible to establish, but reports estimating that 67% of women in urban areas suffer from intimate partner violence.<sup>7</sup> Moreover, domestic violence is lawful as long as it is ‘reasonable’, and accepted as a feature of married life, to be kept within the family.<sup>8</sup> Special Family Support Units were established in 2001 as part of the Sierra Leone Police to deal with gender based violence and other criminal matters relating to the family, but hampered by the law and lack of technical expertise their impact has thus far remained questionable, with some reporting that their intervention causes more harm than good.<sup>9</sup> The Family Support Unit received 1163 reports of domestic violence in 2006, and yet only one successful conviction was obtained.<sup>10</sup>

Formally, the Ministry of Social Welfare, Gender and Children’s Affairs (‘the Ministry’) is responsible for dealing with many non-criminal matters relating to the family, including divorce, child maintenance and child protection. The Ministry has representatives throughout the country: however it is under-prioritised and under-funded and its record even in Freetown is poor. The Ministry is also restricted by outdated laws. For example in the area of child maintenance, cases can only be dealt with in the high court, bringing with it attendant costs and delay. Although staff at the Ministry say that they formally refer cases to court when they are unable to resolve them, staff do not know of any cases that have actually gone, and do not offer advice or assistance in taking cases. If mediation fails no more assistance is offered, and if fathers default on payment

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<sup>4</sup> Constitution of Sierra Leone 1991, Section 27(4)(d)

<sup>5</sup> Joko Smart, Customary Family Law, p.113

<sup>6</sup> Smart, p.26

<sup>7</sup> Physicians for Human Rights, 2002

<sup>8</sup> Smart, p.108

<sup>9</sup> Discussion with women leaders, Kenema, 19<sup>th</sup> May 2007. Senior members of the FSU themselves express despair at the inadequacy of mediation services and the difficulty of prosecuting cases successfully. Interview with FSU staff members, Police Headquarters, Freetown, February 2007.

<sup>10</sup> FSU statistics, 2007.

after reaching agreement, the Ministry has no consistent enforcement mechanism.<sup>11</sup> As such, even members of the highest socio-economic circles have serious difficulties enforcing agreements.<sup>12</sup> The Ministry's intervention in divorce cases is almost always to mediate the parties back together, and they do not offer further assistance if the parties seek to push ahead with divorce. Their record in child abuse cases is notoriously poor, with chronic lack of documentation on children in care.<sup>13</sup> Members of the public and the FSU are often confused about the Ministry's role, and as such many issues which should formally be dealt with by the Ministry are in practice taken to the FSU and dealt with informally there by mediation.

In practice therefore, combining structural weaknesses within the Ministry and the FSU, as well as the cost, delay and inaccessibility of court proceedings, and entrenched discrimination in the law, adequate formal venues for dealing with family cases are lacking. Women have little formal access to justice to address lack of power in their relationships, and, particularly outside Freetown, any such access is normally of an informal and traditional nature.

### **Overall Goal of Timap's intervention in family law cases**

The Timap Programme aims to provide a satisfactory means of resolution for family disputes free of charge, catering to the needs of the community and individuals, particularly those traditionally excluded, and to resolve matters in a just and prompt manner, while complying with international human rights standards. It aims to empower people who would otherwise not have access to such dispute resolution, and thus rebalance the power structure to give people who would otherwise be subjected the space to be heard and have their dispute resolved fairly.

### **Analysis of case files**

Information was gathered on cases chronologically, tracking the process of each case. This forms the main structure of this report, which will assess the strengths and weaknesses of the handling of cases at each stage of the case development.

## **1. What type of people bring family cases to Timap?**

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<sup>11</sup> According to staff at the Ministry, they write letters to fathers to entreat them to come to meetings, but do not follow-up on these letters if the father is unresponsive. Interview with Mrs Joyce, officer in charge of family settlements at the Ministry, Feb 2007.

<sup>12</sup> Interview with the former wife of a government minister at the Ministry, Feb 2007.

<sup>13</sup> A strategy to improve this situation is currently being developed in conjunction with UNICEF

Of the cases studied, eight were brought by men, 19 by women and five by children. This was representative of clients bringing family cases to Timap: more women are seeking help in family cases than men. This may reflect that more women feel themselves the victim of family disputes and/or that traditional methods of dispute resolution are not satisfying their needs. It also suggests that Timap seems an approachable means of dispute resolution for women and some children.

Cases were brought by people from a wide cross-section of ages, from 11 to 47. The average age of women bringing cases was 27.2, while the average age of men was 34.3.<sup>14</sup>

The clients in most cases had jobs, generally of a fairly low economic level. The men mostly had skilled jobs such as apprentice driver, mechanic, pharmacist and teacher, while 12 out of 15 of the women reported themselves to be either petty traders or housewives. One interviewee spoke English, most spoke Krio, and several only spoke Temne, the local language. As such the Timap Programme seems to be reaching its target audience of ordinary Sierra Leoneans, including those traditionally disempowered.

## **2. What type of family cases are brought to Timap?**

The types of case studied represent a fair cross section of the types of family cases received by Timap. The majority of family cases encountered by Timap involve child maintenance, and 12 such cases were studied. There are also a high proportion of domestic violence cases (6 were examined) as well as some cases involving spousal maintenance (4), child protection (3) and child residence (2). A significant proportion of cases brought involve 'family argument' (4), which usually involve young adults and tend to focus on responsibility for household chores and the attendance at college. There was also one case involving initiation into a secret society and one dispute between father and daughter over her marriage.

## **3. What other routes were available? Had clients tried other routes before consulting Timap?**

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<sup>14</sup> Notably, the average age of the claimant in child maintenance cases was 31.3 years, which was significantly higher than the average age for domestic violence victims of 24.6 years.

Almost all clients had tried other routes first. The first means was consulting elders within the family. Some clients had taken their cases to chiefs for adjudication, but had been dissatisfied with the outcome and had brought the issue to Timap for an alternative solution, a form of appeal. Other clients bringing maintenance cases had first taken their cases to the Ministry who had failed to successfully resolve the problem because they made unrealistic proposals and/ or have no enforcement powers.<sup>15</sup> In several other maintenance cases, the couple had reached settlement between themselves, but the father had subsequently failed to pay the agreed sum: such cases came to Timap for enforcement. Other cases, including child abuse and domestic violence, had been taken to the police in the first resort and had been referred to Timap. Another case was referred to Timap by the Medecin Sans Frontiers hospital, who had received an abandoned child and contacted Timap for their investigative skills in order to find the child a home or its parents. Only in two cases was recourse to Timap the first course of action.<sup>16</sup>

Notably none had taken their cases to court before referring to Timap. There is a local court in Magburaka. However, there is reportedly a perception among the community that court is not an appropriate forum for family disputes, which are inevitably ongoing, and that court is used for cut-and-dried issues, for example land and inheritance.<sup>17</sup> Moreover, it is reported that in court cases are regularly delayed and decisions are not made for many months if not years, an inappropriate way in which to deal with the practicalities of family relationships.<sup>18</sup>

Moreover in cases such as domestic violence and child abuse, where criminal charges could be brought, the expense of reporting the matter to police is reportedly prohibitive. In addition to formal payments, additional payments are often required, for example to issue incident reports or investigate allegations.<sup>19</sup> Furthermore the victim must provide the police with a medical report which costs 15,000 Le, an amount outside the grasp of many women and children.<sup>20</sup> Payments associated with formal justice mechanisms are often outside of their reach. The service provided by Timap is attractive not least because it is cost-free.<sup>21</sup>

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<sup>15</sup> For example, in one maintenance case the Ministry had advised the parties that the father must pay 30,000 Le per month or the couple must get back together within a week, both unrealistic propositions.

<sup>16</sup> One was a case of domestic violence, the other of child abuse.

<sup>17</sup> Interview with Community Oversight Board member.

<sup>18</sup> Ibid.

<sup>19</sup> Discussion with Timap paralegals and COB.

<sup>20</sup> Discussion with Timap paralegals.

<sup>21</sup> This was mentioned by several clients in interview.

Accordingly there are other dispute resolution mechanisms available for individuals, but when they have been exhausted, are dissatisfactory or are inaccessible, the Timap Programme provides a flexible alternative mechanism.

#### **4. How the family/ community reacted to Timap's intervention at first.**

Over half of the parties interviewed reported that when they first brought the case to Timap people in the community said they were concerned or scared, or that outsiders should not be brought in, sometimes noting that it brought shame on the family. Reportedly some people in the community think there are cells beneath the office, and fear they will be sent to prison.<sup>22</sup> Paralegals reported that some men honour invitations to attend a conference only to announce that because their wives reported the matter to outsiders they no longer recognize the woman as their wife: this reflects the strongly-held sense among some community members that matters should be dealt with inside the family.<sup>23</sup> Others, however, said they were glad when the issue was referred to an outsider because the usual methods of dispute resolution had been exhausted.

#### **5. Do Paralegals analyse the problem properly?**

It was not possible to assess whether Paralegals analysed the problems properly because I was unfortunately not able to observe any conferences or mediations within the timeframe of the study. All clients reported that Paralegals understood the problem swiftly. It appeared from the case notes that Paralegals framed problems appropriately within the legal framework, identifying the various issues at stake, but without more in-depth study of the process that is all that can be said for certain.

#### **6. What law was used, if any? How was it used and was it used accurately?**

The Paralegals' use of law was an area with which I was particularly impressed. Paralegals seem to be using the law in a practical way, combining customary law with national law and international human rights standards in a flexible and comprehensive way. They manage to convey that the requirements set out in the international standards are not divorced from but are already deeply engrained in the community's sense of what is right and what is wrong.

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<sup>22</sup> Discussion with Timap paralegals.

<sup>23</sup> Ibid

They were particularly strong on mixing law in cases involving children. They made apt use of the best interests of the child as a concept, when for example explaining the difference between internal child trafficking and adoption, and explaining the various considerations in residence cases. Importantly, due attention is paid to the views of the child, which are appropriately obtained out of earshot of parents. Traditional sayings and internationally recognized norms are mixed effectively, for example in discussions on domestic violence cases where perpetrators are told ‘she was not given you to beat her like a drum’. In one case on the initiation of a young girl, the Paralegals used the opportunity to combine a discussion of ethics, common sense, international human rights law, contract law and customary practice when facilitating a community-based mediation, and in such ways successfully resolved the dispute.

At times however, the mixture of the traditional resolution methods and modern notions of human rights sit awkwardly: for example, one technique often used by the Paralegals is to ask the child or victim of domestic violence to get down on their knees and seek forgiveness of the perpetrator of abuse. I was not able to assess how this was considered by the community or by the victim.

The state of the law is also, however, a serious challenge for the Programme. Unless they can persuade the parties to see what they consider to be right and fair, there is little the Paralegals can do to force people to behave in a certain way or abide by agreements. With the recent changes in the law however, with the enactment of the Child Rights Act, the Registration of Customary Marriage and Divorce Act, and the Domestic Violence Act, the complainants’ position should be strengthened.

## **7. Do Paralegals advise people fully of the options?**

In the vast majority of cases Paralegals gave clients options as to the various courses they could take.

However, on a few occasions I was concerned that, at least on paper, Paralegals could have been more pro-active in giving alternative options and support. This was particularly the case following reports of domestic violence, where Paralegals on four occasions advised the complainant to return home and try to settle the dispute within the house, seeking forgiveness

before they could intervene. This may have seemed the best option in the circumstances, but I flag it up nevertheless as a possible concern.

When options were given, they were situated in the culture and are not necessarily the exhaustive list of options that may have been given elsewhere. In no cases did it appear that Paralegals had given clients the option of leaving the relationship, or discussed with them how it could be terminated formally, even in continually violent relationships or when the client came to the office seeking separation. The Paralegals emphasized that given the small community, the financial dependence of women on men, and the cultural pressure to stay together,<sup>24</sup> people only rarely separate forever, and usually only separate for two or three months.<sup>25</sup> According to the Paralegals, women only leave their husbands permanently if they have the backing of their own families. The Paralegals see their role as one of calming things over, and repeatedly stressed 'it is not our business to separate families'.<sup>26</sup> The Programme seems to be wary of gaining a reputation for encouraging or helping families to separate. This exemplifies the difficult position that the Programme finds itself in, mediating disputes in a small community. A central part of the Programme's strength is that people respect the Paralegals' record for resolving tension and bringing harmony to the community. The Paralegals' advice is not legally binding, and people abide by agreements made in the Paralegals' presence in large because of the sense of authority that their reputation inspires. It is important that this state of affairs does not hinder the Paralegals in standing up for people who truly do want to leave their relationship and move on. It is true that in other jurisdictions divorcing partners sometimes regret having started legal proceedings to separate.<sup>27</sup> However, I feel that in order to give clients a free choice, more consideration should be given to providing advice on how to separate, particularly in cases of repeated domestic violence, even if the pitfalls of separation need to be highlighted. Moreover, consideration should be given to planning strategies for dealing with instances where what is best for an individual directly contravenes community harmony.

## **8. Is the advice client-oriented/ impartial?**

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<sup>24</sup> The paralegals explained that there is a traditional saying that if women do not subdue to their husbands' will, their children will be cursed. Apparently women often report that they are staying in unhappy or violent relationships for the blessing on their children.

<sup>25</sup> According to the Paralegals, normal practice is that it is the husband who forces the wife to leave home, and that after some time he asks her to come back. If she is reluctant he appeals to her family, or his family appeals to her family.

<sup>26</sup> The expression was used by several paralegals, the COB member, and the FSU officer with whom I spoke.

<sup>27</sup> I have often met clients in the UK who start divorce proceedings in the height of anger and later regret the step, but find that the expense and animosity of legal proceedings has by that time exacerbated ill-feeling reducing the chance of reunification.

Another impressive feature of the Programme is the way in which Paralegals have embraced their role as impartial intermediaries in disputes. They seem to bear no particular allegiance to the client who comes through the door seeking help, but to support instead what they think to be the fairest outcome, at times indeed supporting the other side to bring a criminal action against the reporting partner. One of the first steps taken by Paralegals is always to take statements from both sides. Although this impartial role seems to have developed over time,<sup>28</sup> all interviews indicated that the Paralegals have a good reputation for impartiality in the community.

**9. Are Paralegals informed by existing cultural assumptions and are these helpful in the context?**

It is clear that the Paralegals have a close understanding of the culture in which they are operating, and it is evident that this helps inform their approaches to mediation, and is a vital factor in finding successful solutions. They seem to have a clear understanding of norms elsewhere however, and particularly of human rights concerns, and they seem capable of understanding the local culture through these perspectives. As such they act as a useful and dynamic bridge between the two.

**10. What procedure is used and how effectively? What role do the Paralegals play? How does this vary across the different types of cases?**

I was impressed by the array of procedures used and the dynamic role that Paralegals themselves played in each case. Almost all cases studied were dealt with by mediation, and none resulted in litigation. Paralegals stress that as an organization they try to get people back together as a family and litigation acts to polarize the parties.<sup>29</sup> Indeed it is recognized widely in family law cases that litigation is not generally an effective way of dealing with family disputes where relationships are ongoing. In offering mediation services, the Paralegals are providing a service often lacking in other jurisdictions, and which other jurisdictions are increasingly turning to as a means of dispute resolution. Despite the absence of enforcement mechanisms for mediated agreements, the Programme makes effective use of the opportunity to discuss the ethics of particular behaviour

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<sup>28</sup> Looking at cases from last year, the standard letter inviting the other side to interview contained more aggressive language, the standard letter stating 'received the complaint with dismay and apprehensiveness that the alleged act contravenes...'. The approach in letters today is far more neutral

<sup>29</sup> Interview with COB and paralegals.

and imaginative use of the sense of authority given by the written word, the apparent formality of written agreements seeming to encourage adherence.

The Paralegals seem keenly aware of their position as mediators rather than Judges. Indeed one of the key elements that runs through all cases is the way the Paralegals allow for individuals' dignity. Parties are given a platform to openly discuss issues, and leave with their dignity intact. Pride is vital in family cases, its being in practice one of the main tensions in family arguments, and the UK system often lets consumers down because it fails to respect and prioritise peoples' dignity. Timap intervention provides people with ownership over their own disputes, which is often taken out of their hands in a formal legal system, once outside actors come to make decisions for the parties.

In addition to performing as mediators, Paralegals embrace their holistic role, acting as educators and legal advisors both to individuals<sup>30</sup> and communities<sup>31</sup>, as a mouthpiece for children at the centre of parental disputes,<sup>32</sup> and providing a neutral venue to ventilate disputes or exchange payments. I was impressed by the support offered to victims of domestic violence and child abuse, Paralegals in all cases escorting victims for medical treatment and/ or to report incidents to the FSU. More generally they play a key role in helping people navigate other systems, for example accompanying clients to the police station to ensure that the police do not demand extra-official payment.<sup>33</sup> Using their connections in the community, they also take up requests to take on investigative roles.<sup>34</sup> As such, Paralegals embrace their mandate of offering practical community based solutions to difficult personal problems.

However, each type of case raises different issues, and as such it is appropriate to evaluate the intervention in different areas of family law separately.

## **10.1 Child Maintenance cases**

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<sup>30</sup> For example in one marriage dispute case the paralegals discussed contraception with a couple so that they could remain together but the girl could finish her education and so satisfy the girl's father.

<sup>31</sup> For example, in the initiation case discussed earlier, the Paralegals held the adjudication in the presence of the community, including members of the secret society involved, using the opportunity to educate and address the concerns of all those attending.

<sup>32</sup> In both child residence and child abuse cases the paralegals speak to the child alone to hear their view and then present that view to the parents.

<sup>33</sup> For example accompanying a father retracting an allegation against his son and seeking his release.

<sup>34</sup> For example in the case where Medecin Sans Frontier called on the paralegals to find the parents of an abandoned child.

The Paralegals have a successful record in reaching flexible maintenance agreements, with due consideration to the greatly varying resources and circumstances of the case,<sup>35</sup> letting the parties suggest quantum and referring parties to the Ministry where agreement cannot be reached.<sup>36</sup> In most instances however, the Paralegals' intervention seems to satisfy both parties, a vital component of agreements when court enforcement is not feasible. Paralegals recall that typically the couple uses the office as a venue to exchange payments sporadically for a few months until they start exchanging directly, or the parties reunite.

However, in cases where the couple does not get back together, the current position in law poses a serious problem. Parents often default on agreements, in Sierra Leone as elsewhere: indeed they did here in every case studied where the parties did not reunite. Paralegals cannot threaten litigation knowing they would lose if the matter is taken to court, not least because the Programme itself would lose community respect if it lost in court. The recent changes in the law however should considerably strengthen their position as they will be able to seek more reasonable maintenance orders, enforceable by detention or fine, as contempt of court.

## **10.2 Child residence cases**

The Paralegal Programme seems to find child residence cases particularly hard to resolve. This is understandable given that the main means utilized by the Programme is mediation, and if the child must finally live in one place it is difficult to reach a half way point. Joint residence arrangements are increasingly used in other jurisdictions, and it may be that this is something that could be encouraged more by the Paralegals, but they do risk instability for the child in question, and are impracticable where the parents live some distance apart. Both attempts at mediation I looked at had been unsuccessful. However, in one case Paralegals had referred the case to the Ministry of Social Welfare with recommendations, which had imposed the settlement proposed by Timap. Using the Ministry as a means of enforcement seems a productive way of navigating the absence of other formal enforcement mechanisms.

## **10.3 Child abuse cases**

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<sup>35</sup> Paralegals noted that assessment of earnings is difficult as parents in Magburaka do not generally earn salaries. However, quantum varies from 8,000 Le to 90,000 Le per month, some agreements involving payment in kind and with installment at different intervals according to what is most convenient.

<sup>36</sup> By comparison, officials at the Ministry of Social Welfare reportedly tend to impose settlements. This was garnered from discussions with paralegals and an interview with Mrs Joyce, officer in charge of settlements at the Ministry of Social Welfare in Freetown, Feb 2007.

In child abuse cases despite apparent resolution in all instances, I was concerned as to whether the children were safer longer term. In a number of cases, children returned to live with people who had abused them.<sup>37</sup> Placing children is immensely difficult in the best of circumstances and even when it is possible, the upheaval that placement can cause in a child's life can be deeply traumatic. However, I think it would be helpful if Timap undertook some kind of assessment of the family situation, to check that the carer is willing and able to care for the child. Child abuse cases would also benefit from more thorough and systematic follow-up, face to face and in private, several months after intervention.<sup>38</sup> In my view, as part of its holistic approach, the Programme should take some responsibility for checking the longer term welfare of children they encounter, even when cases are referred elsewhere, and particularly where the child is especially vulnerable.

#### **10.4 Domestic violence cases**

Timap refers cases to the Family Support Unit, but very few prosecutions are brought. Reportedly, one difficulty is that women often seek their husband's release from prison. Another problem is the requirement that the police be furnished with a medical report from a doctor which costs the victim 15,000 Le. It is unfortunate that the Timap Programme does not, formally, pay for such reports as it means that even when a victim does want to prosecute they are often prevented at this hurdle, and forced to mediate instead.<sup>39</sup> With the enactment of the Domestic Violence Act the Programme will be able to bring civil actions against perpetrators, and criminal conviction should be more accessible, hopefully strengthening work in this area.

Another issue is the duration of Paralegals' involvement in cases. Clients frequently seek help in the height of an argument. Paralegals go straight to the home to mediate, helping identify the source of the argument and encourage both to understand the other's position, allowing both parties time to speak. This is a vital service as providing a safety valve, but does not necessarily

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<sup>37</sup> For example, in one internal child trafficking case, the girl moved to live with the person who had assured the mother that the girl would receive an education and who had then placed her as a servant. The child was given the option of where she wanted to live, and chose to live with that woman and go to school rather than live with her own mother. In another case paralegals persuaded an uncle to take the child back into his home, and the child apologized in the traditional way by begging forgiveness at the uncle's feet. In the case of a four year old disabled child deserted at the Medecin Sans Frontiers hospital, after investigations by Timap paralegals, the child was handed over to social services who placed her back with the father who had abandoned her.

<sup>38</sup> In the child trafficking case, for example, the only follow-up consisted of one telephone call with the child a couple of weeks after settlement.

<sup>39</sup> Discussion with paralegals.

help the situation longer-term. One female client commented that the relationship carried on being as violent as it had always been after the intervention, although it had not got out of control again. She noted that if a similar argument occurred they would be no more capable of resolving it within the house, and would again call the Paralegals in. If people do not report incidents it is difficult for Paralegals to intervene. Arguably it empowers clients that Paralegals can be called on to provide a service when necessary and that they can maintain their privacy otherwise. Follow-up after cases will be discussed more generally below, but I would emphasise at this point that I believe the Programme's intervention in domestic violence cases would benefit considerably from employing a female Paralegal, in whom a victim of domestic violence may find it easier to confide longer term.

I was also a little concerned by confidentiality issues. In one case, notes recorded that the Paralegal had spoken to the victim's husband's friends, telling them to advise the husband to love his wife. This is an innovative and practical approach, but I would caution that the client should be consulted first in such circumstances. This may have happened in the present case and there is just no note of it on the file. In discussion with Paralegals they seemed to have a good understanding of the importance of confidentiality.

## **10.5 Family argument cases**

In family argument cases, the Paralegals' input is not legal in nature but practical.<sup>40</sup> Intervention in such cases exemplifies the comprehensive and needs-based approach to problem solving facilitated by Timap Paralegals. Family arguments are traditionally taken to chiefs. In other legal systems there is simply no avenue for mediating family disputes such as these, with sad consequences as families gradually fall apart, one party leaving home, a possibility which may not seem realistic in a small community like Magburaka. Clients seek Timap's intervention in these cases either as an alternative to approaching the chiefs, or as a form of appeal from adjudication by chiefs. Mediation tends to take place in front of elders, and often fails, the weaker party breaching the agreement.<sup>41</sup> While recognizing that there may well be many reasons why

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<sup>40</sup> For example, in one case a father who had reported his child to the police alleging theft was advised by the paralegals that prison was not the place for children, and persuaded to retract his allegation. In turn, they advised the son that if he was given food by his father, he must help with domestic chores, and that he should show respect for his elders. A practical agreement was brought about, that if the son passed his exams, the father would pay his next year's school fees.

<sup>41</sup> In the case of one family argument between an uncle and 17 year old son, for example, mediation took place in the home with the elders present. The boy stated that he felt comfortable with their presence and that he was happy with the

agreements are breached, holding mediation in the privacy and neutrality of the Timap office in cases of a significant power or age differentiation would be one way of ensuring that neither party feels pressurised.

#### **11. Was the problem solved satisfactorily? Were both parties happy with the outcome?**

In many cases the issue was not finally resolved. In family argument cases, the arguments continued; in domestic violence cases, violence continued although not to the extent of getting 'out of control'; in maintenance cases fathers did not continue to pay in accordance with the agreement long-term. Part of the problem lies with the state of the law. However, lack of final resolution is perhaps also in the nature of family cases which, as observed by the community oversight board member, are not suited to one final decision, and require instead long term and piece meal intervention as and when family members need help. It is thus perhaps a fallacy to conceive of solution in the field of family disputes, so long as relationships are going to continue, and is more helpful to emphasise the possibility of gradually shifting the nature of power within relationships.

With this in mind, in most cases the parties seemed to be happy with the outcomes brought about by Timap. In all except one case the parties on both sides of the dispute said they were happy with and grateful for the intervention.<sup>42</sup> Some enthused that the Timap office, and the particular Paralegals dealing with their case, should do much more in the community, recommending the presence of the 'Human Rights People' in other communities to help settle things amicably.<sup>43</sup> Indeed it was noticeable that most people's eyes lit up and energy came into their voices when talking about their impressions of the Paralegals' intervention. All interviewees said they would go there again, and one victim of domestic violence said her female friends had said they would seek help from Timap if they had similar problems.

#### **12. Has intervention helped change behaviour?**

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agreement brought about by mediation, that he didn't feel pressured and that he understood the agreement. However, only a few days later the boy started breaching the agreement.

<sup>42</sup> In one family argument case where the son breached within days of the agreement, the father felt that the mediation had not been useful: nevertheless he recognised that if the son had confidence in the paralegals he would be more likely to abide by agreements and as such he was not averse to further intervention.

<sup>43</sup> One client commented 'they can handle everything, any type of case.'

As discussed above, Paralegals make good use of the opportunity raised by cases to speak with individuals and communities about the ethics and legality of a given behaviour. It is difficult to assess the extent to which the bounds of acceptability are changed, not least because the issues are still primarily considered private family matters.

One positive example of behavioural change was seen in the stand taken by the Paramount Chief in the initiation case announcing, after Timap intervention, that girls should not be submitted to initiation unless with their consent and at an appropriate age.

Elsewhere change is less clear cut. As discussed above, in one domestic violence case the victim reported that arguments were the same as ever since the intervention but had just not got 'out of control'. In domestic violence cases there is the added dimension of victims potentially not wanting to admit further violence for fear of causing more trouble, angering potentially violent partners and becoming the victim of escalating violence.<sup>44</sup> Moreover some Timap intervention does not seem to be attempting sea-changes in behaviour overnight. For example, one written mediation agreement contained a provision that the husband would not beat his wife so long as she had supper ready on the table every day at 5pm (in a case where he had been violent because she had not had supper ready because she had been ill). While it is good for parties to own their own agreements, it may be helpful in such circumstances to offer a little more support to the weaker party. This however was the only case I saw where such provisions had been included in a written agreement.

### **13. How long did the problem take to resolve and were clients satisfied with the speed?**

I was impressed by the speed at which cases are pursued and the specific issue resolved. Most issues seem to be resolved within two weeks. Domestic violence cases were often settled the same day, while child maintenance cases took on average 11 days to reach an agreement. This compares very favorably indeed with other jurisdictions. Family proceedings elsewhere are notoriously delayed, often taking many months or years, even for emergency measures, and this delay itself causes trauma for family members. Short term, on the spot support is a radical and much needed form of intervention which I think would helpfully be copied in other more formal legal systems.

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<sup>44</sup> One can speculate that the apparent fear of one former client in denying her identity when we wanted to speak with her about a domestic violence case may have been based in fear of causing further trouble.

#### **14. Was any support provided after the intervention?**

In all cases studied, Paralegals undertook follow-up after resolution. In most cases there seems to be initial formal follow-up (about two weeks after intervention) followed by undocumented informal follow-up when Paralegals are passing the family home. Informality in follow-up offers advantages, in that it is unbureaucratic, continuous, and allows for action only when problems arise, making the task more manageable and personal. However, informality also seems to have its disadvantages, particularly where the client is some distance away and/or is particularly vulnerable. It may be useful to introduce an additional formal follow-up three months after intervention, face to face, perhaps specifically for cases where there has been no ongoing informal follow-up. The addition of a female Paralegal, as mentioned earlier, may also make it easier for victims of domestic violence to confide and report.

#### **15. Relationship with other bodies dealing with family cases/ the community**

There are a number of other bodies in Magburaka and the surrounding area that deal with family cases, including the Family Support Unit of the Sierra Leone Police, the Ministry of Social Welfare, various Tribal Chiefs and a Medicin Sans Frontiers Hospital. The Timap Paralegals seem to have developed cordial relationships with all these bodies, and the organizations seem to complement each other while working independently. Reportedly the FSU and Ministry are not as pro-active as the Timap Paralegals<sup>45</sup> and do not have an equivalent reputation for bringing about a resolution with which both parties are happy, but they enjoy enforcement powers which can sometimes be used to ensure Timap's agreements are abided by.<sup>46</sup> The Paralegals note that they are careful not to duplicate efforts by the different agencies, but do sometimes work together to utilise the skills and strengths of each.<sup>47</sup> It was particularly encouraging to see that the Paralegals had managed to develop a positive relationship with traditional leaders: I spoke with one Tribal Chief who had witnessed Timap mediation on a case that he had previously adjudicated, and he expressed that he was very satisfied with the way the Paralegals settle disputes, was

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<sup>45</sup> Paralegals report that they are sometimes woken up in the night to resolve a domestic violence incident and that they will deal with the issue at once.

<sup>46</sup> For example, paralegals commented that in some domestic violence cases where parties are unwilling to mediate they are sent to FSU where they are sometimes quicker to do so against the obvious prospect of criminal sanction.

<sup>47</sup> For example, in the case of a girl who was being forcibly initiated, a female social worker was able to walk straight into the bush into the bundu society to try to stop her being initiated but she was too late: the male paralegals would have been unable to do this.

understanding of the need to integrate human rights norms, and noted that he felt everyone was pleased with the procedure used and outcome.

The establishment of Community Oversight Boards (COBs) composed of community leaders nominated by community members and paramount chiefs is an important step towards integrating the office into the community and ensuring that people are aware of the services provided. The mandate of the boards is to monitor the Paralegals' work and ensure that the Programme is serving the needs of the chiefdom.<sup>48</sup> I had little opportunity to study the impact of the Boards, but in interviewing one member, he emphasized that his fellow COB members may benefit from training on the issues dealt with by the Paralegals and their role. He also wanted to increase contact between COB members and Paralegals, with regular meetings to update them on recent cases.

## **Conclusions**

The Timap Programme is successfully reaching ordinary Sierra Leoneans, including members of the community traditionally excluded from access to just resolution: women and children. Although other traditional and formal routes exist for resolution of family disputes, and most clients consult these before approaching Timap, the Programme supplements those existing structures when they are prohibitively expensive, unable to resolve a situation or otherwise dissatisfactory. It is successful not least because it has gained considerable community respect and has an excellent reputation for impartiality, and although community members are generally anxious when told that Timap is becoming involved in a dispute, both sides are usually happy with Timap's intervention afterwards. As respected members of the community, they act as a mouthpiece for vulnerable parties, or provide them with a unique space to present their own view and in doing so act to rebalance imbalanced power relations in a specific dispute. They also help people navigate other systems, ensuring they receive appropriate treatment and their rights are properly accorded. Paralegals intervene quickly, providing an emergency service to restore calm to homes in the area, for which clients seem very grateful. They also complement other formal

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<sup>48</sup> Interview with a COB member. According to the COB member, every COB includes at least one woman and one youth representative. The Magburaka COB is composed of two men and two women. The board members meet directly with the Programme's coordinators to provide feedback on paralegal performance. According to the COB member, their role is to advise paralegals on customary law issues and how to intervene. And reaching families where difficult to help in accessing families, telling community about the work so that when someone needs assistance they know where to go.

State bodies and traditional structures dealing with family cases, working independently but when the need arises being mutually supportive.

The Paralegals are doing pioneering work in providing user-friendly and community-sensitive access to international human rights norms. They use a mixture of national, international and customary law appropriately and accurately, combining it with pragmatism at all times. On occasion this combination sits awkwardly, but mostly the Paralegals manage to synthesise new ideas into the framework of traditional principles. The state of the law is a serious challenge to the effectiveness of the interventions, hindering them from being able to threaten litigation, but at the time of writing the law has just changed with the introduction of the four new statutes on child rights, inheritance, customary marriage and domestic violence, all of which should considerably strengthen the position of the more vulnerable party. Indeed, the Timap Paralegals are ideally placed to play a key role in ensuring that this legislation is made a reality, both through knowledge-building at community level and by monitoring implementation, identifying areas of strength and weakness, which can feed back into national policy.

It is difficult to assess the long term impact of intervention. One could not expect culturally-engrained behaviour to change over night, but there is evidence to suggest shifting boundaries of acceptability. By increasing people's knowledge of the law and human rights norms and situating them in concrete examples within a framework they already understand, it seems that awareness of those norms is indeed being raised, including at community leadership level. The extent to which lessons learned from Timap intervention are being drawn on in other dispute resolution mechanisms was outside the bounds of this study. Nevertheless, the fact that vulnerable members of the community know that support is available when proper weight is not being accorded to their views or needs seems likely to provide reassurance, and it is hoped that this would bolster confidence. As such the lasting presence of the Programme in the community is central to the long-term impact of intervention.

The Programme faces challenges in a few specific areas. In child maintenance cases they have a successful record of bringing about agreements, although enforcement is a problem when the dispute goes on more than a few months. Domestic violence prosecutions are hindered by the clients' inability to pay for a medical certificate, so the Programme usually deals with such cases by mediation alone, an unsatisfactory state of affairs. Despite usually managing to resolve the specific dispute, Paralegals' intervention in domestic violence cases is short lived and it may be

helpful to have more confidential follow-up by a female staff member to ensure longer term impact. I also feel they could give more advice on how to leave a relationship if the violence continues. Child residence cases are a challenge, but the Paralegals use appropriate considerations and procedures, and the introduction of the new Child Rights Act should stop fathers from being able to use their children as bargaining tools. Child abuse cases are particularly hard to resolve in a system with little funding to protect the vulnerable, and although the Paralegals seemed to find apparent resolution in all cases, the longer term welfare of the child remains a concern.

Overall however, the Programme and the specific Paralegals in Magburaka are doing tremendous work on family cases brought to them. It is a model that I would recommend be replicated all over Sierra Leone.

## **Methodology**

The evaluation was carried out over two days in May 2007. A total of 29 case files were looked at, chosen from throughout the preceding 18 months in order to try to assess the shorter and longer term impact of Timap's intervention. In ten of those cases one or both of the parties were interviewed at their houses. Where both sides were interviewed, these took place separately. Most interviews took place away from others, except in cases where people made clear they felt more comfortable staying where they were with others present. One problem encountered was that in many of the cases from longer ago, the parties could no longer be found at their addresses for interviews. As such most interviews were with clients where Timap had intervened in the last few months.<sup>49</sup>

Interviews took place with the help of Paralegals which brought with it strengths and weaknesses. On the positive side Paralegals already had a relationship with clients, who would thus speak more freely with them than they would to a stranger. In cases where the Paralegal that I went with had not been dealing with the case, clients were difficult to find and reluctant to speak. For example, in the case of one girl who had been involved in a domestic violence allegation, the whole community identified the girl as going by two names, but when we arrived she looked nervous and denied her identity. This would not have been an issue if the Paralegal who had dealt with the case had been present. Moreover, while it was a concern that clients would be reserved

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<sup>49</sup> The oldest case where an interview was possible had been resolved 10 months prior to the study.

in their criticism of the Programme because the Paralegals were present, in practice it seems likely that any outsider coming in to ask about the Programme would be perceived as belonging to the Programme, despite explanations that it was an objective study, and as such it is questionable how frank they would be in interviews. Some evidence suggested that interviewees were not being entirely frank in their answers. For example, when speaking with two different parties involved in the same dispute, who were ostensibly on the same side, as to whether there had been further tension after Timap's intervention, there were conflicting reports. Overall, I felt that the positive element of having a known face outweighed the negative impact of the Paralegals' presence.

The author had the opportunity to speak with all the Paralegals together, as well as interviews with a member of the Timap Community Oversight Board, a staff member at the Family Support Unit of the Sierra Leone Police, and a Limba tribal head. Unfortunately it was not possible in the short duration of the study to attend mediations and conferences.

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