Legal Empowerment and Horizontal Inequalities after Conflict

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ABSTRACT   *This article explores whether legal empowerment can address horizontal inequalities in post-conflict settings, and, if so, how. It argues that legal empowerment has modest potential to reduce these inequalities. Nevertheless, there are risks that legal empowerment might contribute to a strengthening of group identities, reduction of social cohesion, and, in the worst case, triggering of conflict. It looks at how two legal empowerment programmes in Liberia navigated the tensions between equity and peace.*

1. Introduction

The inclusion of access to justice in the Sustainable Development Goals (SDGs) may well give further impetus to programming for legal empowerment of the poor, particularly in post-conflict contexts[1] where a sizable percentage of the world's poor reside. To date, legal empowerment has tended to focus on vertical inequality (in income and power) between rich and poor. Yet, in many post-conflict environments, the more salient concern is horizontal inequalities between different ethnic groups[2] as these can lead to new or renewed conflict.

Can legal empowerment address horizontal inequalities in post-conflict settings, and, if so, how? The ability of legal empowerment programmes to actually reduce horizontal inequalities depends of course on context, including the nature of the political settlement.[3] The context is far more 'inauspicious' where political, social, economic, and cultural inequalities are mutually reinforcing; these horizontal inequalities are deeply embedded in the political settlement, socio-economic structure, cultural norms, and plural legal systems; and the inequalities were among the causes of conflict. The article argues that legal empowerment has some limited potential to reduce horizontal inequalities but that this needs to be done in a conflict-sensitive manner to avoid reinforcing group identities, raising inter-group tensions, reducing social cohesion, and, in the worst case, triggering conflict.

The aim of this article is to bring distinct academic and policy discourses – around legal empowerment, horizontal inequalities, and, to a lesser extent, social cohesion – that rarely intersect into greater conversation with one another. These literatures are still relatively new and their evidence bases correspondingly thin. Consequently, this article is more an exploratory, conceptual effort to think through the opportunities and challenges of using legal empowerment to address horizontal inequalities in post-conflict settings – an issue that until now has received scant attention. It also aims to contribute to the limited literature on the political economy of legal empowerment (see Desai, Wagner, & Woolcock, 2014; Domingo & O'Neil, 2014). More research, however, is needed before conclusions can be made with confidence.

This article starts by discussing legal empowerment and the contextual drivers for effective implementation in post-conflict contexts. Next, the article considers whether and how legal empowerment might reduce horizontal inequalities while mitigating the risks of doing harm. It then looks at

how two different legal empowerment programmes in Liberia did (but mostly did not) address horizontal inequalities. The article concludes with some thoughts on further research as well as policy implications.

2. Legal empowerment

2.1. Legal empowerment in theory

Stephen Golub coined the term 'legal empowerment' in the early 2000s to describe a bottom-up alternative to the 'rule of law orthodoxy' that focused on reforming state institutions. Golub (2003, p. 3) defined legal empowerment broadly as 'the use of legal services and related development activities to increase disadvantaged populations' control over their lives.' Various development actors adopted the term but with different understandings. The most ambitious effort to conceptualise legal empowerment and translate it into policy was that of the Commission on Legal Empowerment of the Poor. However, the Commission's report failed to settle the definition of legal empowerment or to articulate a clear theory of change.[4] A year after the Commission's report, the Asian Development Bank (2009, pp. 9–10) stated that 'There is insufficient consistency, precision, and clarity about what it means, even among non-government organization providers of legal empowerment services.'

Legal empowerment suffers conceptual schizophrenia in several respects. First, the Commission's 2008 report was an awkward mash-up of Hernando de Soto's neo-liberal prescriptions and Amartya Sen's capabilities approach, although the former dominated.[5] Second, legal empowerment's goal (empowering the poor) is political and transformational while the means used (law or liberal legalism) often depoliticise and defend the status quo. Put differently, legal empowerment assumes that law and legal action are empowering, thus downplaying the many ways in which they can disempower, divert resources from collective political action, or become merely 'palliative' (Cornwall, 2017, p. 7). Third, legal empowerment emphasises individual agency ('making choices', or 'power to') but such agency is inevitably shaped by individual self-efficacy ('power within'),[6] possibilities for collective action ('power with'), and existing structures of exclusion ('power over').[7] Fourth, legal empowerment seeks to increase the agency of a fairly abstract individual rights-holder, whereas most individuals in the Global South tend to think of themselves as embedded in larger collectivities (for example ethnic groups) and bound by clientelist obligations. For instance, the Commission's 2008 report mostly views individuals as decontextualised 'citizens', 'asset holders', 'workers', and 'business-women' (p. 27), but then elsewhere briefly acknowledges the importance of indigenous people's identity and collective assets (for example, p. 36). Finally, legal empowerment invokes the critical consciousness of early empowerment interventions in development (see Cornwall, 2017, pp. 7–9) without fully appreciating the way that legal consciousness may constrain critical awareness of the law (see Silbey, 2005).

Putting the conceptual problems to one side, this article adopts the UN Secretary General's definition. That definition is the most authoritative, having been endorsed by the UN General Assembly. It has also been operationalised by the UN Development Programme and other development actors. According to the UN Secretary General, legal empowerment is 'the process of *systemic change through which the poor are protected and enabled to use the law* to advance their rights and their interests as citizens and economic actors' (UN Secretary General [UNSG], 2009, para. 3; emphasis added). As that language made clear, legal empowerment is meant to be systemic by connecting the top-down/supply-side (the state's protection of the poor) and the bottom-up/demand-side (the poor's use of law). The Secretary General also went beyond the Commission's market-driven emphasis on property, labour, and so-called business rights to include education, health, and housing rights that are just as essential, if not more so, for empowering the poor (UNSG, 2009, paras. 7, 34, 41, 46, 53).[8]

Legal empowerment has four components: rights enhancement, rights awareness, rights enablement, and rights enforcement (US Agency for International Development (USAID), 2007, pp. 11–27; see Asian Development Bank, 2009, pp. 40–49). Rights enhancement involves more inclusive law-making processes and pro-poor law reform. Rights awareness is often accomplished through legal literacy campaigns. Rights enablement typically consists of legal aid in the form of pro bono lawyers,

community paralegals, and university law clinics. Rights enforcement includes state courts, ombuds-men, National Human Rights Institutions, alternative dispute resolution, and customary justice.

Legal empowerment is part of a larger trend in development to enhance voice and accountability for the poor and marginalised (see Carothers & Brechenmacher, 2014). As such, it is closely allied to social accountability (Cornwall, 2017; Grandvoinnet, Aslam, & Raha, 2015; pp. 25–27; Joshi, 2017; pp. 160, 163; Maru, 2010), which helps enable ordinary citizens to hold both state and non-state service providers accountable through activities like citizen juries, participatory budgeting, public expenditure tracking, and social audits.[9] Social accountability seeks to reduce the 'fear factor' that constrains voice and to increase the capacity of accountability mechanisms to provide meaningful redress (Fox, 2015, p. 353). It further endeavours to reduce perceptions of injustice, increase trust, and facilitate collective action (Grandvoinnet et al., 2015, pp. 194–197).

Despite the overlap, there are three key differences between legal empowerment and social accountability (Joshi, 2017, pp. 163–164). First, legal empowerment involves explicit use of the law. Second, it goes beyond service delivery. Finally, legal empowerment puts less emphasis on collective action. That said, both legal empowerment and social accountability are fundamentally concerned with strengthening the social contract between the state and the poor, particularly where normal channels of political accountability are insufficiently responsive. Hence, Joshi (2017) recommends integrating the two approaches. Legal empowerment gives 'teeth' to social accountability and is better at the inclusion of marginalised groups (pp. 163–164). Meanwhile, social accountability keeps the focus on systemic failures and collective action, thereby correcting the tendency of legal empowerment to 'atomize social struggles' (p. 167). Practitioners are starting to integrate these approaches, particularly with respect to health care (for example, Joshi, 2017, pp. 164–166) and other socio-economic rights (for example Feruglio, 2017, pp. 14–23).

There are inevitable risks to any social accountability, legal empowerment, or integrated programme (see Grandvoinnet et al., 2015, pp. 212–213). One is that marginalised individuals and groups are reluctant to meaningfully participate. Another is elite capture, whether by local or national elites. An additional risk is state co-option or repression. A final one is that the programme may lead to greater competition and conflict, especially if it is perceived as favouring particular groups.

2.2. Legal empowerment in practice

The Commission on Legal Empowerment of the Poor (2008, p. 333) recognised that legal empowerment 'must usually be [implemented] under inauspicious conditions.' It adopted a political economy approach that emphasised best fit over best practice, function over form, locally-driven over externally-imposed, and political pragmatism over normative ambition (2008, pp. 275–353). The Commission (2008, p. 303) also set out different policy initiatives to fit varying contexts of political competition and institutional strength.[10] These initiatives range from community-based empowerment in failing states to national-level reforms in strong democracies. The Commission (2008, p. 303) recommended a policy of mobilising poor citizens in states where (as in Liberia) there is (1) 'an unstable mixture of formal and informal rule'; (2) 'parties are based partly on personalities'; (3) 'basic rules of the game are established in law and practice, although they function poorly and intermit-tently'; and (4) the state has low organisational capacity.

The dominant model of legal empowerment 'under inauspicious conditions' has become the community paralegal programme. This is partly because states like Sierra Leone lack the collective assets and political opportunity structures – well-funded public interest law organisations and a 'reasonably accessible and functional judicial system' (Gauri & Brinks, 2008; pp. 16–17; see Gloppen, 2008) – for legal empowerment to take the form of impact litigation around socio-economic rights. It is also partly due to the transnational advocacy networks that have disseminated this model. When Open Society Foundation helped found the non-profit organization Timap for Justice in 2003, it borrowed the notion of paralegal services from South Africa but adapted it to the Sierra Leone context. Timap became highly influential as its co-founder, Vivek Maru, moved first to the World Bank's Justice Reform Group and then started Namati, an international NGO for legal

empowerment. Both Open Society and Namati have pushed the community paralegal model through how-to manuals, training, capacity-building, and networking. They have done alliance-building (creating a transnational advocacy network, the Global Legal Empowerment Network) and advocacy (particularly around SDG 16 and the Kampala Declaration on Community Paralegals). They also have encouraged research and development on these paralegal programmes (see Maru & Gauri, 2018).

The diffusion of the community paralegal model raises some concerns. There is a risk that it becomes a one-size-fits-all, technocratic template for legal empowerment. There is a related risk that it frames legal empowerment too narrowly as demand-side access to justice (rights awareness and enablement), thereby diminishing some of legal empowerment's more transformative potential. There is also the danger that community paralegal programmes, by playing a government-substituting role, let governments off the hook for meeting their obligations to provide access to justice. Indeed, these programmes often rely heavily on international donors, which makes them both more vulnerable and less accountable (Maru & Gauri, 2018, pp. 26–27; Dugard & Drage, 2018, 68–70; Maru, Braima, Gauri, & Jalloh, 2018, pp. 200–202).

Community paralegals perform a range of legal roles: education, accompaniment, mediation, mobilisation, advocacy, and, more rarely, litigation support (Maru & Gauri, 2018, pp. 9–12). They also aid their clients to navigate among plural legal orders. Yet, most spend the bulk of their time helping to mediate inter-personal disputes over land, labour, and family using customary dispute resolution mechanisms (see Dale, 2009; pp. 1, 5; Sandefur & Siddiqi, 2013; p. 25). In that role, they often insert formal law considerations (including human rights norms) into customary justice, thereby 'enlarging the shadow of the law' (Berenschot & Rinaldi, 2011, p. ii). That may (marginally) reduce the power of customary authorities (tribal chiefs, clan elders, and so forth).

There is some evidence that community paralegals have a positive impact on settlement outcomes, litigant satisfaction and livelihoods, and intra-community relations (Dale, 2009; Gramatikov et al., 2015; Maru & Gauri, 2018; Sandefur & Siddiqi, 2013). However, these community paralegal programmes are less successful at empowering the poor more broadly because their caseloads mostly consist of low-level, inter-personal disputes that are resolved on a case-by-case basis. As Maru (2010, p. 89) observed:

> I have found that the dockets of generalist justice service providers often include disproportionate numbers of intra-community conflicts – such as child support claims and land disputes – with fewer cases involving failures of state institutions and public services. I suspect that these proportions … are a sign that communities have not conceived of state failures as injustices capable of remedy, and that legal empowerment organizations have not adequately demonstrated their effectiveness in addressing state failure.

This lack of attention to the state and other duty-bearers stems from four factors. First, as Berenschot and Rinaldi (2011, p. 37) explain, 'by choosing to train villagers to work as paralegals *within* their community, the programs diminish the chance of addressing problems involving state or corporate accountability-'. Second, community paralegals mostly focus on the immediate needs of their clients and their communities rather than the larger, long-term interests of the poor and marginalised. Third, paralegals can be (understandably) hesitant to confront powerful individuals within their own communities as well as state officials. One evaluation of Timap revealed that, according to some clients, 'Timap seemed afraid to confront power structures or would likely perform less effectively in cases where local authorities were involved' (Dale, 2009, p. 22). Finally, it is difficult for community paralegal programmes to build bottom-up demand for legal reform because 'for both clients and paralegals avoiding the legal system is more practical than trying to fix it' (Berenschot & Rinaldi, 2011, p. 68).

These points echo Fox's (2015, p. 352) argument that social accountability programmes which take a tactical, or exclusively demand-side, approach rest on two 'unrealistic assumptions': 'that people who have been denied voice and lack power will necessarily perceive vocal participation as having more benefits than costs'; and 'that even if locally bounded voices do call for accountability, their collective action will have sufficient clout to influence public sector performance – in the absence of

external allies with both perceived and actual leverage'. Instead, Fox argues that strategic approaches, which 'manage to scale up voice and collective action beyond the local arena, while bolstering the capacity of the state to respond to voice … are more promising' (2015, p. 352; see Fox, 2016). Indeed, the poor and marginalised need external allies (or champions) in civil society, the state, and international community if they are to successfully challenge existing power relations and resource distributions. That is a key lesson from the experience of social accountability (McGee & Gaventa, 2011, pp. 23–24) and justice claiming (Uhlin, Singh, Grugel, & Fontana, 2017, pp. 183–184) in the Global South, as well as from the work of Kelsall, Hart, and Laws (2016) on expanding universal health coverage.

Some community paralegal programmes have employed more strategic approaches. A specialised programme in Mozambique that focused on land and natural resource governance adopted a 'twin-track' approach: using paralegals to increase rights awareness and provide legal support while also training land sector officers to be more responsive (Tanner & Bicchieri, 2014).[11] The need for twin-track approaches underscores that legal empowerment is a lengthy and incremental process. For example, the programme with Mozambique's land paralegals lasted 20 years (Tanner & Bicchieri, 2014, p. 110).

2.3. Legal empowerment's evidence base

The Commission on Legal Empowerment's report said surprisingly little about the evidence base for legal empowerment or how to go about developing it further. Rather, the Commission (2008, p. 2) took a somewhat faith-based approach to the efficacy of legal empowerment; for example, it stated 'we believe there is compelling evidence that when poor people are accorded the protections of the rule of law, they can prosper' without actually saying what that evidence was. Since then, legal empowerment practitioners have attempted to map the growing evidence of legal empowerment's outcomes and impact (Goodwin & Maru, 2014, 2017; Golub, 2012; UN Development Programme [UNDP], 2014). Namati (Goodwin & Maru, 2014, pp. 34, 42–43) and Golub (2012, pp. 1–2) have also encouraged more rigorous and transparent evaluations of legal empowerment programming, while providing tools to achieve that. Nonetheless, the evidence base for legal empowerment's impact remains quite limited (UNDP, 2014, p. 19).[12] This is partly because legal empowerment programming is still relatively young. It is also due to measurement difficulties caused by variable definitions of legal empowerment,[13] the range of possible impacts (Goodwin & Maru, 2017, p. 163, Table 1), positive publication bias (Goodwin & Maru, 2017, pp. 159, 168–169), and the inevitable difficulty of showing causation. Finally, the implementation and impact of legal empowerment depends on context: for example, Maru and Gauri (2018, pp. 22–23) briefly noted that community paralegal programmes have functioned differently in authoritarian, post-authoritarian, and post-conflict contexts.

The most extensive review of the evidence for legal empowerment's impact was conducted in 2013–2014 by Namati's Goodwin and Maru. They acknowledged taking an 'expansive' view of what counts as evidence and also 'tak[ing] the results at face value' – that is, without judging the rigour of the underlying studies (Goodwin & Maru, 2017, pp. 159, 160). Goodwin and Maru (2017, p. 165) found that the most common methods used were case studies, qualitative interviews, and quantitative surveys. Rather embarrassingly, participatory methods were rarely used to evaluate programmes meant to be participatory and empowering (Goodwin & Maru, 2017, pp. 166–168). The majority of studies looked at legal literacy and measured impact on people's legal knowledge and agency (Goodwin & Maru, 2017, pp. 169, 173–176). Fewer studies attempted to evaluate impact on the law, legal institutions, and legal implementation probably because '[p]roving the definitive contribution made by legal empowerment on government is much more difficult, especially when the desire is to link a single intervention to large-scale processes of change' (Goodwin & Maru, 2017, pp. 181, 183).

When Domingo and O'Neil (2014, p. 59) surveyed the legal empowerment literature, they found little evidence 'regarding whether and when legal empowerment contributes to structural or transformative change or results in, for instance, better health outcomes or more equitable land distribution at a more aggregate level'. This partly reflects the fact that too many community paralegal programmes

have adopted tactical approaches limited to rights awareness and enablement (Domingo & O'Neil, 2014, p. 59; see Fox, 2015). Goodwin and Maru (2017, p. 189) also recognised the lack of evidence about how legal empowerment affects national level policy and hence how it can be effectively scaled up. Finally, both Domingo and O'Neil (2014, p. 59) and Goodwin and Maru (2014, p. 17) point to the need for more information about the contextual drivers of effectiveness for legal empowerment.

3. Legal empowerment and horizontal inequalities after conflict

3.1. Legal empowerment after conflict

Legal empowerment programmes work with the poor in both the Global North and Global South. Increasingly, these programmes are being implemented in the challenging environments of post-conflict states, such as Liberia and Sierra Leone. But it is only recently that some scholars and policy-makers have begun thinking about legal empowerment as potentially part of the peacebuilding toolkit.[14] In 2015, for example, UN Special Rapporteur Pablo de Greiff (2015) listed legal empowerment as one tool (among many) for preventing recurrence of gross human rights abuses.

Legal empowerment can be expected to work differently in post-conflict contexts. That is partly because law and legal institutions are distinctive in those contexts (Bell, 2015). First, they sometimes played a role in the conflict (through emergency regimes for example). Second, law and legal institutions have frequently lost authority, capacity, and legitimacy. Third, there is rapid and often recurring institutional change (see Levitsky & Victoria Murillo, 2009). Finally, international law and norms play a larger role because of the weakening of domestic law, the role of international peace-builders and transnational civil society actors, and the fact that they 'offer "neutral" benchmarking standards that are independent to any of the parties to the conflict' (Bell, 2015, pp. 3–5).

The Commission on Legal Empowerment of the Poor (2008, p. 302) recognised that post-conflict contexts – with their weak justice institutions and pressing land disputes – pose intense challenges for implementing legal empowerment policy and programmes. Indeed, it is very difficult to do legal empowerment (or other development programmes for that matter) where the very terms of the social contract are unclear, states lack authority, capacity, and legitimacy, civil society lacks independence and capacity, the rule of law is weak, and citizens lack trust (see Grandvoinnet et al., 2015, pp. 14–16). Nevertheless, post-conflict contexts may promote norms and opportunity structures – including social justice values, progressive constitutions, ratification and domestic incorporation of human rights treaties, activist civil society, and independent judges – that make legal empowerment easier (Domingo & O'Neil, 2014, pp. 43–45). Transitions may also alter power asymmetries (Domingo & O'Neil, 2014, p. 58) in ways that align with empowering the poor. Whether the opportunities outweigh the challenges depends of course on the specific context. Following Kelsall and Heng (2016, p. 26), the opportunities for legal empowerment are likely to be greater where the political settlement is more competitive, inclusive, and impersonal.

Still, we cannot expect legal empowerment programmes to be implemented as effectively in a weakly-institutionalised state devastated by civil war (like Sierra Leone) as in a state with stronger institutions that experienced post-election violence (like Kenya). There are several contextual drivers of effectiveness for legal empowerment programming in post-conflict environments. Some are generic to any development or peacebuilding programme in these settings: the conflict characteristics, conflict termination, the balance of power between former warring parties, security situation, political settlement, elite commitment, institutional strength, social cohesion, and international support (Bell, 2015, pp. 5–6). Other factors are more relevant to post-conflict accountability, whether social accountability initiatives (Grandvoinnet et al., 2015) or transitional justice mechanisms (Duthie, 2017): the nature of the social contract, capacity of 'virtuous' civil society, and strength of the rule of law. A final set of factors specific to legal empowerment are the content of the law, features of legal pluralism, structural bias in formal and informal justice mechanisms, and external support for legal empowerment in civil society and the donor community (Domingo & O'Neil, 2014, p. 58).

3.2. Tackling horizontal inequalities

There are several rationales for legal empowerment to tackle horizontal inequalities in the wake of conflict: equity, social cohesion, and conflict prevention. Horizontal inequalities are *perceived* inequalities 'between culturally defined groups' and they can have one or more dimensions: political, economic, social or cultural status (Stewart, 2008, p. 3). These dimensions can be mutually reinforcing or cross-cutting. Although horizontal inequalities intersect with other inequalities (such as class, gender, disability) (Paz Arauco et al., 2015), they are often more stubbornly entrenched (Lenhardt & Samman, 2015, p. 31). There is strong evidence that mutually reinforcing horizontal inequalities make the political settlement more shaky and the resumption of conflict more likely (Fjelde & Ostby, 2014; Stewart, 2008), especially where a disfavoured group's elites suffer political inequalities and can then mobilise group members around broadly shared socio-economic inequalities (Stewart, 2010; p. 142; Stewart, Brown, & Langer, 2008a; p. 289). As Addison and Murshed (2005, p. 4) observed, ethnicity 'is often a superior basis for collective action in contemporary conflicts in poorer countries than other social divisions'. This is particularly true where patronage relationships run largely along ethnic lines.

There are three, broad policy approaches to reducing horizontal inequalities: (1) targeted approaches that directly benefit the disfavoured group, such as ethnic quotas; (2) universal approaches that indirectly benefit the disfavoured group, such as anti-discrimination laws; and (3) integrationist approaches to break down group boundaries, such as the provision of multi-ethnic schooling (Stewart, Brown, & Langer, 2008b, pp. 303–304).[15] While targeted approaches are likely to have greater impact, they can reinforce group identities, cause political and social tensions, and thereby weaken social cohesion. Hence, universal approaches are often a better fit for reducing horizontal inequalities and increasing social cohesion in post-conflict contexts (Langer, Stewart, & Venugopal, 2012; p. 25; see Easterly, Risen, & Woolcock, 2006; p. 117; see also McManus, 2017). That said, Paz Arauco et al. (2015, p. x) contend that universal approaches are apt to be less successful in Asia and Latin America where group exclusion and discrimination is 'often more socially and historically embedded'. According to them (2014, pp. ix, 21–27), a successful reduction of intersecting inequalities requires an inclusive political settlement in combination with a progressive social movement.

Legal empowerment is a more universal approach to reducing horizontal inequalities (Stewart et al., 2008b, p. 311). Indeed, Stewart lists 'policies to help disadvantaged groups to realise their legal rights, e.g. via legal aid' (2010, p. 153) as examples of a universal approach. Legal empowerment can lower social, horizontal inequality by providing an ethnic group with equal access to justice. It can lessen economic, horizontal inequality by protecting community lands of particular ethnic groups. It can decrease cultural horizontal inequality through recognising and enhancing a group's customary law.

Although legal empowerment has potential to reduce horizontal inequalities, not much attention has been paid to such inequalities.[16] There are several reasons for this – most of which stem from its conceptual schizophrenia. First, legal empowerment frequently emphasises vertical inequality – that is, legal empowerment of the poor. Second and relatedly, it often treats the poor as a largely homogenous group of poor individuals who are poor by reason of their exclusion from the law. Where it has addressed intersecting inequalities, it has mainly focused on gender. Third, legal empowerment focuses more on individual than collective rights (a problem common to both de Soto's neo-liberalism and Sen's capabilities approach).[17] Fourth, efforts to evaluate legal empowerment have tended to use individuals as the unit of measure (see Gramatikov & Porter, 2010). Finally, legal empowerment often engages with inter-personal or intra-group rather than inter-group disputes.

The ability of legal empowerment programmes to actually reduce horizontal inequalities depends of course on both context and implementation. The context is far more 'inauspicious' where political, social, economic, and cultural inequalities are mutually reinforcing; the inequalities are deeply embedded in the political settlement, socio-economic structure, cultural norms, and plural legal systems; and the inequalities were among the causes of conflict. Overall, horizontal inequalities often translate into weaker drivers of, and more resistance to redistribution of income, power, and services (cf. Kelsall et al., 2016, p. 6).

How legal empowerment is implemented in post-conflict contexts may negatively impact on social cohesion – and hence increase the chances of violent conflict (Langer, Stewart, Smedts, & Demarest, 2016). Langer et al. (2016, p. 5) define social cohesion as 'essentially a matter of how individuals *perceive* others and the state'. It comprises three measurable and independent components: inequality (both vertical and horizontal), trust (both across groups and in state institutions), and identity (national versus group) (2016; pp. 6, 22; see Marc, Willman, Aslam, Rebosio, & Balasuriya, 2013). Even if a legal empowerment programme reduces social or economic horizontal inequalities, the resulting benefits to social cohesion might be more than offset by negative impacts on political horizontal inequality, trust, and national identity. This may happen in several ways. First, legal empowerment efforts to reduce economic and social horizontal inequalities may actually increase political horizontal inequalities. This is because newly equalised treatment of a marginalised group is often perceived as unfair treatment by the formerly privileged group. Second, by encouraging the poor to see the state as the responsible duty bearer and to challenge its failures, legal empowerment may convert passive disinterest towards state institutions into active mistrust. Third, and relatedly, legal empowerment may promote legal and political conflict between marginalised groups and the state over service delivery failures and violations of socio-economic rights. Finally, legal empowerment's use of customary law and informal mechanisms may increase the lack of trust in state law and formal institutions while reinforcing a group's identification with its version of customary law.

3.3. Managing trade-offs

There is a risk that well-intentioned efforts to tackle horizontal inequalities may reinforce group identities, heighten tensions, reduce social cohesion, and possibly contribute to renewed conflict. Yet, there is also a risk that not addressing horizontal inequalities will help perpetuate them, thereby undermining long-term prospects for an inclusive and sustainable peace. Neither option is guaranteed to 'do no harm'. Predicting which option will do less harm depends on various context-specific factors as well as conflict-sensitive forecasting. In post-conflict environments, policy-makers inevitably have to make difficult trade-offs: 'What is best for maximizing poverty reduction and human development may not be best for the politics of peace and recovery' (Addison, Gisselquist, Niño-Zarazua, & Singhal, 2015, p. 1). Indeed, it may be that expediency and peace need to take priority over equity and needs, at least in the short to medium term (see Addison, Gisselquist, Niño-Zarazua, & Singhal, 2016; Del Castillo, 2016, p. 57).

While such trade-offs are unavoidable, there are ways to manage them and mitigate attendant risks (Brown & Langer, 2016). First, the form of legal empowerment can be adapted to the specific context. For example, high profile legal advocacy on horizontal inequalities (such as impact litigation in state courts or filing a complaint to a UN or regional human rights body) is more confrontational and threatening to powerful elites than targeting legal aid at disadvantaged ethnic groups. Another example is that a more neo-liberal version of legal empowerment – one that focuses on formalising individual land rights – may cause more problems where there is a history of conflict over land. Second, legal empowerment actors can make their approaches more or less targeted. They can adopt a universal approach to the poor that has a targeted effect if the ethnic group is disproportionately represented among the poor. They can target their services at particular geographic regions where more of the population comes from marginalised ethnic groups. They can focus on less conflict-sensitive inequalities (say gender and disability) that overlap with ethnic inequalities. They can focus on legal issues (like inheritance rights for conflict widows) that are more prevalent among particular ethnic groups. Third, legal empowerment programming can be sequenced. It can start with inter-personal and intra-group disputes within ethnically homogenous communities, then later move to inter-personal and intra-group disputes within ethnically heterogeneous communities, and only later still move to inter-group disputes. Also, it can hold off on addressing horizontal inequalities until after mediation mechanisms and social cohesion have been strengthened.

4. Legal empowerment in Liberia

Liberia was selected as an illustrative example[18] for several reasons. First, it presents an opportunity to examine how legal empowerment has been implemented in different forms in a post-conflict context. Indeed, Liberia has become something of a lab for field experiments on legal empowerment programmes. Second, it allows for some (albeit limited) comparison of two legal empowerment programmes while holding the country-level contextual drivers of effectiveness constant. Third, Liberia is an example of a pressing need to address the mutually reinforcing horizontal inequalities that contributed to the civil war but where efforts to do so may risk worsening the situation.

4.1. Background

Liberia's 14-year civil war devastated the infrastructure, economy, and social fabric. More than a quarter of a million people were killed and hundreds of thousands displaced. The war ended with a peace agreement in 2003. The UN deployed what was then its largest peacekeeping mission (some 15,000 troops) to assure security and stability. Elections brought President Ellen Johnson Sirleaf to power in 2006. The resulting political settlement has been fairly exclusionary – reliant on personal rule, patrimonial networks, and corruption – but 'relatively stable' (Robinson & Valters, 2015; pp. 25–26; see Menocal & Sigrist, 2011). Liberia has largely followed the liberal peace-building model promoted by the UN (Moran, 2008; Paczynska, 2016). This has produced notable accomplishments: free and fair elections, economic growth led by high levels of foreign direct investment, strengthened state institutions, and increased security (Robinson & Valters, 2015). Civil society, despite weak capacity and donor dependency, has become increasingly assertive in terms of policy formulation and implementation, as well as more critical of corruption (Search for Common Ground in Liberia, West Africa Civil Society Institute, & CIVICUS, 2014, p. 13). However, Liberia has been much less successful in reducing the ethnic divisions and horizontal inequalities that contributed to the civil war in the first place.[19]

Liberia's Truth and Reconciliation Commission (TRC) acknowledged that the war was partly caused by high levels of horizontal inequalities between the dominant Americo-Liberians and the native Liberians, as well as among the 16 native Liberian tribes (Republic of Liberia, 2009, p. 16). The government has been slow to tackle these inequalities because of their political sensitivity and because they benefit powerful elites. Although the 2008 Poverty Reduction Strategy Plan (PRSP) recognised the role that horizontal inequalities played in the war, it fell 'short of addressing HI [horizontal inequalities] in several important ways' (Fukuda-Parr, 2012, p. 94):

> First, the document interestingly does not refer to cultural identity groups in addressing exclusion and inequalities. The document singles out the need for special attention to children and youth, ex-combatants, women and the 'vulnerable' – rather than to the historically marginalised non-Americo-Liberians, certain ethnic groups or the rural hinterland.

> Second, the operational programmes are defined in highly aggregated terms and do not target particular beneficiary groups. For example, agricultural investments could significantly correct HI [horizontal inequalities] if they were directed towards increasing support for small-scale farmers. This could serve as an important starting point for building food security, reversing the neglect of rural, African indigenous populations and stimulating pro-poor growth.

> … Finally, the PRSP does not raise the issue of the distributional impact of growth by identity group. (Fukuda-Parr, 2012, pp. 94–95)

The Agenda for Transformation (Republic of Liberia, 2012, pp. 44, 48), which followed on from the PRSP, barely acknowledged ethnic divisions and horizontal inequalities while focusing on marginalised women, youth, and children.

Economic growth has disproportionately benefited the Americo-Liberian elite, while land concessions to foreign companies have reduced livelihood security for many non-Americo-Liberians in rural areas. 'As was the case before the war, the economic policies pursued in post-conflict Liberia have allowed those with access to financial and political resources to marginalise and exploit those with little access to such resources' (Paczynska, 2016, pp. 2–3). By the end of 2012, transnational corporations held mineral, timber, rubber, and palm oil concessions over an estimated 52 per cent of the country (Rights and Resources Group, 2013, pp. 8–9). Some community protests against land concessions have been met with government repression (Paczynska, 2016, p. 19). A Land Rights Act was drafted in 2014 but was subsequently stymied in the legislature. That draft Act (2014, articles 32–51) would give communities the right to own their customary lands. In mid-2016, 18 civil society organisations issued an open letter calling on the legislature to pass the Land Rights Act: 'Failure to recognise the rights of millions of Liberians to their customary lands jeopardises peace and security, and could fuel a slide back into the conflicts that devastated our country for decades' (Civil Society Organizations Working Group on Land Rights in Liberia, 2016). That letter was seemingly ignored and, as of December 2017, the Act has not been passed.

In 2013, Liberia passed the 10-year mark at which the risk of conflict-recurrence dramatically drops off (Collier, Hoeffler, & Soderbom, 2006). Still, a recent population survey gave cause for concern:

> Liberians view the peace as tentative, fragile, and volatile. This assessment is not surprising, because the fundamental problems that fuelled the violent conflict are still there – corruption in public services, Americo-Liberian dominance over politics and the economy, marginalization of the indigenous populations, limited economic opportunity, and restricted participation in decision making and access to influence for the average person. (Catholic Relief Services, Justice and Peace Commission, Catholic Bishops' Conference of Liberia, 2016, p. 3).

The same survey found the country ethnically divided, with more than 80 per cent of respondents opposing inter-ethnic marriages within their own families (Catholic Relief Services, Justice and Peace Commission, Catholic Bishops' Conference of Liberia 2016, p. 6). Liberia is in a period of uncertainty with a new President (former footballer George Weah) in office[20] and with the ending of the UN Mission in Liberia (after nearly 15 years) in spring 2018.

4.2. Legal context

By the time the civil war ended, there 'was an almost unanimous distrust of Liberia's courts, and a corresponding collapse in the rule of law' (International Legal Assistance Consortium, 2003). Liberal peacebuilding in Liberia has included standard elements of the rule of law orthodoxy: law reform, judicial training, case management systems, and general capacity-building (Republic of Liberia, 2008, pp. 90–92). Despite this, the Rule of Law Index (World Justice Project, 2016, p. 106) ranked Liberia 94 out of 113 countries. The formal justice sector remains weak and corrupt (US State Department, 2016, pp. 8–9). It also continues to be widely mistrusted. The Liberian TRC stated that 'Liberians have had little faith in judicial institutions to protect their interests or fundamental rights' (Republic of Liberia, 2009, p. 6). According to Afrobarometer (Logan, 2017), Liberia has the worst perceptions ratings of any country in Africa when it comes to access to justice.

A 2010 survey found that a majority of respondents viewed the formal justice system negatively and preferred to use customary mechanisms to resolve disputes (Vinck, Pham, & Kreutzer, 2011, pp. 59, 65).[21] Most Liberians – which is to say, most non-Americo-Liberians – use customary justice for both strategic and normative reasons: they see it as more accessible, predictable, and fair but also more concerned with repairing social relations (Lubkemann, Isser, & Banks, 2011, pp. 215–217).[22] Despite efforts to improve the formal justice system's handling of gender violence (Bacon, 2015), women victims mostly prefer the discriminatory customary justice system, partly because the formal system can worsen their livelihood options (Divon, Sayndee, & Boas, 2016, p. 16).

While the 2008 PRSP briefly acknowledged the role of customary justice in providing accessible justice, it mostly highlighted violations of human rights norms. It also promised that 'A national framework will be developed for the exercise of informal and customary justice to ensure that it conforms to human rights standards including gender equality, upholds the rule of law, and complements the formal justice sector' (Republic of Liberia, 2008, p. 92). The government has since regulated the customary justice system, limiting its jurisdiction and its use of trial by ordeal (Lubkemann et al., 2011, pp. 220–226). The government's larger goal is to move away from Liberia's historic dualism, which reinforced divisions between the capital and the hinterland, and between Americo-Liberians and native Liberians (see Republic of Liberia, 2009). While mostly well-intentioned, 'this "progressive" approach is seen by many rural [native] Liberians as yet another in a long historical line of undesired impositions by a Monrovian elite (and its international backers) on the rest of the country' (Lubkemann et al., 2011, p. 203). The government's reforms to customary justice also threaten to weaken one of the few effective conflict resolution mechanisms in the country (Lubkemann et al., 2011, p. 221).

There has been considerable advocacy for improving access to justice. International Crisis Group (2006, pp. 11–13) issued an influential report in 2006 that called on donors, government, and civil society to create a community-based paralegal programme modelled on Timap in Sierra Leone.[23] The Truth and Reconciliation Commission recommended increased access to justice (Republic of Liberia, 2009, p. 389). The 2008 PRSP linked access to justice and horizontal inequalities: 'providing more equal access to justice will contribute to eliminating the marginalization of some groups, which helped fuel the conflict' (Republic of Liberia, 2008, p. 84). The 2012 Agenda for Transformation (Republic of Liberia, 2012, pp. 39, 51) promised to expand access to justice but made no mention of paralegals. A 2013 conference co-hosted by the government resolved to look into formalising paralegal services (Dereymaeker, 2016, p. 15). The UN Peacebuilding Fund (2016, p. 11) helped fund a community paralegal programme. Despite such support, Liberia did not issue a National Legal Aid Policy until 2016 (see Gertler, 2014, pp. 968–972) and legal aid still faces considerable opposition from legal and political elites (see Chapman & Payne, 2018, pp. 224–225). For example, the judge who chaired Liberia's Independent National Human Rights Commission expressed concerns about using paralegals to provide legal aid to the poor (Barpeen, 2016). Liberia contrasts unfavourably with Sierra Leone, which passed a 'model' legal aid law in 2012 (Dereymaeker, 2016, pp. 19–22).[24] This difference may be partly explained by the fact that Liberia's political settlement is less inclusive and policy-making less consultative than in Sierra Leone (Onoma, 2014).

One of the main legal issues that ordinary Liberians face is land disputes. A population survey found land to be the most common category of disputes, with approximately 16 per cent of respondents having experienced such disputes since the end of the war (Vinck et al., 2011, p. 47). These disputes (most of which involve land-grabbing of house plots) were less likely to be resolved (Vinck et al., 2011, p. 61). Another study found that 'Disputes about land were identified by the population as the most prevalent, countrywide source of tension' (as cited in Knight, Slakor, & Kaba, 2013, p. 37). In a recent population survey, many respondents identified land disputes as a main conflict trigger (Catholic Relief Services, 2016, p. 3)

Overall, the contextual drivers for effective legal empowerment are mixed. Relatively successful security sector reform and UN peacekeeping have assured security. The political settlement is fairly exclusive but stable. State capacity has been strengthened. There have been improvements to the rule of law and human rights, including a right to information law. Civil society organisations are more assertive. There is ongoing international support from the international community. There are also some negative factors: a weak social contract, deeply entrenched horizontal inequalities, weak social cohesion, and high youth unemployment (Catholic Relief Services, Justice and Peace Commission, Catholic Bishops' Conference of Liberia, 2016; Menocal & Sigrist, 2011; pp. 14–16). Perhaps most importantly, many Liberian elites have little interest in programmes, like legal empowerment, that might challenge their corrupt, patronage networks.

4.3. Legal empowerment and horizontal inequalities in Liberia: two community paralegal programmes

Kelsall, Hart and Laws' work (2016) suggests that progress in legal empowerment provision in this political economy context will be best advanced when external stakeholders play a government-substituting role. Indeed, that is what they have done, with donors, international NGOs, and domestic civil society organisations running or funding various community paralegal and mediation programmes.[25]

The Catholic Justice and Peace Commission has been running a mobile paralegal service, Community Justice Advisors (CJA), for 'historically marginalised' communities in seven, mostly rural counties since 2007. CJA was an outgrowth of earlier civic education programmes that had led to increasing requests for legal advice (Carter, 2008, p. 17). CJA has received support from both the Carter Center and the UN Peacebuilding Fund (Chapman & Payne, 2018, pp. 215, 223 and n. 43).[26] Former President Jimmy Carter (2008, pp. 14–15) described the motivation for his Center's support to community paralegals:

> While the health establishment trusts trained local citizens to administer basic health care and preventive education within their communities, legal establishments have been much slower to explore ways that problem solving can be devolved to ordinary citizens. One important cause of civil war is when poor or marginalised groups believe they have no legal recourse through which to protect their rights from more powerful elites. In countries recovering from war, this core problem will remain if reform of the legal system does not also include active ways to connect to the citizens' immediate needs, including regaining their trust.

While CJA was modelled on Timap in Sierra Leone (Carter, 2008, p. 17), it differs in three ways. CJA paralegals are mobile, with each working across 10 communities. CJA has taken a softer approach to legal empowerment, focusing more on awareness-raising and generally avoiding litigation (and threats of litigation) (Graef, 2015, pp. 108, 158). Finally, 'CJAs were prohibited from proactively soliciting cases in order to maintain good relations in their communities' (Graef, 2015, p. 160).

Most of the cases handled by CJA paralegals are land/property and family disputes with only 11 per cent involving government abuse and corruption and 4 per cent involving social infrastructure (Chapman & Payne, 2013, p. 19).[27] More than 40 per cent of all cases were resolved through facilitated negotiation by paralegals (Chapman & Payne, 2018, p. 217). In a field experiment, Sandefur and Siddiqi (2013, p. 33) found that paralegal clients rated case outcomes as fairer and relations with opposing parties as better than the control group.[28] They also found greater food security though not 'any impacts on behavior related to actions taken to protect property rights (land titling and demarcation) or engage in credit market activity (lending and borrowing)' (Sandefur & Siddiqi, 2013). That finding suggests the programme is not empowering clients beyond their specific, individual cases.

In contrast to CJA's generalist paralegals, the Sustainable Development Institute (SDI), a Liberian NGO, helped train a more specialised group of community paralegals to document community land within their home communities.[29] The paralegals were just one strand in a larger strategy to protect community lands in the face of ongoing land concessions (Maru & Yiah, 2013, pp. 10–11). SDI also advocated for a land policy permitting formalisation of customary rights (Maru, 2014; p. 206; SDI, 2015). It signed the unsuccessful open letter urging the legislature to pass the draft Land Rights Act in 2016. For the paralegal project, SDI selected five communities in Rivercess County for paralegal support. Community land documentation processes,

> which document the perimeter of the community according to customary boundaries, are a low-cost, efficient, and equitable way of protecting communities' customary land claims. Such efforts protect large numbers of families' lands at once, as well as the common lands and forests that are often the first to be allocated to investors, claimed by elites, and appropriated for state development projects.

Importantly, formal recognition of their customary land claims gives communities critical leverage in negotiations with potential investors. (Knight et al., 2013, pp. 12–13)

Given the unsettled state of land law and the President's moratorium on land sales, SDI performed a 'skeletal documentation process' pursuant to a memorandum of understanding that it negotiated with the Land Commission (Knight et al., 2013, p. 14).

Land documentation inevitably resurrected old disputes and created new ones. As a result, the paralegals combined legal education and assistance with 'the *peace-building* work of land conflict resolution' (Knight et al., 2013, p. 15). In some communities, the threat of outside investors created a strong enough incentive to resolve disputes, both within the community and with neighbouring communities (Knight et al., 2013, pp. 17, 64). The land documentation process, which created new participatory forms of community governance, sometimes empowered community members vis-à-vis their traditional leaders (Kaba & Keyser, 2015).

There is very little public information about how these two paralegal programmes addressed horizontal inequalities. This is not surprising given the lack of attention that legal empowerment scholars, policy-makers, and practitioners have paid to the issue. However, the lack of data about the ethnicity of paralegals, clients, and communities makes it very hard to evaluate how the programmes impacted horizontal inequalities, if at all. Nonetheless, a few, tentative observations can be made. Given the pattern of horizontal inequalities in Liberia, a universal legal empowerment programme for the poor is in effect targeted at the non-Americo-Liberian majority. The CJA community paralegal programme was further targeted at 'historically marginalised' communities so it will have benefited specific ethnic groups in those communities. However, CJA is unlikely to have made much difference to social horizontal inequalities given its generalist caseload, case-by-case approach, resolutely demand-side focus, and emphasis on rights awareness and mediation. Overall, CJA points to the innate limitations of a tactical approach to legal empowerment when it comes to horizontal inequalities.

By contrast, SDI's community land documentation programme had more potential for reducing both social and economic horizontal inequalities. For one thing, it emphasised collective action and community empowerment. For another, it adopted a more strategic approach to legal empowerment. Most importantly, it protected communities of small-scale farmers from dispossession and put them in a better position to negotiate more favourable land agreements – something that can begin to reduce economic horizontal inequalities between native Liberians and the Americo-Liberian elite (see Fukuda-Parr, 2012, p. 94). However, SDI deliberately limited the potential impact of the programme on horizontal inequality by choosing a more ethnically homogenous county and deliberately selecting more cohesive communities:

Given Liberia's post-conflict situation and the potential for land documentation work to incite confrontation, SDI determined that it was best to conduct the investigation in a county with a relatively homogenous population and a low-density residential pattern. For these reasons, SDI selected Rivercess County as the study region, as 97 per cent of residents are Bassa, and the county has a population density of 33 people per square mile. SDI hypothesised that these characteristics would assure a fairly unified local population and reduce the potential for identity-based conflict during the community land documentation process, as might occur in more diverse counties. (Knight et al., 2013; p. 50; see Kaba, 2015, p. 9)

SDI recognised that this may mean that their findings will not apply to more ethnically diverse counties with higher population densities 'but deemed it necessary to begin the work in a context less prone to arousing suspicion, fear, and violent conflict' (Knight et al., 2013, p. 50 n. 70).[30]

5. Conclusion

This article posed the question of whether legal empowerment can address horizontal inequalities in post-conflict settings, and, if so, how. The paucity of evidence from legal empowerment programmes

in Liberia and elsewhere makes it very difficult to reach any but the most tentative conclusions. However, this highlights the need for legal empowerment scholars, policy-makers, and practitioners to pay greater attention to horizontal inequalities – how they impact and are impacted by legal empowerment programmes – when designing, implementing, and evaluating such programmes. Hence, the Liberia programmes presented here can be considered 'less of a review of the evidence than … a review of the need for *more* evidence' (Fox, 2016, p. 7).

Legal empowerment may have some modest potential to reduce horizontal inequalities, especially social ones, although there is not yet sufficient evidence to be confident of this and effects are likely to vary by context and by specific programming. This potential is likely to be greater where the political settlement is more inclusive and institutions less personalistic. It is also greater where programmes, including community paralegals, adopt a twin-track approach and mobilise collective action around a threatened collective good (for example, customary community land). Post-conflict environments are particularly 'inauspicious' environments for legal empowerment and even more so where horizontal inequalities contributed to conflict in the first place. There, efforts to reduce horizontal inequalities could wind up reinforcing group identities, reducing social cohesion, and, in the worst case, triggering conflict. Hence, in these contexts, legal empowerment practitioners may need to privilege expediency (peace) over need (equity) at least in the short-term – as SDI did in Liberia when it targeted its programme at communities that were more (ethnically) cohesive rather than more needy. As the authors of the SDI study concluded: 'Should a dysfunctional community initiate land documentation efforts and not be able to complete them, the process may invigorate tensions and create or exacerbate conflict, leaving the community in a worse situation than before the intervention began' (Knight et al., 2013, p. 22).

Legal empowerment for community land titling offers more potential to positively reduce horizontal inequalities than other legal empowerment initiatives. In post-conflict contexts, however, it may well create intra- and inter-community disputes that deepen horizontal inequalities and cause inter-group disputes. De Simone (2015, p. 60) found that, in South Sudan, 'tenure reform ultimately seems to strengthen a local definition of citizenship understood in ethnic terms and to deepen horizontal inequalities, fostering potential violent competition over communal rights to resources.' What is needed is more comparative analysis of legal empowerment initiatives on community land titling within different regions of a post-conflict state (Liberia as the SDI programmes expands beyond Rivercess County) as well as across post-conflict states where horizontal inequalities played a role in the conflict (Liberia and Uganda) and where they did not (Mozambique).[31]

Acknowledgments

Disclosure statement

Notes

1. This article uses the term post-conflict as crude shorthand for attempted transitions away from conflict that are marked by peace agreements or military victories.
2. While the term 'horizontal inequality' is somewhat opaque, it is used here because it has been adopted by several, influential development actors (including DFID and the World Bank).
3. A political settlement is generally seen as the elite bargaining process (or meta-rules) for distributing power and rents without resort to violent conflict (see, for example Kelsall et al., 2016).

4. Domingo and O'Neil list six different definitions of legal empowerment that post-date the Commission's report (Domingo & O'Neil, 2014, Annex 1).
5. For critiques of the Commission's neo-liberalism, see for example Otto (2009).
6. This is what Gramatikov and Porter (2010) term 'subjective legal empowerment'.
7. For applications of these power categories to legal empowerment programmes, see for example Feruglio (2017) and Lombardini & Vigneri (2015).
8. The UN Development Programme [UNDP] (2009, p. 9, n.3), which hosted the Commission, subsequently criticised it for focusing on specific livelihood rights at the expense of a broader, rights-based approach.
9. Joshi and Houtzager (2012) have critiqued the shift in social accountability practice to more apolitical, technocratic 'widgets' such as community scorecards.
10. The Commission (2008, p. 302) adopted its typology of political systems from Grindle (2007).
11. There is increasing recognition among development scholars, policy-makers, and practitioners that programmes need to empower not just the poor but also the frontline state officials who lack knowledge, skills, and resources (Cima, 2013; p. 27; see McGee & Gaventa, 2011; pp. 23–24).
12. There is a more developed evidence base for social accountability programmes, though that is still 'thin' when it comes to impact on state-society and intra-society relations (Grandvoinnet et al., 2015, pp. 197, 220), particularly in post-conflict contexts.
13. Similarly, UNDP (2014) acknowledged that some of the programmes it assessed were not 'initially structured through the explicit lens of legal empowerment'.
14. See for example the special issue on 'Legal Empowerment in Transition' in *The International Journal of Human Rights* 19:3 (2015).
15. These approaches can be combined in practice: for example, an anti-discrimination law (a universal approach) can be selectively enforced (a targeted approach).
16. One notable exception is in relation to indigenous peoples, particularly around land tenure systems and intellectual property (Commission on Legal Empowerment of the Poor, 2008, pp. 78–79, 90–91, 145–146, 216–217).
17. Stewart (2005) has critiqued human development thinking for largely overlooking group capabilities.
18. In a recent review article, Fox (2016, p. 7) writes that 'Because of the limited research base, the cases presented here are illustrations of "proof of concept" rather than definitive evidence.' Here, there is not even sufficient evidence for the two Liberia programmes to illustrate 'proof of concept'.
19. A longitudinal study of nearly 250 communities found that 'inter-tribal biases are pervasive, that ethnic minorities are often excluded from communal life, and that a vast majority of rural Liberians believe that "some people in the country act like citizens when they are not"' (Blair, Blattman, & Hartmann, 2011, p. 31). The study also found that ethnic heterogeneity, rather than other social cleavages, played a role in most crime and violence (p. 28).
20. Like President Sirleaf, Weah is a native Liberian.
21. In a different survey, approximately 40 per cent of respondents stated that both police and courts were corrupt (Blair et al., 2011, pp. 12–13).
22. Sandefur and Siddiqi (2013, p. 23) presented a more rational choice explanation: 'plaintiffs trade off the *rights* afforded them in the formal system in favor of the more efficient legal *remedies* delivered by customary courts.'
23. For a discussion of that report's influence, see Graef (2015, pp. 87, 102–103).
24. As of late 2016, however, Sierra Leone's legal aid board had not recognised, let alone funded, community paralegals (Maru & Gauri, 2018, p. 18).
25. The Norwegian Refugee Council ran a mediation programme (Information, Counselling and Legal Assistance) for land disputes in five counties from 2006 to 2015 (Chapman & Payne, 2018; pp. 213–214; Norton, 2011). The majority of those disputes were intra-tribal (Norton, 2011, p. 14). Prison Fellowship Liberia partnered with the East-West Management Institute (n.d.) to run a USAID-funded mediation project in four counties aimed at reducing lengthy pre-trial detention (Chapman & Payne, 2018, p. 212). The Foundation for International Dignity, a Liberian NGO, has conducted several mediation and access to justice projects with the support of international donors (see http://findliberia.org/node/51).
26. The Carter Center (2017) takes a holistic approach to justice in Liberia. Besides CJA, it also supports capacity building for the formal justice sector, strengthening traditional dispute resolution, and radio programming on legal awareness.
27. These statistics suggest that CJA paralegals and clients do not generally view the state as the accountable duty-bearer.
28. Graef (2015, pp. 119–149) describes how that field experiment actively reshaped the CJA's legal empowerment programme in an effort to generate meaningful data. He concludes that 'the legal empowerment project was appropriated by the impact evaluation' (Graef, 2015, p. 148). Whether that appropriation helped CJA's clients is unclear.
29. SDI has been supported in these efforts by the International Development Law Organization and Namati.
30. SDI has expanded its paralegal programme to other communities in Liberia but there is no detailed information about this on the SDI website.
31. IDLO and Namati have worked on community land documentation in Liberia, Mozambique, and Uganda.

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