



Ten Years On: Transitional Justice in Post-Conflict Sierra Leone

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LIST OF ABBREVIATIONS

ACC-SL	Sierra Leonean Anti-Corruption Commission
AFRC	Armed Forces Revolutionary Council
CDF	Civilian Defence Forces
DDR	Disarmament, Demobilisation and Reintegration
GoSL	Government of Sierra Leone
HRC	Human Rights Commission
IC	International Community
ICC	International Criminal Court
ICJ	International Criminal Justice
ICL	International Criminal Law
ICT	International Criminal Tribunal
IHL	International Humanitarian Law
NPWJ	No Peace Without Justice
OTP	Office of the Prosecutor
RSCSL	Residual Special Court for Sierra Leone
RUF	Revolutionary United Front
SCSL	Special Court for Sierra Leone
TRC	Truth and Reconciliation Commission
UN	United Nations

SIERRA LEONE



MAP

TIMELINE

- 1961** Sierra Leone attains independence.
- 1991** Sierra Leonean civil war begins, with RUF (led by Foday Sankoh) capturing towns on Liberian border.
- 1992** Valentine Strasser deposes President Joseph Momoh in military coup.
- 1996** Strasser deposed by his defence minister, Julius Maada Bio, in military coup.
- 1996** Ahmad Tejan Kabbah elected president in February, signs peace accord with Sankoh in November.
- 1997** Peace deal fails. Kabbah deposed by army in May. Johnny Paul Koroma leads the AFRC military junta. Koroma suspends the constitution, bans demonstrations and abolishes political parties.
- 1997** UNSC Resolution 1132 imposes arms and oil embargo on Sierra Leone. A British company, Sandline, continues to supply 'logistical support', including weapons, to Kabbah allies.
- 1998** Nigerian-led West African intervention force ECOMOG takes Freetown back from rebel forces in February. In March, Kabbah returns to Freetown.
- 1999** RUF seizes parts of Freetown from ECOMOG in January. Severe fighting follows until a ceasefire is negotiated in May. The Lomé Peace Accord is signed in July, and includes an amnesty provision for Sankoh and all rebel combatants and a clause requiring the Sierra Leonean government to establish a Truth and Reconciliation Commission. In October, the UNSC establishes the UN Observer Mission in Sierra Leone (UNAMSIL).
- 2000** UNAMSIL personnel are attacked and several hundred abducted. They are eventually rescued by British paratroopers. Sankoh is captured. Kabbah writes to UN Secretary General (UNSG) to request that international community prosecute war crimes committed during civil war. UNSC Resolution 1315 requests UNSG to negotiate with Sierra Leonean government to establish a war crimes court.
- 2001** Fighting slows. UN troops deploy in rebel-held territory, followed by the British-trained Sierra Leonean army. A programme of disarmament begins.
- 2002** Civil war declared over in January. Government and UN sign agreement to set up SCSL and court staff begin work. Truth and Reconciliation Commission is established. Kabbah wins decisive election victory.

- 2003** Thirteen indictments issued by SCSL Prosecutor, including indictments for alleged RUF, AFRC and CDF leaders, along with Charles Taylor, former President of Liberia. Sankoh dies of natural causes while awaiting trial.
- 2004** SCSL opens in March and trials begin in June. Truth and Reconciliation Commission publishes final report.
- 2005** UNAMSIL completes its mandate and is succeeded by the UN Integrated Office for Sierra Leone (UNIOSIL)
- 2006** Charles Taylor arrested in Nigeria and transferred to SCSL custody. The majority of Sierra Leonean international debt is written off.
- 2007** Charles Taylor's trial begins, having been relocated to The Hague. SCSL Trial Chamber in Freetown delivers first (guilty) verdicts in AFRC case, followed by more guilty verdicts in CDF case. Ernest Bai Koroma wins Presidential Election.
- 2008** NGO Fambul Tok (meaning Family Talk) is launched in Sierra Leone in response to the lack of provision in the Truth and Reconciliation Commission for community reconciliation led by local people.
- 2009** SCSL Trial Chamber delivers guilty verdicts in RUF case.
- 2010** UNSC lifts last remaining sanctions against Sierra Leone.
- 2012** SCSL Trial Chamber delivers guilty verdict in Taylor trial. National elections take place and return Koroma and All People's Congress to power.



Freetown
Photograph | Rebekka Friedman

INTRODUCTION

Lessons from Sierra Leone

Kirsten Ainley

The following is a report of the proceedings of a major conference on the Sierra Leonean post-conflict transition. The conference took place in London in December 2012, with expert speakers making on-the-record presentations and off-the-record comments in discussion sessions. This report is designed to summarise the main arguments made in each presentation and to capture the key points made in discussion. The conference was organised by Rebekka Friedman, Chris Mahony and me, attended by more than 80 policy-makers, NGO staff, lawyers and academics, and generously funded by the Department of International Relations at the London School of Economics and Political Science (LSE) and by the LSE Justice and Security Programme.

There were a number of reasons to organise a conference on the Sierra Leonean transition in 2012, not least of which is that on 17th November 2012 the third general election since the end of the civil war was held, returning President Koroma and the All People's Congress to power. Many commentators viewed the election as a test of the country's recovery and were keen to see if the election would take place without civil unrest or violence. It did. There were incidents of violence reported, but for the most part the election seemed to confirm the stability of the country. So Sierra Leone can now be treated, at least in terms of its top-line democratic practices, as a successful case of post-conflict transition. Whether or not it is too soon to make this judgment was an issue that arose during the course of the conference.

There are three further reasons to continue to study the Sierra Leonean transition:

- 1) To understand what it can tell us about the causes of peace and the causes of war;
- 2) To identify the relative importance of international and domestic factors;
- 3) To attempt to develop findings which can be generalised to other contexts.

Studying which, if any, post-conflict mechanisms and policies have been successful in stabilising the peace should reveal something about the causes of war. If the Special Court can be seen as a success, this may lead to the conclusion that the nine individuals found guilty by the Court were largely responsible for the devastation of the 1991-2002 period. If this is the case, then international criminal law, as practiced through the now permanent institution of the International Criminal Court, may be critical in deterring 'evil' individuals from making war in future. However, if the causes of the conflict were more structural – to do with the levels of corruption, unemployment and 'systemic failure' of government described by the Sierra Leonean Truth and Reconciliation Commission – then rather different approaches to prevention and conflict transformation may be necessary, including implementing far more fully the recommendations of the TRC.

One of the most critical reasons to keep studying Sierra Leone is to understand the international character of both the war and the peace, which should prompt some consideration of the ways in which international actors should or could be held responsible for their contributions to conflict as well as an identification of how they can assist in post-conflict transition. There are numerous international bodies whose responsibility was not (or was only barely) considered by post-conflict mechanisms, despite the fact that Sierra Leone's history is rich (or, perhaps more

accurately, poor) in international connections. This was a colony founded on the international trade of people – between 1668 and 1807, more than 50,000 slaves were shipped to the Americas by British slave Traders via Bunce Island near Freetown, and Freetown itself was founded as a home for freed slaves and London’s ‘black poor’ in 1787. Sierra Leone was a British colony up until 1961 and the TRC noted, in determining the causes of the civil war, the effects of British rule in establishing a two-tier system that privileged those who lived in prosperous Freetown versus those who lived in the rest of the country.



Remains of Slave Tunnels in Freetown
Belgium District
Photograph | Simone Datzberger

Post 1961, international influence remained and by 1991 its importance is hard to overstate. The highest profile prosecution at the Special Court for Sierra Leone was not of a Sierra Leonean but a Liberian. And Charles Taylor was far from alone in his interest in the country. The Sierra Leonean government bought in the services of foreign fighters in the form of one of the first Private Military Companies – Executive Outcomes – in the early 1990s, and later, in defiance of UNSC Resolution 1132 (which outlawed the supply of arms) the British firm Sandline supplied weapons to Kabbah’s allies. A Nigerian-led West African intervention force (ECOMOG), a UN peacekeeping force (UNAMSIL) and a British contingent of around 1000 paratroopers also played important roles in the conflict. UN peacekeepers departed only seven years ago, and the UN Integrated Office in Sierra Leone remains active in the country.

Post-war, large numbers of foreign court officials,

NGO staff and researchers could be found in Freetown, along with representatives from firms and governments around the globe looking to take part in exploiting Sierra Leone’s rich collection of natural resources – including recently discovered offshore oil deposits. With one of the lowest GDPs per capita and one of the highest levels of debt in the world, the country is also heavily dependent on foreign aid.

However, Sierra Leone is not simply intervened in – it is now also an intervener, contributing significantly to United Nations peacekeeping operations, including the UN Mission to Darfur (UNAMID), and, from early 2013, it will deploy a U.S.-trained battalion to the African Union Mission in Somalia (AMISOM).

It should therefore be clear (and it was to the TRC, and to some extent to the SCSL) that domestic actors are far from alone in their responsibility for both conflict and the post-conflict transition. However, international actors aside from Taylor have not been held to account in any significant way, and may in fact have been privileged in the transitional justice process. Presenters through the day noted that the SCSL was aimed at an international audience keen to see justice done more than a domestic audience keen to achieve peace, stability and some level of economic growth. Chris Mahony’s presentation showed the influence of the UK and US in the justice process, though Prosecutor Hollis noted the broad support for the SCSL from Sierra Leoneans, as evidenced by the recent No Peace Without Justice survey.¹

Finally, the international context of the conflict and post-conflict in Sierra Leone should remind scholars of the importance of comparative research. Various of the conference presentations considered the extent to which the Sierra Leonean experience is unique, and how much is shared between other types of African conflict or conflict more broadly. Practitioners and scholars who work on post-conflict transitions often differ both within their own group and with each other on the extent to which they see their particular country of focus as being unique. Internationals can be accused of imposing a one-size-fits-all model without taking account of context, but it may be that there are features of the Sierra Leonean case that indicate shared characteristics with other conflicts. Conference presentations on the Truth Commission did suggest generalizable findings, as did discussion on the merits and dangers of prosecuting members of civil defence forces.

¹ Available at: <http://www.npwj.org/content/Making-Justice-Count-Assessing-impact-and-legacy-Special-Court-Sierra-Leone-Sierra-Leone-and>



Housing in Susan Bay, Freetown
Photograph | Simone Datzberger

However, for all the lessons that may be learned by studying Sierra Leone, it is not clear that anyone other than historians in the country itself still cares very much about aspects of the post-conflict transition that scholars from abroad spend time researching. The war ended a decade ago and post-war institutions such as the SCSL and TRC are part of the past in Sierra Leone now, not the present. In his 23rd November 2012 swearing-in speech, President Koroma set out his priorities as creating jobs, training young people to seize opportunities in the mining, construction and agricultural sectors, continuing with infrastructural development programmes to bring roads, electricity and healthcare to all, attracting investment, fighting corruption and protecting rights.² He acknowledged the post-conflict environment of Sierra Leone briefly when he committed to sustaining the country's 'peace, democracy and development', but justice did not feature in his speech at all. The Roundtable at the end of the conference took up this issue when reflecting on whether the impact of justice institutions can be measured when it appears they are no longer relevant to the domestic audience who it is hoped will gain from them. This is not to suggest that the institutions have no impact – it may be that transitional justice mechanisms and post-conflict reconstruction and reintegration programmes are in large part responsible for enabling Sierra Leone to transition to what the US now describes as 'one of the most stable countries in a volatile region'.³ They may be responsible for successfully ending the civil war and preventing another from starting, or for setting human rights firmly on the

2 Speech text available at: <http://allafrica.com/stories/201211240237.html?viewall=1>

3 US Department of State Fact Sheet on US Relations with Sierra Leone, July 23rd 2012, available at <http://www.state.gov/r/pa/ei/bgn/5475.htm>

agenda of the President. The conference speakers were divided on the issue of whether any of the transitional justice mechanisms employed could be credited with such success, with some speakers seeing justice as a necessary prelude to the peace and prosperity many Sierra Leoneans prioritise, and some seeing these mechanisms as powerless in the face of the structural conditions that enabled civil war, and could again.

The conference presenters and audience considered these issues, and others, during the course of the day and generated a rich discussion. Where possible in the report that follows, we have identified both core issues and questions that remain to be answered, to promote further work on Sierra Leone. To access the papers presented at the conference, please contact the presenters directly using the email addresses given at the end of the report. Finally, thanks are owed to Simone Datzberger for acting as rapporteur and drafting a comprehensive conference report, to Geraldine Burnett for undertaking the reprographics editing on the report and to Simon Charters, Special Assistant to Prosecutor Hollis, for facilitating the Prosecutor's attendance at the conference.

PART I

Taking Stock of Transitional Justice in Sierra Leone

KEYNOTE SPEECH

Brenda J. Hollis, Prosecutor of the Special Court for Sierra Leone (SCSL)

'People begin wars,
people commit crimes,
and people prevent or end wars'.

CORE ISSUES

- How does the SCSL fit into the transitional justice scheme?
- What successes, if any, has the Court had?
- Has the SCSL been fair?
- How well has the SCSL done its work?
- What legacy, if any, will the SCSL leave – at the local, regional and international level?

In her opening speech, Prosecutor Hollis reflected upon the events behind the establishment of the SCSL, and assessed the Court's work and the legacy it may leave. She argued that Sierra Leone has shown great strength in its commitment to justice and has moved forward very successfully towards a peaceful future. There are many views on the Transitional Justice (TJ) scheme of Sierra Leone, which are widely discussed among practitioners of International Criminal Law (ICL), academics, representatives of states, civil society advocates, citizens of West Africa, and, of course, among the people of Sierra Leone themselves. In the Prosecutor's view, the latter group should be the judge of the work of the SCSL and the legacy the Court will leave for their country. With these opening remarks in mind, she discussed five questions relevant to evaluating the work of the SCSL.

How does the SCSL fit into the transitional justice scheme?

Countries and societies emerging from conflict, genocide and crimes against humanity have many needs. They range from economic revitalisation to infrastructure development and bolstering good governance, to name but a few. For the Prosecutor, accountability is a fundamental need: war-torn societies need accountability and some form of justice for crimes that were committed during conflict. If this need is not met, it does not simply fade away. On the contrary, she argued, the need might show itself in future conflicts or in an inability of the society to move forward. There are a number of options that can be used, either individually or collectively, to address the need for accountability and justice, such as investigations and trials at the national level, truth and reconciliation commissions (TRC), traditional justice systems, or hybrid, internationalised or international criminal courts.

PART I



Special Court for Sierra Leone
Photograph | SCSL website

The Prosecutor argued that national judicial systems are the optimal solution for determining accountability for the great majority of perpetrators of war crimes. However, national justice systems are not always available to meet the needs of accountability and justice. This was particularly the case for Sierra Leone, as the country was unable to address war crimes and crimes against humanity in its national judicial system after eleven years of civil war. This was because the Lomé Peace Agreement of July 1999 included a provision granting amnesty at the national level to all combatants and collaborators in the conflict. The SCSL was therefore created to offer a criminal justice response to the massive violation of International Humanitarian Law (IHL) committed by the people who bore the greatest responsibility for those

crimes. According to the Prosecutor, it is in this context and within this framework that one should assess the work and the legacy of the SCSL.

In a recent survey conducted in Sierra Leone by No Peace Without Justice (NPWJ), participants were asked the question: 'What means must be used to have justice?'¹ Over 71% of those Sierra Leoneans who were polled favoured the national court system, but more than half were also in favour of the SCSL. 48% thought the International Criminal Court (ICC) an appropriate mechanism to achieve justice and 27% supported a Truth and Reconciliation Commission (TRC).

The SCSL, but also the tribunals in Rwanda and the former Yugoslavia, have been criticised for at best having dealt with a very small number of perpetrators. Explanations can be found in their lack of resources and time, but also in the inability of such courts to process many thousands of perpetrators. Consequently, international courts have to carefully gauge how many cases they can investigate and prosecute in their effort to assist the country in its transition to a peaceful future, and leave other perpetrators to be dealt with by national systems, traditional methods or TRCs. Despite criticisms on the selective nature of prosecutions, the Prosecutor argued that the NPWJ survey showed that the SCSL had played a valuable role in the Sierra Leonean transitional justice process.

What successes if any, has the Court had? What has been the work of the SCSL since its existence?

The Prosecutor briefly re-stated the dynamics that led to the Special Court's establishment and mandate that it was given. After UN peacekeepers were taken hostage by (mainly) RUF soldiers in May 2000, the then President of Sierra Leone wrote to the UN Secretary General requesting UN assistance in the establishment of a court to try Foday Sankoh and the senior leaders of the RUF for crimes against the people of Sierra Leone.

In August 2000, the Security Council requested the Secretary General to negotiate with Sierra Leone to establish an independent court. In January 2002, the Government of Sierra Leone (GoSL) and the UN signed an agreement and the SCSL became, at the time, the only international tribunal situated in the country where the crimes under its jurisdiction took place. The mandate of the Court was simple and straightforward, namely: 'To prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November, 1996'.² The Prosecutor clarified that the mandate of the Court was not to prosecute those who began the war, or who fought the war in Sierra Leone, but those who in the course of the war committed war crimes, crimes against humanity and serious violations of IHL. In March of 2002, the legislature of Sierra Leone ratified this agreement and the Court came into existence and began to do its work.

¹ NPWJ is an international non-profit organisation founded in 1993. In the summer of 2012 NPWJ conducted a survey assessing the impact of the SCSL on Sierra Leone and Liberia. The survey was administered to 2,841 people and the findings published in a final report entitled: Making Justice Count, which can be accessed at: <http://www.npwj.org/content/Making-Justice-Count-Assessing-impact-and-legacy-Special-Court-Sierra-Leone-Sierra-Leone-and>

² 30 November 1996 was the date of an earlier peace agreement signed in Abidjan.

In the summer of 2002, only a few months after the Court was created, the Office of the Prosecutor (OTP) commenced operations in Sierra Leone. The first task was to conduct investigations, and to gather and categorize the evidence. Prosecutor Hollis participated in some of these early investigations, and described the method of investigation and evidence collection that was used. Rape, sexual slavery or mutilation can be either a domestic crime, or they can be elevated to crimes against humanity or war crimes if certain criteria can be met. If there was not enough evidence to elevate such a crime to a crime against humanity or a war crime, the SCSL would not have had jurisdiction over it. In order to determine whom the SCSL could effectively charge, there was a set of checks, which prosecutors had to meet for each form of liability. It differs whether someone physically committed, or ordered a crime, or planned a crime, or aided a crime. And while looking at potential suspects, the Court had to operate within its mandate. This required the Prosecutor at the time to interpret the language of the Special Court Statute, and also to limit the number of potential indictments. There were many discussions within the OTP on how to interpret the language of the Statute and consequently how to determine who did 'bear the greatest responsibility'. Should it include lower level commanders who were responsible for the most horrific and notorious crimes impacting a significant number of victims? Or should it rather be interpreted only as applying to the highest leaders and commanders that are linked to the direct perpetrators of these crimes? Ultimately, it was the Prosecutor who determined how the OTP would interpret the language of the Statute.



Prosecutor Brenda J. Hollis
Photograph | Special Court for Sierra Leone
Outreach

This process led the OTP to indict 13 individuals. These were leaders of the various factions within the country, and Charles Taylor. The Court initially indicted eight individuals, and in March 2003, these eight indictments were taken to London where the judges of the SCSL were holding a plenary session to review the Rules of Procedure and Evidence and to determine if they should make any changes. The first eight indictments were approved. With the exception of the indictment against Charles Taylor, all other indictments were made public. Charles Taylor's indictment was not unsealed until June 2003, when the OTP believed they had an opportunity to obtain custody of Taylor because he had left Liberia for Ghana and there was hope that Ghana would turn him over. The Court did not, in the event, gain custody of Taylor until 2006.

The OTP also charged the leaders of the CDF (Civil Defence Forces), which is still a topic of debate inside and outside Sierra Leone. The CDF were fighting to reinstate the democratically elected Government of Sierra Leone. However, in attempting to achieve that goal, they committed crimes against humanity and war crimes. Hence, the SCSL indicted three senior CDF fighters: Samuel Hinga Norman, Moinina Fofana and Allieu Kondewa.

Of the men who were taken into custody, one died before the trial began (Foday Sankoh), one died before his trial was completed (Samuel Hinga Norman), and nine were tried and have been convicted — the sentences in those cases range from 15 years to 52 years. Charles Taylor was convicted on all eleven counts and was sentenced to 50 years' imprisonment in May 2012.

The first trials began in 2004 and the cases involving the leaders of the three major armed groups (RUF, AFRC and CDF) were completed through appeals. The last appeal in those cases was concluded in October 2009. The Taylor case is currently on appeal and the Appeals Chamber judgment is expected at the end of September 2013. With that judgment, the judicial mandate of the Court will be completed. The SCSL will cease to exist and a Residual Special Court will take over. That Residual Special Court will be responsible for a number of issues, among them:

- The archives of the Special Court

- The enforcement of sentences of those who have been convicted
- Any requests from those prisoners (e.g. review of their conviction)
- The continued protection of witnesses who came forward to testify

Further, the Residual Special Court will have the same power as the SCSL to charge and try for contempt any individual who attempts to interfere with witnesses who have appeared before the SCSL.

Has the SCSL been fair?

For the Prosecutor, the question of fairness has many dimensions and she therefore reflected upon the following sub-questions:

- 1) Has the SCSL been fair to those who have been accused of a crime? Subsequently, has it complied with the fundamental rights of each and every accused who appeared before the Court? Have they been given a fair hearing?
- 2) Has the Court been fair to witnesses including victims who have appeared before the SCSL? Has the Court taken action to protect those whose security is at risk, whether they were witnesses for the prosecution or the defence? Has the Court ensured that the witnesses, victims and sources are treated with respect and dignity?

Many criticize the Court as not being fair because of its limited number of indictments. Some of these criticisms include that the SCSL indicted CDF leader Norman but not former President Kabbah. Many ask why the SCSL indicted Charles Taylor in Liberia – and why not also Gaddafi in Libya? Likewise, why did the SCSL not indict Blaise Compaoré in Burkina Faso? In the Prosecutor’s view these are fair questions, but her answer, based on her experiences in the Court, is that the evidence did not support these indictments. Being a head of state alone does not necessarily make someone responsible for crimes. In short, the evidence the SCSL gathered was not sufficient to lead to the indictment of these individuals.

Likewise, there have also been heated discussions about the non-prosecution of mid-level offenders who were guilty of many horrific crimes. This may be viewed as another measurement of fairness, particularly for those victims who were directly affected by the conduct of these mid-level offenders. In her own practice, the Prosecutor stated that she does not go any further than where the evidence takes her. Hence, her assessment as an independent consultant (when contracted to the Office of the Prosecutor in 2002-03), and as a member of the Court was that, once again, they had insufficient evidence for indictments against these individuals.

With regards to the rights of the accused and the rights of the witnesses, it is the judges who must ensure that fairness prevails. They have to be impartial, independent and fair in their assessment of the evidence, in the treatment of the accused and in the treatment of the witnesses. Looking at the judges of the SCSL one can truly observe an international mix. Judges from the Trial Chamber are of Sierra Leonean, Canadian, Cameroonian, Samoan, Irish and Ugandan nationality. The Appeals Chamber consists of two judges from Sierra Leone, one from Nigeria, one from Austria, and one judge from the United States. Two former judges in the Appeals Chamber were of British and Sri Lankan nationality.

How well has the SCSL done its work?

The Prosecutor again referred to two surveys that have been conducted in order to evaluate the work of the SCSL. The Sierra Leonean NGO Campaign for Good Governance (CGG) carried out the first one in 2003, interviewing 1,200 people. One of their questions asked was whether the SCSL is necessary. About 62% of respondents said yes. In 2012, the survey conducted by the NPWJ sought to evaluate the Court’s legacy in Sierra Leone. The NPWJ survey interviewed more than 2,800 people across all 12 districts in Sierra Leone and five counties in Liberia. In total, 1,500 respondents were Sierra Leonean.³ When asked: ‘What was the Special Court established to achieve?’ 55% of Sierra Leoneans said it was established to prosecute perpetrators of

³ NPWJ ensured that they were targeting groups that are often left out, such as women, young people and persons with various disabilities. The Prosecutor emphasised that the reports methodology has yet to be rigorously and independently reviewed, though does see the results as a strong indication of how some primary stakeholders view the Court.

crimes committed during the war, 29% said it was established to bring justice, and 23% said it was established to bring peace. Around 77% of Sierra Leonean respondents affirmed that the SCSL had accomplished what it had set out to achieve. In addition, 88% of Sierra Leonean respondents stated that the SCSL had done a good job. Further, people interviewed were also asked whether the SCSL could be trusted to bring justice, and 86% of Sierra Leonean respondents said yes. 85% of Sierra Leonean respondents indicated that they believe that those who bore the greatest responsibility were brought to trial by the SCSL. The Prosecutor noted that over time this work will be the subject of more reflection, questioning and debate.

What legacy, if any, will the SCSL leave – at local, regional and international level?

Ultimately, it is for the people of Sierra Leone and the broader international community (IC) to give feedback on and evaluate how well the SCSL performed its work. The principal legacy and success of the SCSL will be that it delivered its mandate, namely to prosecute those who bore the greatest responsibility for the crimes committed during the conflict in Sierra Leone. The SCSL is a criminal court: 'it is nothing more and it is nothing less'. The Court cannot cure the economic woes of Sierra Leone and address many of the needs of victims who suffer to this day. In her travels throughout the country, the Prosecutor discovered that there are areas that have still been untouched in terms of, for instance, putting roofs on houses that were burnt before the war ended. There is also a pressing need to help war widows, orphans and amputees in their daily survival. No doubt, much work has to be done but it is beyond the mandate of the SCSL to address these issues. An assessment of the legacy of the SCSL is thus ultimately tied to the question of whether the Court fulfilled its criminal justice mandate. In this respect, the Prosecutor believes that the Court has reinforced some important principles, which include:

- No one is above the law. Even heads of states are not above the law if their criminality can be proven.
- Power and authority come with accountability and responsibility.
- The rule of law can and must be used to determine accountability in these cases in a way that is fair to accused persons and to witnesses that come before the Court. Likewise, trials must be conducted by an independent, impartial and fair judiciary.

In achieving its primary mandate, the Prosecutor finds that the SCSL has done some other things that will also serve as important legacies, such as:

- The SCSL (as all other international courts) has added to the body of international jurisprudence.
- The SCSL was also the first court to try and to convict individuals for recruiting or using child soldiers, for the crime of forced marriage and sexual slavery, and for attacking UN peacekeepers.

Overall, in trying these cases the SCSL has developed the jurisprudence for war crimes that will be used by other courts including the ICC. To give an example, the ICC used the jurisprudence the SCSL developed for the charge of recruiting child soldiers in the Lubanga case. Another area of judicial and legal import for the SCSL was that it reaffirmed, in the Taylor case, that there was no head of state immunity for international crimes, crimes against humanity, war crimes and genocide.

In addition, the Court was involved in capacity building in Sierra Leone – to the extent that its mandate allowed. First, the Court generated employment for locals throughout its existence, including at the leadership level. Both Sierra Leonean judges in the Appeals Chamber have served as presidents of the Court. The former Sierra Leonean Acting Prosecutor and Deputy Prosecutor is now the chairman of the Sierra Leone Anti-Corruption Commission (ACC-SL). Many Sierra Leonean police officers have worked for the SCSL. The Registrar is also Sierra Leonean, and is responsible for creating the most successful outreach programme in any of the international criminal courts. The current Principal Defender is also a Sierra Leonean national. Thus, the Court has helped to expand the legal knowledge and skills of many Sierra Leoneans. The Court has also conducted

training with the Sierra Leonean police. In addition, the OTP has created a Sierra Leone Legal Information Institute (SierraLii)⁴, an electronic database to make the laws, judicial decisions, and judgments of the SCSL and the national courts of Sierra Leone public and accessible to Sierra Leoneans. In the future, the SierraLii will also include reports by the TRC, the Human Rights Commission (HRC) and ACC-SL.

Conclusion

'People begin wars, people commit crimes, and people prevent or end wars'. The Prosecutor hopes that transitional justice mechanisms, including criminal justice options, will give people the right tools to prevent future conflict and move forward from the conflict they have endured. The work of the Court has been to deliver one measure of accountability; it is just one institution dealing with the many needs facing the people of Sierra Leone. The Prosecutor once more referred to the NPWJ survey which asked: 'Do you think the SCSL has had an impact on the development of other peace-building mechanisms in your country?'; 72% of Sierra Leoneans said yes. The survey further investigated whether the SCSL has contributed to greater respect for human rights and the rule of law in Sierra Leone. Of the 85% of Sierra Leoneans who answered yes, 35% considered the SCSL did so by bringing justice to those who committed crimes, 12% by the SCSL serving as a deterrent, and 9% by the SCSL setting benchmarks.

The Prosecutor concluded that the people of Sierra Leone and the SCSL have been engaged with each other but that it will be for the people of Sierra Leone and the international community to determine how the Court fits into the transitional justice process, how well the Court has done its work, and what legacy it will leave behind.

GENERAL DISCUSSION

Much of the first round of discussion revolved around the effectiveness of the Court and what legacy it is going to leave behind. Concerns were raised with regard to whether the SCSL managed to strengthen the domestic judicial system, which is still very weak to this day, whether 13 prosecutions were truly enough, and whether the Court could have had a larger healing effect on Sierra Leonean society had it taken on more cases in the past decade. Further, women and children have hardly had any voice in the criminal justice process, though the SCSL has at least set an example in trying crimes such as sexual slavery and forced marriage. In patriarchal societies outreach to women can be difficult, though in several SCSL outreach programmes, around 50% of the participants were women.

It is certainly the case that Sierra Leone's domestic judicial system is very weak as it is still recovering from the effects of the conflict. Many professionals, including legal experts, fled before or during the war. Sierra Leone currently has 6 million inhabitants, yet currently only around 400 attorneys. Hence the delivery of legal services in the country is poor and lacks local capacity to push for an elevation of the standards of domestic courts. There is an on-going programme in Sierra Leone to train paralegals, who could help people bring issues before the Courts that do not require attorneys. Overall, capacity building is still a big issue to be tackled in Sierra Leone. However, the SCSL at least set an example of how a court and legal system should function; in particular with regard to witness protection and legal defence before a court.

Some attendees argued that 13 indictments were not enough. However, the SCSL was tied to its mandate to indict those who bore the greatest responsibility. Probably the biggest challenge for post-conflict states such as Sierra Leone is what to do with the tens of thousands of others who committed crimes during conflict and who can be a destabilising factor for future peace.

In terms of the fairness of the Court, the argument was made that bad facts make bad law. Hence, if a case does not have enough evidence to prove guilt, courts could waste a lot of time and resources in pursuing it. In these instances other transitional justice mechanisms, such as TRCs, need to work collaboratively with courts. Writing the history of a country is not appropriate work for a criminal court – any history that is built by such a court is merely the by-product of a litigation process. TRCs have a much broader mandate and therefore greater potential to construct an accurate history. However, the relationship of the SCSL to the TRC was problematised during the discussion: the TRC and the SCSL have two different mandates, consequently their

⁴ See: www.sierralii.org/

complementarity remains an issue.

Finally, the apparent lack of political will within the Sierra Leonean legal community to learn from the work done by the SCSL was briefly discussed.

UNADDRESSED QUESTIONS AND CHALLENGES AHEAD

- How should the local justice sector be strengthened?
- How can a lack of political will to strengthen the rule of law at the local level be overcome?
- What should happen to the tens of thousands in Sierra Leone who committed war crimes and will never face a trial?

Establishment and Politics of Criminal Tribunals in Sierra Leone and the Great Lakes Region

CORE ISSUES

- Did the SCSL live up to its expectations? **Geoffrey Robertson**
- To what extent are international criminal justice institutions apolitical and impartial? **Chris Mahony**
- What is the future of international criminal law? Have any lessons been learned in the past 20 years? **Phil Clark**

Reflections on the Establishment of the SCSL

Geoffrey Robertson

Robertson was the first President of the Court, and served on its Appeal Chamber for 5 years before being appointed by UN Secretary General Ban Ki-moon as a “distinguished jurist” member of the United Nations Justice Council. He saw significant improvement in Sierra Leone during the five years he was involved with the court. He recalled that the establishment of the SCSL was accompanied by various criticisms. Some senior political figures thought that the creation of a special court was unnecessary and that any money to be spent on a court should simply be given to those who had been mutilated. Although acknowledging this as an arguable point – one that the TRC was later to make as well – Robertson pointed out that the money would not have been forthcoming at all except for the establishment of a court.

Other critics argued that a SCSL would only punish those who bore the greatest responsibility and leave out a large number of perpetrators who did the actual killing. This is of course true, but there were simply not enough funds available to prosecute substantially more alleged perpetrators. This is a current feature of cash-strapped (and expensive) international justice: leave the foot soldiers to make apologies in Truth Commissions, and prosecute only those who give orders. Robertson said that this was an inevitable compromise, although killers who did not apologise in Truth Commissions should be prosecuted.

Sierra Leone, in Robertson’s view, is a particularly interesting example of how a TRC could operate alongside a Court. While many saw the two-track approach as a conflicted endeavour, in retrospect he argued that it went well, except for the tension over whether or not Chief Samuel Hinga Norman (founder and leader of CDF) should be allowed to appear before the TRC. The SCSL prevailed, and Norman was not able to appear before the TRC, for the many reasons Robertson gave in his judgment, but he was permitted to provide written evidence to the TRC or to be interviewed by them. Refused the chance to speak to the nation on television, the Chief declined. When discussing the trial of Norman, Robertson noted the extraordinary irony that can accompany the operation of ICL: the CDF case was the first case at an international or hybrid court in which the international law on the recruitment and use of child soldiers was developed, yet Norman himself had been recruited by the British army as a child of 14. Robertson thought that, had he lived, Norman should probably have been acquitted.

For Robertson, the legacies of the Court can first of all be found in the Court building itself, which has become a landmark for Sierra Leonean history. Most significantly, the building is not situated in The Hague, meaning trials (except the trial of Charles Taylor) took place where the victims could see justice being done. Further, the SCSL developed a workable model of a hybrid court, in which local judges had significant power. The Court also set precedents in determining the recruitment of child soldiers to be unlawful, declaring blanket amnesties to be invalid and declaring forced marriages to be a crime.

One of the court’s most important legal legacies was its establishment of standards of procedural fairness, in particular via a Defence Office to provide defendants with ‘equality of arms’ in adversarial trials. Defence had been overlooked at Nuremberg, where prosecutors ran the court, and Offices of the

Prosecutor were overly powerful at the ICTY and ICTR. Robertson and his Registrar, the late Sir Robin Vincent, established a Defence Office at the SCSL so that accused persons would have legal help from the outset. This has now been copied by the ICC, one of whose courageous defence attorneys was arrested and held for three weeks when she visited her client, Saif al-Islam Gaddafi, in Libya in June 2012.

Robertson concluded with some remarks on the Taylor trial, noting that the Court should not be finally assessed until the appeals process in the trial is complete. He argued that the Trial Chamber judgement was problematic in respect of the specific intent convictions, and suggested that Charles Taylor, in supplying arms, ammunition and money to the rebels in Sierra Leone, did no more than President Reagan in supplying arms, ammunition and money to the Contras in Nicaragua. Whether this is an exculpation for Taylor, or a condemnation of Reagan, may depend on your political views, but at least it serves a warning to those who sell arms to mass-murderers (e.g. the Assad regime in Syria) that they may one day be held accountable.

The Special Court of Sierra Leone – Political Justice?

Chris Mahony

The story of the creation of the SCSL often begins with President Kabbah's letter to the UN, asking for the establishment of an international criminal court. Mahony challenged this common perception and discussed the creation of the SCSL not only from a geopolitical perspective, but also by shedding light on the role played by all actors who were principally involved in the establishment and design of the Court.

During the late 1990s, the UK as well as the US had diametrically opposed interests in the West African region. While the US favoured Charles Taylor's presidency (and by extension the RUF), the UK was a firm supporter of Kabbah's government in Sierra Leone. In the later stages of the conflict, between

1999-2000, these dynamics changed. After a coalition between the AFRC and the RUF from 1997 to 2000, the army reoriented their allegiance back towards the GoSL thereby having a dramatic effect on the security situation in the country. At the same time, the chairman of the Senate Foreign Affairs Appropriations Committee, Senator Judd Gregg, froze payments on debt of over \$1.7bn owed by the US to the UN, until US policy in support of Taylor changed. Senator Gregg not only maintained a close relationship with officials from the UK government, he was also in regular communication with them on Sierra Leonean issues.

This blockage of funds caused a shortage of money for the disarmament, demobilisation and reintegration (DDR) of RUF and other combatants. When the RUF combatants learned that they had to disarm without any benefits, they took 500 UN peacekeepers hostage in May 2000. The Clinton administration had no other choice but to concede to the British due to public pressure and the embarrassment of its inability to pay its UN dues. In a meeting between Senator Gregg and the US Ambassador to the UN, Richard Holbrooke, it was decided that the US would release the money and change its political position towards Taylor. The plan was to force Taylor from power using a war crimes court, amongst other instruments of pressure that included a US-funded rebel insurgency, economic sanctions and support for Liberian opposition to Taylor. For Mahony this successful plan provides an important counter-narrative to the dominant account of why the SCSL was established.

Mahony explained that the UNSC was opposed to being responsible for another expensive international criminal tribunal, believing that if the US wanted to create an SCSL, they should pay for it themselves, with or without the support of other governments. As a consequence of accepting this role, the US did not have to negotiate the design of the SCSL with all the other members of the UNSC – as was the case with the ICTY and the ICTR. Notably, it also had greater physical leverage over the Court. For instance, prosecutors and judges were continuously asking the US for more finance, giving the US significant potential influence on the operation of justice in Sierra Leone.

Thus, when the SCSL is put into its political context, the reality is that this institution, not unlike its predecessors in international law, was designed by politicians (and civil servants acting on the instructions of politicians) with political goals in mind. Mahony did not dispute that some

of these international and hybrid mechanisms serve a purpose in achieving some form of justice. However, if the goal is to address impunity, it is hard to see how institutions that are highly susceptible to political pressure can be said to end impunity. In the case of the SCSL, it was clear from the onset that nobody from the British government, for instance, was ever going to be prosecuted. The same can be said of the design of the ICC, which will never allow the indictment of Vladimir Putin for aiding and abetting the Syrian government or the US for its support in Yemen.

The Obsolescence of International Law? Comparative Perspectives on International Criminal Justice from the African Great Lakes

Phil Clark

Drawing on the examples of Eastern Democratic Republic of Congo (DRC), Rwanda and Uganda, Clark gave a comparative perspective on the Sierra Leonean case. In the light of the forthcoming closure of the SCSL as well as the ICTR and ICTY, his talk primarily focused on two questions:

- After 20 years of various attempts at international justice, what is the outlook for the whole domain of ICJ?
- What are the main lessons that have been learned (or not learned) from the past 20 years of various attempts to use international justice to deal with mass crimes and crimes against humanity?

For Clark there has not only been very limited learning by ICL institutions in the past 20 years, he also doubts whether the international community should be putting so much emphasis on institutions like the ICC and other forms of international law in the future. Proponents of ICJ, he argued, often justify ICL by stating that a) it can deliver practical benefits to people who have lived through conflict, and b) ICL is insulated from political interference

and hence is neutral, impartial and able to deliver a form of apolitical justice that could not be delivered by domestic institutions.

In his view, however, the idea of neutrality has created a sense of detachment and disengagement at the heart of ICL. He referred to the example of a senior ICTR judge who purposely has never been to Rwanda as this would – according to the judge – entail the risk of becoming emotionally and psychologically too attached to the context of the post-genocide situation and consequently diminish the judge's capacity to deliver impartial and neutral justice.

There is a central tension here - is ICL about having tangible benefits to local populations or should it hover above the domestic political fray? Can courts have both positive domestic effects and also be neutral and impartial, i.e. not captured by local interests? He defined four main problems that stem from this tension between neutrality and the desire to have real benefits on the ground:

First, especially in the Great Lakes region but also beyond, one can observe that international criminal law practices have failed to understand the nature of conflict in the particular settings they operate. The post-cold war era saw new forms of violence and diffused forms of conflict. These new forms of conflict rarely comply with strict ideas of chains of command and they challenge hierarchical understandings of dispute and war. In many instances, violence is carried out by a large number of civilians. Consequently, it becomes more difficult to determine who is the most culpable and hence bore the greatest responsibility. For Clark perceptions of who is most responsible for the crimes committed can differ tremendously between international legal practitioners and locals. He criticised ICL practitioners for their insufficient engagement with local populations and for disregarding their understandings of who should be prosecuted.

The second problem refers to how ICJ has coordinated its activities with domestic justice processes, political actors and institutions. This can be observed in the case of the ICTR and the ICC in the extent to which domestic political actors have instrumentalised the institutions. In many ways this has shaped how ICL has been conducted and explains why e.g. government officials in Uganda or the Eastern DRC have not been prosecuted by the ICC. In short, international justice has failed to sufficiently separate itself from the domestic frame due to very close working relationships with the

governments in question.

Third, and somewhat in tension with his second point, Clark raised the issue of complementarity between international and domestic levels. Not only is there a sense of complacency around the language of complementarity, but there is also a hierarchy of institutions, with international institutions tending to dominate their domestic counterparts, and international actors assuming that the 'domestic' sphere is mired in politics or otherwise beneath their more noble concerns.

Lastly, he questioned what kind of impact ICL is really having on the lives of citizens affected by conflict. If tribunals wanted to deliver tangible benefits to local populations, legacy planning should have been built into them from day one. What currently happens, however, is that it is smuggled in at the end phase of these institutions. Local capacity building or strengthening domestic judiciaries seems to be an afterthought. The idea of positive complementarity used to be very popular at the ICC. These days it has lost ground, with Prosecutor Ocampo once stating: 'We [the ICC] are not a development agency'. Hence, it seems that ICL has no long-term commitment to, or effect on, building local capacity to deliver justice.

Reflecting upon these four core issues, Clark concluded that important lessons from ad hoc and hybrid tribunals have not been learned in the past twenty years. Yet, there is enormous potential and innovations at the domestic level, particularly in places such as Rwanda, Uganda and the Congo. He drew on the examples of the Gacaca in Rwanda, domestic reform processes in the DRC which enabled local courts to try suspects that are more senior rebels or government officials than the ICC is targeting, and local mobile gender units being employed to deal with sexual violence cases in South Kivu. Clark stressed that more attention should be paid to these different types of institutions given that after twenty years, ICL does not seem to offer improved standards of justice.

GENERAL DISCUSSION

The short discussion centred on the extent to which legacy planning is now central to ICL mechanisms, and the purposes of ICL. On legacy, views were expressed that the SCSL has a better record on this than other courts – notably the ICTR (which has only recently started training programmes for local legal personnel) and the ICC. Over the last few years, the OTP at the ICC has seemed to move away from the idea that the Court should deliver

tangible benefits to local populations in favour of more austere ideas of delivering justice for the sake of the victims of conflict. Lack of legacy planning and engagement with local people can be said to detach the ICC from the very people it is supposed to serve.

In terms of the purposes of ICL, it was argued that if ICJ is supposed to engage with the national judiciary in the form of capacity building or training, first we have to be clear whether the purpose of ICL is purely retributive or also restorative. If it is significantly restorative, then local politics must play a role as domestic populations must have some say in what it is that they want their justice system to achieve.

UNADDRESSED QUESTIONS AND CHALLENGES AHEAD

- Can ICJ be de-politicised? How can local judiciaries be strengthened without international courts getting involved in domestic politics?
- Do hybrid courts really let local justice prevail?

Legacies of the Special Court in Sierra Leone

CORE ISSUES

- What is the real legacy of the CDF trial? [Lansana Gberie](#)
- How is the SCSL legacy constructed by various actors involved, and how can legacy be theorised? [Viviane Dittrich](#)

The Trial of the Civilian Defence Force: A Perverse Legacy of the SCSL

[Lansana Gberie](#)

Gberie stressed that he was speaking neither as a staff member of the Security Council Report nor as a legal scholar but as a Sierra Leonean and someone who had, during course of his work as a journalist in the war, met almost all the main players in the conflict as the majority of those who were later indicted.

Although he became one of the main critics of the SCSL, he was among those who advocated for an international court to try those responsible for the war. He was convinced that Sierra Leone did not have the local institutions or the capacity to try those who had committed horrific atrocities. In his view, some of the most responsible individuals were not Sierra Leoneans, but men such as Charles Taylor, Muammar Gaddafi and Blaise Compaoré who the Sierra Leonean courts could not touch. Gberie never expected that the Court would also indict people from the CDF, in particular Chief Hinga Norman. For Gberie, Norman had behaved honourably in organising people at the community level to resist the cruelties committed by the RUF and other players, and he should not have been tried.

Trying leaders of the CDF, in Gberie's opinion, does not correctly reflect the history of the war. The TRC report documents that most of the crimes in the war were committed by the RUF. The CDF can be held accountable for a very small percentage – the same or less than ECOWAS forced. Yet no-one from ECOWAS was put on trial.

The CDF trial was also flawed in not giving adequate support to the other two defendants in the case, Moinina Fofana and Allieu Kondewa, who were illiterate and could not have understood the legal language and operation of the Court. For Gberie, one of the major flaws within international transitional justice is that it cannot be effective if the communities in question do not understand the vocabulary and practices of that justice.



Gberie also criticised the use of experts at the CDF trial to establish the extent to which CDF atrocities were systematic and organised. The OTP used (and the Trial Chamber later relied on) a Colonel in the British military who had never been to Sierra Leone to determine the organisational structure of the CDF during the war. The 'expert' spent a very short period of time in Sierra Leone, during which he interviewed a total of seven people whose names were all supplied to him by the SCSL OTP. In his testimony and written report, the Colonel concluded that the CDF did have a recognisable hierarchy and command structure, with Norman performing the role of a commander during the conflict – a position that both Gberie and the defence dispute. He further contended that supporting staff officers surrounded Norman, and that there was a large number of hierarchically structured CDF units based in Talia (Kenema, Eastern Sierra Leone). However, after completion of the report, the colonel admitted his lack of knowledge about the history of the kamajors (CDF fighters). It was unknown to him that the CDF was largely composed of people who were displaced in refugee camps because of rebel attacks, who claimed to have formed a civilian

defence force to defend their own communities.

Gberie concluded that the position the SCSL took on being apolitical actually prevented it from doing justice in the CDF case. The GoSL actually had a responsibility, unexamined by the Court, to resist insurgencies and assaults on the state. It was incapable of doing so and consequently the CDF emerged as an organisation to protect civilians who were oppressed by rebel leaders. Neither the government nor the international community offered protection. The emergence of the CDF, in Gberie's view, is an extraordinary phenomenon that should be applauded. But instead, this kind of civilian defence mechanism was criminalised – and this will certainly have a destructive impact on the legacy of ICJ in West Africa.

Legacies of the Special Court of Sierra Leone

Viviane Dittrich

With only the appeals judgment in the Charles Taylor case pending (currently anticipated to be issued in September 2013), debates about the Court's legacy have become increasingly topical. The SCSL will be the first contemporary ICT to ceremonially close. Against this background, Dittrich focused on the assessment of the court's legacy efforts, the various actors involved, and how legacy can be theorised.

The SCSL's institutional focus towards completion and beyond

The limited lifespan of the SCSL was explicitly anticipated in Article 23 of the original agreement, which stipulates that it 'shall be terminated by agreement of the Parties upon completion of the judicial activities of the Special Court'. On 6 October 2004, the Management Committee of the Court adopted a so-called completion strategy which was later repeatedly revised. Due to the on-going obligations of the Court (e.g. oversight and revision of sentences, witness protection, trying fugitives or the management of archives) a successor institution appeared increasingly necessary. In an agreement between the UN and GoSL that was concluded in August 2010, it was decided to create a Residual Special Court for Sierra Leone (RSCSL). As the Court is winding down and nearing institutional closure, focus inside and outside the Court turned to the legacy it is leaving. However, Dittrich argues

that serious attention given to legacy should not just start once a tribunal closes. Although legacy may temporarily overlap with both completion and residual or post-completion issues, in her view, it is very important to clearly distinguish between these interrelated but separate dimensions.

Legacy discourse and conceptualisation

In the past decade, legacy building has been shaped by social and political expectations. In recent years, the international community had to face the criticism that simply convicting a number of alleged perpetrators may not be sufficient to have a broad impact on post-conflict countries in their transition to societal stability, peace and reconciliation. First, it seems important to agree on a definition of legacy. In its 8th Annual Report in 2011, the SCSL refers to a definition introduced by the UNHCR policy tool 'Maximizing the Legacy of Hybrid Courts', defining legacy as a 'lasting impact on bolstering the rule of law (...) by conducting effective trials to contribute to ending impunity, while also strengthening domestic judicial capacity.' A number of publications have taken up this definition. However, Dittrich argued against the one-sidedness of the definition and stressed the variety of legacies. Dittrich builds on a process analytic model she recently published to capture the cycles of legacies and their continuous (re-) construction within a diverse actor landscape. Her model perceives legacy as a dynamic process of constant construction. This is in contrast to a linear or unidirectional perception of legacy as an act of leaving.

Legacies of the SCSL

As an institution, the SCSL has assumed the role of legacy leaver. A legacy working group and a committee were created and the Court also established a legacy officer post. In addition, legacy programmes were launched such as the Site Project, Peace Museum and National Witness Protection Programme. These projects are a projection into the future and constitute remains and reminders of the institution and the post-conflict transition of Sierra Leone. Dittrich emphasised, however, that legacies aren't solely created by a few projects before closure, but are shaped and constructed all along. Dittrich's analysis focused on the diversity of actors involved in legacy construction. Dittrich further argued that there is no single perspective, even in Sierra Leone. She discussed various expectations regarding what the legacies of an ICT or hybrid court are and should be.

Finally, Dittrich concluded that the upcoming closure of the Court provides critical momentum for the institution itself, Sierra Leone's post-conflict transition and the wider transitional justice landscape.

The SCSL has shown institutional innovation and pioneered various legacy developments – though the political as opposed to purely legal legacies of the court are as yet unacknowledged.

GENERAL DISCUSSION

Many questions focused on the CDF trial. In particular, participants challenged whether one can really excuse individuals for crimes committed only because he or she was part of a civilian defence force – and some noted that the RUF also claimed to be seeking democracy (in, for instance, their manifesto ‘Footpaths to Democracy’. Should the RUF therefore be excused their crimes? Those opposed to such a view argued that there was evidence from the very beginning of the conflict that the RUF were not serious about a freedom or democracy agenda. They began to commit atrocities at an early stage, and these abuses were often not conducted in a systematic manner. The CDF was formed in response to the RUF driving people into refugee camps, and only later grew to a bigger movement. The effect of prosecuting the CDF could be to demobilise ordinary people in future who seek to actively resist atrocities or predatory regimes.

Other questions concerned the legacy of the SCSL and the ICTs, for instance whether and how to educate young Sierra Leoneans about what happened during the war and the extent to which legacy building is done in consultation with the larger population. It is not yet clear what kind of educational programmes the proposed ‘peace museum’ will offer, nor how involved domestic populace will (or wants to) be in legacy programmes. Thus far, however, legacy proposals do target locals as well as researchers and tourists.

UNADDRESSED QUESTIONS AND CHALLENGES AHEAD

- What impact has the CDF trial had on other governments and popular movements in the region – or further afield? Are civilians now less likely to rise up against corrupt governments for fear of being prosecuted?
- Who defines/ should define the legacy of a war crimes court?
- Should legacy projects encompass a broader peace-building and development agenda or should they be more restricted to history and effects of courts?

PART II

Non-judicial Approaches and Addressing the Legacies of Violence

Truth and Reconciliation Commission and Restorative Justice

CORE ISSUES

- How did the TRC contribute to the peace-building process in Sierra Leone?

Joe A.D. Alie

- What are the main criticisms of the TRC and the main lessons to be learned from its work?

Rebekka Friedman

- What are the tensions, and instances of convergence, between victim-centred approaches to transitional justice and DDR programmes?

Chandra Sriram

The Truth and Reconciliation Commission and Peace-building in Sierra Leone

Joe A.D. Alie

Alie argued that transitional justice mechanisms have made important contributions to peace-building in Sierra Leone. Reflecting on the different procedures that have been put in place, he argued that prosecution is not always a suitable instrument for post-war justice in Africa because:

-it could further polarise communities rather than having a healing effect due to victims, perpetrators and survivors living in close proximity to each other;

-the formal justice system may not have the capacity to properly address all committed crimes during a conflict;

-it can entail many political risks: the Sierra Leonean war, like many other wars in contemporary Africa, involved the active participation of a large number of young people - prosecuting them may reignite conflict.

Therefore, in concert with the international community, Sierra Leone opted to establish a TRC,

as also outlined in the Lomé Peace Agreement, Article 26. The TRC began its work in the second half of 2002 and had five main objectives:

-to create an impartial historical record of violations and abuses of human rights and IHL related to the armed conflict in Sierra Leone from the beginning of the conflict in 1991 to the signing of the Lomé peace agreement in 1999;

-to address impunity;

-to respond to the needs of victims;

-to promote healing and reconciliation;

-to prevent a repetition of the violations and abuses suffered.

The TRC was created to provide a forum for people to tell their stories, and to use these (and further research) to produce a historic record that would contribute to the reconciliation process in the country. Equally important, the TRC was expected to investigate the causes of conflict in the absence of functioning government organs. Through the creation of a historical record and a series of recommendations, the TRC contributed significantly to the peace-building process.

For Alie, peace-building is a holistic and long-term process. It involves a transformation of structures that produce or promote inequalities, historical differences, intolerance, exploitation, or other ills that lead to violence. It means moving a post-war country away from negative peace towards positive peace. In this context, the TRC did recognise the role of traditional institutions in reconciliation and peace-building. He refers to the example of a committee for forgiveness that was established for the hearings of perpetrators. In other instances, traditional ceremonies took place in some communities as part of the healing process. The TRC report was also forthright in naming and blaming those responsible for the atrocities committed during the war, with the RUF leaders being accorded the greatest responsibility. The report also recommended a series of government actions, covering areas such as the protection of human rights, the establishment of the rule of law, the security services, fighting corruption, youth, women, children, mineral and other resources and promoting good governance. These recommendations have led to the establishment of key post-war institutions such as the Human Rights Commission and the new Gender Laws. A youth

commission has also been set up but it is yet to take full effect.

Although Sierra Leone has made considerable progress towards reconciliation since the end of the war, there are still major obstacles to peace-building: corruption, proper management of the country's natural resources, poverty and unemployment. A large percentage of the country's population – approximately 6 million people —live on less than US\$1.25 a day. Human rights violations frequently occur, especially by the police. The government has yet to work on a national vision as proposed by the TRC.

While the TRC did not have the financial means to compensate the victims, it nevertheless made recommendations regarding the special fund for war victims. However, little has been achieved in spite of the existence of the UN Peace-building Fund, which provided funds for war victims to be managed by the country's National Commission for Social Action (NACSA).

Allie concluded that the TRC contributed greatly to peace-building in Sierra Leone. The Commission enumerated the antecedents of the conflict, and made far-reaching recommendations to promote democracy, the rule of law, minimising poverty and enhancing wealth creation and the equitable distribution of the natural resources of the state. However, the recommendations are far from fully implemented. If the GoSL commits to implementing them all, Sierra Leone will indeed move successfully from post-conflict recovery towards prosperity and development.

The TRC: Legacy and Evaluation

Rebekka Friedman

As scholarship on TJ has become more self-reflective and professionalised many scholars have started to question the normative and political purposes of TJ and the interests it represents. In addition, the trend is globalising and local practices are being disseminated into new contexts – effectively linking the global with the local in transitional justice practice. In the case of Sierra Leone, Friedman argued that situation is further complicated by issues of culture and legitimacy, which tie into broader politics of repre-

sentation and authenticity. By drawing on her work about restorative justice and TRCs, she made the following observations:

First, TRCs often fade away. TRCs often begin as high profile mechanisms and are usually set up for a very short period of time (one- to one and a half years). International commissioners leave after these bodies cease operation. Too little attention is paid to TRC follow-up and how their findings and recommendations are implemented.



TRC in Sierra Leone

Source | TRC: <http://www.sierraleonetr.org/>,

Second, TRCs tend to fare poorly in impact assessment studies. Academic or comparative quantitative studies on democratisation often find that TRCs have very little impact in comparison to criminal trials with regard to quantifiable measures such as the enforcement of human rights. Ethnographic accounts often criticise a lack of impact on the micro level and may highlight the potential for TRCs to reopen old wounds. Similarly, much of the literature on Sierra Leone has taken a critical orientation towards the TRC, arguing that the Commission was too legalistic or did not resonate with local culture and practices.

Third, criticisms of TRCs tie into the politics of legitimacy and authenticity within countries. In Sierra Leone, dissatisfaction with the overly centralised and internationally-influenced TRC process led to the rise of new movements, for instance, local reconciliation processes such as Fambul Tok (see Roundtable Part III, Jon Lunn), which was established as a community-level alternative to the more centralised TRC.

Overall, the Sierra Leonean TRC was not only a heavily criticised process, but it was also incomplete and lost momentum over time. However, Friedman emphasised that while TRCs are often seen as formal mechanisms alongside tribunals,

TRCs are in fact a remarkably fluid form of TJ. This is particularly the case when compared with international tribunals, as there are far fewer guidelines on what TRCs are supposed to achieve as opposed to criminal tribunals. She further argued that academic scholarship often tends to conflate TRCs and evaluations are based on understandings associated with previous commissions. Here the South African legacy is extremely pervasive, as it led to a therapeutic understanding of TRCs, linked to individual healing and interpersonal reconciliation. For Friedman, this understanding of what reconciliation means and how the impact of TRCs should be assessed is too narrow. Although TRCs have become part of an increasingly globalised field, they are a highly varied among themselves, and should be evaluated according to their broader societal contribution to peace building and democratisation in their specific contexts.

For Friedman, the TRC in Sierra Leone was unique in many ways. It was established as a political compromise in the 1999 Lomé Peace Agreement in an attempt to bring some measure of accountability for victims and to start reintegration while guaranteeing peace. In the course of its existence, it became a heavily internationalised process but nevertheless managed to address a number of domestic challenges, including the large number of child soldiers involved in the war and the marginalisation of youth prior to the conflict, and the large number of women and girls who experienced sexual violence or were forced into sexual slavery during the war. It recognised that perpetrators were often victims of the war themselves, which led to the Commission taking a strongly restorative and non-punitive orientation.

The Commission also contributed to a civic nation-building process through holding hearings and making recommendations. Here, Friedman stressed that most of the TRC's recommendations were legally binding. And although there were sometimes tensions between the TRC and the SCSL, at least there was a division of labour between the two bodies. In particular, the TRC dealt well with the issue of child soldiers and was inclusive of women and children in its work. The TRC's recommendations were designed to benefit the community or country as a whole, as opposed to promoting narrow interests.

However, the TRC is still heavily criticised by some. Criticisms include: the nature of the TRC's report itself, particularly that it is too even-handed because it failed to judge the (il)legitimacy of the RUF; that the Commission had a weak impact in rural areas;

and that it engaged poorly with local traditions and communities. Friedman argued that there is also a sense among participants and direct stakeholders of the TRC that the Commission has betrayed them. People who had testified or made recommendations noted that despite active participation little or nothing was done for them afterwards.

Friedman's interviewees also often felt that the process was targeted more towards ex-combatants than victims; that there was a lack of reparations on the individual level; and that reforms had not been carried out leaving most of the causes of the war unaddressed. Victims continue to live in isolation in war-wounded camps for amputees and women or are stigmatised and marginalised within their communities. Friedman recalled a particular interview in the Grafton War Wounded and Polio Camp, when a TRC participant told her that he had 'opened his heart' at the TRC but that nothing had been done for him afterwards. He also testified at the SCSL trial of Issa Sesay and while he was not a proponent of punitive justice, he at least felt that the Court had done something with its sentence, repeating the time of day and date of Sesay's sentencing.

Friedman concluded that reflecting on the criticisms of TJ can assist in learning about the potential of these mechanisms and how to improve them. The TRC raised a lot of hope – over 8,000 people testified and the Commission had a lot of momentum. While many of the academic accounts come to critical conclusions, thereby dismissing TRCs as ineffective, culturally inappropriate or as less valuable mechanisms of TJ, it is nevertheless crucial to distinguish between rejection of the TRC and frustration and disappointment in its work. It is essential that the right lessons are learned. For Friedman, this particularly implies the importance of following up for victims and sustainable and continuous impact monitoring.

Legacies of Violence in Sierra Leone

Chandra Sriram

Victims and Ex-combatants in Sierra Leone.

In peace-building processes, the interests of victims and ex-combatants often seem to be diametrically opposed. On the one hand, there are concerns for victims (and their rights and reparations), and on the other hand, much focus is on the disarmament, demobilisation and reintegration (DDR) process of ex-combatants. For Sriram these two peace-building activities constitute competing poles in transitional justice that should be analysed in tandem.

Sriram began with remarks on victim-centred justice as a normative paradigm in TJ. Normative arguments for such justice emphasise the harm done to victims during conflict and the need to repair relationships. It becomes possible for offenders to reintegrate into the community and for wider social trust to be restored if victims' needs are met. Many practitioners argue for victim-centred- rather than solely retributive justice, or communally- rather than individually-focused accountability, and practical measures to incorporate victims into traditional justice processes have increased in recent years. This is evidenced by the creation of a victims' trust fund at the ICC, the provision for participation by victims in proceedings in such institutions as the ICC and the Extraordinary Chambers in the Courts of Cambodia (ECCC), the expectation that TRCs will provide specific moral and material benefits to victims, and the growth of reparation programmes, as well as UN guidance and principles pertaining to restorative justice.

However, this approach entails various challenges. First, there tends to be a presumption in TJ processes that all victims have similar interests. There is a common consensus that individuals may be both victims and perpetrators (as is the case for child soldiers), but the sophistication of understanding of victims does not extend much beyond this. In her view, the concept of 'victim' has been reified and individualised, leading to TJ ignoring the fact that much of the harm done by conflict is done to collectives rather than individuals. A number of her Sierra Leonean interviewees noted that in some sense everyone who lived in the country during the war is a victim. In addition, there is the risk that victims

are used to serve the purposes of the reintegration of perpetrators, and are coerced into 'reconciling'. Victims are too frequently expected (often by the very external TJ actors who promote victim-centred justice) to forgive a wide variety of perpetrators so that the community can move forward.



UN Peacekeepers registering ex-combatants at Segbwema.
Source | <http://www.sierra-leone.org/segbwema-2000.html>

Sriram discussed this trend with regards to DDR programmes in post-conflict peacekeeping and peace-building missions. DDR programmes are designed not only to disarm former combatants, but also to promote their return to a peaceful civilian life, or their integration into new and reformed state security forces. As such, they usually entail a mixture of training and education, and in some cases cash payments, to induce the transformation of former combatants, and in some cases to make their return more attractive to communities. However, there is a pronounced clash between victim-centred/traditional justice models and DDR processes, as can be seen in the Sierra Leonean case.

Many consider Sierra Leone a great success with regards to its DDR programme. The original was to disarm and reintegrate 30,000-45,000 people. However, 75,000 eventually went through the DDR process. As is often the case, this included a large number of people who did not qualify, and did not include all combatants, but many combatants (perhaps the majority) did enter the process. The process included the standard DDR procedures: collection and destruction of weapons and ammunition, demobilisation centres, subsistence allowances, and packages involving cash and training.

Unfortunately, the training programmes in particular did not live up to expectations. The training did not

map onto the employment opportunities available and there were not (and are still not now) enough employment opportunities in Sierra Leone to enable many ex-combatants to work. Also, the quality of the training programmes was weak, meaning even employers who had jobs to offer did not want to hire ex-combatants for reasons unrelated to the conflict, but focussed instead on the low quality training they had received. There was also an exclusion of women and girls in the processes. Further, the imperatives of victim-centred approaches and DDR programmes resulted in the creation of a sense of unfairness among the broader population. DDR packages were completed by 2004, whereas reparations did not start before 2009, lasted no longer than a year, and did not have a large impact on victims, meaning ex-combatants seemed to have gained far more from TJ than victims.

In terms of other TJ processes in Sierra Leone, Sriram listed a number of criticisms. In the case of the TRC the Commission was quasi-legalistic and as such did not resonate with dominant Sierra Leonean approaches to dealing with conflict, harm, responsibility and forgiveness. With regards to the SCSL, accessibility for the average Sierra Leonean tends to be grossly overstated in the literature. The trials were run without any concessions to making the proceedings comprehensible to the average Sierra Leonean – even trained international lawyer could not understand all of the proceedings. The reparations programme was not only extremely limited with just US \$3m in 2009 (funded by the UN Peace-building Fund) and \$1m in the pipeline from UN Women, but when money was forthcoming, beneficiaries were often unable to differentiate between payments made as reparations and a variety of other humanitarian or developmental assistance payments. In sum, there were significant problems with each TJ mechanism individually, as well as further problems when they tried to work together.

GENERAL DISCUSSION

Participants questioned whether tension between victim-centred justice and DDR processes stems from local justice practices per se, or whether it should be regarded as caused by the way in which external actors engage with these processes. More generally, both speakers and participants found that reintegration processes of victims and perpetrators were often over-romanticised. There needs to be a much more critical consideration of which kind of local and formal mechanisms have the most positive impact on reintegration processes.

UNADDRESSED QUESTIONS AND CHALLENGES AHEAD

- What can be done to make the impact of TRCs more sustainable, inclusive and better monitored?
- What positive lessons can be learned from the TRC?
- To what extent should re-integration efforts remain in local hands and to what extent should they be externally managed?

PART III

Local Perceptions and Traditional forms of Justice

ROUNDTABLE

CORE ISSUES

- How important are tradition-based mechanisms in assigning accountability in post-conflict Africa? [Joe A.D. Alie](#)
- How have local and traditional forms of reconciliation worked in Sierra Leone? [Jon Lunn](#)
- In which circumstances are traditional justice mechanisms valuable/harmful? [Tim Allen](#)
- To what extent do past TJ processes still matter to Sierra Leoneans? [Nathalie Wlodarczyk](#)

[Joe A.D. Alie](#)

In his closing remarks, Alie discussed traditional mechanisms for accountability and justice. He drew on the findings of his recently published chapter 'Traditional Justice and Human Rights in post-war African countries. Prospects and Challenges' in an edited volume by Intersentia entitled: 'African Perspectives on Tradition and Justice' (2012).

There have been many models of accountability and conflict resolution. The literature suggests, however, that these mechanisms come with many shortcomings, and what seems to be missing is the use of indigenous institutions to complement the work of other TJ mechanisms. Uganda and Rwanda serve as good examples of how different approaches to justice can work together.

Many of the criticisms of formal TJ mechanisms revolve around the amount of money and time they require and their remoteness from the people who were affected by conflict. In Alie's view, victims do not play a sufficiently important role in such mechanisms. Because of these criticisms there is a growing tendency to complement formal with local mechanisms. Against this background, Alie argued that tradition-based mechanisms are becoming more relevant for a number of reasons:

- *Language:*

Most traditional justice mechanisms use the community language and do not entail legal jargon.

- *Geographical proximity:*

Traditional mechanisms are set up within the community/ies that suffered during conflict.

- *Cultural relevance:*

People can relate better to the overall process.

- *Community involvement:*

Formal mechanisms can be too selective.

- *Cost effectiveness:*

For instance, Alie compared the tremendous difference in cost between the ICTR and the Gacaca courts.

Despite the advantages of local mechanisms, Alie notes that tradition-based mechanisms may not take human rights issues on board. Overall, they cannot replace formal systems entirely because of the nature of the crimes committed in conflict. Traditional justice mechanisms are not designed to address war crimes, crimes against humanity and genocide. However, especially with regards to community reconciliation, tradition-based mechanisms are gaining important momentum, and their use alongside formal mechanisms should be supported.

Jon Lunn

Lunn described the mission and on-going work of Fambul Tok (meaning 'family 'talk' in Krio), an NGO that facilitates community-led reconciliation processes within Sierra Leone.

There is a consensus in both the scholarly and practitioner communities that formal TJ mechanisms, in particular the SCSL and the TRC, had only a limited outreach to rural and more remote communities. The creation of Fambul Tok in 2008 was in response to these limits. Its objective is to engage with populations at the grassroots level, in particular people who had little to no contact with the SCSL or the TRC. The organisation's principle is to draw on the resources of Sierra Leoneans to foster peace and reconciliation. Today, Fambul Tok operates in five districts in Sierra Leone.



Fambul Tok Bonfire Ceremony
Photograph | © Sara Terry for Catalyst for Peace

When working within these districts, Lunn stresses the importance of first establishing trust with the communities before they explore with community leaders and members whether there are unaddressed traumas caused by the conflict. Over a period of 3-6 months, Fambul Tok continues its conversations with community members, and if they are open to the idea of initiating reconciliation activities, they start preparations for a 'bonfire ceremony'. Communities can encompass 5 - 20 villages, all of which will ultimately participate in the ceremony.

At the heart of these ceremonies is a process of testifying by victim and perpetrators, but they are also a 'giant party', including singing and dancing, prompted by the release of energy that testifying can bring. Lunn stressed that the ceremonies are not 'magic bullets', but emphasised their many positives, including making it possible for voices to be heard that might otherwise not be heard due to power structures within communities. Even Chiefs are not immune from accusations and are required to respond constructively.

Fambul Tok has observed that once the ceremonies are over, the sense of community improves. There is closer collaboration among community members and sometimes they engage in common economic activities, or provide degrees of social protection and social assistance. 'Peace mother groups' in all five districts have also emerged. Although not originally planned, this turned out to be a very successful outcome of their work – a key difference to formal TJ mechanisms in which the outcomes are too often designed before the work even commences.

Today, Fambul Tok has around 2,000 volunteers in all five districts, plus district reconciliation commissions and district outreach committees. The latter play an important role as they monitor the reconciliation process, follow up with the communities, and ensure sustainability.

Over the four years of its life, the costs of the organisation were US \$2.5m. This included 150 bonfire and reconciliation ceremonies, involving around 1,500-2000 villages, targeting an audience of 60,000 people.

In closing, Lunn noted that while organisation had dealt successfully with one high-level perpetrator, the ceremonies were not designed with this in mind, thus making clear that Fambul Tok could not be a post-conflict solution alone – it needs to work in concert with other TJ mechanisms.

Tim Allen

Allen discussed the growing interest in traditional justice mechanisms over the past years from an anthropological point of view. Overall, the shift towards traditional justice has taken those involved in TJ somewhat by surprise, and the engagement with it has at times been counterproductive. There is a rising awareness outside of the justice arena that our understanding of situations of political turmoil and armed conflict tends to be very weak. This was highlighted in a recent World Bank report, which noted the almost complete lack of evidence-based data sets for evaluating post-conflict policies. To some extent, this lack of knowledge over how best to assist post-conflict states has led to the increased interest in traditional justice.



Dancers from the village of Kongonanie in Sierra Leone
Photograph | © Sara Terry for Catalyst for Peace

Within the scope of the LSE Justice and Security Research Programme (JSRP), Allen has been working together with Anne MacDonald on an extensive literature review of current TJ and traditional justice debates. He highlighted some of their main findings as follows:

1) It is still unclear what TJ ought to achieve and whether or not it really engages at the local levels. This is in particular illustrated in the wording of the Rome Statute establishing the ICC, which leaves room for traditional justice as well. In practice, TJ has had multifaceted outcomes and impacts. In Latin America it emerged in a transition from oppressive dictatorial regimes to democratic governments. However, today in Central Africa we often encounter governments that are becoming more dictatorial and autocratic while linking themselves with TJ mechanisms.

2) There is a tendency to argue that traditional justice is better than TJ mechanisms such as courts or TRCs, because it is closer to the people. For Allen this is still an open question. He referred to a recent World Bank study on the Central African Republic (CAR), which found that half of the people currently imprisoned have been found guilty of witchcraft. Hence, it is important to approach local traditional justice with great care as we may not want to encourage, for instance, the punishment of witchcraft in societies where this is still an offence.

3) Traditional justice covers a variety of different notions of accountability. In the African context, accountability fits under both the justice umbrella and the health umbrella. Especially in African societies a conception of suffering is often linked to interpersonal relations and ideas about the spirit world. Thus, justice and healing (or local health and local accountability) are blended together and there is no distinction. It can be problematic to try to dissociate accountability from health/ healing and to attempt to professionalise these traditional forms from outside.

4) As soon as external actors become involved in traditional mechanisms of justice, they are not traditional mechanisms anymore, but rather hybrid forms of justice. This is not necessarily bad, but calling them traditional is no longer valid. For Allen, it is essential to investigate who is controlling the agenda in the hybrid space – and noting whether hierarchies of power (for instance around gender) are being replicated.

5) There is a lack of research and evidence about the effectiveness and impact of traditional justice. This leads to the further problem that traditional forms of justice are often taken by external actors and implemented out of context, leading to either a lack of real benefit to local communities or even to harm.

Allen is not suggesting that local mechanisms of healing and accountability are unimportant. They can, in some circumstances, help communities to move on. However, the idea that these can be taken 'off the shelf' as an alternative to conventional justice is a deeply flawed. If traditional justice mechanisms are not studied, understood and implemented with great caution and care, the process may be doomed to institutionalise power-ridden and counter-productive forms of justice.

Nathalie Wlodarczyk

Wlodarczyk forecasts the potential for political instability in developing countries and for some years has lived between Freetown and London. Her doctoral research was on Sierra Leone. It is from this perspective that she made observations about TJ and more generally the transition process in Sierra Leone.

Wlodarczyk recalled recent conversations she had had with Sierra Leoneans and noted how their focus has shifted firmly towards development and away from dwelling on past conflict. Hence, in her view, TJ mechanisms are increasingly irrelevant to people's lives. This is not to say that Sierra Leoneans are unconcerned about justice, but the justice they seek, for the most part, is for contemporary grievances or disputes with local authorities, rather than for wrongs connected to the civil war.

In unsolicited conversations with Sierra Leoneans about the war, interlocutors were mainly concerned about the younger generation, as younger people do not remember the war. The concern was connected in particular to the rallies that took place prior to the 2012 elections, given that some of these rallies turned violent. The young did not experience what the older generations went through during the conflict, and are not taught about the war as part of the school curriculum, which is seen as a pressing problem if future violence is to be avoided.



Fisherman in Kroo Bay
Photograph | Simone Datzberger

However, Wlodarczyk noted as much more significant the observation that these unsolicited conversations were few and far between – the war almost never comes up in everyday conversation anymore. Sierra Leoneans worry more now about issues such as infrastructure development, electricity supply outside Freetown, better education and schools or employment generation than TJ or the legacy of the SCSL and other mechanisms. Wlodarczyk cautioned that the focus on TJ has become counter-productive and may be best avoided because by looking backwards at the atrocities of the conflict the focus on TJ diverts attention from bigger challenges, namely alleviating the grievances in society that caused the war and addressing new ones. Sierra Leone has moved on, so the focus of scholars and practitioners should be on addressing the issues that are currently on the forefront of people’s minds. Sierra Leoneans want an economy and a state that function along with a government that can provide services and opportunities for its citizens regardless of their roles in a conflict that ended a decade ago. The focus of both internal and external actors should be on providing these, as the lack of a strong economy and functioning state contributed to causing past conflict, and could (though shows few signs of doing so at the moment) lead to more conflict in future.



Women in Kailahun District
Photograph | Rebekka Friedman

GENERAL DISCUSSION

Many comments were made in agreement with Wlodarczyk’s observation that structural problems, such as exclusion and marginalisation of youth or patrimonialism, which led to the war in Sierra Leone, still persist. Present traumas within Sierra Leonean society are not so much about the past conflict but the daily challenges people face in order to sustain their lives. Strikingly, a lot of these issues, particularly those relating to the role of international financial institutions in fermenting economic decline and marginalisation of vulnerable groups, were mentioned in the draft recommendations of the TRC report, only to be deleted before the final version was published.

Moreover, there was a consensus that Sierra Leone needs a robust regulatory framework with regard to the economic sector but also stronger local legal structures and capacities. The GoSL is hesitant to tighten regulations, as they fear discouraging potential investors. Studies have shown, however, that often the opposite is the case — the better the regulation the safer investors feel in their businesses.

Other comments focused on the question of whether organisations such as Fambul Tok are still relevant 10 years after the war, and the extent to which issues addressed in bonfire ceremonies include everyday challenges versus war-related grievances. On a similar note, the trend to romanticise traditional justice practices and mechanisms was an issue of concern to many. The pressure on NGOs to avoid campaigning on human rights issues in order not to be perceived as 'anti-development' was also discussed. Finally, the precursors to development were discussed with an appeal made to broaden out our understanding of what post-conflict societies need to encompass education, health and improved life chances more broadly.

UNADDRESSED QUESTIONS AND CHALLENGES AHEAD

- Who controls the agendas in traditional and transitional justice mechanisms?
- To what extent should TJ be concerned with issues of social justice?
- What role, if any, should TJ mechanisms have played in improving accessibility to the domestic justice system for Sierra Leoneans?
- How should TJ mechanisms better address and respond the experiences and needs of war affected girls and women?
- Was TJ in Sierra Leone gender sensitive?

CONCLUSION

Rebekka Friedman and Chris Mahony

Legacies of violence persist long after ceasefires are signed and international monitors leave. The social scars of war remain after its physical remnants fade. For many outside observers, the first association with Sierra Leone, a small country of just under 6 million people, is blood diamonds and amputations. Since the end of the war, the country has again come to international attention for its multiple efforts to address the war and move beyond a violent past. While transitional justice has become an increasingly globalised and prescriptive field, how a country comes to terms with violence and moves forward is far from clear. The December 11th, 2012 conference on Transitional Justice marked the ten-year anniversary of the civil war's conclusion, democratic elections, and the culmination of the high profile Charles Taylor trial in the Hague. The conference presented a unique opportunity to take stock of the impact of transitional justice, raising several key themes.



War Memorial in Bomaru, Kailahun District
Photograph | Rebekka Friedman

A first theme, representing the starting question of the conference, is the transformative impact of transitional justice. Transitional justice is in many ways a disjointed field with deep disagreement over both appropriate mechanisms and key objectives. For some observers, transitional justice is not a field at all but a set of practices and mechanisms, lumped together without adequately acknowledging the political bargains and compromises they often entail.¹ Transitional justice mechanisms are teleological in orientation, tied to certain political and normative ends. They are meant to have a political, social and economic impact in the context of a political transition beyond their temporal existence.

How to assess the impact of transitional justice came up throughout the conference, suggesting different possibilities. One is that transitional justice mechanisms have a direct impact on clearly observable outcomes. SCSL Prosecutor, Brenda J. Hollis, stressed that the SCSL should be evaluated foremost by its ability to bring about criminal accountability, to execute its mandate to bring to justice those that bear the 'greatest responsibility' for crimes committed during Sierra

Leone's civil conflict. Going back to the SCSL's original legal mandate and the spirit within which it was founded was the focus of the first president of the SCSL, Geoffrey Robertson, as well. Robertson cited the financial constraints that informed the design of the Court's mandate, constraining the number of cases it could pursue and the level of independence it enjoyed, as acceptable, given the alternative – the absence of criminal accountability.

For other speakers, transitional justice mechanisms have had an insufficient direct impact. TJ mechanisms have clear goals yet these are insufficiently implemented; they did not go far enough. Joe A.D. Alie highlighted the lack of follow up to the TRC and the insufficient implementation of the TRC's recommendations. While Alie rightly emphasised non-implementation, he also criticised the lack of comprehensiveness of the recommendations, which did not address issues of macroeconomic governance and engagement by international financial institutions.

A second possibility is that transitional justice mechanisms have indirect consequences above

¹ Christine Bell, "Transitional Justice, Interdisciplinarity and the State of the 'Field' or 'Non-Field,'" *International Journal of Transitional Justice* 3 (2009), 7.

CONCLUSION

and beyond their original mandates. In her keynote speech, Prosecutor Hollis stressed institution-building as one of the primary consequences of the SCSL, citing the design of a witness protection program for Sierra Leone's domestic criminal justice system as well as the transfer of investigative, prosecution and judicial expertise via training and the return of Court personnel to domestic service.

Others also noted the indirect legacies of transitional justice processes. For Friedman, the TRC was a catalyst for civil society and provided a platform for mobilisation both for those broadly in favour of the TRC who saw themselves as continuing its aims as well as more critically oriented sectors who petitioned and challenged aspects of its work. She argued that the net result of a truth-seeking process was its discursive impact on the types of claims generated for justice and restitution.

The indirect and unforeseen consequences of transitional justice also raised some of the broader questions of the conference. Scholars of transitional justice have distinguished between the legacy and the impact of transitional justice processes. In his research on truth commissions, Eric Wiebelhaus-Brahm, for example, suggests that after controlling for other factors, truth commissions have no quantitative effect on democracy or human rights, but notes some qualitative and limited positive effects for institutional reforms.² Legacy is a complex and often abstract concept as Viviane Dittrich's presentation stressed. Dittrich focused on the Special Court's legacy arguing that there is a multiplicity of legacies continuously reconstructed.

Legacy includes both visible material and physical consequences and a less visible discursive and normative impact, the latter being considerably harder to assess. How do people talk and think about the past? To what extent do short-term symbolic trials or hearings have an impact on the national consciousness? It is worth noting that the TRC is often criticised for its failure to sufficiently engage remote populations. That lack of engagement caused a lack of popular awareness of the TRC's findings and recommendations. Indeed, as noted by Jon Lunn in his presentation, the TRC's insufficient presence in areas that bore the brunt of the war, motivated the work of Fambul Tok and other on-going reconciliation efforts.

Collective memory, however, is far from unified, often demonstrating more disagreement than agreement. Present-day discussions of the war and its aftermath coalesce on a series of paradigmatic moments. Repeatedly at the conference, the audience - particularly Sierra Leonean participants - raised the controversial trial of Kamajor leader, Samuel Hinga Norman, who died while in prison. For Lansana Gberie, Norman's trial remains one of the great injustices of the court, threatening to stifle democracy by suppressing popular resistance. Some of the international officials involved with the court also conceded a level of nobility in the ostensible goals of Norman's struggle - to reinstate the democratically elected government. They also note, however that it is the method of warfare that was criminal, not the purported objective, and that the CDF are alleged to have engaged in a joint criminal enterprise closely oriented towards assertion of control over the Tongo Diamond Fields.

On the other hand, the conference also brought to the fore the lack of agreement and consensus over the ends of transitional justice. Despite the growing interest in transitional justice in academia and practice, we still lack a good way to theorise the function and impact of transitional justice mechanisms. Transitional justice is a field uniquely represented by practitioners. Self-reflective and atomised, studies of transitional justice have increasingly evolved into a field of their own. We are therefore left with a divide not just between practitioners and scholars, but also between transitional justice and peace studies. In consequence, we know little about the empirical impact of transitional justice mechanisms, leaving their contribution to conflict prevention largely untested.

Here, as well, differences emerged among conference participants. It is often charged that international actors favour short-term transitional solutions over long-term peace-building and social reconstruction. The allegation repeatedly arose that the legal bias of many internationals prioritised an individualised form of punitive retributive justice over long-term transformation and restoration. For Phil Clark, international law is increasingly detached from local expectations and has had a limited impact on primary stakeholders. As discussed by Kirsten Ainley in the Introduction to this report, the TRC and the SCSL represent two distinct understandings of the causes of conflict: one which stresses long-term historical antecedents and structural

² Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (New York: Routledge, 2010)

root causes, and the other which stresses the responsibility of individuals. Nathalie Włodarczyk noted that many Sierra Leoneans are ready to move past discussions of what caused the war to focus on how to bring about future economic growth and improved governance.

These questions go beyond academic debates. In a country with a long history of international intervention and exploitation, transitional justice becomes politicised in Sierra Leone, where transitional justice institutions tie into a politics of cultural relativism and legitimacy. Tim Allen spoke to the legitimacy of these various processes, given the absence of evidence-based data sets demonstrating impact. Allen pointed to the legitimising effect of TJ for sitting governments as being of greatest utility. For some, legitimacy and authenticity seem to be the foremost criteria with which to determine the success or at least appropriateness of transitional justice. Local actors and approaches contrast themselves as more representative and authentic than formalised and internationally-influenced international courts and truth commissions, and claim greater legitimacy because of this.

Various participants and speakers, including Allen, warned against the “romanticisation” of transitional justice and the distinction between an organic or grassroots approach and an authentic approach. This distinction is especially important in a multi-ethnic country where large-scale displacement impeded transmission of traditions to the next generation. It is also prescient in a context where the RUF systematically targeted elders and authority figures, i.e. those who were in the past responsible for passing down traditions and for making and adjudicating law. The fear was also raised that the re-institution of traditional authority figures and practices could reinforce the hierarchical society and patrimonial authority patterns that fed the marginalisation of groups such as women or rural communities – a key driver of conflict.



Villagers in Kailahun District
Photograph | Rebekka Friedman

The conference also addressed a related theme: the complementarity of mechanisms of transitional justice. While William Schabas has identified Sierra Leone as a success story for the two-track approach, the speakers at the conference discussed tensions between different mechanisms.³ The TRC and SCSL had a particularly strained relationship, reaching its apex in a series of highly politicised moments, such as Norman’s request to speak at the TRC. The relationship also included unresolved questions of jurisdictional demarcation, for instance regarding the use of information and confidentiality.

Another question is what constitutes a formal rather than an informal mechanism. Fambul Tok, for example, sometimes characterised as an alternative to the TRC – and indeed set up partly in criticism of the TRC’s procedures and impact - can also be seen as a consequence of the TRC and a follow up of its aims. Moreover, and extending to the comparison of transitional justice in Sierra Leone to other contexts, while TRCs are frequently grouped together as formal mechanisms alongside trials, they are also a remarkably fluid form of transitional justice, able to invent and reinvent themselves within contexts. TRCs also more purposely seek out and work through popular engagement.

A third theme is locating the subjects and indeed audience of transitional justice. If transitional justice is to be victim-centred, of paramount concern are those on the margins: youth and women in particular. The TRC identified girls and women as the primary victims of the war, and rape and sexual slavery as targeted and regularly deployed crimes. The TRC has been said to have brought important focus to issues relating to women and youth. One element of the Court’s function emphasised by Prosecutor Hollis is the extent to which

³ William Schabas, “The Relationship between Truth Commissions and International Courts: the Case of Sierra Leone,” *Human Rights Quarterly* 25, no. 4 (2003).

the Court advanced jurisprudence on sex crimes and crimes against children, citing the prosecution of forced marriage and conscription of child soldiers. At the same time, discussion of sexual violence remains heavily stigmatised in the country.

One could argue that transitional justice should play an educational role, targeting the next generation. However, Chandra Sriram emphasised in her talk the far from satisfactory transitional justice impact on the conflict's primary stakeholders (victims and ex-combatants who bore the brunt of the conflict). Victims, as Friedman also stressed, often live in the shadows, literally isolated from society in disability camps or ostracised in their own communities.

A key driver of the disconnect between Sierra Leone's processes and their key stakeholders is politics. Chris Mahony discussed the historical context in which these institutions functioned, citing changing security dynamics in Sierra Leone and a partisan change in US policy as producing two separate conclusions to the conflict, accompanied by two different transitional justice processes. These two processes both prioritised, or at least disproportionately accommodated, political considerations at the expense of the interests of victims. At the TRC this could be observed in the absence of rigorous examination of key witnesses, and at the Special Court the politics was evident in the victor-oriented selection of cases for prosecution. While these processes may not have brought justice, in the purest sense, they did assist a transition to stability. The longevity of that stability may be considered ten years from now, when we reconvene to consider the lasting impact of transitional justice in Sierra Leone.



ICON Brothers – Youth Club in Freetown.
Photograph | Simone Datzberger

As the SCSL closes and Sierra Leone enters a new chapter under the newly elected government, the questions raised at the conference will become especially relevant both within Sierra Leone and also as a learning opportunity for other countries recovering from violence. For some observers at the conference, it is simply too soon to evaluate the impact of transitional justice. To the extent that the country has been a success story in its recovery from violence, much will hang on the next generation as the collective war weariness and shock of eleven years of violence fades away. Ultimately, however, for transitional justice to be relevant it must plug into the everyday lives of Sierra Leonean women and men and be seen as broadly legitimate and representative of widely shared goals and values.

CONFERENCE PROGRAMME

Ten Years On: Sierra Leone's Post-Conflict Transition

Tuesday, 11 December 2012

London House, Goodenough College, London WC1N 2AB

Sierra Leone's civil conflict caused 70,000 casualties and left 2.6 million people displaced. The war was known for widespread atrocities, including forced recruitment of child soldiers, rape and sexual slavery, and amputations of limbs. Ten years since the end of its eleven-year civil war, Sierra Leone is again in the international news. The recent sentencing of Charles Taylor in The Hague marks the first international trial of an African Head of State. Meanwhile, within Sierra Leone, democratic elections on November 17, 2012 mark a critical evaluation point for the country's transition to peace.

This symposium takes stock of Sierra Leone's post-conflict transition. Termed by William Schabas as a successful example of the 'two-track' approach, Sierra Leone has been a site of multiple international and domestic mechanisms of transitional justice. The Special Court for Sierra Leone (SCSL), the Truth and Reconciliation Commission, and on-going community reconciliation processes have all sought to address the legacies of violence and put the country on a more secure footing. The symposium invites scholars, in the context of recent elections, to examine the impact of transitional justice in Sierra Leone. Do transitional justice approaches present short-term solutions or do they work towards long-term peace, stability, and development? Do transitional justice mechanisms address the visible legacies of conflict (victims, justice for atrocities, and in this case, child soldiers), or conflict's long-term drivers (economic, social and political)? To what extent have transitional justice approaches complemented each other, as some have claimed, or are they in tension? Ten years on, to what extent has transitional justice been transformative within Sierra Leone?

Conference Organised by:

Kirsten Ainley (LSE); Rebekka Friedman (LSE); Chris Mahony (University of Auckland)

PROGRAMME

- 10.45 – 11.00** WELCOME | **Kirsten Ainley** (International Relations, LSE)
- 11.00 – 12.30** KEYNOTE SPEECH by the Prosecutor of the SCSL, **Brenda J. Hollis**
- CHAIR | **Rebekka Friedman** (International Relations, LSE)
- 13.15 – 14.30** PANEL 1

CONFERENCE

CHAIR | Chris Alden (International Relations, LSE)

Geoffrey Robertson (Doughty Street Chambers, London)

The Establishment of the Special Court for Sierra Leone

Chris Mahony (New Zealand Centre for Human Rights Law, Policy and Practice, University of Auckland)

The Special Court for Sierra Leone: Political Justice?

Joe A.D. Alie (History, Fourah Bay College, Freetown)

The Truth and Reconciliation Commission and Peace Building in Sierra Leone

Phil Clark (Politics & International Studies, School of Oriental and African Studies, London)

The Obsolescence of International Law? Comparative Perspectives on International Criminal Justice from the African Great Lakes

14.30 – 15.45

PANEL 2

CHAIR | Chris Mahony (Human Rights, Policy & Practice, University of Auckland)

Lansana Gberie (Security Council Report, New York)

The Trial of the CDF: A Perverse Legacy of the Special Court for Sierra Leone

Kieran Mitton (International Relations, King's College, London)

Integration or Infiltration? Ex-combatants and Politics in Post-conflict Sierra Leone

Chandra Sriram (Law, School of Oriental and African Studies, London)

Victims and Ex-combatants in Sierra Leone

Viviane Dittrich (International Relations, LSE)

Towards Completion and Beyond: Legacies of the Special Court for Sierra Leone

15.45 – 16.15

Coffee

16.15 – 17.45

ROUNDTABLE

CHAIR | Kirsten Ainley (International Relations, LSE)

Joe A.D. Alie (History, Fourah Bay College, Freetown)

Tim Allen (International Development, LSE)

Rebekka Friedman (International Relations, LSE)

Jon Lunn (Fambul Tok Advisory Group, London)

Nathalie Wlodarczyk (Exclusive Analysis, London)



Artists for Peace
Photograph | Ade Daramy

LIST OF SPEAKERS AND CONTRIBUTORS

Kirsten Ainley is a Lecturer in the Department of International Relations at the London School of Economics and Political Science. Her research focuses on the history and development of international criminal law, international political theory, human rights and humanitarian intervention. She has published on international criminal law, transitional justice, the International Criminal Court, individual and collective responsibility for atrocity and the notion of evil in international relations. She is the co-author of *Understanding International Relations* (Palgrave) with Chris Brown. K.a.ainley@lse.ac.uk

Joe A.D. Alie holds a PhD and Certificate in African Studies from the University of Wisconsin-Madison, USA and an MA and BA Honours in History from the University of Sierra Leone. He is an Associate Professor, Dean of the School of Postgraduate Studies and Head, Department of History and African Studies at Fourah Bay College (University of Sierra Leone), where he has lectured for the past 27 years. Dr Alie has published many scholarly works, the most recent being *Sierra Leone Since Independence: History of a Postcolonial State*. joealie49@yahoo.co.uk

Tim Allen is Professor in Development Anthropology and head of the department of International Development at the London School of Economics and Political Science. He is also research director of the Justice and Security Research Programme, based at the LSE with funding from the UK's Department for International Development. He has spent more than thirty years working and researching in various parts of Africa, as well as writing on international issues. Some of his books include *Poverty and Development into the 21st Century* (OUP), *The Media of Conflict: War Reporting and Representations of Ethnic Violence* (Zed Books), *Divided Europeans: Understanding Ethnicities in Conflict* (Kluwer), and *In Search of Cool Ground: War, Flight and Homecoming in Northeast Africa* (James Currey). He has also published on the LRA: *The Lord's Resistance Army: Myth and Reality* (Zed Books), and *Trial Justice: the Lord's Resistance Army and the International Criminal Court* (Zed Press). T.Allen@lse.ac.uk

Phil Clark is a lecturer in comparative and international politics at SOAS, University of London, and co-founder of Oxford Transitional Justice Research, University of Oxford. He specialises in conflict issues in central Africa, particularly causes and responses to genocide and other mass crimes. His latest book is *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge University Press). He is currently completing a book on the work of the ICC in Uganda and the Democratic Republic of Congo. pc44@soas.ac.uk

Simone Datzberger is a doctoral candidate in International Relations and graduate teaching assistant at the London School of Economics and Political Science (LSE). From 2007-2010 she worked for the United Nations Peacebuilding Support Office (UNPBSO) in New York. She obtained a MA degree in political science from the University of Vienna, and spent one year at the Free University of Brussels. She conducted extensive field research on the role and involvement of civil society in Mexico (2005-06) and in Sierra Leone (2011, 2012). Her research interests include: Civil Society, Peacebuilding, and Development Studies. S.Datzberger@lse.ac.uk

Viviane Dittrich is currently a postgraduate researcher in the Department of International Relations at the London School of Economics and Political Science (LSE). Her research focuses on international institutions, namely international criminal tribunals, post-conflict justice and peace. Her recent fieldwork covers the Special Court for Sierra Leone in light of its imminent closure and legacies. After her studies at Sciences Po (France), Wellesley College (USA) and the LSE, she received a Double Masters Degree in International Relations. V.Dittrich@lse.ac.uk

Rebekka Friedman just completed her PhD in the International Relations Department at the London School of Economics. Her research focuses on transitional justice, Truth and Reconciliation Commissions, restorative justice, and post-conflict reconciliation. Her PhD thesis examines the impact of Truth and Reconciliation Commissions on post-conflict reconciliation in Sierra Leone and Peru. She was co-editor of *Millennium: Journal of International Studies*, and just completed an edited book project on liberalism in International Relations, and is currently teaching at the University of Oxford Foreign Service Programme. R.c.friedman@lse.ac.uk

Lansana Gberie is Research Analyst for Security Council Report in New York. An academic and writer, Dr. Gberie is the author of *A Dirty War in West Africa: The RUF and the Destruction of Sierra Leone* (London: Hurst 2005). Dr. Gberie was awarded the 'Outstanding Research Award' by the Canadian government body IDRC in 2002 for his work with Partnership Africa Canada on the Human Security and International Diamond Trade project; he and his colleagues were also nominated for the Nobel Peace Prize by three senior US lawmakers for this work the following year. Dr. Gberie is writing a book on *War, Memory and Justice in West Africa* for Hurst. lagberie@yahoo.com

Brenda J. Hollis is the Prosecutor of the UN-backed Special Court for Sierra Leone. Since February 2007, she has led the prosecution of the former Liberian President Charles Taylor, who is currently appealing a conviction and 50-year custodial sentence for war crimes, crimes against humanity and other serious violations of international humanitarian law committed in Sierra Leone during the country's armed conflict. Prior to her work with the Special Court, Hollis worked with the Office of the Prosecutor at the International Court for the Former Yugoslavia where she served in various capacities, including as lead counsel. She has consulted on many matters related to international law, including assisting victims' groups from Columbia and the

Democratic Republic of the Congo, and providing expertise and training for international courts and tribunals in Indonesia, Iraq and Cambodia. In 1998, she retired from the United States Air Force with the rank of Colonel.

Chandra Lekha Sriram is Professor of Law at the University of London, SOAS, and is author and editor of various books and journal articles on international relations, international law, human rights and conflict prevention and peacebuilding, including: *Peace as governance: power-sharing, armed groups, and contemporary peace negotiations*; *Globalizing justice for mass atrocities: A revolution in accountability*, and *Confronting past human rights violations: Justice versus peace in times of transition*. She is Principal Investigator on a grant from the ESRC on the Impact of Transitional Justice Measures on Democratic Institution-building, in collaboration with Anja Mihr of the University of Utrecht (funded by NWO). Cs79@soas.ac.uk

Jon Lunn. Over the past 20 years or so, Jon Lunn has worked in academia, government and for human rights NGOs. He has been involved with transitional justice issues in Sierra Leone since 1998 and is currently acting convenor of Fambul Tok's advisory group. He currently works for the House of Commons Research Service. J.lunn@fambultok.org

Chris Mahony is Deputy Director of the New Zealand Centre for Human Rights Law, Policy and Practice, Faculty of Law, University of Auckland. He is a candidate for a DPhil in Politics at the University of Oxford. He drafted the recommendations on governance for the Sierra Leone Truth and Reconciliation Commission, and co-authored the 'Historical antecedents to the conflict' chapter. In 2008, he directed the Witness Evaluation Legacy Project at the Special Court for Sierra Leone. He has advised the British and US governments, the Institute for Security Studies, the Open Society Initiative and the International Centre for Transitional Justice on justice sector reform and transitional justice issues. c.mahony@auckland.ac.nz

Geoffrey Robertson QC has been counsel in many landmark cases in constitutional, criminal and media law in the Courts of Britain and the Commonwealth and he makes frequent appearances in the Privy Council and the European Court of Human Rights. He has maintained a wide advisory practice and has served part-time as a UN appeal judge at the Special Court for Sierra Leone, as well as serving as the Court's first President. In 2008 the UN Secretary General appointed him as one of the three distinguished jurist members of the UN's Internal Justice Council. Mr Robertson is the author of *Crimes against Humanity – The Struggle for Global Justice* (Penguin) and *The Tyrannicide Brief* (Chatto & Windus), the story of how Cromwell's lawyers produced the first trial of a Head of State – that of Charles I. Mr Robertson is founder and head of Doughty Street Chambers, the UK's leading human rights practice. He is a Bencher of the Middle Temple; and a Recorder (part-time judge) in London; an executive Member of Justice, and a trustee of the Capital Cases Trust. He is visiting Professor in Human Rights at Queen Mary College, University of London.

Nathalie Wlodarczyk is a Forecasting Director at Exclusive Analysis, a London-based strategic intelligence company that forecasts political risk. She is responsible for maintaining and developing methodology for accurately assessing the outlook for political instability and associated violent and regulatory risks for public and private sector clients. Her background is in African influence politics and the role of belief in warfare. She is the author of *Magic and Warfare: Appearance and Reality in Contemporary African Conflict and Beyond*, which focuses on Sierra Leone and currently splits her time between London and Freetown.

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Sierra Leone's striking natural beauty is a side of the country that remains largely unseen by the international community.

Lumley Beach

Photograph | Ade Daramy