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Chapter 12

Evaluating the Success of Transitional Justice in Sierra Leone and Beyond

Kirsten Ainley¹

There has been a great deal of academic work undertaken recently that attempts to appraise the success of transitional justice (TJ) in various post-conflict states. However, there is little agreement on what counts as success and how it should be measured or judged. The other chapters in this book consider the extent to which Sierra Leone's TJ processes should be considered a success. I take a step back to focus instead on what we mean by 'success' when assessing the impacts of TJ efforts and to examine the problems involved in evaluating transitional justice. My aim is not to provide a definition of success, as to do so would be impossible, for reasons set out below. Rather, I hope to provoke readers to consider afresh what should count as TJ success and how it should be evaluated.

The Sierra Leonean case is regarded by many practitioners and scholars as a success for transitional justice: 'Sierra Leone represents one of the world's most successful cases of post-conflict recovery, peacekeeping and peacebuilding.'² In 2012, the US described Sierra Leone as 'one of the most stable countries in a volatile region'.³ The country recorded a high real GDP growth averaging 5.3 per cent between 2007 and 2011, and the growth rate of the Sierra Leonean economy in 2012 was, at 15.2 per cent, faster than the rate recorded in any other sub-Saharan African state that year.⁴ As well as a strengthening economy, Sierra Leone also shows signs of having a strong polity. The 2007 presidential elections saw the first peaceful handover of power from the ruling party to the opposition in the country's history and took place without the presence of the UN peacekeepers (who had been present in the 2002

election which extended the Presidency of Ahmad Tejan Kabbah). In 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. Again, it took place without significant civil unrest or violence. So Sierra Leone would seem to be, at least in terms of its topline democratic practices and its economic indicators, a successful case of post-conflict transition.

To what extent is this success due to the TJ mechanisms employed in Sierra Leone (the Special Court, the Truth and Reconciliation Commission [TRC], a reparations scheme, local justice initiatives and the Lomé amnesty)? Claims of TJ success should be relatively easy to analyse in this case. The mechanisms have now largely completed their work, a decade has passed since the end of the civil war and there is a great deal of published research on the efforts to bring justice to the country. Yet, as I will discuss below, there is surprisingly little agreement on what should count as success and whether those standards have been reached. This lack of agreement has significant consequences for what we should 'learn' from Sierra Leone and what we should seek to transpose to other post-conflict situations. There continues to be a substantial demand for policy-relevant research to use in future cases of countries emerging from conflict or authoritarianism. However, the current state of the literature even in a case that looks, at first sight, to be relatively clear-cut, should make TJ scholars modest in the advice they are willing to offer.

In the first half of the chapter, I identify the kinds of factors that are claimed (in literature on Sierra Leone and on transitional justice more widely) to demonstrate TJ success or failure. Outcomes are by far the most prevalent focus of research, but scholars also make claims about the mandate of institutions; processes of establishment and of functioning; involvement of, and reaction from, victims and affected populations; adherence to universal normative standards; and cost-effectiveness. I note conceptual and methodological challenges of each as I discuss them, then suggest (somewhat unhelpfully, having laid out an array of possible

indicators of success) that the list of factors that could be analysed to judge TJ success should be expanded to include the political economy of transitional justice. Having outlined (and supplemented) the broad range of factors that might be thought to indicate success or failure, I examine, in the second half of the chapter, further key challenges in judging TJ success, the challenges of possibility; causality; temporality; aggregation; and generalisability. I conclude that four tools can assist in bringing about both the best forms of transitional justice in practice and the best evaluations of TJ programmes by scholars: deep engagement with contexts; mixed methods; reflexivity and political judgement.

Indicators of TJ success

An overview of the literature on the Sierra Leonean case shows a large number of factors claimed to indicate the success or otherwise of the TJ programme. The case is representative of the broader TJ literature: impact evaluation is a central concern in the most recent literature, but what determines impact or success is still controversial. I discuss below the various claims made in this literature, with illustrations from the Sierra Leonean case.

a. Outcomes

By far the most prevalent measure of TJ success is outcome (sometimes expressed in terms of impacts, goals or objectives), with TJ mechanisms being judged according to universal standards. However, there is deep disagreement over which outcomes should be measured, and contradictory results from recent studies on whether transitional justice does lead to these outcomes.

Skaar identifies the most common areas on which TJ programmes are expected to impact as ‘democratisation, rule of law, increased respect for human rights, human rights culture,

violence reduction, peace, reconciliation'.⁵ Thoms, Ron and Paris regard the impact of transitional justice on six areas as most important to assess: '(1) Respect for the core human rights to life and the inviolability of the human person, otherwise known as "personal integrity rights"; (2) Political violence; (3) Rule of law; (4) Democratization; (5) Popular perceptions of regime legitimacy; (6) A political culture of human rights and diversity.'⁶ Clark defines transitional justice as a 'purposive concept, consisting of four essential goals: truth, accountability, reparation and reconciliation'.⁷ Duggan notes that '[t]ypical change processes or implicit (and often untested) assumptions about the goals of transitional justice include social healing (through truth-telling initiatives), reducing recidivism (through criminal trials for human rights abusers) and facilitating the formation of new identities (through history education reform)'.⁸ Kritz identifies four objectives that transitional justice aims to achieve, the first being: 'to determine the truth by establishing a record of human rights abuses. . . . The second objective is justice. The third is meaningful democratic reform, entrenchment of the rule of law within society, and building a society with institutions that ensure that the kinds of abuses being dealt with will not recur. The fourth objective is durable peace with assurance that a return to violence is fairly unlikely.'⁹ De Greiff states that 'transitional justice measures can be seen as measures that promote recognition, civic trust . . . and the democratic rule of law'.¹⁰ Important to note are the assumptions of universality inherent in these lists: they are intended to be the standards against which all TJ programmes are measured.

Various outcomes are claimed for single TJ mechanisms or combinations of mechanisms in Sierra Leone. The UN Security Council has commended the Special Court for 'strengthening stability in Sierra Leone and the subregion and bringing an end to impunity'. It also commends its outreach activities for 'contributing to the restoration of the rule of law throughout [Sierra Leone and Liberia] and the region'.¹¹ Others argue that the Court has

deterred atrocity; for instance, the President of the International Centre for Transitional Justice, David Tolbert, said on the Taylor trial: ‘The SCSL’s judgment has . . . provided a strong signal to those who want to commit horrific crimes through surrogates and puppets: they may not easily hide behind complicated legal constructs and are more certain to face the bar of justice.’¹² Clark argues that the Court ‘enhanced the degree of truth and accountability . . . detracted from the goal of reparations and added little to the goal of reconciliation’.¹³ In this book, Friedman considers the effects of the TRC and local justice initiatives on reconciliation, Mitton looks at the effects of the TJ programme on peace and reconciliation and Oosterveld examines the rule-of-law contributions made by the TRC and the Court by examining their interactions with the domestic legal system. Hollis, in this book, argues that the Special Court for Sierra Leone (SCSL) contributed to rule-of-law outcomes in the domestic legal system through participation of Sierra Leonean staff in the work of the Court, capacity-building and training programmes, and the creation of the Sierra Leone Legal Information Institute. Note, however, that Sierra Leone has not held a single prosecution in its domestic system for war crimes or crimes against humanity committed during the conflict, and many Revolutionary United Front (RUF) and Armed Forces Revolutionary Council (AFRC) prisoners taken by the Sierra Leonean government after the Lomé Accords broke down were held, sometimes without trial, for up to six years after the conflict concluded.¹⁴ These circumstances suggest there is some way to go on entrenching the rule of law in Sierra Leone.

One of the main outcomes measured in TJ literature is the provision of ‘truth’. TRCs and, increasingly, courts are assessed on whether they have provided a truthful and authoritative record of a conflict and the crimes that took place within it. This is something the Sierra Leonean TRC is particularly commended for – it published an extremely detailed report along with a shorter version for secondary schools and another directed at children.

Mahony and Sooka, in this book, applaud the TRC for its account of key incidents within Sierra Leone. However, they are critical of the extent to which it was able to illuminate the role of external actors and events, in large part because of the politics of its establishment. The role of the SCSL in providing an authoritative narrative is more debatable. The Court could only hear evidence related to its cases, and was presented information to justify holding individuals criminally responsible, not to paint an accurate picture of the conflict (Jordash and Crowe, in this book, suggest that the Court was actually incentivised to produce a false record, demonising the RUF and propping up Kabbah). However, it is common to see justifications of courts as providing a full and authoritative record – as writing history.¹⁵ This elides the fact that conflicts have causes, characters and consequences that spread far beyond individual acts. Truth commissions are much better able to examine the structural and ideological features of conflict (in Sierra Leone, the role of the post-colonial state, corruption, nepotism and the ethnic divisions in the country, for instance), along with the contributions of collective actors such as political administrations and parties, professions (in particular the legal profession) and firms (particularly those involved in the extraction and sale of diamonds).¹⁶ However, being well placed in theory to examine these features of conflicts does not mean that they will be so in practice. Mahony and Sooka, in this book, criticise the TRC for failing to consider the impact of structural adjustment on Sierra Leonean society, the increasing concentration of power in the executive or the exclusion of multiple social groups from spheres of influence within the system of patrimonial politics. Truth commissions are also well placed to identify and/or address the root causes of conflict, which is thought to be a route by which transitional justice can help to maintain peace. However, there are doubts about whether the identification of root causes alone has any effect in the absence of implementation of TRC recommendations.¹⁷

A final outcome that features in legal literature but rarely in TJ literature is the contributions that Courts in particular can make to international jurisprudence. Hollis and Oosterveld, in this book, outline the successes of the Court in terms of generating jurisprudence, which can be used by other international courts on forced marriage, sexual slavery, the use of child soldiers and attacks on peacekeepers. In contrast, Jordash and Crowe, in this book, call into question the quality of the justice served and express profound concerns over the use of SCSL decisions as a precedent in future trials.

The confusion over whether outcomes can be observed is unsurprising when we review the results of the more general literature on TJ success. Even when the relevant outcomes are agreed upon, recent research has produced contradictory results. Kim and Sikkink find that human rights prosecutions and TRCs lead to improvements in human rights protections, and that trials also deter future atrocity.¹⁸ This is in contrast to Snyder and Vinjamuri, who find that war crimes trials do very little to deter future atrocity, and suggest that amnesties are better able to guarantee durable peace than trials.¹⁹ In the most comprehensive large-n study of TJ to date, Olsen, Payne and Reiter find, in contrast to both of these studies, that single TJ mechanisms do not have significant positive effects on human rights or democracy (they do not look at peace).²⁰ Rather, they find that only combinations of mechanisms including amnesty – trials and amnesties or trials, amnesties and truth commissions – bring improvements in human rights and democracy. Contrary to Kim and Sikkink, they find that truth commissions used in isolation have negative effects. Dancy and Wiebelhaus-Brahm similarly find that TRCs are associated with an increased risk of the resumption of conflict.²¹ Thoms, Ron and Paris find that the evidence for transitional justice producing either positive or negative outcomes is weak, noting that ‘[g]iven the intensity of the debate over TJ and its obvious policy significance, this conclusion may come as a surprise. It is in fact striking that

so many commentators have expressed such strong positions on the basis of so little reliable evidence.²²

b. Achievement of mandate

One way that scholars narrow down the range of outcomes that might contribute to TJ success is to examine the objectives listed in the founding documents of institutions or their mandates. This relates most obviously to new institutions such as courts or commissions rather than initiatives taken within existing domestic structures, or amnesties. Looking at mandates makes sense as it is likely to be easier to judge whether a TJ institution has succeeded in achieving its mandate than it would be to prove, for instance, that it has achieved peace. In the case of Sierra Leone, there is significant debate on whether the SCSL tried the right people to achieve its mandate of prosecuting persons who bore the greatest responsibility for serious violations of international humanitarian and Sierra Leonean law committed in Sierra Leone since 30 November 1996. Should President Kabbah also have been tried (as Hinga Norman's senior in the chain of command)? President Compaoré of Burkina Faso, who funded and armed the RUF? Muammar Gaddafi, on whose territory the RUF was formed, and who continued to fund them through their rebellions in Liberia and Sierra Leone? ECOMOG forces, who participated in looting and the bombardment of civilian targets? Mercenaries such as Sandline and Executive Outcomes, also rumoured to have taken part in atrocities? There is no objective standard of 'who bears the greatest responsibility', and in the end the Court prosecuted both those who were judged by the Office of the Prosecutor (OTP) to bear a high level of responsibility and also against whom sufficient evidence could be found.²³ Sceptics argue that lack of prosecution of Compaoré and Gaddafi, for example, was more to do with pressure from funding states exerted on the OTP to ensure

that the US and the UK's relationships with Libya in particular did not become the business of the Court.²⁴

In terms of the TRC, Friedman, in this book, takes this approach – she looks at the extent to which the Commission achieved its objectives and notes that most research on it tends to evaluate the Commission according to standards (for instance, the extent to which it brought about personal healing) that were outside its remit. She argues that it should be judged instead by its ability to generate political trust and solidarity. With regards to the TRC's objectives, Friedman notes that one of the main criticisms of the TRC is the failure until very recently of the reparations programme, leaving many of the participants at the TRC feeling let down by the process, on which more below.

However, to assess an institution according to its own mandate is to accept the way it, or the political actors that constituted the institution, defines its goals. Mandates are political documents as much as or more than they are ethical documents, subject to negotiation and wrangling, and as important for what they leave out as what they include. The mandate of the SCSL effectively limited the Court to consideration of acts by individuals rather than organisations (though the Joint Criminal Enterprise mode of liability was used to ascribe common acts to individual perpetrators) or states. The mandate of the Court, therefore, foreclosed consideration of anything except the actions of a small number of 'evil' individuals, excluding the responsibility of corporations mining diamonds or private military companies (in particular Executive Outcomes and Sandline), engaged on behalf of one or more parties to the conflict. Similarly, states and private actors supplying arms to combatants were left to be dealt with by a poorly resourced truth commission that had no retributive powers with which to confront these actors.²⁵

c. Processes of establishment and of functioning

If the research findings on TJ outcomes are contradictory, but we want to look beyond institutional mandates, then TJ processes may be worth assessing. Scholars and practitioners have looked at the extent to which mechanisms were established legitimately, or at the will of particular political interests. The legitimacy of the Sierra Leonean TRC is rarely questioned on this basis (though Mahony and Sooka, in this book, note the exclusion of key groups from its design and from the selection of its key personnel). However, there are many questions around the legitimacy of the SCSL.²⁶ Others judge the extent to which TJ processes were inclusive, fair, free from political interference,²⁷ reflective of the local political, legal and cultural contexts,²⁸ observant of the highest legal standards,²⁹ balanced (in terms of targeting all parties to a conflict) and so on.

Public engagement has also received increased attention recently. The UN Secretary General (UNSG) argues that ‘the most successful transitional justice experiences owe a large part of their success to the quantity and quality of public and victim consultation carried out. Local consultation enables a better understanding of the dynamics of past conflict, patterns of discrimination and types of victims’, citing Sierra Leone as an example of a more open and consultative trend.³⁰ He also argues that ‘it is essential that [TJ] efforts be based upon meaningful public participation involving national legal professionals, Government, women, minorities, affected groups and civil society.’³¹ In fact, local involvement is probably a normative standard (discussed below) rather than a causal factor in TJ success. There is no evidence offered by the UNSG, or any I am aware of more widely, that supports his claim that public participation is essential.

In the case of Sierra Leone, the ability of TJ mechanisms to coordinate their processes is also suggested as a determinant of success. Schabas argues that the SCSL and the TRC worked well together, and this case is often used as an example of how courts and TRCs can be used to provide a more holistic approach to justice than trials alone.³² But what standards

do we judge this collaboration by? TRC commissioners did not feel that the collaboration was successful – perpetrators were reluctant to speak at the TRC for fear of later prosecution by the Court, and the Court saw itself as having legal superiority over the TRC.³³ Does the mere production of a TRC report and completion of trials render the court–commission pairing a success? Or should we be concerned, for instance, about the ways that trials can limit the amount of truth telling at TRCs?³⁴

Linked to issues of both process and outcome, the literature on Sierra Leone also features many authors listing ‘firsts’ as a mark of success – first hybrid court, first criminalisation of the use of child soldiers and forced marriage, first court to conclude a trial against a sitting Head of State and so on; for instance: ‘[T]he Special Court is the first modern international court located in the country where the prosecuted crimes were committed. It is also the first such tribunal that was created by a bilateral treaty, co-existed with a truth and reconciliation commission, has a far-reaching outreach programme, and relies mostly on national staff.’³⁵ This is, however, an illegitimate way to judge success – there is no inherent reason to believe that an institution that does something first does it right. It is likely that these arguments are actually being used to advance a ‘justice cascade’³⁶ or norm diffusion position, which may be a legitimate measure of success, but only if you are in favour of the norm supposedly being diffused.

However, these claims about ‘firsts’ are more frequent than other claims about process. It is not at all clear that anyone outside a narrow community of international lawyers cares much that the defence was not properly resourced for any of the SCSL trials, that Charles Taylor’s conviction should probably be regarded as a failure for the OTP (as he was convicted only on relatively minor grounds of planning and aiding and abetting crimes in Sierra Leone) or that the jurisprudence on Joint Criminal Enterprise at the SCSL contradicts past precedents at the International Criminal Tribunal for the former Yugoslavia (ICTY) and

International Criminal Tribunal for Rwanda (ICTR). There is a little more attention on political interference in TJ mechanisms, but outcomes in general seem far more meaningful to commentators than issues of process.

d. Involvement of and reaction from victims and affected populations

The issue of public participation, discussed in the section above, is complemented in recent TJ literature by a broader consideration of public interest. Critics of Sierra Leonean transitional justice have shown through ethnographic research that the TJ programme did not speak to local understandings of justice and reconciliation.³⁷ Proponents of Sierra Leonean transitional justice use survey-based research to argue that it did speak to local needs, often citing the role of the outreach programme of the Court.³⁸ Hollis, in this book, uses survey data to demonstrate the SCSL's success in terms of its objectives, the generation of public trust and in bringing to trial those who bore the greatest responsibility for crimes.

The Centre for International Policy Studies (CIPS) survey on the effects of TJ mechanisms is equivocal on the role of public interests, seeing context as key to success here:

[I]f there is reliable evidence that a population perceives TJ to be crucial – and that it views the absence of TJ as evidence of their own government's illegitimacy – this should be given considerable weight in evaluating TJ options for that country. Conversely, if there is little demand for TJ within a population, or if the people clearly indicate that they have other priorities, there needs to be a clear and compelling rationale for outsiders to treat TJ as a priority matter.³⁹

e. Adherence to universal normative standards

On the other end of the spectrum from public interest and outcome-orientation is the conception of transitional justice as needing to adhere to particular (usually universal)

normative standards in order to be judged as successful. Regardless of their impact or their public perception, TJ mechanisms might be judged according to, for instance, the goals they set for themselves and the actors they involve. The UNSG claims that:

[t]he challenges of post-conflict environments necessitate an approach that balances a variety of goals, including the pursuit of accountability, truth and reparation, the preservation of peace and the building of democracy and the rule of law. A comprehensive strategy should also pay special attention to abuses committed against groups most affected by conflict, such as minorities, the elderly, children, women, prisoners, displaced persons and refugees, and establish particular measures for their protection and redress in judicial and reconciliation processes.⁴⁰

Gender is a particularly important factor here. Calls for women's participation in transitional justice are rarely made on the basis of evidence that such participation leads to one or more desirable outcomes. Instead, they are made on the basis of the normative value placed by those making the calls on gender equality or inclusivity. Similarly, future TJ mechanisms are likely to be assessed more frequently on the basis of the contributions they make to 'revealing gendered patterns of abuse, enhancing access to justice, and building momentum for reform'.⁴¹ This is not because such contributions would necessarily bring positive outcomes in terms of human rights observance, peace, reconciliation and so on (and in fact the inclusion of women as equal parties with equal voice in TJ could exacerbate rather than quell social tensions) but because it is 'right' to do so.⁴²

f. Cost-effectiveness

A final factor used in making judgements of TJ success is cost-effectiveness. Donors in particular tend to be concerned about this, and, again, it is an area about which contradictory claims are made about the SCSL in particular (the other TJ mechanisms in Sierra Leone

being far cheaper). Some argue that the Special Court as a hybrid model should, in principle, be more cost-effective than the prior international criminal tribunals.⁴³ Others note that the Court has, in practice, been tremendously expensive.⁴⁴ At a total cost of close to \$250 million for the trials of 13 indictees, it certainly does not compare favourably to the cost of domestic criminal trials.⁴⁵ And the funding model of the court, which was based on voluntary contributions, also led to inefficiencies. The UN had to step in twice to bail out the court when contributions from states were not forthcoming, and Court officials spent a great deal of time soliciting funds.

g. The political economy of TJ

An aspect of transitional justice that has not received enough attention is the big-picture political economy of TJ projects, particularly in poor countries. Some work has been done on the cost of international justice;⁴⁶ the problems of the voluntary contributions funding model of the SCSL discussed above; the subjecting of accountability mechanisms to market-based rationality;⁴⁷ and the consequences of witness payments at the court.⁴⁸ However, the economics of transitional justice are important in three further respects, all of which are worthy of further investigation. First, the success or otherwise of reparations schemes receives far too little critical attention, certainly in the case of Sierra Leone, along with its relation to other TJ mechanisms. Second, the financial spoils available to post-conflict states that implement the TJ mechanisms currently popular in the international community can be measured as indicators of a particular kind of success (though the spoils available to individual participants may corrupt the TJ process). Third, and probably the most serious, the implications of choosing particular forms of transitional justice (i.e., mechanisms that largely exclude considerations of socio-economic issues) and what these choices means for the likely success of transitional justice in stabilising peace or deterring future conflict.

Despite being mandated in the TRC report as a key measure to bring rehabilitation and healing, a reparations scheme was not set up in Sierra Leone in a timely or efficient way, and reasonable reparations have not been paid to those most severely affected by the war. Reparations were probably the aspect of the TJ programme that was most important to most Sierra Leoneans – 53 per cent of whom still live below the national poverty line.⁴⁹ Yet it took until 2008 for the government of Sierra Leone, with support from the UN Peace-building Fund and the UN Development Fund for Women (UNIFEM), to found the Sierra Leone Reparations Programme (SLRP). This was much to the disappointment of the people who had testified at the TRC or the SCSL because they expected it to materially improve their lives in some way (often because they had been led to expect this by community leaders, NGOs or the government).⁵⁰ In fact, ex-combatants were aided before victims, which victims viewed as unfair, particularly where financial aid or training enabled ex-combatants to create monopolies in certain businesses.⁵¹ Once the SLRP was established, victims were given a flat sum of \$100 each, and by 2013, the most severely affected amputees and war-wounded people were given payments of \$1400 and asked to sign documents giving assurances that they would not request any more.⁵²

In terms of interaction between TJ mechanisms, Clark notes that the SCSL had a negative impact on the reparations process in a number of ways. Most importantly, ‘it is not unreasonable to assume that the cost of the court depleted the international resources available for reparations thus directly detracting from the reparations provided to the Sierra Leonean victims’.⁵³ The SCSL cost a total of around \$250 million and was funded through voluntary contributions (and via the UN as emergency measures when those voluntary contributions fell short). The reparations programme was also funded with voluntary contributions, but managed only \$4.4 million to try to help more than 32,000 registered war victims. Clark also quite rightly notes that the Court failed to exercise its Article 19(3)

powers to order the forfeit of unlawfully acquired property, proceeds or assets and restore them to their rightful owner or the state (from where they could have been used to supplement the reparations coffers), or to prosecute any members of the arms or diamond industries that benefitted from (and likely enabled) crimes during the conflict.⁵⁴ So an opportunity cost of the SCSL would seem to be an under-resourced reparations programme.

At a further level of remove, however, the economic story looks to be a positive one – significant spoils in terms of overseas development aid (ODA) are correlated to the establishment and operation of the TJ programme (in particular the SCSL) in Sierra Leone. The government of Sierra Leone worked with powerful sponsors of their TJ process, and has reaped the rewards: net ODA per capita per annum has increased by an average of 63 per cent since the war and \$1.7 billion of debt was cancelled through the Heavily Indebted Poor Countries Initiative.⁵⁵ Of course, counterfactual analysis cannot prove that Sierra Leone would not have received this money anyway, but there is a striking correlation at first sight between the largest donors to the SCSL and the largest contributors of ODA to Sierra Leone (the US and the UK).⁵⁶ The Special Court also featured a number of times in the EU document setting out the aid programme to Sierra Leone for 2008–2013, which pledged a total of €242 million over the period plus contributed an extra €24 million in 2012.⁵⁷ Work to determine whether states that implement a particular TJ mechanism or combination of mechanisms get significant financial inducement to do so, or reward for having done so, is outside the scope of this chapter, but sorely needed. In parallel, research would also be useful on the financial inducements available to individuals who encourage participation in TJ processes. In very poor states, it is hardly surprising to find people willing to testify at a Court or to tell stories to a TRC in return for material assistance.⁵⁸ While this may be entirely understandable in situations of serious poverty, the normative processes and goals of

transitional justice rely on participants telling the truth rather than telling the stories that will make them the most money.

Third, there is a much more radical aspect to taking economics seriously in evaluating TJ programmes – the current liberal practices of transitional justice focus on individual actors and bringing about changes to political institutions. In doing so, ‘TJ renders the continuity of socioeconomic dimensions of conflict irrelevant for the democratic legitimation of the new regime’.⁵⁹ Van der Merwe reaches a similar conclusion: ‘This focus [on providing justice only for acts deemed to be politically motivated] effectively sidelines the more common economic or social abuses that generally occur in oppressive regimes – abuses that may well be the underlying reason for conflict over political power in the first place.’⁶⁰ Horowitz takes a more liberal line, but still argues that ‘[t]he international community cannot overlook the fact that for TJ mechanisms to have a sustainable effect, attention must be given to fighting poverty and encouraging development. . . . Alleviating poverty will enable the population to engage in social and political reform; it will also mitigate public bitterness which may easily serve to promote the political agendas of opportunistic and corrupt elements within the society.’⁶¹ Hoffman, writing specifically about the Sierra Leonean case, notes how little transitional justice has done for Sierra Leoneans: ‘[D]espite millions of dollars spent on these proceedings, neither body has succeeded in fundamentally changing the daily lives of Sierra Leoneans.’⁶² While it might be argued that TJ mechanisms are not well placed to confront the socio-economic conditions that may have been root causes of the conflict, the normative imperative of confronting them somehow – because justice requires it, not just because doing so is likely to stabilise the peace – should not be forgotten.⁶³

Further challenges in evaluating transitional justice

Even if agreement could be reached about which factors are relevant in judging the success of transitional justice, there are five further challenges to be confronted in evaluation: the challenges of possibility, causality, temporality, aggregation and generalisability.

First, some decision needs to be made as to what was possible in any given situation before the success of transitional justice can be deduced. There is little point in judging TJ mechanisms according to standards they could never have attained. These mechanisms are usually established in post-conflict contexts in which it is surprising they achieve any traction at all given the lack of domestic resources that are available. Yet they are often invested with unrealistic expectations. As Duggan notes, transitional justice is ‘almost always the result of political compromise and seldom reflects the ideal state of justice. Yet, in transitional justice research and practice, mechanisms are almost always measured against someone’s ideal concept of justice.’⁶⁴ The TRC in Sierra Leone, for instance, could never have guaranteed reconciliation on an interpersonal level – it could only act at the level of the collective. The Court could not have tried all those responsible for atrocities in the war. And the reparations scheme could not have restored to people what they lost in material terms during the conflict.

Second, if markers of success are noted in a given case, work needs to be done to establish whether it was in fact TJ mechanisms that brought them about or if we are observing a correlative rather than causal relationship. For instance, transitional justice in Sierra Leone preceded improvements in human rights observance and democracy according to a major study.⁶⁵ But did the TJ programme *cause* these improvements? If so how? Or could the end of the civil war as a military defeat rather than a negotiated bargain, along with continued UK intervention and support, have caused both? Brahm, in a study of truth commissions, notes that ‘[a] commission’s creation is a reflection of the preliminary moves to establish a more democratic system that respects human rights’.⁶⁶ This suggests that if democracy and human rights improvements are observed after the creation of the

commission, this may be a reflection of a prior commitment to such improvements rather than the improvements being caused by the commission. In fact, the commission in this case would likely also have been caused by prior commitment to such improvements.

In addition to the problem of endogeneity there is a problem of intervening variables. There are usually so many other factors that could have influenced outcomes (in Sierra Leone, for instance, the UN Peace-building Fund, the massive international aid programmes, the British military presence and investment in reforming the armed forces and police, the formation of the Anti-Corruption Commission, etc.) that it seems impossible to separate out which causes led to which outcomes. Horowitz recognises the limits of the SCSL in achieving peace and justice without such intervening variables: '[W]ithout additional measures employed by the government and the international community to promote sustainable transformation and to put an end to endemic corruption and mismanagement, as effective as the Court may be in conducting trials, it will be unsuccessful in promoting sustainable peace and reliable justice.'⁶⁷

One way to confront the challenge of causality is to theorise (rather than just describe or evaluate) transitional justice – to develop theories of how TJ mechanisms might bring about change (and what other factors might also lead to changes in the variables we are interested in). For some scholars these are 'pathways to impact' between, for instance, transitional justice and democracy, such as the delegitimation of past abusers and potential spoilers, the promotion of reforms and the empowerment of previously marginalised actors.⁶⁸ For others they are 'social mechanisms' such as norm affirmation and the articulation and disarticulation of networks.⁶⁹ The establishment of coherent theories of change assists TJ evaluation as the researcher can investigate evidence of the pathways in order to draw causal inferences about the effects of transitional justice versus other factors. One problem this does not solve, however, is whether the effects of individual TJ mechanisms can be isolated. In the Sierra

Leonean case a major recent study has been undertaken on the legacy of the SCSL.⁷⁰ Yet a number of the chapters in this book suggest that success can only be appreciated if the interactions between TJ mechanisms (including those in the domestic system) are assessed.⁷¹ Duggan doubts whether it will ever be possible to establish causal relationships in transitional justice: '[T]he change being sought through a transitional justice mechanism will be nonlinear, the result of multiple interactions by numerous actors. . . . As social interventions, one of the most critical features of transitional justice processes is that they are nested in social systems. It is through the workings of entire systems of social relationships that any changes in behaviour or social conditions will be effected.'⁷²

The third challenge is one of temporality. Sierra Leone should be a good case in which to measure success as a decade has now passed since the end of the war, so there has been plenty of time for measureable effects to have emerged from the TJ programme. Yet it may be that too much time has passed. To avoid mistakenly including the effects of intervening variables as TJ success, it may be necessary to carry out research very quickly. But to ensure that success observed is not transient, it will be useful to try to trace out the pathways to TJ success after a much longer period – perhaps even a generation. Van der Merwe suggests that only the most immediate outcomes (for instance, the experience of individuals after testifying to a truth commission) can be reliably credited to TJ mechanisms, though he argues that measuring specific immediate effects could give indications of the broad structural changes these might feasibly lead to.⁷³

Fourth, there is the challenge of aggregation. Is it possible to add together all of the various micro claims about success and failure of specific TJ mechanisms or combinations of mechanisms to make a single macro judgement about whether transitional justice in a particular state has been a success? Should the possible outcomes of transitional justice be ranked – either generally or in specific situations? For instance, was it more important for the

TJ programme in Sierra Leone to support peace and political stability than to provide reparations or a high quality of legal procedures? Clark's detailed analysis of the SCSL clearly demonstrates the problem here. She outlines the various contributions the SCSL made or failed to make to the four goals she sees as essential to TJ, but gives no indication of how she moves from this fine-grained analysis through a weighing of the positive and negative contributions she finds for each goal to her broad conclusions that the Court was overall a success.⁷⁴

The final challenge is one of generalisability. If conclusions can be reached about the Sierra Leonean case, under what circumstances might they provide lessons learned for other post-conflict (or other transitional) situations? How can contextual reasons for success be separated from structural reasons in order to ascertain whether the same combination of TJ mechanisms would work well elsewhere? Could the contradictory results in the large-n studies discussed above be caused by a lack of attention to context? In judging the success of transitional justice in Sierra Leone, Rodman argues that the rejection of the Lomé amnesty was only possible because of the British military intervention in 2000 that returned Kabbah strongly to power. If Kabbah had had to power-share, then the amnesty would have had to stand and the prospects for transitional justice in Sierra Leone would have been rather different.⁷⁵ Similarly, Harris argues that the fact that two of the three principal warring factions (the AFRC and the RUF) had either disintegrated or were unable to build a political support base at the time the SCSL started its work was a critical factor in the Court being able to prosecute war crimes without endangering peace.⁷⁶ When the different sides of a conflict retain support, it is likely to be much more difficult either to achieve a negotiated end to the conflict that includes criminal justice provisions or to run prosecutions without risking the provocation of new discontent. Schabas has a more negative view of the Sierra Leonean context: 'A useful comparison can be made with South Africa, where the TJ institutions were

part of a much broader social transformation, driven by an extremely dynamic civil society. Sierra Leone lags far behind South Africa in this respect. And this sad conclusion inevitably limits the potential of the Sierra Leonean TRC to influence the future of this troubled country.⁷⁷ As will be clear, applying lessons learned from specific contexts is not straightforward: it will not always be either possible or ethical to enforce a decisive military (rather than negotiated) end to a conflict; the political power of parties to conflict varies across contexts; and a dynamic civil society cannot simply be created for the purposes of transitional justice.

Conclusion

I have started to parse out the various claims that are made in the course of TJ evaluations, yet parsing out claims is just the beginning. Scholars must continue to strive to find ways to judge the past and to use those judgements to assist in deciding what to do in the future. There is a great deal of resource being invested in transitional justice globally, and academics are frequently asked to work with policy makers to decide how TJ mechanisms should be designed for particular contexts. There is a body of contradictory large-n and small-n research on transitional justice that does not mark a clear path forward, yet forward we will inevitably go. Four tools will aid the journey: deep engagement with contexts, mixed methods, reflexivity and political judgement.

Deep engagement with contexts has both retrospective and prospective elements. Transitional justice has been evaluated, for the most part, by social scientists, but we cannot evaluate TJ success without rich histories. Many of the chapters in this book engage with the history of Sierra Leone to understand the effects of its TJ programme, and strong historical knowledge can be as persuasive as or even more persuasive than robust social scientific

analysis. As the CIPS report argues, '[c]ross-national findings are important, but nothing can replace the "art" of considered, country-specific debate and judgment'.⁷⁸

Engagement with contexts should take place using a range of methods. Researchers will be drawn to focus on different areas, and the breadth of the knowledge generated will help to build up a patchwork picture of the impacts of transitional justice. Varied methodologies and varied research questions should get around the problem of having to decide precisely what success is – successes and failures, from various points of view, will be revealed in the detail of the studies – and readers will have to decide what they particularly value about transitional justice when trying to draw conclusions from the body of research. The chapters in this book are a good demonstration of this – each author has their own area of particular concern and therefore their own views on the relative success of transitional justice in Sierra Leone. Large-n and medium-n studies are also valuable, as scholars can tack backwards and forwards between information on global trends and specific cases. This will not lead to agreement, but to more nuanced and granular, and therefore productive, disagreement.

Even if agreement cannot be reached on whether or not transitional justice in Sierra Leone or elsewhere was a success, it would help to progress the debate if scholars were aware of, and reflected upon, the standards by which they evaluate transitional justice. Reflexivity involves being cognisant of your own priorities and biases, willing to challenge your own assumptions and willing to accept that a range of incommensurable views may all have validity. We may never be able to find a definitive answer, for instance, for how to rank the wishes of victims against the importance of peace, or against the ending of impunity, in any one context, let alone across all of them. An awareness of one's position in the debate and the bases on which that position is taken would be useful.

Reflexivity, mixed methods and deep engagement with contexts will give rich but contested narratives that can inform decisions in future situations. But to inform them well,

another ingredient is needed: political judgement. Working respectfully through a range of positions is very hard and it is even harder to make judgements. Yet if we want to influence transitional justice in practice, judgement is necessary. Various actors within the international community will continue to push for TJ programmes to take place after conflict, and victims and the public may support this, particularly if there is a sense that it will be financially beneficial, either to individuals or to the state as a whole. We need to judge when transitional justice might be successful in a particular context because the money and effort that goes into a TJ programme is not going elsewhere – a decision needs to be made, for instance, that funding some particular kinds of TJ projects will bring more benefits than working on security sector reform or poverty reduction. These judgements will be imperfect and fallible, but unavoidable: ‘Indexed as we are to time and place, limited in knowledge and constrained by the need to act, our practical judgments are shot through with fallibility. But trying to be infallible is no more rational than trying to grow wings.’⁷⁹ They will also be political – they will involve working through a set of contested claims including about whose needs to prioritise, which actors to prosecute and which to empower. Working through what TJ success might mean in and across contexts, and what the challenges are in evaluating it, may be a small but necessary step along the path to improved (but imperfect) TJ policy in the future.

¹ I would like to thank Valerie Arnould, Rebekka Friedman, George Lawson, Chris Mahony and Elin Skaar for their comments on this piece or assistance in accessing relevant literature. I also thank Charles Taku and the Sierra Leoneans and SCSL personnel who shared their perspectives of the TJ mechanisms with me during interviews in Sierra Leone in 2009.

² K. Ban (2014) ‘Remarks at Press Conference to Mark the Completion of the UN Integrated Peacebuilding Office’s Work in Sierra Leone’, 5 March 2014, available at:

<http://www.un.org/sg/offthecuff/index.asp?nid=3337>

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

⁴ Christian Aid (2014) 'Losing Out: Sierra Leone's Massive Revenue Losses from Tax Incentives', p. 9, available at: <http://www.christianaid.org.uk/images/Sierra-Leone-Report-tax-incentives-080414.pdf>

⁵ E. Skaar, C. Gianella Malca and T. Eide (2015) *After Violence: Transitional Justice, Peace, and Democracy* (London: Routledge), Chapter 1, p. 20.

⁶ O. N. T. Thoms, J. Ron and R. Paris (2008) 'The Effects of Transitional Justice Mechanisms: A Summary of Empirical Research Findings and Implications for Analysts and Practitioners' (Ottawa: Centre for International Policy Studies, University of Ottawa), p. 26.

⁷ T. M. Clark (2014) 'Assessing the Special Court's Contribution to Achieving Transitional Justice', in C. C. Jalloh (ed.) *The Sierra Leone Special Court and Its Legacy: The Impact for Africa and International Criminal Law* (Cambridge: Cambridge University Press), p. 749.

⁸ C. Duggan (2010) 'Editorial Note to Special Issue on Transitional Justice on Trial', *The International Journal of Transitional Justice* 4, 320.

⁹ N. Kritz (2009) 'Policy Implications of Empirical Research on Transitional Justice', in H. van der Merwe, V. Baxter and A. Chapman (eds) *Assessing the Impact of Transitional Justice: Challenges for Empirical Research* (Washington, DC: United States Institute of Peace Press), p. 13.

¹⁰ P. de Greiff (2011) 'World Development Report: Background Paper: Transitional Justice, Security, and Development', p. 9, available at: http://web.worldbank.org/archive/website01306/web/pdf/wdr%20background%20paper_de%20greiff_0.pdf

¹¹ UNSC (2012) ‘Security Council, in Statement, Strongly Commends Special Court for Sierra Leone, Urges Robust Financial Support as Historic Body Moves into Final Stages of Work’, available at: <http://www.un.org/press/en/2012/sc10787.doc.htm>

¹² D. Tolbert (2013) ‘The Impact of Charles Taylor’s Verdict’, *Al Jazeera*, available at: <http://www.aljazeera.com/indepth/opinion/2013/10/impact-charles-taylor-verdict-201310112386948327.html>

¹³ Clark, ‘Assessing’, p. 768.

¹⁴ Human Rights Watch (2007) ‘World Report Sierra Leone’, available at: <http://www.hrw.org/legacy/englishwr2k7/docs/2007/01/11/sierra14713.htm>

¹⁵ Clark, ‘Assessing’, for instance, sees the Court as having contributed to the establishment of two forms of truth: forensic and social or dialogue truth, but doing little to establish narrative or personal truth.

¹⁶ See K. Ainley (2011) ‘Excesses of Responsibility: The Limits of Law and the Possibilities of Politics’, *Ethics & International Affairs* 25(4), 407–431.

¹⁷ G. Dancy and E. Wiebelhaus-Brahm (2011) ‘Justice and the Peace: A Time-Sensitive Empirical Evaluation’, *Annual Meeting of the International Studies Association*, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1936946

¹⁸ H. J. Kim and K. Sikkink (2010) ‘Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries’, *International Studies Quarterly* 54(4), 939–963.

¹⁹ J. Snyder and L. Vinjamuri (2003/2004) ‘Trials and Errors: Principle and Pragmatism in Strategies of International Justice’, *International Security* 28(3), 5–44.

²⁰ T. D. Olsen, L. A. Payne and A. G. Reiter (2010) *Transitional Justice in Balance. Comparing Processes, Weighing Efficacy* (Washington, DC: Unites States Institute of Peace Press).

²¹ Dancy and Wiebelhaus-Brahm, ‘Justice and the Peace’.

²² Thoms et al., ‘The Effects’, p. 4. Appendix 1 of this piece and Skaar et al., *After Violence*, Chapter 1, p. 11 provide useful tables summarising research on TJ outcomes.

²³ See Hollis in this book.

²⁴ See Mahony in this book.

²⁵ K. Ainley (2008) ‘Individual Agency and Responsibility for Atrocity’, in R. Jeffery (ed.) *Confronting Evil in International Relations: Ethical Responses to Problems of Moral Agency* (London: Palgrave Macmillan), pp. 37–60 discusses the problems of viewing atrocity in terms of individual perpetrators. K. Ainley (2014) ‘Transitional Justice in Cambodia: The Coincidence of Power and Principle’, in R. Jeffery (ed.) *Transitional Justice in the Asia-Pacific* (Cambridge: Cambridge University Press) further outlines the shortcomings of assessing TJ mechanisms only on their mandates. For an examination of the TRC’s failure to investigate external actors see Mahony and Sooka in this book.

²⁶ Harris and Lappin, and Mahony in this book.

²⁷ Mahony, and Mahony and Sooka in this book.

²⁸ Friedman, Jackson, Mitton and Sesay in this book.

²⁹ Hollis, and Jordash and Crowe in this book.

³⁰ UN Secretary General (UNSG) (2004) ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’, Report of the Secretary-General to the UNSC, p. 7, available at: <http://www.unrol.org/files/2004%20report.pdf>

³¹ UNSG, ‘The Rule of Law’, p. 7.

³² W. Schabas (2006) ‘The Sierra Leone Truth and Reconciliation Commission’, in N. Roht-Arriaza and J. Mariezcurrena (eds) *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice* (Cambridge: Cambridge University Press), pp. 21–42.

³³ Sierra Leonean TRC Report (2004), available at: <http://www.sierra-leone.org/TRCDocuments.html>; Sierra Leone Working Group on Truth and Reconciliation

(2006) ‘Searching for Truth and Justice in Sierra Leone: An Initial Study of the Performance and Impact of the Truth and Reconciliation Commission’, available at:

<http://www.fambultok.org/TRCStudy-FinalVersion.pdf>

³⁴ A. Jillions and R. Friedman (forthcoming 2015) ‘The Pitfalls and Politics of Holistic Justice’, *Global Policy*.

³⁵ S. Horowitz (2006) ‘Transitional Criminal Justice in Sierra Leone: Beyond Truth versus Justice’, in Roht-Arriaza and Mariezcurrena (eds) *Transitional Justice*, p. 43.

³⁶ K. Sikkink (2011) *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: W.W. Norton).

³⁷ Probably the most influential of these works are T. Kelsall (2009) *Culture under Cross Examination: International Justice and the Special Court for Sierra Leone* (Cambridge: Cambridge University Press) and R. Shaw and L. Waldorf (eds) (2010) *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* (Stanford, CA: Stanford University Press).

³⁸ S. Ford (2014) ‘How Special is the Special Court’s Outreach Section’, in Jalloh (ed.) *The Sierra Leone Special Court*, pp. 505–526 is a nuanced analysis of these claims.

³⁹ Thoms et al., ‘The Effects’, p. 53.

⁴⁰ UNSG, ‘Rule of Law’, p. 9. See also Schabas, ‘The Sierra Leone TRC’.

⁴¹ International Centre for Transitional Justice website ‘Gender Justice’ page, available at:

<https://ictj.org/our-work/transitional-justice-issues/gender-justice>

⁴² Friedman in this book notes the controversial actions taken by Fambul Tok to include women in reconciliation ceremonies in Sierra Leone and encourage them to testify against authority figures.

⁴³ R. Kerr and J. Lincoln (2008) ‘The Special Court for Sierra Leone: Outreach, Legacy and Impact’ (Kings College London War Crimes Research Group), available at:

<http://www.kcl.ac.uk/sspp/departments/warstudies/research/groups/wc/slfinalreport.pdf>

⁴⁴ Antonio Cassese (2006) ‘Report on the Special Court for Sierra Leone’, available at:

<http://www.rscsl.org/Documents/Cassese%20Report.pdf>; Clark, ‘Assessing’.

⁴⁵ Figures calculated using estimate of \$222.9 million from C. Jalloh (2010) ‘Special Court for Sierra Leone: Achieving Justice?’, *Michigan Journal of International Law* 32(3), 395–460, footnote 253 and adding in any 2011–2013 expenditure not predicted when Jalloh made his calculation. The additional figures were sourced from the post-2010 annual Reports of the President of the SCSL. The budget of the Sierra Leonean domestic justice system is around \$13 million per annum: <http://www.cgdev.org/blog/was-charles-taylor-trial-worth-price-tag>

⁴⁶ S. Ford (2011) ‘How Leadership in International Criminal Law Is Shifting from the U.S. to Europe and Asia’, *St Louis University Law Journal* 55, 953–1000.

⁴⁷ S. Kendall (2014) ‘Marketing Accountability at the Special Court for Sierra Leone’, in Jalloh (ed.) *The Sierra Leone Special Court*, pp. 387–405.

⁴⁸ Jordash and Crowe in this book; J. Easterday (2014) ‘The Consequences of Witness Payments at the Special Court for Sierra Leone’, in Jalloh (ed.) *The Sierra Leone Special Court*, pp. 447–468; C. Mahony (2010) *The Justice Sector Afterthought: Witness Protection in Africa* (Pretoria: Institute for Security Studies), pp. 84–86, 93–94.

⁴⁹ E. Conteh and M. Berghs (2014) ‘“Mi at Don Poil”: A Report on Reparations for Amputee and War-Wounded People in Sierra Leone’ (Freetown: Amputee and War-Wounded Association), available at: <http://disability-studies.leeds.ac.uk/files/library/AWWA%20Report%20on%20Reparations.pdf>; poverty statistic taken from Christian Aid ‘Losing Out’.

⁵⁰ T. Kelsall (2005) 'Truth, Lies, Ritual: Preliminary Reflections on the Truth and Reconciliation Commission in Sierra Leone', *Human Rights Quarterly* 27, 361–391; R. Shaw (2007) 'Memory Frictions: Localizing the Truth and Reconciliation Commission in Sierra Leone', *The International Journal of Transitional Justice* 1(2), 183–207.

⁵¹ M. Berghs (2012) *War and Embodied Memory: Becoming Disabled in Sierra Leone* (Aldershot: Ashgate).

⁵² Conteh and Berghs, 'Mi at Don Poil'.

⁵³ Clark, 'Assessing', p. 765.

⁵⁴ For instance, Mahony, in this book, notes the failure of the SCSL to prosecute arms dealer Ibrahim Bah.

⁵⁵ Source of figures: World Bank.

⁵⁶ Human Rights Watch (2011) 'World Report Sierra Leone', available at: <http://www.hrw.org/world-report-2011/sierra-leone>; Ford, 'How Leadership'.

⁵⁷ 'EU-Sierra Leone relations webpage', available at: http://eeas.europa.eu/sierra_leone/index_en.htm

⁵⁸ Kelsall, 'Truth, Lies, Ritual', p. 371; J. Easterday (2013) 'The Consequences of Witness Payments at the Special Court for Sierra Leone', in Jalloh (ed.) *The Sierra Leone Special Court*. 447-468.

⁵⁹ H. Franzki and M. C. Olarte (2014) 'Understanding the Political Economy of Transitional Justice: A Critical Theory Perspective', in S. Buckley-Zistel et al. (eds) *Transitional Justice Theories* (London: Routledge), p. 203.

⁶⁰ H. van der Merwe (2009) 'Delivering Justice during Transition', in van der Merwe et al. (eds) *Assessing the Impact*, p. 117.

⁶¹ Horowitz, 'Transitional Criminal Justice', p. 61.

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- ⁶² E. Hoffman (2008) ‘Reconciliation in Sierra Leone: Local Processes Yield Global Lessons’, *The Fletcher Forum for World Affairs* 32(2), p.131.
- ⁶³ R. Mani (2008) ‘Dilemmas of Expanding Transitional Justice’, *International Journal for Transitional Justice* 2(3), 253–265 discusses the importance of reparatory rather than rectificatory justice in developing countries.
- ⁶⁴ Duggan, ‘Editorial Note’, p. 321. See also van der Merwe, ‘Delivering Justice’.
- ⁶⁵ Sikkink, ‘Justice Cascade’.
- ⁶⁶ E. Brahm (2007) ‘Uncovering the Truth: Examining Truth Commission Success and Impact’, *International Studies Perspectives* 8(1), p.28.
- ⁶⁷ Horowitz, ‘Transitional Criminal Justice’, p. 61.
- ⁶⁸ V. Arnould and C. Sriram (2014) ‘Pathways of Impact: How Transitional Justice Affects Democratic Institution-Building’, *TJDI Policy Paper 1*, p. 1, available at: <http://www.tjdi.org/wp-content/uploads/2014/10/TJDI-Policy-Paper-Pathways-of-Impact-1.pdf>; See also Skaar et al., *After Violence*.
- ⁶⁹ P. de Greiff (2012) ‘Theorising Transitional Justice’, in M. S. Williams, R. Nagy and J. Elster (eds) *Transitional Justice* (New York: New York University Press), pp. 31–77.
- ⁷⁰ Jalloh (ed.), *The Sierra Leone Special Court*.
- ⁷¹ See chapters authored by Oosterveld, Friedman, Jackson and Sesay.
- ⁷² Duggan, ‘Editorial Note’, p. 320.
- ⁷³ Van der Merwe, ‘Delivering Justice’, p. 59.
- ⁷⁴ Clark, ‘Assessing’, p. 768.
- ⁷⁵ K. A. Rodman (2013) ‘Justice is Interventionist: The Political Sources of the Judicial Reach of the Special Court for Sierra Leone’, *International Criminal Law Review* 13, 63–91.
- ⁷⁶ D. Harris (2013) *Sierra Leone: A Political History* (London: Hurst), p. 171.
- ⁷⁷ Schabas, ‘The Sierra Leone TRC’, p. 40.

⁷⁸ Thoms et al., 'The Effects', p. 30. Skaar et al., *After Violence* demonstrates why a serious engagement with context is likely to lead to more robust conclusions about TJ impact.

⁷⁹ G. S. Davis (1992) *Warcraft and the Fragility of Virtue: An Essay in Aristotelian Ethics* (Moscow: University of Idaho Press), p. 23.