



# Addressing gender-based violence in the Sierra Leone conflict: Notes from the field

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## **Abstract**

Sierra Leone's transition has witnessed a number of landmark procedural and legal innovations which have had widespread implications for international gender justice. The 11-year conflict had shattered the country, leaving more than a million people displaced and thousands of women coping with the aftermath of sexual violence. Then, in 1999, the Lomé Peace Accord in 1999 traded amnesty for peace and made provision for the establishment of the Sierra Leone Truth Commission. The United Nations Security Council subsequently established a Special Court to prosecute those who bore 'the greatest responsibility' for atrocities committed during the conflict.

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However, while both the Truth Commission and the Special Court made some unique strides in promoting gender justice, the perception among gender activists is that both initiatives fell short in addressing the country's gender-based human rights violations. Questions abound over the real impact of the Special Court, not least because there are issues over how much justice victims achieve through the prosecution of only those with command responsibility. Although the Truth Commission had a more far-reaching ambit and did confront some aspects of the country's gendered past, its long-term impact has yet to be realised and its gender-sensitive recommendations have yet to be implemented. This article will assess Sierra Leone's transition through an analysis of its successes and failures in addressing gender-based violations committed during the conflict and will examine how far gender justice has been achieved.

### **Confronting Sierra Leone's gendered past**

I have not married again because of my experience. I was raped by 20 people. Previously I was someone who was very vibrant and I could stand on my own. Now when I think about the rape I pee on myself. This is frustrating. I cannot get married and I am rejected by men. No-one who knows my condition would ever want to touch me. I feel really stigmatised and I am rejected by my community. People take me in, but as soon as I have any argument, they tell me to leave and I haven't got any relatives and no place to live. I cannot continue with Ramadan properly and so I have to abandon it because no-one will care for me. I get pain in my back and I have no medication, but I can sleep... I haven't heard what the TRC report said... If I saw the perpetrators again I would not know them, but I cannot forgive them... I am not glad the ring leaders are being punished (Female survivor, Masiaka, 27 September 2007).

The civil war in Sierra Leone, from 1991 to 2002, gained certain notoriety internationally – evoking amputations, child soldiers, unethical diamond mining, and the Liberian 'warlord' Charles Taylor. Since the signing of the Lomé Peace Accord events of the conflict have been brought to popular attention again

## Addressing gender-based violence in the Sierra Leone conflict

through films such as the Hollywood blockbuster *Blood Diamonds* starring Leonardo DiCaprio and Ishmael Beah's autobiography, *A Long Way Gone*, which reached top of the best selling list when it was sold on Starbucks counters across the world. The experience of Sierra Leonean women during the war has received less publicity. Yet there is widespread evidence that women and girls were targeted systematically during the conflict, singled out for some of the worst atrocities ever recorded (Sierra Leone Truth and Reconciliation Commission 2004:3,3,200).

While women suffered in the same ways as men, for example through being victims of killing, torture and looting, they were also targeted for their gender for example through rape, sexual slavery or forced marriage, and many non-sexual crimes were committed in a gendered way (Sierra Leone Truth and Reconciliation Commission 2004:3,3,200). All military factions, including the three main groups, the Revolutionary United Front (RUF), the Armed Forces Revolutionary Council (AFRC) and the Civil Defence Force (CDF), were responsible for committing these atrocities. However, while the particular types of violence may have been extraordinary, the way they were treated built on pre-existing patterns of gender-based violence, and the marginalised position of women in society (Sierra Leone Truth and Reconciliation Commission 2004:3,3). The Special Court for Sierra Leone (the Court) and the Truth and Reconciliation Commission (the TRC), operating alongside, were established to seek justice and stability in the post-conflict period. Both have made specific efforts to address the particular forms of suffering experienced by Sierra Leonean women, to an extent unseen in transitional justice mechanisms elsewhere.

This article will reflect on the views expressed by women in the capital city, Freetown, and beyond the capital 'up country', about the work of both mechanisms, how adequately they have addressed gender-based violence committed during the conflict, and to what extent these initiatives have otherwise addressed their justice needs. This article is based on discussions and interviews with female activists working with civil society organisations (CSOs) and non-governmental organisations (NGOs), female victims, civil servants, politicians, and staff who have worked with the TRC and Special Court, as well as pre-existing documentation on the subject. It does not purport to give

a statistical analysis of the views of victims, and the experience of women is obviously diverse, but this article brings together some of the issues identified during discussions. Whereas many observations are general in nature, others are specific to the position of women. While some views may be based on misperceptions about the institutions, they nevertheless suggest some of the discourses that have occurred on the ground.

## **The Special Court for Sierra Leone**

### **Successes and failures from the perspective of the international community**

From the outset, gender-based violence was prioritised at the highest level at the Special Court (Secretary-General 2000). As a ‘hybrid tribunal’ established by an agreement between the Government of Sierra Leone and the United Nations, the Court sought to make international justice locally relevant, locating it in the country in which the atrocities took place, and using a mixture of national and international laws and personnel. Sexual and gender-based violence was given specific attention in its statutes and the Office of the Prosecutor has been praised for the emphasis placed on investigating and prosecuting gender crimes and handling them sensitively (Interview with Special Court employee 2008). Significantly, the Court has set an international legal precedent in finding forced marriage to be a crime against humanity as ‘another inhumane act’. This arguably goes towards recognising the entirety of a woman’s experience in a forced marriage, rather than reducing it to one focused on sexual identity. Other areas of the Court’s work have been characterised by less success. Most notable has been the refusal of Trial Chamber Judges to allow any evidence of sexual violence to be heard in the case against members of the CDF, a pro-government militia group who were generally believed not to have engaged in sexual violence because touching women would nullify the special protections endowed on them by medical men. These decisions, which arguably show a lack of sensitivity among the majority of the Judges towards sexual offences, form the basis of an insightful analysis by Shanee Kendall and Michelle Staggs Kelsall (Kendall and Staggs Kelsall 2005). As such, its legacy to date in terms of creating a precedent

in trying gender-based violence before international criminal tribunals has been mixed.

### **Perspectives of female victims testifying before the Court**

In the cases before the Special Court, the Prosecution sought to prove charges of sexual and gender-based violence through the testimony of the victims themselves. An analysis of the experience of these witnesses seems to indicate that most found the experience of testifying less traumatising than many feared it would be. A pioneering witness experience study undertaken by the Court's Witness and Victim Section (WVS) suggests that while such witnesses found testifying particularly hard, their overall experience was not markedly different from other types of witnesses, and they were more likely to report satisfaction with WVS services.<sup>1</sup> This seems to have been largely due to the comprehensive range of support provided by the WVS section, which included counselling and medical treatment (Charters, Horn and Vahidy 2008). Further research by Staggs and Stepakoff, however, suggests that some of those witnesses who were not allowed to testify about their experiences of sexual violence in the case of the CDF found the experience of being denied the opportunity psychologically distressing (Staggs Kelsall and Stepakoff 2007). Staggs and Stepakoff argue that this potentially undermines the integrity of the Court's intention to deliver justice to the victims of the conflict (Staggs Kelsall and Stepakoff 2007). While this may be true, there is also little concrete evidence that testifying before a court has therapeutic benefits (Stover 2005). The extent to which those witnesses who did testify to sexual violence in the RUF and AFRC cases found it brought them justice has not been ascertained. However, only a limited number appeared as witnesses, with twenty-six women testifying to sexual violence, and ten being denied the opportunity (Staggs Kelsall and Stepakoff 2007). Accordingly, the impact on those witnesses, while important, needs to be distinguished from the wider picture of the extent to which the Court has brought justice for gender-based violence and for women in Sierra Leone as a whole.

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1 The report also found that those witnesses who saw a female nurse were significantly more comfortable than those who saw a male nurse. See Charters, Horn and Vahidy 2008:14–15, 17.

## **Views of the Court from the field**

Throughout Sierra Leone there is broad support for prosecutions for those crimes perpetrated during the conflict. Although some survivors assert that God will deal with the perpetrators in the after-life, others suggest that this is said out of resignation and that most individuals would like to see some form of punishment for the person who committed atrocities against them (Interviews with staff at Centre for Victims of Torture and with female victims 2007). A survey of 1 717 men and women across Sierra Leone conducted in 2007 found that 65 percent of female respondents thought that the Special Court's performance had been positive, although 71 percent felt there are things it could have done better (BBC World Service Trust, International Centre for Transitional Justice and Search for Common Ground 2008). Despite this, women's understanding of the Court is weak, with another study suggesting that only 10 percent of women had a 'good understanding' of the work of the Special Court (compared with 19 percent of men), while 72 percent had a 'poor understanding' of the Court (compared with 35 percent of men) (Sawyer and Kelsall 2007:45). Poor understanding then does not seem to be a bar to feeling that the Court is performing well, although the link between understanding the Court well and feeling a sense of justice is far from clear (Kerr and Lincoln 2008). The practical impact of the Special Court's convictions on survivors of sexual violence remains questionable. Interviewees flagged a number of obstacles facing attempts to bring a tangible sense of justice for survivors. These include issues surrounding command responsibility and the small number of indictees, the cost and duration of trials, punishments available to the court, and the ongoing prevalence of gender-based violence today.

## **Command responsibility and number of indictees**

The fact that very few people were indicted by the Special Court presents a critical challenge. A number of interviewees observed that rape is such a personal crime that there can be no justice if the individual is not punished and that 'to punish the person who sent him is no response' (Interviews with staff at the International Rescue Committee 2007). Yet the Court is only mandated to prosecute those persons bearing the 'greatest responsibility', and as a result the Prosecutor has only issued 13 indictments, the numbers being kept down in part

## Addressing gender-based violence in the Sierra Leone conflict

by the tight budget and limited time-frame. Judgment will likely be reached in the cases of nine people, who include individuals from each of the three main military factions and Charles Taylor. At one Special Court outreach session in 2004, a woman asked the then Prosecutor whether the man down the road who raped her, who still laughs at her every time he sees her, would be prosecuted. The response she received was merely that he would if he bore the greatest responsibility (Outreach session in Makeni 2004).

Some gender activists suggest that if the trials had been accompanied by an equivalent of the Rwandese gacaca courts which have sought to try those involved for the genocide through local courts, this could have been addressed (Interviews with staff at the International Rescue Committee 2007). However, no national prosecutions were possible because the Lomé Peace Accord provided amnesty for all offences committed before July 1999,<sup>2</sup> and even without the amnesty provision there may have been other constraints including domestic political considerations and capacity. Although some members of the RUF have been tried in the national courts, for offences taking place in the period after the amnesty, none of these cases were related to sexual or gender-based violence. Blame for sexual violence committed during the war is still often cast on the victim, including for those rapes committed by the RUF and AFRC militia. Many women are still afraid to admit to having been bush wives or raped for fear of suffering the 'double victimisation' of rejection by husbands and community. As a result, many women live in constant fear of their past being exposed. Some gender activists suggest that an increase in prosecutions at community level could potentially shift the stigma in sexual violence cases from the victim to the perpetrator, by demonstrating that sexual offences are now being taken as a serious criminal matter. The fact that the Prosecutor could not indict more people then, together with the fact that alternative prosecutorial mechanisms were barred, has limited the extent to which justice for gender-based violence can be achieved through prosecutions. More research into what kind of justice

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2 In response to motions by defence teams with regard to the amnesty granted by the Lomé Accord, the Special Court decided that amnesty could not apply to war crimes, crimes against humanity and other violations of international humanitarian law, and as such cases of this type brought by the Prosecutor at the Special Court were not bound by the amnesty (Appeals Chamber 2004).

people wanted, even before the Court was established, may have made it better able to cater for women's needs.

### **Cost and duration**

The high price attached to the prosecution of a few individuals has proved a major source of discontent and, for some, an injustice in itself. By mid 2008 the Court had already cost more than US\$150 million, in a country where 75% of the population lives on less than US\$2 a day. Many Sierra Leoneans view the money spent on the Special Court as if it were a pot of money that could otherwise have been spent on the victims, a premise that the Court has striven to overcome but which nevertheless persists (Interview with the Director of SLANGO, the Sierra Leone Association of NGOs, Shellac Davies, 2007). Some go so far as to suggest that expatriate staff are working at the Court to prosper from the country's predicament (Interview with the Director of SLANGO 2007). This resentment is exacerbated by disillusion over the comparatively lengthy duration of proceedings. As in other jurisdictions, domestic criminal trials are considerably shorter than international trials, but many in Sierra Leone see even faster justice day to day in the informal justice sector. Here, traditional leaders hear a case, and if there is no obvious suspect, often use the services of truth-diviners to identify the perpetrator, and normally come to a decision at once. Referring to this, some argue that determining guilt is a simple thing and prosecutions are a waste of resources (Interview with female victim 2007). One survivor of sexual violence commented 'all things being equal I don't mind prosecutions, but we have other priorities' (Interview with female victim 2007). Given that civil actions against convicted persons will never be a realistic prospect for victims, several gender activists argue that the Court should have developed a trust fund for victims like that in existence at the International Criminal Court as a way of counteracting these financial concerns (Interviews with women activists at SLANGO, the International Rescue Committee and the Human Rights Commission 2007).

## **Sentencing and punishment**

A further issue surrounds the type of sentences that the Court can deliver. Since the Court is supported by the United Nations, it is not able to impose the death penalty. However, although Sierra Leone still allows capital punishment domestically, the fact that the Court cannot order such punishments is not contentious among female victims, as they say they don't want the accused persons to be executed because there has been enough suffering (Focus Group Discussion with female victims 2007). More controversial are the conditions of imprisonment. At the time of writing, the sentences delivered in the AFRC case range from 45 to 50 years, in the CDF case from 15 to 20 years and in the RUF case, from 25 to 52 years, to be served in various countries. Judgment has yet to be delivered in the Charles Taylor case being heard in The Hague. However, custodial sentences in prisons of international standards are often greeted with incredulity: as one survivor remonstrated, 'who cares about that? What kind of punishment is that?' (Focus Group Discussion with female victims 2007). As one gender activist observed, 'when the victims are suffering every day for their injuries without compensation, people lack respect for a system that treats those found guilty to three meals a day and free medical care to keep them into old age' (Interview with the Director of SLANGO 2007). However, the Court is required to abide by these standards and is unable to make agreements for sentences to be served in prisons in countries with conditions similar to those found in Pademba Road, Freetown's central prison.

In light of this, some gender activists have proposed alternative ways the Court could make justice more comprehensible and tangible for women at community level. For example, one activist noted that 'the prisoners should be brought forth and publicly denounced for everything they did. They should be taken to the places where the atrocities were committed and see the graves. If they are remorseful we should know about it, and their punishment could be reduced' (Interview with Bondu Manyeh, Graceland Counselling, 2007). This suggests the need to involve the community in decisions over punishments, as a means of restoring dignity to survivors by returning control to their hands. Another activist has noted that individuals at community level tend to be more interested

in specific incidents in their area, rather than the wider picture of the conflict. Accordingly, she suggests, the Court should inform communities about the specific atrocities that were found to have been committed in each area and what specific punishment has been given (Interview with the Director of SLANGO 2007). Both of these may be difficult for the Court in practice, but imaginative solutions need to be found as a matter of urgency to bring about a sense of accessible, locally relevant justice for women at community level.

### **Non-recurrence: The impact on gender-based violence in the present**

Beyond its core mandate, the Court set its sights high in aiming to contribute to the restoration of the rule of law in Sierra Leone (President of the Special Court for Sierra Leone 2006). While this perhaps over-estimated the potential impact of the Court, survivors do need assurance that impunity for sexual and gender-based violence is a thing of the past. Intimate violence continues to threaten women's security on a daily basis and indeed may have increased in the context of a militarised culture and reduced community protection (Valji 2007). As political analyst Nahla Valji has observed, 'research across post-conflict societies reveals that violence does not simply cease with the signing of a peace accord, but for various reasons – including pervasive trauma, easy access to guns, militarized identities, normalization of conflict and the devastation of judicial systems – violence carries through and can even intensify during a transition period; playing out in ways which have continuity and a rooting in the causes and consequences of the conflict but which can also take on new forms' (Valji 2007:4). Given the uncertain relationship between extraordinary and ordinary violence, transitional justice mechanisms need to look beyond violence committed within a specific time-period, into the private sphere, and to open up concepts of 'peace' and 'conflict'.

The post-conflict period represents an opportunity to reflect on and renegotiate value systems that may have protected community members in the past but fall short in an increasingly urbanised market economy. For example, customary laws allowing husbands to beat their wives so long as it is 'reasonable' may have been countered in the past by strong peer pressure in a small community and

the ability of chiefs to impose punishments. In an increasingly urbanised society that community protection has been dramatically reduced. Similarly, systems of inheritance which transferred property to male relatives may have protected women in an environment where it was accepted practice for a wife to marry her deceased husband's relatives, but given the development of increasingly nuclear families, it now commonly leaves women and children destitute. Indeed, many gender activists have seized this opportunity to enhance justice for ordinary violence, working to support the formal legal system as well as feed into community level dispute resolution mechanisms in order to shift the boundaries of accepted practice. Across the country, CSOs and NGOs have sought to take advantage of the potentially fluid nature of customary law, using various forms of public education sessions, and feeding into individual cases, to exert pressure on community leaders discriminating against women, and to bring out the positive protections offered by customary law.<sup>3</sup>

In prosecuting cases of sexual violence and forced marriage, which had hitherto often been dismissed domestically as private family matters, the Special Court has been well-placed to contribute to these path-breaking discussions. Yet the Court has struggled to feed into public debates about gender justice and gender-based violence taking place in what is currently a vibrant women's movement. Indeed it has attracted increasing criticism for being 'high profile' and 'out of touch with common people' (Interviews with staff at Graceland Counselling 2007). One concern may be that until the development of legacy programmes in 2008, the Outreach Section was the main unit connecting the Court to the rest of the country. The Outreach Section has held over 7000 sessions with community members in diverse settings, including sessions specifically targeting women and girls (Special Court Outreach Section 2007), and has gained an excellent reputation for engaging the public when compared with the other international tribunals.<sup>4</sup> However, the discussions are often general in focus, 'sensitising' the

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3 For further discussion of such work see the website of Timap for Justice, a community-based paralegal programme with offices across the country, at <[www.timapforjustice.org](http://www.timapforjustice.org)>.

4 See however, a more critical appraisal of the Outreach section's work in Kerr and Lincoln 2008.

public about the Court. Women activists in Freetown regularly receive invitations to attend such programmes, but rarely go, saying they cannot see the practical application of the Court's work (Interviews with women activists 2007).

In theory, gender activists and the Special Court should share similar goals in promoting access to justice for gender-based violence. A critical challenge facing both is that the attitudes which allowed gender-based violence to be committed with impunity during the conflict are still prevalent today. As identified earlier, there is still a widespread belief that women and girls are in some ways responsible for being raped. For example, in June 2007 the Minister responsible for Gender pledged to introduce a law prohibiting women from wearing certain 'provocative' clothing as a means of reducing the number of incidents of rape (Sierra Leone Parliament 2007). Indeed, there are still widespread reports of mothers beating their pre-teenager daughters for having sex with adult men (Interview with the mother of a survivor of sexual violence 2008), and young girls are often forced to marry their rapists to escape stigma (Interviews with staff at the International Rescue Committee 2008). Rape of a non-virgin woman is considered by many a contradiction in terms (Interviews with traditional leaders 2008) and a 2007 survey showed that 63.3 percent of women thought that a husband is justified in beating them if a woman refuses sex (Statistics Sierra Leone and UNICEF-Sierra Leone 2007:T67). These attitudes to marital rape cause women who were victims of sexual violence during the war to relive their suffering in the most intimate of settings on a daily basis, continually reopening old wounds (Interviews with female victims 2007).

Another shared challenge stems from the weak enforcement of laws against sexual violence, despite the example set by the Special Court. This in part stems from the fact that procedures in sexual violence prosecutions have not changed, with victims still intimidated in open court (Interviews with officers with the Family Support Unit of the Sierra Leone Police 2008). Cases rarely reach judgment – indeed there were no convictions for any form of sexual violence in Freetown in 2007. When convictions are found, only light sentences are given,<sup>5</sup>

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5 The average sentence for all offences involving clients going to the International Rescue Committee's Rainbo Centres in 2007 was four years, ranging between six months to sixteen years (Rainbo Centre statistics 2008).

and girls sometimes find themselves castigated in judgments.<sup>6</sup> The juxtaposition between how cases are handled before the national versus international courts was highlighted in an incident involving an eleven year old girl who was dragged into a tailor's stall within a few metres of the Special Court main gate and raped in March 2008. Despite attempts by the family to have the offender prosecuted, the local Family Support Unit of the Sierra Leone police failed to investigate properly and the case never made it to court (Presentation by a civil society representative at the launch of Sixteen days of Activism on Violence against Women 2008). It is perhaps because of stark disparities such as this, that activists, who are encountering impunity on a daily basis, find it is difficult to see the Court as relevant or providing justice for women.

Since the Court has not worked closely with domestic partners, domestic legal developments on gender-based violence in the post-conflict era – such as the new Domestic Violence Act 2007 which made marital rape an offence, and the Child Rights Act 2007, which criminalised forced marriage – cannot be linked in any direct sense to the Court. Indeed, the historic development in international jurisprudence by the Court which deemed forced marriage a crime against humanity was made just weeks after the practice was outlawed domestically. More equal and action-oriented interaction with other professionals in the domestic system from the start may have helped identify how the Court and activists could have been more mutually supportive. The Court has now hired staff members to work on the Court's legacy, but this should have been done from the start, and legacy activities should also have been mainstreamed and prioritised far sooner. There is still scope for engagement however, for example in using the Court's outreach network to educate the public about the new laws protecting women.

Accordingly, while the Special Court has set some good precedents on gender justice internationally, and was successful in supporting victims of sexual violence who testified before the Court, there are a number of areas in which

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6 In one case in November 2006, involving a gang rape of a school girl causing severe injuries, the Judge reportedly gave the defendant a one year sentence on the basis that the victim was 'a wayward girl, I stress, a wayward girl' (Interview with the Chairperson of the Human Rights Commission, Jamesina King, January 2007).

things should have been done differently to provide a sense of tangible, locally felt justice. These include finding ways to prosecute more people, providing some form of reparation for victims, seeking out imaginative solutions to make women at community level feel more involved, and finding more concrete ways to feed into domestic campaigns addressing gender-based violence so that domestic mechanisms are capacitated to prosecute gender-based crimes.

## **The Truth and Reconciliation Commission**

The Truth and Reconciliation Commission was provided for in the Lomé Peace Agreement of 1999 and was later established by the TRC Act of 2000. The TRC gathered statements and undertook hearings from December 2002 to September 2003, completing its report in October 2004. It sought to bring about different types of justice from the Court, in some ways supplementing prosecutions, and was more victim-focused and forward-looking than the Court. The Commission's intention was to provide an impartial historical record, address impunity, respond to the needs of victims, promote healing and reconciliation, and prevent repetition (Sierra Leone TRC Act 2000).

### **Efforts made to address gender-based violence and incorporate women's experiences**

From the outset, the TRC also prioritised addressing violations committed against women and girls and its mandate required that special attention be given to their particular types of suffering (Sierra Leone TRC Act 2000:6,2,b). A series of measures was adopted to try to capture women's full experience of the conflict and to minimise any retraumatisation caused by testifying. The Commission included the option of closed sessions for testimony on sexual violence, organised themed hearings on women, counselling, and the use of female statement-takers in all districts. The final report contained a special chapter focusing on women and girls, while their experience was also mainstreamed throughout. The recommendations focusing on women and girls go beyond the confines of the conflict to address some of the causal factors of the violence, the background conditions enabling and exacerbating violations. Indeed, the report is generally viewed as providing an impartial historical record and a

comprehensive framework on what needs to be done to improve the conditions of women today (Interviews with the Director of Gender, Fatu Kargbo, and the Deputy Minister of Social Welfare, Gender and Children's Affairs, Memunatu Koroma, 2007). While some activists claim the report says nothing new, and that in fact they themselves were using the opportunity presented by the TRC as a platform to express pre-existing frustrations (Interview with UNIFEM Programme Officer, Jebbe Forster, 2007), the fact that women were able to use the process to validate some of their grievances is generally seen as a positive development.

### **The impact of the report since publication**

Since the report was published in 2004, however, the Government of Sierra Leone has not abided by its legal obligation to implement the recommendations (Sierra Leone TRC Act 2000). There was little structural follow-through to ensure the recommendations were carried out, in part because of lack of funding to put an independent monitoring institution in place (Interview with former TRC staff member 2007). Attempts by civil society to lobby for a 'TRC Omnibus Bill' have so far been unsuccessful, not least because of a change in political priorities. President Koroma, elected in 2007, promised in his first major speech as President to establish a follow-up committee to ensure implementation of the TRC recommendations (Speech by President Ernest Koroma 2007), yet by January 2009 no such body has materialised.

Moreover, distribution of the 1 830-page document has been limited. Key professional staff at the Ministry of Social Welfare, Gender and Children's Affairs, the Ministry responsible for implementing many of the recommendations on women, report having no access to copies of the report (Interviews with the Director of Gender and the Deputy Minister of Social Welfare, Gender and Children's Affairs 2007).<sup>7</sup> Reading is not generally considered a priority in Sierra Leone, and easily accessible guides to the sections on women have not

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7 Several copies were given to the Ministry at the time of publication, and the fact that these copies are not available is not least because of poor communication within the Ministry (Interviews with the Director of Gender and the Deputy Minister of Social Welfare, Gender and Children's Affairs 2007).

been developed. Despite the production of a video version of the report by the NGO Witness, knowledge of the recommendations remains very limited, even among policy-makers and lobbyists. The Deputy Minister for Gender commented that the report may be useful in recording women's history for future generations, but that it is not being used to inform the present to develop policy (Interview with the Deputy Minister of Social Welfare, Gender and Children's Affairs 2007). As one activist noted, 'these documents are just piled up in our cupboards – people are not acting on them' (Interviews with the Director of Graceland Counselling 2007). Some in Government argue that the TRC (or 'the international community' in general), having made its report, should be responsible for implementing its recommendations (Interviews with the Director of Gender and the Deputy Minister of Social Welfare, Gender and Children's Affairs 2007) – which was never the Commission's intention. With this in mind, people criticise the TRC for having been 'little more than a research mission' (Interview with the Director of SLANGO 2007).

Despite these obstacles, some of the recommendations on women are being implemented. The main achievement is the passage in June 2007 of three 'Gender Bills', the Domestic Violence Act, the Devolution of Estates Act and the Registration of Customary Marriage and Divorce Act. These Acts have assisted in bringing justice for women by, for example, enabling women, in theory, to inherit from their husbands and own property in their own right in customary marriages, such that widows or women who are left by their husbands can support themselves independently of male relatives. The new Acts also represent progress in implementation of the TRC recommendations requiring the enactment of specific legislation to address domestic violence, and the repeal of statutory and customary laws discriminating against women. Yet the fact that the TRC recommended these changes was not a strategy made by women lobbying for the laws and their passage is not generally linked back to the TRC.

### **Impact of testifying**

In addition to the impact of the TRC hearings at the national level, many women hoped some catharsis would come from acting as witnesses. However, while some reported feeling an initial relief at testifying, many women returned to

## Addressing gender-based violence in the Sierra Leone conflict

the difficult realities of their new lives, and are still living with sleepless nights, nightmares, flashbacks, and stress-related pains across their bodies (Interviews with female victims 2007). Priscilla Hayner suggests that truth commissions should not be seen as a vehicle for psychological healing (Hayner 2001:139) and that despite the initial relief felt by some, witnesses may feel much worse later, 'especially if they had high hopes that their cases would be investigated and come to realize they might hear nothing more from the commission' (Hayner 2001:139).

Moreover, the TRC provided little follow-up support for those who testified before it (Interview with staff at Centre for Victims of Torture 2007, and with former TRC staff member 2007). Indeed, one former counsellor with the TRC reported feeling guilty that she persuaded people to discuss such difficult personal events, promising support. But she has been unable to deliver and feels that she has let them down (Interview with former TRC staff member 2007). Disappointment is frequently expressed that little came out of the process for the victims. 'Once you have truth, then what do you do with it?' one survivor complained (Focus Group Discussion with female victims 2007).

While TRC staff made efforts to prevent expectations of compensation for testifying, some women were reportedly promised that funding would only be received if people in the wider world knew what their experience had been, leading them to hope (Focus Group Discussion with female victims 2007). One counsellor cited an example of a woman who spoke about witnessing her living son's heart being cut out. Testifying had been a traumatic experience for her, and the counsellor described her subsequent desperation to come to Freetown, but there was no support available to her, and she had subsequently gone delirious with no one to help her (Focus Group Discussion with female victims 2007). The counsellor felt that testifying had 'opened up her healing wounds and failed to close them.' (Focus Group Discussion with female victims 2007).

The Commissioners anticipated this, observing that 'truth-telling without reparation could conceivably be perceived by the victims as an incomplete process in which they have revealed their pain and suffering without any mechanism being put in place to deal with the consequences of that pain' (Sierra

Leone Truth and Reconciliation Commission 2004:3,33). However, they had no mandate or resources to implement such a mechanism. Material compensation is a particularly important form of justice for female victims whose injuries have deprived them of male relatives in a country where women's access to resources and status is highly dependent on men. Material need acts as a constant reminder of their suffering (Focus Group Discussion with female victims 2007). Indeed those with families to help them report having fewer worries and being happier, and not in need of reparations (Focus Group Discussion with female victims 2007). A government reparations programme was formally launched on 30 January 2009 within the National Commission for Social Action (NaCSA), funded by the United Nations Peacebuilding Fund, and considerable efforts have gone into researching how such a programme can best cater for female victims.<sup>8</sup> It remains to be seen how this programme will be implemented and received.

Some gender activists suggest the TRC could have had a more cathartic impact independently of reparations if it had been more locally focused. Although hearings were held in all of the country's twelve districts and the Western area, they were only held in main towns, for five days each. Some women suggest they could have been more therapeutic if there had been a more continuous presence. Disappointment has also been expressed that hearings focused on national-level goals rather than local-level reconciliation, which, it is argued, would have been of more interest to most women at community level (Interview with the Director of SLANGO 2007). Indeed, 88 percent of victims said they would be willing to meet with perpetrators if it were facilitated by the TRC (Sierra Leone Truth and Reconciliation Commission 2004). Moreover, many say they would like to have seen more use of traditional systems such as purification ceremonies, as a means of restoring individual dignity and community harmony. The TRC made efforts to integrate traditional approaches and to be more locally focused but was constrained by logistical and funding problems and time pressures. Other opportunities for reconciliation of gender-based crimes through traditional dispute resolution have not presented themselves, and women activists have

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<sup>8</sup> See for example King 2006; Redress 2007; and Amnesty International 2007. The International Centre for Transitional Justice has also provided technical support to NaCSA in designing the programme.

described this as a lost opportunity (Interviews with women activists 2007; Alie 2008:143).<sup>9</sup>

### Conclusion

While many Sierra Leonean women feel that both the Special Court and the TRC were positive processes, expectations were high and there is consensus that both institutions could have made greater headway in bringing justice for gender-based violence. The Special Court will complete trials for only nine people and the practical impact of its convictions on victims is questionable, not least because of difficulties over the concept of command responsibility for very intimate crimes such as sexual violence. There are also concerns that those who are convicted will not be effectively punished. While outside the Court's core mandate, the TRC has struggled so far to play a role in developing the domestic justice sector or to engage in public debates about gender-based violence and gender justice. Despite considerable efforts now to develop its legacy, its reputation for operating in isolation remains. While the TRC was more focused on problems of ongoing concern to the population, providing a road map for the future based on an impartial record of the past, there is no adequate structure to ensure implementation, and progress that is being made towards preventing repetition is not being driven by or linked to the recommendations. Moreover, the process itself did not make significant headway into promoting healing and reconciliation, or addressing impunity for gender-based violence committed during the conflict.

A prevailing concern among women in Sierra Leone is that justice should have been focused at a more local, individual level, not least because other avenues have not presented themselves to address injustices at this level. More significant steps could have been taken to research what types of justice would have the greatest impact and to prioritise that type of justice when it came to

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9 The NGO Fambul Tok has recently been doing work with communities using traditional methods to address impunity at community level, but very few women have come forward to discuss sexual violence committed against them, and the issue has so far mostly not been addressed (Interview with a staff member of Fambul Tok 2009).

allocating resources. The Special Court could still make progress on this. As it is, there are some who argue somewhat pessimistically that the presence of the two institutions has created a barrier to recovery from the conflict by raising expectations of justice and failing to provide either compensation for victims or punishment for perpetrators. In important ways, the final evaluation of both institutions, from the perspective of women in Sierra Leone, may be dependent on the performance of other initiatives such as the recently established victims' fund and programmes focusing on justice sector development. As such the level of gender justice achieved has yet to be seen and the final impact of Sierra Leone's transitional justice processes may not be clear for years to come.

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## **Lotta Teale**

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