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Post-Conflict Transition and Development in Sierra Leone:

A case for the transformative-justice model

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This research dissertation presented for the approval of the Senate in fulfilment of part of the requirements for the qualification of a MPhil in Social Justice in approved courses and a minor research dissertation. The other part of the requirements for this qualification was the completion of a programme of courses.

I hereby declare that I have read and understood the regulations governing the submission of a MPhil in Social Justice dissertation thesis, including those relating to length and plagiarism, as contained in the rules of this University, and that this dissertation thesis conforms to those regulations.

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Abstract

The focus of this mini-dissertation is the Sierra Leone post-conflict transitional and development process. The civil war in Sierra Leone lasted some eight years before finally ending with the signing of the *Lòme Peace Accord* on 7 July 1999. This Accord outlined the post-conflict transitional instruments to be employed in Sierra Leone, namely an investigative truth commission and a legal tribunal referred to as the Special Court. After the completion of the mandates of these two instruments, many developmental gaps still existed in post-conflict Sierra Leonean society. This particularly applied to women who continued to suffer from widespread inequalities and discrimination. This thesis suggests that a model of transformative justice, which advocates an integrated approach to post-conflict transitions and the development process in general, would better have served the needs of women in Sierra Leone. This model adds to the customary transitional-justice instruments of truth commissions and judicial processes a third dimension, one which looks to addressing the underlying everyday violence and structural inequalities which invariably prevail in societies which have undergone periods of extreme violence and social disruption. By analysing these underlying factors, this thesis suggests that a better understanding of the needs of the victims emerges, paving the way for programmes which will promote more holistic approach to post-conflict development. In order to make this argument, this thesis sets out to i) outline the nature of the 1990s conflict in Sierra Leone and how its vicious nature affected women; ii) examine the transitional-justice mechanisms used in Sierra Leone and their deficiencies in regard to the tens of thousands of women victims of the 1990s conflicts; and finally iii) illustrate why a transformative-justice model would have better met the needs of women and promoted their development.

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* Please note the footnoting method used in this paper is the method specified by the University of Cape Town Law School. Refer to <http://www.lib.uct.ac.za/law/Info/writingguideforlawstudents.pdf> for more information on the format.

Acronym Page

AFRC- Armed Forces Revolutionary Council

APC- All People's Congress

CDF- Civil Defence Force

CEDAW- Committee against the Elimination of Discrimination Against Women

DPDC- Demobilisations, Disarmament and Reintegration

ECOMOG- Economic Community of West African States

GDP- Gross Domestic Product

HDI- Human Development Index

ICTR- International Criminal Tribunal for Rwanda

ICTY- International Criminal Tribunal for Yugoslavia

IDP- Internally Displaced People

IMF- International Monetary Fund

NaCSA- National Committee for Social Action

NGO- Non-Governmental Organisation

NPRC- National Provincial Ruling Council

OHCHR- Office of the High Commissioner for Human Rights

PBC- Peace Building Committee

PBF- Peace Building Fund

RENAMO- The Mozambican National Resistance

RUF- Revolutionary United Front

SLANGO- Sierra Leone Association of Non-Governmental Organisations

SATRC- South African Truth and Reconciliation Commission

SLSC- The Sierra Leone Special Court

SLTRC- The Sierra Leone Truth and Reconciliation Commission

SLPP- Sierra Leone People's Party

UN- The United Nations

UNDP- United Nations Development Program

UNIFEM- United National International Development Fund for Women

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Introduction

This masters thesis focuses on Sierra Leone's post-conflict development process, which involved the use of both a truth commission - the Sierra Leone Truth and Reconciliation Commission (SLTRC) - and a war-crimes type legal process in the form of the Sierra Leone Special Court (SLSC). Sierra Leone experienced a decade of civil war, starting in 1991 and ending with the *Lomé Peace Accord* in 1999,¹ although some hostilities continued for another two years. Women were one strata of Sierra Leonean society which experienced extreme maltreatment during this decade of conflict, involving killings and abductions, as well as various forms of sexual violence, including forced marriage, rape and gang rape, and sexual slavery.² As a consequence, the transitional-justice mechanisms employed in Sierra Leone aimed to address the specific needs of women.³ The focus of this thesis is to outline and analyse the transitional-justice mechanisms used in the post-conflict transition process in Sierra Leone, and assess their impact on the position of women. This thesis argues that the major fault of the two transitional-justice institutions used in Sierra Leone was the neglect of social justice issues, specifically structural and everyday violence experienced by women in the country. As an alternative, this paper suggests that the utilisation of a transformative-justice model would be a more useful route towards social justice in post-conflict situations such as Sierra Leone.

Transitional justice

Countries in transition face difficult choices when deciding how to deal with their pasts of violence and conflict in a way to increase their chances of a better future. The transition may be from an armed conflict (Rwanda, Burundi, Sierra Leone, Mozambique, among others), from dictatorship to democracy (Chile and Argentina), or a combination of both such as in the case of South Africa.⁴ Transitional justice seeks to provide a

¹ Peter Pham *The Sierra Leonean Tragedy: History and Global Dimensions* (2006) at 153 and 154.

² Binaifer Nowrojee 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims' (2005) *18 Harvard Human Rights Journal* 85 86 at 89.

³ William Schabas 'The Sierra Leone TRC' in Naomi Roht Arriaza and Javier Mariezcurrena (eds.) *Transitional Justice in the Twenty-First Century* (2009) 10 at 22.

⁴ Kingsley Chiedu Moghalu 'Prosecute or Pardon: Between Truth Commissions and War Crimes Trials' in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) 69 at 75.

framework for democratic transitions. It aims to restore or create the conditions for peace and stability through a process in which factors such as truth, accountability and reconciliation are central.⁵ Transitional justice is relevant to a time and process of change, after a key transformative event such as a peace accord, a power-sharing deal, or elections.⁶ This period usually follows an era of violence and mass human rights violations, whether because of a dictatorship, an apartheid-type system, genocide, or civil war, which leaves the society divided, with many victims of the abuses still suffering.⁷ This process requires a comprehensive set of strategies that must deal with the events of the past but also look to the future in order to prevent a recurrence of conflict and abuse.⁸ These strategies need to include elements of truth and justice.⁹ Transitional justice is different from criminal or social justice. It looks at the way in which societies address legacies of past criminal regimes which committed mass violations of human rights, including genocide or civil war, in order to build more democratic, just and peaceful futures.¹⁰

Within the field of transitional justice there is a choice of instruments countries can choose to employ. These instruments can be a combination of complementary judicial and non-judicial strategies, involving revealing the truth about past crimes, providing victims with recognition and reparations, reforming abusive institutions and promoting reconciliation, and in some instances prosecuting perpetrators.¹¹ The instruments selected are often a reflection of the outcome of the controversial debate around issues of truth versus justice, one which measures the value of prosecutions versus truth commissions.¹²

⁵Robert Rotberg 'Truth Commissions and the Provision of Truth, Justice and Reconciliation' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) 3 at 3.

⁶ Rotberg (note 5) at 3.

⁷ Kingsley Chiedu Moghalu (note 4) at 75.

⁸ Rajeev Bhargava 'Restoring Decency to Barbaric Societies' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) 45 at 51.

⁹ Louis Bickford 'Transitional Justice' in Dinah L. Shelton (ed) *Encyclopaedia of Genocide and Crimes against Humanity* (2005) 1045 at 1047.

¹⁰ Bickford (note 9) at 1045.

¹¹ Rotberg (note 5) at 3.

¹² The "truth vs. justice" debate is controversial, and is often invoked during peace talks, treaty negotiations, or conferences when key players are deciding whether a truth commission, a hybrid court, or an international court is the best option for a country. Key factors to consider include whether or not prosecutions will threaten a new peace, whether or not amnesties can be considered justice, and the need

The modern concept of transitional justice can be traced back to the International Military Tribunal at Nuremberg¹³ after World War II, when top Nazi officials were prosecuted and “de-nazification” programs were introduced.¹⁴ At that time, there was a view, in the United States in particular, that criminal justice was the best method to deal with perpetrators of the past. However, some analysts after the Nuremberg trial criticised it as a travesty of justice, a case of victor’s justice involving the selective prosecutions of individuals for acts equally attributed to the participating governments – losers and victors.¹⁵

As a result of the critique of Nuremberg and the changing nature of the international arena, a new accountability debate emerged, one which placed more emphasis on truth rather than justice, and with this came the rise of truth commissions. Truth commissions are bodies set up to investigate a past history of violations of human rights in a particular country, which can include violations by the military or by both other government and opposition forces.¹⁶ Truth commissions are often tasked with coming up with an ‘official truth’ of what happened during the conflict. This ‘official truth’ can help inoculate future generations against revisionism and empower citizens to recognise and resist a return to abusive practices.¹⁷ An early example of this form of truth commission was Argentina’s

for reconciliation. This debate is not a focus of this thesis and therefore will not be covered any further. However, for more information on the “peace versus justice” debate see Martha Minow’s *Between Vengeance and Forgiveness* (1998), Desmond Tutu’s *No Future Without Forgiveness* (1999), Helena Cobban’s article ‘Think Again: International Courts’ in the March 2006 issue of *Foreign Policy*, Mariam Aukerman ‘Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice’ (2002) *15 Harvard Human Rights Journal* at 39 – 53; Rajeev Bhargava ‘The Moral Justification of Truth Commissions’ in Charles Villa-Vicencio and Wilhelm Verwoerd (eds.) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000) at 60-68, Ruti Teitel ‘Criminal Justice’ in *Transitional Justice* (2000) at 51 – 52.

¹³ This option comprised of prosecution-based court trials used after WWII for trying prominent members of the political, military and economic leadership of Nazi Germany. The Nuremberg trials were held in Nuremberg, Germany from 1945 to 1946. These trials were conducted by members of the Allied forces.

¹⁴ Ruti Teitel ‘Criminal Justice’ in *Transitional Justice* (2000) 27 at 31.

¹⁵ Martha Minow ‘Trials’ in *Between Vengeance and Forgiveness* (1998) 25 at 27.

¹⁶ Priscilla Hayner ‘Fifteen Truth Commission- 1974-1993: A Comparative Study’ in Neil Kritz (ed.) *Transitional Justice: How Emerging Democracies Reckon with Former Regime, Volume 1* (1995) 200 at 225; Elizabeth Kiss ‘Moral Ambition Within and Beyond Political Constraints’ Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) 68 at 71.

¹⁷ Paul Van Zyl ‘Chapter 10: Promoting Transitional Justice in Post-Conflict Societies’ in A Bryden and H Hanggi (eds.) *Security Governance in Post-Conflict Peacebuilding* (2005) 200 at 212.

National Commission on the Disappeared¹⁸ which was created by President Raúl Alfonsín in 1983 to investigate disappearances over a seven-year period from 1976 onwards. Alfonsín appointed ten commissioners who ‘enjoyed national and international prestige, chosen for their consistent stance in the defence of human rights and their representation of different walks of life’¹⁹. The Commission took testimonies from people in Argentina and abroad, completed inspections of detention centres, clandestine cemeteries, and police facilities and uncovered 365 torture centres used in Argentina. The outcome was a comprehensive report, *Nunca Más (Never Again)*, which is still considered a valuable historical source in the country.²⁰

A second role of truth commissions can be that of providing recommendations regarding legal, administrative and institutional measures that should be taken to prevent the recurrence of human rights abuse by the governments of the countries involved.²¹ These could include governments adopting vetting programs, which seek to ensure that persons responsible for human rights abuse are either removed from public service or prevented from being employed in government institutions.²² In addition, truth commissions can make recommendations on what reparations a government should provide to victims.²³ Under international law, states bear an obligation to provide reparations to victims of gross violations of human rights.²⁴ These reparations can take many forms including material assistance (for example, compensation payments, pensions, bursaries and

¹⁸ The Commission held no public hearings but did maintain a public profile. The Commission staff carried out investigations; exiles returned from abroad and gave testimonies; and statements were taken in embassies of Argentina around the world. The Commission worked closely with the families of the disappeared. The Commission took 7000 statements over nine months, documenting the cases of 8,960 individuals who had disappeared. The Commission’s primary investigations focused on identifying detention and torture camps, often visiting former camps with survivors to assist in confirming their locations. A list of 365 former torture centres was included in the final report. After nine months, the Commission submitted its full report, *Nunca Más (Never Again)*, to the President. This was one of the first truth commissions used as a tool to uncover issues of the past and help people move forward.

¹⁹ Argentina National Commission on Disappeared, *Nunca Más: The Report of the Argentina National Commission on Disappeared* (October 1986) 1 at 428.

²⁰ Priscilla Hayner (note 16) at 25.

²¹ David Crocker ‘Truth Commissions, Transitional Justice and Civil Society’ in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) 99 at 107.

²² Van Zyl (note 17) at 213.

²³ Crocker (note 21) at 106.

²⁴ Ruti Tietel ‘Reparatory Justice’ in *Transitional Justice* (2000) 119 at 119.

scholarships), psychological assistance (for example, trauma counselling), and symbolic measures (for example, monuments, memorials and national days of remembrance).²⁵

Chile in the 1990s was the first truth commission to develop an on-going reparations' system. In 1991, President Patricio Aylwin established the National Commission on Truth and Reconciliation to deal with some of the abuses of the Pinochet regime.²⁶ It was mandated to investigate 'disappearances after arrest, execution, and torture leading to death committed by government agents or people in their service, as well as kidnappings and attempts on the life of persons carried out by private citizens for political reasons'²⁷. However, what is memorable about this Commission is the impact the Commission had in promoting a significant reparations programme for the families of those killed. After the Commission itself had completed its work, the National Corporation for Reparations and Reconciliation was set up to continue the search for the remains of the disappeared, to resolve cases still left open, and to organise the Commission's files so that they could be made available to the public.

A third role or function of truth commissions is to seek to promote reconciliation in the post-conflict society.²⁸ The notion of reconciliation developed out of the shortcomings of those commissions which sought only to deal with issues of truth. For example, in the cases of Argentina and Chile, these commissions were seen to be only one step beyond that of traditional commissions of inquiry. They took testimony behind closed doors and moved little beyond the facts related to specific incidents - in particular disappearances, torture, and death - saying little about the historic context, causes or consequences. The limited nature of these commissions was a result of both the un-chartered nature of their efforts as well as the bargains that the politicians were forced to strike with the outgoing

²⁵ Wendy Orr 'Reparation delayed is healing retarded' in Charles Villa-Vicencio and Wilhelm Verwoerd (eds.) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000) 239 at 239.

²⁶ Hayner (note 16) at 36.

²⁷ Decree Establishing the National Commission on Truth and Reconciliation, Supreme Decree no 355, Chile, 25 April 1990, reprinted in Neil Kritz, *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, volume 3* (1995, United States Institute for Peace, Washington DC) 100 at 103.

²⁸ Charles Villa-Vicencio 'Getting on with life: a move towards reconciliation' Charles Villa-Vicencio and Wilhelm Verwoerd (eds) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000, Zed Books, London) 199 at 200.

regimes.²⁹ In particular, they were forced into a situation where they had to condone blanket amnesties for many of the outgoing military leaders.

Reconciliation, however, is vital to building a peaceful and stable society. Societies that emerge from periods of mass atrocity and widespread conflict are often full of deep suspicions, grievances and animosities. These divisions almost always endure after the period of conflict and create the potential for a return to violence and a recurrence of human rights abuse.³⁰ This is particularly true where conflicts had an identity dimension in which categories such as religion, language, race or ethnicity were used to sow division and justify human rights abuse.³¹ The South African Truth and Reconciliation Commission (SATRC) was the first commission to attempt to rectify the balance between truth and reconciliation. The SATRC added some unique features to the transitional-justice process by drawing on the past experiences in Latin America and elsewhere by adding the new element of a conditional or earned-amnesty process. The Amnesty Committee, one of the three committees set up by the SATRC³², was the most unique feature of the new model, and introduced the notion of conditional amnesty into the transitional-justice process. It was established to adjudicate and facilitate the granting of amnesty to persons who, in its opinion, fulfilled the criteria laid down in the Promotion of National Unity and Reconciliation Act 34, 1995, which set up the TRC. These criteria were that individuals must themselves apply for amnesty for acts which they had committed; group applications were not permitted. In their applications, individuals had to make full disclosures about their role in the act for which amnesty was being applied. They also had to demonstrate that their action was politically motivated, meaning it had to be associated with the objectives of a recognised political party or organisation or liberation movement of which they were members or supporters. If the applicants were

²⁹ Robert Rotberg 'Truth Commission and the Provision of Truth, Justice and Reconciliation' in Robert Rotberg and Dennis Thompson (eds.) *Truth v. Justice: the Morality of Truth Commissions* (2000).

³⁰ Rajeev Bhargava (note 8) at 60.

³¹ Elizabeth Kiss 'Moral Ambition Within and Beyond Political Constraints' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) 68 at 79.

³² The SATRC had three main aims; namely promoting reconciliation, uncovering the truth about the past and establishing some form of accountability and amnesty for past abuses. In order to fully achieve these goals, the TRC set up three committees with mandates to pursue these aims. They were the Human Rights Violations, Reparations and Rehabilitation, and Amnesty Committees.

members of the security forces, they had to show that they had received orders from a legitimate superior officer to commit the action for which amnesty was being sought. Finally, even if these criteria were met, applicants could be denied amnesty if the committee felt that the act was disproportionate to the objective pursued.³³

However, despite the many successes of the South African process, in the last decade there has been a widespread swing against amnesties in the international human rights' community. This has involved a move back towards retributive justice in the form of trials, such as the United Nations (UN) - run International Criminal Tribunal for the former Yugoslavia (ICTY) prosecuting perpetrators from the Balkan wars in the 1990s, and the International Criminal Tribunal for Rwanda (ICTR) prosecuting perpetrators from the Rwandan genocide in 1994.³⁴ A reason for this movement in favour of trials may be because they are now seen by some as a better way to enhance the rule of law in a post-conflict situation. Its advocates believe these processes shows a commitment to redress the harms of the past, establishes a formal system which provides a warning to perpetrators that law breaking will not be tolerated, and it provides a sense of justice for victims, which is often seen as lacking from truth commissions.³⁵

Sierra Leone sought to get round the dilemma of truth versus justice by having both a Truth and Reconciliation Commission and a Special Court operating concurrently. Both institutions had individual mandates but sought to complement each other in the post-conflict development process. This was, at the time, a unique approach by the international community.³⁶ At the time, these two co-existing mechanisms were seen to provide a 'best-practices' model for international justice, combining both retributive and restorative justice in one process. They also aimed to vocalise or highlight the fact of

³³ The Promotion of National Unity and Reconciliation Act No 34 of 1995: Sec 4 (20)(1)(a)-(c).

³⁴ Louis Bickford (note 9) at 1046.

More information on the SATRC's amnesty process can be found in Jeremy Sarkin, *Carrots and Sticks: The TRC and the South African Amnesty Process* (2004); Robert Rotberg and Dennis Thompson (eds) *Truth versus Justice* (2000); Charles Villa-Vicencio 'Getting on with life: a move towards reconciliation' in Charles Villa-Vicencio and Wilhelm Verwoerd (eds) *Looking Back, Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000).

³⁵ Ruti Teitel (note 14) at 28 and 29; Minow (note 15) 235 at 237.

³⁶ Binaifer Nowrojee (note 2) at 85.

sexual violence in Sierra Leone, rather than treat it as a silent and invisible crime, as had been the case in a number of conflicts and mass atrocities elsewhere.³⁷ It was thought that the inclusion of gender issues in the post-conflict and development world of international justice would help to condemn these horrors and hold perpetrators accountable for their past brutality.³⁸ These two institutions offered a vital opportunity to examine and fully record crimes of sexual violence inflicted upon women, and provided an opportunity to address the gender inequality present in Sierra Leonean law and in the society as a whole.³⁹

Nevertheless, despite this inclusion of a focus on gender by both instruments, the transitional-justice model as a whole paid insufficient attention to the notion or concept of social justice, particularly in regard to the often routine structural violence which afflict societies and which particularly impact upon women. As a result of this neglect, the process - despite the successes it did have - did not facilitate the ability of women to move forward developmentally in the post-conflict period. There was, what John Paul Lederach terms, a 'justice gap' in the peacebuilding process, meaning that the international community did 'not adequately develop a peace-building framework that reduces direct violence and produces social and economic justice'.⁴⁰

However, this is not unique to Sierra Leone. Conceptually, there are gaps in the transitional-justice model as a whole. Some of these gaps have been referred to by such authors as Pablo De Greiff⁴¹, John Lederach⁴², Rama Mani⁴³ and Roger Duthie⁴⁴. They argue that in a post-conflict situation, one needs to look at the underlying social

³⁷ Kingsley Chiedu Moghalu (note 4) at 92.

³⁸ Binaifer Noworjee (note 2) at 86.

³⁹ Ibid at 88.

⁴⁰ John Paul Lederach 'The Challenge of the 21st Century: Just Peace' in *People Building Peace: 35 Inspiring Stories from Around the World* (1999) 1 at 32.

⁴¹ Pablo De Greiff 'Articulating the Links Between Transitional Justice and Development: Justice and Social Integration' in (eds.) Pablo De Greiff and Roger Duthie *Transitional Justice and Development: Making Connections* (2009).

⁴² John Lederach *Building Peace: Sustainable Reconciliation in Divided Societies* (1997).

⁴³ Rama Mani *Beyond Retribution: seeking justice in the shadows of war* (2002).

⁴⁴ Roger Duthie 'Toward a Development-Sensitive Approach to Transitional Justice' (2008) 2 *The International Journal of Transitional Justice* 292 at 305. Duthie, Roger 'Introduction' in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009).

inequalities and dynamics of a society.⁴⁵ By looking at the structural dimensions of the society, one can then highlight the underlying causes of conflict and what has legitimized these causes over time. If one is able to identify these elements in the society, then one could transform them so as to eliminate the potential for future violence. In addition, by addressing the structural oppression of people, one would be able to better make recommendations to ensure a more egalitarian society which promotes social justice.⁴⁶

Social justice

The concept of social justice seeks to create a society in which people are able to develop and live the life they aspire towards; a society where the needs of the people are met. In a post-conflict situation, some of these needs may include peace and security, stability and the ability to develop and aspire towards a better life. According to Amartya Sen, to achieve real human development in a post-conflict situation one needs to look beyond the traditional measures of development, such as gross domestic product, rise in income and industrialisation, to a process which sees development in terms of social and economic development - education and health care facilities, the liberty to participate in public discussion and scrutiny.⁴⁷ In order to achieve these goals, societies need to do two things: one, abolish and remove the structures and institutions which foster violence and inequality, and two, provide people with the capabilities to fulfil the life they aspire towards.

Johan Galtung focuses on two forms or types of violence which need to be addressed in a post-conflict situation. They are firstly, everyday violence including gang violence, violence associated with drug trafficking or other forms of criminal behaviour, violence against particular groups in society (based on gender, sexuality, race and ethnicity, religion, health or family or some combination) both in the public and private spheres, violent clashes over access to resources, and domestic violence, including violence

⁴⁵ Roger Duthie (note 44) at 305.

⁴⁶ Ibid.

⁴⁷ Amartya Sen 'Introduction' in *Development as Freedom* (2000) 1 at 3-4.

Key to note that development here is looking at more than GDP. This point is argued by Naomi Roht-Arriaza and Katharine Orlovsky 'A Complementary Relationship: Reparations and Development' in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009).

against children.⁴⁸ These forms of oppression are often justified in the name of punishment or retaliation, in response to a particular form of behaviour and perceptions of deviance. Violence against particular groups tends to permeate institutions of both state and society and to be reproduced on a daily basis through these institutions. Everyday violence is normalised by labels that remove it from the political sphere into criminal, domestic, or social spheres.⁴⁹ As a result, everyday violence often escapes the attention of processes of peacemaking and transitional justice.

The second form of violence is structural violence, which is the systematic violence of social institutions that oppress certain social groups, condemning them to abject poverty and the marginalisation that accompanies severe inequality.⁵⁰ Paul Farmer refers to these indirect forms of violence as ‘the social machinery of oppression’.⁵¹ Structural and everyday forms of violence may result in damage and death, yet everyday violence tends to describe more tangible and direct forms of violence.⁵² In contrast to structural violence, everyday violence is more readily blamed on the individual, their criminality, substance abuse or lack of an ability to cope with mechanisms, and so on. Yet the two are intrinsically linked, since everyday violence can also be analysed as a concrete manifestation of structural violence and a product of the oppression and desperation resulting from inequality, marginalisation, and poverty.⁵³

Thus, the ordinary and routine use of violence serves to reproduce inequalities, reinforce oppressive hierarchies and silence resistance. Forms of everyday violence are grounded in the same structures that feed into political conflict, and should receive equal priority if lasting peaceful societies are to be created. This analysis builds on Johan Galtung’s work where he asserts that if underlying structural violence is not addressed after conflict has

⁴⁸ Lisa LaPlant ‘Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework’ (2008) 2 *The International Journal of Transitional Justice* 331 at 331.

⁴⁹ Ibid.

⁵⁰ Johan Galtung ‘Violence, Peace, and Peace Research’ (1969) 6 *Journal of Peace Research* 3 167 at 170.

⁵¹ Paul Farmer ‘An Anthropology of Structural Violence’ (2004) 45 *Current Anthropology* 3 290 at 307.

⁵² J Boesten, G Crawford, P Gready, L Waldorf and P Wilding ‘Transformative Justice - A Concept Note’ *Draft Thesis Developed by the WUN Transformative Justice Group* (October 2010).

⁵³ Johan Galtung (note 50) at 307.

ceased, peace is unlikely to be sustainable or universal.⁵⁴ Galtung describes peacebuilding as an action seeking to identify the ‘structures of peace: structures must be found that remove causes of wars and offer alternatives to war in situations where wars might occur’⁵⁵. It is a process which is directed at building structural and cultural peace.⁵⁶

Structural violence often takes the form of poverty, marginalisation and a widespread lack of capabilities; it is not necessarily always in the shape of physical violence, especially in regard to women and children. Gender equality is an illusion in most countries. Instead, marginalisation, poverty, ill-health, and social, physical and sexual abuse are characteristic of societies with high levels of gender inequality⁵⁷. Research also shows that violence against women often soars during and after political conflict.⁵⁸ This increase in domestic violence is symptomatic of societies that have become stressed and hardened to violence as a result of war. It also occurs when no alternative or gainful means of livelihood are provided to men who may feel emasculated by the end of the period of conflict and the loss of their only source of identity and meaning which the involvement in the violence gave them.⁵⁹

However, as mentioned above, removing the barriers of structural and everyday violence is only one aspect of what is needed for post-conflict development and sustainable peacebuilding. In addition, one needs to ensure people have the capabilities they need to fulfil the life they aspire towards. Sen terms capabilities as ‘the alternative combinations of functionings that are feasible for [a person] to achieve’.⁶⁰ Sen further asserts that capabilities are in essence the ‘substantive freedoms’ a person enjoys which enable them to live the kind of life they have reason to value or, in other words, to achieve the kind of

⁵⁴ LaPlant (note 48) at 334.

⁵⁵ Galtung (note 50) at 297.

⁵⁶ Ibid at 297.

⁵⁷ As measured by the UN gender-related development index.

⁵⁸ Donna Pankhurst ‘The ‘sex war’ and other wars: towards a feminist approach to peace building’ in Haleh Afshar and Deborah Eade (eds) *Development, Women, and War: Feminist Perspectives* (2004).

⁵⁹ Rama Mani ‘Editorial Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development’ (2008) 2 *The International Journal of Transitional Justice* 253 at 259.

⁶⁰ Amartya Sen ‘Introduction’ in *Development as Freedom* (2000) 1 at 66.

life to which a person aspires.⁶¹ Capabilities include the basic freedoms to avoid starvation or to escape premature mortality. According to Sen, poverty is not merely the lowness of income, but the deprivation of basic capabilities and means of exercising entitlements.⁶² An example of a deprivation of a basic freedom would be illiteracy. When a person is illiterate, whether this is a young child or an adult, it generally means that this person is lacking specific capabilities, such as the freedom and capability to learn how to read, or to receive a good education.⁶³ It may not be that the will to learn how to read is absent or even the right to receive education or access education, but it is the lack of access to an adequate education necessary to fulfil the desire to learn how to read.

Through the theory of capabilities, Sen argues that the distribution of goods should be done according to a person's abilities as well as through taking note of the extent of the freedoms individuals have as well as those factors that limit their freedom or ability to choose. By so doing, the conditions are created whereby individuals are able to increase their freedoms and enjoy equal capabilities.⁶⁴ In regard to literacy, for example, efforts must be made to identify challenges to people accessing good education and systems must be designed which give individuals both the right and the ability to access good education.⁶⁵

Martha Nussbaum builds on Sen's theory of capabilities by elaborating that one must recognise a difference between having the capability and choosing not to exercise it, and not having the capability.⁶⁶ Nussbaum gives the example of a man who has access to food and chooses to fast and a man who is starving because he has no access to food.⁶⁷ Although both have the same functionings in terms of nourishment, in terms of capabilities, the man who is fasting has choice, he has both access to food and the

⁶¹ Amartya Sen 'Chapter 4: Poverty as Capability Deprivation' in *Development as Freedom* (2000) 75 at 87.

⁶² Sen (note 61) at 87.

⁶³ Sen (note 61) at 90- 94.

⁶⁴ Sen (note 60) at 70-71.

⁶⁵ Amartya Sen 'Human Rights and Capabilities' (2005) 6 *Journal of Human Development* 2 at 155.

⁶⁶ Martha Nussbaum, 'In Defence of Universal Values' *Woman and Human Development: The Capabilities Approach* (2001) 75 at 88.

⁶⁷ Nussbaum (note 66) at 88.

freedom to choose whether he wants to eat or not. The destitute person does not have this choice or capability.⁶⁸ Sen agrees with Nussbaum's assumption and hence emphasises that it is not only about having the goods or rights, but rather about having the freedom to have and use those goods and rights in a way that is of value to the person.⁶⁹

Therefore, in terms of social justice, this thesis believes that in a post-conflict situation, one needs to ensure that there is a removal of the barriers in society which prohibit development, such as everyday and structural violence, and one needs to identify the capabilities which the society needs in order to develop fully. Both these aspects of post-conflict peacebuilding and development are necessary to ensure sustainable and effective delivery of social justice in a society. However, as previously indicated, often the notions of social justice, especially the aspect of structural violence, fall outside the transitional-justice purview.⁷⁰ In the set of mechanisms that aim to address the wounds of conflicts, such as truth commissions, trials, tribunals, apologies and reparations, everyday forms of violence remain hidden, with no parallel national or international initiatives or sanctions.⁷¹ When it comes to issues of gender and gender violence specifically, some societies in transition have tried to include in their processes a specific gender committee (Peru), or a gender perspective (South Africa), or have provided platforms and programmes specifically for women and girls (Sierra Leone) aiming to look at the gendered aspect of everyday violence. However, there is much criticism about the level of gendered analysis in transitional-justice mechanisms and post-conflict policy, and a resulting lack of transformative potential for a better future for women. Issues of gendered violence, especially rape, during war time need far more political and social scrutiny as part of the search for justice and reconciliation in order to transform gender relations for the better and provide women and girls with a future with opportunities that respect their rights.⁷² It is vital, therefore, to address issues of social justice as part of post-conflict peacebuilding. Without analyses of the structures in society which promote

⁶⁸ Nussbaum (note 66) at 88.

⁶⁹ Sen (note 60) at 75.

⁷⁰ Ibid.

⁷¹ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding (note 52).

⁷² Nahla Valji 'New Horizons. Linking Development Cooperation and Transitional Justice for Sustainable Peace: International Conference' Berlin, 27 - 28 January 2010, Conference Report: Issues and Challenges' at 5.

inequality, that society will not be able to develop or achieve sustainable, long-term peace.⁷³

It is for this reason that this thesis proposes that the use of an alternative approach to post-conflict relief, namely a transformative-justice model. Transformative justice seeks to integrate notions of both transitional justice and social justice by including an accountability mechanism in the form of a truth commission and a judicial mechanism for prosecutions, with both mechanisms working side by side. But, in addition, it advocates the inclusion of a developmental aspect in the form of socio-economic justice and a reform of the structural and legal dimensions of everyday discrimination and inequality.⁷⁴ Marcus Lenzen argues that in order to understand all the dimensions of a society, one should use both Sen's theory of capabilities as well as Galtung's notions of routine structural violence in order to better understand the needs people may have.⁷⁵ Together, they argue, this analysis will provide a long-term approach to implementing and maintaining sustainable peace in a post-conflict situation.

The argument of this thesis

Building on these ideas, the hypothesis of this thesis is that the aspects of social justice, especially structural and everyday violence and discrimination inflicted upon women, have been neglected by the transitional-justice model as a whole, a fact illustrated by the post-conflict Sierra Leonean transitional-justice process. The intention of this thesis is to suggest, as a remedy, that a new concept or paradigm - namely, transformative justice - would have better identified the structural and everyday violence inherent to Sierra Leone and would thus, have better addressed the needs of the victims in the post-conflict situation. Owing, however, to the broad nature and vast numbers of victims in the near decade-long conflict in Sierra Leone⁷⁶, this thesis is limited to examining the experiences

⁷³ Ibid.

⁷⁴ Yasmin Sooka 'The Politics of Transition' Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) 21 at 25.

⁷⁵ Marcus Lenzen 'Roads Less Traveled? Conceptual Pathways (and Stumbling Blocks) for Development and Transitional Justice' (eds.) Pablo De Greiff and Roger Duthie *Transitional Justice and Development: Making Connections* (2009) 80 at 96.

⁷⁶ Men, women, children, child soldiers and amputees were among the most severely affected victims during the conflict.

of women in Sierra Leone⁷⁷. In addition, as transformative justice is a new and emerging theory in post-conflict development and has not been fully operationalised in the international arena, this thesis will explain what transformative justice is and why it should be used in post-conflict situation, such as the situation of Sierra Leone.

This thesis opens by providing an outline of the conflict in Sierra Leone, including how the conflict impacted on women. The second chapter outlines the deficiencies of the transitional-justice mechanisms used in Sierra Leone, and the final chapter moves on to outline the concept of transformative justice, illustrating its relevance to post-conflict development and how it might have been used to improve the status and capabilities of marginalised groups, such as the women in Sierra Leone.

⁷⁷ Women were chosen because they represent a group in Sierra Leone that has been, and is still, structurally discriminated against. Because of this perceived inequality between genders, women were targeted during the conflict and suffered tremendously from sexual violations by both sides. As much as considerations were made for women by the SLTRC and SLSC, they still suffer from discrimination in the country today. More information on the status of women is provided in chapter three.

Chapter One: The Sierra Leone Case

The 1990s civil war in Sierra Leone spanned a decade leaving much of the country destroyed. By the end of the conflict, it was estimated that approximately 70,000 Sierra Leoneans had died and that around 2.6 million out of a population of 4.7 million were either Internally Displaced Persons (IDP) or refugees abroad.⁷⁸ The conflict was characterised by brutality, including public amputations of limbs, forced cannibalism and the use of child soldiers.⁷⁹ Sexual and gender-based violence was the most reported form of human rights abuse in Sierra Leone, which either directly or indirectly affected the vast majority of women in the country.⁸⁰

This chapter aims to provide a brief account of what happened during the civil war and outlines the roots and nature of this horrific conflict, specifically illustrating the various ways in which women suffered.

Brief historical background

Sierra Leone is a small West African country that occupies 71,740 square kilometers between Guinea and Liberia.⁸¹ The population is approximately five million, with an under-five mortality rate of 284 per 1,000 and a life expectancy of only 34 years of age.⁸² The country has exceptionally rich diamond mines in the Eastern district of Kono, near the Liberian border.⁸³

The country was first named 'Sierra Leone' by Portuguese explorers in the fifteenth century.⁸⁴ In 1808, the British chose Freetown as a location for resettling freed slaves

⁷⁸ Peter Pham *The Sierra Leonean Tragedy: History and Global Dimensions* (2006) at 153 and 154.

⁷⁹ For more information on the nature of the conflict see Sierra Leone SLTRC report Volume 3A.

⁸⁰ Sierra Leone Truth and Reconciliation Commission, *Witness to the Truth: The Sierra Leone Truth and Reconciliation Report*, Volume 3A (2004).

Retrieved 5th November 2010 from <http://www.sierra-leone.org/TRCDocuments.html>.

⁸¹ <http://www.sierra-leone.org/>.

⁸² <http://www.sierra-leone.org/>.

⁸³ For information on the history of Sierra Leone, the war and present-day life, visit Sierra Leone Web at <http://www.sierra-leone.org/>.

⁸⁴ Majbritt Lyck *Peace Operations and International Criminal Justice: building peace after mass atrocities* (2008) 1 at 5.

following the abolition of the slave trade slavery in 1807.⁸⁵ Freetown subsequently became the nation's capital. The territory was held as a British colony until 27 April 1961, when Sierra Leone was declared a sovereign state within the Commonwealth and power transferred to the Sierra Leone People's Party (SLPP), headed by Sir Milton Margai.⁸⁶

Sierra Leone enjoyed a short period of relative stability post-independence.⁸⁷ Within a decade, however, the country had degenerated into a one-party state of endemic corruption.⁸⁸ This decline started with a military coup in 1967⁸⁹ and was perpetuated by more than twenty years of political disruption and conflict, which eventually spiralled into a full-scale civil war.

Chronological account of the civil war in Sierra Leone

On 23 March 1991, a group of trained fighters belonging to the Revolutionary United Front (RUF) led by Foday Sankoh launched a rebellion against the ruling All People's Congress (APC) government. Then led by Joseph Saidu Momoh, the APC had been in power since 1967.⁹⁰ During his time in power, Momoh tolerated vast amounts of corruption and led the country to complete economic collapse. With the state unable to pay its civil servants, those desperate enough ransacked and looted government offices and property. Even in Freetown, important commodities like gasoline were scarce. The government reached its lowest point when by the late 1980s it could no longer pay school teachers and the entire education system in Sierra Leone collapsed. As a result, only

⁸⁵ Majbritt Lyck (note 84) at 5.

⁸⁶ Ibid.

For more information on colonial rule in Sierra Leone see: Arthur Abraham *Mende government and politics under colonial rule: A historical study of political change in Sierra Leone, 1890-1937* (1979).

⁸⁷ Majbritt Lyck (note 84) at 5.

⁸⁸ For more information on this change, refer to Peter Pham, 'A Viable Model for International Criminal Justice: The Special Court for Sierra Leone' *19 New York International Review* 1 at 37 – 110, and Peter Pham 'Democracy by force: Lessons from the restoration of the state of Sierra Leone' (2005) *The Whitehead Journal of Diplomacy and International Relations* http://blogs.shu.edu/diplomacy/files/archives/11_pham.pdf

Accessed on 10 May 2011.

⁸⁹ For more information on this coup see Humphrey J. Fisher 'Elections and Coups in Sierra Leone, 1967' (1969) *7 The Journal of Modern African Studies* at 611- 636.

⁹⁰ Priscilla Hayner 'December 2007 Report: Negotiating Peace in Sierra Leone: Confronting the Justice Challenges' *International Center for Transitional Justice Centre for Humanitarian Dialogue* (2007) 1 at 8.

wealthy families could afford to pay private tutors, while the bulk of Sierra Leone's youth during the late 1980s roamed the streets. As infrastructure and public ethics deteriorated, much of Sierra Leone's professional class fled the country. By 1991, Sierra Leone was one of the poorest countries in the world, even though it possessed ample natural resources including diamonds, gold, bauxite, iron ore, fish, coffee, and cocoa.

The intention of the RUF was to overthrow the APC government and restore order and prosperity to the country.⁹¹ The RUF was supported by such external actors and patrons as Muammar Gaddafi of Libya, Blaise Compaore of Burkina Faso and Charles Taylor of Liberia, who provided funding, training, ammunition and fighters to the RUF rebels all in an attempt to expand their regional influence. This support was crucial to the growth and success of the RUF in Sierra Leone.⁹²

As the group passed through the southern region of Sierra Leone, Sankoh was able to recruit new followers among Sierra Leoneans with the promise of free medical care and education.⁹³ Within days of launching the rebellion, the RUF gained control over the diamond mines in the Kono district and was able to push the forces of the Sierra Leonean army back to Freetown.⁹⁴

⁹¹ Lansana Gberie 'The 25 May Coup d'etat in Sierra Leone: A Lumpen Revolt?' Ibrahim Abdullah (ed) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) 10 at 45.

⁹² Priscilla Hayner (note 90) at 8.

From A. Zack-Williams and Stephen Riley 'Sierra Leone: The Coup and Its Consequences' *Review of African Political Economy* 56 (March 1993) at 91-98: In resistance to the ripe corruption that existed throughout the 1960s, 1970s and 1980s, an increasing number of reform-oriented students at Fourah Bay College (University of Sierra Leone) joined underground networks aimed at challenging the corruption and monopoly on power. Some of these students were sent to Liberian training camps, with the promise of training and support and the eventual take-back of their home country of Sierra Leone and the aim of overthrowing existing regimes in West Africa. However, Charles Taylor had a different idea. During the Liberian civil war, Sierra Leone had become a member of the peace keeping force of the Economic Community of West African States (ECOMOG), and later on was a launching pad for bombing raids on positions held by Charles Taylor's National Patriotic Front of Liberia (NPFL). The NPFL never forgave the Government of Sierra Leone for these raids. Taylor swore to avenge these interferences in Liberia's internal affairs; he wanted to 'do a RENAMO' on Sierra Leone. He organized Sierra Leonean dissidents in Liberia under the leadership of Corporal Foday Sankoh, a fugitive from the Sierra Leone army.

For more information on the role of Liberia and other external actors can be found in A. Zack-Williams and Stephen Riley 'Sierra Leone: The Coup and Its Consequences' *Review of African Political Economy* 56 (March 1993) at 91-98.

⁹³ Carol Lancaster *We Fall Down and Get Up: State Failure, Democracy and Development in Sierra Leone* (2007) at 3.

⁹⁴ Ibid.

Once in control of the diamond fields, Sankoh began to provide diamonds to Liberian warlord Charles Taylor in exchange for ammunition, weaponry and funding. Thus began the trade in so-called 'blood diamonds'⁹⁵. These diamonds helped fund and prolong the conflict by providing the rebels with a constant supply of funds.⁹⁶

It took the RUF one year to remove President Momoh and his APC government from power by way of a military coup in April 1992. The RUF then established the National Provisional Ruling Council (NPRC), installing Captain Valentine Strasser as its chairman.⁹⁷ The overthrow of the deeply-corrupt APC regime was immensely popular in the country, not because people welcomed the young and inexperienced officers of the RUF but because people in Sierra Leone were fed up with more than two decades of one-party dictatorship.⁹⁸ Following international pressure, Strasser announced that multi-party presidential and parliamentary elections would be held in 1996 as a means of transferring power to a civilian government.⁹⁹

The NPRC did have the intention of cleaning up the mess inherited from the APC government.¹⁰⁰ However, as soon as diamonds entered the equation, corruption took over and the NPRC concluded that the one way to stay in power was to continue to plunder and oppress the nation and to meet resistance with force. However, the NPRC avoided fighting its ally the RUF which controlled the diamonds mines and instead targeted the unarmed and defenceless civilians whom they were supposed to protect. On some occasions, members of the NPRC served as soldiers 'fighting' the enemy during the day and looting with them at night. This phenomenon was common enough to make the term 'sobel' (a combination of 'soldier' and 'rebel') part of common parlance.¹⁰¹ The NPRC

⁹⁵ Diamonds which are used in warfare; people are often killed in order to get these diamonds.

⁹⁶ Hany Besada and Ariane Goetz 'The Path to Long Path to Stability in Sierra Leone' Hany Besada (ed) *Crafting an African Security Architecture: Addressing Regional Peace and Conflict in the 21st Century* (2010) 1 at 5.

⁹⁷ Hayner (note 90) at 8.

⁹⁸ Arthur Abraham, 'State Complicity as a Factor in Perpetuating the Sierra Leone Civil War' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) 95 at 105.

⁹⁹ Hany Besada and Ariane Goetz (note 96) at 5.

¹⁰⁰ Arthur Abraham (note 98) at 117.

¹⁰¹ Ibid.

eventually came to be seen as a government responsible for the ransacking of the resources of its country as well as causing death, pain and misery for the Sierra Leone people.¹⁰²

In 1996, the NPRC kept its promise and held the first multiparty elections in Sierra Leone in decades. However, the election campaign was marked by brutal violence, including the forced amputations of limbs to deter voting. The NPRC was not in favour of democracy, knowing that a loss of power would lessen their access to the minerals of Sierra Leone.¹⁰³ There was widespread intimidation including the amputations of limbs in an attempt to prevent people walking to voting stations or marking the voting form with their hands.¹⁰⁴ These outrageous attacks were conducted by both the NPRC and the RUF. The RUF did not want the NPRC to lose the election as they feared they would, in turn, lose control of the diamond mines if the NPRC was ousted from power.

The NPRC was, however, defeated by the Sierra Leone People's Party (SLPP), which won the legislative vote overwhelmingly in the southern and eastern provinces of Sierra Leone. The SLPP was headed by Ahmad Tejan Kabbah, who was sworn in as president on 29 March 1996. Kabbah's first major objective was to end the war. As a move to achieve this objective, Kabbah and the RUF signed the Abidjan Peace Accord¹⁰⁵ in November 1996, ending an almost five-year campaign of violence, which had killed approximately 10 000 people, displacing about a third of the country's population and

¹⁰² A Zack-Williams and Stephen Riley 'Sierra Leone: The Coup and Its Consequences' (1993) 56 *Review of African Political Economy: Challenging Gender Inequalities in Africa* 80 at 94.

¹⁰³ Jimmy D. Kandeh 'In Search of Legitimacy: The 1995 Elections' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) 100 at 123.

¹⁰⁴ Human Rights Watch *In War as in Peace: Sexual Violence and Women's Status* (World Report 2004) 1 at 11.

¹⁰⁵ The Abidjan Peace Accord was a treaty signed between the Sierra Leone People's Party (SLPP) government of Ahmad Tejan Kabbah and the Revolutionary United Front (RUF) rebel group led by Foday Sankoh intended to find a resolution to the civil war in Sierra Leone. Discussions for peace began in May 1996 in the city of Yamoussoukro, and although the initial talks failed, the channels of communication remained open. Talks continued, with disruption, for the next six months, and on 20 November 1996, the Abidjan Peace Accord was signed. The Accords outlined a broad range of goals: A National Commission for the Consolidation of Peace was to be established; a neutral monitoring group was proposed, which would consist of 700 troops; all RUF combatants would disarm, and amnesty would be granted to them; efforts would be made to reintegrate RUF rebels into society and such foreign mercenary groups such as Executive Outcomes would leave the country after the establishment of the monitoring group.

For more information on this accord, see <http://www.sierra-leone.org/abidjanaccord.html>.

wrecking the mineral-dependent economy.¹⁰⁶ Kabbah managed to turn the economy around from a negative growth rate of minus 6.4 percent to a positive rate of 6 percent in just one year. International donors, who had fled the country amidst the guerrilla campaigns, slowly returned and many in the country thought good times were not too far away. The IMF (International Monetary Fund) and World Bank allocated over half a billion US dollars for reconstruction and rehabilitation.¹⁰⁷

However, yet another coup struck Sierra Leone on 25 May 1997 when Kabbah was overthrown in an exceptionally violent coup by breakaway army officers who freed Corporal Johnny Paul Koroma¹⁰⁸ from prison and made him head of a recently-formed Armed Forces Revolutionary Council (AFRC). After years of blurring the distinction between soldier and rebel, the AFRC developed a close relationship with the RUF, and one of Koroma's first acts was to invite the RUF to come to Freetown and join his government.¹⁰⁹ The rebels poured into the capital city and the two forces united together in what was termed 'The People's Army', and declared the rebel war over.¹¹⁰

The new regime was deeply unpopular with the majority of the population, and the international community never recognized it. This new regime banned protests and political parties, suspended the constitution and invited the RUF to join the government.¹¹¹ There was widespread looting of property, vandalism, raping of women and mass killing. Over 100 people were reported killed during the first week of the new regime's tenure, and the National Treasury, parts of the Bank of Sierra Leone and other important public buildings, were burnt down. This was a signal that the formal bureaucratic state structures, particularly those representing accountability, were no longer functional in the country.¹¹²

¹⁰⁶ Lansana Gberie 'The 25 May Coup d'état in Sierra Leone: A Lumpen Revolt?' in Ibrahim Abdullah (ed) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) 112 at 144.

¹⁰⁷ Lansana Gberie (note 106) at 144.

¹⁰⁸ He was in prison for a failed attempted coup the previous year.

¹⁰⁹ Hayner (note 90) at 9.

¹¹⁰ Lansana Gberie (note 106) at 145.

¹¹¹ Hany Besada and Ariane Goetz (note 96) at 5.

¹¹² Lansana Gberie (note 106) at 147.

In February 1998, a combination of a Nigerian-led Economic Community of West African States Monitoring Group (ECOMOG) troops and civilian militias intervened in Sierra Leone, recaptured Freetown and restored Kabbah's government to power. Despite this change, much of the country still remained in rebel hands, notably at this point in the northern parts of the country.¹¹³ The government formalized the citizen's militias, based loosely on traditional hunting societies, into the Civilian Defence Forces (CDF), which was put under the charge of Chief Sam Hinga Norman. While the CDF committed fewer atrocities than the RUF and was less likely to resort to sexual violence, Human Rights Watch and other groups were soon documenting rising incidences of systematic abuses on its part.¹¹⁴

On 6 January 1999, the AFRC attempted to recapture power through another coup, which resulted in massive loss of life and destruction of property in Freetown and its environs, in an action referred to as 'Operation No Living Thing'.¹¹⁵ An estimated 3,000 people were killed, women and girls were raped, children were abducted and subsequently conscripted, limbs were amputated, and much property in and around Freetown was destroyed.¹¹⁶ This attempted seizure of power was eventually ended by Nigerian ECOMOG troops. After six more months of fighting throughout the country, all factions agreed to a peace agreement in the form of the *Lomé Peace Accord*, signed in Lomé, Togo, on 7 July 1999.¹¹⁷

This agreement established a ceasefire and officially ended the civil war. It included commitments to end hostilities, re-established the Commission for the Consolidation of Peace, provide for a demobilization and disarmament process, as well as aid for the reintegration of combatants into civil society. This was an outcome of negotiations, under

¹¹³ Hany Besada and Ariane Goetz (note 96) at 5.

¹¹⁴ Hayner (note 90) at 9.

¹¹⁵ 'Operation No Living Thing' was one of the names of the rebel offensives. Others were 'Operation Burn House', comprised of waves of arson attacks, and 'Operation Pay Yourself', a program of looting. Operation No Living Thing was the most sinister and destructive of all.

¹¹⁶ Hayner (note 90) at 10.

¹¹⁷ Human Rights Watch 'Sierra Leone: "We'll Kill you if you cry. Sexual Violence in the Sierra Leone Conflict' (2003) *15 Human Rights Watch Report 1(A)* <http://www.hrw.org/en/node/12376/section/1> Accessed on 26 February 2011 at 26.

international auspices, between the Kabbah government and the RUF. It granted amnesty to Foday Sankoh and all RUF combatants, as well as all other rebel combatants, and the RUF was allowed to become a political party. The agreement also required that all Nigerian/ECOMOG troops leave Sierra Leone.¹¹⁸ Finally, an agreement established a Sierra Leone Truth and Reconciliation Commission, which became operational only in July 2002, even though it was created by law in February 2000.¹¹⁹

However, the peace negotiated did not last and within days of the last ECOMOG troops departing Sierra Leone in May 2000, the RUF took about 500 UN peacekeepers hostage and confiscated their weapons. Just as the RUF was about to move on Freetown, 800 British paratroopers were deployed to evacuate citizens and secure parts of the city. The British freed the hostages.¹²⁰

The May 2000 incident signalled the return to low-intensity conflict throughout the country, which lasted until a new cease-fire was negotiated in November 2000 in Abuja, Nigeria. This agreement was signed by the Sierra Leonean government and the RUF on 10 November 2000. It was an attempt to agree an immediate ceasefire and pave the way for the long-lasting implementation of the Lôme Peace Accord.¹²¹ However, demobilisation, disarmament and reintegration (DDR) efforts did not progress and fighting continued. In late 2000, Guinean forces entered Sierra Leone to attack an RUF base near the border that had been used to launch attacks against Liberian dissidents on Guinean territory. These attacks by the Guinean troops significantly weakened and reduced the number of RUF contingents. A second Abuja Agreement in May 2001 was negotiated. This agreement was again between the Sierra Leonean Government and the RUF. At the end of the talks, the RUF and Civil Defence Force (the civilian militia which supported the SLPP government and which had fought against the brutality of the RUF) signed a communiqué that explicitly stated their agreement to ensure the cessation of hostilities. This agreement finally laid conclusive foundations for a resumption of DDR

¹¹⁸ William Schabas 'The Sierra Leone TRC' in Naomi Roht Arriaza and Javier Mariezcurrena (eds) *Transitional Justice in the Twenty-First Century* (2009) 5 at 22.

¹¹⁹ William Schabas (note 118) at 22.

¹²⁰ Hany Besada and Ariane Goetz (note 96) at 6.

¹²¹ Ibid.

efforts by the UN, which contributed to a major decrease in fighting.¹²² However, the years of fighting since the Lome agreement of 1999 had outraged the international community and in January 2002 the UN signed an agreement with the government of Sierra Leone to create a Special Court (SLSC) to try those who bore the most responsibility for the past decade of violence.

In January 2002, elections were held and Kabbah and his party, the SLPP, won a landslide victory with 70.1% of the votes. The SLPP secured 83 of the 112 seats in parliament, compared to the 27 seats won by the strongest opposition party, the APC. The RUF, which had partly transformed into a political party, did not win a single seat. During this year (2002), the SLTRC and SLSC began their operations.¹²³

Roots of the conflict

Various views have been expressed in an attempt to explain the roots of 1990s conflict in Sierra Leone. Though at times overlapping, this section outlines the five main views.

The first focuses on poor leadership.¹²⁴ Paul Richards argues that Sierra Leone was a unique case in Africa in that the conflict of the 1990s was not sparked by religious or ethnic differences as in many other internal conflicts in Africa, but rather by a situation of mass corruption, marginalization, nepotism, poverty and inequality perpetuated in the country since colonization but which became rife during the post-independence era.¹²⁵ Sierra Leone, he argued, was an example of a patrimonial society where one section of society always benefited to the detriment of all others. Richards argued that this system of patronage was introduced to Sierra Leone during colonization but was also used by the All People's Congress (APC) which from 1967 ruled Sierra Leone for 24 continuous years.¹²⁶ Briefly defined, patrimonialism is a system of resource distribution that ties

¹²² Hany Besada and Ariane Goetz (note 96) at 6.

¹²³ Ibid.

¹²⁴ Paul Richards 'Introduction' *Fighting for the Rain Forest: war, youth and resources in Sierra Leone* (1996) I at xv.

¹²⁵ Ibid.

¹²⁶ William Schabas (note 118) at 35.

recipients or clients to the strategic goals of the benefactors or patrons.¹²⁷ In the distribution of patrimony, both patrons and clients attach more importance to personal loyalties than to the bureaucratic rules that should otherwise govern the allocation of resources.¹²⁸ This patronage system bred poor leadership in Sierra Leone which resulted in, among other problems, a tendency to centralize all resources and services in the capital, Freetown, at the expense of the rural districts. This distribution enhanced the structural inequalities between the districts and the urban political and economic elites in Freetown.¹²⁹ Richards argued that the crisis of patrimonialism had a devastating effect on schooling, social services, jobs and the national communications infrastructure, which destroyed the hopes of the youth for a promising and fulfilling life in the city. Instead, they were condemned to a 'miserable and insecure life'¹³⁰ in the rural areas working in agriculture or mining.¹³¹

A second perceived source of conflict was corruption.¹³² Peter Pham and Sahr Kpundeh argue that the poor quality of Sierra Leone's post-independence political leadership created a situation where corruption came to be seen as a normal part of society, to the point where people lost all faith in the ruling class to act with integrity or to deliver basic services to the nation.¹³³ Corruption was present in the judiciary and public sector, as well as a system of nepotism and greed. The entire economy was undermined by grave mismanagement.¹³⁴ Selfish leadership bred resentment, poverty and a deplorable lack of access to key services. Notwithstanding the riches endowed to Sierra Leone in the form of diamonds and other mineral resources, the bulk of the population remained impoverished. Profits from the minerals' sector were monopolized by the leadership who

¹²⁷ Michael Bratton and Nicholas Van de Walle 'Neopatrimonialism Regimes and Political Transitions in Africa' (1994) 46 *World Politics* 4 425 at 458.

¹²⁸ Yusuf Bangura 'Understanding the Political and Cultural Dynamics of the Sierra Leone War: A Critique of Paul Richards 'Fighting for the Rain Forest' (1997) 22 *Africa and Development* 15 at 25.

¹²⁹ Paul Richards 'State Recession and Youth' *Fighting for the Rain Forest* 40 at 48.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Peter Pham (note 78) at 155.

¹³³ Sierra Leone Truth and Reconciliation Commission *Witness to the Truth: The Sierra Leone Truth and Reconciliation Report*, Volume 1 (2004) at 31.

¹³⁴ Peter Pham (note 78) at 155.

used them for their benefit and barely allowed for the money to flow downwards.¹³⁵ This corruption was not limited to just one government in Sierra Leone. From 1968 - 1985, Siaka Stevens¹³⁶ led an APC government so notorious for malfeasance that in 1981 he declared a state of emergency due to the serious financial irregularities of his own government.¹³⁷ Civil servants had allegedly misappropriated millions of Leones (the currency of Sierra Leone).¹³⁸ The successor government to that of Stevens' APC - the NPRC - also fell quickly victim to governmental abuse and corruption, evidenced by the lifestyle of key members of its inner circle. They allegedly plundered more government wealth during their brief tenure than had been stolen in the 27 years of the Stevens and his successor Momoh administrations.¹³⁹

A third suggested cause of conflict in Sierra Leone relates to the impact of colonization on the country. Majbritt Lyck argues that the injustices and mismanagement mentioned above did not originate with the post-independence leadership in Sierra Leone, but had its roots in the colonial era of the 1800s.¹⁴⁰ When Sierra Leone was colonized by the British it was divided into two parts, namely, Freetown, the capital, and the surrounding areas. The impact of this form of separate development was far-reaching, particularly in the fields of education, access to resources and in the social and political development of the two regions. The policies of the colonial government created a dual-legal system that led to the preferential development of the capital at the expense of the protectorate (the surrounding areas).¹⁴¹ The traditional chiefs became mere surrogates of the colonial government. They owed their loyalty to their colonial masters rather than to the people they were meant to serve.¹⁴² This form of patrimonial leadership combined with the chiefs often issuing exorbitant fines for misdemeanours and exiling young people from

¹³⁵ Sierra Leone Truth and Reconciliation Commission (note 133) at 31.

See NPRC as an example of such leadership.

¹³⁶ Siaka Stevens was the third prime minister of Sierra Leone from 1967 – 1971 and the first president of Sierra Leone from 1971 – 1985.

¹³⁷ Sahr Kpundeh 'Corruption and Political Insurgence in Sierra Leone' in Ibrahim Abdullah (ed) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) 40 at 91.

¹³⁸ Sahr Kpundeh (note 137) at 91.

¹³⁹ Ibid.

¹⁴⁰ Majbritt Lyck (note 84) at 5.

¹⁴¹ Tyrone Savage and Joseph Rahall 'Sierra Leone: History Hidden by Horror' Charles Villa-Vicencio and Erik Doxtader (eds.) *Through Fire with Water* (2003) 35 at 46.

¹⁴² Ibid at 47.

their communities, led to much resentment amongst the residents of the protectorate, who wanted a government which represented their needs.¹⁴³

A fourth reason is argued by Hany Besada and Ariane Goetz and relates to the levels of inequality, which too had existed since the colonial era. At independence, only 15% of children in Sierra Leone aged between five to eleven years of age were attending school and only 5 % of older children were doing so. During the country's colonial period, access to education was limited to the urban elite and family members of local chiefs, needed for the British colonial government's system of 'indirect rule'.¹⁴⁴ This encouraged a culture of marginalization and discrimination, which remained throughout the independence period.¹⁴⁵ Once independent, the system of patronage, as outlined above, further perpetuated this inequality as certain strata in the society were more favoured by the leadership. This form of inequality created a vicious circle of poverty, which heightened the discontent in the country.¹⁴⁶

Finally, Robert Kaplan and Patrick Muana have argued that the levels of youth discontent by the 1980s constituted another source of conflict and instability. Kaplan argues that decades of poverty and inequality in Sierra Leone led to a rapid spread of diseases, population explosion, environmental pollution and increased drug use.¹⁴⁷ This led to the emergence of a culture of violence in Sierra Leone. Kaplan argues that the society was already in such a state of disarray and anarchy that it was inevitable that conflict would break out.¹⁴⁸ Patrick Muana adds to this the fact that many of the RUF commanders were drawn from a stratum of society known locally as *njahungbia ngorngeisia* – unruly youth or social misfits. Muana reports that these were 'semi-literate village school drop-outs who despise traditional values and authority and welcomed the violence of the RUF as an

¹⁴³ Peter Pham (note 78) at 155.

¹⁴⁴ Hany Besada and Ariane Goetz (note 96) at 2.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Robert Kaplan, *The Coming Anarchy: Shattering the dreams of the Post Cold War* (2001) 1 at 7.

¹⁴⁸ Kaplan (note 147) at 7.

opportunity to settle local scores and reverse the alienating rural social order in their favour'¹⁴⁹.

The RUF was able to gain much support by drawing on the discontent and economic suffering of people in Sierra Leone, and recruited them into their rebel army with the promise of goods. For example, one young girl was asked why she came to identify with the people who had seized her from her home and she answered: 'They offered me a choice of shoes and dresses - I never had decent shoes before.'¹⁵⁰ The rebels too built on the fact that the schooling system had broken down in Sierra Leone and the rebel force was seen as offering an alternative to chaos. For many seized youth in the diamond districts, the rebellion was a chance to resume their educations. Captives reported being schooled in RUF camps, using fragments and scraps of texts for books and receiving a good basic training in the art of bush warfare.¹⁵¹ In addition, teachers were recruited into the camps with the promise of better salaries. In Sierra Leone, the structural adjustment programs implemented by the IMF and World Bank left teachers' salaries at a pittance at best. Rural teachers were paid last of all. For such elements, joining the RUF was one of their few options for survival.¹⁵²

Clearly, there is no one explanation for the conflict of the 1990s in Sierra Leone. It developed out of a combination of the poor economic situation in Sierra Leone, corrupt patrimonial governance as well as an economic favouring of the capital, Freetown, combined with the culture of violence that had spread among the youth. In this context, it was inevitable that violence would break out in Sierra Leone, and by the time the RUF invaded the country in the early 1990s, the situation was so dire that they could easily exploit the levels of discontent and champion the oppressed.¹⁵³

¹⁴⁹ Patrick Muana *The Revolutionary United Front of Sierra Leone: a revolt of the lumpenproletariat* (1998) 1 at 8.

¹⁵⁰ Paul Richards (note 129) at 28.

¹⁵¹ *Ibid* at 29.

¹⁵² *Ibid*.

¹⁵³ *Ibid*.

How the conflict affected women in Sierra Leone

As is evident from the above discussion, one of the leading causes of the conflict in Sierra Leone was structural inequality, institutionalised and perpetuated by poor leadership, greed and corruption. One manifestation was a very high degree of gender-based violence, in particular sexual violence.¹⁵⁴ This violence had a widespread effect on women and made it particularly hard for them to reintegrate back into society post-conflict. This section will outline the areas in which women suffered during the conflict in Sierra Leone and illustrate ways in which this abuse had long-term effects on the victims. In chapter three, analysis on the situation for women in Sierra Leone in regards to political, economic and social discrimination both before and after the transitional-justice process in Sierra Leone will be given.

The Sierra Leone Truth and Reconciliation Commission reported a vast variety of shocking violence inflicted upon women. The Commission found that approximately one in every eight household members (13 per cent) reported one or more incidents of war-related sexual violence. The most common forms of war-related sexual violence were rape (89 per cent), being forced to undress/stripped of clothing (37 per cent), gang rape (33 per cent), abduction (33 per cent), molestation (14 per cent), sexual slavery (15 per cent), forced marriage (9 per cent) and insertion of a foreign object into the genital opening or anus (4 per cent).¹⁵⁵ Adult women were raped so violently and so often that some bled to death or suffered irreparable tearing in the genital area, causing long-term, and sometimes permanent, incontinence and severe infection. Numerous pregnant women had their bellies slit open by rebels who placed bets on the gender of the foetus.¹⁵⁶ Often these crimes were accompanied by severe cruelty imposed upon the families, such as forcing family members to watch the sexual abuse and rape of their wives, mothers and daughters as a means of further terrorizing local communities.¹⁵⁷

¹⁵⁴ Hussainatu J. Abdullah, Aisha F. Ibrahim and Jamesina King 'Women's Voices, Work and Bodily Integrity in Pre-Conflict, Conflict and Post-Conflict Reconstruction Processes in Sierra Leone' (2010) 41 *IDS Bulletin* 2 20 at 42.

¹⁵⁵ Binaifer Nowrojee 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims' (2005) 18 *Harvard Human Rights Journal* 85 86 at 90.

¹⁵⁶ *Ibid* at 89.

¹⁵⁷ *Ibid*.

The RUF was the main perpetrator of these crimes against women and girls, whom they recruited either as willing volunteers or abducted. Although there is no official figure on the total number of women associated with the RUF, it has been estimated that as many as 10,000 women were abducted.¹⁵⁸ In the RUF's camps, gender relations followed similar notions as those in traditional Sierra Leonean societies; women were seen as second-class citizens.¹⁵⁹ With the exception of a few women leaders, leadership roles were preserved for men. There were two categories of people within the RUF: fighters and 'civilians'. The fighters were the men and women trained in combat and who actually engaged in fighting. The female fighters were mostly the spouses or partners of the male fighters forced into fighting out of fear of sexual abuse. Women were strategically used by the RUF in situations where, for example, after an area was captured, the female fighters would loot and occupy the area, freeing the men to move on and attack more areas. The 'civilians' were the men and women who were not trained in combat and provided the RUF with a labour force for farming and domestic work. The majority of the 'civilians' were girls who were seen as too young or too weak to fight and were then used as sex slaves in the camps. The lives of these girls in the camps were hellish. Opportunities to leave were not common. Anyone caught while attempting to escape was killed as a deterrent to the others. As a survival strategy, many of the girls cooperated with the male fighters, who, in turn, protected them.¹⁶⁰

For those fortunate enough to escape, displacement invariably followed, either into exile or in camps inside or outside the country. They were not safe even in these camps, as humanitarian workers meant to protect them also violated their rights. Women and girls sometimes had to sell their bodies in order to access aid to which they were rightfully

¹⁵⁸ Conciliation Resource Website *Gender and Conflict in Sierra Leone*
Retrieved on January 27th 2011 from <http://www.c-r.org/resources/occasional-theses/gender-conflict-sierra-leone.php> 1 at 3.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

entitled. Girls, as young as 12, were forced to pay for aid with sex in order to gain assistance for their families.¹⁶¹

Many of the women who survived the conflict suffered from trauma, injuries and social exclusion.¹⁶² Due to the psychological, physical, social and economic impact of the abuse, many women felt they were unable to return to their communities.¹⁶³ There was a harsh stigma inflicted upon women who had borne children as a result of the violations committed against them. These women and children were denied work, home, family and community, and were condemned to exist on the outskirts of society.¹⁶⁴ In many instances, prostitution was the only option available to these women, which often resulted in further marginalization. As a result of this, reintegration has been extremely difficult or even impossible for many women and girls who suffered sexual violence.¹⁶⁵

The violations women experienced during the conflict were as a result of the existing patterns of hegemony, patriarchy and gendered oppression, which had been present in Sierra Leone since the country was colonised by the British. This behaviour became ingrained in society and earned a form of legitimacy and acceptance by the vast majority of the population. This legitimacy allowed for, encouraged and further perpetuated the gender-based violence and discrimination in Sierra Leone. The roots of the gender-based violence and discrimination evident in the country, both during and before the conflict, will be further examined in chapter three.

In summation, in the 1990s the people of Sierra Leone endured more than a decade entrenched in a conflict which resulted in mass bloodshed, amputation, sexual abuse, and the large-scale dispersion of a nation. The roots of this conflict were multi-factorial

¹⁶¹ Committee on the Elimination of Discrimination Against Women (CEDAW) *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth and Fifth Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* (2007)

Retrieved on 10 May 2011 from <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf>.

¹⁶² Binaifer Nowrojee (note 155) at 88.

¹⁶³ Amnesty International *Sierra Leone: Getting Reparations Right for Survivors of Sexual Violence* (2007) at 5.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

arising in part from a history of colonisation which established a culture of inequality, discrimination and poor management of a country, which became further entrenched in the state structures of post-independence Sierra Leone. As a result of these structures, women have borne a particular burden of widespread discrimination, inequality and abuse.

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Chapter Two: An Evaluation of the Transitional-Justice Process in Sierra Leone

As mentioned in chapter one, women were specifically targeted during the civil war in Sierra Leone, and it was a duty of the international community to ensure necessary provisions were made to try and aid women moving forward and developing within the post-conflict environment. Both the Sierra Leone Truth and Reconciliation Commission and the Sierra Leone Special Court made provisions to account for the experiences of women, and have been praised for many of their attempts. However, criticisms have been levelled against the process for not going far enough to address the concerns of women during the post-conflict transition. The aim of this chapter is to outline the mandates of both the SLTRC and the SLSC and to provide an evaluation of the two instruments, focusing specifically on the provisions made for women during the post-conflict transitional-justice process.

The Sierra Leone Truth and Reconciliation Commission (SLTRC)

A truth and reconciliation commission was first suggested by Sierra Leone's civil society groups to the Government in early 1999. It was subsequently discussed during the negotiations between the Government and the Revolutionary United Front (RUF)/Armed Forces Revolutionary Council (AFRC). They agreed to include provision for a TRC in the *Lomé Peace Agreement* of 1999.¹⁶⁶ Those who negotiated the *Lomé Peace Agreement* recognized that Sierra Leone as a nation had a 'need to express and acknowledge the suffering which took place, a need to relate their stories and experiences, a need to know who was behind the atrocities, a need to explain and contextualize decisions and conduct, a need to reconcile with former enemies, a need to begin personal and national healing and a need to build accountability in order to deal with impunity'.¹⁶⁷ This would involve

¹⁶⁶ Sierra Leone Truth and Reconciliation Commission *Witness to the Truth: The Sierra Leone Truth and Reconciliation Report*, Volume 1 (2004).

Retrieved 5th November 2010 from <http://www.sierra-leone.org/TRCDocuments.html> at 7.

¹⁶⁷ Ibid.

a combination of international and local involvement, drawing on the example of the South African TRC while adapting their process to counter-act perceived flaws or weaknesses of the South African process.¹⁶⁸ The South African process was an ambitious one, being the first to incorporate three transitional-justice instruments into one process. These were the investigative process of seeking truth, developing a reparations programme and considering the issue of amnesty for thousands of perpetrators. It was a massive and expensive undertaking and proved too large to do comprehensively or fully satisfactorily in the limited time mandate given to it. The Sierra Leone Commission process was more modest in its ambitions.

In 2000, the Parliament of Sierra Leone passed the Truth and Reconciliation Commission Act, after consultation with civil-society groups and the United Nations High Commissioner for Human Rights. The law specified how the TRC would be set up and how it would operate. Parliament then took some time to set up the TRC, and this was done with a large degree of international intervention. The Commission finally was inaugurated in July 2002.¹⁶⁹

The Government and Parliament of Sierra Leone chose a truth and reconciliation process for a variety of reasons. Firstly, Parliament hoped that having an 'official truth' about the conflict during the 1990s would form the basis for preventing a possible recurrence of violence in the future. This document, an official record, it felt could be used to explain what had really happened and would expose myths and untruths about the conflicts of the past. Additionally, it was hoped a SLTRC would be able to outline why exactly the conflict took place so as to identify aspects that should be changed in order to prevent future such conflicts.

Secondly, the SLTRC was seen as a method of achieving closure for the victims and perpetrators involved in the conflict. It would allow victims to express how they felt about what had happened to them or their loved ones, while also allowing perpetrators a

¹⁶⁸ Ibid.

¹⁶⁹ Sierra Leone Truth and Reconciliation Commission Report (note 166) at 7.

time and space to acknowledge what had happened or what they had done. This process was seen as necessary and vital to allow the country to move forward. Thirdly, a SLTRC was seen as a method of promoting reconciliation in a heavily-divided nation and people, thus hopefully preventing further conflict and allowing the country to develop into a functional and successful nation.¹⁷⁰

This SLTRC was mandated to ‘create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the *Lomé Peace Agreement* in 1999; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered.’¹⁷¹ The SLTRC was further urged to work towards sensitizing a nation and creating awareness around occurrences during the conflict. Information campaigns were to be adapted so that all strata in Sierra Leone, including children, would learn about the SLTRC, how it worked and where they could testify if they wished to come forward.¹⁷² It was felt that if people understood the workings of the Commission, they would remain sensitive to the testimonies and experiences, especially those of women and children, which were revealed.¹⁷³

In setting up the Commission, the Act provided the Commission with a broad scope of inquiry and powerful investigatory tools to accomplish its goals, especially in regards to gender-specific hearings.¹⁷⁴ The Act also allowed for the international community to be involved in the organisation of the Commission and its hearings.¹⁷⁵ Although not all Sierra Leone citizens welcomed the involvement of foreigners, others saw as adding an aspect of impartiality and credibility, thus promoting its possibilities of success.¹⁷⁶

¹⁷⁰ Ibid.

¹⁷¹ The Truth and Reconciliation Commission Act 2000.

¹⁷² Sierra Leone Truth and Reconciliation Commission Report (note 166) at 7.

¹⁷³ Ibid.

¹⁷⁴ Addo, Prosper Nii Nortey ‘Politics, war and youth culture in Sierra Leone: An alternative interpretation’ (2002) *11 African Security Review* 3 at 290.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

The Commission identified four specific 'stakeholder groups' in Sierra Leone who needed to be heard from - women and girls, children, amputees and ex-combatants.¹⁷⁷ Due to the sensitivities around some of these victims, the Commission held both private and public hearings for victims and perpetrators, as well as all interested groups under section 7(1) of the Act. Individual statements were taken and additional information gathered to further the understanding of events. In total, the SLTRC received more than 9000 statements, held countrywide victim and thematic hearings and received an additional 1,500 statements from the Campaign for Good Governance.¹⁷⁸

In line with the Commission's concern for gender issues, special attention was given to issues of sexual violence and the experiences of children. While the treatment of women was not explicitly mentioned in the SLTRC Act, section 6(2) (b) mandated the Commission to focus on restoring the dignity of victims. This was interpreted to mean paying special attention to the sexual abuse of girls and women.¹⁷⁹ Additional importance was placed on prioritising women because of the fact that the implementation of the SLTRC process coincided with the adoption by the United Nations of international instruments calling for the inclusion of women in peace processes, most notably as per UN Security Council Resolution 1325¹⁸⁰ which called for special consideration to the needs of women and girls in post-conflict reconstruction.¹⁸¹

¹⁷⁷ Beth Dougherty 'Searching for Answers: Sierra Leone's Truth and Reconciliation Commission' (2004) in *8 African Studies Quarterly* 1 40 at 45.

¹⁷⁸ The Campaign for Good Governance is an NGO which operates in Sierra Leone fighting for good governance, democracy and gender equity. It aims to increase the participation of citizens in the democratic process and governance, through advocacy, capacity building and civic education. More information of this organisation can be found at <http://www.slccg.org/>.

¹⁷⁹ Sierra Leone Truth and Reconciliation Commission *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, Volume 3B (2004) at 86.

¹⁸⁰ The Security Council adopted resolution (S/RES/1325) on women and peace and security on 31 October 2000. The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. Resolution 1325 urges all actors to increase the participation of women and incorporate gender perspectives in all United Nations peace and security efforts. It also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. The resolution provides a number of important operational mandates, with implications for Member States

The SLTRC made special provisions to encourage women to come forward. One such was a provision to hold special hearings for women. In preparation for these hearings, the SLTRC Commissioners and their staff underwent a two-day sensitivity training facilitated by the United Nations Fund for Women (UNIFEM) and the Urgent Action Fund. The training focused mainly on the international law applicable to sexual violence, methodologies and practices for interviewing rape victims, and issues surrounding and relating to the support and protection of women witnesses.¹⁸² Following this training, the Commission decided that rape victims who wanted to speak before the Commission could choose to do so in one of three ways: in camera; or at public hearings where their testimony would be heard but their identities kept anonymous; or speaking openly in front of the audience at the public hearings. It was believed by the Commission that these options would hopefully allow rape victims to feel empowered to speak out; an important consideration given the stigma attached locally to rape victims.¹⁸³

Another arrangement aimed at making female victims feel more comfortable was that rape victims were only questioned by female commissioners. If a witness at a general hearing started to testify about rape or sexual violence, the witness would be asked to wait for a female commissioner and if one was not present or available, then the witness would be asked to wait and testify at another time with a female commissioner present.¹⁸⁴ As a result of these considerations, the SLTRC has been praised for the ways in which it was sensitive to the needs and fears of women victims and how it encouraged them to come forward to testify and to be aided in a process of healing.

and the entities of the United Nations system. For more information see http://www.un.org/events/res_1325e.pdf.

¹⁸¹ Thelma Ekiyor 'Reflecting on the Sierra Leone Truth and Reconciliation Commission' Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice* (2009) at 162 and 163.

¹⁸² Binaifer Nowrojee 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims' (2005) *18 Harvard Human Rights Journal* 85 at 93.

¹⁸³ *Ibid* at 94.

¹⁸⁴ *Ibid* at 95.

However, the SLTRC encountered two major barriers which inhibited its desired functioning. Firstly, in regards to its operations, the SLTRC, due to a lack of funds, had a difficult time with outreach, making itself available to the wider public and keeping them aware of developments within the SLTRC.¹⁸⁵ Travel outside of Freetown was very difficult during the time of the Commission due to the extremely poor state of most roads, and during the rainy season was virtually impossible.¹⁸⁶ Furthermore, it seems that the simultaneous existence of the Commission and the Special Court complicated matters because many found it difficult to understand two separate the two institutions and understand the relationship between them. The result, according to Beth Dougherty, was lower participation in the process and less understanding of the process by the general public.¹⁸⁷

Secondly, the SLTRC had a small staff, limited resources and was plagued by poor management.¹⁸⁸ Its mismanagement led at times to doubts being expressed by funders of the Commission and did result in some of them withdrawing funding. It was originally estimated by the Office of the High Commission for Human Rights (OHCHR) that the Commission needed approximately \$10 million to function for twelve months. This did not include funding that was needed for the start up.¹⁸⁹ The inauguration ceremony set for June 2002 did not take place until May 2003 because of a lack of funding. Once the Commission opened, donors regained some confidence in the Commission and funding increased to cover the costs for the rest of 2003. In the end, the Commission only received \$5 million of the promised funding, significantly less than the original amount estimated, resulting in the Commission having to cut staff members, the amount they travelled around Sierra Leone and the time spent in each region. All this affected negatively how many people the SLTRC was able to hear from.¹⁹⁰

¹⁸⁵ Beth Dougherty (note 177) at 46.

¹⁸⁶ Binaifer Nowrojee (note 182) at 95.

¹⁸⁷ Beth Dougherty (note 177) at 46.

¹⁸⁸ Beth Dougherty (note 177) at 42.

¹⁸⁹ Ibid at 43.

¹⁹⁰ Ibid.

Despite these obstacles, the SLTRC was able to operate within the time period it was given and was able to complete its final report in late 2004, with the final public release in mid-2005.¹⁹¹ The SLTRC's numerous recommendations were divided into i) 'imperative', ii) 'work towards', and iii) 'seriously consider', and were also clustered thematically. They addressed such issues as the protection of human rights, establishing the rule of law, reparations and reconciliation, and other areas.¹⁹² These provisions were praised as extensive and involving some gains in regard to the position of women.¹⁹³

The Commission, however, has been criticized in that some of the local value and impact of the report was lost by the fact that it was written only in English, which is not understood by the vast majority of the population. No local translations were produced. In addition, the language used was too sophisticated for many members of the public, including many teachers who were expected to use it as a teaching tool. A version of the report was eventually brought out for high school learners but this too has been criticized as too advanced.¹⁹⁴ Despite the production of a video of the report by the NGO Witness, knowledge of its contents and its recommendations remains limited, even among policy makers and lobbyists. The Deputy Minister for Gender commented that the report might be useful as a historical document but would not influence policy decisions.¹⁹⁵ One activist noted that 'these documents are just piled up in our cupboards- people are not acting on them'¹⁹⁶ thus rendering the legacy of the SLTRC rather short-lived in the country.

In terms of the reparations recommended by the SLTRC in the report, the SLTRC argued that while the state should acknowledge the suffering of all Sierra Leoneans, reparations

¹⁹¹ Tim Kelsall 'Truth, Lies, Ritual: Preliminary Reflections on the Truth and Reconciliation Commission in Sierra Leone' (2005) 27 *Human Rights Quarterly* 2 361 at 364.

¹⁹² Priscilla Hayner 'Fifteen Truth Commissions 1974-1993: A Comparative Study' in Neil Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Volume 1* (1995) 200 at 225.

¹⁹³ Thelma Ekiyor 'Reflecting on the Sierra Leone Truth and Reconciliation Commission' in Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice* (2009) at 166.

¹⁹⁴ Beth Dougherty (note 177) at 46.

¹⁹⁵ Lotta Teale Interview with the Deputy Minister of Social Welfare, Gender and Children's Affairs (2007).

¹⁹⁶ Lotta Teale Interview with the Director of Graceland Counselling (2007).

should prioritize the most vulnerable victims of the conflict, including those in the following categories:

- Amputees or those who lost their upper/lower limb(s) or both as a result of the conflict
- 'Other war wounded' or those who have become temporarily or permanently physically disabled, either totally or partially, as a consequence of the conflict and who as a result have experienced a 50 percent or more reduction in earning capacity
- Women and girls who were subjected to sexual slavery, rape, forced marriage as well as brutal mutilation of genital parts or breasts
- 'War widows' or women who lost their husbands as a direct result of human rights abuses during the conflict
- Children who suffered either as victims of physical and/or psychological violence and children who are dependents of eligible victims

In terms of reparations for these victims, the SLTRC recommended free physical healthcare, mental health counselling and psychosocial support, educational support to children, skills training, microfinance grants for individuals and collective beneficiaries, community reparations, housing, pensions for individual beneficiaries, and symbolic reparations.¹⁹⁷

¹⁹⁷ Sierra Leone Truth and Reconciliation Commission *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, Volume 2 (2004) at 90-99.

However, since publication in 2004, the Government of Sierra Leone has not abided by its obligation under international law to implement the recommendations¹⁹⁸. There has been little structural follow through to ensure the recommendations were carried out, in part because of a lack of funding to put an independent monitoring institution in place.¹⁹⁹ Attempts by civil society to lobby for a 'SLTRC Omnibus Bill' have so far been unsuccessful, not the least because of a seeming change in political priorities. President Ernest Bai Koroma, elected in 2007, promised in his first major speech as President to establish a follow-up commission to ensure the implementation of the SLTRC recommendations. It took just over a year to establish this group, known as The National Commission for Social Action (NaCSA)²⁰⁰ and another year before it received funding in the amount of US\$ 500 000 from the Government. This was supplemented by a grant of US\$ 3 million from the United Nations Peace-Building Fund.²⁰¹

The NaCSA, as a first step towards delivering reparations, established a committee made up of representatives from local councils, traditional leadership structures, civil society, religious groups, victims' organizations, and other partners to assist with the outreach of reparations.²⁰² The second step was to register all the eligible victims, and this started in December 2008 and continued until June 2009. This process was not without challenges but managed to register nearly 30 000 victims.

¹⁹⁸ Customary international law provides the legal foundation for victims' right to compensation. Various international treaties have recognized that victims of gross human rights violations and war crimes have a right to restitution, compensation, and rehabilitation. And the obligation to provide compensation for victims of injustice has become part of international humanitarian law. Article Eight of the Universal Declaration of Human Rights, for example, states that everyone has the right to an effective remedy. And Article 10 of the American Convention on Human Rights refers to a right to be compensated in accordance with the law. Such laws stress the importance of publicly recognizing the damages caused by injustice and of addressing the needs of victims. For more information, see <http://www.beyondintractability.org/essay/compensation/>

¹⁹⁹ Lotta Teale *Interview with a former SLTRC staff member* (2007).

²⁰⁰ Speech by President Ernest Koroma, 2007.

²⁰¹ Ibid.

²⁰² The Rabat Report, *The Concept and Challenges of Collective Reparations* International Centre for Transitional Justice, New York, 12- 14 February 2009 at 33.

In regards to an overall evaluation of the entire SLTRC process, a number of less than favourable assessments have been made of the SLTRC and its process. One, expressed by the non-governmental group, SLANGO, was that the SLTRC could have been more of a healing force had it been able to have a more continuous presence in communities.²⁰³ The fact that it only spent one week in most areas of the country outside Freetown, and some areas were ignored altogether, meant that the SLTRC was more like a temporary ‘guest’ in the community with a limited effect.²⁰⁴ Many Sierra Leoneans also questioned the degree to which the hearings raised public awareness of gender-based violence. Attitudes towards women in Sierra Leone are deeply ingrained, and there is a culture of silence surrounding sexual abuse.²⁰⁵ Women have few rights under customary law, and there is a tremendous stigma attached to being raped. The victim is viewed as spoiled or damaged, and when victims are identified, authorities often suggest that she marry the perpetrator. According to the prominent legal academic, Beth Dougherty²⁰⁶, many girls and women also feared being shamed and blamed for having served as so-called ‘rebel wives’. These criticisms all culminate in one main critique, namely that the SLTRC did not do much positively in terms of improving the long-term status of women in Sierra Leonean society.²⁰⁷

Additionally, some female activists have argued that they would have liked the SLTRC to try to integrate traditional healing and reconciliation ceremonies at a community level. This they believe would have enhanced the restoring of individual dignity and community harmony.²⁰⁸ It should be noted, however, that the SLTRC did at times attempt to combine traditional ceremonial elements into the process, especially when interacting with small rural communities, with a history of violence during the war, and with perpetrators in their midst. The intention was to try to recognise the different cultural

²⁰³ Lotta Teale *Interview with the Director of SLANGO* (2007).

²⁰⁴ Beth Dougherty (note 177) at 50.

²⁰⁵ Ibid.

²⁰⁶ Beth K. Dougherty is the Manger Professor of International Relations at Beloit College in Wisconsin, USA. She teaches courses on Middle Eastern and African politics, human rights, nationalism, and international law and organizations. In 2003 she was a Fulbright scholar at the Danish Institute for Human Rights researching transitional-justice issues in Sierra Leone and Iraq.

²⁰⁷ Beth Dougherty (note 177) at 50.

²⁰⁸ Lotta Teale *Interview with women activists conducted in 2007*.

aspects that exist in Sierra Leone and to try to incorporate these into the reconciliation process so as to reach more people.²⁰⁹ Thus, at the end of the week in each district, the SLTRC would hold a staged ceremony where local perpetrators would symbolically apologize for their actions, the SLTRC's one attempt at traditional forms of reconciliation in an atmosphere that normally screamed of western custom. However, these were not widespread and did not receive widespread participation from the communities.²¹⁰ With more funding, the SLTRC could have undertaken more such traditional reconciliation ceremonies.²¹¹

Finally, despite the special provisions made for women by the SLTRC process, many women expressed a view that after testifying they felt an initial relief, but then soon returned to the difficult everyday realities of their lives where they were still living in fear, with nightmares, flash-backs and stress-related pains across their bodies.²¹² The SLTRC provided little follow-up support for the victims who testified before it. One former counsellor with the SLTRC reported feeling guilty at having persuaded people to testify and promising support but not being able to deliver on this support.²¹³ Disappointment was frequently expressed by the victims, one stating 'once you have the truth, then what do you do with it?'²¹⁴ Moreover, some argue that it seemed that the SLTRC was more focused on problems of the general population and providing a road map for the future based on an impartial record of the past, and therefore, did not make much headway in promoting healing and reconciliation, or in addressing the reality that men largely enjoy impunity for gender-based violence.²¹⁵

²⁰⁹ Alaina Varvaloucas "A New Road into the Future": the Potential for Long-Term Development in Transitional Justice', unpublished senior research thesis, Yale University (April 2009) at 38.

²¹⁰ Ibid.

²¹¹ Fambul Tok International is an organisation dedicated to post-conflict development and reconciliation in war-torn countries. For more information, see <http://www.fambultok.org/>.

²¹² Lotta Teale *Interviews with female victims* (2007).

²¹³ Lotta Teale *Interview with former SLTRC staff member conducted* (2007).

²¹⁴ Lotta Teale *Focus Group Discussion with female victims* (2007) and Thelma Ekiyor 'Reflecting on the Sierra Leone Truth and Reconciliation Commission' Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice* (2009) at 163.

²¹⁵ Lotta Teale 'Addressing Gender-based violence in the Sierra Leone Conflict (2009) *9 African Journal on Conflict Resolution* 2 70 at 87.

In summary, despite the successes the SLTRC did have, it would seem that the overall assessment is that the disappointments of the SLTRC process left an overarching view on the part of many Sierra Leoneans that the SLTRC was ‘little more than a research mission.’²¹⁶ Like the South African TRC process, it seems the Sierra Leone process is more appreciated abroad than in the country.

The Sierra Leone Special Court (SLSC)

The Sierra Leone Special Court was established jointly by the Government of Sierra Leone and the United Nations in terms of UN Security Council Resolution (1315) of January 2002. It started its proceedings in July 2002.²¹⁷ This Court was not originally part of the *Lomé Peace Agreement*, but was created as a result of the violence, which ensued in May 2000. In its wake, the Government of Sierra Leone asked the United Nations to help establish a SLSC to prosecute those bearing the greatest responsibility for human rights and humanitarian law violations.²¹⁸ The Court was an innovation in international criminal justice. It was the first hybrid system where a Court established in the country in which the crimes were committed was presided over by both nationals and non-nationals, using a mix of international and local judges working together.²¹⁹

The reasoning behind the creation of the SLSC was that it was felt by both the Government and the international community that without a clear designation of responsibility for the conflict at all levels and a public acknowledgement of the individual responsibility of perpetrators for their roles in the conflict, social structures would remain unsettled and public faith in the solidity of the peace would be undermined.²²⁰ Moreover, the reality that Sierra Leone’s judicial system had been largely destroyed by the war

²¹⁶ Lotta Teale *Interview conducted with the director of SLANGO* (2007).

²¹⁷ William Schabas ‘The Relationship between Truth Commissions and International Courts: The Case of Sierra Leone’ (2003) 25 *Human Rights Quarterly* 30 at 34.

²¹⁸ William Schabas (note 217) at 34.

²¹⁹ Celina Schocken, ‘The SLSC for Sierra Leone: Overview and Recommendations’ (2002) 20 *Berkley Journal of International Law* 400 at 437.

²²⁰ Rebecca Horn, Simon Charters and Saleem Vahidy ‘Testifying in an International War Crimes Tribunal: The Experience of Witnesses in the SLSC for Sierra Leone’ in 3 *The International Journal of Transitional-justice* 135 at 136.

meant that it lacked the capacity to deal with these crimes. Thus, an international tribunal operating as a hybrid body was a necessity.²²¹

The SCSL was mandated to prosecute both crimes against humanity and war crimes, as well as offences including the sexual assaulting of young girls and the setting on fire to properties.²²² The intention of this mandate was to bring justice to those who bore ‘the greatest responsibility’ for serious violations of international humanitarian law and domestic law committed in the territory of Sierra Leone.²²³ The SLSC had a temporal jurisdiction, limiting its mandate to events after 30 November 1996. The mandate did not include events pre-1996 because it was thought that adding the first five years of the civil war to the mandate would overburden the Court.²²⁴

Many have praised the Court for the fact that its mandate required it to give specific attention to sexual and gender-based violent offences and the Office of the Prosecutor has been praised for the emphasis placed on investigating and prosecuting gender crimes and handling them with sensitivity.²²⁵ Additionally, the Court has been praised for setting an important international precedent by finding that forced marriages in a time of warfare was a crime against humanity. In detailing the crimes against humanity that could be prosecuted in the Court, the mandate listed ‘rape, sexual slavery, enforced prosecution, forced pregnancy and other forms of sexual violence when committed as part of a widespread systematic attack against civilians’²²⁶. The Court also expressly defined ‘rape, enforced prostitution and any other form of indecent assault’²²⁷ as a violation of

²²¹ Lotta Teale *Addressing Gender-based Violence in the Sierra Leone Conflict (2009)* Retrieved on 10 March 2011 from http://www.peacewomen.org/portal_resources_resource.php?id=921 at 72.

²²² *Statute of the Sierra Leone Special Court*, Adopted by the Government of Sierra Leone in 2002, Retrieved on 20 November 2010 from <http://www.sc-sl.org/LinkClick.aspx?fileticket=uClnd1MJeEw%3D&>.

²²³ Binaifer Noworjee ‘Post-Conflict Justice for Sierra Leone’s Rape Victims’ (2005) *Harvard Human Rights Journal* 86 at 96.

²²⁴ *Ibid.*

²²⁵ Karen Barnes with Peter Albrecht and Maria Olson ‘Addressing Gender-Based Violence in Sierra Leone: Mapping Challenges, Responses and Future Entry Points’ *International Alert: Department of Foreign Affairs*, August 2007 at 72.

²²⁶ Statutes for the Special Court of Sierra Leone, Article 2, section g: Crimes against Humanity.

²²⁷ Statutes for the Special Court of Sierra Leone, Article 2, section h: Crimes against Humanity.

international humanitarian law as enshrined in the Geneva Convention.²²⁸ This formulation was an important step towards broadening the scope for prosecutions around sexual-violence and gender-discrimination offences.²²⁹

The Court was granted a budget of \$58 million and a mandate to run for three years.²³⁰ In retrospect, this was neither enough money nor enough time. Given its relatively short time frame, the Court could only focus on a limited number of cases. In all, it conducted four trials involving only ten accused. The first three were conducted between June 2004 and March 2005. They involved members of the Civil Defence Forces²³¹, the Revolutionary United Front²³² and the Armed Forces Revolutionary Council²³³. All but one of those arrested and indicted were tried and found guilty on one or more of crimes against humanity, war crimes, unlawful killings, physical violence and suffering inflicted on victims, looting and burning, terrorizing the civilian population and collective punishment and the use of child soldiers.

²²⁸ Binaifer Noworjee (note 223) at 97.

²²⁹ Karen Barnes with Peter Albrecht and Maria Olson (note 225) at 72.

²³⁰ Celina Schocken (note 19) at 437.

²³¹ This trial involved as the accused Chief Hinga Norman, Moinina Fofana and Allieu Kondewa. It began on 3 June 2004. The three members were tried for crimes against humanity, war crimes, unlawful killings, physical violence and suffering inflicted on victims, looting and burning, terrorizing the civilian population and collective punishment and the use of child soldiers. All three members were found guilty. One, Chief Hinga Norman, died in custody before judgment was issued. Fofana was sentenced to 15 years in jail and Kondewa to 20 years.

For more information on this case, see <http://www.sc-sl.org/CASES/ProsecutorvsFofanaandKondewaCDFCase/tabid/104/Default.aspx>.

²³² The second trial began on 5 July 2004 and involved three members of the former Revolutionary United Front (RUF) - Issa Hassan Sesay, Morris Kallon and Augustine Gbao. The charges were of terrorizing the civilian population and collective punishments, sexual violence, physical violence, the use of child soldiers, abductions and forced labour, looting and burning and attacks on UNAMSIL personal. On 25 February 2009, the Trial Chamber found Sesay and Kallon guilty on 16 counts, and sentenced them to 52 and 40 years in prison respectively. Gbao was found guilty on 14 counts and given 25 years.

For more information on this case, see <http://www.sc-sl.org/CASES/ProsecutorvsSesayKallonandGbaoRUFCase/tabid/105/Default.aspx>

²³³ The third trial began on 7 March 2005 and involved three members of the former Armed Forces Revolutionary Council (AFRC), Alex Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu. It began on 7 March 2005 and concluded on 22 January 2008 when the Appeals Chamber Judgment was handed down with sentences of 50 years. For more information on this case, see <http://www.sc-sl.org/CASES/ProsecutorvsBrimaKamaraandKanuAFRCCase/tabid/106/Default.aspx>

The fourth trial involved Charles Ghankay Taylor, former President of Liberia, who was indicted under seal on 7 March 2003 on his first trip outside of Liberia. In August 2003, Taylor resigned as President of Liberia and went into exile in Nigeria. Fearing arrest, Taylor attempted in March 2006 to flee his refuge in Nigeria but was arrested trying to cross the border and transferred to custody in Sierra Leone. Due, however, to concerns about regional security, it was decided to transfer him to the Netherlands for trial at the International Criminal Court in The Hague. He was moved there on 30 June 2006.²³⁴ Charges against him involved crimes against humanity, war crimes, sexual violence, terrorizing of the population, physical violence, unlawful killings, looting, the use of child soldiers and abduction and forced labour.²³⁵ The case had not been concluded at the time of writing of this thesis. In addition to the ten who stood trial, three other persons were indicted by the Special Court's prosecutor. They were former RUF leader Foday Sankoh, former RUF Battlefield Commander Sam Bockarie, and former AFRC leader Johnny Paul Koroma. The indictments against Sankoh and Bockarie were withdrawn in December 2003 following their deaths. Koroma was never apprehended and his whereabouts and fate are not known.²³⁶ He is presumed dead.

A unique feature of the SLSC was the fact that it incorporated Sierra Leonean law as well as international law.²³⁷ This combination between international law and Sierra Leonean local law not only broadened the scope for prosecuting, but was seen as a way to strengthen the Sierra Leonean legal system and rule of law after years of neglect.²³⁸ Furthermore, in order to try to strengthen the local justice system, the Court hired staff members to work on the Court's legacy. However, that came rather late in the life of the Court, only in 2008.²³⁹ As a result of this delay, there was a virtually insignificant

²³⁴ <http://www.sc-sl.org/CASES/ProsecutorvsCharlesTaylor/tabid/107/Default.aspx>

²³⁵ <http://www.sc-sl.org/LinkClick.aspx?fileticket=Mb00aVVb4Cg=&tabid=107>

For more information on this case, see <http://www.sc-sl.org/CASES/ProsecutorvsCharlesTaylor/tabid/107/Default.aspx>

²³⁶ Rachel Kerr and Jessica Lincoln 'The SLSC for Sierra Leone: Outreach, Legacy and Impact of the Final Report' February 2008 1 at 5.

²³⁷ Celina Schocken (note 219) at 443.

²³⁸ Abdul Tejan-Cole 'Sierra Leone's 'not so' SLSC' Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice: The Dilemma of Transitional-Justice in Africa* (2009) at 236.

²³⁹ Tejan-Cole (note 238) at 236.

relationship between the SLSC and the national judiciary in Sierra Leone. Created as a separate and distinct entity from the local judiciary, the SLSC always maintained its distance. One result was that the notion of prosecuting crimes of sexual violence did not filter down to the local judiciary.²⁴⁰ For example, in March 2008, an eleven year-old girl was dragged to a tailor's stall within a few metres of the SLSC's main gate and raped. When the family tried to have the perpetrator charged for the offense, the police failed to investigate properly and the case never made it to trial.²⁴¹ In addition, some have argued that the Special Court paid too little attention to the enduring influence and impact of the Tribunal.²⁴² Had the Court developed a close relationship with the local judicial system, it is suggested that a more effective, long-term improvement of the national justice system could have occurred which would have helped to create a culture of justice and accountability and ensure that the legacy of the SLSC had a long-lasting effect.²⁴³

Several arguments - positive and negative - contest the value and impact of the Court.²⁴⁴ One negative was that the flow of information about the Court was limited.²⁴⁵ It was found that even in Freetown people were not fully informed of the processes, procedures, and mandate of the Court, and as a result many misperceptions of the Court were developed by residents.²⁴⁶ Beyond the capital in the provinces, there was very little chance of residents ever seeing or visiting the Court, as they would have had at the time of the Court's sittings little or no opportunity of travelling to Freetown.²⁴⁷ Some people, it seems, knew the Court existed and that it was trying the 'big men' and using 'white man's law' but not much beyond that.²⁴⁸ As a solution it was suggested by the Sierra

²⁴⁰ Tejan-Cole (note 238) at 236.

²⁴¹ Lotta Teale Presentation by a civil society representative at the launch of South Africa's annual Sixteen days of Activism on Violence against Women (2008).

²⁴² Karen Barnes with Peter Albrecht and Maria Olson (note 225) at 72.

²⁴³ Tejan-Cole (note 238) at 236.

²⁴⁴ Tejan-Cole (note 238) at 236; Alaina Varvaloucas, "'A New Road into the Future": the Potential for Long-Term Development in Transitional-justice', unpublished senior research thesis, Yale University (April 2009) at 236; Rachel Kerr and Jessica Lincoln (note 236) at 15.

²⁴⁵ Rachel Kerr and Jessica Lincoln (note 236) at 15.

²⁴⁶ Lotta Teale 'Addressing Gender-based violence in the Sierra Leone Conflict (2009) 9 *African Journal on Conflict Resolution* 2 70 at 77.

²⁴⁷ *Ibid* at 80.

²⁴⁸ Rachel Kerr and Jessica Lincoln (note 236) at 15.

Leone Association of Non-Governmental Organizations (SLANGO)²⁴⁹ that the Court could make justice more comprehensible and tangible for especially women in a community by asking the community what they wanted from the perpetrators - perhaps the vocalization by the perpetrators that they were remorseful and the offering of some kind of apology.²⁵⁰ In addition, it has been suggested that the Court should have engaged in a process to inform and educate communities about the specific atrocities that were found to have been committed in their communities by perpetrators and what specific punishment had been given.²⁵¹

A second negative argument is that the amount of money spent on the Court was excessive in a country where 75% of the population lives on less than US\$2 a day.²⁵² A widespread view was that considering that millions of dollars were spent on the functionings of the SLTRC and the SCSL, with the majority of that money going toward the administrative costs involved in internationalizing a domestic- justice process, those donor funds were wasted and could have better been spent on development programs, on expanding grassroots initiatives like those of the NGO, Fambul Tok International²⁵³, or on building the capacity of the local court system.²⁵⁴ Alaina Varvaloucas gives as an example of the fact that that Sierra Leone needs an input of US\$1 billion to rebuild its educational system up to the tertiary level; the money used on the SCSL could have advanced that project, she suggests. These types of development could have had a long-lasting development effect and constituted a lasting legacy in the country.²⁵⁵

A third argument is one shared by female victims associated with the Sierra Leone Association of Non-Governmental Organisations (SLANGO) who felt they could not

²⁴⁹ <http://www.slango.org/default.asp?iId=HILHG>

²⁵⁰ Lotta Teale *Interview with the Director for SLANGO* (2007).

²⁵¹ Lotta Teale *Interview with the Director for SLANGO* (2007).

²⁵² Addressing Gender-based Violence in the Sierra Leone Conflict, at 76.

²⁵³ Fambul Tok International is an organisation dedicated to post-conflict development and reconciliation in war-torn countries. For more information, see <http://www.fambultok.org/>.

²⁵⁴ Alaina Varvaloucas "'A New Road into the Future': the Potential for Long-Term Development in Transitional Justice", unpublished senior research thesis, Yale University (April 2009) at 66.

²⁵⁵ *Ibid.*

respect a system which treated perpetrators to ‘three meals a day and free medical care to keep them into old age’²⁵⁶ whilst they as victims had received no compensation for their injuries or suffering.²⁵⁷ However, in defence of the SCSL, it had no real choice in this matter and was required to abide by these standards and provide humane treatment to the accused.²⁵⁸ In addition, it was beyond the mandate of the SLSC to compensate victims for participation in the trials. The mandate specified that the Court was to ‘try and prosecute crimes against humanity and other serious violations of international humanitarian law’²⁵⁹ and issues of compensation and reparations were left to the SLTRC.

Another argument expressed especially by female victims was that the Court did not adequately deliver justice because the Court conducted so few trials. A number of Lotta Teale’s interviewees observed that ‘rape is such a personal crime and that there can be no justice for the victim if the individual is not punished’²⁶⁰. Again, however, according to the SLSC’s mandate, the Court could only address specific violations and only target those bearing ‘the greatest responsibility for serious violations of international humanitarian law’²⁶¹. The fact that women did not feel justice was delivered to them might be a challenge to the nature of a Special Court in general and not specifically the SLSC.

In terms of the seriousness with which the SLSC upheld its mandate on sexual violence, one counter-argument is that Prosecutor David Crane and the Special Court repeatedly demonstrated the dedication of the Court to upholding women’s rights. With only ten investigators on his team, Prosecutor Crane committed two female investigators primarily to sexual-assault investigations.²⁶² The SLSC believed that having two experienced

²⁵⁶ Lotta Teale *Interview with the Director for SLANGO* (2007).

²⁵⁷ Lotta Teale (note 246) at 77.

²⁵⁸ *Ibid* at 77.

²⁵⁹ *Statute of the Sierra Leone Special Court*, adopted by the Government of Sierra Leone in 2002, Retrieved on 20 November 2010 from <http://www.sc-sl.org/LinkClick.aspx?fileticket=uClnd1MJeEw%3D&>.

²⁶⁰ Lotta Teale *Interviews with the Staff at the International Rescue Committee* (2007).

²⁶¹ *Statute of the Sierra Leone Special Court* Adopted by the Government of Sierra Leone in 2002, Retrieved on 20 November 2010 from <http://www.sc-sl.org/LinkClick.aspx?fileticket=uClnd1MJeEw%3D&>.

²⁶² Binaifer Nowrojee (note 223) at 90.

female investigators on the staff ensured the Prosecutor's interviewing methodology and environment were favourable to making rape victims feel comfortable enough to recount their experiences. Given the stigma attached to rape, failing to use sensitive interviewing techniques can prevent an interviewer from establishing the trust necessary to elicit rape testimonies.²⁶³ However, a counter argument is that considering the prominence of sexual violence in the civil war in Sierra Leone and the wide variety of violations of human rights the Court had to address, why was the entire team of investigators not trained in how to deal with sexual violence? Surely, if the Court could train two people, they could have trained the other eight and this would have better enabled the Court to deal with victims of sexual violence.²⁶⁴

Further, proponents of this argument believe that the Court did not take its mandate of sexual violence as far as it could. One example of this is in the case against the Civil Defence Force, a pro-government militia group generally believed not to have engaged in sexual violence because touching women would nullify the special protections endowed on them by medical men²⁶⁵, a decision was taken by the Trial Chamber Judges not to allow any evidence of sexual violence to be heard in this case. The reason for this was a technical error made by the prosecution who delayed three months before adding sexual violence to the charge sheet. This, the Court, felt was too long a delay²⁶⁶ and it ruled that the inclusion of evidence relating to acts of sexual violence at that stage in the proceedings was not admissible.²⁶⁷

²⁶³ Human Rights Watch, In *War as in Peace: Sexual Violence and Women's Status* (World Report 2004) 300 at 325.

²⁶⁴ Ibid.

²⁶⁵ Information as to why this decision was taken can be found in Kendall, Sara and Staggs, Michelle 'Silencing Sexual Violence: Recent Developments in the CDF Case at the SLSC for Sierra Leone' *The U.C. Berkeley War Crimes Studies Center Conference Thesis*, California, June 2005.

²⁶⁶ Sara Kendall and Michelle Staggs 'Silencing Sexual Violence: Recent Developments in the CDF Case at the SLSC for Sierra Leone' *The U.C. Berkeley War Crimes Studies Center Conference Thesis*, California, June 2005.

²⁶⁷ The main reason a charge of sexual violence was not included in this trial was due to the fact that the Court required a judicial finding of a *prima facie* case: the judge was concerned that the only way to ensure that the particulars which the prosecution claimed that it could prove would amount to a triable offence. According to the prosecution, indications of sexual violence were available in June 2003, but the prosecution was not yet in possession of solid evidence that could confirm the sexual violence. Statements of potential witnesses were taken in late September 2003, and the evidence was analyzed and confirmed by October or November 2003. However, leave to amend the indictments was only sought three months later, as a motion for a joint trial of the three members of the CDF had already been filed. This caused a problem

Many argue that the decision revealed a lack of sensitivity on the part of the judges towards the experience of women during the conflict²⁶⁸ while also reinforcing the stigma associated with prosecuting crimes of a sexual nature prevalent at the local level in Sierra Leone, where rape, other than rape of a virgin, is still largely not considered a crime.²⁶⁹ By refusing to allow the prosecution to include counts of sexual violence in the indictment, the Chamber missed an opportunity to include as part of its evidence testimony about a significant aspect of the Sierra Leonean conflict.²⁷⁰ In coming to its decision, the Chamber seemed to discount both the importance placed on prosecuting gender-based violence in the SLSC's statute and the difficulties associated with prosecuting sexual violence as a crime. In so doing, the fear of justice delayed seems, instead, to have amounted to justice denied for these victims of sexual crimes.

Clearly, in conclusion, there are both positive and negative views on the SLSC. In general, the SLSC has been praised for setting some good precedents on gender justice internationally and was relatively successful in support of the victims of sexual violence who testified before the Court. This has set a precedent for international tribunals and raised some awareness of the special needs female victims of sex crimes may have. However, some argue that there were also areas in which the Court could have done better. These, they allege, included finding ways to prosecute more cases and individual perpetrators, providing some form of reparations for victims, seeking out imaginative solutions to make women at the community level feel more involved in the process and

for the prosecution as the Court ruled that the prosecution's three-month delay in seeking leave to amend the indictment amounted to an error. In order for the evidence to be deemed admissible, it would have needed to be in the indictment and pled specifically as a sexual violence count as soon as there were indications of such crimes.

For more information as to why this decision was taken can be found in Kendall, Sara and Staggs, Michelle 'Silencing Sexual Violence: Recent Developments in the CDF Case at the SLSC for Sierra Leone' *The U.C. Berkeley War Crimes Studies Center Conference Thesis*, California, June 2005.

²⁶⁸ Karen Barnes with Peter Albrecht and Maria Olson (note 225) at 72.

²⁶⁹ Sara Kendal and Michelle Staggs (note 266) at 8.

²⁷⁰ Michelle Staggs and Shanee Stepakoff 'When We Wanted to Talk About Rape': Silencing Sexual Violence at the Special Court for Sierra Leone' (2007) *1 the International Journal of Transitional Justice* 355 at 362.

finding more concrete ways to feed into domestic campaigns addressing gender-based violence so as to enhance the domestic-justice system.²⁷¹

It should be acknowledged, however, that in terms of the mandate set for it, some of this criticism of the Court is too harsh. For example, the delivering of reparations was never part of its mandate and neither should it really be too harshly judged on the small number of cases it heard. The Court's mandate limited it to the cases of those who had committed mass violation of human rights and those who led the groups committing such violations. However, it is probably true that the Court could have done more to link with local Sierra Leonean law thereby strengthening the local judicial system. This seems to have had the effect of the Court leaving a short-lived legacy in post-conflict Sierra Leone. In addition, as much as the Court took measures to try and assist female victims, it was not able to meet either the expectations or the needs these victims had.²⁷²

As a concluding comment on this chapter, the transitional-justice process in Sierra Leone as a whole did improve upon some of its predecessor processes in other countries and did overcome some of the challenges faced by those past processes, and it has been praised for this. So, while the SLTRC and SLSC may together have been somewhat successful in fulfilling their specific mandates, this thesis argues that there were still gaps left by the process and the transitional-justice mechanisms did not do enough to promote real social justice in Sierra Leone. They did not address the widespread structural inequalities and discrimination against women in the country. Inequalities in education, employment, land ownership and health care, as well as the inherent belief in society that men are superior to women were all left unaddressed, which are all key factors further perpetuating the domestic violence and the abuse of women, and allowing the post-conflict society to transitional to a stable and peaceful society.²⁷³

²⁷¹ Lotta Teale (note 246) at 82.

²⁷² Ibid.

²⁷³ See chapter one for more information on this.

Chapter Three: The Transformative-Justice Model

As was concluded in chapter two, analysis of issues of social justice was neglected in the transitional-justice process in Sierra Leone. To be fair, however, the approach of looking at social justice and structural issues during a transitional period has, up to now, been seen as outside the mandate of the transitional-justice paradigm and the expectations of truth commissions and special courts.²⁷⁴ This is not to say that transitional justice does not or cannot achieve positive outcomes, but by ignoring issues of structural and everyday inequality it does not promote long-term peacebuilding and development. Some wider definitions of transitional justice incorporate institution building and aim to enforce the rule of law through the criminal courts. However, most commonly used is a narrower conceptualisation of transitional justice, which, in application, only deals with a small set of violations of human rights in regards to a narrowly-defined group of victims and perpetrators.²⁷⁵ For example, the South African TRC process dealt substantively with only a narrow set of human rights violations, so-called ‘gross human rights violations’ committed during the course of the political conflict over a 34-year period (1960 – 1994), both inside and outside South Africa. This rather limited interpretation of grave violations of human rights restricted the focus of the SATRC and led it to exclude several forms of violence, such as forced removals from homes and ancestral lands.

The first part of this chapter explores the inability of transitional-justice mechanisms in Sierra Leone to impact significantly on women owing to their failure to address structural and everyday violence and discrimination during the transitional period. The chapter then moves on to explore how these mechanisms could have been more effective within the existing mandates provided to the Sierra Leone Truth and Reconciliation Commission and the Sierra Leone Special Court. The second part of the chapter turns to the general neglect of these issues in transitional justice more broadly, and finally this chapter argues for the adoption of an alternative approach to post-conflict transition and development,

²⁷⁴ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding ‘Transformative Justice - A Concept Note’ *Draft Thesis Developed by the WUN Transformative Justice Group* (October 2010).

²⁷⁵ Paul Van Zyl ‘Promoting Transitional Justice in Post-Conflict Societies’ in A Bryden and H Hanggi (eds) *Security Governance in Post-Conflict Peacebuilding* (2006) 180 at 210.

namely a model of transformative justice. Transformative justice is not an entirely new theory²⁷⁶ but it has yet to be operationalized into policy and practice.²⁷⁷ For this reason, this chapter will not examine in detail how this model could have been applied in Sierra Leone but will rather examine what this model is and why it could have addressed the above-mentioned neglect of social justice in Sierra Leone.

The neglect of social justice in Sierra Leone

This thesis argues that a central problem which plagued the overall process of the SLTRC and SLSC was the narrowness of their mandates, or perhaps rather their narrow interpretation of their mandates, which led to the deeper aspects of gender oppression and inequity being left largely untouched by both instruments.

Both the Commission and the Special Court had specific mandates for dealing with the post-conflict situation in Sierra Leone. Neither required them to look in any real detail at the structural nature of the violence and the discrimination experienced by women in Sierra Leone.²⁷⁸ As a result, these two instruments of transitional justice neglected a crucial societal feature, one evident in the country since colonisation namely the marginalisation and oppression of women.²⁷⁹

Throughout the history of Sierra Leone and including in the post-independence period before the civil war, women have not enjoyed an equal status with men.²⁸⁰ As discussed in chapter one, women in Sierra Leone have long experienced discrimination and inequality on a wide scale. Unsurprisingly, the gender-related development index of 2007, measuring gender development and equality in Sierra Leone, ranked the country at

²⁷⁶ Wendy Lambourne 'Transitional Justice and Peacebuilding after Mass Violence' (2009) 3 *The International Journal of Transitional-justice* 28 at 34.

²⁷⁷ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding (note 274).

²⁷⁸ Structural violence is the systematic violence of social institutions that oppress certain social groups, condemning them to abject poverty and the marginalisation that accompanies severe inequality. Refer to chapter one for more information on this.

²⁷⁹ <http://www.sl.undp.org/Goal3.htm>.

²⁸⁰ Conciliation Resource Website, *Gender and Conflict in Sierra Leone* accessed on <http://www.c-r.org/resources/occasional-thesiss/gender-conflict-sierra-leone.php> at 1.

146, the lowest placement of all reporting countries.²⁸¹ Discrimination against women is still evident in the areas of health care, education, employment and economic freedom, and has been enforced and reinforced through the continuing application of customary law.²⁸²

Discrimination against women in Sierra Leone can be categorised into three main areas - personal, legal and economic. In regards to the first category, women do not have the same access to health care as men and this has resulted in extremely high rates of maternal mortality.²⁸³ The causes of maternal mortality go beyond being simply a medical problem. It is the result of a combination of social, cultural, religious, educational and economic factors. Women are dependent on their partners to make decisions affecting their health because men are the ones with economic power in the home. Many women do not earn any income and cannot afford the basic necessities of life. This leaves them at the mercy of their husbands/partners for important decisions such as family-planning practices, seeking health care in cases of emergencies, and the timing of the marriage of a girl child.²⁸⁴ Early forced marriage is a key factor contributing to Sierra Leone's high maternal-mortality rate. Early forced marriages occur when a man sponsors a girl from birth (paying for school fees and clothing, amongst other things) and marries her after she has been initiated. Girls who are forced to marry early not only miss out on education, but also on skills-training opportunities and are, therefore, highly dependent on their husbands. In addition, they are expected to bear several children before their bodies are fully mature, and this can and does result in death.²⁸⁵

²⁸¹ Ibid.

²⁸² Ibid.

²⁸³ Ibid.

²⁸⁴ *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*

Adopted in 1979 by the United Nations General Assembly.

Retrieved January 27th 2011 from (<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>) at 14.

²⁸⁵ Human Rights Watch 'Sierra Leone: "We'll Kill you if you Cry. Sexual Violence in the Sierra Leone Conflict' (2003) *15 Human Rights Watch Report IA* 10 at 23.

Since the end of the civil war, the situation has not improved significantly. The health-care reparations policy proposed by the SLTRC was never implemented and women continue to this day to suffer the lingering consequences of the sexual violence they endured during the civil war.²⁸⁶ Life expectancy at birth in 2005 stood at 41.8 years.²⁸⁷ Women's access to health services (particularly to ante-natal care, emergency obstetric care and safe-delivery services) is inadequate and most in need of improvement.²⁸⁸ As of 2007, Sierra Leone only had one physician and five nurses per 10,000 people.²⁸⁹ Its maternal-mortality rate stood at 1,800 maternal deaths per 100,000 live births, one of the highest in the world. Such a rate translates to approximately 4,000 maternal deaths per year based on a total population of about five million.²⁹⁰

Secondly, women do not have equal access to education and literacy. An analytical report on the 1985 census confirmed that in that year 91.5 percent of all females in the country aged five years and older were illiterate.²⁹¹ The illiteracy level for females in the western area of the country was the lowest at 67 per cent. The report also confirmed that out of a total of 1.32 million females aged five and older, 1.02 million had completed their primary school education but only 0.01 million had completed secondary school education.²⁹²

Thirdly, women suffer personally from domestic violence, which has become normalised in Sierra Leonean society. Examples of domestic violence extend to the physical chastisement of wives, a right which husbands seem free to exercise.²⁹³ In addition, it is still widely believed that only rape of a virgin is rape, which in Krio is called 'to virginate'. Rape of a non-virgin, on the other hand, is not considered rape under either

²⁸⁶ <http://www.sl.undp.org/Goal3.htm>.

²⁸⁷ Hany Besada and Ariane Goetz 'The Path to Long Path to Stability in Sierra Leone' Hany Besada (ed) *Crafting an African Security Architecture: Addressing Regional Peace and Conflict in the 21st Century* (2010) 1 at 8.

²⁸⁸ <http://www.sl.undp.org/Goal3.htm>.

²⁸⁹ Hany Besada and Ariane Goetz (note 287) at 8.

²⁹⁰ *Sierra Leone Human Development Report 2007* at 41.

²⁹¹ CEDAW (note 284) at 13.

²⁹² Ibid.

²⁹³ Human Rights Watch in *War as in Peace: Sexual Violence and Women's Status* (World Report 2004) at 24.

customary or general law in Sierra Leone.²⁹⁴ These beliefs pertaining to rape in Sierra Leone are related to the notion of patriarchy and hegemony. Male domination and its associated use of violence ensures and reproduces male privilege, and this model has been consistently reinforced by wider social and cultural practices.²⁹⁵ In Sierra Leone, the notion that a man has the right and responsibility to discipline his family with violence is deeply entrenched. In his upbringing, he was subjected to violence and comes to believe that it did him more good than harm, so he continues to apply the same logic to his own family.²⁹⁶

In regards to rape, Barbara Sichtermann argues that it is an act of violence similar to other crimes of physical assault, but the meaning of this violence is to demonstrate power over women. It is not intrinsically a sexual act, but an act of violence.²⁹⁷ In Sierra Leone, it is seen as acceptable for a man to abuse his wife within the home. This may be a product of 17th century English common law, introduced by the British colonial government into Sierra Leone in the 1800s, which allowed a man to discipline his wife²⁹⁸, and where women were treated as men's property in both legal and symbolic terms. They were not regarded as full citizens, and to this day violence remains an important obstacle to women's full citizenship.²⁹⁹

In addition, it is commonly believed that individual men cannot be held responsible for conforming to socially-prescribed roles.³⁰⁰ This belief encourages apathy on the part of society, especially the police, when it comes to dealing with domestic violence. Women are expected to maintain a strict silence with regard to men's use of violence. This silence prevents women, even those educated women who know their rights, from reporting crimes of domestic violence. In Sierra Leone, there is still a huge problem of ostracism, stigma and shame attached to domestic and sexual abuse. Women live in fear of the

²⁹⁴ Ibid.

²⁹⁵ Mo Hung 'The Myths of Violence: Gender, Conflict, and Community in El Salvador' (2008) 35 *Latin American Perspectives* 59 at 64.

²⁹⁶ Ibid at 64.

²⁹⁷ Kristen Bumiller 'Rape as a Legal Symbol: An Essay on Sexual Violence and Racism' (1987) 42 *The University of Miami Law Review* 75 at 81.

²⁹⁸ Charlene L. Muehlenhard and Leigh Ann Kimes 'The Social Construction of Violence: The Case of Sexual and Domestic Violence' (1999) *Personality and Social Psychology Review* 3 234 at 235.

²⁹⁹ Mo Hung (note 295) at 65.

³⁰⁰ Ibid.

further violence which could be inflicted upon them if knowledge of the violence and abuse is made public.³⁰¹

A further promoter of violence against women in Sierra Leone is the legal system which discriminates against women and hinders their access to justice.³⁰² Sierra Leone is governed by an egalitarian Constitution which should favour women. However, the Family Code³⁰³ which is seen as a legitimate legal code is highly discriminatory to women and it is the reliance of the traditional authorities on the mainly unwritten laws which make up the Code that results in the oppression of women in Sierra Leone.³⁰⁴ In addition, in Sierra Leone the application of customary law - which is inherently unequal - to such areas as marriage and divorce,³⁰⁵ inheritance³⁰⁶ and land ownership³⁰⁷ perpetuates gender inequality. Under customary marriage rules, a married woman is not entitled to

³⁰¹ Human Rights Watch (note 293) at 24.

³⁰² Committee on the Elimination of Discrimination Against Women (CEDAW) *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth and Fifth report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* (2007)

Retrieved on May 10 2011 from <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf> at 1.

³⁰³ For example, under the law on Christian marriage, a father's authorisation is required when the person marrying is under 21 years of age; in the father's absence, the mother can give authorisation. The consent of both parties is required for marriages conducted under customary law, but no minimum age is specified. See Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Report, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Sierra Leone (14 December 2006), at 33 for more information.

³⁰⁴ CEDAW (note 284) at 33.

³⁰⁵ Matrimonial Act of 1960: In the sphere of marriage, women have been denied equal rights with their spouses. Women's subordination does not change on termination of marriage. The contributions women make to the family is usually scarcely taken into account during marriage or on its termination.

³⁰⁶ The Administration of Estates Act and the Citizen's Act of 1973: Traditional customary law regards women as 'chattels' to be inherited. In other words, women are regarded as minors in need of guardianship from a male family member, thus when the husband dies, the guardianship of the widow must be passed on to another male in the family. While the law provides that the application of customary law should not offend the principles of equity, natural justice or fairness, its application and impact on women is usually unfair.

³⁰⁷ Women, under customary law are not able to own land and any user rights they had under the land tenure system were lost upon the death of their husbands, despite the fact that women have provided the bulk of the agricultural labour force. Land ownership is a necessary means of generating wealth for women since land can act as collateral when seeking loans from commercial banks. Women's lack of economic power contributes to their vulnerability and to the 'feminization' of poverty.

More information on this can be found in Committee on the Elimination of Discrimination Against Women (CEDAW), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth and Fifth report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* (2007).

Retrieved on May 10 2011 from <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf> at 17.

manage a couple's property because she is considered to be one of her husband's possessions.³⁰⁸ Women constitute the largest group of agricultural labourers, but have never had full access to land, which is governed by customary rules.³⁰⁹ Women can, in theory, own plots of land but in the south and east of Sierra Leone women only have access to land through their husbands or other male family members. In addition, there are two main types of land ownership in Sierra Leone.³¹⁰ Under the community system, land belongs to the community or government, and individuals wishing to use it must acquire permission from a local authority. But, in most cases, women are given the right to use land only if they first obtain their husband's consent. The customary legal system provides for private ownership, but the land belongs to the family and is most often administered by the male head of the household.³¹¹

A further flaw in the legal system is the fact that the laws in regard to sexual offences are out-dated. Exclusionary rules of hearsay evidence restrict the admissibility of evidence in regard to the age and gender, and the technical details of such sexual crimes as rape and defilement.³¹² In Sierra Leone, it is only considered an offence if an adult woman is raped by someone other than her husband or if the victim is a child or a minor. It is not unheard of for a child as young as five months to have been raped.³¹³ None of defilement, same-sex rape nor matrimonial rape are considered offenses in Sierra Leone.³¹⁴

In addition, it is not unusual for the state to fail to investigate a crime against a prostitute or even a young girl because it is commonly believed that 'they may have asked for it'³¹⁵ or are in some way responsible for having been raped.³¹⁶ For example, in June 2007, the Minister responsible for Gender pledged to introduce a law prohibiting women from

³⁰⁸ <http://genderindex.org/sites/default/files/pdfs/SLE.pdf>.

³⁰⁹ <http://genderindex.org/sites/default/files/pdfs/SLE.pdf>.

³¹⁰ United Nations Development Program, *Sierra Leone Human Development Report 2007* at 54.

³¹¹ *Ibid.*

³¹² CEDAW (note 284) at 1.

³¹³ *Ibid.*

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ Lotta Teale 'Addressing Gender-Based Violence in the Sierra Leone Conflict' (2009) 9 *African Journal on Conflict Resolution* 2 at 80.

wearing certain 'provocative' clothing in the hope of reducing incidents of rape.³¹⁷ Likewise if young girls are raped, mothers beat them for having had sex with older men³¹⁸, and sometimes the young girls are forced to marry their rapists in order to escape stigmatization.³¹⁹ So deep-seated are these ideas that the woman is to blame for her rape that a 2007 survey in Sierra Leone found that 63.3% of women thought a husband was justified in beating her if she refused to have sex with him.³²⁰ It is these attitudes to marital rape which cause women, who were victims of sexual violence during the war, to relive their suffering in the most intimate setting of their own homes and communities on a daily basis.³²¹

Finally, in regards to economic discrimination, women have traditionally engaged in low-income activities such as petty trading. A labour force survey conducted in 1988 and 1989 revealed that over two-thirds (69 per cent) of petty traders were women.³²² Most did not, however, record any substantial growth in their earnings and range of economic activities. This was because of inadequate skills as a result of a poor education, low economic power and an inability to access credit facilities and property. The disparity between the economic status of women and men in Sierra Leone has resulted in economic dependency on the part of women. As a result of this dependence, many men exploit women, sometimes subjecting them to domestic and sexual violence, to further perpetuate their control in the family, which only furthers the situation of poverty for women.³²³

Post-conflict, there are still wide gender disparities in employment in the country. Of the 1.3 million women and girls in the economically-active population, as well as the 47 percent who are self-employed, 35 percent are either unpaid family workers or household

³¹⁷ Sierra Leone Parliament 2007.

³¹⁸ Lotta Teale *Interview with the mother of a survivor of sexual violence* (2007).

³¹⁹ Lotta Teale *Interview with staff at the International Rescue Committee* (2007).

³²⁰ United Nations Children Fund and Statistics Sierra Leone *Multiple Indicator Cluster Survey 2005*.

Retrieved on March 2 2011 from

http://www.datafirst.uct.ac.za/wiki/images/a/aa/MICS3_Sierra_Leone_2005_Report.pdf.

³²¹ Lotta Teale (note 316) at 80.

³²² *Ibid* at 15.

³²³ *Ibid*.

workers (compared with 12 percent of males).³²⁴ Women workers dominate these categories, which generate meagre or no incomes. Thus, women typically earn less from employment than do men. Men have more access to paid jobs than women, which means that females are still largely excluded from jobs which males have traditionally dominated, and thus tend to have low or no income at all.³²⁵ Only a tiny minority of women in Sierra Leone have managerial or professional posts, resulting in further economic inequality and an inability on the part of women to provide for their families. Consequently, for many families their poor nutrition is perpetuated over generations. Added to the employment problem is the fact that since a large number of women are illiterate, they are mainly employed in the informal sector, and as such they do not derive any state benefits or legal or consumer protection. Neither do they qualify for a state pension when they are older.³²⁶

As can be seen from the above analysis, gender-based violence and discrimination in Sierra Leone was not a phenomenon restricted to the time of the 1990s civil war; instead it increased in quantity and severity during this period. Issues of patriarchy, gender inequality and abuse have been present since the time of colonisation in Sierra Leone and became legitimised over time. It is this legitimisation that is a reason for the horrific and violence nature of the abuse inflicted upon women during the conflict; it was not a phenomenon unique to the 1990s but one which has been present in Sierra Leonean society for over a century. Drawing on Mo Hung's³²⁷ analysis of the structures which normalized gender inequalities and violence in El Salvador, one can argue that the construct of hegemony is a social aspect of that society which legitimized violence and thus. Hung argues that the hegemonic ordering of Salvadoran society and, specifically, its promotion of particular understandings of violence, had important implications for the way citizens understood the world around them. This is a highly gendered process. Dominant ways of being a man are privileged and validated in this setting, thus

³²⁴ United Nations Development Program *Sierra Leone Human Development Report 2007* at 41.

³²⁵ Ibid.

³²⁶ CEDAW (note 284) at 2.

³²⁷ Mo Hung (note 295) at 62.

reproducing power differentials and gender inequalities.³²⁸ Hegemony affects both the way in which citizens coexist in a social group and the ways in which notions of violence are constructed, internalized, and reproduced. Connell has extended the concept of hegemony to refer to dominant notions of masculinity, where violence becomes a key expression of masculine behaviour and a mechanism for ensuring continued male privilege.³²⁹ This thesis argues that this is the situation in Sierra Leone.

In Sierra Leone, women suffered from multiple forms of societal violence long before the 1990s. Dominant discourses and hegemonic myths concerning violence influence the way individuals and groups interact in a social context, creating the unspoken rules under which social relations are enacted.³³⁰ The normalisation of violence in the Sierra Leone context affects individuals' ability to recognize this harmful force, particularly its gendered expressions, which have become embedded in the construction of both men's and women's gendered identities, and thus was not seen as very far from the norm during the conflict. Failing to acknowledge particular acts as violent not only minimizes people's experience and denies them a voice but actively undermines their pursuit of justice.³³¹

However, it must be noted that regardless of how entrenched these structures may be in Sierra Leone, it is worth reminding oneself that notions of masculinity are not monolithic; the boundaries of the norm can and do change. To quote Gutmann, '*As social actors, men and women are presented with stages and scripts not of their own choosing. What they do creatively within these social and cultural constraints, and how originally they perform their roles, however, is not preordained. There is room to manoeuvre.*'³³² The challenge is to dissect the larger systems of oppression and exploitation that allow violence to become an acceptable and routine element of everyday social and political interaction. Such an approach does not aim to excuse individual men and/or women of responsibility for their actions but to ask why much of society continues to minimize that responsibility

³²⁸ Ibid.

³²⁹ Robert W Connell *Gender and Power* (1987).

³³⁰ Ibid at 63.

³³¹ Ibid at 61.

³³² Matthew Gutmann *The Meaning of being Macho: Being a Man in Mexico City* (1996) 230 at 245.

and allow this system to perpetuate.³³³ This analysis, this thesis argues, is necessary in order to be able to address effectively the roots of the suffering and inequality that women endure.³³⁴ Ultimately, it is this analysis, this thesis argues, that was neglected by the transitional-justice process in Sierra Leone, yet is a vital aspect of Sierra Leonean life that must be addressed in order to allow a truly egalitarian society to develop.

Making the process more transformative within the existing mandate

As pointed out above, women did not benefit greatly from the transitional-justice process in Sierra Leone. However, this thesis argues that the transitional-justice process in Sierra Leone could have been more transformative had it focussed on changing society rather than focusing primarily on political transformation to a stable democracy. Central to this notion of transformation is to deal with the structures of inequality in the country; an aspect which was, as stated in chapter two, neglected by the Sierra Leone process. A step towards this would be to change social and political attitudes in regards to the rights and place of women in society. Changing the mind-set of the government would initiate a changing of the beliefs of the society as a whole, promoting thereby a greater degree of equality for women. Once begun, it must be sustained by developing a vibrant civil society. Civil-society organisations, this thesis suggests, are better able to work with groups of people on the ground, thus ensuring longer-lasting and more effective changes.

What this thesis argues is that such a process of belief change must go hand in hand with a process of material compensation for those whose lives were damaged by the civil war and who suffer from dire poverty. Without this material relief, the sustainability of development and change in the country will be difficult. What is being argued here is that someone will be more willing to accept the changes the government is implementing, if they are at the same time receiving a form of compensation for their suffering. As Alex

³³³ Mo Hung (note 295) at 67.

³³⁴ William Schabas 'The Sierra Leone TRC' in Naomi Roht Arriaza and Javier Mariezcurrena (eds.) *Transitional Justice in the Twenty-First Century* (2009) 10 at 34.

Boraine argues, ‘without economic justice’³³⁵ the process of transition is ‘cheap and spurious’³³⁶.

However, in terms of this material compensation, the post-civil war government of Sierra Leone failed to institute an effective and long-term reparations policy.³³⁷ The SLTRC made extensive recommendation on reparations but the government did little to take it forward.³³⁸ There was little structural follow-through to ensure that its recommendations were carried out, in part but not entirely due to a lack of funding.³³⁹ Attempts by civil society to lobby for a so-called ‘SLTRC Omnibus Bill’ were unsuccessful. President Ernest Bai Koroma, elected in 2007, promised in his first major speech as President to establish a follow-up committee to ensure the implementation of the SLTRC’s recommendations. This committee was established in 2008³⁴⁰ but it took another year for it to receive enough in the way of cash to start up. The Peacebuilding Fund (PBF), through the UN Peacebuilding Commission (PBC), did agree to fund the reparations program with US\$3 million³⁴¹ but here too the government was slow about the entire process, according to John Caulker, a member of the Steering Committee for the reparations.³⁴²

Reparations are a vital component of any post-conflict reconstruction situation and have traditionally formed part of transitional-justice processes. However, as in the South African case, these programmes have largely been short-term and have amounted to little more than modest cash payments. The exception, as noted earlier in this thesis, was Chile

³³⁵ Alex Boraine *A Country Unmasked: Inside South Africa’s Truth and Reconciliation Commission* (2000) 350 at 357.

³³⁶ *Ibid.*

³³⁷ Lotta Teale *Interview with a former SLTRC staff member* (2007).

³³⁸ In 2007, the Government of Sierra Leone designated the National Commission for Social Action (NaCSA) as the official implementing agency. However, due to a lack of funding and political will to enhance long-term development in Sierra Leone, little was done.

See SLTRC Report, volume 2, chapter 5 for more detail.

³³⁹ Lotta Teale *Interview with a former SLTRC staff member* (2007).

³⁴⁰ Speech by President Ernest Koroma, 2007.

³⁴¹ United Nations Development Fund *Human Development Report 2010*.

Retrieved on October 8th 2010 from <http://hdr.undp.org/en/reports/global/hdr2010/>

³⁴² Interview with John Caulker by Alaina Varvaloucas, “‘A New Road into the Future’: the Potential for Long-Term Development in Transitional Justice”, unpublished senior research thesis, Yale University (April 2009) 07/23/08.

where a long-term and permanently- funded body was set up to take care of the needs of victims well into the future. What this thesis argues is that a similar body should have been established in Sierra Leone. A permanent victim-focussed reparations body should be an essential part of all efforts to transform the society for the victims of conflict.

A reparations programme with a transformative focus can offer three main benefits in a post-conflict situation. Firstly, it can serve the purpose of reintegrating victims back into normal society, and particularly back into the economy, by means of restitution of property, through employment and training, by providing opportunities for education, for trauma counselling and physical and psychological rehabilitation. Secondly, special reparation programs designed to aid vulnerable and damaged groups (like child soldiers and amputees) can facilitate their re-integration back into society; and, thirdly, collective reparation in the form of benefits (such as pension schemes) or services such as rebuilding schools, health-care facilities and mass public housing, can facilitate the development of infrastructure which will be to the advantage of the overall development of the country.³⁴³

A transformative-oriented reparations programme should seek to give individuals what they need to move forward with their lives. That would meet Sen's definition of human development - development beyond mere economic development. This broader form of development gives people the capabilities to achieve what they aspire towards. Not just the legal framework to achieve the right but the capacity too.³⁴⁴ In Sierra Leone, women were discriminated against before and during the conflict of the 1990s. They still remain discriminated against today. As a step towards tackling the issues of structural discrimination in Sierra Leone, the reparations process could have acted as a means to give women the means to achieve the things they need, such as personal, political, social and economic development, which would aid women in human development and enhance the chances of feeling and actually becoming equal to men. Human development, as Sen explains, is vital to sustainable peace and development in a country. Pure economic

³⁴³ Ruth Rubio-Marín and Pablo de Greiff 'Women and Reparations' (2007) *1 International Journal of Transitional Justice* at 325.

³⁴⁴ Amartya Sen 'Introduction' in *Development as Freedom* (2000) 1 at 3-4.

development does not enable an individual victim to develop in ways they may aspire towards. With the effective use of an enduring reparations programme, one may be able to ensure people have a sense of change in the country and feel they are living a better life.³⁴⁵

Material compensation, as mentioned above, is only one step towards structurally transforming the country during a transitional-justice process. Society needs a change of mind set too around the issue of gender rights. This type of process in Sierra Leone would require a process much like that which South Africa has gone through since 1994 in its attempts to bring about gender parity. Of course, the right laws are not enough; it requires also cultural and attitude changes but without a proper legal framework, little can be achieved. However, a change in the laws and attitude of the government would be a good start towards dismantling the structures of discrimination and inequality used against women.

Once this change has begun in the government, it must be sustained by developing a vibrant civil society. Civil-society organisations, this thesis suggests, are better able to work with groups of people on the ground, thus ensuring longer-lasting and more effective changes. Civil society must be there to be both an agency to aid implementing policy as well as an instrument of accountability; that is, hold the government accountable if it does not deliver upon its goals and promises. John Paul Lederach argues that most post-conflict development initiatives only target one or two strata of leadership in a country, that of the top-level officials (politicians, military personal or some religious leaders³⁴⁶) and possibly middle-level leaders (people who are in a position not directly linked to the top-level but are still respected leaders in areas such as business, education or agriculture³⁴⁷). The lowest level of leadership in a community - the grassroots - is often neglected. Yet, this aspect of society is vital to the continued sustainability of development and peace initiatives as this social grouping must be able to work with the

³⁴⁵ Ibid.

³⁴⁶ John Paul Lederach *Building Peace*, (1997) at 38.

³⁴⁷ Ibid.

transitional-justice process and the government in the delivery of reparations and aid the process of transforming the society.³⁴⁸

This has not easily been possible in Sierra Leone as the civil-society sector emerged from years of conflict seriously weakened. Many emerged internally divided, plagued with clientship relationships with power holders, dependent on the state or international donors, undemocratic and uncivil.³⁴⁹ In addition, even for vigorous civil- society actors, moving beyond an oppositional stance or attitude towards a previously repressive state requires not among other things a changes in institutional arrangements through which new relationships with the state and other parts of civil society can be negotiated. A way for these organisations to do this and to gain status in a post-conflict society could be through engagement and co-operation with the post-conflict development process.³⁵⁰ A vigorous, well-trained civil society can provide valuable skills in designing, implementing, monitoring and improving the transformation process.³⁵¹ In addition, active links with civil society can ensure that there is a strong monitoring process that can ensure the reparations and vetting processes take place.³⁵²

Lastly, it is vital that within civil society there is a special role for victim-support organizations in the post-conflict development scenario. Many post-conflict situations generate victim relief organizations. This was so in Sierra Leone where for example, women have been and are active in civic and philanthropic organizations and there exist many NGOs designed specifically to facilitate the efforts of women in meeting their nutritional, mental, physical, educational, financial and psychological needs.³⁵³ These

³⁴⁸ Ibid.

³⁴⁹ Jasmina Brankovic *Workshop Report: Advocating Justice: Civil Society and Transitional justice in Africa* (30-31 August 2010, Twickenham Guest House, Johannesburg, South Africa hosted by the Centre for the Study of Violence and Reconciliation) at 4- 8.

³⁵⁰ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding (note 274).

³⁵¹ Mindzie, Mireille Affa'a 'Transitional Justice, Democratization and Rule of Law' Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice? The Dilemmas of Transitional-justice in Africa* (2009) 113 at 118.

³⁵² Ibid.

³⁵³ For example, the Sierra Leone Association of Non-Governmental Organizations (SLANGO) holds workshops for NGO personnel in Freetown to sensitize participants on diverse management issues and NGO policy. In addition, women from the Sierra Leone Women's Forum could be used. In 1994, the Sierra Leone's Women's Forum was established. It is made up of over forty local women's organizations

victim-relief processes need to be incorporated under the transitional-justice mandate as they are a key link in the transformation and development chain and can have a long-lasting effect in the country.³⁵⁴

These three aspects – an effective and lasting reparations programme, a government committed to eradicating legal obstacles to development and equality, and strengthening and developing a vibrant civil society are three ways by which a post-conflict developmental initiative used in Sierra Leone could have been improved so as to aid a more transformative approach to the post-conflict development process. However, this thesis argues that even if the Sierra Leone process had adapted its transitional-justice process to become more transformative focused, it still would not have been able to address the underlying societal structures in Sierra Leone, the everyday and structural violence, and would not be able to adequately start the process of dismantling these structures and the above mentioned gaps of social, political and economic discrimination and inequality would have still existed in the post-conflict situation. Ultimately, it must be noted that the transitional-justice model as a whole is unable to adapt itself to the need for more than political transformative, and the case of Sierra Leone illustrates this.

The neglect of social justice in the transitional-justice model as a whole

The neglect of this aspect of analysis was a flaw of the narrow mandate of the transitional-justice process as a whole in Sierra Leone. However, when one looks at the transitional-justice paradigm and how it has been applied elsewhere in the past two decades, what happened in Sierra Leone was not unusual. The paradigm as it has been applied to date does not dig deep into societal factors. Social-justice issues have largely

seeking to advance the education, welfare, and general status of women and girls. The strongest and possibly most influential aspect of the Women's Forum is its supportive counselling classes taught through local traditions, storytelling, proverbs, and singing in the treatment process. The Maria Stopes Clinics, locally run and well respected, provide GBV education and counselling for male and female victims and perpetrators. The National Association on Violence Against Women, initiated by a senior female officer with the Sierra Leone police force, educates and sensitizes the police force about GBV and how to respond to victims of GBV. In addition, the Association educates the officers about proper enforcement of the non-discriminatory laws outlined in the Constitution, specifically in regards to women and children.

³⁵⁴ Rama Mani, 'Distributive Justice: Addressing Effects or Causes?' in *Beyond Retribution: Seeking Justice in the Shadow of War* (2002) 125 at 134.

not been incorporated into the mandates of either truth commissions or special courts. While truth commissions have in most cases established levels of truth, they have invariably not addressed the roots of the conflict with a view to preventing future violence.³⁵⁵ While truth is seen as vital to a post-conflict situation as it allows people to learn about the past and in theory aids the process of societal recovery, the mere facts of the past do not address socio-economic development and underlying factors of structural discrimination and inequality in the country.³⁵⁶ Similarly, while special courts and prosecutions in general are needed as instruments of truth and accountability, contributing thereby to healing processes, they cannot because of the gaps in the transitional-justice paradigm on their own overcome societal divisions that undermine peace and security.³⁵⁷

There are several reasons for this. One is that in the period under examination by truth commissions (like the apartheid system in South Africa or the civil war in Sierra Leone or the horrific eras of military oppression in Latin America) it may be that the practices and patterns of social injustices are so vast, their victims so many, the impact and consequences so far ranging for both individuals and whole communities that it is difficult at first glance to envisage how to encompass them within the finite range of the measures of transitional justice, whether they be via trials, truth commissions or institutional reforms. In addition, the ‘agents’ or perpetrators of these practices appear, on the surface, more faceless and nameless than the perpetrators of legally-defined violations.³⁵⁸ Hence, it may appear more difficult and arbitrary to assign precise responsibility and determine culpability for such practices through a fair legal process or public enquiry.³⁵⁹ It also may seem more complicated to measure the appropriate

³⁵⁵ Ibid.

³⁵⁶ Thelma Ekiyor ‘Reflecting on the Sierra Leone Truth and Reconciliation Commission’ in Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice* (2009) at 168.

³⁵⁷ Rama Mani ‘Three Dimensions of Peacebuilding in Justice’ in *Beyond Retribution: Seeking Justice in the Shadow of war* (2007) 1 at 8.

³⁵⁸ Pablo De Greiff ‘Articulating the Links Between Transitional Justice and Development: Justice and Social Integration’ (Eds) Pablo De Greiff and Roger Duthie, *Transitional Justice and Development: Making Connections* (2009) 10 at 35.

³⁵⁹ Ibid.

reparations and compensation necessary to address the damage done to generations of victims of systematic structural violence.³⁶⁰

Sierra Leone was no exception. Neither of its chosen transitional-justice instruments had the mandate nor the resources to look at structural, everyday violence before or during the 1990s. In regard to the latter, one cannot ignore the fact that Sierra Leone in 2001 was the second poorest country in the world, with low literacy levels, endemic corruption, a weak justice system is weak and still plagued by significant levels of inequality and discrimination on the part of women throughout Sierra Leone.³⁶¹ Even so, what this thesis argues that without addressing the structural nature of societal violence, discrimination and inequality a process of peacebuilding, development and social justice in a post-conflict society will be hard to achieve. Without deep analysis, the danger is that the transitional-justice process only looks at overt physical violence between a specific set of dates, and not at the deep-seated and routine violence which exists in the society.

These forms of everyday violence are grounded in the same structures that feed into political conflict, and should receive priority attention if lasting peaceful societies are to be built. This argument is made by Johan Galtung who asserts that if underlying structural and everyday violence is not addressed after conflict has ceased, peace is unlikely to be sustainable or universal.³⁶² Galtung describes peacebuilding as an action seeking to identify the 'structures of peace: structures must be found that remove causes of wars and offer alternatives to war in situations where wars might occur'³⁶³. Galtung elaborates that in order to ensure a proper transformation to sustainable peace and peacebuilding, the twin objectives of preserving 'negative peace' (absence of physical violence) and building 'positive peace' (presence of social justice) needs to be pursued. In Sierra Leone, women did not have access to either negative or positive peace.³⁶⁴ In

³⁶⁰ Rama Mani 'Editorial Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development' (2008) 2 *The International Journal of Transitional Justice* 253 at 255.

³⁶¹ The United Nations Development Program *Sierra Leone Human Development Report 2007* (2009).

³⁶² Ibid.

³⁶³ John Galtung 'Violence, Peace and Peace Research' (1969) in 6 *The Journal of peace research* 3 200 at 297.

³⁶⁴ Wendy Lambourne (note 276) at 34.

addition, Galtung argues that it is imperative to look at two issues surrounding violence - the use and forms of violence and the factors that legitimise that violence.³⁶⁵ If the institutions which operate in the society serve to legitimate societal violence, then he asserts there cannot be sustainable peace and human development.³⁶⁶ Peacebuilding, from which transformative justice draws some of its theory, is a process which is directed at building structural and cultural peace, and thus sustainable peace.³⁶⁷

A possible solution to this neglect, which has been advocated in the post-conflict development arena, would be to broaden the mandates of the transitional-justice instruments so as to take a wider, more holistic approach to societal disadvantage. This holistic model would be a combination of approaches to post-conflict development using different forms of justice and instruments, including legal justice (trials), rectifactory justice (amnesties and truth commission) as well as distributive justice.³⁶⁸

Legal justice refers to the need to reform the rule of law framework and the legal system in a post-conflict situation in order for people to understand that there will be accountability for their actions in society.³⁶⁹ Rectifactory justice refers to the need to provide some kind of consequence for the injustices inflicted upon people during a period of conflict or civil war, such as truth commissions and special courts.³⁷⁰ Distributive justice, sometimes also referred to as social justice, seeks to address a society's structural and systematic injustices, such as political and economic discrimination and inequalities of distribution.³⁷¹ In order to transform a society, one needs to apply all three aspects of justice because they are interlinked; neither one of the types of justice can reform all three aspects of society alone; the three dimensions are mutually reinforcing. The rule of law is necessary for rectifactory and distributive-justice measures. Similarly, the process of restoring rectifactory and distributive justice serves to strengthen the institutions and

³⁶⁵ John Galtung (note 363) at 297.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ Rama Mani (note 357) at 5.

³⁶⁹ Ibid at 6.

³⁷⁰ Ibid at 7.

³⁷¹ Ibid at 8.

principles of the rule of law, such as the equality of all citizens before the law, the guarantee of humane treatment to prisoners and the right to a fair trial.³⁷²

This, however, is not easily achieved and a broadening of the mandate could do more harm than good as it could overburden an already overcharged system, whose responsibilities are too heavy, public expectations unrealistic and finances too lean. The result could be a half-hearted attempt in each of these areas.³⁷³ Even what transitional-justice instruments have up till now been asked to undertake in terms of finding the truth, setting up accountability processes, among other tasks, have sometimes proved to be too great a task. One should not expect transitional-justice instruments to take on more responsibility when it is not always clear it can successfully achieve its original, far more modest, tasks of establishing truth and promoting justice.³⁷⁴ Recognizing that a country needs more in terms of human development by merely instructing a truth commission, for example, to do more, does not solve the logical dilemmas of the limitations these commissions have in addressing deep social problems.

Therefore, this thesis argues that one needs to develop a workable, cost-effective solution to this area of neglect. A solution which will include examining underlying social inequalities and dynamics in the society³⁷⁵, in order to create a system which better meets the needs of its people and which will ensure a better quality of life for all those who were involved in, or affected by, the conflict. As a possible alternative, this thesis suggests, the application of the transformative-justice model.³⁷⁶

The alternative: transformative justice

Transformative justice is a new and emerging field in the international post-conflict development community; one with little practical application and operationalization, and it is hard thus to outline exactly what this model would look like in application. It is for

³⁷² Ibid at 11.

³⁷³ Roger Duthie 'Toward a Development-Sensitive Approach to Transitional Justice' (2008) 2 *The International Journal of Transitional Justice* 292 at 305; and De Greiff (note 354) at 4.

³⁷⁴ Priscilla Hayner 'Five Illustrations of Truth Commissions' in *Unspeakable Truths* (2001) 1 at 27.

³⁷⁵ Rama Mani *Beyond Retribution: Seeking Justice in the Shadows of War* (2002) at 6.

³⁷⁶ Mani (note 360) at 255.

this reason that this thesis does not attempt to outline a detailed model or programme of transformative justice, but rather highlights the core assumptions of the model and advocate why it would provide a better analysis in a post-conflict situation.

Transformative justice draws on Johan Galtung's analysis of violence, as was outlined in the introduction to this thesis. Galtung asserts that if underlying structural violence is not addressed after conflict has ceased, peace is unlikely to be sustainable or universal.³⁷⁷

Galtung describes peacebuilding as an action seeking to identify the 'structures of peace: new structures must be developed that remove causes of wars and offer alternatives to war in situations where they might occur'.³⁷⁸ It is a process which is directed at building structural and cultural peace, and thus sustainable peace.³⁷⁹

Transformative justice argues along similar lines, that in order to ensure a better quality of life for all who have come through a period of severe societal conflict, one needs to look at the underlying social inequalities and dynamics of a society.³⁸⁰ Within transformative justice there is shift in focus from 'transition' as an interim process that links the past and the future to a longer-term perspective of 'transformation'. In other words, transformative justice looks beyond the scope of the immediate conflict to underlying factors of violence and why it has become normalized in society.³⁸¹

Wendy Lambourne elaborates on the concept, arguing that the term transformative justice may allow the international post-conflict development community to explore structural violences³⁸² and look at how one may achieve justice for these communities, with the aim of trying to dismantle the structures which legitimised the injustice and violence in the

³⁷⁷ Lisa LaPlant 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework' (2008) 2 *The International Journal of Transitional Justice* 331 at 334.

³⁷⁸ Johan Galtung 'Violence, Peace, and Peace Research' (1969) 6 *Journal of Peace Research* 3 167 at 297.

³⁷⁹ Ibid.

³⁸⁰ Roger Duthie (note 373) at 305.

³⁸¹ Marcus Lenzen 'Roads Less Traveled? Conceptual Pathways (and Stumbling Blocks) for Development and Transitional Justice' (eds.) Pablo De Greiff and Roger Duthie *Transitional Justice and Development: Making Connections* (2009) 80 at 84.

³⁸² Wendy Lambourne (note 276) at 40.

first place.³⁸³ Forms of structural violence remain the most stubborn form of continued violence in a community, usually perpetuating violence from past events, such as a civil war. One needs to analyse these structures in society and look at how they continue to replicate this violence and discriminating in the present.³⁸⁴ Transformative justice aims to provide a means of allowing marginalised groups, such as women, a means to live an equal life free of violence and discrimination, both in conflict times and times of peace.³⁸⁵

The value of an analysis of structural and everyday discrimination and violence, Rama Mani emphasises, is that it recognizes that injustice is not just a consequence of conflict but also a cause of it. To restore justice after conflict, she argues, it is necessary to look at the symptoms, causes and consequences of the conflict. In order to get a deeper understanding of the conflict and society as a whole, one needs to look closely at the relationships which exist in the society. John Paul Lederach argues that one of the most important needs is for peacebuilders to ‘find ways to understand peace as a change process based on relationship building’³⁸⁶. In other words, in addition to focusing on the political and legal aspects of peace agreements, namely, truth commissions and criminal tribunals, one needs to focus on the society as a whole and what has led to violent behaviour in it and focus on the task of transforming these relationships and structures in that society and the processes and institutions that legitimise them.³⁸⁷

By using this approach of transformative justice and looking at the structural dimensions of the society, one can then highlight the fundamental causes of conflict and what has legitimized these causes over time, and thus could transform them so as to eliminate the potential for future violence and promote sustainable peace in a post-conflict situation.³⁸⁸ If one is able to identify these elements in society, especially in a poor and violence-

³⁸³ Anne Eriksson ‘A Bottom-Up Approach to Transformative Justice in Northern Ireland’ (2009) 3 *International Journal of Transitional Justice* 3 301 at 310.

³⁸⁴ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding ‘Transformative Justice - A Concept Note’ *Draft Thesis Developed by the WUN Transformative Justice Group* (October 2010).

³⁸⁵ Ibid.

³⁸⁶ John Paul Lederach ‘Reconciliation’ in *Building Peace: Sustainable Reconciliation in Divided Societies* (1997) 10 at 26.

³⁸⁷ John Paul Lederach “The Challenge of the 21st Century: Just Peace” in *People Building Peace: 35 Inspiring Stories from Around the World* (1999) 30 at 35.

³⁸⁸ Marcus Lenzen (note 381) at 84.

plagued society like Sierra Leone where there is widespread structural inequality, then one can start the process of tackling them so as to reduce or eliminate the potential for future violence. Such an initiative would enable governments to adopt long-term policies and programmes, as well as undertake a review of legal obstacles to change.³⁸⁹ In addition, by addressing the structural oppression of the people, one would be able to develop recommendations to ensure a more egalitarian future.³⁹⁰ Some of these aspects may include ensuring better access to basic human needs and better access to societal resources.³⁹¹

This thesis argues, however, that there is still a need for traditional transitional-justice instruments such as a truth commission and special court. These instruments should operate in conjunction with a transformative-justice agenda. Transformative justice would function alongside the transitional-justice machinery and focus on the underlying structural inequalities in the society, ensuring delivery on reparations and enhance the development of a long-lasting transitional effect in order to provide for more sustainable development in the post-conflict situation.³⁹² The combination of the three mechanisms will allow for a more transformative approach to post-conflict transitions which will include a closer in-depth analysis of conflict, the structures within the society and the needs of people.³⁹³ Together, these three aspects of post-conflict human development could, it is argued, provide a long-term approach to implementing and maintaining sustainable peace in a post-conflict situation.

In conclusion, this thesis is suggesting that there needs to be a shift in the thinking of post-conflict development agendas towards a model or theory which looks to transform the society rather than merely assist with a political transition. A model that seeks to change the pre-conflict structures in a way so as to make them more inclusive, less

³⁸⁹ Wendy Lambourne (note 276) at 28.

³⁹⁰ Ibid.

³⁹¹ John Lederach 'An Integrated Framework' in John Paul Lederach *Building Peace* (1997) 75 at 83.

³⁹² Yasmin Sooka 'The Politics of Transition' in Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) 10 at 25.

³⁹³ Pablo De Greiff 'New Horizons. Linking Development Cooperation and Transitional Justice for Sustainable Peace: International Conference| Berlin, 27 - 28 January 2010. Conference Report: Issues and Challenges' at 4.

unequal and fairer to the wider population.³⁹⁴ This involves looking at and addressing not only what happened during the conflict but the roots of this violence and the structures in society which lead to the repetition of inequality, discrimination and violence. It is a process which includes a social aspect to transition rather than only political aspects, allows for the development of a more egalitarian society. It is the process of expanding the real freedoms that people enjoy and enlarge what a person could do and be in their life.³⁹⁵ With this form of development in a society, one is able to address the above-mentioned gaps in the transitional-justice model and allow for a transformation which provides relief for marginalised groups of victims in society and allow for, what Sen defines, human development,³⁹⁶ enabling the establishment and maintenance of peace and stability in a post-conflict situation.

³⁹⁴ J Boesten, G Crawford, P Gready, L Waldorf and P Wilding (note 274).

³⁹⁵ Sakiko Fukuda-Parr 'Human Development Paradigm' (2003) 9 *Feminist Economics* 2-3 301 at 303.

³⁹⁶ Amartya Sen 'Introduction' in *Development as Freedom* (2000) 1 at 3-4.

Conclusion

A central argument of this thesis has been that the transitional-justice process applied in Sierra Leone failed to address the developmental and social justice needs of the women of the country. This was a major focus of the study as well as to suggest that an alternative theory - that of transformative justice - would have better addressed these shortcomings. Nonetheless, despite these weaknesses, this thesis acknowledges that the process applied in Sierra Leone was an important one in the evolution of transitional justice and was a unique experiment in the history of recent transitions to democracy.³⁹⁷ It was one which avoided the difficult choice between the retributive and restorative-justice approaches to post-conflict by using both.³⁹⁸

It was a process which came about after a decade in which Africa had experienced extreme levels of violence in the form of the 1994 Rwanda genocide and brutal levels of internal conflict, mainly in the form of civil wars, in the Horn of Africa, in Sudan and through much of West Africa. Worst affected in that region were the Ivory Coast, Liberia and the focus of this study, Sierra Leone.³⁹⁹ It was a time period (the 1990s) also marked by a dominant view in the international human rights community that using just one form of justice was not enough to prevent future conflicts.⁴⁰⁰

The post-conflict transition and development process in Sierra Leone drew upon the examples of the Latin American models of transitional justice as well as the South African Truth and Reconciliation Commission. To overcome the gaps seen to exist in those previous commission processes, Sierra Leone decided to use both a truth commission as well as a special court.⁴⁰¹

³⁹⁷ Martha Minow 'Trials' in *Between Vengeance and Forgiveness* (2000) 25 at 25.

³⁹⁸ Kingsley Chiedu Moghalu 'Prosecute or Pardon: Between truth commissions and war crimes trials' in Chandra Lekha Sriram and Suren Pillay (eds) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) 69 at 92.

³⁹⁹ Klaas Van Walraven 'West Africa' in Andreas Mehler, Henning Melber, Klaas van Walravem (eds) *Africa Yearbook: Politics, Economics and Society South of the Sahara in 2009, Volume 6* (2010) 45 at 47.

⁴⁰⁰ Van Walraven (note 399) at 48.

⁴⁰¹ Binaifer Nowrojee 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims' (2005) 18 *Harvard Human Rights Journal* 85 86 at 88.

This approach faced the difficult task of trying to bring about an orderly transition in a country ravaged by an eight-year long civil war. In doing so, there were many challenges to overcome, particularly those of funding and the lack of infrastructure in the country itself.⁴⁰² Even though the decision to use both mechanisms was one supported by the Sierra Leonean people themselves⁴⁰³, the role of the international community in the process was extensive due to the fact that the country lacked both the financial resources and the skilled personnel to manage this process on its own.

Despite the huge challenges, the two institutions have been praised for fulfilling their mandates and for attempting to aid the country in a process towards peacebuilding. The fact that a decade has passed without a return to the recent past of violence and corruption says much for the process in terms of conflict resolution and peacebuilding. It has not been the aim of this thesis to discredit the entire post-conflict process in Sierra Leone. However, what this thesis has argued is that the process left the needs of certain social groupings, notably the women of Sierra Leone, largely unmet. It argues that the two key post-conflict instruments did not look at the underlying structures of society in Sierra Leone, the everyday violence that exists, and did not address how these structures could be dismantled. There are still today, ten years after these two institutions completed their tasks, widespread inequalities in Sierra Leone in regards to the status and lives of women. This inequality spreads into areas such as education, employment, land ownership and health care. In addition, the inherent belief that men are superior to women continues to lead to domestic violence and the abuse of women.⁴⁰⁴

This thesis has acknowledged the fact that analyses of underlying social or societal issues has not up to now been seen as being within the mandate of transitional-justice institutions. Given the new thinking since 2000 around issues of transition, this thesis has suggested that the application of a transformative-justice model as an alternative

⁴⁰² Wendy Lambourne 'Transitional Justice and Peacebuilding after Mass Violence' (2009) 3 *The International Journal of Transitional-justice* 28 at 39.

⁴⁰³ Kingsley Chiedu Moghalu (note 398) at 75.

⁴⁰⁴ See chapter three for more information on this topic.

approach to post-conflict transitions will better suit the needs of a post-conflict society. This model is one which allows for the analyses of underlying social conditions and structures that create and foster violent expressions of conflict in a community.⁴⁰⁵ Without this analysis, as this thesis noted in chapter three, it could be argued that one is merely looking at societal violence between a specific set of dates, and not at the routinised violence which exists in the society.⁴⁰⁶ Again, as argued in chapter three, these forms of everyday violence are grounded in the same structures that feed into political conflict, and should receive equal priority if lasting peaceful is to be achieved.⁴⁰⁷ This argument builds on Johan Galtung's analysis who asserts that if underlying structural violence is not addressed after conflict has ceased, peace is unlikely to be sustainable or universal.⁴⁰⁸ Galtung describes peacebuilding as an action seeking to identify the 'structures of peace: new structures must be developed that remove causes of wars and offer alternatives to war in situations where they might occur',⁴⁰⁹ It is a process which is directed at building structural and cultural peace, and thus sustainable peace.⁴¹⁰

Ultimately, this thesis aimed to outline why the application of a transformative-justice mechanism in a post-conflict situation, such as Sierra Leone, would have added value to what the transitional-justice mechanisms sought to achieve. They sought to address the needs for truth, reconciliation and accountability; what a transformative model could have done was take the process further and tackle those factors that encourage discrimination, inequality and violence. Such a transformative model would have better addressed the concerns of marginalised victims, such as women in Sierra Leone, and

⁴⁰⁵ John Lederach and Michelle Maies 'Conflict Transformation' <http://www.tetras-consult.gr/resources/Resources/Dialogue,%20Conflicts%20%20%20Creativity/Conflict%20Transformation.pdf>

⁴⁰⁶ Marcus Lenzen 'Roads Less Traveled? Conceptual Pathways (and Stumbling Blocks) for Development and Transitional Justice', in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009) 80 at 84.

⁴⁰⁷ Roger Duthie 'Towards a Development-sensitive Approach to Transitional Justice' (2008) 2 *The International Journal of Transitional Justice* 292 at 305.

⁴⁰⁸ Lisa LaPlant 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework' (2008) 2 *The International Journal of Transitional Justice* 331 at 334.

⁴⁰⁹ Johan Galtung 'Violence, Peace, and Peace Research' (1969) 6 *Journal of Peace Research* 3 167 at 297.

⁴¹⁰ Ibid.

started the process of dismantling the structures of violence that plague the country and better promote social justice in the country.

Finally, despite the limitation of this research thesis, it has opened up to the author the potential in the transformative-justice model for more effective post-conflict transitional processes and highlighted opportunities for further study and research in the evolving field of conflict resolution and peacebuilding. Had such a model been available in the early 2000s Sierra Leone might have been able to craft together a more effective process to deal with the consequences of the tragic and destructive decade of the nineteen nineties. Nevertheless, this research paper hopes that lessons can be learnt and applied to future post-conflict transitions.

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Bibliography

PRIMARY SOURCES

Legislation

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Adopted by the United Nations General Assembly in 1979

Retrieved on 27 January 2011 from

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

Security Council Resolution 1315 (2000) of 14 August 2000

Adopted by the United Nations in 2000

Retrieved on 10 November 2010 from

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f27814>

Statute of the Sierra Leone Special Court

Adopted by the Government of Sierra Leone in 2002

Retrieved on 20 November 2010 from

<http://www.sc-sl.org/LinkClick.aspx?fileticket=uClnd1MJJeEw%3D&>.

The Promotion of National Unity and Reconciliation Act No 34 of 1995

Adopted by the Government of South Africa in 1995

Retrieved on 01 September 2009 from

<http://www.doj.gov.za/trc/legal/act9534.htm>.

The Truth and Reconciliation Commission Act 2000

Adopted by the Government of Sierra Leone in 2000

Retrieved on 10 March 2011 from

<http://unipsil.unmissions.org/portals/unipsil/sierraleone/laws/20004trc.pdf>.

United Nations Security Council, *Statement by the President of the Security Council*

Doc. S/PRST/2001/5 (20 February 2001)

Retrieved on 10 May 2011 from

<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/PKO%20SPRST%202001%205.pdf>.

Cases

Prosecutor vs. Brima, Kamara and Kanu (AFRC Case)

Case No. SLSC- 2004- 16 PT.

The Prosecutor vs. Charles Taylor

Case No. SLSC – 03- 01- PT.

Prosecutor vs. Fofana and Kondewa (CDF Case)

Case No. SLSC – 03 -14 – I.

Prosecutor vs. Sesay, Kallon and Gbao (RUF Case)

Case No. SLSC- 2004 – 15 – PT.

Reports

Amnesty International *Sierra Leone: Getting Reparations Right for Survivors of Sexual Violence* (2007)

Retrieved on 10 May 2011 from

http://www.transitionaljustice.org.za/index.php?option=com_content&view=article&id=3083%3Asierra-leone-getting-reparations-right-for-survivors-of-sexual-violence&Itemid=56.

Argentina National Commission on Disappeared, *Nunca Más: The Report of the Argentina National Commission on Disappeared* (1986) Faber & Faber, London.

Conciliation Resource Website, *Gender and Conflict in Sierra Leone*

Retrieved on 27 January 2011 from

<http://www.c-r.org/resources/occasional-thesis/gender-conflict-sierra-leone.php>.

Human Rights Watch, *In War as in Peace: Sexual Violence and Women's Status: World Report* (2004) Human Rights Watch, New York City.

Committee on the Elimination of Discrimination Against Women (CEDAW), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth and Fifth Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* (2007)

Retrieved on 10 May 2011 from

<http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf>.

Sierra Leone Truth and Reconciliation Commission, *Witness to the Truth: The Sierra Leone Truth and Reconciliation Report*, Volume 1 (2004)

Retrieved on 5 November 2010 from <http://www.sierra-leone.org/TRCDocuments.html>.

Sparks, Alister 'Steering SA off the road to a failed state', *The Mercury*, Durban, South Africa, 27 April 2011.

Teale, Lotta *Addressing Gender-based Violence in the Sierra Leone Conflict* (2009)

Retrieved on 10 March 2011 from

http://www.peacewomen.org/portal_resources_resource.php?id=921.

The United Nations Development Program, *Sierra Leone Human Development Report 2007*

Retrieved on 10 November 2010 from

http://www.3adi.org/tl_files/3ADIDocuments/Country%20information/Sierra%20Leone/Human_development_report_SierraLeone_2007_en.pdf.

United Nations, *United Nations Security Council Resolution 1325 (S/RES/1325)*

Adopted by the Security Council at its 4213th meeting on 31 October 2000

Retrieved on 10 May 2011 from http://www.un.org/events/res_1325e.pdf.

United Nations Children Fund and Statistics Sierra Leone, *Multiple Indicator Cluster Survey 2005*

Retrieved on 2 March 2011 from

http://www.datafirst.uct.ac.za/wiki/images/a/aa/MICS3_Sierra_Leone_2005_Report.pdf.

United Nations Development Fund, *Human Development Report 2010*

Retrieved on 8 October 2010 from <http://hdr.undp.org/en/reports/global/hdr2010/>.

Websites

Official Website of Sierra Leone

<http://www.sierra-leone.org/>

Accessed on 10 March 2011.

Official Website of Sierra Leone, giving detail on the Abidjana Accord

<http://www.sierra-leone.org/abidjanaccord.html>.

Accessed on 15 March 2011.

Official Website of the Sierra Leone Special Court

<http://www.sc-sl.org/LinkClick.aspx?fileticket=Mb00aVVb4Cg=&tabid=107>.

Accessed on 20 May 2011

Website of the Sierra Leone Association of Non-Governmental Organisations (SLANGO)

<http://www.slango.org/default.asp?id=HILHG>

Accessed on 20 May 2011.

Website of the United National Development Fund

<http://www.sl.undp.org/Goal3.htm>.

Accessed on 5 November 2010.

Website of the Gender Index

<http://genderindex.org/sites/default/files/pdfs/SLE.pdf>.

Accessed on 5 November 2011.

SECONDARY SOURCES

Addo, Prosper Nii Nortey 'Politics, War and Youth Culture in Sierra Leone: An alternative interpretation' (2002) *11 African Security Review* 3.

Alexander, John 'Capabilities, Human Rights and Moral Pluralism' (2004) 8 *International Journal of Human Rights* 4.

Aukerman, Mariam 'Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice' (2002) 15 *Harvard Human Rights Journal*.

Abraham, Arthur *Mende Government and Politics under Colonial Rule: A historical study of political change in Sierra Leone, 1890-1937* (1979) Oxford University Press, Oxford.

Abraham, Arthur 'State Complicity as a Factor in Perpetuating the Sierra Leone Civil War' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) Council for the Development of Social Science Research in Africa, Senegal.

Abdullah, Hussainatu, Ibrahim, Aisha and King, Jamesina 'Women's Voices, Work and Bodily Integrity in Pre-Conflict, Conflict and Post-Conflict Reconstruction Processes in Sierra Leone' (2010) *41 IDS Bulletin* 2.

Bangura, Yusuf, 'Understanding the Political and Cultural Dynamics of the Sierra Leone War: A Critique of Paul Richards' *Fighting for the Rain Forest*' (1997) *22 Africa and Development* 3/4.

Barnes, Karen, Albrecht, Peter and Olson, Maria 'Addressing Gender-Based Violence in Sierra Leone: Mapping Challenges, Responses and Future Entry Points' (2007)

International Alert: Department of Foreign Affairs.

http://reliefweb.int/sites/reliefweb.int/files/resources/FA4B94B763DBAF7AC12573930048D081-Full_Report.pdf.

Accessed on 30 January 2011.

Behr, Thomas 'Luigi Taparelli and Social Justice: Rediscovering the Origins of a 'Hollowed' Concept' (2005) *I Social Justice in Context*.

Besada, Hany and Goetz, Ariane 'The Path to Long Path to Stability in Sierra Leone' in Hany Besada (ed.) *Crafting an African Security Architecture: Addressing Regional Peace and Conflict in the 21st Century* (2010) Ashgate Publishing Limited, United Kingdom.

Bhargava, Rajeev 'The Moral Justification of Truth Commissions' in Charles Villa-Vicencio and Wilhelm Verwoerd (eds.) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000) Zed Books, London.

Bhargava, Rajeev 'Restoring Decency to Barbaric Societies' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: The Morality of Truth Commissions* (2000) Princeton University Press, Princeton.

Bickford, Louis 'Transitional Justice' in Dinah L. Shelton (ed.) *Encyclopaedia of Genocide and Crimes against Humanity* (2005) Macmillian Reference, Detroit.

Boraine, Alex *A Country Unmasked: Inside South Africa's Truth and Reconciliation Commission* (2000) Oxford University Press, Oxford.

Boutros-Ghali, Boutros *Agenda for Peace* (1992) United Nations, New York City.

Bratton, Michael and Van de Walle, Nicholas ‘Neopatrimonialism Regimes and Political Transitions in Africa’ (1994) *46 World Politics* 4.

Bumiller, Kristen ‘Rape as a Legal Symbol: An Essay on Sexual Violence and Racism’ *42 The University of Miami Law Review* 75.

Chiedu Moghalu, Kingsley ‘Prosecute or Pardon: Between Truth Commissions and War Crimes Trials’ in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Cobban, Helena ‘Think Again: International Courts’ (2006) *Foreign Policy Magazine Online*

http://www.foreignpolicy.com/articles/2006/02/17/think_again_international_courts

Accessed 14 March 2011.

Connell, Robert W *Gender and Power* (1987) Polity Press, Cambridge.

Crocker, David ‘Truth Commissions, Transitional Justice and Civil Society’ in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) Princeton University Press, Princeton.

De Greiff, Pablo ‘Articulating the Links between Transitional Justice and Development: Justice and Social Integration’ in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009) Social Science Research Council, New York City.

Dougherty, Beth ‘Searching for Answers: Sierra Leone’s Truth and Reconciliation Commission’ (2004) *8 African Studies Quarterly* 1.

Duthie, Roger 'Introduction' in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009) Social Science Research Council, New York City.

Duthie, Roger 'Toward a Development-sensitive Approach to Transitional Justice' (2008) 2 *The International Journal of Transitional Justice*.

Eriksson, Anne 'A Bottom-Up Approach to Transformative Justice in Northern Ireland' (2009) 3 *International Journal of Transitional Justice* 3.

Ekiyor, Thelma 'Reflecting on the Sierra Leone Truth and Reconciliation Commission' in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Fukuda-Parr, Sakiko 'Human Development Paradigm' (2003) 9 *Feminist Economics* 2-3.

Farmer, Paul 'An Anthropology of Structural Violence' (2004) 45 *Current Anthropology* 3.

Fisher, Humphrey J. 'Elections and Coups in Sierra Leone, 1967' (1969) 7 *The Journal of Modern African Studies*.

Gberie, Lansana 'The 25 May Coup d'etat in Sierra Leone: A Lumpen Revolt?' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) Council for the Development of Social Science Research in Africa, Senegal.

Goodhand, Jonathan and Hulme, David 'From Wars to Complex Political Emergencies: Understanding Conflict and Peace-Building in the New World Disorder' (1999) 20 *Third World Quarterly* 1.

Galtung, Johan 'Violence, Peace, and Peace Research' (1969) 6 *Journal of Peace Research* 3.

Hayner, Priscilla 'Five Illustrations of Truth Commissions' in Priscilla Hayner *Unspeakable Truths* (2001) Routledge, New York City.

Hayner, Priscilla 'Fifteen Truth Commission- 1974-1993: A Comparative Study' in Neil Kritz (ed.) *Transitional-justice: How Emerging Democracies Reckon with Former Regime, Volume 1* (1995) United States Institute for Peace, Washington DC.

Horn, Rebecca, Charters, Simon and Vahidy, Saleem 'Testifying in an International War Crimes Tribunal: The Experience of Witnesses in the SLSC for Sierra Leone' (2009) 3 *The International Journal of Transitional Justice*.

Human Rights Watch 'Sierra Leone: "We'll kill you if you Cry": Sexual Violence in the Sierra Leone Conflict' (2003) 15 *Human Rights Watch Report 1(A)*

<http://www.hrw.org/en/node/12376/section/1>

Accessed on 26 February 2011.

Hung, Mo 'The Myths of Violence: Gender, Conflict, and Community in El Salvador' (2008) 35 *Latin American Perspectives* 59.

Ibrahim, Abdullah and Mauna, Patrick 'The Revolutionary United Front of Sierra Leone: a Revolt of the Lumpenproletariat' in Christopher Clapham (ed.) *African Guerrillas* (1998) James Currey, Oxford.

Kandeh, Jimmy D. 'In Search of Legitimacy: The 1995 Elections' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) Council for the Development of Social Science Research in Africa, Senegal.

Kaplan, Robert *The Coming Anarchy: Shattering the Dreams of the Post Cold War* (2001) Vintage Books, UK.

Kelsall, Tim 'Truth, Lies, Ritual: Preliminary Reflections on the Truth and Reconciliation Commission in Sierra Leone' (2005) 27 *Human Rights Quarterly* 2.

Kerr, Rachel and Lincoln, Jessica 'The SLSC for Sierra Leone: Outreach, Legacy and Impact- Final Report' (February 2008) *United States Institute of Peace Programme on the Rule of Law in African Countries Emerging from Violent Conflict*
<http://www.kcl.ac.uk/content/1/c6/04/95/60/SCSLOutreachLegacyandImpactInterimReport.pdf>

Accessed on 7 April 2011.

Kiss, Elizabeth 'Moral Ambition Within and Beyond Political Constraints' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) Princeton University Press, Princeton.

Kritz, Neil *Transitional Justice: How Emerging Democracies Reckon with Former Regimes Volume 1* (1995) United States Institute for Peace, Washington DC.

Kritz, Neil *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Volume 3* (1995) United States Institute for Peace, Washington DC.

Lancaster Carol *We Fall Down and Get Up: State Failure, Democracy and Development in Sierra Leone* (2007) Centre for Global Development, Washington DC.

Lambourne, Wendy 'Post-Conflict Peacebuilding: meeting human needs for justice and reconciliation' (2004) 4 *Peace, Conflict and Development*.

Lambourne, Wendy 'Transitional Justice and Peacebuilding after Mass Violence' (2009) 3 *The International Journal of Transitional Justice*.

LaPlant, Lisa 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework' (2008) 2 *The International Journal of Transitional Justice*.

Lederach, John Paul *Building Peace: Sustainable reconciliation in divided societies* (1997) United States Institute of Peace Press, Washington DC.

Lederach, John Paul and Maies, Michelle 'Conflict Transformation'
Online article

<http://www.tetrasconsult.gr/resources/Resources/Dialogue,%20Conflicts%20%20%20Creativity/Conflict%20Transformation.pdf>

Accessed 20 April 2011.

Lederach, John Paul 'The Challenge of the 21st Century: Just Peace' *People Building Peace: 35 Inspiring Stories from Around the World* (1999) European Centre for Conflict Prevention, Utrecht.

Lenzen, Marcus 'Roads Less Travelled? Conceptual Pathways (and Stumbling Blocks) for Development and Transitional Justice' in Pablo De Greiff and Roger Duthie (eds.) *Transitional Justice and Development: Making Connections* (2009) Social Science Research Council, New York City.

Lyck, Majbritt *Peace Operations and International Criminal Justice: building peace after mass atrocities* (2008) Routledge, USA.

Mani, Rama 'Three Dimensions of Justice in Peacebuilding' in Rama Mani *Beyond Retribution: Seeking Justice in the Shadow of War* (2002) Polity Press, Cambridge.

Mani, Rama 'Editorial Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development' (2008) 2 *The International Journal of Transitional Justice*.

Minow, Martha 'Trials' in Martha Minow *Between Vengeance and Forgiveness* (1998) Beacon Press, Boston.

Minow, Martha 'The Hope for Healing; What Can Truth Commissions do?' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) Princeton University Press, Princeton.

Mindzie, Mireille Affa'a 'Transitional Justice, Democratization and the Rule of Law' in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Muehlenhard, Charlene L. and Kimes, Leigh Ann 'The Social Construction of Violence: The Case of Sexual and Domestic Violence' (1999) 3 *Personality and Social Psychology Review* 3.

Nowrojee, Binaifer 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims' (2005) 18 *Harvard Human Rights Journal* 85.

Nussbaum, Martha 'In Defence of Universal Values' *Woman and Human Development: The Capabilities Approach* (2001) Cambridge University Press, UK.

Nussbaum, Martha 'Capabilities and Human Rights' (1997) 66 *Fordham Law Review* 273.

Orr, Wendy 'Reparation Delayed is Healing Retarded' in Charles Villa-Vicencio and Wilhelm Verwoerd (eds.) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000) Zed Books, London.

Olsen, Tricia D, Payne, Leigh A, and Reiter, Andrew G 'The Justice Balance: When Transitional Justice Improves Human Rights and Democracy' (2010) *32 Human Rights Quarterly* 4.

Pankhurst, Donna 'The 'sex war' and other wars: towards a feminist approach to peace building' in Haleh Afshar and Deborah Eade (eds.) *Development, Women, and War: Feminist Perspectives* (2004) Oxfam, United Kingdom.

Pham, Peter *The Sierra Leonean Tragedy: History and global dimensions* (2006) Nova Science Publishers Inc, New York City.

Pham, J Peter 'A Viable Model for International Criminal Justice: The Special Court for Sierra Leone' (2006) *19 New York International Review* 37.

Pham, J Peter 'Democracy by Force: Lessons from the Restoration of the State of Sierra Leone' (2005) *The Whitehead Journal of Diplomacy and International Relations*
http://blogs.shu.edu/diplomacy/files/archives/11_pham.pdf
Accessed on 10 May 2011.

Rawls, John *A Theory of Justice* (1971) Harvard University Press, Cambridge.

Reychler, Luc 'Violence Prevention and Peacebuilding: A Research Agenda' (2006)
Unpublished manuscript.

Richards, Paul 'Insurgency in Sierra Leone' *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone* (1996) International African Institute, Oxford.

Rotberg, Robert, 'Truth Commissions and the Provision of Truth, Justice and Reconciliation' in Robert Rotberg and Dennis Thompson (eds.) *Truth versus Justice: the Morality of Truth Commissions* (2000) Princeton University Press, Princeton.

Rubio-Marín, Ruth and de Greiff, Pablo 'Women and Reparations' (2007) *International Journal of Transitional Justice* 3.

Ryan, Stephan *Ethnic Conflict and International Relations* (1990) Aldershot: Dartmouth.

Reychler, Luc 'Violence Prevention and Peacebuilding: A Research Agenda' (2006) unpublished manuscript.

Sahr, Kpundeh 'Corruption and Political Insurgence in Sierra Leone' in Ibrahim Abdullah (ed.) *Between Democracy and Terror: The Sierra Leone Civil War* (2004) Council for the Development of Social Science Research in Africa, Senegal.

Savage, Tyrone and Rahall, Joseph 'Sierra Leone: History Hidden by Horror' in Charles Villa-Vicencio and Erik Doxtader (eds.) *Through Fire with Water* (2003) David Philip, South Africa.

Schabas, William 'The Sierra Leone TRC' in Naomi Roht Arriaza and Javier Mariezcurrena (eds.) *Transitional Justice in the Twenty-First Century* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Schabas, William 'The Relationship between Truth Commissions and International Courts: The Case of Sierra Leone' (2003) *25 Human Rights Quarterly*.

Schocken, Celina 'The SLSC for Sierra Leone: Overview and Recommendations' (2002) *20 Berkley Journal of International Law*.

Sen, Amartya 'Introduction' *Development as Freedom* (2000) Oxford University Press, Oxford.

Sen Amartya 'Chapter 4: Poverty as Capability Deprivation' in *Development as Freedom* (2000) Oxford University Press, Oxford.

Sen, Amartya 'Human Rights and Capabilities' (2005) 6 *Journal of Human Development* 2.

Sen, Amartya *Inequality Re-examined* (1992) Oxford University Press, Oxford.

Sooka, Yasmin 'The Politics of Transition' in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Staggs, Michelle and Stepakoff, Shanee 'When We Wanted to Talk About Rape': Silencing Sexual Violence at the Special Court for Sierra Leone' (2007) 1 *the International Journal of Transitional Justice*.

Teale, Lotta 'Addressing Gender-based Violence in the Sierra Leone Conflict' (2009) 9 *African Journal on Conflict Resolution* 2.

Teitel, Ruti *Transitional Justice* (2000) Oxford University Press, New York.

Tejan-Cole, Abdul 'Sierra Leone's 'not so' SLSC' in Chandra Lekha Sriram and Suren Pillay (eds.) *Peace versus Justice? The Dilemmas of Transitional Justice in Africa* (2009) University of Kwa-Zulu Natal Press, Pietermaritzburg.

Tutu, Desmond *No Future Without Forgiveness* (1999) Rider Press, London.

Van Zyl, Paul 'Promoting Transitional Justice in Post-Conflict Societies' in A Bryden and H Hanggi (eds.) *Security Governance in Post-Conflict Peacebuilding* (2006) United Nations, Geneva.

Van Walraven, Klaas 'West Africa' in Andreas Mehler, Henning Melber, Klaas van Walravem (eds) *Africa Yearbook: Politics, Economics and Society South of the Sahara in 2009, Volume 6* (2010) Koninklijke Brill NV, Leiden.

Varvaloucas, Alaina "'A New Road into the Future": the Potential for Long-Term Development in Transitional Justice', (April 2009) Unpublished senior research thesis, Yale University.

Villa-Vicencio, Charles 'Getting on with life: a move towards reconciliation' in Charles Villa-Vicencio and Wilhelm Verwoerd (eds.) *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (2000) Zed Books, London.

Vizzard, Polly 'The HDCA Approach and Human Rights' (2006) *Briefing Note, Human Development and Capability Association*

<http://www.capabilityapproach.com/pubs/Reading%20List.pdf>

Accessed on 8 April 2011.

Zalaquett, Jose 'Confronting Human Rights Violations Committed by Former Governments: Principles Applicable and Political Constraints' in Neil Kritz (ed.) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Volume 1* (1995) United States Institute for Peace, Washington DC.

Zack-Williams, A and Riley, Stephen 'Sierra Leone: The Coup and Its Consequences' (1993) 56 *Review of African Political Economy: Challenging Gender Inequalities in Africa*.

Conference Papers

Arbor, Louise 'Economic and Social Justice for Societies in Transition', *The Second Annual Transitional Justice Lecture hosted by the Centre for Human Rights and Global Justice at New York University School of Law*, New York 25 October 2006.

Brankovic, Jasmina *Workshop Report: Advocating Justice: Civil Society and Transitional Justice in Africa*, paper presented at a conference hosted by the Centre for the Study of Violence and Reconciliation, Johannesburg, 30-31 August 2010.

De Greiff, Pablo 'New Horizons. Linking Development Cooperation and Transitional Justice for Sustainable Peace' *International Conference: Issues and Challenges*, Berlin, 27 - 28 January 2010.

Hayner, Priscilla 'Negotiating Peace in Sierra Leone: Confronting the Justice Challenges', *The International Center for Transitional Justice Centre for Humanitarian Dialogue*, New York, December 2007.

Kendall, Sara and Staggs, Michelle 'Silencing Sexual Violence: Recent Developments in the CDF Case at the SLSC for Sierra Leone' *The U.C. Berkeley War Crimes Studies Center Conference Thesis*, California, June 2005.

The Rabat Report, *The Concept and Challenges of Collective Reparations*, International Centre for Transitional Justice, New York, 12- 14 February 2009.

Valji, Nahla 'New Horizons. Linking Development Cooperation and Transitional Justice for Sustainable Peace' *The International Conference: Issues and Challenges*, Berlin, 27 - 28 January 2010.

Wierda, Marieke, Hayner, Priscilla and Van Zyl, Paul, 'Exploring the relationship between the SLSC and the Truth and Reconciliation Commission of Sierra Leone' in *The International Center for Transitional Justice Conference*, New York, 24 June 2002.