



From Transitional to Sustainable Justice

Human Rights Assistance to Sierra Leone

Summary

In order to counter the widespread culture of impunity after the 1991-2002 war, the international community invested heavily in setting up transitional justice mechanisms in Sierra Leone. The establishment of locally-supported, effective, and sustainable human rights institutions received less attention. Notwithstanding some successes, fundamental issues like national reconciliation, a responsive and non-corrupt police, and local access to justice remain elusive. Redressing this requires a major shift in international assistance from transitional to more long-term, sustainable institution-building. If this shift does not take place, there is a real risk that the positive results achieved so far will evaporate in the next challenging phase of Sierra Leone's post-conflict development.

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Background

When the Lomé Peace Agreement was signed in July 1999, most Sierra Leonean state institutions were in a shambles and lacked resources to implement policy beyond the confines of their offices in Freetown. The country's police and army were ineffective, ill-equipped, and imbued with a culture of corruption and impunity. No alternative civil society structures existed that could take over temporarily. In this post-conflict reality of a failed state, the international community swiftly set up intermediary structures to fill the governance and security gap. The United Nations Mission to Sierra Leone (UNAMSIL) and UN Civilian Police (CIVPOL) supported and supervised army and police operations. In addition, international assistance enabled the organization of presidential and parliamentary elections. Following the completion of the disarmament, demobilization, and reintegration (DDR) process, President Tejan Kabah declared the war officially over in January 2002.

Transitional Justice and Reconciliation

In order to end the impunity that had ravaged Sierra Leone for over a decade, the international community committed itself to supporting the country in its efforts to prosecute war-crimes and promote national reconciliation.

The Truth and Reconciliation Commission (TRC)—established to record human rights abuses, address impunity and promote healing and reconciliation—recorded a broad range of testimonies. In the end, however, the TRC has not succeeded in effectively bringing together perpetrators and victims. This has had much to do with the institutional and logistical difficulties it faced as well as the limited international support for its work.

The Special Court, on the other hand, has received massive international resources for its buildings, staff, and equipment. Many regard the Court as a crucial instrument of international justice and consider the punishment of those who bear the 'greatest responsibility' for war crimes and atrocities to

be of utmost importance. Ironically, though, the Court has gradually lost a lot of its domestic popular support. First, though it is based in Freetown and has a mixed composition, the Court is seen as an internationally-run organization with limited Sierra Leonean input. Second, as some of the ‘biggest fish’ indicted have either died, escaped or gone into exile, it now appears as if the Court is only bringing to justice those with a lesser degree of responsibility for the crimes.

From the perspective of national reconciliation, the international community seems to have put too much emphasis on the Special Court at the expense of other institutions. This must be repaired by facilitating nation-wide reconciliation efforts and putting more emphasis on the establishment of sustainable human rights institutions like the police, judiciary, and independent watchdogs.

Police Reform

In 2001, the Sierra Leone Police (SLP) was nothing more than a group of uniformed but ill-trained and ill-equipped men looking out for their own interests. The DFID-supported

Commonwealth Community Safety and Security Project (CCSSP) was set up to change this. It included the appointment of an expatriate police commissioner as Inspector General of the SLP and the deployment of an international advisory team that helped streamline the bloated police rank structure. The result is impressive. Currently, there is a functional police force of more than 7,000 officers, equipped with more than eight hundred vehicles, a standardized national communication system, and an internal affairs unit investigating charges of corruption and (sexual) harassment. However, despite the project’s remarkable achievements, serious problems remain.

First, there are insufficient officers to fill the required 9,500 positions. Against the background of the withdrawal of UNAMSIL by the end of 2005, recruitment and training of new police officers has become top priority. At this moment, every 3.5 months 400 newly trained recruits are deployed.

Yet, the quality and focus of the Basic Police Training Module is being sacrificed in order to train as many new police officers in the quickest time possible.

Second, the Commonwealth Police Support Team has tried to select the best mid-level officers to mentor new recruits. The problem, however, is that these inspectors and sergeants are often ill-trained and illiterate, resulting in a sub-optimal transfer of skills and experience. More importantly, a culture of impunity and corruption is still widespread at this mid-level. Several human rights observers believe that the old habits of bribery, beating up people in custody, intimidation, and ransoming ordinary citizens will ‘trickle down’ to the newly trained lower echelons as well. The dilemma in the current reform program is that there is no exit and replacement strategy for ‘dead wood’ within the SLP.

“The judiciary still lacks independence from the executive”

Finally, there are important financial and bureaucratic constraints for recruiting new, more experienced international CIVPOL police officers. As a result, new recruits lack the appropriate on-the-job training that they need.

The professionalization of the SLP remains a work-in-progress. The initial international focus on improving logistics and taking over top leadership was understandable given the poor conditions immediately after the war. Now, however, all efforts should be put into changing the culture of impunity and corruption, particularly at the mid-level. Without stronger international pressure on the Sierra Leonean government to make serious progress in this field, earlier international investments and popular support are in jeopardy.

Justice Reform

Getting Sierra Leone’s justice sector back on its feet again after the war required a number of tasks, including the physical reconstruction of court houses and the training of judges and other judicial staff. More importantly, however, the justice sector needed a complete overhaul.

Financial and technical support from international agencies like DFID and UNDP has helped refurbish the main courthouse in Freetown, reconstruct civil court buildings and local ‘court barrays’, deploy international commonwealth judges, and enable the set-up of a Law Reform Commission. Moreover, in-country training has been given to (lay) judges, police prosecutors, court clerks, and other judicial staff.

Yet, despite the training of new judges, judicial capacity remains limited. There are not enough judges to preside court hearings, and the Sierra Leonean judiciary is unable to cope with the backlog of accumulated cases from the conflict period. More worrying, however, is that structural reform of the justice sector has not yet been started. International support has mainly targeted the material aspects of the justice sector. Little has been done to transform the ineffective and corrupt practices. Direct interference by the executive branch of government still undermines the autonomy, independence, and integrity of the judiciary. Moreover, the international focus on the British-based national court system has come at the expense of the local customary courts, in many cases the only judicial mechanism accessible to the majority of rural Sierra Leoneans. Especially at this level, impunity, nepotism, and corruption remain rampant.

In order to depart from the judicial conditions prevailing during the war, new priorities have to be set. These priorities should include a stronger focus on the separation of powers and judicial capacity-building at the local level.

Human Rights Monitoring

In view of the weak capacity of the Sierra Leonean state to administer the rule of law and respond to human rights abuses, the international community helped establish a number of independent watchdog organizations.

The National Ombudsman has been mandated by the Constitution to investigate and report on human rights violations committed by the police, army, and judiciary. Nevertheless, the international community has shown little interest in supporting this crucial monitoring organization. The Ombudsman also faces political pressure from the Sierra

Leonean government. The resulting lack of financial resources and limited capacity have meant that the Ombudsman in practice has been unable to perform his task.

In contrast, the international community has put a lot of pressure on the Sierra Leonean government to establish a new and independent human rights commission. This National Human Rights Commission (NHRC) is expected to be approved by

Recommendations

General

- Prioritize public sector reform, including a reform of the tax system, the clearing of salary arrears, higher salaries for police officers, judges, and other civil service staff, and the implementation of anti-corruption mechanisms;
- Design a more comprehensive rule of law strategy, linking the reform of justice, police, and other rule of law institutions.

Police Reform

- Train the SLP Human Resources Department to guide the required change management at all levels, in particular the mid-level, and formulate an appropriate exit strategy for non-functional police officers;
- Expand and prolong CIVPOL presence with more experienced international staff in order to provide more on-the-job training for recently graduated police recruits.

Justice Reform

- Enhance judicial independence by promoting the separation of powers, financial transparency, and parliamentary accountability. A first step would be to reorganize the existing law reform commission;
- Prioritize local justice reform by training customary court chairmen and countering the culture of nepotism and corruption.

Human Rights Monitoring

- Focus on capacity-building of strong domestic NGO human rights monitoring bodies nation-wide;
- Facilitate NGO networking between domestic human rights NGOs as well as between domestic NGOs and international NGOs and organizations (e.g. UNHCHR).

Parliament this summer. Though it has the potential to be a powerful independent institution, the NHRC has already become strongly politicized. At the government level, political in-fighting has postponed its timely formation. In addition, it will be supervised by the SLPP-controlled Parliamentary Human Rights Committee. Finally, there are doubts as to whether it will gain any popular legitimacy with a name that reminds many people of the infamous National Commission for Democracy and Human Rights (NCDHR), set up in the early 1990s by the then ruling military junta. Finally, there has been support for a broad range of domestic non-governmental human rights organizations, including the Network Movement for Justice and Development (NMJD), the Campaign for Good Governance (CGG), and the National Forum for Human Rights (NFHR). Instead of providing core funding for these small and fragile NGOs to build their monitoring capacity, the international community has predominantly supported their work on a per-project basis. Unfortunately, this has not produced strong and independent watchdog organizations. In fact, most of these human rights NGOs are extremely weak. They lack trained staff, specialised research capacity, and financial and logistical resources. They also have minimal management capacity.

As a result, most of their activities are biased towards Freetown, giving rural villagers little access to their services. These factors, combined with limited access to domestic and international networks, give the NGOs little clout in public discussions and parliamentary decision-making. Considering the time needed to enable state institutions (like the judiciary) to function effectively, support for independent non-governmental human rights organizations is crucial. Unless the international community plans to leave this critical watchdog task to foreign NGOs, it will have to put more resources and energy into facilitating the growth of independent domestic monitoring capacity.

Conclusion

To move from ephemeral transitional justice to sustainable rule of law, capacity-building of key domestic institutions needs to be taken more seriously, both by the Sierra Leonean government and the international community. Unless this materializes, the risk of sustainable peace not taking root in Sierra Leone will only increase.

The views expressed here are those of the authors and are not necessarily those of the Clingendael Institute or its staff members.

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The Clingendael Conflict Research Unit

The Netherlands Institute of International Relations 'Clingendael' is a training and research organization on international affairs. The Conflict Research Unit (CRU) is a specialized team, focusing on conflict-related issues in developing countries.



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- Democratic Transition Project: www.clingendael.nl/cru/project/
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- Marianne Ducasse-Rogier (2004) *Resolving Intractable Conflicts in Africa: A Case Study of Sierra Leone*. CRU Working Paper, forthcoming.
- Pyt Douma (2003) *The Political Economy of Internal Conflict. A Comparative Analysis of Angola, Colombia, Sierra Leone and Sri Lanka*. Clingendael Study 19.
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