

Country Presentation

The Transitional Justice Status in Sierra Leone

Background

The eleven years conflict in Sierra Leone has been reported by several researchers and analysts as being the most brutal in the twentieth century. The bases of this assertion has been as a result of the level of brutality from one Sierra Leonean directly on to another. Even to date, new stories of the conflict emerge and the questions still remain; Why? What happened? What went wrong? Didn't we see this coming? Why did we have to be so brutal to each other?

As a way forward, the Lome Peace agreement of 1999 called for a Truth and Reconciliation commission. At that time though civil society representatives called for a Justice component it was not incorporated as there was a concern that this would jeopardise the peace process. However, that was later established through the Special court for Sierra Leone Act 2002. This emanated as a result of an agreement between the government of Sierra Leone and the United Nations to try those "most responsible" for crimes committed during the conflict.

Sierra Leone worked simultaneously with the two processes; the Special Court and the TRC; the latter concluding its operations in 2004. the government of Sierra Leone also worked to improve on the respect and protection of human rights through the creation of the human rights commission, the ombudsman office, the passing of the three gender bills, creating of the parliamentary committee on human rights, allowing some level of press freedom, encouraging and engaging organisations working on human rights issues, reform of the rule of law and encouraging traditional means of reconciliation.

Truth and Reconciliation Commission

The TRC act of 2000 brought into being the TRC as recommended in the Lome Peace Agreement . It was seen as the mechanism through which stories of atrocities suffered could be told, a need to know who was responsible for carrying out these atrocities, a need to reconcile former enemies, to begin personal healing and to deal with accountability in order to deal with impunity. The commission then had a mandate to “

create an impartial historical record of violations and abuses of human rights and international humanitarian law from 1991(the beginning of the conflict) to July 1999(the signing of the Lome Agreement), to address impunity, to respond to the needs of victims, to promote healing and reconciliation and to prevent a repeat of the violations and abuses suffered.¹

The commission conducted public hearings which was not extensive due to time and resource constraints. They also held thematic hearings and made use of individual and institutional submissions. These sessions were broadcast on the national radio and television. Some of the presentations made during the thematic hearing was also reported in the newspapers. As best as possible the wider population was encouraged through these means to play a role in the process. This mechanism was useful, though some people could not understand the role of the TRC and Special Court, there was the view that the process would open up old wounds and bring out a negative reaction.

Civil society engagement in this process was quite significant as they were the focal point for information dissemination and providing advice to the institution on the best mechanism to achieve the maximum result. Other activities were undertaken by groups including the Campaign for Good Governance and the Interreligious Council such as mapping of the conflict and organising forums to encourage traditional means of reconciliation.

The TRC process provided a forum where those directly or indirectly harmed by the conflict could have their stories told and documented. It was a formal recognition of the government who had the primary responsibility to provide security; of the sufferings of the people. It was encouraging to most Sierra Leoneans who had the hope that with their story told, there was an opportunity for immediate compensation.

Some, were disappointed that the public hearings left out their areas and in the statement taking process significant areas were not covered. Civil society had ensured nearly all the 149 chiefdoms of Sierra Leone had been informed of the TRC process and there was

¹ Vol 1 Sierra Leone TRC report

an overwhelming desire to have the commission conduct hearings in locations that could be accessible to them.

Special Court

The Special Court has been able to try six from a total of nine indictees. One died whilst in custody so they have only been able to try five with the Charles Taylor trial still ongoing.

Quite a lot of controversy still surrounds the operations of the court and this can be assessed from the different levels. Some hold the view that the funds currently being spent on Charles Taylor's trial alone could address some of the problems that initially lead to the conflict. Charles Taylor should be tried but with less resources as he seems to be receiving more facilities than those who find themselves in desperate circumstances as a result of the war. Others still maintain the view that some of the indictees are not the ones to be tried there are others that have been left out. This has resulted in a complete loss of interest from some sections of the population. Others hold the view it is an outside lead process with the government of Sierra Leone having very limited say. However, civil society engagement has been quite high though some of them also hold the views mentioned.

Current status

The TRC submitted its report in 2005 and to date we are yet to see a full clearly defined strategy of how its recommendations would be addressed. There are bits and pieces being done but it needs to be more clearly outlined and the government needs to take the lead in the process. Current developmental plans do reflect some of the recommendations of the TRC but it does not stand out as one of the developmental frameworks being used by the government to build its national development strategy. The past and present government has been queried about this but they have argued that their developmental plans and the other recommendations are being followed even though it has not been explicitly stated. Reparation for victims has been a slow process and is still yet to commence. The previous government had given one of the commissions engaged in community infrastructural

development the task of addressing the issue of reparations. There are concerns on that regarding the expertise, focus, political manipulation etc.

Current reconciliation in communities cannot be directly attributed to the TRC (empirical research is not available to substantiate that) but in view of the work we do and the discussions with chiefs, community elders and CBO's reveal that that is really the situation. Reconciliation in Sierra Leone is taking place more from an individual decision influenced by religion rather than activities of the TRC. Most of the bike riders known as "okada" are still an identifiable group referred to as ex-combatants, drivers of minibuses and taxis are all referred to as DDR drivers especially when they drive badly or are very discourteous to passengers or fellow drivers. Some are still yet to return to their towns or villages as a result of what they had done. It appears most have not returned to their original community not because there are issues with coexistence but other areas seem more economically viable. They have settled in other areas and created new communities.

This situation then questions the relevance of these processes or the manner in which these processes are carried out. It also questions the fact that more funds have been allocated to the ex-combatants rather than the victims. As such the process itself is incomplete. In as much as these questions arise it is not a significant threat to the transition process. At the same time it should not be overlooked but given the required attention by all players especially civil society groups.

The special court should be winding down this year and currently holding consultations with civil society groups, donors and government officials as to how this process can be taken forward. There will be residual issues to handle such as the trial of Johnny Paul if discovered, the issue of witness protection, archiving of the documents etc.

Coexistence

The conflict cut across all barriers; ethnic, religious, gender, age and sex. It was not an issue of one community attacking the other; rather it was members of the same community attacking the community, family members attacking family members.

Current tensions among communities have emerged during the elections as the elections were based on ethnicity and regionalism rather than on issues. Ongoing or pending developmental plans have aggregated based on gender, age; women, youths and children.

Challenges

The amnesty provision was a big challenge during the initial start of the process. However that did not affect the participation of both victims and perpetrator in the process.

The past and present government are yet to acknowledge the TRC report as part of their national development framework. They claim they are following the recommendations but are yet to tag certain activities to the TRC recommendations.

Secondly, the traditional leaders should be more engaged in the process than was done. They are still influential and wield a high level of respect from within their chiefdoms. Currently there is a current reconciliation program called “fambol tok” implemented by Forum of conscious aims at addressing those outstanding issues that still remain within communities.

Processes did not take the bottom top approach. It was presented to the people without limited consultation.

Next Steps

There has to be the political will to move the process forward and civil society is already holding discussions with the government on what that should entail. Legal obligation of govt to take on board recommendation. The key focus is to ensure that a recognised body is assigned to control and monitor the implementation of the recommendations of the TRC especially the reparation program. Civil society would have the task of working in communities so they can have a say in the planning and implementation process.

Presented by Valnora Edwin

Campaign for Good Governance