

Bringing Justice and Enforcing Peace? An Ethnographic Perspective on the Impact of the Special Court for Sierra Leone

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Bringing Justice and Enforcing Peace? An Ethnographic Perspective on the Impact of the Special Court for Sierra Leone

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The Special Court for Sierra Leone was set up in 2002 to try those who bear the greatest responsibility for atrocities perpetrated during a decade-long civil war in the country. This would, according to Court officials and observers, bring justice to the victims of the war and contribute to peace. Based on eight months of ethnographic fieldwork in Sierra Leone between 2010 and 2012, this article challenges those assumptions by exploring the viewpoint of ordinary Sierra Leoneans. The impact of the Special Court on the lives of ordinary people is rather small, first and foremost because they have a different understanding of what justice constitutes and who is able to provide it. This resulted in low expectations of the Court from the beginning. Moreover, the relevance of transitional justice fades in the context of daily challenges and remaining injustices. While the Special Court is viewed more positively as contributing to the peace, transitional justice institutions should engage more critically with the local context they operate in.

This article explores the impact of the Special Court for Sierra Leone (hereafter “Special Court” or “Court”) on the lives of ordinary Sierra Leoneans. Two common assumptions are scrutinized: that by holding perpetrators accountable the Special Court brings justice to the victims of the war, and that the Court contributes to lasting peace. Using data gathered during eight months of ethnographic fieldwork conducted from October 2010 to April 2012, I describe Sierra Leoneans’ perceptions of the Special Court and their ideas about justice, accountability, and peace.

The article fills a gap in the existing literature about the Special Court for Sierra Leone. Firstly, the majority of the literature available on the Special Court is of a legal nature and thus concentrates on the legal impact of the institution. In this context, some of the Court’s “firsts” are discussed: The Court was the first hybrid war crimes tribunal that sought to combine international and national law. It

was also the first time the recruitment of child soldiers and gender based crimes such as sexual slavery were considered as crimes against humanity. Discussion of these legal features often characterizes analysis of the impact of the Special Court on international law (Lamin 2003; Smith 2004; Tejan-Cole 2009).

Secondly, while a number of academic publications and practical reports address the impact of the Special Court, the majority of these analyze the impact of the Court from an external, top down, or again overly legalistic angle, hence using the same (Western) parameters from which the Court originated. Many scholars scrutinize the proceedings, as well as the selections of cases, fairness of trials, witness protection and security issues, transparency of the process, and outreach activities of the Court (Arzt 2006; Perriello and Wierda 2006; Staggs 2006; Jalloh 2011; Lincoln 2011). For example, Donna E. Arzt examines the local perception of

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the Special Court but does so only within pre-set categories such as legitimacy or impartiality (2006). Other studies use survey data focusing more on knowledge about the Court and the effectiveness of the Court's outreach program in informing Sierra Leoneans about its work and principles (Sawyer and Kelsall 2007; Kerr and Lincoln 2008).

The impact of the Special Court on people's lives, however, has received little attention so far. While anthropologists Rosalind Shaw and Michael Jackson do not specifically look at a possible impact of the Special Court, their work hints that such a tribunal might not have the same meaning locally as is ascribed to it internationally. Jackson's observations of 2002 – while the Court was being established – reveal that many of the Sierra Leoneans he spoke to did not seem to be looking for justice and instead wanted to move on (2004). Similarly, Shaw argues that healing and social recovery after the war took place through what she called "social forgetting," which allowed Sierra Leoneans to move on with their lives (2005, 9). In a later contribution, Shaw explores the meaning of the discourse of forgiveness after the war in northern Sierra Leone and finds that people's ideas of what constitutes justice differ from the concept of justice used by transitional justice institutions such as the Special Court (Shaw 2010). Such data raises rather fundamental questions regarding the idea of a war crimes tribunal, which I will take as a starting point.

The findings presented in this article are the result of an eight-month ethnographic study about dealing with the past in Sierra Leone. Combining many different data-gathering techniques, such as participant observation, interviews, informal conversations, observations, group discussions, literature study, and interviews with professionals, ethnographers seek deeper insights into how people view a situation in their own terms. In order to gain a better understanding of how people lived their lives, I stayed in different research locations for longer periods of time. These stays not only gave me an idea of how people talk and think about their experiences of dealing with the

past and their view of the institutions involved, but more importantly how issues of dealing with the past are situated in the context of "normal" life. This makes ethnography a particularly suitable method for examining the perception of the Special Court in Sierra Leone and its impact on people's lives.

While in Sierra Leone I conducted research mainly in three locations: First, in Madina, a small village near Makeni in northern Sierra Leone where I stayed, together with a research assistant, for a month and a half. Second, in Tombodu, a larger village near Koidu in eastern Sierra Leone. While staying with a family in Koidu I went to Tombodu on day trips several times a week over a period of five weeks. In Koidu and Tombodu, I also enlisted the help of a research assistant. Third, I conducted research in the capital Freetown, where I stayed in several homes in the western and eastern districts of the city for about six months. I mostly used local transport throughout the country and in all locations I stayed in private homes; either they were assigned to me by the village chief or I was able to find accommodation with people or families I already knew. Throughout the research I avoided association with any formal organization.¹

In order to learn about how people view their situation and how they perceive institutions like the Special Court, I had numerous informal conversations and conducted some forty-four more formal interviews in all of the above locations. The majority of the people I spoke to were "ordinary" Sierra Leoneans, mostly farmers in the rural locations. The respondents were not selected according to specific criteria, as in the rural research locations my assistants and I often approached people with whom we had already established a relationship. Nonetheless, the interviewees cover all age ranges and men and women are equally represented. In Freetown, I drew on a similarly diverse network of people with whom I regularly interacted: (former) college students, owners of small businesses, persons with occasional employment, housewives,

1 Still, because of my mere appearance as a young white female, it is possible that people in some of the locations I visited less frequently may

have assumed that I was a representative or "scout" for a particular program or an NGO employee. Hence I had to accept that some of the information

I was given would have been influenced by such considerations.

but also unemployed individuals living in the slums areas. I also took part in family and neighbourhood activities. In addition to this, I interviewed fourteen professionals with whom I discussed specific aspects. Conversations in the rural areas were often held in local languages (with research assistants acting as interpreters), as well as in Krio, an English-based creole language spoken widely in Sierra Leone. Most of the conversations in Freetown and with professionals were held in Krio or English.

This article examines the Special Court from the perspective of Sierra Leoneans. I will therefore refrain from more theoretical discussions of concepts like justice and accountability, which are frequently used by the Special Court, in order to concentrate on how Sierra Leoneans understand these issues. While I also sporadically use the categories of “victims” and “perpetrators,” I want to stress that in Sierra Leone, as in many other post-conflict situations, these are rather problematic terms because they mask the complexity of the post-war situation where people cannot easily be categorized into such clear-cut groups.

1. Background to the War and the Special Court for Sierra Leone

The civil war in Sierra Leone was not primarily a religious, ethnic, or politically motivated war.² When a revolutionary movement entered from Liberia in 1991 and started to attack villages in the eastern parts of the country it was at first not taken seriously by many in the rest of the country. The Revolutionary United Front (RUF) sought to overthrow the government, but soon lost credibility because of attacks on innocent civilians. The government sent a largely under-equipped army to fight the rebellion, and eventually army forces took to looting and killing as well. (Richards 1996; Truth and Reconciliation Commission 2004; Keen 2005).

After pressure from civil society elections were held in 1996, and later a peace agreement was signed between the government and the rebels. However, fighting soon

re-erupted. Vigilante groups that had previously formed mainly in the southern part of the country were formalized into the Civil Defense Force (CDF) under the defense ministry, as the army was no longer trusted. CDF fighters – coming from the same background as military recruits and rebels – perpetrated similar atrocities on civilians, though on a smaller scale. From 1997 to 1998 a rogue section of the army (as the Armed Forces Revolutionary Council, AFRC) and rebels joined forces and ousted the elected President Ahmad Tejan Kabbah, who fled to Guinea. After West African peacekeepers reinstated the government, rebels and AFRC regrouped and launched a major attack on Freetown on January 6, 1999. This event heightened international awareness, which eventually led to renewed peace negotiations and the signing of the Lomé Peace accord in July 1999. Finally, when rebels and other splinter groups again violated the peace accord, the UN intervened with a full mission and British forces were deployed. The UN ran a demobilization, disarmament, and reintegration program, and in 2002 President Kabbah officially declared the war over (Keen 2005). Sierra Leone has since been peaceful, with three democratic elections held since the end of the war, in 2002, 2007, and November 2012. The most recent elections were the first the country organized on its own and were largely heralded as free and fair (BBC 2012).

The lack of clear fronts and ideologies was a characteristic feature of this war, which almost make it resemble a riot that had taken on a life of its own. During the research, people often told me that the war had “no head and no tail,” meaning that it lacked any sense. For civilians it was difficult to distinguish between different fighting factions, or between combatants and non-combatants. All armed groups forcibly recruited (though the RUF was the most brutal in this respect), which further blurred the distinction between perpetrators and victims (Abdullah 2004; Keen 2005).

The effects of the war on the population were so grave that almost everybody was affected. Of roughly four million

² For in-depth analyses of the war see Abdullah (2004), Keen (2005), Richards (1996), as well as the final report of the Sierra Leone Truth and Reconciliation Commission (2004).

inhabitants of Sierra Leone at the time (UNDP 2011), one to two million were reported internally displaced, and half a million fled to neighboring countries. More than 50,000 were killed. The most brutal atrocities included amputations, which were perpetrated mostly by rebel groups but also by other armed groups. About six hundred amputees survived the war, though it is estimated that more than four times as many amputations were performed during the war (Lord 2000; see also Ibrahim and Shepler 2011).

The Special Court for Sierra Leone was established jointly by the UN and the government of Sierra Leone in 2002 in response to a request by President Kabbah. The mandate of the Court was to “prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996” (Special Court for Sierra Leone 2002b). The Special Court indicted thirteen persons of whom eight are now serving prison sentences in Rwanda; the trial of Charles Taylor, former president of Liberia, is currently in the appeals phase after a verdict was announced on 26 April 2012 and sentence passed in May. Three trials were held in Freetown, covering the three main fighting factions during the war: RUF, CDF, and AFRC. The trial of Charles Taylor is being held in The Hague, Netherlands (Special Court for Sierra Leone 2011).

One particular detail about the Special Court for Sierra Leone was that the men who were eventually sentenced were relatively unknown. On the one hand this is due to the type of war that took place in Sierra Leone, where the rather loosely organized nature of the fighting factions meant that some of the individuals indicted by the Court, though high in the chain of command, were relatively unknown to the population. Some respondents told me that they trusted the Special Court to have found the right persons: “Yes, they said they are responsible for the war,” an older man told me in Tombodu:

What do you want me to say? We didn’t see them [during the war]. They said they were responsible, so are they not the ones that brought the war? Is that not so? What we were praying for was that the war wouldn’t come again. That is all we were praying for.

(Tombodu, January 2011)

However, this also hints at the possibility that people felt less personally involved from the beginning. On the other hand, and possibly unfortunately for the Court, four well-known indicted commanders were never tried: Foday San-koh, the leader of the RUF rebels, and Samuel Hinga Norman, former deputy defense minister and as such head of the CDF, both died in custody. Another well-known RUF leader, Sam Bockarie, was killed in Liberia, and Johnny Paul Koroma, the leader of the AFRC junta, was never arrested. Charles Taylor, though well known to many Sierra Leoneans, was the president of a neighboring country at the time of the war and had never entered Sierra Leone himself. His connection to the RUF was, from an ordinary Sierra Leonean perspective, rather abstract and based on hearsay.

2. Does Accountability Lead to Justice?

While its statutes do not state explicitly that justice will be sought for Sierra Leoneans, Special Court officials and observers often assume that holding perpetrators accountable will bring justice to those affected by the war. As an example, when the RUF case was closed acting prosecutor Joseph Kamara said:

With the end of this trial, there is now a final recognition of their crimes. And there is a strong measure of justice and accountability for their victims – the families of those who were slaughtered, the women who were raped, the children forced to fight and kill, the many thousands who were mutilated and terrorized.

(cited in Special Court for Sierra Leone 2009a)

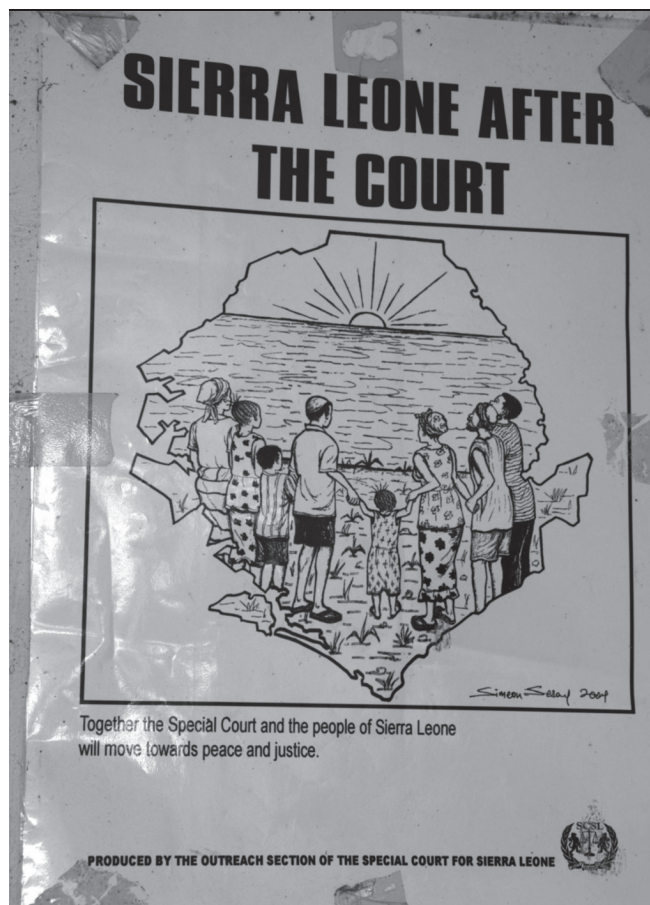
At a UN Security Council briefing in July 2009, prosecutor Stephen Rapp asked for further support for the Special Court to fulfil its mandate “so that justice can be achieved for the victims of those crimes” (Special Court for Sierra Leone 2009b). Such language is mirrored by donors and observers. During a UN Security Council meeting in 2007, the US representative suggested that the work of the Special Court brings “a sense of justice to the innocent victims of the terrible crimes and atrocities that were perpetrated in Sierra Leone” (Ms. Wolcott Sanders, cited in UN Security Council 2007). This was also reiterated by international human rights organizations such as Human Rights Watch:

Accountability for serious human rights crimes, like those committed during Sierra Leone's war, is essential for several reasons: to bring justice to the victims, to punish the perpetrators, and to lay the foundation for building respect for the rule of law in post-conflict societies.

(Human Rights Watch 2004, 1)

The message to the Sierra Leonean people is illustrated quite simply by the poster shown in Figure 1. Here, justice is clearly depicted as something that will eventually be achieved for all Sierra Leoneans. This rhetoric is still used by Special Court officials, with the registrar of the Court, Binta Mansaray, stating in a 2012 interview that the institution was primarily “in the name of those who suffered” (cited in International Center for Transitional Justice 2012).

Figure 1: Poster for the Special Court Outreach Program



Photographed by the author at a small memorial site in Tombodu, Kono district. Below the picture it says: “Together the Special Court and the people of Sierra Leone will move towards peace and justice.”

What is lacking in these statements is an explanation of how bringing perpetrators to justice will transform into justice for victims or, more generally, the people of Sierra Leone. In fact, ten years after the conflict and about three years after the Freetown trials concluded (with the RUF trial ending in 2009) the impact of the Special Court on the lives of Sierra Leoneans has rarely been discussed.

In contrast to the claims by Court officials, many Sierra Leoneans I spoke to described the work of the Court as irrelevant for them and stated that it has not brought justice to them. Their reasons can be loosely grouped into two categories: that their concept of justice differed from that of the Court, and that their everyday circumstances made the work of the Court less relevant for them.

Firstly, the kind of justice the Court was designed to deliver is based on an idea of retributive justice that stems from Europe and North America and differs in its approach from what the majority of my respondents would describe as justice. Most local and informal justice systems in Sierra Leone are similar to ideas of restorative justice, according to which victims should be compensated for their losses (Alie 2008, 136). Retributive justice, which is common in many Western societies, focuses on punishing perpetrators. In the light of this it is no surprise that many respondents did not perceive the work of the Court as achieving justice for *them*, because they would have expected “justice” to reach them in a tangible way. Rather, the work of the Court was perceived as abstract and distant. I sometimes asked directly how it made a person feel to know that some of the top commanders were now in prison, and quite often the answer was “I feel nothing.” Some respondents explained why the Special Court did not have any relevance in their lives:

This Special Court does not do anything for me and my own life. They could leave [the ex-combatants], they could kill them. What does it matter to me, it doesn't do anything for me. [...] It is their own law that they pass, isn't it? [The ex-combatants] did bad, so they make them suffer the penalty. But they have already done the bad things, so what does that have to do with me? They don't come and give me money.

(woman in her late thirties, Bendu 2, Tombodu, February 2011)

The Special Court, they arrest the person because it's the law, that's what the law says. But if it's just us [...] It's better they just leave them like that. Because even if they kill him, or he dies in prison, nothing will happen to me. Or, maybe [...] all my family has gone, it is only me that is left over, you think that if a man, by his life alone going [to the Court], is what ... it is stupidity!

(man in his twenties, Koidu, February 2011)

Throughout my fieldwork I was told that justice was rendered by restoring things to how they were before. For instance, when discussing a recent reconciliation program, a woman in Tombodu told me that “they didn't give me anything to make me forget” (Tombodu, Jan. 2011). When I asked what she meant, she explained that if somebody wants people to feel better about what happened, they should “make them as they were before.” For example, if they were traders before the war they should be given money to resume this occupation, she continued: “having that money in your hand, you will forget about what has happened” (woman in her forties, January 2011).

There were other voices of course. A woman in Madina said that she was content with the Court's work: “I am happy about it because I want them to taste the bitterness that we faced during the war. They were supporting this. We experienced the hard life in the bush” (woman in her late forties, Madina, December 2010). However, she was in a minority in supporting the idea of such a “detached” punishment. With their notions of justice as a restorative action, it was difficult for the majority of Sierra Leoneans I talked with to understand how the work of the Special Court was to bring them justice if it did not have any direct influence on their situation.

Secondly, when assessing the impact of the Special Court on people's everyday lives it is crucial to place the institution in its broader context and consider, for example, that with the mandate of the Special Court limited to trying those who bore the “greatest responsibility” for the war crimes, the majority of those who committed crimes during the civil war were amnestied. This is one reason people often gave for their feeling that it was difficult to relate to the Court's rhetoric: They were confronted with the challenge of living together with perpetrators on an everyday

basis. Therefore, while the Court could speak of holding perpetrators accountable, in “real life” the majority of Sierra Leoneans had to find strategies to live with perpetrators – sometimes with the very ex-combatants who had killed their own family members.

Moreover, many of the people I talked to were struggling to secure their livelihood, and consequently lacked interest in the work of the Court. In a country where access to very basic services like electricity, clean water, or health care is problematic (even in the capital), overall interest in the work of the Special Court was understandably low. The condition of structural inequality in Sierra Leone has of course already been raised many times, but from the perspective of the individual it remains critical. I found it striking to hear a man who testified as a witness before the Special Court explain that inside the Court, “it's Europe.” Rather than reporting about the proceedings, he told his listeners about the lights, the computers, the white people, and the air conditioning.

Poverty is not the only reason for the lack of interest in the core work of the Court. In Freetown, I observed that the Special Court was very rarely a topic of conversation, not even when Charles Taylor's verdict was announced. Many people told me it simply had no relevance for them because they were caught up in other activities. A friend who was involved in a business told me that if I really wanted to talk about the war I should go to the rural areas, where people have the time to sit down “all day.” If I planned to talk to him, he warned me, he might “have to get up in the middle of the interview to do business” (man in his late thirties, Freetown, March 2012).

What I find more pertinent in this context, however, is that people could not relate to the messages of the Court because they continued to experience injustice in everyday life, even if not war-related. People in Freetown mostly spoke about high-level corruption, which regularly makes headlines. Similarly, in a village near Tombodu people suspected that they were being denied development assistance by corrupt authorities. Trust in the police and the formal justice system is low, partly due to their being perceived as unfair. While I was in Koidu there was a small riot at a

school and an acquaintance complained that two pupils had been arrested at random. “In any other country,” he said, “they would pick [the boys] up from the street, but then they would start investigating the issue and interrogate the boys. But here they just imprison them and take them to court.” (man in his forties, Koidu, February 2011).

Mistrust in institutions is so strong that people often refrain altogether from turning to the police or courts. In a conversation with the founding director of a Sierra Leonean NGO that strives to improve access to legal assistance in the country, I was told:

People do not have faith in the justice system, and when they don't, they don't even bother to go there. So if they cannot get a solution using their customary system, they will just let it go. And they will not report a crime to the police, for example, because the next thing the police will do will be to arrest them and [take] them to court. You have many of those stories. ... We have one now from a man ... in Makeni, he saw a corpse in an unfinished house and he reported that to the police. Yes, he reported that to the police, and he was arrested as [a suspect]. And he was in prison for twenty-three months without any trial, we only got bail for him in December.

(S. Koroma, TIMAP for Justice, March 2012)

One is inclined to ask if the Special Court could not have made a contribution to improving the national justice system in Sierra Leone, as this was actually one of the main reasons why it was designed as a hybrid institution. UN Security Council Resolution 1315 states that international cooperation could “assist in strengthening the judicial system of Sierra Leone” (UN Security Council 2000). Similarly, Human Rights Watch hoped that the Court would make a positive contribution to the restoration of the rule of law and Sierra Leoneans’ attitude towards the judicial system:

It is hoped that the Special Court will contribute to revitalizing Sierra Leoneans’ belief in the rule of law – that, in the face of future crimes, they will turn to the judicial system for recourse instead of either seeking revenge or fatalistically accepting what happened as “the way it is.” This is necessary to meaningfully combat the culture of impunity that has prevailed in Sierra Leone, to build respect for the rule of law, and to bring a sense of justice for the horrific crimes committed.

(Human Rights Watch 2004, 32)

While it would be beyond the scope of this article to examine the Court’s impact on the legal system in Sierra Leone in detail, it is debatable whether the majority of Sierra Leoneans will feel the effects of any possible improvements. Legacy activities of the Special Court are – by design – focused only on the formal judicial system, whose reach and capacity are seriously limited (Bangura 2005; Maru 2005). As in many African countries, the legal landscape in Sierra Leone is characterized by legal dualism, where formal courts coexist and sometimes overlap with customary law administered by chiefs or other local authorities. The formal justice system is limited almost exclusively to the capital, with ten of the eleven high court judges based in Freetown. Hence for the majority of Sierra Leoneans customary law has more relevance, but it is often administered in a similarly unfair manner (Maru 2005, 20). Thus, even if the formal judicial system had benefited from the presence of the Special Court, little of this effect would have been felt by ordinary Sierra Leoneans, as the problem of injustice in the customary institutions would remain untouched.

The same can be said for the Court’s outreach activities such as town hall meetings and school visits, teaching the principles of human rights, international law, and the rule of law in general. Despite the many obstacles the program faced it has been praised for its achievements (Kerr and Lincoln 2008). However, while educating citizens in matters of human rights is important, it does little to change the fact that Sierra Leone’s justice system has effectively been crippled since long before the war and that injustices prevail in both official and customary justice practices (Bangura 2005; Fanthorpe 2006).

Should the conclusion of this discussion then be that Sierra Leoneans simply accept injustice, especially that of the recent war? Faced with structural injustices that seem impossible to rectify, and the fact that most “perpetrators” are free, would it not be understandable if people have simply become fatalistic, as suggested in the Human Rights Watch Report cited above? The answers to these questions lie outside the realm of transitional justice institutions.

One idea almost everybody I met during the research agreed on was that there will be some kind of judgement

for a person's actions, even if it will not happen in "this world", i.e. in one's own lifespan. People said that they "leave the judgement to God" or that a perpetrator will "meet his people." Similarly, Jackson's research assistant explained why people so often say they have already forgiven perpetrators: "[it] doesn't mean that justice will not be done ... most of us here feel that God sees everything and that God will mete out punishment in his own good time" (Jackson 2004, 68). And indeed, in many of my own conversations I noted that people seemed to have already accepted what happened to them and society as a whole, some of course more readily than others:

We don't have problems with them [ex-combatants], actually. Because those things already happened. There is no other way. If I get money, I will be able to live fine with my family, is it not so? This we think of, nothing else. ... The only thing is, they will get the judgement between them and God. Anything we humans do, we get the reward. You do good, the reward will be good. You do bad, the reward is bad. We don't last here. Today, tomorrow, we are going. We are going to die, everybody is going to die! Is it not so? It's only God who has his own judgement.

(woman in her late 30s, Tombodu, January 2011)

Shaw similarly grappled with generalizations about the "fatalistic" attitude of Sierra Leoneans made by international observers. She finds that rather than representing passiveness and fatalism, Sierra Leoneans' calls to forgive and their idea of God's justice can be understood as alternative ways of articulating justice. These more performative actions may also symbolize the closure of cycles of revenge (2010, 223).

Another related idea is the concept of *hake*, which is a Krio expression that is also used by speakers of other local languages, and often occurs in this context (Shaw 2010, 223; Jackson 2004, 68). If a person has *hake* from somebody else, it means that he or she has wronged another person and this will be reflected in something happening to him or her later, as if in exchange. A simple example would be if two men have a business idea and one of them secretly goes ahead and sets up the business by himself, and then it fails, it is the other man's *hake* following him. Some people used this concept to claim that former combatants are actually in a worse position than civilians now, not only as a result of their lack of education and use of drugs during the war,

but also because of the civilians' *hake*. One of my neighbors in Freetown explained:

People say, now, the rebels, they're going mad, they're beggars on the streets, they're dying, you know, they're sick and whatever, they're poor: they say *na Salone pipul im hake* (the Sierra Leonean people's *hake*). It's the bad things, [like a] bad omen, the Nigerians call it bad omen, it's the bad things they've done to people. That's what's following them.

(woman in her twenties, Freetown, March 2012)

It is interesting to note that the concept of *hake* is not direct; it follows the wrongdoer like a portent, but is not something that is done to him or her directly in response to the wrongdoing. In that respect, *hake* differs from (the wish for) revenge. As with leaving judgement to God, this idea draws attention to the process of moving on rather than focusing on the punishment of the other. "Leave them. Let them deal with the *hake*" one man said during a group discussion in Tombodu, when some of the other men voiced their anger about a popular ex-combatant (man in his fifties, Tombodu, March 2011)

Coming back to the Special Court, it is worth recapitulating that in terms of bringing justice it has had a rather negligible effect on the lives of ordinary Sierra Leoneans. On the one hand, the kind of justice the Court pursued, retributive and limited to the legal sphere, did not coincide with local ideas of justice where, if at all, restorative actions would have been expected. On the other hand, the Court operated in a context where the majority of the perpetrators had to be accepted into society, which required people to find strategies of coexistence. Coupled with ongoing injustices in the formal and customary legal systems, as well as the general hardship many people experience, the abstract notion of justice "brought" by the Special Court was often described as meaningless by ordinary people.

However, this does not mean that the institution as such was regarded as meaningless. As I will describe below, the notion of accountability did resonate with Sierra Leoneans, if not for the sake of justice, then for ending the war. Several of the people who knew about the Court attributed it with a positive influence on the peace process.

3. Peace Without Justice

The Court's outreach material states that its work is a step towards bringing peace to Sierra Leone, as explained in a pamphlet entitled "What is the Special Court?":³

The Special Court started because Sierra Leoneans asked the world to help them try those people who are alleged to bear the greatest responsibility for crimes that occurred during the recent war. The international community answered that call because they believed that only by holding people accountable will Sierra Leone truly know lasting peace.

(Special Court for Sierra Leone Outreach Section 2003, 4)

Similarly, in 2002 prosecutor David Crane told during a public meeting in Freetown that "the [Truth and Reconciliation Commission] and the Special Court are two key pillars to stabilize the peace in Sierra Leone" (Special Court for Sierra Leone 2002). Similar language is used when the UN and the Court's donors are addressed:

As President of the Special Court and as a Sierra Leonean, I hold the firm belief that the establishment of the Court represents a major contribution to long-term peace and security in Sierra Leone and the subregion.

(Justice King, cited in UN Security Council 2007)

As mentioned above, it is not explained exactly how the work of the Court will translate into a contribution to peace. Nevertheless, one positive observation from my fieldwork is that there is indeed widespread agreement that there is peace today. On the question of the Court's contribution to peace, answers were much more mixed, which can partly be explained with a lack of knowledge about the specific mandate of the Court.

Of those who were fairly well-informed about the Court, many regarded its role of helping to imprison the leaders of the armed groups as positive. Interestingly, the emphasis here was primarily on imprisonment and less on holding these leaders accountable for their actions. Many believed that the detention of those most responsible prevented them from prolonging the war and enabled or forced the

rank and file combatants to stop fighting, which some considered to be a crucial step in the peace process. Here, people often described the role of the Special Court as holding these big men in a *tight place* (prison). For example, a young man from Madina explained:

The Special Court program, I don't understand it much. The only help is the one that I told you of, where we heard that the Special Court arrested the big big men, the[n] we got cold hearts in this country. And the peace that we have is the one that I understand.

(man in his twenties, Madina, December 2010)

Thus, the prime reason why most people approved of the arrest of the "big men" was not that they would receive punishment for their actions but that they were now "under control," removed from society, and this made peace possible. "We want the big big ones [...] to be in a tight place first," a woman in Madina told me, "because we don't know what they have planned next. If the white people can talk to them, well it is nice, for us, it's only the peace we want" (December 2010). This point was underlined when I realized that many were not interested in what happened to these "big men" after their arrest. While a young woman, interviewed in Waterloo,⁴ blamed RUF leader Foday Sankoh for starting the war, she was not even aware that he had passed away in the meantime. In her view, he would be judged anyway; after being told that his death had been natural, she mumbled: "Oh Sankoh. You will meet with God." (woman in her thirties, Waterloo, November 2010)

Others clearly mentioned that the Court had a deterrent function and that it was part of the establishment of the rule of law after the war. In Koidu, a young man explained that not even a strong commander would now be immune:

I say the Special Court is fine, because that will give cause for the war to stop. [Or] for any other plan back again. Even if it is [popular rebel commander] who did bad, that no one [would have] arrest[ed], now people will say stop, because the law will

3 "Wetin na di Speshal Kot" (Special Court for Sierra Leone 2004). Despite its Krio title, the book-let's language is English.

4 A former refugee camp nearby Freetown where many of the war-displaced settled.

arrest him. If they would not have done that, people would not have stopped to do bad.

(man in his early thirties, Koidu, February 2011)

A woman in Waterloo told us that whilst the war had already “spoiled” their lives, the arrest of the leaders still has a deterrent effect: “Those ones, they are in prison. What they have done, they have already done it. It’s just a formality. But if other people are having intentions, with this same badness, they will be afraid” (woman in her fifties, Waterloo, November 2010).

That said, the main reasons why Sierra Leoneans experience peace today are only marginally related to the work of the Court. On the one hand, there is no (political) continuation of the war ideology. After large-scale disarmament by the UN mission, which is believed to have disarmed the great majority of (armed) combatants, no hostilities have broken out between the former fighting factions. Moreover, since the armed groups were not ideologically motivated, the war as such has not been politicized on a large scale (International Crisis Group 2008). This distinguishes the context of the Special Court from other international war crimes tribunals like the International Criminal Tribunal for the former Yugoslavia or the Extraordinary Chambers in the Courts of Cambodia, which operate in highly politicized surroundings.

On the other hand, peace was established in everyday life. People’s experience of more than ten years of peaceful coexistence contributes greatly to their feeling that peace will hold. At the signing of the 1999 peace accord President Kabbah asked Sierra Leoneans to “forgive and forget,” and this has become a widely adopted discourse (Shaw 2010). While people in harder-hit areas such as Tombodu expressed their difficulties with the situation, they still argued that their decision to allow ex-combatants to live among them is one of the main reasons the peace holds. Even in the bigger cities, to which the majority of the ex-combatants (as well as young people in general) have moved, civilians and ex-combatants interact peacefully in many ways (Peters 2007). In the neighborhood where I stayed in Freetown, for example, CDF fighters who were deployed there during the war decided to stay and have been accepted by the residents.

3. Conclusions

For many Sierra Leoneans, the Special Court is not perceived as having delivered justice to those affected by the war. So far, in academic discourse, the many reports about the Court’s legalistic procedures seem to ignore the fact that many Sierra Leoneans talk about justice as something that should affect them directly – for example in the form of efforts to restore their livelihoods. At the same time, Sierra Leoneans’ perception of their own judicial system is characterized by mistrust which is partly the result of its unfairness. This also has to be seen in the context of structural inequality that many experience in their everyday lives; “justice” would include the removal of these inequalities. Knowing this, many Sierra Leoneans never expected the Special Court to provide “justice” for them in the first place, since what it could offer would have little relevance for them. V. S. Naipaul wrote that “You couldn’t listen to sweet songs about injustice unless you expected justice and received it much of the time” (1979, 149), holding a mirror to the (Western) reader: in many societies justice is not normality and cannot simply be *done*. Theories of justice that are independent of the functioning of legal systems, such as the widespread belief in God’s judgement I found in Sierra Leone, may serve as a way of making sense of injustice.

Transitional justice practitioners should therefore critically assess what they constitute as “justice.” As Rama Mani argued, “peace-builders” have difficulties acknowledging the complexities of post-conflict societies where conceptions of injustice often include structural inequalities experienced in pre- and postwar contexts. By focusing on retributive justice alone institutions such as the Special Court thus leave other injustices untouched: “if ideas and institutions about as fundamental and personal a value as justice are imposed from outside without internal resonance, they may flounder, notwithstanding their assertion of universality” (Mani 2002, 49). As Lundy and McGovern (2008) argue, in order to make transitional justice institutions more meaningful to the people they are supposed to serve, the participatory process should start from the very conception of these institutions. Simply involving people in the implementation phase, as the Special Court did through its outreach work, is not enough. Moreover, the

Sierra Leonean case demonstrates that a discussion about possible alternatives to the Special Court might have proven insightful as well.

On the other hand, the perception of the Court's impact on enforcing peace can be seen in a more positive light. People approved of the Court because it was perceived as part of the (international) institutions that ended the war. The detention of leaders of the fighting factions, preventing them from inciting another round of violence, is popularly understood as the main accomplishment of the Court. In the eyes of many, though, accountability served primarily as a means to regain control, rather than punishing the perpetrators. Moreover, the peace in Sierra Leone is of course not the making of international institutions alone. The willingness of ordinary people to keep the peace on an everyday basis, for example by tolerating ex-combatants among them, has contributed crucially to the stability of peace.

Finally, transitional justice practitioners could be more realistic about how much institutions such as the Special Court can influence a specific context (McEvoy 2007). The data presented in this article demonstrates that the rather small impact of the Special Court on people's lives was mostly due to its design and set up. However, the often grandiose rhetoric used by Court officials and others mirrors the high expectations many had in the capability and reach of such an institution. In this light, Special Court officials can be criticized for their ignorance of the context they operated in, which led them to such bold promises of "justice" and "peace." As I have shown, these claims are for a large part based on assumptions, and as soon as the everyday situation of many Sierra Leoneans is taken into consideration, such promises seem out of place.

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