
Centre for International Governance and Justice

**Restorative Approaches to Justice: Strategies for Peace in
Sierra Leone**

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RESTORATIVE APPROACHES TO JUSTICE: STRATEGIES FOR PEACE IN SIERRA LEONE

In post-conflict Sierra Leone, restorative approaches to justice can be used to remedy both serious wartime crimes and minor crimes committed in the emerging peacetime context. This issues paper explores how both restorative transitional justice and restorative criminal justice¹ are important features of peace consolidation by maximising access to justice and facilitating reconciliation. Restorative approaches to justice understand crime as “violation of people and relationships”, which implies a responsibility to make amends through a reparatory and reconciliatory process (Zehr, 1990: 181).

Fought between March 1991 and January 2002, Sierra Leone’s decade-long, diamond-fuelled civil war (Hirsch, 2001; Keen, 2005) was one characterised by atrocities on a massive scale perpetrated by many thousands of people (see *Witness to Truth*, Volume 2, Chapter 2). Many combatants egregiously violated members of their own communities. For example, child and youth combatants were often forced to perpetrate heinous crimes against their own family members in order to bind recruits to their new armed groups (e.g., Maxted, 2003: 60). Following such calamitous strikes against communities, restorative justice offers a way forward through reintegrating perpetrators and victims, and repairing relationships between victims, perpetrators and their communities.

Although Sierra Leone is culturally diverse, composed of at least 14 different ethnic groups and a culturally hybrid Krio population (Hirsch, 2001: 22), restorative responses to wrongdoing resonate with many (though certainly not all) cultural traditions relating to remedy in Sierra Leone. As such, restorative justice may represent an approach to justice that is more adaptive to indigenous cultures than formal justice institutions. In Section One, I consider an *existing* restorative strategy in Sierra Leone for dealing with wartime criminality (“restorative transitional justice”), and then consider *existing* restorative mechanisms that deal with minor criminality in peacetime (“restorative criminal justice”). Restorative approaches to minor criminality are an important component of peacebuilding by offering meaningful and more comprehensive access to justice in a situation where decades of the denial of justice contributed the emergence of conflict (Fletcher, 2003). In Section Two, I draw on existing models within the Sierra Leonean context to pose possible new strategies to innovate and institutionalise restorative justice in Sierra Leone both for serious and minor criminality. Finally, in Section Three I suggest ways in which best to protect human rights in restorative justice practice, as well as ways in which restorative justice can help advance a culture of human rights in Sierra Leone.

¹ I borrow these terms from Paul McCold (2006). McCold distinguishes “restorative criminal justice” from restorative practice used in non-criminal cases, such as in schools. “Restorative transitional justice” are restorative practices used following periods marked by massive human rights violations, conflict, etc. (Personal communication, 16 May 2007).

***Section One:
Existing Restorative Strategies***

Restorative Transitional Justice

In the post-conflict period, there have been two principle transitional justice institutions. On the one hand, the Special Court for Sierra Leone (SCSL) was established in 2002 as an international-domestic hybrid court “to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law” (Article 1, Statute of the Special Court for Sierra Leone). On the other hand, the Sierra Leone Truth and Reconciliation Commission (TRC) was established “to create an impartial historical record of violations and abuses of human rights and international law” and “to address impunity, to respond to the needs of victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered” (Part III, 6(1), The Truth and Reconciliation Commission Act 2000). (See *Witness to Truth*, 2004: Volume 1, Chapter 2, p. 54 for an overview of their relationship).

The TRC is one form of restorative justice (Humper, 2007: interview) that was conducted at the national level. It attempted to draw together victim populations and perpetrator populations and accomplish reconciliation through truth narration. TRC Commissioners, indeed, point to examples of forgiving victims and remorseful perpetrators weeping or embracing (Humper, 2007: interview; Torto, 2007: interview). Others have been skeptical about the restorative character of the TRC, regarding its truth-gathering as successful, while its mandate of reconciliation suffered (Goba, 2007: interview). However, there have also been other restorative transitional justice mechanisms that have received considerably less attention. Specifically, this issues paper is concerned with community-based restorative justice.

Traditional Reintegration

One significant example is the traditional reintegration of former combatants². The traditional reintegration of former combatants was often facilitated by non-governmental organisations. Traditional reintegration involved both former adult soldiers and former child- and youth- combatants who were typically male. The objective of traditional reintegration was for former combatants to be accepted into their communities. As I have previously noted, this was especially important in Sierra Leone because many former combatants were likely to have committed atrocities within their own families and communities. Traditional reintegration ceremonies cleanse the perpetrator of his crimes, thus making him acceptable to his community.

Traditional reintegration conducted in Sierra Leone often involved the chief, the former combatant and appropriate members of a relevant secret society. However, there is considerable variation in these practices. According to the Sierra Leone Red Cross

² Traditional reintegration has also been used extensively for female victims of wartime sexual violence, especially girl soldiers. A discussion of traditional reintegration for girls is available from the author in a more comprehensive version of this paper.

(Samba, 2007: interview), for example, traditional reintegration involved the following process: A former combatant would first approach the Red Cross. Red Cross “Community Peace Consolidation Committees” (CPCC), made up of community-members who are also local-level Red Cross volunteers, would then mediate between the perpetrator and the community. The CPCC would attempt to persuade the community to accept the perpetrator back. At the same time, the combatant would be advised to ask for the forgiveness of the community for crimes he perpetrated. Once the community agreed to accept the perpetrator, the traditional reintegration process would be put into motion. (Other NGOs engaged in a similar process of “sensitising” communities to accept former combatants [Sama, 2007: interview]).

In traditional reintegration, the offender would then be taken to the river and cleansed through the washing of his body. The purification that results from the cleansing represents rebirth, which allows the community to accept the offender. Traditional reintegration also involves appeasing the gods, which requires tokens from the parents of the offender such as rice, oil, a chicken, and a small amount of money. However, reintegration was not merely an event but a process that involved ongoing observation of the newly reintegrated person to ensure his proper behaviour. Another method of traditional reintegration is the pouring of libations of palm wine onto the ground to appease ancestors, the dead and the gods. This technique was also used in the closing ceremonies of district hearings of the TRC.

Traditional reintegration for former combatants is a form of restorative justice that emerged indigenously and organically in post-conflict Sierra Leone, suggesting that restorative approaches resonate with “regular” Sierra Leoneans. Indeed, according to a study conducted in 2002 called *Traditional Methods of Conflict Management* (henceforth, *Traditional Methods*)³, Sierra Leonean beliefs relating to “*spiritual justice*” for crimes such as murder or amputation, abduction or arson require an admission of guilt by the perpetrator, an expression of remorse, and some form of restitution or reparation to both the immediate victim and to the community (*Traditional Methods*, 2002: 36). These requirements of “*spiritual justice*” reflect the values of restorative justice. Indeed, the *Traditional Methods* study suggests that members of most ethnic groups, following their traditional beliefs, would have favoured restorative approaches in transitional justice.

Restorative Criminal Justice

The preference for restorative transitional justice suggested in the *Traditional Methods* study is likely to be connected to existing restorative traditions in dealing with the management of conflict and wrongdoing outside of the context of war. It is important to note that several of the ethnic groups in Sierra Leone have strongly adversarial and

³ The full title of the report is: *Traditional Methods of Conflict Management/Resolution of Possible Complementary Value to the Proposed Sierra Leone Truth and Reconciliation Commission*. Authored by Manifesto '99, the report is based on 300 focus groups and 1,500 interviews conducted by a team of Sierra Leonean researchers. The report was submitted to the Office of the United Nations High Commissioner for Human Rights with the intention of advising on how traditional practices in conflict management could be used in the TRC.

punitive approaches to dealing with various forms of conflict and wrongdoing. However, there are also strong restorative traditions that are negotiatory, deliberative, reparative and reconciliatory in the various ethnic cultures of Sierra Leone. For instance, deliberations in “peace huts” (or “court barrays”) are an important restorative process in resolving conflict and wrongdoing⁴. Peace huts are small, covered areas that serve as meeting places where community members can gather to do work such as decision-making or the development of plans that affect the community. However, the most important function of the peace hut is as a space where conflicts are mediated and resolved in a deliberative process typically involving the mediation of the local chief.

The *Traditional Methods* study elucidates other restorative approaches to deal with minor criminal matters (specifically, theft) used among Sierra Leone’s various ethnic groups:

In cases of theft, several ethnic groups favour punitive measures to accomplish justice such as public humiliation, physical punishment, incapacitation or the imposition of fines. Notwithstanding these punitive approaches, several ethnic cultures have justice traditions with strong restorative characteristics. Among the Temne, Fullah, Kissi, Loko, and Krio peoples, the resolution of theft involves reparation through the return of the stolen property or the compensation to the victim of an equivalent value. Among the Temne, Kissi, and Loko the resolution of theft should also involve demonstrations of remorse or requests for pardon. Among the Temne, Fullah, Krio and Soso the offender, victim, their families or relevant community members are involved in a deliberative process to reach a resolution. Among almost all of the ethnic groups, traditional leaders, such as chiefs or elders, are involved in conflict resolution. In some cases, for example among the Sherbro, restorative and retributive approaches are combined, wherein a deliberative process involving multiple stakeholders renders punitive consequences.

Again integrating restorative and retributive approaches, some responses to theft in Sierra Leone resort to punitive measures only when the offender does not undertake reparation by returning stolen goods (*Traditional Methods*, 2002: 47). For example, for the Temne, if conflict cannot be resolved between the victim and offender in a reparatory manner, the situation is escalated to involve a relevant chief, the courts or the police (*Traditional Methods*, 2002: 46). Similarly, among the Kissi, where restorative approaches of remorse, forgiveness and reparation fail, the situation is escalated to involve the chief and elders and will result in punitive approaches (*Traditional Methods*, 2002: 47). Such an escalation is reminiscent of the scholar John Braithwaite’s (2002) description of the responsive regulatory pyramid. Braithwaite’s combination of responsive regulation theory with restorative justice proposes that the initial response to criminal transgression should be restorative with increasingly punitive approaches as the situation warrants. Specifically, if the offender is not responsive to restorative measures, other measures, escalating up through the “pyramid” of sanctions, must be deployed that are themselves responsive to the offender. Braithwaite’s formulation is useful in recognising the coexistence of restorative and retributive responses to

⁴ My comments on peace huts are based on interviews I conducted in April 2007 in four communities in the southern Pujehun district, which borders Liberia.

criminality. Moreover, in Section Three, I will borrow Braithwaite's responsive pyramid as a possible mechanism to guarantee human rights in restorative practice.

Section Two:

Prospects for Restorative Processes in the Consolidation of Peace

Restorative Criminal Justice and Peace Consolidation

Restorative approaches to justice could be expanded in Sierra Leone in the consolidation of peace. Specifically, access to restorative *criminal* justice could contribute to peace consolidation by making justice for wrongdoing more accessible. The UNDP, for instance, has identified the bankruptcy of the pre-conflict justice system as a contributing factor to the war (Fletcher, 2003). While there have been efforts to reform the judiciary and make justice more accessible through the training of a large number of Justices of the Peace (JPs), magistrates, clerks and bailiffs (UNDP, 2007: interview; Kaldor and Vincent, n.d.), there could be simultaneous emphasis placed on the expansion of restorative mechanisms, which might have the effect of unburdening the adversarial justice system. Indeed, the formal justice system struggles with delays in court and overcrowded prisons (British Council, 2006). The war took its heaviest toll on the judiciary in the provinces, outside of the capital city, Freetown (Malan, 2003); at the same time, traditional justice practices are likely to hold the greatest in the rural provinces. The expansion of restorative justice also presents the opportunity for introducing justice that both connects with some cultural traditions whilst advancing the rights of vulnerable persons such as women and children.

A Model for Restorative Criminal Justice

The work of the Sierra Leone Red Cross in their "Community Animation and Peace Support" (CAPS)⁵ programming could serve as a model for the expansion of local level restorative justice. Within each CAPS community, the Red Cross invites the chief to identify persons to be trained in conflict resolution. Within CAPS' broad programming, different people from the community are trained in different skills; those trained in conflict resolution learn the important skills of mediation. According to several people trained in conflict resolution with whom I spoke in different communities⁶, they communicate their newly acquired skills to other members of the community in order for regular members of the community to develop conflict resolution capacities. Importantly, CAPS-trained mediators are *recognised* by people in the community as legitimate and appropriate persons to whom disputes can be taken. When the mediators are confronted with a dispute, the regular process they employ is to listen to each side of the conflict and encourage reconciliation. In some cases the

⁵ There are a few dozen CAPS communities with whom the Red Cross currently works. The Red Cross defines "peace support" broadly; as such, CAPS programming involves a range of activities, including water and human waste sanitation, hygiene instruction, the distribution of mosquito nets, as well as conflict management strategies.

⁶ Among my interviews in communities in Pujehun were interviews with CAPS-trained community mediators.

mediator makes recommendations on appropriate remedies. Chiefs traditionally conduct similar types of mediation, but according to respondents, CAPS-trained mediators are trusted over chiefs because chiefs often levy fines to their own benefit. However, I speculate, the chief remains invested in the process because it is he who selects those to be trained as mediators.

The local level expansion of restorative justice could be operationalised in a similar fashion. Sierra Leone represents a particularly good opportunity for the institutionalisation of local level restorative justice because during the peacebuilding process, Sierra Leone's government has begun a "*decentralisation*" process to devolve government power to district councils, particularly in relation to poverty reduction strategies, service delivery, and in the area of justice (UNDP, 2007: interview). Decentralisation is a peace consolidation strategy responding to the over-concentration of government power in Freetown, which contributed to emergence of conflict (Kaldor and Vincent, n.d.: 24). In this nascent stage, decentralisation offers a unique opportunity for the enhancement of the justice sector. Adding restorative justice programming within the context of the devolution of government power could compliment formal, adversarial justice by conducting justice processes at a local level where district councils could be involved in funding and administering restorative programming or training mediators. District councils might also provide the institutional and administrative capacity to escalate to more formalised justice mechanisms in instances where restorative justice is unsuitable or more punitive approaches are necessary.

Within the context of decentralisation, restorative justice programming could broadly adapt the Red Cross CAPS example. District councils could take responsibility for the training of facilitators in restorative processes. Facilitators selected for training could be nominated by the chief on the basis of several criteria, such as being trusted and respected by community members and being knowledgeable about existing, local justice practices. Selected facilitators could be confirmed by a gathering of all community members. A formal, democratic process would need to be devised to accept or reject selected candidates. Facilitators would be trained in conflict resolution and mediation skills, as well as various possible restorative approaches. Models could be *adapted* where appropriate from existing restorative practices, such as family-group conferencing, sentencing circles or victim-offender mediation (e.g., Shaw and Jané, 1998). Facilitators should also be trained with appropriate knowledge of formal law. Importantly, mediators would also undergo extensive human rights training. Moreover, community education would also be required, firstly, to ensure that in cases of wrongdoing, victimisation, and especially in minor criminal matters that restorative justice processes should be the first avenue of recourse. Secondly, community education will be required to raise awareness of the centrality of human rights in restorative processes.

Restorative processes would have to be adaptive to cultural variation among the many ethnic groups. While there would need to be a certain minimum level of consistency across community practices to ensure the protection of rights, there should be a wide berth for cultural variation. As has already been discussed, there are significant restorative traditions in justice among the ethnic groups, which variously include deliberative processes involving multiple stakeholders, reparative dimensions,

compensation to restore a prior condition, or an emphasis on remorse and forgiveness. Many of the ethnic groups also have traditions of “escalation”, which – as I have already noted – bear similarities to Braithwaite’s responsive regulatory pyramid: That is, where restorative approaches fail, there is redress to justice administered by chiefs, elders or the formal police and courts (*Traditional Methods*, 2002)⁷. Both the restorative practices and the possibility for escalation should be preserved in any expansion of restorative justice.

Several ethnic groups in Sierra Leone have distinctly punitive cultural traditions of justice. These are concerning because there is significant recourse to physical violence or public humiliation. For example, in the Mende tradition, thieves are beaten, tied with a rope and forced to dance around in public. The Limba tie stolen property around the neck of the perpetrator and likewise force the offender to dance around the town. Similar punishments are meted within Kono and Sherbro⁸ cultures, while in the Koranko culture a gang of young men are sent to apprehend the perpetrator who is then tied up and flogged whilst this official punishment (usually a heavy fine) is being determined (*Traditional Methods*, 2002: 46-48).

While cultural traditions must be respected, the human rights of the individual should likewise be protected⁹. The post-conflict situation represents an opportunity to introduce restorative practices to the cultural groups that have traditionally used humiliating and physically punitive forms of redress. Such a cultural shift *vis-à-vis justice* is most certainly possible without compromising the cultural traditions of the society at large. Consider the introduction of restorative justice practices in countries such as Canada, the Netherlands, Belgium, New Zealand or Australia. Valuable aspects of culture have remained intact despite the introduction of restorative approaches to justice. Restorative justice – foreign to the dominant, western judicial system – has not dismantled culture by its introduction. Similarly, restorative justice could be introduced into Sierra Leonean cultures without necessarily disrupting other aspects of their cultures and traditions, while simultaneously protecting the human rights of offenders following Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment¹⁰. The introduction of restorative justice to groups

⁷ It is important to note that existing practices in some Sierra Leonean cultures already involve criminal justice institutions, such as police and the judiciary. This suggests that integrating restorative approaches with criminal justice approaches will, in many cases, resonate with existing practice (*Traditional Methods*, 2002).

⁸ I have previously noted that for theft, Sherbro culture combines restorative deliberation and retributive consequences.

⁹ A more thorough discussion of the intersection of rights and culture is available from the author in a more comprehensive version of this paper.

¹⁰ The Convention defines torture as (Article 1):

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

that have punitive traditions, thus, contribute to the human rights of the offender, which is especially important in cases where the offender is a child, or is otherwise vulnerable. At the same time, in cases where restorative justice approaches are not satisfactory for the persons involved (especially for victims), the possibility for escalating the matter to the chief or into the criminal justice system would allow other avenues of redress.

Given the widespread experience of alienation from justice in the period leading up to the war and the devastation of judiciary during the war (Malan, 2003), the expansion of restorative justice at the local level would not only ensure a greater degree of accessibility to justice mechanisms, but would provide for a reconciliatory, reparative approach to justice, rather than a punitive, adversarial and distant resolution of community problems. Restorative criminal justice devolved to the level of communities with the support of district councils could, thus, contribute to peace consolidation.

Restorative Transitional Justice and Peace Consolidation

Peace consolidation with a long-term vision would benefit from restorative criminal justice both to address access to justice issues, and to facilitate conflict management and resolution within communities. However, to be tenable, peace consolidation also requires a sturdy foundation of comprehensive restorative *transitional* justice. Moreover, small-scale, community-based reconciliation is especially pressing in Sierra Leone because of the inter- and intra-communal character of the conflict. According to many accounts (although there are no statistics available) a good number of perpetrators (or alleged perpetrators) of atrocities stay in urban areas sheltered by relative anonymity in fear of returning to their home communities (Samba, 2007: interview). Meanwhile victims continued to live without resolution to their suffering. Therefore, in this section, I draw on a community-based project that was initiated, but aborted, in Sierra Leone as one useful model for restorative transitional justice.

A Model for Restorative Transitional Justice

Following the completion of the Truth and Reconciliation Commission (TRC), an independent civil society coalition called the TRC Working Group (TRCWG)¹¹, began a project to conduct community-level reconciliation in recognition of the failure of the

The use of physical punishment and humiliation in customary sanctions in some Sierra Leonean cultures cannot be defined as “lawful sanctions”. As Amnesty International (2003: 154) argues, “lawful” sanctions must be lawful both under national and international law. Yet, at the same time, punishment that is sanctioned by persons such as chiefs, must be understood to be “with the consent or acquiescence of a public official”.

¹¹ The TRC Working Group (TRCWG) is independent of the TRC. The TRCWG was integral in pushing the establishment of the Commission following the peace accords. As an external organisation, the group has also followed up the Commission by authoring and distributing a version of the TRC’s final report (*Witness to Truth*) specifically designed for a secondary school audience. They have also been involved in disseminating the findings of the Commission through activities such as a poster campaign. My description of the TRCWG’s project is based on an interview I conducted with John Caulker, the Chair of the TRCWG.

TRC to undertake small-scale reconciliation¹². The project – which was commenced but not completed due to a lack of funding – established reconciliation committees in each chiefdom. Envisioned as “mini-TRCs” or “mini-Commissions”, each committee included a panel of five members: A community leader, a religious leader, a women’s representative, a youth representative and another community member. Each committee was to be rooted in the community, and each panel member was to have been responsible for encouraging community participation and ownership. Following restorative principles, the committees were to be focused on bringing together victims and perpetrators to encourage resolution first through *talking*.

The “mini-Commissions” were intended to be long-standing committees that would regard reconciliation as *a process* rather than an “event”. As such, according to the Chair of the TRCWG, John Caulker, the committees were to invest in the long-term reconciliation of offenders, victims and their communities. Moreover, the committees were to be responsive to situations as they arise. For example, if several years hence a former combatant returned to his community, the reconciliation committee would have been designed to respond at that point.

The Working Group’s vision for reconciliation committees, although it never came to fruition, is a useful example of what could be possible in local-level restorative transitional justice. The most instructive aspects of the TRC Working Group plan are:

- (1) the selection of committee members who represent culturally legitimate leaders;
- (2) the selection of committee members who represent vulnerable populations (i.e., women, young people);
- (3) the training of the committee members in reconciliation practice;
- (4) the indigeneity of the committees, insofar as the committees were designed to be rooted in communities; and,
- (5) the recognition that reconciliation is a process rather than an event.

However, the TRCWG blueprint for community-based justice could be improved in at least two ways. Firstly, any local restorative justice programme must include extensive and intensive human rights training for the committee members. Training in human rights would strengthen such committees and enrich their power to consolidate peace. Secondly, the committees might also be improved by having the committees serve less as “mini-TRCs”, and more as facilitating bodies trained in a range of restorative approaches. For example, family-group conferencing could be adapted to the Sierra Leonean context, as I have already noted. Finally, involving the possibility of individual- or community- level reparatory, restitutive or compensatory dimensions could also be contemplated.

Another advantage to a TRCWG-type committee is that, learning from the Red Cross CAPS experience, once such committees are established, trained, and integrated into communities as legitimate sources of reconciliation, minimal resources would be

¹² Some insist that the TRC should have conducted small-scale, local-level reconciliation (e.g., Torto, 2007: interview). However, others suggest that the Commission was unable to undertake greater reconciliation programming because of a lack of time and resources (e.g., Goba, 2007: interview).

required for such committees to exist indefinitely in order to consolidate peace continuously over long stretches of time at very localised levels. If such committees were operational across most communities, they would together constitute a network of a truly national form of reconciliation. If integrated into the national consciousness, Sierra Leoneans might feel ownership of the committees as part of *their* peacebuilding. The long-term existence of such committees could also contribute to a culture of peace and reconciliation, a human rights culture, as well as advance human rights education.

Section Three:

Protecting Rights and Doing Restorative Justice in Sierra Leone

I have already suggested that restorative justice, deployed in communities that use physical punishment and humiliation as criminal sanctions, will help better protect the rights of offenders. However, there are two main areas where the protection of rights is of concern for restorative justice implementation: (1) rights of the accused, and (2) the rights of vulnerable persons, for example women.

Some scholars have raised concerns about the rights of accused persons within restorative justice, indicting restorative justice for eroding legal rights. (See Morris 2002 for a discussion of this charge.) Restorative justice, of course, is not designed to establish guilt but to accomplish reconciliation and healing. However, following examples to which Allison Morris points, safeguards can be introduced to protect legal rights. Morris points to the involvement of lawyers in juvenile programmes in Australia, New Zealand the US (2002: 601-602). Further research is needed to determine appropriate precautions to be taken in Sierra Leone, since consultation with lawyers in rural Sierra Leone may not be a practicable solution. In any case, accused person should have access to at least a minimum level of legal and administrative protection that cuts across all restorative programming in Sierra Leone. For example, if district councils take on the administration of restorative justice programming, the councils could provide a mechanism through which accused persons can refuse participation in restorative justice programming or appeal a restorative justice process.

Such an official mechanism should be accompanied by community-level education on restorative justice twinned with education on formal justice to maximise individuals' knowledge of the protections afforded in criminal justice institutions. In addition, accused individuals should be informed that they cannot be "forced" to engage in a restorative process and that they have recourse to the formal legal system. Educating community members also must involve educating community leaders in order to discourage leaders from coercing accused persons into participate in restorative justice processes.

The other major area of rights protection that might become a concern in restorative processes is the rights of vulnerable persons. I will here focus attention on women as a vulnerable population with specific reference to intimate violence. Some commentators worry that restorative processes do not well serve female victims of intimate violence. Studies suggest that survivors of intimate violence prioritise the punishment of their attackers as a symbolic and actual form of accountability (Cameron, 2005: 19). Others

have raised the concern that the use of restorative justice “decriminalises” intimate violence, while still others charge that survivors may be unable to articulate their needs, especially when faced with their victimisers, as a result of having lived with violence (Cameron, 2005: 27).

Such concerns are not groundless and should be of concern within Sierra Leone. Existing cultural justice traditions in Sierra Leone relating to sexual violence superficially bear some characteristics of restorative justice, but entrench gender inequalities. Among many cultural groups in Sierra Leone, cases of sexual violence are resolved through participatory, deliberative processes that involve multiple stakeholders. However, the resolution of such matters can leave women and girls disadvantaged. For example, in Madingo¹³ culture, girl rape victims are compelled to marry their attackers (*Traditional Methods*, 2002: 50)¹⁴. In cases of marital conflict, the resolution *process* is restorative, usually involving mediation of some kind. However, in some cultural groups, wives are *always* compelled to apologise or beg forgiveness in order to restore peace even if their husbands are at fault, which negates the restorative character of the process (*Traditional Methods*, 2002: 38-41). Restorative justice measures that are insensitive to women’s and girls’ needs threaten to restore inequality rather than restore dignity.

However, restorative justice is by no means inimical to women’s and girls’ rights; rather, restorative processes can advance women’s rights. Criminal justice prevention, for example in rape cases, have not been proven to be effective, and victims of rape can find criminal justice approaches traumatising (Koss et al., 2003; Hudson, 1998). Moreover, restorative approaches must be about restoring dignity and justice, *not* about restoring oppressive structures and inequitable power relations. Restorative justice that merely “restores” or reinforces inequities misses the *justice* component of restorative practice and philosophy.

Protecting and advancing women’s rights in the expansion of restorative approaches both in criminal and transitional justice relies on proactive measures. For example, community members, leaders and facilitators need to be educated on human rights, with a special focus on the rights of vulnerable persons. Women should, moreover, constitute half of all facilitators in a given community’s restorative justice programming. Women and other vulnerable persons should have access to escalating their cases to criminal justice institutions, and must be supported by locals when they

¹³ Sometimes spelled “Mandingo”.

¹⁴ As a cultural “outsider”, it is difficult to determine how to interpret being required to marry one’s attacker. While it seems abhorrent to be forced to live one’s life with one’s attacker, a rape victim in Sierra Leonean culture is considered spoiled and unmarriageable (CCF-B, 2007: interview). A rape victim may, in fact, *want* to marry her attacker in order to ensure that she *can* marry. The need to marry may also relate to considerations of financial survival, and to social considerations of being accepted rather than ostracised by her community. Responses to rape that appear more just to a western, feminist sensibility might have the consequence of rendering the rape victim an impoverished, social outcast if an appreciation of women’s rights does not meaningfully take root through peacebuilding projects and structural change in the material conditions of women’s lives in Sierra Leone.

choose to do so. Moreover, government should be involved in human rights “auditing” to ensure that no group’s rights are being systematically violated¹⁵.

Conclusion

Post-conflict Sierra Leone presents an opportunity for the expansion of restorative criminal and transitional justice. Because restorative principles and practices resonate with many Sierra Leonean cultural traditions, the expansion of restorative justice may be a meaningful way to ensure access to justice. However, the expansion of restorative justice in the post-conflict period also bears the potential for advancement of a culture of human rights. Restorative justice in both criminal and transitional spheres will be an important contributor to the consolidation of peace. Implementing restorative justice programming in Sierra Leone, moreover, provides a space for learning lessons about what kinds of justice are most productive in building enduring and durable peace.

¹⁵ A more comprehensive discussion of protecting women’s rights is available from the author in a more comprehensive version of this paper.

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