

Transitional Justice in Sierra Leone

By Kylie Pearce



Emmanuel Saffa Abdulai explains the complex issues affecting transitional justice in Sierra Leone.

Sierra Leone. It is one of the oldest polities in Africa, and is rich in natural resources, such as diamonds. However it is also the poorest country in the world, and recovering from the ferocious 1991-2001 civil war. Victims of the horrific war include an estimated: 75,000 fatalities, 10,000 people who had their limbs brutally chopped off; 5,000 children who were forced to fight beside adults; and many more who were abducted to be sex slaves.

In August, the Victorian Bar, in conjunction with the Castan Centre, hosted a public lecture on transitional justice in Sierra Leone, delivered by guest speaker Emmanuel Saffa Abdulai, lawyer and Founder of the Society for Democratic Initiatives in Sierra Leone.

The country's civil war officially ended in 2002, and democracy is slowly becoming an accepted means of governance. Despite this, Mr Abdulai emphasised the need to eradicate the psychological threat of war by strengthening democratic institutions. In 2003, Mr Abdulai established the Society for Democratic Initiatives in Sierra Leone. He also worked at both the Truth and Reconciliation Commission and the Special Court for Sierra Leone.

The Sierra Leone government set up The Truth and Reconciliation Commission with a "restorative mandate" to facilitate victims and perpetrators coming together to help them move forward in their lives. The UN created the Special Court to institute "retributive" justice, and having these two mechanisms is what makes Sierra Leone's approach unique. Mr Abdulai said that the European concept of transitional justice is alien to the people of Sierra Leone.

For example, crime in Sierra Leone is traditionally dealt with by local chiefs and while there may be compensation offered to the victim, imprisonment is perceived as a wrong against the community.

The Special Court, with the support of Sierra Leone's government, agreed that even pro-government forces would be tried at the court for war crimes, and consequently the court was almost completely alienated from local peoples. Mr Abdulai explained that in Sierra Leone the vigilantes had fought against the rebels to restore democracy and to defend their communities. The Special Court's approach was a bold step intending to send a strong message: that the world does not accept brutal tactics regardless of whose side you are fighting on.

From the outset, there was tension between the Commission and the Special Court. The Commission was empowered above all courts, and it guaranteed that any testimony and evidence could not be used in the Special Court. However, when the leader of the vigilante opposition forces was indicted and arrested by the Special Court, the Court refused to allow him to participate in the Commission, due to the risk of prejudice to his Special Court case. Mr Abdulai asserted that missed opportunities of this kind compromised the final outcomes and effectiveness of both institutions. On the other hand, Mr Abdulai also shared stories illustrative of the positive outcomes of symbolic reconciliation between victims and perpetrators at the Commission.

The output of the Truth and Reconciliation Commission was a three-volume report detailing the Government's use of corruption and tactics to gain power and control. It is hoped that the report will become a historical blueprint for generations to come. However, Mr Abdulai questioned the impact of its many recommendations, which have subsequently been undermined and disregarded by the Sierra Leone Government, including the establishment of a National Human Rights Commission.

Regarding the Special Court Emmanuel discussed some of the barriers for access to justice, which potentially compromised at the Special Court. Firstly, local defence lawyers faced being ostracised in their community for defending alleged perpetrators. Secondly, local judges were not in favour of the pro-government forces being tried. Thirdly, the funding for the Special Court came from international donations which were uncertain from one year to the next. Finally, he contended that there was no 'equality of armour' in the Special Court, as the office of the prosecution had been allocated nearly all the resources, leaving the defence seriously underfunded.

Mr Abdulai's discussion of the challenges of implementing transitional justice in Sierra Leone had a powerful impact on the audience due to his comparative analysis of the interactions between African, Western and international jurisdictions and values that provided invaluable insight into the complexities of transitional justice.