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Nicoleta Mirza
nicoleta.mirza7@gmail.com

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THE ROLE OF ATROCITY ACTORS IN THE TRANSITIONAL JUSTICE PROCESSES IN SIERRA LEONE

Nicoleta Mirza

LLM, Law and Politics of International Security Graduate

Nicoleta Mirza is a LLM (Law and Politics of International Security) graduate from the Vrije University Amsterdam, with a BA in International Relations from the University of Pecs. She has published several articles focusing on such regions as Europe and Africa. Her research interests include the study of the security threats in such regions as Europe, Asia, and Africa, with a particular interest towards the Russian foreign policy towards Eastern European countries.

Email: nicoleta.mirza7@gmail.com

Introduction

The paper tries to analyse the impact of transitional justice mechanisms such as truth commissions, trials, and cultural practices, on the atrocity actors. It aims to identify if and how did the transitional justice mechanisms help the atrocity actors in the case of Sierra Leone. Therefore, the paper shortly defines the three atrocity actors and tries to highlight the ambiguity behind each of them. Furthermore, the next chapter introduces some transitional justice mechanisms and discusses their effects on the bystander, victim, and perpetrator. A different aim of the article is to also observe the population's response to these mechanisms.

1. Atrocity actors

The analysis of S. Cohen describes three agents in the “atrocity triangle”: the victim, perpetrator and bystander.¹ Yet, the lines between these agents, appear to be significantly blurred.² It is difficult to clearly distinguish all three atrocity actors. This chapter aims to shortly define all three agents of the atrocity triangle.

1.1 Victims

According to A. Smeulers and F. Grünfeld, “the victim – is dealt with in relation to the first two actors.”³ However, the role of the victim can be attributed beyond a classic definition. A victim can range from someone who suffered any psychological and emotional trauma to someone who experienced material and physical damage. The characteristics of the victim in international crimes go beyond the traditional knowledge of the notion. The role of the victim is so complex that it can be also attributed to bystanders and even perpetrators.

1.2 Perpetrator

S. Cohen describes the “perpetrator as someone who acts of atrocity to cause suffering”.⁴ However, the distinction is not always this clear as a perpetrator can also be a victim and/or a bystander. An example of the perpetrator as a victim is the child soldier. The innocence of their age and the circumstances of their condition make it difficult to classify the child soldier firmly as a perpetrator.

1.3 Bystander

S. Cohen places the bystander as an “observer” “who witnesses atrocities happening.”⁵ A. Botte-Kerrison has argued that “Bystanders are those persons who live in the society where the crimes have occurred but who cannot be defined as victims or perpetrators.”⁶ However, G. Dona argues that the role of the bystander is more complex than that by distinguishing several types of bystanders: internal, external, helpers, gainers and outlookers.⁷ The author claims that “[b]oundaries between bystanders and perpetrators or between bystanders and victims are often unclear and blurred, and can change over time and across space.”⁸ Therefore, a bystander is a behaviour rather than an identity.⁹ The role of bystanders in Sierra Leonean conflict and/or the transitional justice is barely mentioned in the academic work. This paper, thus, assumes that the word “witness” in most academic works can be attributed to the bystander.¹⁰

2. Transitional Justice Mechanisms in Sierra Leone

International criminal justice has the power to try perpetrators of international crimes while striving to support the “rebuilding the rule of law” in the countries affected by these crimes.¹¹ Transitional justice mechanisms aim to establish justice for the victims in times of “transition from violence to peace.”¹² It is designed to help people and communities to recover from past authoritarian regimes, civil wars, and “large-scale human rights abuses and atrocity.”¹³ It has several goals: to discover what happened, “to institutionalise revenge and deter future wrongdoing”, and to keep the memory alive of the “historical injustice” while trying to resolve it.¹⁴ The mechanisms incorporated within the transitional justice can be “trials, truth commissions, amnesties, reparations, lustration, and informal/local/traditional practices”.¹⁵ This chapter further aims to define some mechanisms, and to explore their influence on the atrocity actors in Sierra Leone.

2.1 Truth and Reconciliation Commission

The truth commission is a way of “coming to terms with the past” and is created to investigate “widespread human rights violations”.¹⁶ Truth commissions are regarded as a less expensive way of gathering information about atrocities and cover a broader range of crimes.¹⁷ They “have been established in more than 40 countries including Sierra Leone”.¹⁸

The Truth and Reconciliation Commission (TRC) was established in cooperation between the government of Sierra Leone and the United Nations,¹⁹ therefore including both the international and national element in its formation. Its main function is to offer healing to victims, perpetrators and “average Sierra Leoneans” (bystanders).²⁰ TRC in Sierra Leone is distinguished from most commissions as it encountered perpetrators in the role of victims, such as child soldiers.²¹ It has removed the label of “perpetrators” while addressing child soldiers, instead it has referred to them as victims or witnesses (bystanders).²² The use of the term “witness” might suggest that the most part of the population was not considered necessarily as a bystander, but if not victim, as an innocent witness.

2.1.1 Re-victimization

TRC mostly provides a platform where people affected by the war (atrocity actors) can share their experiences. Yet, while this idea in theory appears to be a way for individuals to let go of their suffering, unfortunately it was not seen as such by the local population. Data collected in Serbia and in Sierra Leone, shows that sharing experience of the war can bring fear and “re-victimization”, can worsen psychological health, increase depression, anxiety and posttraumatic stress disorder.²³ As an example serves the statement of a former child soldier, that was regarded as a victim/witness: “[a]fter talking it took several months to feel good.”²⁴ Therefore, according to the findings we can denote that the TRC might have worsened the psychological health of all atrocity actors.²⁵

2.1.2 Expectations

According to findings, people in Sierra Leone, did not only expect experience sharing from the programme.²⁶ They did expect the improvements of infrastructure and the social services.²⁷ Most individuals believed that the work of the transitional justice, including TRC, would include

reconstruction of schools, roads, hospitals, and other improvements in infrastructure.²⁸ In order to focus on mental health, forgiveness and reconciliation, it would be expected that victims, perpetrators, and witnesses would want to rebuild their material life first and would expect assistance from the authorities. It would be difficult to focus on forgiveness and rehabilitation when there is a scarce of basic necessities. G. M. Millar notes that “transitional justice must be experienced as justice by those who have suffered an infringement upon their rights.”²⁹ However, if basic human needs are not met, TRC did not succeed to bring a sense of relief and justice to neither of atrocity actors.

2.2 Incorporation of Local Culture

Sharing stories about the war can have a successful effect on all three atrocity actors when it is incorporated within the local culture. It has been argued that the local population affected by war is often reluctant to accept Western healing practices.³⁰ As an alternative, it has been claimed that rituals can facilitate healing, help reconnect with the community and have “positive psychological effects.”³¹

Such an example is the practice of Fambul Tok in Sierra Leone. It is a remarkable reconciliation programme that has incorporated local traditions in order to unite the community. It is also notable because it incorporates all actors to the conflict- victims, perpetrators, and witnesses (bystanders).³² Unlike TRC, before beginning their work, Fambul Tok has asked the communities beforehand if they are ready for reconciliation.³³ The programme has acknowledged that all three atrocity actors living side by side is a “difficult reality” for the population.³⁴ Moreover, it was apparent that there already exists local practices of reconciliations that can be used,³⁵ thus, reaffirming once again the local culture. Key elements of Fambul Tok were to reintegrate the perpetrator in the community and to relinquish isolation.³⁶ By working on a micro level, the programme could assist any particular need of each participating community.

The programme consisted of a bonfire where the perpetrators asked for forgiveness, the victims could share their experience and the bystanders could witness the reconciliation process while, uniting and becoming closer to their communities. Fambul Tok has the aim to transform the identity of the victim and the perpetrator while connecting to their goodness.³⁷

Author Hoffman E. illustrates an emotional example where forgiveness, through the Fambul Tok programme, has brought two old friends together.³⁸ The perpetrator has sought forgiveness for killing the victim’s father and for causing permanent injuries to the victim. According to Pumla Gobodo-Madikizela” [...] when people who have committed heinous acts ask for forgiveness, they are in a sense asking to be admitted to the world of moral humanity.”³⁹ In this way, the perpetrator can also be admitted to the community and live side by side with victims and bystanders. The author also notes that “[f]orgiveness can help relieve victims of [...] burdensome emotions” like anger, resentment and revenge.⁴⁰

The programme has succeeded to bring together all three atrocity actors, facilitating forgiveness and strengthening the sense of community. The response of the participants was also positive, calling it the type of reconciliation they needed.⁴¹

2.3 Special Court of Sierra Leone

The aim of the Special Court of Sierra Leone (SCSL) is to investigate war crimes, to capture perpetrators and to bring them to trial.⁴² It was assumed that the Court would be able to “shape and implement a system of justice that would be accepted and endorsed by the population and that could have a real and positive impact on the lives of victims and society[...].”⁴³ It has been claimed that court proceedings can have an important role: “They are reconstructed by their narrators, whether victims, the accused, witnesses, or legal actors, with regard to the particular power dynamics characterizing their audience.”⁴⁴ Consequently, all atrocity actors can be affected by the SCSL. This chapter tries to answer whether accountability mirrors justice for the local population of Sierra Leone and tries to identify how all atrocity actors have been affected by the Court.

2.3.1 Bystanders

When addressing the indicted individuals, only 13 perpetrators were held accountable by the Court.⁴⁵ There is insufficient information to suggest that bystanders were tried in Sierra Leone. This can be explained by the fact that bystanders/witnesses were considered victims rather than perpetrators.⁴⁶

2.3.2 Victims

The Special Trial of Sierra Leone did not offer the victims the chance to participate in the proceedings.⁴⁷ This, however, can also be perceived as avoiding the negative consequences. By allowing victims to participate and “failing to meet their expectations will lead to secondary victimization.”⁴⁸ It is also claimed that victim participation in the proceedings does not impact the sentencing.⁴⁹ Moreover, “achieving therapeutic benefit is also controversial”.⁵⁰

2.3.3 The Court Viewed by the Local Population

According to the data collected by F. Mieth, local population “describe the work of the Court as irrelevant [...] and “stated that it has not brought justice to them.”⁵¹ The local population that includes victims, bystanders and even perpetrators did not recognize the Court as effective in bringing justice. The author suggests that this is due to the fact that while the Western world perceives justice as punishing perpetrators, Sierra Leoneans perceive it as receiving compensation for their losses.⁵²

Because the Court granted amnesty to most perpetrators; victims and bystanders, could hardly view the Court as “just” since they have to live among the people that inflicted them pain.⁵³ However, since the perpetrators were largely comprised of child soldiers, amnesty appears to be a morally correct thing to do as the first step of restoring their lives.

“[P]eople could not relate to the message of the Court because they continued to experience injustice in everyday life”.⁵⁴ Mistrust in institutions⁵⁵ act as a further reason for not perceiving the Court as a tool of bringing justice.

An interesting occurrence, however, is the use of local beliefs as a way to perceive and accept their own understanding of justice. Locals believe that “God’s justice”,⁵⁶ can also act as a form of forgiveness and reconciliation. A different example of the incorporation of the local beliefs in the

illustration of justice is the concept of “hake”.⁵⁷ Accordingly, it is a belief that if you had harmed or wronged someone you will face consequences in the future.

Conclusion

The transitional justice mechanisms such as trials, and TRC were not completely successful in bringing a sense of justice to the atrocity actors. The victims, bystanders/witnesses and even perpetrators did expect reparations and compensations as a form of justice. This perceived idea of the locals is relevant, since the reconstruction of the infrastructure and access to basic needs is the first logical step towards restoring their lives to normal. On the other hand, the incorporation of the local culture in the transitional justice can help bring a sense of fairness. This is visible in the practice of Fambul Tok which was widely praised by the participants. Local beliefs can also be introduced in the practice of the SCSL as victims and witnesses have a special understanding about punishing the perpetrators.

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