

Transitional Justice Monitor

REFLECTION: What we've learned from working together at the intersection of transitional justice and coexistence

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The Ghana Center for Democratic Development (CDD Ghana) and Coexistence International (CI) are almost 2 years into a joint project exploring the relationships and linkages between coexistence and transitional justice in the West Africa sub-region. The project, designed by CDD Ghana and supported by CI, seeks to (1) create opportunities for more coexistence-sensitive transitional justice processes and (2) further catalyze a transitional justice network of West African state and non-state actors by building capacity and sharing information and best practices about the nexus of justice and peacebuilding. Reflecting on the last 2 years while at the same time looking forward to next steps, the partners are positive about the activities and learnings to date, and also very much aware of the need for this pressing work to continue.

Through the activities carried out in this project to date, CDD Ghana and CI have learned from each other and from interactions with WANT Justice members, members of TRCs and similar bodies, and others. We learned about transitional justice measures and coexistence sensitivity as well as the desires and needs of civil society organizations in the region. What follows is a summary of these initial learnings:

- Intra-state conflicts are not just about the violence a government may perpetrate on its citizens (vertical), but also about the complicated and often violent tensions between groups in a country (horizontal). It is important, therefore, that transitional justice measures consider, if not address, the inter-group dimension of violent conflicts.

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- During the long transition period that follows violent conflict, many important changes are required. There are psychosocial changes in attitudes and behaviors of individuals and groups (reconciliation) and changes within institutions and structures that are also critical for the future of sustainable peace. The article on Ghana's NRC (page 4) highlights the need for both types of changes.
- Efforts to achieve reconciliation within a society cannot be generated or mandated from the top down. A government can promote reconciliation and create opportunities as well as model positive, constructive relationships across difference, but it is critical to understand reconciliation as a process that is driven by society, across groups. For some interesting examples of activities that can help promote reconciliation, see the articles on Liberia's TRC (page 12) and Sierra Leone (page 7).
- Civil society working in the areas of governance, transitional justice, and peacebuilding are all crucial players in repairing and rebuilding societies during times of transition. In most cases, the types of work that need to happen cannot be easily delegated to one field or another, but are more fluid, and require a collaborative approach. Furthermore, new knowledge, skills, and tools may be needed, as we saw in the workshop that took place in February in Liberia, co-sponsored by CDD, CI and the Transitional Justice Working Group (see article, page 14).
- The field of coexistence can lend the transitional justice field mediation, dialogue, and facilitation skills and frameworks for thinking about difference and intergroup relations. Hoping to avoid violent conflict in the future, policymakers can also benefit from using a coexistence lens to develop and implement a range of policies.
- The processes and institutions associated with transitional justice offer the coexistence field an important forum and opportunity for facilitating dialogue and learning about the "other."
- It is necessary to think more deeply and collaboratively about the mandates and purviews of transitional justice and coexistence. How can the work of each field better support and contribute to common values and goals?

As the first phase of this work comes to a conclusion, we observe some outcomes that we hoped for and others that were more unexpected. One key objective of the CDD-CI project has been met. CDD has created opportunities for nuanced learning and capacity-building on coexistence among civil society actors and government officials which have the potential to influence conversation and debates about post-violence and processes of transitional justice.

We also see that the activities of the project, such as fact-finding missions and workshops, contributed to keeping the topic of reconciliation on the agenda of civil society actors in West Africa. We have observed renewed interest and discourse on transitional justice and reconciliation issues among civil society. Some of these same activities, in combination with the first issue of the Transitional Justice Monitor, helped to strengthen the network of practitioners and scholars of transitional justice in West Africa (WANT Justice network).

An unexpected, but very positive outcome in the eyes of the partners is that the project convened a team of support from around the region to lend experience and knowledge to peers in Liberia currently undertaking transitional justice measures.

The project has also impacted the programs and strategies of the two partners in very concrete ways. For CDD Ghana the partnership with CI has provided new knowledge about coexistence and peacebuilding, and opened the door to new networks and possible partners in the region. CI has built important new relationships and knowledge about transitional justice and the West Africa sub-region as a result of the work. Finally, CI's work with CDD in West Africa influenced its decision to explore the topic of

governance and coexistence in the region, through collaboration with CDD and the West Africa Network for Peacebuilding (WANEP).

Two years is little time when thinking about countries in transition and positive inter-group relations. In the work to date, CDD Ghana and CI have heard that there is a continued need for knowledge sharing, training, and relationship-building between practitioners in different fields. Moving forward we hope to:

- Create additional opportunities for coexistence training.
- Explore further what it means for transitional justice to adopt a coexistence lens.
- Facilitate the growth of the WANT Justice network so that state and non-state actors in the region can learn from each in a timely and useful fashion about transitional justice, and specifically thinking about transitional justice from the perspective of inter-group relations.
- Create more French-language resources about coexistence.
- Seek to broaden the participation base of our efforts to include countries like Guinea, Togo, and Côte d'Ivoire to share the state of affairs in their respective countries and enrich the discussion on transitional justice and reconciliation efforts in the francophone sub-region.
- Continue to look at gender as a critical dimension of coexistence and the fair and sensitive involvement of women in transitional justice processes as a prerequisite for sustainable peace.

Two years ago CDD and CI pursued the opportunity to work together because we each realized that the issues we work on as independent organizations -- governance and transitional justice on the one hand and coexistence on the other -- are related. We sensed that there were possibilities for the impact of the efforts in each field to be enhanced through increased complementarity and knowledge sharing. We are off to an interesting start, and look forward to more opportunities for learning together and engaging with committed partners working on themes of justice and coexistence across the region.

Jessica Berns, Program Director, Coexistence International

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Case Studies

A look into transitional justice experiences and challenges in West Africa

Ghana

The Road to Peaceful Coexistence and Reconciliation

Introduction

It is a cardinal principle of law that where there's a right, there must be a remedy (*ubi jus, ibi remedium*). Remedy refers to the means by which a right is enforced or by which the violation of a right is prevented or compensated. Remedies may also be considered in relation to the enforcement of contracts or the redress of torts or injuries. In respect of the second, we can mention three kinds of remedies: preventive, reparatory and punitive.

The idea of a reconciliation process is to focus on the reparatory element. In the case of *Free Legal Assistance Group v. Zaire*, the African Commission on Human and Peoples' Rights accepted the principle of reparations in its jurisprudence by stating that one of its principal objectives is to "remedy the prejudice complained of." The goal of reparation is to attain reconciliation.

Reconciliation is originally a religious concept which relates to repentance, confession, forgiveness and restitution. It is common to the major religions, be it Christianity, Islam or traditional religion.

In African traditional religion, any person who causes a breach of the harmonious coexistence of the members of the community is asked to make up for it through just reparation or restitution, depending on the offence committed. In this connection, one can refer to Archbishop Desmond Tutu's remarks:

We contend that there is another kind of justice, restorative justice, which was characteristic of traditional African jurisprudence. Here the central concern is not retribution or punishment. In the spirit of *ubuntu*, the central concern is the healing of breaches, the redressing of imbalances, the restoration of broken relationships, a seeking to rehabilitate both the victim and the perpetrator, who should be given the opportunity to be reintegrated into the community that he has injured by his offense."¹

However, with time, reconciliation has come to acquire a more secular meaning in order to make it both conceptually and substantially available and relevant to everyone. This has been achieved through marrying the theological and the political. Reconciliation thus relates to the amount of political tolerance required to build a common national project and to consolidate a democratic transition. In the view of Charles Villa-Vicencio, "[t]he aim is a paradigm of peacemaking that recognises the need for a growing relationship of trust that both makes the peace accord possible and is aimed at enduring political stability beyond the accord."²

Within the paradigm of reconciliation, two perspectives of reconciliation exist:

- i. "Non-lethal coexistence" – where reconciliation occurs, e.g. through peace accords where former enemies no longer kill each other or routinely violate each other's basic rights;
- ii. "Democratic reciprocity" – where former enemies or former perpetrators, victims, and bystanders are reconciled insofar as they respect each other as fellow citizens. Further, all parties play a role in deliberations concerning the past, present, and future of their country.³

¹ Desmond M. Tutu, 'No Future without Forgiveness' (1999) at 54, 55.

² Charles Villa-Vicencio, *Reconciliation as Metaphor* at 6.

³ D. Croker, 528ff.

Reconciliation in Ghana

Ghana's National Reconciliation Commission (NRC) was set up in 2002 under the NRC Act, 2002, with the mandate "to seek and promote national reconciliation among the people of this country by recommending appropriate redress for persons who have suffered any injury, hurt, damage, grievance or who have in any other manner been adversely affected by violations and abuses of their human rights arising from activities or inactivities of public institutions and persons holding public office during periods of unconstitutional government to provide for related matter."⁴ By reference to section 20 (2) (d) of the NRC Act, the NRC was empowered to, among others,

- (d) recommend the appropriate response to the specific needs of each victim or group of victims;
- (f) recommend reforms and other measures, whether legal, political, administrative or otherwise needed to achieve the objectives of the Commission;
- (g) promote healing and reconciliation; and
- (h) setting up of a reparation and rehabilitation fund.

The recommendations for reparations were based on the principles of human rights enshrined in the Fourth Republican Constitution of Ghana as well as international best practices, international legal instruments of which Ghana is a party, and international customary law. Types of reparation proposed by the NRC include the symbolic, such as the rendering of an apology by the President and the building of monuments, creation of memorabilia, and organisation of commemorative events, including annual lectures, etc. Others are restitution packages,⁵ payment of monetary compensation and reform of state institutions. While some of the recommendations have been fulfilled, most of them remain untouched.

In general, the NRC process was quite participatory from the pre-NRC through the NRC and post-NRC phases. While the government and the NRC itself played their part in this process, civil society organisations were more instrumental to ensure the realisation of this goal. Among others, civil society organisations in Ghana, led by Ghana Centre for Democratic Development (CDD-Ghana), formed a broad coalition, CDD Civil Society Coalition on National Reconciliation. This served as the conduit between the public and the NRC and ensured that their views and opinions were reflected in the Act that established the NRC. Also, following the closure of the Commission's Zonal Offices which were set up across the country, the Coalition embarked on a nationwide "mopping-up exercise" to afford victims who still wished to petition the Commission a chance to do so. These steps notwithstanding, a large number of people, particularly women and people in the rural communities, were left out or participated marginally in the process.

Challenges: Achieving Justice and Peace in tandem

Apart from a problem of lack of enforcement of the NRC recommendations, there are general questions that confront the viability of the reconciliation processes as a whole, Ghana's being no exception. It is noted that for reparations to be effective and promote sustainable coexistence, they should provide grounding for a future based on social justice while counter-balancing the decision to displace criminal justice in the process. It is recognised that in the case of South Africa, governmental reticence to provide reparations, the judicial disregard of pursuing prosecutions, and the dismissal of responsibility for apartheid at a wider social level, have been identified as factors that are limiting the opportunities for reconciliation and developmental change.⁶ Ghana is likely to suffer a similar fate if the key recommendations made by the NRC are not carried through. For example, the police service remains largely corrupt, undemocratic and abusive. Appalling prison conditions continue to deteriorate. Judicial reforms are on-going but slanted in favour of boosting investor confidence in the legal system. Also, judicial training in the application of international law, particularly international human rights law in the local jurisdiction, needs urgent attention.

⁴ See Long Title to the National Reconciliation Act,

⁵ Partly, this job has already been assigned to the Commission on Human Rights and Administrative Justice.

⁶ Elizabeth Stanley, "Evaluating the Truth and Reconciliation Commission," in (2001) Vol 39 No 3 *Journal of Modern African Studies*, 525.

It is important to stress that a truth commission cannot achieve its goals by functioning in a vacuum. It can neither be divorced from the broader realities of social injustice which are often the direct cause and consequence of the conflict or the abuses a truth commission seeks to address. While the NRC, by reference to its report, has sent its feedback to society with positive notions of the future, these ideas have, to a large extent, been obscured by the display of lack of political will by the government to implement the recommendations. Thus, in Ghana, incidents of mob violence and vigilante justice are on the rise. Incidentally, it is noted that these means of meting out justice to alleged criminals do occur in poorer, more neglected neighbourhoods or slum areas. These incidents are attributed to poor and undemocratic policing practices or the absence of policing at all, contrary to the recommendations of the NRC for the police to undergo some critical reforms.

As rightly noted by Aryeh Neier, “Peaceful coexistence seems much less likely if those who were victimized see no one called to account for their suffering ... Justice provides closure; its absence not only leaves wounds open, but its very denial rubs salt in them. Accordingly, partisans of prosecutions argue, peace without justice is a recipe for further conflict.”⁷

Archbishop Kwasi Sarpong also notes: “Justice produces peace... there can be no peace without justice... Peace is honourable... peace can never be achieved when you are disgraced or when you disgrace another person. People must relate to one another on equal terms.”⁸

One thorny issue that remains with regard to the NRC recommendations is the removal of the impunity clauses from Ghana’s Constitution. According to a CDD-Ghana survey, “contrary to the nature of the Ghanaian reconciliation process, a sizeable majority recommended that any future reconciliation process should be granted powers to prosecute perpetrators of human right abuses. In the view of CDD-Ghana, this comment brings to the fore the question of whether there can be justice in the absence of punishment for crimes.”⁹

We should therefore deal with and avoid the “culture of impunity.” The country cannot talk about justice when the indemnity clauses remain in the Constitution in spite of the recommendation for a referendum on the matter. The Chilean example at least shows us that peace and justice can go together and peace will be consolidated where justice is done and seen to be done. Thus, the stripping of Pinochet of his immunity did not cause any political destabilisation. The presence of indemnity clauses in the Constitution amounts to a breach of Ghana’s international law commitments, as well as articles 40 and 73 of the Constitution. And they are a threat to peaceful coexistence in the country. In the case of *Constitutional Rights Project and Civil Liberties Organisation v. Nigeria*, the African Commission on Human and Peoples’ Rights declared ouster clauses illegal and appealed to Nigeria “to release all those who were detained for protesting against the annulment of the elections.”

In conclusion, to achieve effective reconciliation and durable peaceful coexistence in Ghana and in other post-conflict/post-dictatorial societies, we need to be able to balance reconciliation and justice. In the words of David Crocker, “in reckoning with past wrongs, a society must be wary of *overestimating* the restorative effect of amnesty and forgiveness as well as *underestimating* the reconciling power of justice.”¹⁰

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⁷ Aryeh Neier, “War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice” (Times Book, 1998) at 83.

⁸ Peter K. Sarpong, “African Traditional Religion and Peace (with Special Reference to Ashanti),” *Studia missionalia*, 38 (1989), 353-355.

⁹ CDD Victims Survey Report (copy on file with author).

¹⁰ David A. Crocker, ‘Punishment, Reconciliation, and Democratic Deliberation’ in Vol.5, *Buffalo Criminal Law Review*, 509 at 544.

Sierra Leone

Civil Society and its Role in the Transitional Justice Process

Background

Sierra Leone is among the very few countries that have implemented both a tribunal and a truth commission to address the problems that emerged as a result of the conflict that started in 1991 and was concluded in 2002.

The Truth and Reconciliation Commission was recommended and agreed upon in the Lomé Peace Agreement in 1999. It was perceived that the rebels would not have signed the agreement if there was an indication that they would be prosecuted.¹ However, the Special Representative of the Secretary-General of the United Nations provided a disclaimer that the amnesty provision included in the Lomé Peace agreement did not cover crimes against humanity, war crimes, and other serious violations of international law.² This gave the opening for the establishment of the Special Court in 2003.

The context

The critical role of civil society within these processes cannot be contested. Civil society groups in Sierra Leone such as the Civil Society Movement, the National Forum for Human Rights and the women's movement were significant players during the negotiations. They supported the government's initiative at that time to go into negotiations and in Lomé called for a Peace and Justice commission. Though they were excluded from some of the talks, they had opportunities to speak with Foday Sankoh (now deceased) who was the then Revolutionary United Front (RUF) leader.

Civil society engagement

The intervention in Lomé was just a start for civil society involvement in the process as, after the agreement, they were key in educating and engaging the wider public on the purpose, mandate and objective of the Truth and Reconciliation Commission. A number of the newly established human rights organisations joined in to educate the wider public about the act establishing the TRC, which was enacted in 2000. With support from the UN mission then known as United Nations Mission in Sierra Leone (UNAMSIL) these groups were guided on the content of the act. Funds received from various sources such as Open Society Institute West Africa and the United Nations Office of the High Commission for Human Rights further equipped organisations such as Campaign for Good Governance and Forum of Conscience, as well as other members of the National Forum for Human Rights, to travel extensively to various parts of the country to explain the commission to traditional leaders, rebels, young people, and women. The task was not only about the content of the act but the need for such a process and a role all Sierra Leoneans had to play in order to foster reconciliation.

The intervention

Initially there was minimal interaction between the Commission and civil society groups, but this was later resolved and some relationship was established. On the whole, civil society engagement in the TRC process was quite significant and became the focal point for information dissemination. This process was guided by the establishment of a Truth and Reconciliation Working Group comprising human rights organisations countrywide with the primary responsibility to disseminate and serve as a contact point for all information relating to the TRC, supported by UNAMSIL. These organisations conducted public meetings in the capital city as well as community meetings in the rural areas for groups such as the rebels, traditional and religious leaders, women, youth, and respected individuals in the communities. Additionally these groups simplified the act and also developed a basic fact sheet about the TRC. Jingles and discussion programs were also aired on the radio. Television discussion programs, though limited to the capital city, were also part of the

¹ Report of the Sierra Leone Truth and Reconciliation Commission Vol 3B pg 364

² Ibid

dissemination package. Civil society provided additional support through providing suggestions to the TRC on the best mechanism to achieve maximum results. Other activities undertaken by CSOs, like the Campaign for Good Governance and the Inter Religious Council, included mapping of the conflict and forums to encourage the use of traditional means of reconciliation.

The challenge at the time was that most civil society groups were new and thus not only did they have difficulty in comprehending the human rights issues at stake, they were also challenged in educating the wider, mostly illiterate populace on transitional justice and the essence of the TRC. The problem was confounded by the introduction and emergence of the Special Court. It was difficult for people to understand that, though both institutions were seeking justice, this was to be achieved by different means. There were also mixed perceptions about the necessity of creating both institutions and their objectives were widely questioned. Some held the view that the TRC was more useful than the Special Court, as the latter would not foster reconciliation and would slide the country into chaos. The rebels, in particular, were convinced that the TRC was the investigative wing of the Special Court, and that they would be prosecuted by the court if they engaged with the TRC. An opinion poll conducted by Campaign for Good Governance (CGG) in 2002 revealed that there was more overall support for the TRC than for the Special Court.

The women's task force for the TRC and then later the Special Court was another joint effort made by civil society groups to work collectively in order to strengthen the message about the processes. The focus of the task force was to ensure gender equality in all sectors of the operations of the TRC, in terms of the composition of the commission and the various themes it should be addressing. This task force was instrumental in ensuring that a unit was established to look into issues of sexual violence and other gender-based violence against women.

In as much as civil society worked as a group to support the process, individual organisations also engaged the commission directly give technical support. Campaign for Good Governance, a national governance institution established in 1996 was among the few organisations that engaged extensively on a bilateral basis with the commission. CGG's support to the commission was within the Truth and Reconciliation Working Group through various forms of dissemination activities, radio programs, town hall meetings, and meetings with traditional leaders and women's groups. The organisation also documented on video stories of victims, witnesses, and a few perpetrators that were used by both the TRC and the Special Court. Some of the organisations were able to lead investigators to mass graves, identify slaughter houses, or areas where massacres took place. CGG supported the Truth Commission in identifying areas of conflict and the nature of the atrocities through the Conflict Mapping Project, which was of tremendous use to the Commission. They also supported the commission in including the military in the dissemination process as the military had claimed that they had not been engaged as a unit. Commissioners supported by CGG visited all the military barracks situated in the western area.

Various modes of information dissemination were employed by groups to educate people to engage the Commission as well as the benefits such as reconciliation to be derived from the process. The Inter Religious Council sought to engage in the use of traditional forms of reconciliation to augment the work of the Commission. For instance, families presented their sons who wanted to be reunited and reintegrated back into the community to the local chief. If this plea was accepted, the individuals would undergo a cleansing ceremony in the river and eventually be presented back to the community by the chief, who will then plead with the people to accept them. However, because this intervention came after the formal end of the TRC process, it did not gain the much needed recognition as playing a major role in the attainment of community reconciliation.

Coexistence

The conflict in Sierra Leone cut across all barriers: ethnic, religious, gender, age, and sex. It was not an issue of one community attacking the other; rather it was members of the same community attacking each other because they felt marginalised and excluded from the governance of the state. Economic and political power was limited to an elite few, and human rights violations were experienced by those who dissented.

The 2007 presidential and parliamentary elections saw renewed tensions occurring among communities, as the elections were based on ethnicity and regionalism rather than on issues. Politics in Sierra Leone is about ethnicity and regionalism rather than ability and capacity exhibited by politicians. This scenario usually becomes more pronounced during elections as politicians manipulate ethnic and other sentiments to win votes.

The issue of coexistence was at the core of the interventions of all parties in the process (i.e. NGOs and the Commission itself). This was much evidenced during the sensitisation programs carried out on the TRC process. Groups understood the concept of coexistence not as a new theory but a condition within reconciliation. Reconciliation cannot take place without agreeing to coexist with each other. The issue of marginalisation and the distribution of wealth among the few political elites, earlier identified as one of the causes of the conflict, is still a key issue to be addressed to ensure peaceful coexistence

Efforts have been made by both the past and current government to include various sectors of the society in various committees engaged in designing programs for reform. However, as already mentioned, there are still tensions with the top-down approach and the perception of benefits being available to only a limited few. CSO capacity is too weak to actively and effectively engage the government, demand information, and to generally police the governance of the country. These challenges notwithstanding, civil society continues to play their role in ensuring coexistence and good governance in Sierra Leone.

Conclusion

Reconciliation in Sierra Leone and the realisation that we need to coexist cannot be directly attributed to the work of the TRC alone but also to individual and communal decisions to live together. Religious and community leaders have played a great role in this regard. A discussion held with sexually abused women during the conflict revealed that they did not want to engage in any reparation program but wanted to move on with their lives. Some of them stated that they still see some of the men they could recall who had abused them, but it was surprising to hear them say they held no hard feelings for these men. The usual refrain is “*we lef all tin to God,*” translated literally to mean “everything is in the hands of God.” Some communities are still struggling with the past as is revealed by the current “fambul tok” project - a community form of reconciliation implemented by Forum of Conscience (FOC). This is an ongoing community reconciliation project wherein perpetrators are being reconciled with their victims and communities. Since the end of the TRC process, a lot more work needs to be done in terms of reconciliation. This does not negate the earlier discussions on moving on and learning to coexist, but so far the “fambul tok” project has revealed that some people still need some outlet to process their grief.

The civil society in Sierra Leone was fully engaged in all aspects of the TRC process. Groups such as CGG and FOC were part of the committees established to provide recommendations especially for women, who had specifically experienced gender based violence. Without civil society’s full understanding and engagement in the process, the work of creating an enabling environment for reconciliation through truth commissions cannot be achieved.

Though the work of the TRC has officially ended, government and civil society still have the responsibility of taking the process forward in terms of implementing the recommendations of the Commission, especially providing reparations for victims as well as monitoring the process towards national reconciliation. The establishment of a National Steering Committee on this issue by the government, though it is yet to be officially assigned, is a step in the right direction.

Valnora Edwin, National Coordinator, Campaign for Good Governance, Sierra Leone

Burkina Faso

The College of Wisemen and Reconciliation

December 13, 1998 - Norbert Zongo the publisher and editor of the Burkina Faso newspaper 'l'Indépendant' is assassinated after his newspaper began investigating the murder of a driver who had worked for the brother of President Compaoré. His burnt body was found along with those of his brother Ernest Zongo, driver Ablassé Nikiema, and Blaise Ilboudo, in a vehicle near Sapouy, some 100 kilometers south of the capital city of Ouagadougou. In May 1999, in response to the Independent Investigatory Commission's report, the President announced the creation of a College of Wisemen to review the political crimes that had taken place since the country's independence, and to make recommendations for restoring social peace in the wake of the Zongo killings. In August 1999, the College of Wisemen issued its final report, which recommended reform of the judicial system, creation of a temporary, consensual commission to review certain articles of the Constitution, formation of a government of national unity, creation of a Truth and Justice Commission (TJC) to direct the nation's reconciliation process, and dissolution of the National Assembly. Many political parties snubbed the TJC which was recommended by the College of Wisemen.

A Definition of Reconciliation

Professor Cynthia Cohen, Brandeis University

Reconciliation refers to a set of deep processes designed to transform relationships of hatred and mistrust into relationships of trust and trustworthiness. These processes involve former enemies acknowledging each other's humanity, empathizing with each other's suffering, addressing and redressing past injustice, and sometimes expressing remorse, granting forgiveness, and offering reparations. Reconciliation reflects a shift in attention from blaming the other to taking responsibility for the attitudes and actions of one's self and one's community.

The government declared March 30 a National Day of Forgiveness and, at a ceremony to commemorate the day, President Compaoré apologized for past government crimes, promised to compensate victims and families of victims for "economic and blood crimes," and vowed that never again would the government commit such offenses. This attempt to ease the ongoing national tensions was a controversial move. Several civil society groups and families of victims boycotted the ceremony, The family of Norbert Zongo and the widow of the former president, Thomas Sankara who died in unclear circumstances in the coup that brought President Compaoré to power, boycotted the ceremony as a public show of protest, arguing that there could not be forgiveness without justice. The opposition criticized the government for not identifying persons responsible for human rights violations and other crimes. The Catholic Church, trade unions, and political opposition unsuccessfully called for truth and justice prior to reconciliation.

Examining the post-commission period in Burkina Faso, the College of Wisemen was a relative success story considering the impact of the process on reconciliation, particularly on relationships at a communal level. The College of Wisemen was able to bring peace, stability, dialogue, and confidence, as necessary conditions for justice and reconciliation. While in many cases, its achievement and impact are disputed, especially with regard to how the Truth and Justice Commission addressed issues of violations of human rights, freedoms, law reform, and other threats to human safety, the College of Wiseman delivered important landmarks for transitional justice in Burkina Faso, including:

- Government of national unity (October 2000 to May 2002);
- National Committee for Ethics (March 2002);
- High Court for Justice targeting political leaders' crimes;
- Governmental initiatives against corruption;

- Commission and funds for providing assistance to victims of political violence; and
- Commission for national reconciliation

However, various issues of justice and questions of national reconciliation, amnesty, and prosecutions remain unresolved in Burkina Faso. This risks bringing patterns of conflict to the surface, eroding human security and development. The implementation of recommendations from the TJC was also not generally good. Though there has been a lot done in the area of legal reform with the passing of a number of bills, the content and essence of these laws and reforms are viewed by many to be in favor of the government, since it controls the majority of the members of parliament. An example is the number of years of the presidential term in office – two terms for five years each – which was passed at the time when the president had already been in office for 5 years, allowing him a chance to be re-elected into office. Unfortunately the conditions that precipitated the social unrest during the past decades still exist in Burkina Faso. In addition, coexistence issues were not critically looked at in setting up or during the operation of the TJC. The Mossi, who are the largest ethnic group in the country, are also seen lately as the dominant tribe in politics, which could lead to future ethnic tensions.

To many citizens, it appeared that the national reconciliation process of 2000 was just a political strategy by the government to survive. The government has paid almost 12 billions in CFA Francs to 4,891 families as reparation allowances for victim of political violence and abuse, and many other such grants for rehabilitation. However, according to the Burkina Faso 2025 National Prospective Study Report, peace and stability are still big challenges to the development of the country, with traditional and religious values being very influential in moving the reconciliation process forward. Political leaders and citizens also believe that religious and traditional leaders can help a lot to promote peace, tolerance, dialogue, and reconciliation between stakeholders and political adversaries. It is therefore important for all players in Burkina Faso's transitional justice processes and activities to recognize the relevance of religious and traditional or indigenous mechanisms for peace and reconciliation as an essential asset for the country. The acceptability and role played by the College of Wisemen, which included religious and traditional leaders, among others, also emphasizes the significance of religion and tradition in the pursuit of national peace and reconciliation.

Antoine Sanon, Chairman, CIVIPAX Governing Council, Burkina Faso

Liberia

Staying the Course Against the Odds: The Search for Truth and Accountability

The Liberian Truth and Reconciliation Commission (TRC) was part of the Comprehensive Peace Accord (CPA) signed in Accra in 2003. The commission continues to make important strides towards accountability and recommending measures for justices to be done in the face of various political and organizational challenges. The trial of Charles Taylor continues and, crucially, the TRC is holding public hearings both in Liberia and in the diaspora. In general, the transition process in Liberia has stimulated a national discourse about peace in the country, and continues to reveal accounts of the misdeeds that characterized the conflict and despotism of Liberia's recent history.

At the same time there are claims of significant unwanted political interference in the work of the TRC. The mandate of the TRC ends in September 2008, and the government is still undecided on reconstituting the Independent National Commission on Human Rights of Liberia (INCHR-Liberia). Section 46 of the TRC Act requires the establishment of this commission to ensure the implementation of the TRC's recommendations. The commission will boost the faith of Liberians in the TRC process, and will alleviate fears that recommendations might be swept under the carpet. There are also reports pointing to the political challenges, including allegations of bribes by politicians to discourage witnesses and prevent them from testifying. Other reports have indicated threats to TRC members not to investigate certain incidents, especially those which contain incriminating evidence against prominent personalities.

The ability of the TRC to compel appearances at its hearings through its subpoena powers was also compromised when the President, Ellen Johnson Sirleaf, revealed that she would put her role in past conflicts in her memoirs, rather than participate in the TRC process. Not only did this discourage the participation of other known and suspected perpetrators who hold public positions, but it has also cast doubts on the adequacy of the TRC process in helping Liberians come to terms with the past. The TRC's unity and strength were further undermined by the resignation of a Commissioner, Bishop Alfred Kula, and suspension of Commissioner Pearl Brown Bull, who was later reinstated by the court. Such events have jeopardized the TRC's legitimacy and its ability to lead the reconciliation process.

The Chairman of the TRC has reiterated the commitment of the TRC to address these challenges and work towards national reconciliation. The trial of former Liberian leader Charles Taylor, in a chamber of the Special Court for Sierra Leone at The Hague, is an important element of the TRC process. The trial and prosecution of other suspected parties can be a step towards ensuring accountability for past crimes and justice for the victims. Witnesses testifying against Taylor include his close confidants and the former vice president Moses Blah. Another important aspect of the transitional justice process is that Stephen Rapp, the chief prosecutor of the Special Court convened for the trial, recently revealed that large sums of money had been discovered in Mr. Taylor's American bank accounts and the government has requested that they be returned.

Engaging the Diaspora

The TRC continues to run various innovative and inclusive programs aimed at bringing its work to a credible and successful close. One such program, a collaboration with the Advocates Network for Human Rights, is collecting statements on past human rights violations from thousands of Liberians living in the diaspora. The Advocates Network is essentially mirroring the TRC's work, but doing so overseas. This groundbreaking project allows Liberians in the diaspora to participate in the reconciliation process and the promotion of human rights in Liberia. With input from the National Advisory Committee of Liberian Community Members, this effort has been expanded from a successful pilot project in Minnesota, USA, and is now underway in Chicago, Philadelphia, New York City, Washington D.C., Newark, and Atlanta. Statement-taking also occurs in the Buduburam Refugee settlement outside Accra, Ghana, and in London, England.

Despite the challenges, the TRC remains steadfast in the pursuit of its mandates. The trial of Charles Taylor and the inquisition of perpetrators and other profiteers from the conflict in Liberia have helped to demystify the impunity and influence of many forces which kept Liberia in total confusion.

An innovative initiative launched by the TRC is the National Conflict Project undertaken in collaboration with the European Commission, which aims to create a National Conflict Map that will help improve the understanding of the nature of the Liberian conflict and existing conflict situations, and identify others that may threaten Liberia's peace and stability in the future.

More important to achieving the goal of national reconciliation, the TRC has developed a very crucial partnership with the Liberian civil society through the Transitional Justice Working Group (TJWG). The group complements the TRC by engaging in civic education at the grassroots levels to promote citizen participation and engagement with the process, trauma counseling, and statement-taking among others. Further still, there is a growing consensus among civil society and even in the Commission itself, that to achieve true reconciliation, the importance of adapting traditional notions and methods of reconciliation to the formal process cannot be overemphasized.

It was never believed that the work of the TRC would be easy, yet as a result of working through the above challenges, the difficulty of the task has seemed to ease. Thus in spite of it all, Liberia's TRC is staying the course against the odds.

Mark M.M. Marvey, Consultant for the United Nations Capacity Development Assessment and Head of Programs for NAYMOTE-Partners for Democratic Development, Liberia.

Recent WANT-Justice events

Capacity-Building Workshop Monrovia, Liberia

On February 22-23, 2008, the Ghana Center for Democratic Development (CDD-Ghana), in partnership with Coexistence International (CI) at Brandeis University and the Transitional Justice Working Group of Liberia (TJWG), organized a two-day information sharing and capacity-building workshop entitled “*Transitional Justice, Reconciliation, and Coexistence*” in Monrovia, Liberia. The workshop brought together 22 practitioners, researchers, and other non-state actors from civil society organizations in Ghana, Sierra Leone, Liberia, and Burkina Faso, working in the areas of transitional justice, as well as those dedicated to peacebuilding and conflict resolution in West Africa. Hon. Olubanke King-Akerele, the Minister of Foreign Affairs of the Government of Liberia, joined the workshop on the second day and participated in a group discussion. Guests from the Truth and Reconciliation Commission of Liberia, Nathaniel Kwabo (Executive Director, TRC of Liberia) and Stephen Manley (Program Director, TRC of Liberia), also joined the workshop. They participated in discussions, took questions from participants, and explained the work and progress of the commission. Cynthia Cohen of Brandeis University facilitated the workshop.

The purpose of this workshop was to enable participants to share experiences regarding how transitional justice processes in the region have progressed, and how they can become more sensitive to tensions and dynamics among diverse groups. Participants also discussed how to develop strategies to ensure that justice mechanisms and coexistence efforts become more complementary in order to achieve sustainable reconciliation in post-conflict societies.

In facilitated discussions on coexistence concepts and practices and in small working groups, participants identified lessons learned about transitional justice processes in the region and generated recommendations for creating coexistence-sensitive transitional justice processes. Through case study presentations reflecting on ongoing and completed transitional justice processes in Liberia, Sierra Leone, Burkina Faso, and Ghana, participants explored transitional justice through a coexistence lens by asking: To what extent did the transitional justice process address coexistence issues? In addition to addressing the vertical relationships between the government and the people, did the transitional justice process address the horizontal relationships between and within communities? How did the transitional justice process address this concern? What was the impact of the transitional justice processes on the quality of inter-group relations in the country?

Through small groups and in plenary discussions, workshop participants generated a set of recommendations aimed at designers and implementers of transitional justice processes, including governments, truth and reconciliation commissions, civil society, national and international judicial systems, regional bodies, and the international community. These recommendations focused on how to make transitional justice processes more inclusive and participatory from the design phase on, and how to maximize the potential of transitional justice measures to contribute to sustainable coexistence in a post-conflict society.

Further information about this workshop and recommendations can be accessed at:
<http://www.coexistence.net/events/liberia.html>.

Additional Resources on Coexistence

Coexistence describes societies in which diversity is embraced for its positive potential, equality is actively pursued, interdependence between different groups is recognized, and the use of weapons to address conflicts is increasingly obsolete. For relationships between different ethnic, religious, or social groups to be positive and sustainable we must move beyond the notion of mere tolerance, to relationships built on mutual trust, respect, and recognition. Coexistence work includes the range of initiatives necessary to ensure that communities and societies can live more equitably and peacefully together, including conflict prevention and management, post-conflict and conflict transformation work, conflict sensitivity, peacebuilding, reconciliation, social cohesion/inclusion, multicultural, and pluralism work. To learn more about coexistence and its relationship to transitional justice, please see the following resources.

Websites:

Beyond Intractability - <http://www.beyondintractability.org/>
Center for Conflict Resolution, Uganda - <http://www.cecore.net/>
Coexistence International (CI) – www.coexistence.net
Ghana Center for Democratic Development (CDD) – www.cddghana.org
Peacebuilding Initiative - <http://www.peacebuildinginitiative.org>
Peacebuilding Portal - <http://www.peacebuildingportal.org>
Search for Common Ground - <http://www.sfcg.org/>
United States Institute of Peace – www.usip.org
West Africa Network for Peacebuilding - <http://www.wanep.org/>

Books:

The Handbook of Interethnic Coexistence, edited by Eugene Weiner
Imagine Coexistence: Restoring Humanity After Violent Ethnic Conflict, edited by Martha Minow and Antonia Chayes
The Little Book of Conflict Transformation, by John Paul Lederach
Reconciliation, Justice, and Co-existence: Theory and Practice, by Mohammed Abu-Nimer
Working With Conflict: Skills and Strategies for Action, by Simon Fisher

The Transitional Justice Monitor

is the periodic newsletter for the West African Network for Transitional Justice, an alliance of organizations devoted to promoting transitional justice and democracy. This Newsletter seeks to deepen knowledge about transitional justice processes and provide updates and insights into related issues and specifically to examine transitional justice through a coexistence lens. It is published in English by WANT Justice Network with support from Coexistence International (CI) at Brandeis University.

The WANT Justice Network

Currently housed at The Ghana Center for Democratic Development, WANT Justice Network was formed by fellows (from Ghana, Sierra Leone and Nigeria) of the New York based International Center for Transitional Justice (ICTJ), and the Institute of Justice and Reconciliation, Cape Town. WANT Justice is part of the ICTJ African NGOs Affinity Group (ANGO) and linked to the African Transitional Justice Research Network and the Center for the Study of Violence and Reconciliation (South Africa). The Network seeks to extend and deepen civil society engagements with transitional justice processes, promote dialogue and share lessons as well as networking within the West-Africa sub-region. It aims to enhance the prospects and efficacy of transitional justice mechanisms for the consolidation of democracy in the West African sub-region through strengthening local actors – individuals and organizations.

Coexistence International

at Brandeis University, CI aims to strengthen the efforts of policymakers, researchers, and civil society leaders to promote coexistence. It envisions a world where diversity is embraced for its positive potential, respect for persons is a core value, interdependence between different groups is recognized, equality is actively pursued, and the use of weapons to address conflicts is increasingly obsolete. (Web: www.coexistence.net; email: coexistenceintl@brandeis.edu)

The Ghana Center for Democratic Development

The center is an independent, nonpartisan and nonprofit organization based in Accra. It is dedicated to the promotion of society and government based on the rule of law, appropriate checks on the power of the state and integrity in public administration.

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To submit articles or reflections for the next issue of the *Transitional Justice Monitor* please send submissions to CDD care of Abigail Gyimah.
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