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The Liberian Truth and Reconciliation Commission: Reconciling or Re-dividing Liberia?

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Abstract

After 14 years of civil war and violence followed by the momentous and rather unusual elections of 2005, in which a woman defeated a footballer for the presidency, Liberia has seen over six years of state reconstruction and relative peace. Two recent announcements have, however, served as a warning to the extent of progress. The most recent is President Ellen Johnson-Sirleaf's declaration that she will, despite previous statements to the contrary, stand for re-election in 2011 due to shortcomings in progress. The announcement preceding Johnson-Sirleaf's was made in the form of the report of the Liberian Truth and Reconciliation Commission (TRC). It recommended that Johnson-Sirleaf, and indeed many others accused of involvement in the war, should be barred from public office for the next 30 years, and still more should stand trial on charges of war crimes. Four important questions arise. First, what was the mandate and findings of the TRC? Second, how has Liberia and the wider international community reacted to the final report? Third, has the TRC fulfilled its mandate and contributed to a process of reconciliation? Finally, and in a much broader sense, where does the TRC stand relative to the much wider liberal peace model?

Key words: Liberia, truth, reconciliation, peacebuilding

Introduction

In 2005 Ellen Johnson-Sirleaf defeated international football star George Weah in a run-off election to become President of Liberia – and Africa's first female elected president – in very

unusual circumstances.¹ These circumstances were a product of the Comprehensive Peace Agreement (CPA) of 2003 which followed the exile of former president, Charles Taylor, and signaled the last of a long line of peace agreements aimed to halt what had become a 14 year long civil conflict. The CPA stipulated an inclusive two-year coalition interim government consisting of members of the Taylor regime, leaders of rebel forces, and representatives of civilian opposition and civil society. Importantly, no-one who held high office in the interim administration could stand for election in 2005. The result was two years of gross levels of corruption, but crucially the rebel forces were effectively ‘bought off’ thereby removing many security considerations from the elections, the nature of the coalition made sure there was no incumbent and so the use of state resources in electoral campaigns was ubiquitous but ‘democratized’, and characters less involved in the interim administration stood for election. This evened playing field delivered not just the curious presidential results, but also a raft of opposition Senators and Representatives, some from backgrounds in the rebel movements or the militaries of various regimes, some independent and some with purely local credentials as patrons of the community.

One might conclude that the event was a reasonably successful experiment in elections without an incumbent or dominating presence, particularly if one were to consider any previous election in Liberia especially the two most recent in 1985 and 1997, and a victory of sorts for representation in government.² One might say that these post-conflict elections had done more than most in solidifying a political solution to the crisis. Indeed, the Johnson-Sirleaf government has since routinely received international praise for its inclusion of all ethnic groups and for making positive strides aimed at political stability and economic recovery. However, this representation does not come without baggage and the following high-profile politicians and civil servants are just three on the list of 49 who have been recommended by the TRC to be banned from public office for 30 years:

- Ellen Johnson-Sirleaf (President);
- Isaac Nyenabo (Senator, Grand Gedeh County, former President Pro Tempore of the Senate);
- Kabineh Ja'neh (Associate Justice of the Supreme Court of Liberia);

And these are just four of the 116 recommended to be tried at a war crimes court:

- Prince Yormie Johnson (Senator, Nimba County);

- Adolphus Dolu, a.k.a. General Peanut Butter (Senator, Nimba County);
- Saar Gbollie (Member of the House of Representatives, Margibi County);
- Alhaji Kromah (Twice presidential candidate of an important minority party).³

The Mandate and Findings of the TRC

The provision of justice in post-conflict peacebuilding has acquired significant credence in recent years and led to the establishment of a range of truth and reconciliation commissions, ad hoc tribunals, and the International Criminal Court. TRCs are typically tasked to investigate a past period of human rights violations within a given country and to recommend ways of avoiding future hostilities. Proponents argue that a degree of reconciliation with the past is necessary so that former opponents may begin to build a shared and peaceful future.

The history of TRCs dates back to the South African experiment in the 1990s, then moves on to a variety of other endeavors including the Sierra Leonean version running concurrently with the Sierra Leone Special Court (SLSC) in the early 2000s, and the recent Liberian experiences. In South Africa, the TRC was seen as a South African innovation and was even embellished with roots in black South African culture within the conceptions of *ubuntu* popularised by TRC chair, Archbishop Desmond Tutu. The notion of trial and punishment was not encapsulated in the South African TRC except in the case of non-compliance in giving testimony.⁴ The TRC did indeed forward a list of such cases to the National Prosecuting Authority, but the South African government has since attempted a controversial second round of amnesty through disclosure and cooperation.

Equally, the Sierra Leonean TRC had no ideas of retribution built in, but at the same time remained distinctly in the shadow of its big legal brother, the SLSC. As a result of the ill-defined relationship between the two and the emphasis given to the latter, the TRC struggled with resources and in persuading alleged perpetrators to testify. Tim Kelsall has noted that little in the way of truth emerged at the sessions he attended but that an element of reconciliation could be seen in the final ceremonies where ex-combatants asked the chiefs for forgiveness.⁵ The SLSC, on the other hand, finally indicted just 13 men, of whom three subsequently died, one went missing, one is on trial at The Hague (Charles Taylor), and eight have been convicted. The SLSC is sometimes accused of spending an inordinate amount of money per prosecution, although not at Rwandan or Yugoslav levels, of convicting only smaller fish as the main actors are contained within the first five who have not been convicted, and of heavily influencing the recent 2007 elections where one candidate portrayed himself as defender of the 'hero', Chief Sam Hinga Norman, who died in SLSC custody.

Indeed, it is considered by some that the SLSC was fortunate in not having a greater political backlash, largely because the main rebel groups had lost much of their coherence by the time the final peace deals were enacted.

On the basis of provisions in the 2003 CPA, the Liberian transitional government passed the Truth and Reconciliation Commission Act in May 2005, which called for the creation of a commission modeled largely on the South African TRC. After an intensive and public search for commissioners, the Liberian TRC began its hearings in January 2008 and faced the enormous task of moving the peace process forward by establishing the truth about the civil war, and providing a forum to address issues of impunity and national reconciliation. The timeframe that the TRC was mandated to cover stretched from January 1979 to October 2003. Although unencumbered by the presence of concurrent trials, this remained a phenomenal mandate, and one in which the TRC was given less than four years in total to complete.

The commission consisted of nine commissioners, five men and four women, and this balance represented a deliberate attempt to reflect the sensitivity toward the suffering of women during the conflict. For the most part, their work consisted of relatively low-key meetings across all the counties of Liberia. Such practice contrasted starkly with the high profile sessions in the capital, Monrovia, where ex-‘warlords’ and leading political actors came with great fanfare to give their version of events. These latter meetings often resulted in heated discussions, with the integrity of TRC investigators often questioned and several persons referring to the investigators as *pekin*, meaning ‘small boy’ in Liberian English.⁶

The TRC collected and processed over 17,000 statements (an impressive figure, especially when compared to other TRCs, such as in South Africa, which collected approximately 21,000 statements in a country nearly fourteen times the size of Liberia) and released a draft report in June 2009 and a final version in December 2009. The section of the report that received the most attention was in its assertion that the 116 people found responsible for gross human rights violations and war crimes be investigated and prosecuted by an extraordinary criminal court. In addition, the report recommended that 49 persons – including current President Ellen Johnson-Sirleaf – face public sanctions and be barred from holding public office for 30 years. The report finally recommended that a further 36 persons it identified as perpetrators of the war be pardoned because they ‘cooperated with the TRC process, admitted to the crimes committed and spoke truthfully before the Commission and expressed remorse for their prior actions during the war.’

Reactions to the TRC Report

Reactions to the TRC report initially appeared damning, with both ex-‘warlords’ and progressive elements in Liberia, as well as the broader international community, expressing concerns about the recommendations. However, the response among wider Liberian society suggests that reactions have been diverse and present a potential arena for heated disputes.

A group identifying itself as the ‘Principal Signatories of the CPA,’ and including former ‘warlords’ Prince Yormie Johnson, Joe Gbala, and Roland Duo, stated that they were ‘saddened and disappointed by the final report.’ Although their statement reiterated their commitment to the peace process, they accused the commission of bias and a flawed methodology which did not allow them to respond directly to their accusers. Furthermore, Prince Johnson – infamous for the capture, torture and killing of President Samuel Doe and now an elected Senator – has called for ‘the entire final report of the TRC to be discarded’ and stated that ‘those who want to come for me should bring a bulldozer,’ indicating a willingness to fight back against any attempts to arrest him.⁷ There was also an interesting reaction from ex-‘warlords’ with respect to amnesty provisions. For example, when the TRC recommended that Prince Johnson be prosecuted, he protested that he had already been granted amnesty at Accra in 2003. Such provisions were, however, never formalized during the peace talks.

Johnson-Sirleaf’s response has been more guarded, stating her appreciation for the commission’s work and her commitment to respond to its recommendations; albeit only ‘where the report lives up to its mission and mandate.’ The reality is though that it looks highly unlikely that the legislature will accept the recommendations, especially considering that many of those accused are within the political elite. This includes not only President Johnson-Sirleaf, but also the likes of Isaac Nyenabo and Kabineh Ja’neh. Such an evasive response was vindicated by recent comments from parliamentary member Wesseh Blamo, who stated, ‘we decided as a body that we cannot take any decision on this report’s recommendation until we consult our constituents for about a year where we will solicit their views on whether or not to implement the TRC recommendations.’⁸ This vague response has been compounded by increasing indications that Johnson-Sirleaf, along with Prince Johnson, will run in the next election; decisions which go directly against the recommendations of the TRC.

The international reaction to the TRC recommendations was equally lukewarm. Johnson-Sirleaf is strongly supported by governments and human rights groups throughout the world and is widely seen as a capable leader who has helped bring peace and stability to

the chaos of Liberia, and the call for her political censure was met by an awkward – and revealing – silence from progressive international actors. Several organizations including Amnesty International, The Carter Center, and Human Rights Watch were slow to issue a response to the TRC. Additionally, US Secretary of State, Hilary Clinton, visited Liberia shortly after the report was released and did not mention it, preferring instead to state ‘I look at what President Sirleaf has done in the past three years, and I see a very accomplished leader dedicated to the betterment of the Liberian people.’⁹

In contrast though, there appears to be considerable vigorous debate on the streets of Liberia. At the very least, it is apparent that there is a huge gap between domestic and international perceptions of Johnson-Sirleaf and that she is not as well-loved in Monrovia as she is abroad. Several Liberian journalists have reported a groundswell of excitement and divided opinion among the public over the TRC report. Semantics King Jr., for example, wrote that ‘the country has even become more divided than it was during the height of the civil war.’¹⁰ Interestingly, this broad and diverse reaction is only possible because the freedom of expression and assembly is so vibrant right now; an accomplishment that owes a great deal to the Johnson-Sirleaf presidency and one which has not been enjoyed in Liberia for a long time.

Finally, the TRC reaction itself is also telling, with two commissioners, Pearl Brown Bull and Sheikh Kafumba Conneh, choosing not to sign the final report. The TRC responded by denouncing their actions as an ‘ugly act...which include[s] feeding the public with half truths and false information [and which] has the propensity to derail the recommendations and endanger the lives of some respectable men and women who served this nation through the TRC.’¹¹ It seems that death threats followed the report with several commissioners having to go into hiding. More revealingly though, the difficulty in reaching consensus among a group of nine commissioners makes one realize the difficulty in reaching agreement and reconciliation among a population of some 3.5 million people with a history of division and trauma.

Concerns with the TRC Recommendations

Amongst the diverse responses to the TRC recommendations, it is possible to glean several substantive concerns concerning credibility, methodology, inconsistency, unrealistic standards, and appropriateness.

First, the credibility of the report has come under criticism due to several errors in the early draft version of the report. One such error was the placing of River Cess County

Senator, J. Jonathan Banney, in the list of people recommended for prosecution. He subsequently showed he had nothing to do with the war and was issued an apology. Moreover, an early unedited version of the TRC report was quickly withdrawn from the website without explanation, but with two people removed from the list of those recommended for sanctions. Another criticism has been the selection of Commissioners, who have been portrayed as too politically lightweight on the one hand and limited in management skills on the other. The TRC chairman, Jerome Verdier, was at one stage accused by Prince Johnson of involvement in the funding of the initial rebellion.

Second, the methodology of the TRC was arguably flawed. Those recommended for political censure have no foreseeable opportunity to respond to the claims made against them and defend themselves; an opportunity that even those accused of war crimes would be afforded. Similarly, questions must be raised about a process that allows for unlimited anonymous testimony in building cases against alleged perpetrators without the possibility of response. Furthermore, If we take the example of Johnson-Sirleaf, it is also arguable that she *did* show remorse, declaring that although she supported Taylor in his early days, once his ‘true nature’ became apparent ‘there was no more impassioned critic or strong opponent to him in a democratic process. I expressed remorse to the Liberian people for my misjudgement.’¹² Commissioner Massa Washington claimed ‘[Johnson-Sirleaf] told us, at best, 20 percent of the truth. In fact, there was much, much more. And her support for Taylor lasted much longer than she told us.’¹³ However, bizarrely, the TRC was not forthcoming with what the remaining 80% might include. Without detailed and specific evidence regarding Johnson-Sirleaf’s role in Taylor’s rebellion – or indeed against any of the others accused – the TRC motives for its decision will be left open to dispute.

Third, the recommendations have struck many as highly inconsistent. For instance, the infamous ‘warlord’, Joseph Blahyi, a.k.a. General Butt Naked (due to his predilection to fight the enemy naked in the belief that this would protect him), who has admitted responsibility for the deaths of some 20,000 people, was recommended to be pardoned because he had shown remorse. Yet Johnson-Sirleaf, who’s only proven involvement was a US\$10,000 donation to Taylor, was recommended to be censured from political office for thirty years. This raises an important and pertinent question; how can you measure the sincerity of an apology?

Fourth, it is arguable that the standards set by the TRC were unduly high. Johnson-Sirleaf’s support for Taylor came during the height of the oppressive Doe government; was Johnson-Sirleaf not entitled to take actions to try and unseat the brutal Doe regime? After all,

she could have had little foresight to the nature of the Taylor regime that would follow; a regime which she would stand against in the 1997 election. Tellingly, if South Africa had used a similar set of standards, Nelson Mandela would have been barred from office and unable to assume the South African presidency. Mandela is universally acclaimed as a powerful force for peace in South Africa, but he did, nevertheless, head 'Umkhonto we Sizwe,' the ANC's armed wing, and continued to endorse violence even after his release from prison in 1990.

Finally, there remain two broad questions as to the appropriateness of the TRC's actions. In one sense, it appears that the commissioners of the TRC, with two notable exceptions, have decided that the TRC must shift its emphasis towards a more legalistic, and currently fashionable, interpretation of its mission. As such, Liberia now faces the decision between a legal solution to its war legacy or the existing painstakingly assembled political solution and must determine which of these is more likely to lead to future security and the harmonizing of fraught relations.¹⁴ Ethno-regional conflict, which became the format of hostilities from the early 1980s onwards, still simmers and occasionally boils, with leaders from the significant Nimba-Grand Gedeh, Gio/Mano-Krahn/Mandingo divides over-represented in the TRCs lists. A legal route may also have the effect of focusing attention on individuals as causes of the war and downgrade the many other systemic factors, not just concerning intra-societal relations but also state-societal relations where corruption and patron-clientelism remain endemic, and which the TRC and many others have identified as requiring urgent attention.¹⁵

In another sense, war crimes trials can be seen as part of the liberal canon of post-conflict solutions that has characterized Liberia's recovery attempts. From this perspective, overriding concern is placed on individual responsibility rather than on any communal considerations.¹⁶ One must at least ask, particularly given the apparent ambivalence of the Liberian public on the subject of justice and Johnson-Sirleaf's admission of the shortcomings of wider post-conflict liberal solutions to the state and the economy, how much this imported Western notion of post-conflict justice tallies with Liberian concepts. As a minimum, it should be taken into account that someone like Prince Johnson is viewed in diametrically opposed ways in different communities, an elected Senator in one and a murderer in another. It may then be worth uncovering and considering indigenous Liberian notions of reconciliation and justice, similar to those articulated, albeit controversially, by Tutu in South Africa and also seemingly practiced to some degree in Sierra Leone.

Implications on Peacebuilding in Liberia

The TRC's achievements should not be dismissed. Their efforts in compiling a historical record of war time violations and attributing blame to all actors – regardless of their opposition to the tyranny of the Doe or Taylor regimes – is a strike against a culture of blanket authoritarianism and impunity. The TRC has made a bold attempt to document recent Liberian history and make recommendations for changes in governmental and societal practice. It has also put forward one distinctly Liberian notion, the 'Palava Hut Program', in which around 7,000 ex-combatants could face their communities in a bid to foster local level reconciliation.

However in terms of overall peacebuilding, we are brought back to the age-old axiom of 'no peace without justice' versus 'no justice without peace.' The Liberian TRC certainly places this dilemma under a glaring spotlight and it must be asked whether a decision to implement the TRC recommendations would be likely to foster or disturb reconciliation.

The first conclusion we can draw is that the TRC has made enemies of its natural allies. If the TRC is genuine in its commitment to reconciliation in Liberia, it does seem paradoxical that it would recommend the pardoning of self-confessed war criminals whilst simultaneously seeking the political censure of politicians who have brought relative peace and stability to Liberia. Moreover, the recommendations are based on shaky evidence and without detailed and specific evidence regarding Johnson-Sirleaf's role in Taylor's rebellion, the TRC motives for its decision will be left open to dispute.

That said, the chances of the recommendations coming into force are weak. Johnson-Sirleaf's willingness to allow the TRC to operate independently from beginning to end should be commended; however, the fact that those mentioned in the report are in the political elite makes it unlikely that they will permit the TRC recommendations to come into effect. Instead, the more likely outcomes of the report will be either to drive a wedge between those who rule and those who are ruled; a highly sensitive dynamic in Liberia, which has been characterized by violent division between elites and masses from its very beginnings, or to divide the elite on increasingly conflictual lines.

Such a scenario poses significant concerns for the upcoming 2011 elections in Liberia. Many believe that a country's commitment to democratization can only be measured after the second or third election. Liberia already faces significant electoral battlegrounds over controversial issues such as corruption, unemployment and a painfully slow recovery. The TRC report will only heighten the stakes of electoral competition, with at least Johnson-Sirleaf and Prince Johnson likely to run for presidential office despite the TRC

recommendations. This is an area that will likely be exploited by Johnson-Sirleaf's political rivals and Weah, her most likely closest rival in 2011, has already called for the TRC recommendations to be implemented. This move by Weah, who grew up in a slum in Monrovia and is often characterized as a 'man of the people,' suggests the beginnings of a possible revival of the violent elite versus masses dynamic that has plagued Liberia's history. Weah's opportunity to use the TRC report as a tool to attack the current government could therefore become a potent and divisive issue.

Finally, there is an overarching fear that the actions of the Liberian TRC may have effects on the wider credibility of TRCs in other contexts. If, as seems likely, the TRC's recommendations for censure and prosecution are not fulfilled, much as the South African TRC recommendations have not, then the process as it stands is slowly brought into disrepute. It appears then that the mandate and methodology of any future TRC will need to be meticulously spelled out and the leadership carefully chosen. Equally, the TRC's relationship with potential legal outcomes, based on a more liberal interpretation of justice, must be more carefully considered. Indeed, as far as possible, these potential problems must be contemplated in advance of a TRC being initiated. As Liberia illustrates, this is particularly the case, first, when legal processes threaten the political situation which allows a TRC to operate, and second, when societal mores may point to an alternative, more appropriate, direction. Without addressing these fundamental procedural issues, the broader and more pressing questions over the potential dividends of the relationship between peace and justice will be quickly rendered redundant.

NOTES

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