

**Mount Holyoke College**

**Where are the Unmarried Women? The Impact of  
Truth Commissions on Post-Conflict Gender Relations**

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## **Abstract**

A recent trend in the field of transitional justice has been the inclusion of a gendered perspective to ensure that women's experiences during war are addressed effectively. For truth commissions in particular, this has meant implementing various gender-sensitive protocols such as women-only hearings for victims to testify about experiences of sexual violence, as well as chapters in final reports dedicated to the experiences of women during conflict. The Sierra Leone Truth and Reconciliation Commission (TRC) is considered to be a successful example of how to address the needs and experiences of women. Yet despite a number of comprehensive recommendations and extensive research into the pre-existing social inequalities that contributed to the wartime experiences of Sierra Leonean women, progress towards gender equality since the commission has been slow. My research explores how the almost singular portrayal of Sierra Leonean women as passive victims of sexual violence has reproduced previous notions of gender roles, and in turn hindered progress. By tracing legal trends and narratives of womanhood in popular Sierra Leonean culture, I assess the impact that the TRC has had on the lives of women, and identify missed opportunities. I draw larger connections through an analysis of five other truth commissions from around the world: Liberia, Ghana, Peru, East Timor, and Guatemala. I argue that in order for truth commissions to have a lasting impact on women's lives post-conflict, their reports must include more diverse narratives of women's experiences of war—narratives that go beyond a singular portrayal of women as victims of sexual violence. This thesis contributes to the existing literature on transitional justice by demonstrating the damaging impact of these essentialized narratives.

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## List of Abbreviations and Acronyms

AFRC	Armed Forces Revolutionary Council
APC	All People's Congress
Apodeti	Timorese Popular Democratic Association
CAVR	Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste (Commission for Truth, Reconciliation and Friendship)
CDF	Civil Defense Forces
CEH	Comisión para el Esclarecimiento Histórico (Commission for Historical Clarification)
CMRDD	Commission on the Management of Strategic Resources, National Reconstruction and Development
CPA	Comprehensive Peace Agreement
CRC	Constitutional Review Committee
CVR	Comisión de la Verdad y Reconciliación (Truth and Reconciliation Commission)
Fretilin	Revolutionary Front for an Independent East Timor
NCDDR	National Committee for Disarmament, Demobilization and Reintegration
ECOWAS	Economic Community of West African States
ECOMOG	Economic Community of West African States Monitoring Group
IGNU	Interim Government of National Unity
INPFL	Independent National Patriotic Front of Liberia
LURD	Liberians United for Reconciliation and Democracy
MODEL	Movement for Democracy in Liberia

MRTA	Túpac Amaru Revolutionary Movement
NDPL	National Democratic Party of Liberia
NPFL	National Patriotic Front of Liberia
NPRC	National Provisional Ruling Council
NRC	National Reconciliation Commission
PRC	People's Redemption Council
RUF	Revolutionary United Front
RUFP	Revolutionary United Front Party
RSCSL	Residual Special Court for Sierra Leone
SCSL	Special Court for Sierra Leone
SLA	Sierra Leone Army
SLPP	Sierra Leone People's Party
UDT	Timorese Democratic Union
UNAMSIL	United Nations Mission in Sierra Leone
UNMIL	United Nations Mission in Liberia
UNTAET	United Nations Transitional Administration in East Timor
URNG	Unidad Revolucionaria Nacional Guatemalteca

## Chapter 1

### Where are the Unmarried Women?

The hegemonic model of femininity in the region was one of being a wife and a mother...I was often told that ‘there is no such thing as an unmarried woman.’ However, this ideal was often contradicted, leading me to believe that this had more to do with convention than reality. I was both right and wrong. – Chris Coulter, *Bush Wives and Girl Soldiers: Women’s Lives Through War and Peace in Sierra Leone*, 90-93.

While conducting research for her ethnography on female ex-combatants in Sierra Leone, anthropologist Chris Coulter was told multiple times by village elders “there is no such thing as an unmarried woman” (Coulter 2009, 74). Fascinated by the assertion, Coulter devoted considerable time during her research, and in her eventual book, to understanding what that proverb means in the current, post-war reality. Coulter found that while there *are* unmarried women (sometimes widowed, others divorced, some still single), the expectation is that, eventually, all women will be married. By proclaiming that all women are married, a singular narrative of womanhood is produced; much like the narrative of victimhood that emerged in the 2004 final report of the Sierra Leone Truth and Reconciliation Commission (TRC). The final report gives readers an essentialized depiction of what it meant to be a woman during the Sierra Leone Civil War—one that was synonymous with experiences of rape and sexual violence. This depiction ignores the more varied diversity of experiences that women saw during the war—as fighters, as the backbone of daily life in the rebel compounds—that would have portrayed women not only as victims, but also as resilient, autonomous members of the emerging state. To ask “where are the unmarried women?” is to wonder where the women who are not victims of sexual- and gender-based violence are in the final report. Though the TRC itself made great

strides in its efforts to address the levels of sexual violence women faced during the war, and took time to try to understand pre-war systems of gender inequality that may have affected this, in looking towards a new future, it (re)produced many of the old gender stereotypes that underpinned those inequalities in the first place. I argue that in order for truth commissions to have a lasting impact on women's lives post-conflict, their reports must include more diverse narratives of women's experiences of war—narratives that go beyond a singular portrayal of women as victims of sexual violence. This thesis contributes to the existing literature on transitional justice by showing the damaging impact of these essentialized narratives on women's lives. Its findings illuminate the nuances of post-war reconstruction for women, and the potential that truth commissions have as a tool for change beyond reconciliation and historical record.

## **Methodology**

To understand the impact of gender-sensitive protocols at truth commissions and their final reports, I develop three variables that I use to evaluate all cases.

### ***Completeness of Truth Commission Narrative***

This is my main and independent variable, which I evaluate based on five criteria.

1. Structural Analysis: Does the report discuss and analyze pre-existing systems of inequalities and other values systems that may have affected how women experienced war?
2. Abuses Women Suffered: Is there a separate section that devotes time to exploring the specific violations and abuses that women suffered? If so:

- a. What kinds of violations are discussed? Are they reduced to rape and sexual violence?
  - b. Is a diversity of experiences included (discussions of women as combatants, as peace activists, etc., that go beyond sexual- and gender-based violence?)
3. Portrayal of Women: Are women framed as passive victims, or as autonomous actors with agency? Is this consistent across the report?

I evaluate the truth commission reports on the following scale:

- Complete: Contains a structural analysis, and a separate section on the abuses women suffered that does *not* reduce their experiences to rape and sexual violence, frames women across the report as actors with identities beyond their bodies and sexuality, and reflects the diversity of roles women often play during conflict.
- Partial: Includes criteria two, as well as one more aspect that is distinct from the second subheadings.
- Weak: Has only one of the aspects outlined above.
- Absent: Contains none of the above.

### ***Legal Status Post-Commission***

The first of my two dependent variables is an evaluation of women's legal status in the country in question following the truth commission. In particular, I examine whether the country has laws that codify rape (marital or otherwise) as a crime; laws that establish a minimum age of consent for marriage and sexual relationships; laws that codify domestic violence as a crime; and, finally, whether the country has laws that specifically recognize and outlaw femicide.<sup>1</sup> I also

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<sup>1</sup> Femicide refers to the killing of a woman because of her gender.

examine whether these laws have been implemented and if they are enforced. I rate my evaluations based on the following scale:

- Strong: Has all the aforementioned laws, these laws are enforced, and such crimes are prosecuted and taken seriously in the court system.
- Strong Legislation, Weak Enforcement: Has the above protections, but the laws are not implemented well.
- Medium: Has three to four of those laws, and they are enforced.
- Medium Legislation, Weak Enforcement: Has three to four of these laws but implementation is weak.
- Minimal: Has only two of these laws, but they are enforced well.
- Minimal Legislation, Weak Enforcement: The country does not implement those two laws.
- Weak: Has one of these laws.
- Weak Legislation and Enforcement: The law is not implemented.
- None: The country has none of the legal protections outlined above (and thus enforcement is not a factor).

### ***Political Participation***

The second of my two dependent variables evaluates the level of political participation in national and local politics by women in the country. I rate countries on the following scale:

- Strong: The country has a gender quota of 30% or more that is implemented and fully realized.

- Strong Quota, Partial Implementation: The country has a quota, but it is not fully realized, though prospects are strong for realization in the next five to ten years.
- Medium: The country has a quota below 30% that is fully realized.
- Medium Quota, Partial Implementation: The country has a quota below 30% that is not fully realized, though prospects for the next five to ten years look promising.
- Medium Quota, Little Implementation: The country has a quota below 30% and less than promising prospects for fulfillment.
- Weak: This country has no quota, but women hold at 10% of seats in national parliament.

### **Case Selection**

For this thesis, I employ a hybrid approach to case research. Sierra Leone is my “crucial” (King, Keohane, and Verba 1994) or “critical” (Yin 2003) case study. Though the Sierra Leone TRC is considered within the field of transitional justice to be an exemplary model for how to approach gender in truth commissions, fifteen years post-conflict, women still face high levels of disenfranchisement, violence, and systems of inequality. By intentionally selecting a case that is well-regarded within the field, I can ensure that my findings have external validity. Though not as deep as Clifford Geertz’s own anthropological observations, I invoke his notion of thick description to dive deep into primary and secondary source material to draw conclusions about the case that have their basis in a deep understanding of the context. However, while a single case study of Sierra Leone would contribute to greater understanding of that case itself, my findings would not have wider validity within the fields of political science and transitional justice without further comparative research to see whether my findings could be replicated in other contexts (Yin 2003). To do so, I conduct a structured, focused comparison (George and

Bennett 2005) of five further intentionally selected cases: Liberia, Ghana, Peru, East Timor, and Guatemala. Each one of these cases implemented a truth commission in the wake of civil wars or periods of intense repression. The events that led up to the truth commission all had some level of sexual- and gender-based violence, and the truth commissions addressed gender in their work using one of three distinct approaches—gender mainstreaming, in which gender is a cross-cutting theme across the commission’s work; a gender unit, in which gender is only addressed by a specific branch of the commission; or, finally, a combination of the previous two approaches. I employ these smaller case studies to strengthen my findings from Sierra Leone, and to demonstrate the wider impact of my study. I find that the three approaches do not have a significant impact on post-commission outcomes; instead, a commission’s substantive approach to analyzing and discussing the past has more significance for daily life post-conflict.

In this project, I demonstrate the power that truth commission reports have to positively influence women’s lives post-conflict. I contribute to a better understanding of how moments of transition can be harnessed to have a greater, more sustainable impact on the emerging state, particularly for women and girls. This is a critical issue that cannot be ignored when recovering from violence if countries hope to create a more meaningful peace.

### **Thesis Organization**

This thesis seeks to understand the effects that gender-sensitive protocols of truth commissions have on women’s lives post conflict, specifically through the lens of their final reports. I problematize the essentialized narrative of women as victims that is often found in those reports, and propose that more nuanced narratives that take into account the diversity of women’s war-time experiences have the potential to shift how women are perceived post-conflict—as

autonomous, active participants in the emerging state, as opposed to passive victims whose identities are reduced to their bodies and sexuality. To make this argument, Chapter 2 examines the existing literature on transitional justice, truth commissions, and women and truth commissions. I find that in spite of how the field has progressed, states that have used truth commissions to address sexual- and gender based violence still struggle with post-conflict gender relations. The literature to date has only begun to investigate the role that truth commission reports play in reinforcing previous notions of gender roles. My work applies Teresa Godwin Phelps' notion of truth commission reports as a space of carnivalization, which helps address the above concerns, and serves as the conceptual framework for this project.

Chapter 3 engages in a detailed case study and analysis of Sierra Leone, providing an overview of the civil war and the country's experience with transitional justice—specifically the truth commission itself. What follows is an in-depth analysis of pre-commission cultural notions of womanhood, as well as legal trends and NGO reports, which serve as a reference point from which to measure post-commission impact. I also engage in a close reading of the TRC's report to understand the commission's strengths and shortcomings. Despite gender-sensitive protocols, the TRC's report portrayed women solely as victims of sexual violence, and, in doing so, reinforced pre-war systems of gender inequality.

Chapter 4 applies the same framework to five cases from around the world—Liberia, Ghana, Peru, East Timor and Guatemala—to draw larger conclusions about the role truth commissions play in post-conflict gender relations. These are small case studies employed to strengthen the findings from Sierra Leone by demonstrating the wider impact of my argument and findings. I find that, overall, the operational approach that the commissions took to gender

did not have a noticeable or significant impact on post-conflict outcomes, but that the way women are framed in the final report does.

In Chapter 5, I conclude by summarizing my arguments and findings, and elaborate on their implications for the field, both on a policy and theoretical level. I recommend that future truth commissions pay careful attention to the way that they frame women in their final reports, and that the field shift its singular focus on operational approach to a more holistic understanding of the possibilities for long-term change. Finally, I discuss the possibilities for future research on this topic.

## Chapter 2

### Telling the Truth: What's Gender Got to do With It?

In this chapter, I provide an overview of the existing literature on transitional justice, truth commissions, and how women engage with truth commissions. In doing so, I provide a context for the project, as well as a conceptual framework that is integral to the argument of this thesis. First, I explore the field of transitional justice—what it is, what its goals are, and how it has evolved—before I move more specifically to an overview of the literature on truth commissions. As I discuss each mechanism, I note how they have addressed sexual- and gender-based violence, as well as Sierra Leone's experience with each mechanism. Next, I examine the scholarship on women and truth commissions. I find that while scholars have examined the best practices of how truth commissions should address gender, they have not paid enough attention to the potential these institutions have to impact women's lives post-conflict. The field has focused heavily on how to best address crimes of sexual violence, but it is not yet understood whether such a singular focus is beneficial. This leads me to my research question: what impact do singular narratives of women's experiences during war in truth commission reports have on women's lives post-conflict? Finally, I lay out my conceptual framework for the project: Phelps' theory of carnivalization.

#### **Transitional Justice**

Transitional justice refers to the “processes designed to address past human rights violations following periods of political turmoil, state repression, or armed conflict” (Olsen, Payne, and

Reiter 2010, 11). The field has its roots in post-World War II Europe, as the Allied forces established the Nuremberg Trials to hold the upper echelon of the Nazi party accountable for crimes committed during the war. Transitional justice has evolved over time. Ruti Teitel maps the genealogy of the field into three distinct phases: Phase I as post-war transitional justice, Phase II as post-Cold War transitional justice, and, finally, Phase III as steady state transitional justice (Teitel 2003). Throughout this evolution, mechanisms have moved from strictly legal responses such as trials (Phase I), to more restorative notions of justice through mechanisms such as truth commissions (Phase II), and, finally, to a normalization of such proceedings through the establishment of the International Criminal Court (ICC) (Phase III).

Mechanisms associated with the field of transitional justice are varied and multi-faceted; each with its own approach to justice and reconciliation, and states in transition often implement multiple transitional justice mechanisms as each serves a unique purpose. Trials are the most well-known mechanism, and one of the most delicate. Prosecutions hold perpetrators of human rights violations accountable for their crimes, and, in doing so, aim to deter the same crimes from being committed in the future. Diane Orentlicher argues that prosecuting war criminals strengthens the rule of law; and that the failure to do so undermines the legitimacy of the incoming government. Furthermore, she argues, “a states complete failure to punish repeated or notorious instances of these offenses [torture, extra-judicial killings, etc.] violates its obligations under customary international law” (Orentlicher 1991, 2540). This sentiment is not shared across the field, and some scholars argue that prosecutions may not be the best course of action in all contexts, since times of transition are notoriously characterized by political instability, and prosecuting powerful individuals could lead to lapses back into violence or repression (Nino 1991; Zalaquett 1995). Prosecutions also raise the problem of individual responsibility—or, *who*

to prosecute. It is impossible to prosecute every individual who committed human rights violations, and most often only those with command responsibility or those who had a hand in creating repressive and abusive policies are prosecuted (Overy 2003).

Historically, prosecutions in a transitional setting were carried out almost exclusively through the state's own legal system, or through temporary ad hoc international tribunals—the most prominent examples are the International Criminal Tribunals for Yugoslavia (ICTY) and Rwanda (ICTR). As the world moved into what Teitel describes as steady state transitional justice, in 1998, following the large scale atrocities of the decade, the international community took it upon itself to establish a permanent international court, the ICC. It was created to prosecute crimes of genocide, war crimes, and crimes against humanity when states are unable and/or unwilling to prosecute those crimes themselves (Bosco 2014; Seils 2016).

International tribunals have also made significant gains in addressing sexual and gender-based violence. In 1998 and 2001, respectively, the ICTR and ICTY broke ground by trying cases that established that rape constitutes a crime of genocide,<sup>2</sup> and a crime against humanity;<sup>3</sup> and, in 2002, the Rome Statute of the ICC included rape as both a war crime and a crime against humanity. Trials themselves have also instituted procedural changes in recent years to better meet the needs of women who are called to testify about their experiences of rape and sexual violence. For example, the ICTR took several precautions to ensure the safety (both physical and mental) of witnesses who would be testifying about their experiences with sexual violence. To avoid backlash and stigmatization, the court used pseudonyms and voice distortion technology to conceal the identity of those testifying. Additionally, the ICTR allowed witnesses to bring a support person with them when testifying, let women take breaks when needed, and even

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<sup>2</sup> The Prosecutor v. Jean Paul Akayesu (ICTR-96-4).

<sup>3</sup> The Prosecutor v. Radislav Krstić (IT-98-33).

accepted testimony to be given as written evidence if the survivor felt uncomfortable or unable to verbalize their experiences (Oosterveld 2014).

The Special Court for Sierra Leone (SCSL), which operated from 2002-2013, took seriously the project of witness protection and support services, and devoted significant resources to ensure that victims and witnesses received counseling “and other appropriate assistance, including medical assistance, physical and psychological rehabilitation, especially in cases of rape, sexual assault, and crimes against children.”<sup>4</sup> In spite of such innovations, trials have not always been conducive to victim participation or long-term healing.

Transitional states also often undergo institutional reforms, most commonly through lustration and vetting, and those mechanisms have been criticized for similar reasons. Vetting refers to “processes for assessing an individual’s integrity as a means of determining his or her suitability for public employment” (Duthie 2007, 17). More specifically, vetting programs seek to determine if an individuals’ past conduct (with specific regard to their involvement with human rights violations) warrants their being excluded from public office or other positions of public employment, and is almost always a part of larger institutional reforms. Scholars have yet to reach a consensus on the official definition of lustration; however, the term is most commonly used when talking about systematic vetting practices implemented in Eastern Europe after the fall of the Soviet Union where individuals were screened for involvement with Communist-era security forces (Williams, Fowler, and Szczerbiak 2005). Some scholars associate lustration (and sometimes vetting) with institutional purges, such as those seen during de-Nazification in Germany and France after World War II, and the de-Baathification process in Iraq. While highly controversial, vetting is thought to restore civilian trust in the government, can serve as a form of

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<sup>4</sup> Special Court for Sierra Leone, Rules of Evidence and Procedure, Section III, Rule 34 (A) iii.

punishment for perpetrators who have not been prosecuted, and can potentially prevent future corruption and abuse of power (Duthie 2007). Institutional reforms have historically lacked a gendered dimension (Bell et al. 2004; Ní Aoláin 2009), though practitioners have pushed for a more comprehensive and gender sensitive response to Security Sector Reform (SSR) in particular. Sierra Leone's foray into SSR has been limited to reforms of the institutions of the military and police to fight corruption, increase professionalism, and restore civilian trust in those bodies (Gbla 2006). There have not been comprehensive efforts to add a gendered dimension to those responses.

Unlike trials and institutional reforms, reparations programs and truth commissions are more victim-centered mechanisms of transitional justice that have been more successful in promoting long-term healing. Reparations programs are established to provide redress to victims, survivors, and their families (De Grieff 2006). In this case, redress can take many forms, though monetary compensation is the most common. Reparations programs have also included the return of land that was illegally obtained during war; the (re)-building of schools and other infrastructure in a particularly conflict affected region; free healthcare; as well as symbolic reparations, such as memorials, formal apologies, or acknowledgment that specific crimes were committed.<sup>5</sup> Often, recommendations for a reparations program (who should receive benefits and what benefits should be provided) are produced as part of the work of a truth commission (Hayner 2011). For example, in Peru, the truth commission's final report recommended the

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<sup>5</sup> For example, women who survived being used as "comfort women" by Japanese soldiers between 1932 and 1945 have long demanded that the Japanese government issue formal acknowledgment of the practice, as well as a formal apology, and a memorial. (To read more, see: "Will Taiwan's 'Comfort Women' Get an Apology From Japan?", *The Diplomat*, March 4, 2016, <http://thediplomat.com/2016/03/will-taiwans-comfort-women-get-an-apology-from-japan/>).

creation of a national reparations program that was eventually established as per the commissioners' recommendations by presidential decree in 2004 (Hayner 2011, 38).

In light of extensive testimony and evidence about the rampant use of rape and sexual violence, and the physical injuries that the victims incurred, the report of the Sierra Leone TRC recommended that, among other measures, victims of sexual violence who had developed a fistula as a result of their attack would receive free surgery to correct their condition. Such a provision is just one example of the immense power that reparations have to transform the lives of victims, in particular, women, since reparations programs are in the unique position to change the material reality of women's lives. As of 2010, at the end of its Year One Project,<sup>6</sup> five women had received free fistula surgeries, and 235 were provided with financial assistance to treat Sexually Transmitted Infections (another recommendation of the TRC) (Suma and Correa 2009).

In the following section, I explore the existing literature on truth commissions, how they address gender-based crimes, and demonstrate the unique potential they have to affect women's lives post-conflict.

### **Truth Commissions**

Truth commissions emerged as a mechanism of transitional justice in the 1980s and gained popularity and momentum during this time as there was a cascade of democratic transitions, particularly in Latin America. As defined by Priscilla Hayner, a truth commission is:

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<sup>6</sup> The Year One Project was created by the government of Sierra Leone and "designed as a catalyst to kick start critical interventions" (Suma and Correa 2009, 2), though it is separate from the long-term reparations program, which has seen a shortage of funding.

1) focused on the past, rather than ongoing, events; 2) investigates a pattern of events that took place over a period of time; 3) engages directly and broadly with the affected population, gathering information on their experiences; 4) is a temporary body, with the aim of concluding with a final report; and 5) is officially authorized or empowered by the state under review” (Hayner 2011, 11-12).

The first goal of truth commissions is that of fact finding. Staff members often comb through thousands of pages of legal documents and correspondence and take statements from victims and survivors to piece together what happened during the period they are investigating. Because the task of “finding the truth” is often so insurmountable, many activists assert that, instead of finding the absolute truth, truth commissions simply break the silence and acknowledge what may have previously been denied (Hayner 2011). Michael Ignatieff writes that “the past is an argument and the function of truth commissions, like the function of honest historians, is to simply purify the argument, to narrow the range of permissible lies” (Ignatieff 1996, 113). In the process of fact-finding, truth commissions often uncover information about sexual- and gender-based crimes, though, as I will show below, these discoveries have had a tendency to obscure other aspects of women’s experiences during war.

Another task of truth commissions is to listen to and meet the needs of survivors. Many have written about the cathartic power that comes from telling one’s story. Beyond the function of listening, truth commissions have been found to be a powerful tool in helping survivors heal from war, since the act of testifying is, in nearly every instance, met with official acknowledgment of one’s experience (Rosenberg 1995; Minow 1998). That acknowledgment signifies the shift in the conception of one’s experience of trauma from that of a private experience to be forgotten to that of a symptom of a socio-political context that must be faced (Minow 1998). Truth commissions have had varying levels of success in soliciting testimony from women, often because they will be speaking (sometimes publicly) about experiences that

are often taboo and can be stigmatizing. In addition to providing survivors with the space to tell their stories, truth commissions are in a position to evaluate the needs of survivors, and can make recommendations for future reparations programs, institutional reforms, and criminal justice proceedings (Hayner 2011).

Finally, truth commissions aim to promote reconciliation, which is an intangible, though noble, goal. While there is still debate within the field about how to define reconciliation, a basic, more general definition describes reconciliation as “developing a mutual conciliatory accommodation between antagonistic or formerly antagonistic persons or groups” (Kreisberg 1998, 184). In the context of truth commissions, distinctions are often made between interpersonal reconciliation and national reconciliation. It is generally agreed upon that reconciliation exists on a spectrum—usually characterized as between “thin” and “thick” (Crocker 2000). Thin notions would consider the absence of fighting between two previously warring groups as reconciliation, whereas thick notions see reconciliation as an ongoing process that requires the restoration of mutual respect and dignity (Crocker 2000). For example, in the South African context, reconciliation between white and black South Africans could mean anything from an increase in interracial interactions to a shift towards more positive racial attitudes on both sides (Gibson 2004). While many are skeptical as to whether truth-telling can be causally linked to reconciliatory outcomes (Mendeloff 2004), scholars generally recognize that for reconciliation to occur on any level, the truth must be known and acknowledged (Crocker 2000; Gibson 2004; Gibson 2006; Skaar 2013). Reconciliation is often conflated with forgiveness; however, reconciliation can occur in its absence. One can treat a person of a previously antagonistic group with respect and dignity without forgiving the other for wrongs committed in the past. Reconciliation is concerned with building a more peaceful future, not with

forgetting the past. It is also typically conceived of as something that occurs between two or more genderless categories, such as various ethnic groups. This conception does not allow for a layer of reconciliation between men and women.

Truth commissions have approached these goals in different ways, with varying levels of success. The question of resources and political will factor into how a truth commission operates, and some are more successful than others. To learn what makes a successful truth commission, it is important to understand the diversity of approaches that have been employed in the past. The first question that emerges is who sponsors the commission itself. The early truth commissions in Latin America were largely national bodies established as a result of a presidential decree without, for the most part, input from others within the government or civil society (Hayner 2011). This was most often the result of political infighting and/or a split legislature that would have made the process difficult, if not impossible. Countries in which commissions were established as a result of presidential decrees include Argentina, Chile, Haiti, Chad, Sri Lanka, and Uganda. Alternatively, some commissions have been established as a part of a negotiated peace accord, as was the case in El Salvador and Guatemala (Hayner 2011). In both instances, the commissions were administered by the United Nations, as opposed to the national government (though they were not UN bodies in the traditional sense). Questions of sponsorship often come down to the political climate at the time of establishment, as well whether a government has the infrastructure and resources to administer such a project.

Differences in approach are most frequently manifested in a truth commission's mandate, where the majority of methodological questions are addressed. Many structural decisions are political in nature and, more often than not, are fraught with controversy from different stakeholders who may have opposing objectives, such as government officials and victims rights

groups (Quinn and Freeman 2003). Truth commission mandates determine what crimes will be addressed; how long the commission will operate, and with what budget; how many commissioners will be appointed (and who they will be); the structure and staffing; if the hearings will be open to the public or private; how testimonies will be recorded; what level of proof will be required to determine its validity; what information will be available to whom; and if perpetrators will be named in the final report that is available to the public, among other considerations. Perhaps the most demonstrative example of methodological considerations in practice is the South African Truth and Reconciliation Commission (TRC), which operated from 1995-2002 following apartheid. Hayner considers it one of the five strongest truth commissions, and asserts that the 1995 Act that established the commission “provided the most complex and sophisticated mandate for any truth commission to date” (Hayner 2011, 27). The mandate provided that the commission would operate with three interconnected committees (the Human Rights Violations Committee, the Amnesty Committee, and the Reparations and Rehabilitation Committee). The committee structure itself was not necessarily unique; instead, what stands out is the Amnesty Committee—which had the power to grant individual amnesty in exchange for truthful testimony about politically motivated crimes committed between 1960 and April 1994. While the truth-for-amnesty process was highly controversial, it is clear that the initiative revealed a significant amount of new and detailed information that contributed to the commission’s overall goal of revealing the truth (Sarkin 2004).

Beyond methodological concerns, truth commissions are also controversial in and of themselves. Some scholars worry that the decision to engage in such a truth-telling process means that ideals of accountability and justice are being laid aside—a controversy known as the truth vs. justice debate. While this is generally accepted to be a false dichotomy (Minow 1998;

Allen 1999; Rotberg and Thompson 2000), some still question the value of truth. Is finding out the facts worth opening up old wounds, and potentially reinvigorating feelings of anger and resentment? Ultimately, scholars generally agree that truth is an important part of healing and nation building for both victims and perpetrators (Schwan 1998; Dimitrijević 2006). Finally, one must consider the “truth” behind truth commissions—what truth is being told? Whose truth is it? Should testimony be regarded as fact, or considered with skepticism? Truth is inherently subjective and informed by our social relationships and understanding of the world around us (Green 2004; Crosby and Brinton Lykes 2011). One cannot remember objectively, as the very act of remembering requires the, however unconscious, interpretation of events (Minow 1998; Chapman and Ball 2001; Phelps 2004). Thus, some argue that the truth produced as historical fact by truth commissions is not really the “truth” at all, or at least in the strictest, most objective sense of the word. It may be limiting, however, to define truth so narrowly and in such a legalistic way. Audrey Chapman and Patrick Ball find that the South African TRC navigated this issue by differentiating between four different kinds of truth—impartial, evidentiary truth; narrative truth; social truth; and, finally, restorative truth (Chapman and Ball 2001). Each kind of truth serves a different purpose, and, thus, should be held to a different set of expectations. For example, narrative truth, which is rooted in the cathartic power of story-telling, may help someone heal and feel heard, but it is not the type of truth that might be used to establish the facts of a specific event like impartial, evidentiary truth could be. As such, while truth commissions often describe the process through which people share their experiences as “testifying,” that testimony is different than the testimony found in a courtroom. This more abstract notion of truth is useful when incorporating a gender lens into the process, as women’s experiences of war are informed by pre-conflict systems of gender inequality. As the

international community has become more aware of the use of sexual and gender-based violence as a weapon of war, mechanisms of transitional justice have had to adapt to those revelations as well. The following section explores how truth commissions have approached gender.

### **Women and Truth Commissions**

A recent development in the field of transitional justice has been the inclusion of a gender perspective in an attempt to better address crimes committed against women during times of war and conflict. Scholars have nearly universally upheld that women experience war and armed conflict differently than men—both in the kinds of violence they face, and the effects that times of violence have on them (Gardam and Charlesworth 2000; Rehn and Sirleaf 2002; Ní Aoláin and Turner 2007; Pankhurst 2008; Hayner 2011). Elisabeth Rehn and Ellen Johnson Sirleaf write that for women conflict is “the momentary space in which women take on non-traditional roles and typically assume much greater responsibilities within the household and public arenas does not necessarily advance gender equality” (Rehn and Sirleaf 2002, 2). In the early truth commissions, however, women were virtually absent from participating as victims. And women who did testify, for example at the South African TRC, rarely spoke of their experiences with sexual violence, and instead as mothers whose sons had been murdered, or as wives whose husbands had been tortured (Goldblatt and Meintjes 1997). The early truth commissions were not proactive in seeking out or facilitating testimony from women, since sexual violence was framed as a “secondary experience,” an unfortunate symptom of war, but not a politically-motivated crime (Hayner 2011, 86). Many truth commissions struggled to decide whether sexual violence should even be within the purview of their mandate, since sexually-based offences are traditionally conceived of as private experiences that have no bearing on public life. Over time,

as the international community became more aware of the staggering rates of sexual violence during conflict, transitional justice mechanisms began to make room to include women's experiences. Truth commissions, in particular, had to go beyond simply recognizing that sexual violence was often a politically motivated crime to addressing it and other gendered dimensions of war in their mandates. In doing so, gender-sensitive protocols had to be undertaken. Procedural innovations have been the focus of much of the literature written about women's experiences at truth commissions, and scholars have identified three distinct approaches truth commissions take to incorporating a gendered lens into their work (Nesiah 2006; Ní Aoláin and Turner 2007; Hayner 2011).

The first approach is gender mainstreaming, where "gender is a crosscutting theme in all operations, from recruitment and training of staff onward," and has been implemented by commissions such as the Ghanaian National Reconciliation Commission (Nesiah 2006, 3). Advocates of gender mainstreaming argue that this approach allows gender analysis to inform all aspects of the commission's work, while critics argue that without a staff that is specifically devoted to addressing issues relating to women's experiences, gender can be easily lost in the midst of an often overwhelming mandate. The second approach, which was developed in direct response to such critiques, has been to establish a unit that is mandated to focus exclusively on gender and gender-based crimes, which was seen at the Peruvian Truth and Reconciliation Commission (Nesiah 2006). While a benefit of such an approach is that it guarantees that gender-based crimes and gender inequality will be addressed in depth in places such as the final report, the gender unit is only one branch of the commission and the approach runs the risk of the other units being largely gender blind. A third approach has emerged as a response to criticisms of the previous approaches, and is a hybrid of both methods. In this third approach, gender is

established as a cross-cutting theme and, at the same time, a gender unit is set up to ensure that the commission includes a gendered lens, and that crimes such as sexual violence are addressed. The Commission for Reception, Truth and Reconciliation in East Timor is an example of this approach in action, and was generally successful in its efforts to be gender-aware (Nesiah 2006; Hayner 2011).

Part of the challenge that truth commissions face when addressing violence against women has been that truth commissions are traditionally mandated to investigate a specific period of war or repression. Though conflict occurs during a specific time frame, the systems of gender inequality that allowed sexual violence to be used as a weapon of war predate the period being investigated. Many have argued that simply investigating a specified period does not allow truth commissions to fully understand the events that took place, as violations committed against women and other marginalized groups must be contextualized in their political and social histories (Minow 1998; Ní Aoláin and Turner 2007; Pankhurst 2008; Crosby and Brinton Lykes 2011). Truth commissions have had to reconcile their mandates and structures with best practices to understand, document, and ultimately redress such violations.

Some commissions have been more successful at this than others. As was mentioned earlier, the first truth commissions were largely gender blind. The first Latin American commissions, such as those in Chile and Argentina, stuck to investigating crimes that fell under their arguably narrow mandates. The South African TRC did not attempt to address gender-based crimes until the very end of its work, when it began to hold women-only hearings. At the El Salvadorian truth commission, reports of incidences of rape were ignored and left out of the final report: the commissioners made the determination that such instances did not constitute politically-motivated crimes (Hayner 2011). Fear, shame, and stigmatization have long inhibited

women from coming forward about their experiences with sexual violence, and have proven to continue to be obstacles for truth commissions investigating wartime sexual and gender-based violence. Truth commissions in Peru, Timor-Leste, Sierra Leone, Liberia, and Morocco are regarded as having (relative) success in addressing gender (Hayner 2011). Procedural changes have included mandates that require a certain number of commissioners to be women; having private, women-only hearings; training statement takers in being sensitive to the nuances of sexual violence; and making a point to include sexual violence in the list of crimes to be investigated by the commission (The World Bank 2006; Nesiah 2006).

A more recent development in the field has been to push back against what some scholars see as the almost singular focus on women as victims of rape and sexual violence (Gardam and Charlesworth 2000; Dal Secco 2008; Crosby and Brinton Lykes 2011). Such a focus “tends to obscure other important aspects of women’s experience of armed conflict that to date have been largely ignored” (Gardam and Charlesworth 2000, 149). Additionally, a singular focus on sexual violence has the potential to essentialize women’s experiences of war, and may “run the risk of narrowing the issue of women’s human rights to violations against their bodies and sexuality” (Dal Secco 2008, 67). Truth commissions must strike a difficult balance between acknowledging the prevalence of sexual violence, and ensuring that the commission addresses other gendered dimensions of war, such as violations of socio-economic and reproductive rights (Nesiah 2006). Resisting this singular focus is of particular importance, since this practice “allows little room for unraveling women’s agency and capabilities and the dynamics of their participation in the political struggle and its aftermath” (Dal Secco 2008, 67). Yet this area remains unexplored, and we still do not have a comprehensive understanding of how truth commission’s gender protocols affect women’s lives post-conflict; nor do we know how singular narratives of sexual violence

play into that post-conflict equation. The field, therefore, needs more investigation into how the way truth commissions talk about women and their experiences of war affects gender relations after the truth commission has concluded its work. This study, which focuses on Sierra Leone in a comparative context, does just that.

### **Conceptual Framework: Carnivalization**

The conceptual framework that I employ to investigate these questions is Phelps' theory of carnivalization. Phelps harnesses the power of language to re-conceptualize the work of truth commissions, particularly their final reports, as more than simply backwards-looking entities, and builds a theory that regards those reports as having the potential to be constitutive documents with the power to influence the trajectory of the emerging state—to carnivalize both the past and the present. For Phelps, this is a form of justice and retribution. In this section, I lay out the conceptual framework for this thesis, which builds upon Phelps' theory of carnivalization to argue that including personal stories of women as active resisters to war, as opposed to just passive victims of sexual violence, has the potential to affect how women are viewed in the emerging state.

At its core, the work of a truth commission is deeply rooted in the power of language. Language can be a potent force of destruction, but it also has the potential to be rehabilitative. Phelps argues that language is central to political violence and oppression, and the perversion of language occurs on three levels— personal, familial, and societal (Phelps 2004). The societal level is of particular relevance to women's experiences of armed conflict, where "the people are silenced and become alienated from each other, and in this silence, a new national narrative is created by the oppressors...[who] symbolically 'have the microphone' and construct the

dominant story, the master narrative, about the country and its citizens” (Phelps 2004, 49). The perversion of language on the societal level is materially significant, since language constructs reality (Hirschmann 2002; Phelps 2004). The Report of the South African TRC wrote that “Language, discourse, rhetoric, does things: it constructs social categories, it gives orders, it persuades us, it justifies, explains, gives reasons, excuses... it moves certain people against other people.”<sup>7</sup> Dominant narratives become history if left unchallenged, which is part of the reason why truth commissions are important. Moving beyond historical implications, if we accept that language is a powerful tool of oppression, it is equally conceivable that language could serve as a form of retribution as well. Beyond the initial act of providing a statement or actively testifying before a truth commission, the power of language is also seen in their reports. Truth commission reports aim to resist attempts by powerful individuals and institutions (usually the government) to impose amnesia about past atrocities, and also to solidify the legitimacy of a commission (Peterson-Huskamp 2005). Phelps moves beyond the traditional conceptualization of truth commission reports as strictly backwards looking documents, and conceives of them as spaces where “the history contained within a truth commission report is not just the story about *this* (former) state. It is also a constitutive history of *this* (emerging) state” (Phelps 2004, 80). In other words, when treated as simultaneously backwards and forward looking documents, truth commission reports have the potential to provide a map that can shape the future of the emerging state.

Phelps builds upon the work of Russian literary theorist and philosopher, Mikhail Bakhtin, whose literary analysis of the works of François Rabelais and Fyodor Dostoevsky analyzed the celebration of the medieval carnival, which “celebrated temporary liberation from

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<sup>7</sup> *Truth and Reconciliation Report of South Africa* (1998), extract 4, paragraph 124.

the prevailing truth and from the established order; it marked the suspension of all hierarchical rank, privileges, norms, and prohibitions” (Bakhtin 1965, 10). Bakhtin continued to evolve this theory in his later work, and he eventually coined the term *carnivalization*, where “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin 1984, 123). Phelps uses carnival to understand the potential power that story telling has for truth commissions. Phelps applies carnivalization to truth commission reports, and argues “The inclusion of personal stories in master narratives that inevitably comprise truth commission reports allows for the *carnivalization* of history, an entirely new kind of history telling and nation making that encompasses a fuller dialogic truth” (Phelps 2004, 69).

Carnivalization provides a jumping off point for this thesis, and lends itself as a tool to investigate my research questions. With regard to the literature on women and truth commissions, most works center around procedural and policy changes that should be implemented to better incorporate women in the truth-telling process. Not enough attention has been paid to the influence that truth commissions and their final reports can potentially have on women’s lives in the future. Scholars have largely pushed to have more personal stories of women included in the reports, but have not gone beyond this to try to understand the material effects that such discourse could have on women’s lives as the state emerges out of periods of violence. If we accept that language is significant, a study of the effects that truth commissions and their final reports have on women’s lives post-conflict is necessary. By focusing solely on women as victims of sexual violence, truth commission reports reproduce the frame of women as passive victims with a singular, essentialized experience of war. I argue that including more diverse personal stories of women during wartime—as active resisters, as fighters (sometimes

fighting for peace, sometimes not)—has the potential to carnivalize both the history of and the future for women.

To demonstrate this possibility, in the next chapter I examine the case of Sierra Leone in depth. Overall, I find that in spite of successful gender-sensitive protocols, the TRC's final report's portrayal of women as only passive victims of sexual violence reproduces systems of gender inequality that existed before the war. In Chapter 4, I investigate these questions in five other cases that addressed gender in their truth commissions had similar outcomes.

## Chapter 3

# Sierra Leone: Unmarried Women Lost in Narratives of Victimhood

Between March 1991 and January 2002, Sierra Leone was embroiled in a devastating civil war between government military forces and a rebel group known as the Revolutionary United Front (RUF). The war was characterized by widespread, indiscriminate human rights violations committed by all parties to the conflict. Over the course of the war, Sierra Leone underwent three coup d'états. Corruption and political instability caused the state apparatus to crumble and for the state's natural resources to be exploited. In the aftermath of such devastation, Sierra Leone implemented a variety of transitional justice mechanisms in order to reconcile with its past, including the Sierra Leone Truth and Reconciliation Commission (TRC). I first provide a brief historical overview of the conflict as well as Sierra Leone's experiences with transitional justice. This provides the background necessary for a critical and engaged analysis. Second, I demonstrate women's status in Sierra Leone prior to the truth commission through analysis of popular folktales, laws, and NGO reports to provide a reference point from which I can measure change over time. I then engage in a close reading of the TRCs report to understand how it, and the commission itself, talks about women. Finally, I use a popular radio program, *Atunda Ayenda*, as well as laws and NGO reports, to establish the current status of women in Sierra Leone. Using pre-truth commission evidence, I analyze both the successes and shortcomings of the truth commission in light of the contemporary reality for women. I also assess the "completeness" of the TRCs narrative and evaluate its implications for women's legal status and

political participation post-commission. I conclude that while the Sierra Leone TRC took commendable steps to ensure increased gender participation throughout its work, it failed to portray women as anything more than victims of sexual- and gender -based violence. This has had material effects on the lives of Sierra Leonean women and girls today.

### **Sierra Leone Civil War: 1991-2002**

Though the Sierra Leone civil war is rooted in its colonial history, the legacy of which has been corrupt and unstable institutions and governance, the proximate cause of the 1991-2002 war can be attributed to the All People's Congress (APC) (Kpundeh 2004). Elected in 1968, the APC instituted a one-party system in 1978, and subsequently took measures to repress any form of opposition from civil society. By the 1980s, Sierra Leone was in a state of economic crisis, as politicians began to dismantle the formal institutions that regulated the diamond and iron ore industries for their own enrichment (Bangura 2004). The APC deliberately excluded the rural population of Sierra Leone (approximately 80% of the population at the time), and resentment towards the government reached an all-time high (Kpundeh 2004). Meanwhile, between 1987 and 1988, frustrated and disillusioned Sierra Leoneans travelled to Libya to train as guerillas (Abdullah 2004). The Revolutionary United Front (RUF) was born in these Libyan training camps. There, the three founders of the RUF, including leader Foday Sankoh, met Charles Taylor, a Liberian warlord who would go on to found the National Patriotic Front of Liberia (NPFL). Taylor would become instrumental in launching the RUF's campaign of terror in Sierra Leone. As a rebel group, the RUF remained an enigma, without coherent goals or apparent political motivations (Harris 2011). Notorious for its brutality, the rank and file members of the RUF were primarily kidnapped or otherwise forcibly conscripted child soldiers and *lumpens*:

largely unemployed and unemployable youths, mostly male, who live by their wits or have one foot in what is generally referred to as the informal or underground economy. They are prone to criminal behavior, petty theft, drugs, drunkenness and gross indiscipline... it is a male specific oppositional culture that easily lends itself to violence” (Abdullah 2004, 45).

These rebels used drugs indiscriminately, and engaged in widespread looting (Abdullah 2004).

The war began on March 23, 1991, when the RUF entered the Kailahun District in a remote southeast region of Sierra Leone and began to attack surrounding villages (Harris 2011). The RUFs initial aim was to oust the APC, which they believed to be centralized, corrupt, and negligent towards the rural areas of Sierra Leone (Bøås 2001). The violence was initially assumed to be the work of Taylor’s NPFL, since Kailahun borders Liberia, but the Sierra Leonean military would soon find itself at war with the RUF (Mutwol 2009). The RUF would quickly overpower the weak and underfunded Sierra Leone Army (SLA), gaining control over most of the diamond rich territory in the eastern and southern parts of the country (Binningsbø and Dupuy 2009). In April 1992, disgruntled SLA soldiers came to the capital city of Freetown, fresh from fighting with the RUF. Though their initial intention was to complain about conditions on the ground, they eventually overthrew the APC and installed the National Provisional Ruling Council (NPRC) in its place (Abraham 2004). The NPRC quickly expanded the size and capacity of the military, finally growing into a formidable opponent to the RUF. Almost immediately, high level military officers and the NPRC leadership became involved in the large-scale mining of diamonds on the black market for their own financial gain (Abraham 2004). That same leadership turned a blind eye to the growing *sobel* (soldier/rebel) tendencies of their rank and file troops, where “They [government soldiers] attacked towns under the guise of

rebels and looted property” (Abraham 2004, 106). The *sobel* phenomenon contributed to widespread feelings of mistrust towards government forces among the civilian population.

As the war raged on, so did political turmoil. Democratic elections were held in 1996 despite threats from the RUF and NPRC, and ex-UN bureaucrat Ahmed Tejan Kabbah of the Sierra Leone Peoples Party (SLPP) was elected president (Kandeh 2004). On election day, the RUF attacked strategically-located towns throughout the country, and, in response, a number of informal civil militia groups took up arms to fight the RUF, eventually forming a unified paramilitary group known as the Civil Defense Forces (CDF) that fought alongside the SLA on behalf of the government (Horovitz 2006). Soon after taking office, Kabbah signed the Abidjan Peace Accord with Sankoh, but the agreement quickly collapsed following continued ceasefire violations and a bloody palace coup that deposed Kabbah on May 25, 1997 (Mutwol 2009). It installed a military junta called the Armed Forces Revolutionary Council (AFRC) led by Major Johnny Paul Koroma. The AFRC almost immediately invited the RUF to Freetown to be a part of the new junta, an offer that the RUF readily accepted (Gberie 2004). In the weeks that followed, rebels flooded into Freetown and set up strategic positions in the city, taking “full control of everything, including the lives of residents” (Gberie 2004, 145). The RUF launched a campaign of terror in the capital, an area which, until then, had been a relative haven from the violence. For its part, the AFRC allowed the state to crumble, cracking down on any form of dissent (real or perceived) with widespread repression (Gberie 2004). The international community condemned the coup, and the Economic Community of West African States (ECOWAS) deployed peacekeeping forces within a matter of days (Gberie 2004; Mutwol 2009). Nigeria, in particular, worked hard to reverse the coup, and collaborated with Ghana to engage the AFRC in negotiations to return the government to civilian rule (Mutwol 2009). Though the

AFRC initially agreed to step down and allow Kabbah to return to power, it reneged on that agreement, and in February 1998 Nigerian troops invaded and drove the junta out of Freetown (Mutwol 2009). Kabbah was restored as president on March 10, 1998.

Unfortunately, the transition to civilian rule was not peaceful. In January 1999, the RUF launched what has been called “Operation No Living Thing” in Freetown, killing an estimated 7,000 people in the span of two short weeks (Human Rights Watch 1999). Hundreds of homes were burned to the ground; and thousands were raped and mutilated, many kidnapped by the rebels as they fled the violence (Gberie 2005). Nigerian troops, along with the CDF, launched counter-attacks and eventually quashed the campaign. In the wake of “Operation No Living Thing,” Kabbah and the RUF began another round of peace negotiations, which culminated in the signing of the Lomé Peace Accord on July 7, 1999. The Lomé Peace Accord called for amnesty and power sharing measures, and arguably, gave the RUF a fair deal (Mutwol 2009). In particular, the agreement, as it was signed in 1999, gave RUF leader Foday Sankoh chairmanship of the newly established Commission on the Management of Strategic Resources, National Reconstruction and Development (CMRRD), which would grant him *de facto* control over diamond-rich areas (Binningsbø and Dupuy 2009). The UN deployed a peacekeeping mission (UNAMSIL) to support ECOWAS troops in monitoring the implementation of the accord. After continued fighting by all parties to the conflict, the agreement fell apart after the RUF kidnapped 500 UNAMSIL peacekeepers (Reiter 2016, 119). Subsequently, Foday Sankoh and other high-ranking members of the RUF were arrested and stripped of their promised positions in the government. More peacekeeping troops were deployed to monitor the implementation of a new ceasefire agreement in 2001 and the subsequent demobilization of rebels (Reiter 2016, 119). Without Sankoh, and in the face of a 17,500 strong peacekeeping force, the RUF disintegrated.

President Kabbah declared the war to be over on January 18, 2002 (Abraham 2004; Binningsbø and Dupuy 2009; Mutwol 2009).

More than anything, the war in Sierra Leone was deeply chaotic. The sheer number of actors (none of whom were clearly fighting on the part of civilians) who were constantly changing territory made it easy for natural resources to be exploited, and for human rights abuses to occur freely and with impunity.

### **Human Rights Violations During the War**

The Sierra Leone civil war was characterized by severe violations of human rights perpetrated by all parties to the conflict. By the end of the war, violence had penetrated virtually every corner of the country, leaving between 50,000 and 75,000 dead, 2.5 million displaced, and countless others maimed and traumatized (Horovitz 2006). No one was immune to violence—women, children and the elderly were subject to as much, if not more, brutality than their less vulnerable counterparts. As the report of the Sierra Leone TRC would eventually note: the war was one fought against civilians, instead of between combatants on a battlefield.

Children were recruited and used as soldiers on all sides of the conflict, in particular by the RUF and the SLA. Many were kidnapped, while others were conscripted with promises of revenge after seeing their families killed (Abdullah and Rashid 2004). They were forced to ingest drugs, trained, and given automatic weapons to fight alongside their adult counterparts, often participating in the same atrocities. Children also served as messengers, spies, cooks, and sex slaves (Abdullah and Rashid 2004). Child soldiers existed in a liminal space, where “They seemed to be the incarnation of the contradictions that gripped the entire country, in that one and the same child might be both a victim and a perpetrator” (Schabas 2006, 32).

The RUF was also notorious for its brutality and indiscriminate use of violence against civilians. In addition to looting, raping, pillaging, and killing indiscriminately, they were infamous for performing amputations. In particular, leading up to the 1996 election, the RUF embarked on a violent campaign of widespread amputations. Combatants hacked off the hands of civilians in an attempt to stop them from voting. Many of the abuses committed by parties to the conflict went beyond traditional notions of guerilla warfare. The TRC even recorded a small, but significant number of instances of forced cannibalism, during which victims were forced, at gunpoint, to eat the human flesh of their loved ones. The depravity of such an act is emblematic of the utter disrespect for human life and dignity that was displayed by all perpetrators of the conflict.

Women and girls in particular suffered extreme acts of violence during the conflict. Sexual- and gender-based violence were used strategically as weapons of war. Though estimates vary, anywhere between 50,000 and 64,000 women and girls were raped during the war (Physicians for Human Rights 2002).<sup>8</sup> The TRC found that of the more than 800 incidences of rape it recorded, 58% of all victims had suffered multiple rapes. Approximately 50% of those victims were under the age of 18—the youngest survivor of rape having been four years old at the time of her assault (Witness to Truth: Volume III). The TRC found that “all of the armed factions, in particular the RUF and the AFRC, embarked on a systematic and deliberate strategy to rape women and girls, especially those between the ages of ten and 18 years of age, with the intention of sowing terror amongst the population, violating women and girls and breaking down

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<sup>8</sup> This estimate is based on a population-based assessment conducted by researchers from the NGO Physicians for Human Rights. See: Reis, Chen, and Lynn L Amowitz et al. 2002. *War Related Sexual Violence in Sierra Leone: A Population Based Assessment*, pp. 3-4, footnote 5 for more on methodology.

every norm and custom of traditional society” (Witness to Truth: Volume III, 161). Gender-based violence during the conflict was not limited to rape and sexual abuse. RUF rebels were also known to disembowel pregnant women (Abdullah and Rashid 2004). Eyewitnesses reported to the TRC that often the rebels would stop pregnant women and attempt to guess whether the sex of the baby was male or female. They disemboweled the mother to settle the bet (Witness to Truth: Volume III). Other gender-based crimes included forced abortion and miscarriages, forced pregnancy and child-rearing, domestic slavery, forced marriage, sexual slavery, and sexual mutilation (Oosterveld 2009).

A common theme in the violations that women and girls suffered was that of breaching cultural norms, particularly those norms related to sexual behavior. First, it is considered taboo to engage in sexual intercourse while breastfeeding a child, as some, especially those in rural areas, believe that sex during pregnancy or while breastfeeding can put a child in danger of serious illness or even death (Smart 1983; Ferme 2001; Coulter 2009). Oftentimes, women move in with their parents for the duration of their pregnancy, or while they are nursing their children—a period of time between five and six months, and even up to three years (Ferme 2001). During the war, both pregnant and nursing mothers were raped and sexually assaulted. Violating a cultural taboo compounded the trauma of the crime itself, and “violated not only the victim but her family or the wider society” (Human Rights Watch 2002, 35).

Another sexual norm that was violated during the war was the belief that it is wrong to have sex outside, particularly in “the bush” (Smart 1983; Coulter 2009). “The bush” refers to the densely wooded areas through which the rebels traversed the country and set up base camps; hence the name “bush wives” for those women who were abducted and (formally and informally) married to rebel soldiers. The bush has historical implications, whereby it was

conceived of as the antithesis of the village; the wild and uncontrolled counterpart to the village's domesticated and civil existence (Jackson 1977; Coulter 2009). To engage in sexual intercourse in the bush is frowned upon because "such an act defiles all the farms in the area, thus resulting in poor harvest. It is also believed that if the wife becomes pregnant from the intercourse, the child will be a 'devil'" (Smart 1983, 127). Rebels raped and had prolonged (non-consensual) sexual relationships with women in the bush; and many women became pregnant as a result of those unions. Thus, their children came to embody, at least in the eyes of some outsiders, pure evil in two ways—they were the children of "barbaric" and "animal" rebels who were inherently violent, and they were assumed to have been conceived in a way that made them "the devil." The war was not only an attack on civilians physically, but also culturally. In the wake of such widespread violations of human rights, transitional justice mechanisms became particularly important.

### **Transitional Justice in Sierra Leone**

After the war, Sierra Leone was left with a devastated and traumatized society, and in the face of such devastation it took a multi-faceted approach to transitional justice by designing a Disarmament, Demobilization and Reintegration (DDR) program, holding trials, and instituting a truth commission. Sierra Leone primarily engaged with these from the end of the war (though the disarmament process began prior to the wars end) until the Special Court for Sierra Leone (SCSL) completed its mandate in 2013. Efforts continue to date, as there is a residual court, and an office that administrates the reparations program that was borne of the truth commission.

### ***Demobilization, Disarmament, and Reintegration (DDR)***

The most immediate transitional justice concern was that of disarming and demobilizing the tens of thousands of combatants who had participated in the war on all sides. The National Committee for Disarmament, Demobilization and Reintegration (NCDDR) began its efforts in 1998 at the behest of the Kabbah government, and operated in fits and starts throughout the remainder of the war. Its most robust and successful period of operation was from 2001 to January 2002, with help from UNAMISL peacekeeping forces (Humphreys and Weinstein 2007). The NCDDR faced an overwhelming task, as it not only sought to disarm former rebels, but also to reintegrate them into the community—the very communities they had terrorized (Shaw 2010). Reintegration proved to be especially difficult for former child combatants, many of whom knew very little of life outside of war. Once registered with the NCDDR, children were transferred to Interim Care Centers, where they received counseling, treatment for drug addiction, and specialized education and skills training, during which time staff members worked to locate family members. Family reunification was the ultimate goal, but that was not without hardship:

But the biggest problem was returning to a life that didn't exist anymore. Those of us who were abducted or forced to fight had to face the bad feelings of our families, our friends and our communities...They didn't trust us to behave. Sometimes we didn't behave. We had been taught to use violence. We didn't remember how to respect others or show kindness. No one seemed to understand the terrible shame and sadness that possessed us (TRC Report: Child Friendly Version, 25).

Older ex-combatants who went through the first two steps of the program (disarmament and demobilization) were eligible for assistance from the Training and Employment Program (TEP) (Leff 2008). Through TEP, ex-combatants qualified for six months of skills training or education programs, as well as a \$150 reintegration stipend (Shaw 2010). While some ex-

combatants reported that the program was helpful, others found that, in the struggling economy, the program had not made a significant difference in their lives (Shaw 2010). The primary goal of the NCDDR was that of community reintegration, and while the program is widely regarded as a success, the process has not been without failures. One study of over 1,000 ex-combatants found that 93% of those surveyed reported that they had not faced difficulties gaining acceptance from their families or communities while reintegrating (Humphreys and Weinstein 2007). The authors caution, however, that the 7% who reported difficulties reintegrating should not be discounted, and felt that this percentage could be representative of a larger trend within the whole population of ex-combatants who participated in DDR (Humphreys and Weinstein 2007).

The NCDDR initially estimated the number of combatants to be demobilized at 45,000; however, by the program's end in 2002, they had disarmed a staggering 72,490 combatants from all armed groups (Humphreys and Weinstein 2007; Shaw 2010). UNICEF estimates that of those who participated in the program 9.5% (or 6,845) were children, the overwhelming majority young boys (UNICEF 2005).

The NCDDR has been criticized for certain qualifications that excluded many former combatants, namely women, and those who fought with the CDF (Coulter 2009; Shaw 2010). One stipulation to be eligible for reintegration was to turn in an automatic weapon, which excluded former CDF combatants who fought with knives and small caliber handguns (Shaw 2010). Women and girls who had previously been combatants often participated in roles that did not require a weapon—as messengers, cooks, and sex slaves—and were thus unable to qualify for reintegration programs that could have been beneficial to them (Leff 2008). Those women who did fight on the front lines with weapons often gave up their arms to their “bush husbands” when the war ended, or to young boys so that they could disarm instead (Coulter 2009). In

interviews with female ex-combatants, Coulter recounted, “more than half of all the female ex-combatants I interviewed said they had actually wanted to disarm, but only a handful did” (Coulter 2009, 158).

### ***The Special Court for Sierra Leone (SCSL)***

The Special Court for Sierra Leone (SCSL) was established in January 2002 following a request by the Sierra Leonean government that the UN establish a special court with jurisdiction to try crimes against humanity, war crimes, and other such violations of international law committed in Sierra Leone since November 30, 1996 (SC Res 1315). Though no official protocol was ever established, the court acted as a complementary body to the TRC (Schabas 2003). The court was a landmark institution in many ways; it was the first international tribunal to be held in the country where the crimes being prosecuted were committed, and the first international tribunal to indict a sitting head of state (then Liberian President Charles Taylor) (Horovits 2006). The SCSL’s subject matter jurisdiction was over those bearing the greatest responsibility for crimes against humanity, war crimes, and a select number of domestic laws (Mibenge 2013). The SCSL was what is known as a ‘hybrid court’ or ‘hybrid tribunal’ because of how it incorporated elements of both international and domestic law into its structure (Mibenge 2013).

In 2013, the SCSL became the first international tribunal to complete its mandate and transition to a residual system (RSCSL), which is still in operation in Freetown. As of today, the SCSL has brought indictments against thirteen individuals, all of whom were leaders of the RUF, AFRC, CDF, as well as Charles Taylor. Ultimately, only ten were brought to trial, as three individuals (including RUF commander Foday Sankoh) died before or during proceedings. Nine of those ten were individuals were convicted and are now serving fifteen to twenty-five year

sentences in a Rwandan detention center (SCSL: The Special Court Trials). Charles Taylor is currently serving a fifty-year sentence in a British prison.<sup>9</sup> Today, the RSCSL has only one case pending: against Johnny Koroma, former head of the AFRC military junta, who is currently at large. In the international law community, the court is generally regarded as a success. Critics are (rightfully) skeptical of how the prosecution team paid witnesses (though they maintain that these payments were strictly for room and board and lost wages), as well as how the court codified many of the sexual offenses, particularly how they equated marriage outside of the war context with forced marriage during the conflict (Mibenge 2013). In reflecting on the courts legacy, however, the SCSL exceeded the expectations of many, and demonstrated to Sierra Leone, and the rest of the world, that perpetrators of human rights violations would, and could, be held accountable.

Finally, the court made numerous contributions to international human rights law jurisprudence, in particular through its determination that forced marriage, enforced prostitution, forced pregnancy, and sexual slavery constitute crimes against humanity (Oosterveld 2009). The court also ruled that the recruitment of children under the age of fifteen is a serious violation of international humanitarian law (Horovits 2006). In addition to precedent-setting prosecutions, the SCSL took seriously the job of witness protection and support through its Witnesses and Victims Section (WVS). Arrangements were made for both the physical safety of witnesses as well as their emotional and physical well-being. Psychological support services were made available to those testifying, and health care was provided to those for whom testifying would be impossible,

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<sup>9</sup> “War criminal Charles Taylor to serve 50-year sentence in British Prison,” *The Guardian*, October 10, 2013, <https://www.theguardian.com/world/2013/oct/10/former-liberian-president-charles-taylor-british-prison>.

or difficult, without (Horovits 2006). These measures were an important step, but the real focus on women, and systems of gender inequality came in the truth commission.

### ***Truth and Reconciliation Commission of Sierra Leone***

The Sierra Leone Truth and Reconciliation Commission (TRC) was established by the Truth and Reconciliation Commission Act of 2000, and operated from July 2002 to October 2004 (Schabas 2006). The TRCs mandate directed it to “create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone...to respond to the needs of the victims, to promote healing and reconciliation, and to prevent a repetition of violations and abuses suffered” (TRC Act of 2000, Section 6(1)). Led by seven commissioners, four of whom were Sierra Leonean nationals, and three of whom were women, the TRC investigated crimes committed from the start of the conflict in March 1991 until the end of hostilities in 2002, paying special attention to the crimes of sexual abuse and the experiences of children (TRC Act of 2000, Section 6(2)(b); Mibenge 2013). The commission took certain liberties with that time frame so as to fully understand the socio-political climate that created the context for such a violent war to occur (Schabas 2006).

Almost immediately after beginning its work, the commission faced financial and logistical difficulties. Though the United Nations Office for the High Commissioner on Human Rights initially recommended a budget of a little over \$9 million USD, donors were unwilling to provide funding to reach that goal. The budget was adjusted multiple times, and eventually reduced to just over \$4.1 million USD for the entirety of the commission’s tenure (Witness to Truth: Volume I). In the face of a staggering amount of work to be done in a short time, the budgetary cuts meant that the commission had to work with a skeletal staff who were supported

by volunteers and unpaid interns. It also meant that the commission could not complete all the projects in the preparatory phase that it would have liked. Public Education Campaigns were impacted most severely by budget and staff cuts. In particular, an outreach project called the “Barray” (town hall) initiative to engage with locals and educate them about the commission and its work was unsuccessful, and in light of poorly planned and poorly received initial trips to communities across the country, the program was ultimately cancelled. This created a negative view of the TRC among many, and led to confusion about the TRC’s role in terms of prosecutions. Many conflated the TRC with the SCSL, which was operating simultaneously, a misunderstanding which might have been cleared up had the project been better funded and carried out to its fullest extent.

Despite these setbacks, the commission was ultimately able to fulfill its mandate. The TRC operated in two distinct phases. The first was the statement-taking phase from December 2002 through March 2003 where statement takers collected 7,000 first-hand accounts from both victims and perpetrators (Mibenge 2013). The second phase, from April to August 2003, was the hearings phase, during which time victims and perpetrators were given the opportunity to testify about their experiences publicly. Children who testified did so in closed, in-camera sessions to protect their privacy. Victims of sexual abuse were also given this option, but many opted to share their experiences publicly so that others would know what they had suffered (Schabas 2006; Mibenge 2013). The commission also held thematic hearings on topics such as corruption, governance, mineral resources, and women’s experiences of conflict during which time stakeholders and members of civil society could submit reports and testify.

In addition to collecting statements and holding hearings, the TRCs commissioners were also responsible for putting forth recommendations to the government of Sierra Leone for a

reparations program to aid in the redress of grave human rights violations. Ultimately, the TRC came to the conclusion that amputees, other war wounded, children, victims of sexual violence, and war widows—those the commission felt were most vulnerable and would suffer long term hardship as a result of violations suffered—would be the program’s beneficiaries (Witness to Truth: Volume II). The recommendations were vast, and ranged from both free general and specialized medical care (such as prosthetics, or surgeries to correct injuries sustained during sexual assault), to counseling and psychosocial support, as well as long term payments in the case of life altering disability. The commissioners also set forth a large number of recommendations pursuant to legal, political, and administrative reforms, many of which the government was obligated to implement “faithfully and timeously” (TRC Act of 2000, Section 17). This is relatively unique to the Sierra Leone TRC, and is one of the commission’s strong points.

In 2004, at the end of its mandate, the commission released its final report, aptly named Witness to Truth. The commission also released a child-friendly version of the report in partnership with UNICEF to serve as a resource for children who had been victimized during the war. Spanning three volumes and more than 2,000 pages, Witness to Truth takes the time to explore both the proximate and historical ascendants to the conflict. The report itself is structured around addressing each of the previously agreed upon “themes”—or subjects of significance the commissioners decided to highlight—by devoting a chapter to each: the Historical Ascendants to the Conflict; Governance; the Military and Political History of the Conflict; the Nature of the Conflict; Mineral Resources and their Impact on the Conflict and the Country; External Actors and their Impact on the Conflict; Women and the Armed Conflict; Children and the Armed Conflict; Youth; The TRC and Special Court for Sierra Leone; and Reconciliation.

In spite of financial and logistical constraints, the Sierra Leone TRC is considered to be one of the best examples of how to address sexual- and gender- based violence. The commission made gender mainstreaming its official policy (Witness to Truth: Volume III). This meant that in addition to gender sensitive protocols such as women-only hearings, the commission had to integrate a gender perspective into every aspect of its work. The commission made a concerted effort to hire a large number of female statement takers—in the end, 40% of statement takers were women (Witness to Truth: Volume III). In addition, counselors were made available to debrief with witnesses after they testified about their experiences, and private, in-camera hearings only attended by female commissioners were made an option for women and girls who testified about experiences with sexual violence (Witness to Truth: Volume III). However, many women insisted that they give their testimony about their experiences of sexual abuse publicly, “often punctuated by terrible pauses, by tears and sobs, but despite the emotional strain they courageously continued” (Schabas 2006, 31). It is clear that the commission’s efforts to understand why crimes of sexual violence occurred on such a large scale during the conflict were successful, but it is not well understood if the gender-sensitive efforts the TRC undertook have had material effects on how women are treated in Sierra Leone today. While it would be unreasonable to assume that a truth commission, on its own, addresses and fixes legacies of gender inequality, it is not a stretch to expect it to have some impact in the long-term.

The following sections provide a thorough analysis of women’s status prior to the truth commission, closely examines how women are talked about in the TRC’s report, and finally analyzes the status of women in Sierra Leone today.

### **Women in Sierra Leone Before the Truth Commission**

The fact that Sierra Leonean women and girls experienced such high levels of violence during the conflict is not an accident, nor is it simply a natural consequence of war. Pre-existing systems of gender inequality exacerbated and ultimately allowed such violations to occur. Those systems of gender inequality stem from socially constructed ideas about women. Here, I invoke Nancy Hirschmann's conceptualization of the term social construction, which occurs on three intersecting levels: the ideological (ideas about a subject), the material (the institutionalization of those beliefs), and the discursive, the "conceptual language through which we make sense of the world and ourselves" (Hirschmann 2002; Markovits and Bickford 2014, 85). The purpose of this section is to establish the socially constructed status of Sierra Leonean women prior to the truth commission as a measure by which change, or lack thereof, can be determined. In this analysis, Sierra Leonean folktales represent both discursive and ideological mechanisms that intersect with laws on a material level, which have constructed ideas about women's place in society. In addition, I examine reports of international NGOs and organizations that worked on the ground in Sierra Leone to supplement this material.

#### ***Pre-Truth Commission Discourse: Sierra Leonean Folktales***

Traditional folktales are part of what make up a culture's oral history, and are a vehicle through which "society's norms and values are imparted to all, especially the young" (Smith 1987, 5). This is most certainly the purpose of the stories found in *Some Folk Tales of Sierra Leone* (Clarke 1967) and *Folktales From Freetown* (Smith 1987), two anthologies of traditional Sierra

Leonean folklore.<sup>10</sup> Often cautionary tales against disobedience and other undesirable character traits, the stories frequently close with lines such as “That is why one shouldn’t be wicked or envious of others” (Smith 1987, 61) as a means to drive home the intended message. Beyond obvious lessons in morality, these folktales also contain messages about society’s gendered expectations for men and women.

In each of the 59 tales, the protagonists are male (or male-gendered personified animals). They experience a wide range of human emotions, and are complex beings with both flaws and redeeming qualities. Though male characters are frequently used to portray the dangers of gluttony or laziness, the lessons they learn leave room to grow as people. They are ever-evolving and, more often than not, are given the opportunity to right their previous wrongs. This is in stark contrast to female characters, who are portrayed as one dimensional beings whose male counterparts often learn valuable lessons at their expense. Perhaps most importantly, male characters are autonomous beings whose personality and purpose exist outside gendered expectations of, for example, strength and masculinity. This is not the case for female characters, who are defined, and often limited, by their gender.

When featured, female characters are not given names, and are instead presented relationally. By this, I mean that women are featured as wives, mothers, daughters, even mother-in-laws, but never as autonomous subjects who exist outside of their relationships with others. Women are featured as wives in 15 of the 59 stories; as mothers in 11; daughters in 5; mother-in-

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<sup>10</sup> Sierra Leone is an ethnically diverse country whose population is predominantly of Temne (35%), Mende (31%), Limba (8%), Kono (5%), or Krio (2%) descent, each with its own cultural beliefs and practices (though they do not exist in isolation from one another). The folktales found in William Clarke and Arthur Smith’s anthologies come from traditional folklore of the Mende and Krio ethnic groups. Though together Mende and Krio only constitute approximately 33% of the population, Krio and Mende cultures and language are important to Sierra Leone’s cultural heritage, in particular because Krio (English based Creole) is Sierra Leone’s *lingua franca*, and is understood by 98% of Sierra Leoneans.

laws in 3; sisters in 3; and grandmothers in 2. Women are also framed as male property, which is reflected in many of the titles in the anthologies stories—*The Chief's Wives*, *The Spider and his Wife*, and *The Spider and his Mother-in-Law*, for example. Grammatically, there is a clear subject and a clear object as demonstrated by the apostrophes and the word “his,” which indicates possession of that (female) object. The objectification of women in these tales is furthered by the frequent reduction of their role in society to their bodies and sexuality. In *The Chief who Hated his Wife*, the chief’s wife “bore him no child, so he hated her” (Smith 1987, 61). The message we come to understand is that a woman’s worth is tied to her ability to bear children, and thus, her body.

Though these folktales are of the Mende and Krio tradition, the constructed notions of womanhood found in the stories are not isolated to those groups. In her ethnography of female ex-combatants in Sierra Leone, Coulter focused on those living in Koinadugu District (who speak Kuranko) in northern Sierra Leone. During her research on gender roles within the community, Coulter observed what she calls a “relational model” (Coulter 2009, 58), in which women have different levels of social power and standing depending on what relational role they occupy in a particular space. A woman has power over her children (here she is a mother), but at the same time is considered subordinate to her husband (here she is a wife). Thus, “the social organization of sexual difference is more complex than male/female. There is no one definition of ‘woman’ but many, which vary according to age and economic status; moreover, and perhaps most importantly, any definition of ‘woman’ is relational” (Coulter 2009, 90). Coulter also emphasizes the cultural importance that is placed on being a wife and a mother, something that is also reflected in the folktales. In describing male stereotypes about women she encountered, the idea that women are objects and male property was also clear: “They [women] ‘belonged to the

house.’ It was understood that a woman cannot *be* for herself; she is always *of* or *for* others” (Coulter 2009, 58). These notions of gender roles are reflected in many of the abuses women suffered during the war, particularly as “bush wives.”

To understand the potential impact of such stories, it is important to interrogate what is meant by the phrase “norms and values.” Norms are rules of behavior that govern what is, and what is not, socially acceptable. A norm reflected in the anthologies is that women do most of the cooking and cleaning in a given household. A value, on the other hand, is a set of beliefs that govern a society’s social order. Values reflected in the above stories emphasize the importance of obedience, respecting one’s elders, and not deceiving others. Norms and values are central to the way in which we navigate the world around us. However subconsciously, they teach us what is expected of us as members of a given society. In reading the folktales, the norms and values that are imparted regarding women and girls are not stated outright, but are salient. These norms and values constitute the ideological and discursive levels of social construction, whereby ideas about women are solidified, and how the stories speak about women shapes how people navigate the world around them. If the idea that women are male property becomes a norm, it engenders behavior to that effect. The value that the ultimate role for women is that of a wife and mother makes schooling for girls seem frivolous compared to keeping them home to teach them about homemaking and caregiving.

### ***Pre- Commission Legal Status: Discrimination and Discrepancies***

The beliefs about women’s place in society portrayed in the folk tales are reflected in Sierra Leone’s laws prior to the truth commission. Laws constitute both the second (material, or the institutionalization of beliefs) and third (discursive) layers of the process of social construction.

It is important to note that, prior to the truth commission, the legal system was governed by two different systems: common law, and customary law, which is defined as “the rules of law which by custom are applicable to certain communities in Sierra Leone” (The Constitution of Sierra Leone, Chapter XII, (170) (3)). As a result, there were inconsistencies in legislation. Prior to the truth commission, laws regarding women were largely discriminatory, or allowed for discrimination on the basis of customary law. Laws reinforced the patriarchal status quo that solidified women’s status as objectified, relational beings. The purpose of the following section is to demonstrate the material legal reality that stemmed from, but also reinforced those discursive and ideological beliefs about women. To do this, I analyze the 1991 constitution, as well as several laws enacted before the commission.

Enacted in October 1991, the current constitution of Sierra Leone seems, at face value, to be based on principles of fairness and non-discrimination. Early in the document, the constitution calls upon the state to “promote national integration and unity and discourage discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties” (Chapter 2 (6)(2)). Relatively progressive principles such as that of “equal pay for equal work without discrimination on account of sex” (Chapter 2 (8)(3)(c)), as well as multiple provisions that call for special assistance for vulnerable groups such as women, children, and disabled persons are included in the constitution. However, many, if not all of those safeguards are voided in Section 27, which ironically is to provide for protection from discrimination. Section 27(1) provides that “no law shall make provision which is discriminatory either of itself or in its effect,” but section 27(4)(d) states that section 1 does not apply to laws “with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law.” Section 27(4)(e) excuses customary law from this provision as well.

This is problematic, as those laws are the ones that have the most discriminatory effect on women. This has meant that there have been inconsistencies in policies governing private and family matters, such as marriage, divorce, and inheritance.

Customary law is of particular importance to the discussion of women's legal status prior to the truth commission, as most Sierra Leoneans follow(ed) customary law with regard to their family relationships (Smart 1983). Because of state and institutional weakness, customary law is, in many ways, "*prima facie* formal law [that is] also distinguished from statute" (Mibenge 2013, 106). This means that customary law was often accepted as common law. This is important because women have traditionally been confined to the family (or private) sphere; thus, customary law, in large part, governed their lives. First, and perhaps most important to keep in mind, women's position in customary law is much like that of a minor, in that she is always under the "guardianship," of the appropriate male figure (Smart 1983; Coulter 2009). Before she marries, a woman is under the guardianship of her father. Once married, her husband has guardianship over her, and in the result of his death that guardianship is transferred to the head of her husband's family until she remarries (Smart 1983). The fact that an adult woman is under the guardianship of a man reflects the discursive elements of social construction found in the previous section, whereby women are considered male property, and are defined by their relationships to others.

Customary laws also reduce women's identity to their bodies and sexuality, as seen through the acceptable reasons for divorce. Husbands and wives have different sets of grievances that qualify as grounds for divorce under customary law. Husbands and wives can both cite bareness or sterility "because of the emphasis in tribal societies on the procreation of children" (Smart 1983, 151). While this applies to both men and women, it is also reflective of the fact that

a woman's worth is inextricable from her body and sexuality. As noted by Coulter, the emphasis on childbearing reflects "the hegemonic model of femininity in the region," which is rooted in "being a wife and mother" (Coulter 2009, 74).

It would be remiss to discuss the institution of marriage without considering intimate partner violence within that union. Prior to the TRC, domestic violence was not a legally-defined crime, nor was it a prosecutable offence, unless an assault resulted in death, where it was considered murder or manslaughter, or if an assault caused grievous bodily harm, and could be prosecuted as assault under the Offences Against the Person Act of 1861 (Witness to Truth: Volume III). In fact, prior to the truth commission, domestic violence was tolerated "at least up to a particular 'point'" (Witness to Truth Volume III, 105), and under customary law, a husband had the right to "reasonably chastise his wife by physical force" (Smart 1983, 152). Furthermore, under customary law, "A husband has exclusive sexual rights over his wife or wives" (Smith 1983, 101). This means that a wife must have reasonable cause to refuse her husband sexual intercourse. Those circumstances that constitute reasonable cause are "serious illness which renders the wife incapable of having sexual intercourse; menstruation; suckling a very young child before the prescribed period for weaning; intercourse during the daytime or in the bush; and, among the tribal Muslims, the feast of Ramadan" (Smart 1983, 101). Under customary law, then, married women did not have autonomy over their bodies, as a husband could force his wife to engage in intercourse without it being considered a crime, or even out of the ordinary.

Prior to the TRC, sexual violence and assault was only considered a crime if it was perpetrated against a woman of good moral standing. Notably, in both the Prevention of Cruelty to Children Act of 1926 and the Protection of Women and Girls Act of 1927, the moral status of the victim is a potentially exonerating factor, or one that makes the crime no longer prosecutable.

In the Protection of Women and Girls Act, Article 2 states that “Anyone who procures or attempts to procure any girl or woman under twenty-one years of age, *not being a common prostitute or of known immoral character*, to unlawful carnal connection...shall be guilty of an offense” (emphasis added). The same wording is found in the Prevention of Cruelty to Children Act under the offense of “procuration,” whereby: “Any person who procures or attempts to procure any child not being a common prostitute, or of known immoral character, to have an unlawful carnal connection...shall be liable before the Supreme Court to imprisonment for any period not exceeding two years, with or without hard labor.” In the above pieces of legislation, to procure means to solicit, or purchase sex from someone. To base the legitimacy of a charge on the victim’s moral character is a dangerous game, and allows violent behavior to be excused. It also sets a much higher standard of behavior for women and girls than it does for men, since it suggests that a crime is only committed if the victim is of reputable (read: virgin) moral standing.

Both the common and customary laws of Sierra Leone prior to the TRC constitute the material process through which socially constructed ideas about women were institutionalized. In particular, customary laws reinforce the notion that women are relational beings, and, ultimately, male property. Common law provisions allow for discrimination and perpetuate the idea that a woman is to be sexually pure.

### ***Pre-Commission NGO Reports: A Culture of Silence***

Reports by international NGOs are relevant to this analysis because they focus on widespread problems and human rights violations that provide insight into the material reality of everyday life. International NGOs had a large presence on the ground in Sierra Leone prior to the truth commission, particularly following the outbreak of war. In addition to providing humanitarian

assistance, many organizations documented and produced reports on human rights violations occurring throughout the country. The status of women and girls in Sierra Leonean society was a frequent subject of concern. In this section I use these reports to demonstrate how the socially constructed ideas about women and girls were manifested in reality.

Most of the reports by NGOs prior to the truth commission were published during the war, and focused on gender-specific abuses that women and girls were facing on the ground as a result of the armed conflict. Consistently, across the board, reports by NGOs documented crimes of rape and sexual violence when discussing women's experience of the conflict. Though singularly focused, at the time it was necessary—as a Human Rights Watch (HRW) report noted, “Sexual violence has remained Sierra Leone’s silent war crime” (HRW 2002, 5). Prior to the truth commission, speaking about rape and sexual violence was not something people did. It was, and continues to be, a taboo subject. The report of the truth commission spoke about the “pervasive ‘culture of silence’ around rape and other acts of sexual violence [which] tends to discourage women and girls from coming forward” (Witness to Truth: Volume III, 104). Thus, speaking about the sexual and gender-based violence that Sierra Leonean women and girls were experiencing was, at the time, a radical act. Having such crimes condemned on a global level made it impossible for the eventual transitional justice responses to ignore sexual and gender-based crimes. Two reports were of particular importance, and were cited heavily by the TRC final report, one by HRW and the other by Physicians for Human Rights (PHR). While the publication dates of these reports overlap with when the TRC was in operation, the research was gathered prior to the commission itself.

In March 2000, and again between January and February 2001, PHR sent doctors and other experts to Sierra Leone to conduct a population-based assessment to understand the scale

of the problem of sexual violence. The report's findings are based on that study, conducted through a random survey of 1,048 households in three different IDP camps across Sierra Leone (991 of those were female-headed households whose responses reflected the experiences of 9,166 household members) (PHR 2002). PHR also conducted qualitative assessments through open-ended questionnaires and interviews. Of the 991 female-headed households, 1 in 8 of every household members reported one or more experiences of war-related sexual violence, and 9% of respondents reported incidences of war-related sexual violence. The report noted "This prevalence of war related sexual violence (8%-9%) during only a ten year period is equivalent to the lifetime prevalence of non-war-related sexual violence (9%) among study respondents" (PHR 2002, 2-3). On the whole, based on its findings, PHR estimated that between 215,000 and 257,000 Sierra Leonean women and girls to have been affected by conflict-related sexual violence,

Similar to PHR, the HRW report used interviews conducted in Sierra Leone by HRW researchers on the ground between April 1999 and 2002 as the basis of its findings, though they did not conduct a population-based assessment. The report goes into detail about women's legal and socio-political status in Sierra Leone prior to the war, but the bulk of the report is focused on documenting crimes of sexual violence. Where the PHR report focused predominantly on recording the responses to its interviews and surveys, the HRW report relies primarily on testimony from women and girls they interviewed as a way to illustrate the situation on the ground. Significantly, researchers highlighted the fact that perpetrators often violated cultural norms while attacking women. For example, in Sierra Leone, breastfeeding mothers are not supposed to engage in sexual intercourse until their children have been weaned (Smith 1983; Ferme 2001; Coulter 2009). One interviewee recounted her horrific experience of abduction and

prolonged abuse by RUF and AFRC rebels in 1999, only two weeks after she had given birth: “I held my baby Hawanatu in my arms while they were raping me. When she cried they said they wanted to shoot her so I gave her my breast” (HRW 2003, 39). The sheer brutality of this, and all other testimonies recorded in this report, are emblematic of the level of dehumanization that women and girls faced during the war.

The PHR and HRW reports make clear that sexual violence was occurring at astonishing rates, and with relative impunity during the war; but more than that, they also provided important research and context that the truth commission used when writing its final report.

### **Witness to Truth: Sexual Violence and Victimhood in the Final Report of the TRC**

Witness to Truth dedicates a significant amount of space and analysis to the experience of women and girls during the conflict. A series of questions, found in the executive summary, guided the reports research:

Why was so much violence perpetrated against women? Did the origins lie in the cultural and traditional history of Sierra Leone? Did the fact that women endured such a lowly status in the socio-political life make them easy targets? Is it because men perceived females to be mere chattels symbolizing male honor that made women the deliberate target of an enemy determined to destroy the honor of the other? (Witness to Truth: Volume II, 14).

To answer these questions directly, the report devotes an entire thematic chapter to the experiences of women and girls during the war. It is also the longest of the eight thematic chapters. Though the chapter is titled “Women and the Armed Conflict in Sierra Leone,” it focuses almost entirely on sexual and gender-based violence. The almost automatic equation of women’s experiences of war to experiences with sexual violence is a persistent theme throughout the report; in fact, the only place women are discussed not as victims is in a brief section of the

report that chronicles the events of the war. This is also the only detailed account that features women as active resisters to war and participants in the peace process.

On May 6, 2000, a group of 2,000 women gathered outside the gates of Foday Sankoh's Freetown compound in a peaceful demonstration to "convey their hopes for peace and bring home to Foday Sankoh a sense of particular suffering that women had endured as a result of the war" (Witness to Truth: Volume III, 382). The women's grievances mostly surrounded the breakdown of the Lomé Peace Accords, as well as their outrage at the abduction of 500 UNASIL peacekeepers. The women called for an immediate ceasefire on the part of the RUF. Those inside the compound, including Sankoh himself, did not take the protest itself seriously. One RUF commander who was present that day told the commission "it is unlikely that the statements were even heard by their intended recipients" (Witness to Truth: Volume III, 383). Despite its mention in the report, which is significant in and of itself, Witness to Truth seems to simultaneously minimize the significance of the demonstration. It is described as a "noteworthy, albeit relatively minor demonstration" that "concluded in a short space of time without making any significant impact" (Witness to Truth: Volume III, 382). This may be reflective of the events that transpired that day, but it fails to consider the context in which the demonstration occurred. The demonstration took place in Freetown in the wake of "Operation No Living Thing," and at a time when instability in the capital city was at a peak. For women to come out en masse and gather at the home of the commander of a rebel group that was responsible for so much violence and destruction that had been perpetrated against them is not "minor." Had the security situation that day devolved, these women would have been at risk of physical harm, and likely sexual assault in retaliation. A similar fate came of Susan Lahai, Deputy Minister for Transport and Communications for the RUF (the fledgling political branch of the RUF), only days later. In the

early hours of the morning on May 8, 2000, AFRC Commander Johnny Koroma and the West Side Boys (a splinter group of the AFRC) carried out a series of attacks against members of the RUF (with whom the AFRC had an ever growing rift). Lahai was arrested and taken to an undisclosed location, where she was eventually “gang raped to death” (Witness to Truth: Volume III, 401), her body disposed of in the gutter. She is believed to have been the only woman among the targets (Witness to Truth: Volume III).

Women are featured most prominently in the chapter devoted to examining their experiences during the war. The chapter explores the social, economic, and political position of women in Sierra Leone prior to the conflict as a means to understand why such brutal acts of sexual violence were widespread and perpetrated with impunity throughout the war. The report links the prevalence of sexual slavery and abductions whose purpose it was to make women and girls act as “bush wives” to rebels with the prevalence of early marriages across the country, a practice made possible through the absence of a universal minimum age for marriage (Witness to Truth: Volume III). The bulk of the chapter is devoted to recording the human rights violations that women experienced during the war, which are interspersed with personal stories of victims. The report finds that women suffered abduction, forced recruitment, mutilation, detention, forced displacement, forced labor, assault, torture, forced drugging, murder, amputation, forced cannibalism, rape, sexual slavery, and sexual abuse (Witness to Truth: Volume III). The commission also found that on several occasions, pregnant women were disemboweled. A common theme in describing these violations is the notion of vulnerability—either that women’s status in society made them vulnerable to attack, or the attacks left them vulnerable (the implication here is that it made them more vulnerable than before). For example, in describing the character of assaults that women faced, the report used language like “women were cowed

into submission” (Witness to Truth: Volume III, 149). Thus, women’s experiences of war are characterized as being linked to weakness, vulnerability, and passivity. Though the report stresses the importance of women’s equal participation in all aspects of public life, in equating women’s experiences of war with sexual violations that made them weak and vulnerable the report reinforces cultural stereotypes.

An important aspect of women and girls’ experience during the war that was ultimately glossed over in the final report is the diversity of roles women played as bush wives that went beyond sexual slavery. Though the report touches on the fact that some women participated in the war as soldiers alongside the rebels, “the TRC follows popular humanitarian discourse that regards women as natural peacemakers and victims. The image of a soldier remains a male image, and women tend to be placed at the opposite, peaceful end of the moral continuum” (Mibenge 2013, 108). Female combatants are portrayed as being driven by caregiving needs, such as the instinct to protect or provide for their families, again coding them as relational beings with a gendered purpose and identity in a way that did not reflect many of female combatants lived experiences. Coulter’s ethnography of female ex-combatants sheds light on some of the nuances of their experiences that the commission missed. One of Coulter’s informants, a young woman named Aminata, told her that many, if not all abducted women and girls were taught how to fight, though many never saw a battlefield (Coulter 2009). Aminata said that one of the first things women were taught following their abduction was how to shoot a gun, and emphasized their talents with these weapons: “All the girls I met, all of them knew how to fire. All the girls were raw” (Coulter 2009, 135).

Even in the context of their experiences as bush wives, during which time most women endured sustained physical, mental and sexual abuse, women also held positions of relative power in the camps:

Captive “wives” of commanders exerted substantial power within the RUF compounds. These “wives” were predominantly girls. When the commander was away, they were in charge of the compound. They kept in communication with the commander and would select and send troops, spies, and support when needed. These girls and young women decided on a daily basis who in the compound would fight, provide reconnaissance, and raid villages for food and loot. Some counseled their captor husbands on war strategies, troop movements, and upcoming attacks (Mazurana and Carlson 2004, 14).

Narratives such as these were virtually absent from the final report. One could speculate that this is due in part to the stigma attached to being a female combatant (Coulter 2009), as well as the profoundly gender-blind DDR process that might have given the commission more insight into what varied roles women played while in captivity. Instead, the report focused almost entirely on the (sexual) abuses that women endured during the conflict. The TRC missed an opportunity here to engage in a more nuanced portrayal of women’s experiences that may have disrupted a familiar trope, which reproduced, in many ways, pre-war notions of what it meant to be a woman.

The other significant part of the report for women and girls is in the section where recommendations regarding women are made by the commission. The commission organized its recommendations into groupings based on the level of urgency it felt the recommendation needed. “Imperative Recommendations” were to be implemented immediately; “Work Towards” recommendations were without time constraints, but were expected to be implemented in a timely manner; and, finally “Seriously Consider” recommendations were those that the commission expected the government to think seriously about implementing but was not obliged

to do so (Witness to Truth: Volume II). The goal of the commissions' recommendations for women was to:

address structural inequality...through law reform, access to justice, the abolition of discriminatory customary law and practices, the building of institutional capacity and the establishment of educational programmes to counter attitudes and norms which lead to the oppression of women (Witness to Truth, Volume II, 169).

The imperative recommendations were primarily concrete measures such as legal reforms and institutional capacity-building. Those recommendations include repealing of Sections 26(4) (d) and (e) of the 1991 constitution, which allow for some laws to be exempt from the non-discrimination clause, as well as repealing any law that ties the behavior of the complainant to receive access to justice. The commission also recommended that legislation be passed that codifies domestic violence as a prosecutable offense, and that a minimum age of consent be written into law. Other recommendations include ensuring compulsory education for girls through the secondary school level, as well as policies that encourage gender parity in the political arena.

Witness to Truth was undoubtedly successful in its exploration of the pre-war systems of gender inequality, and in putting forth comprehensive recommendations to redress many of the violations that women faced during the war. In spite of these triumphs, the report did the women and girls of Sierra Leone a disservice through its singular portrayal of women as passive victims of sexual violence. I rate the narrative found in Witness to Truth as "partial," as it successfully engaged in a structural analysis, and took ample time to discuss specific human rights abuses women experienced during the war. A "complete" narrative was not realized, however, because the report reduced women's subjectivity during the conflict to violations that were tied closely to their bodies and sexuality. As I demonstrated earlier in the chapter through an analysis of

traditional Sierra Leonean folklore, discourse has material implications. We can see links between the social constructions of womanhood in the traditional Sierra Leonean folklore and the pre-truth commission law. If folktales have the power to influence the material reality of women's lives, it is also plausible that truth commission reports have that same power, particularly within Teresa Godwin Phelps' framework of truth commission reports as constitutive, state building documents (Phelps 2004). This brings us back to theory of carnivalization. A carnivalization of the narrative about women in Sierra Leone during the war would have included stories of women and girls as combatants, of their experiences of relative power within their status as "bush wives," and as peace activists in addition to stories of their experiences of sexual violence. In the next section I explore the impact that Witness to Truth had in this regard.

### **Post-Commission Reality: The More Things Change the More They Stay the Same**

In the more than ten years since the TRC finished its work, Sierra Leone has undergone massive changes, though questions still persist as to whether the work of the commission had a lasting impact on changing women's experiences post-conflict. I address these questions in the following section through the exploration of popular discourse in the form of a popular radio program, as well as women's current legal status, and analysis of NGO reports.

### ***Atunda Ayenda: A New Iteration of the Oral Tradition***

*Atunda Ayenda* (which translates to 'Lost and Found') is a popular Sierra Leonean radio soap opera that airs for fifteen minutes every day on twenty-seven different radio stations. Its subject matter surrounds current events in Sierra Leone, as well as prevalent social issues such as teen

pregnancy and HIV/AIDS. Airing since 2001, it is one of the most popular radio programs in Sierra Leone, and holds tremendous social influence. One listener told a researcher that the program “teaches us a new way to behave” (Leventhal 2010, 3). Radio is the most popular and trusted form of news and information sharing in Sierra Leone. According to an extensive study conducted by the BBC, over 80% of the population has access to a radio, and 75% of those with access report listening to the radio daily (BBC World Service Trust and Search for Common Ground 2007). Additionally, because *Atunda Ayenda* is structured through stories, it reflects a new iteration of the long history of oral literature in Sierra Leone. In the present day, norms and values through oral traditions are disseminated through the radio, while previously it had been through folk tales imparted through word of mouth.

*Atunda Ayenda* is produced by Talking Drum Studios in Freetown, Sierra Leone, a project of the Washington DC based NGO Search for Common Ground. Because episodes of *Atunda Ayenda* air in Krio, the following analysis comes from a special episode that the BBC World Service helped produce in English. However, according to secondary sources, the episode is representative of the show’s tone and subject matter as a whole. What follows is a close analysis of the English episode of *Atunda Ayenda*.

The episode in question focuses on the lead up to the truth commission among a group of men and a group of women. Dragon, a main character who fought in the war but did not participate in the disarmament process, spends much of the episode threatening those who might implicate him in their testimony to the commission. “If you dare mention my name, I will burn down this shop,” Dragon threatens one man. It is later revealed that Dragon is supplementing his post-war income by participating in the illegal sale of diamonds and other minerals from Sierra

Leone to surrounding countries. However, the most compelling and relevant part of the episode comes from the women.

When the episode transitions to the women's perspective, we open on two women chattering while hard at work in a tailor shop. The conversation quickly turns to the subject of the truth commission, and a friend's decision to testify before it:

Woman 1:<sup>11</sup> I am not happy with what she is about to do.

Jennifer: Who?

Woman 1: Makuta.

Jennifer: What is she planning to do?

Woman 1: Oh, come on (unintelligible), you know she is going to truth commission to talk about Dragon and what happened to her.

Jennifer: And what is the problem?

Woman 1: You? I wasn't expecting to hear you talk like that.

Jennifer: What's wrong with talking about rape?

Woman 1: That's not something you need to say in public. Think of her status in the community. Will she keep that (unintelligible) if she goes public?

Jennifer: I totally disagree. I think she must face the commission and break the silence. That will help her and maybe others too.

Woman 1: So you think exposing herself at the commission is going to help her?

Jennifer: Yes.

Woman 1: In what way, if I may ask?

Jennifer: The scar in her mind will mend.

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<sup>11</sup> One of the women who speaks with Makuta is not named outright, and is thus referred to henceforth as "Woman 1" in the transcription of the dialogue.

Woman 1: Don't talk anymore about this.

Jennifer: Anyway, I am thinking of going myself.

Woman 1: What?

This conversation is one of the highlights of the episode. In the span of only two minutes or so, the show targets one of the most important aspects of post-conflict life for many Sierra Leonean women—the shame that surrounds rape, and the cultural attitudes about silence on that topic. Jennifer fervently maintains that testifying before the commission about experiences of sexual violence is a brave and important act. Jennifer's argument also implies that there is nothing shameful about rape for those who have experienced it. She also challenges the assumption that rape and sexual violence are private experiences with no bearing on public life or social discourse.

Immediately after Jennifer informs Woman 1 that she is thinking of testifying before the commission, Makuta enters the shop, her tone jovial. Woman 1 takes this opportunity to discourage Makuta from testifying at the truth commission:

Woman 1: Makuta, please do me a favor.

Makuta: What favor?

Woman 1: Don't go to the truth commission.

Makuta: Why not?

Woman 1: Why do you want to bring yourself down like that? Not with everything you've achieved here.

Makuta: I think it will help. These things must come out. I want to talk about that day... that day... (fades out to re-enactment of the incident in question).

We listen as Dragon isolates Makuta in some kind of shelter and threaten to rape her, before he calls over two of his subordinates to take her into the jungle. They beat her before dragging her, presumably through her village that is being attacked, if the screams in the background are any indication, before we are brought back to the present.

Makuta: We shouldn't keep silent. We women need to speak up. Everybody needs to speak up. We don't want these things to happen again!

Jennifer: Exactly!

By saying that speaking up before the commission is an important step in preventing recurrence, Makuta implies that there is an expectation that the commission's work will have an impact on her life post-conflict, particularly in relation to non-recurrence. One could interpret "these things" as the war, generally, or more specifically as a reference to rape and other forms of violence against women.

Another important part of the episode is Makuta's testimony before the commission that is interspersed throughout the episode. At one point, with tears in her voice, she says:

I fought back. I thought they will kill me, but they call these boys by the name of Ali and (unintelligible). And they tied me up. They drag me away and took me into the jungle. And for the first week, I was raped every day by Dragon. He kept me there. And it was the same for a long time.

Beyond the significance of a character breaking the silence about what happened to her on a mainstream media platform, Makuta speaks about her rape in such a way that she maintains her agency by informing the commission that she "fought back." In *Witness to Truth*, women's personal stories of rape and sexual violence did not feature commentary about how they may have resisted. This is not to say that the only way to retain one's agency during an experience of

rape is to resist. Instead, it is to problematize the implicit narrative of the passive, cowering rape victim that is so prevalent throughout the report.

In addition to the strengths discussed above, the women in the episode are not presented relationally. They have names, and identities outside of their romantic or familial relations with others, a distinct change from the traditional Sierra Leonean folktales. But aspects of the episode that should be considered critically, including the fact that ex-combatants are portrayed as an exclusively male group; and that women are featured again primarily in their status as victims of sexual violence (though the decision to write such a storyline was presumably made because it was topical and reflected many disagreements between groups of women at the time).

*Atunda Ayenda* has continued to be a tool for change. Most recently, Search for Common Ground launched a two-year project “Expanding the Table: Empowering Women in Sierra Leone’s Industrializing Rural Districts” (Search for Common Ground 2016). *Atunda Ayenda* is integral to the project’s strategy, and “showcase[s] the good work of the WOECS [Women Owned Empowerment Centers], reaching thousands of women in all districts of Sierra Leone. The program collects the voices of successful women leaders and demonstrates their ability to thrive during the phase of economic recovery in the aftermath of the Ebola crisis” (Search for Common Ground 2016). *Atunda Ayenda* has also featured women in stories that have nothing to do with sexual violence, and instead as active participants in Sierra Leonean society. For example, as elections approached in 2007, the writers decided to model what that process might look like in its fictional world. Two characters ran for a seat, and “To show that the elections were open to anyone of any age, *Atunda Ayenda*’s candidates were a woman and a youngster” (Konings and James 2009, 257). Though social change has been slow, *Atunda Ayenda* resonates with Sierra Leoneans, especially young people. Nearly 80% of respondents to a study who listened to the

program said that they frequently discuss issues featured on the show with family and friends (Everett, Williams and Myers 2004). If, at most, *Atunda Ayenda* is promoting a dialogue, the fact that it writes its female characters into diverse, active roles is significant in that it demonstrates to the next generation that women and girls are more than traditional gender stereotypes.

Relevant depictions of women post-conflict are also found in speeches, especially those given by the current president of Sierra Leone, Dr. Ernest Bai Koroma. At the International Conference on Women in Leadership in May 2016 in Freetown, President Koroma praised the women of Sierra Leone for their strength and commitment to a better Sierra Leone, and vehemently denounced violence against women as “violence against the state” (President Koroma, 2016). In this speech, President Koroma portrays women as competent and resilient:

Sierra Leonean women are on the move, there is nothing stopping their progress because from traders to professors, from the market women to the doctors, nurses, civil servants and teachers; Sierra Leonean women are the mainstay of our resilience, by their strength of character and progressive actions, they have been inspirational in the transformation of this land that we love (President Koroma, 2016).

President Koroma’s woman is one that we would not have found in Witness to Truth, or in pre-commission discourses. She is as capable as her male counterpart; her identity is rooted in her strength, rather than her weakness. While the sentiment that “there is nothing stopping their [Sierra Leonean women’s] progress” is an overstatement, as systems of gender inequality still exist, to have the most powerful elected official in the country proclaim that women are the backbone of Sierra Leone is a tremendous step forward from pre-commission narratives of women’s place in society. In the following section, I explore whether President Koroma’s statement has translated into the everyday reality of women’s lives.

***Post-Commission Legal Status: Consistency and Enhanced Protections***

The legal status of women in Sierra Leone has improved significantly since the commission published its report, since the government has largely abided by its responsibilities to implement the recommendations of the commission per Section 17 of the TRC Act of 2000. The government of Sierra Leone heeded many, though not all, of these recommendations through the passage of five crucial pieces of legislation concerned with inheritance, marriage and divorce, sexual offenses, children's rights, and domestic violence.

The Devolution of Estates Act of 2007 legislates how the redistribution of a deceased person's property will be handled in the absence of a will, as well as the procedures to contest a will. What is significant about this piece of legislation is that it applies to all Sierra Leoneans, irrespective of their religion or ethnicity (and, presumably, the common law that might accompany that). It guarantees the right of women who are married under customary law to benefit from their late husband's estate, which had not been previously guaranteed.

The Registration of Customary Marriage and Divorce Act of 2009 legislates the registration of customary marriages and divorces. Most significantly, this piece of legislation stipulates that a marriage is only valid if both parties are 18 years of age or older. If one or both spouses are younger, then a parent or guardian must give their written consent. Sierra Leone had not legislated a minimum age of consent before this time, nor had it ever been mandated in reference to customary marriages. Additionally, the law stipulates that, when prompted by an application, the court can nullify a marriage on the grounds that either spouse is a minor.

The Sexual Offenses Act of 2012 was a groundbreaking piece of legislation that replaced many previous archaic laws, and legislated other matters that had not previously been addressed in a legal setting. Section 2 of the act defines consent as "an agreement by choice and with the

freedom and capacity to make that choice,” and goes on to enumerate conditions that preclude consent, such as age, intoxication, or a person’s mental capacity. The Act defines certain sexual offenses and lays out the punishments if a person is convicted on such charges. It also goes on to establish a minimum age of consent (18 years of age), which had never been explicitly legislated before. In addition to enumerating various sexual offenses, the bill also specifies what will be considered legitimate arguments on the part of the defendant. For example, Article (9) subsection (4) stipulates that “Marriage between the defendant and the other person shall be a defense in proceedings.” This suggests that if a person is accused of raping their spouse the pre-existence of their marriage is considered to be a legitimate defense of their actions. This falls in line with viewing women as property of their husbands, and also, at least de facto, suggests that marital rape is considered legal or at least justifiable.

The Child Rights Act of 2007 is a piece of legislation that ratifies the United Nation Convention on the Rights of the Child, two optional protocols (The Sale of Children, Child Prostitution and Child Pornography; and the Involvement of Children in Armed Conflict), and the African Charter on the Rights and Welfare of the Child. In the later years of the war, humanitarian workers in refugee and IDP camps were known to abuse their positions of power to force women and girls to have sex with them in exchange for food and other materials that refugees were supposedly guaranteed. They also facilitated the sale of young women and girls into prostitution for their own financial gain.

The Domestic Violence Act of 2007 was the first of its kind in Sierra Leone: domestic violence had not previously been legally defined as a crime separate from physical assault against another person. In fact, Witness to Truth noted that prior to the time of writing domestic violence was tolerated “at least up to a particular ‘point’” (Witness to Truth Volume III, 105),

and that under customary law, a husband had the right to “reasonably chastise his wife by physical force” (Smart 1983, 152). Under the Domestic Violence Act of 2007, the crime was finally defined as a prosecutable offense, punishable by up to two years in prison or a fine of 5 million leones.

Currently, there is a constitutional review process underway in Sierra Leone, a process spearheaded by the Constitutional Review Committee (CRC) of Sierra Leone, whose mandate is to review the 1991 constitution and put forth recommendations. In February 2016, the CRC published a report that highlighted recommendations from the committee that included new thematic areas that needed to be addressed in a new constitution, and proposed amendments (CRC 2016). The subject of gender and gender equality is mentioned frequently throughout the report. In the section devoted to the composition of local governance, the CRC recommends that “a council elected under this section shall consist of not less than 12 members and not less than 30% of whom shall be of one gender” (CRC 2016, 9). While the report does not explicitly say that the 30% of one gender must be women, the implication is clear. In addressing concerns of citizenship, the CRC recommends that a person can become a citizen of Sierra Leone by marriage to a woman (previously it had been through marriage to a man, a woman could not bequeath citizenship to her spouse), and that citizenship gained through marriage cannot be revoked, regardless of gender (CRC 2016).

The report also included direct amendments or wording changes to be made to the 1991 constitution, particularly to the non-discrimination clause. Of particular relevance is a section that the CRC has referred back to the public. The sections in question are Section 27(1), which prohibits laws that are discriminatory in and of themselves or in their effects, and subsection (4)(f) and (g), which allow for exceptions to that rule. The proposal of the CRC presented to the

public is that those clauses be stricken. The CRC noted that it had received numerous position papers on this subject from various women's organizations; however, it is telling that they did not outright recommend amendments be made, and instead left it up to the public to decide. The CRC report did not include recommendations for gender parity at a national level of governance.

Unfortunately, not all laws passed after the truth commission have been beneficial for women. Leading up to the re-opening of schools across the country following the Ebola crisis, the Sierra Leonean Ministry of Education officially banned "visibly pregnant" girls from attending school (Amnesty International 2015). Minister of Education Minkailuh Bah explained that the logic behind the ban was that "[pregnant girls] presence in the classroom would serve as a negative influence to other innocent girls" (Awoko 2015). Sylvester Meheux, the Chairman of the Council of Principals was reported as saying that "while educators agree that a girl's life is not over if she gets pregnant, she needs to be counseled because of her lack of personal control" (Radio France International 2015). This is problematic for various reasons, especially in light of statistics that cite high levels of sexual abuse against school age girls. The ban also perpetuates the idea that purity, a quality expected of young women and girls, is inextricable from virginity, something that again ties women's worth to their bodies and sexuality. Chernor Bah, a Sierra Leonean human rights activist, has expressed his befuddlement at the backwards logic: "I've had people talk about the dignity of the uniform. Somehow if a pregnant girl wears that uniform, you undignify the uniform, which is again one of those things I find baffling" (Radio France International 2015). Amnesty International has condemned the ban as a "violation to their right to education and a discriminatory measure which reinforces negative stereotypes about girls" (Amnesty International 2015). In spite of enhanced protections, harmful stereotypes continue to subordinate Sierra Leonean women and girls, something I explore further in the following

section. As the NGO reports demonstrate in the following section, though Sierra Leone's legal system ranks as having "strong" legislation, enforcement is weak.

### ***Post-Commission NGO Reports: Persistent Challenges***

In light of positive legal reforms, one might expect a visibly improved situation for Sierra Leonean women. In many ways, the legislation has had a positive impact, but in evaluating reports and publications by both international and local NGOs, it is clear that women in Sierra Leone still face violence and barriers to equality. Most worrying has been an uptick in rates of sexual abuse against children, especially girls. The Rainbo Initiative, a project of the International Rescue Committee, which provides free and confidential medical and psychological services to women and girls who have been sexually abused, posted on its Facebook page that, in 2015, of the 3,743 women and girls they saw across their three centers in Freetown, Kenema, and Kono, 1,346 (about 35%) were girls between the ages of 11 and 15 (Rainbo Initiative 2016). In September 2016, World Vision reported that, according to police reports, cases of sexual abuse against children have increased by 69% in the Bo district since the outbreak of Ebola in 2013 (World Vision 2016). Rates of early marriage remain high—according to UNICEF, between 2008 and 2014, 13% of married Sierra Leonean women had been married before the age of fifteen, and 39% by the age of 18 (UNICEF 2016). In 2016, the United Nations ranked Sierra Leone 179 out of 188 countries in terms of gender equality (UNDP 2016).

Another theme that has been raised is the participation of women in the political system. One of the TRCs imperative recommendations was that all political parties be required to guarantee that at least 30% of their candidates for public elections be women, and that the government of Sierra Leone work towards gender parity in parliament and more local systems of

governance in the next ten years (Witness to Truth: Volume II). Now, more than ten years after the report was published, there is still yet to be a legislated gender quota, and in 2016, women only held 12% of seats in Sierra Leone's Parliament (The World Bank 2016). As such, I rate the level of political participation by women in Sierra Leone as "weak." A 2012 short documentary, aptly named *30%: Women and Politics in Sierra Leone*, chronicles the struggles of several women who have been campaigning for a 30% gender quota in Parliament for ten years. Interviews with three women involved in politics reveals the resistance that women in Sierra Leone still face when it comes to integrating them into the political arena. Salamatu Kamara ran for local elections in 2008, but faced threats and obstacles every step of the way. She told filmmakers that she received a letter from a person threatening to kidnap her until elections had passed, and that a member of parliament had even pulled a gun on her. In the end, none of the violent threats came to fruition, but ballots were tampered with, and her name was replaced with that of a male colleague's, who then won. At the time of filming, she was preparing to run again. As of today, there is a gender quota at the sub-national level, but not yet at the national level (Quota Project 2016). In the same film, Barbara Banguara, who is the national coordinator for the Women's Solidarity Support Network, emphasized that part of the problem is a widely held belief that women do not belong in the political arena. "We need to demystify politics," she told filmmakers, "Politics is seen as being dirty and violent, and I think it is deliberate, to keep us [women] out. So we need to get in there and make it clean, make it safer, for everybody" (*30%: Women and Politics in Sierra Leone*). This idea that politics is dirty, so women should not participate, is a reflection of pre-war notions of female purity that were expressly tied to the idea of virginity. It seems that tangible change is slow, and while the road to equality is paved with good intentions, more work needs to be done.

## Conclusion

In retrospect, the Sierra Leone TRC has had mixed results in terms of its impact on women's lives post-conflict. Direct impact is most obviously seen in terms of legal reforms that were a result of recommendations put forth in the final report by the commission. However, these laws were passed because the TRC's mandate included a clause that stipulated that the commission had the power to make legally binding recommendations, meaning that the government of Sierra Leone had to implement recommendations and pass various pieces of legislation as the commission saw fit. This was a unique feature of the commission, and one that other commissions should strive to include in their mandates, if politically feasible. When considering dominant cultural ideas about women and their role in society, it seems that many of the same themes persist. Women continue to be excluded from greater participation in politics, and alarming rates of sexual violence are still a reality. What is clear, however, is that Witness to Truth perpetuated gender stereotypes while recounting abuses suffered by women and girls during the armed conflict. Women's experience of conflict is automatically equated with sexual violence, a crime the report frequently associates with vulnerability. In considering the commission's strengths and weaknesses, its singular portrayal of women as victims is a shortcoming. Though the TRC made a concerted effort to ensure that women were able to participate in the process, it did not translate those efforts into investigating the diversity of experiences that women had during the war that went beyond sexual violence. For Chiseche Salome Mibenge, this was not an accident, and instead "serves to legitimize a post conflict justice response" (Mibenge 2013, 120). In other words, the over-emphasis on rape and sexual violence legitimized the SCSL's prosecutorial strategy, one that placed gender-based violence at the center of its efforts. There is no question that it was important to address the alarming rates of

sexual violence that took place during the war, but it becomes problematic when that focus becomes an assumed narrative. This brings us back to the proverb that Coulter encountered multiple times while researching her ethnography of female ex-combatants: “There is no such thing as an unmarried woman.” In *Witness to Truth*, it seems, there is no such thing as a woman who was not raped, whose life during the war was defined by her gender. To wonder where all the unmarried women are is to wonder where the nuanced portrayals of women’s experience during the war are in the final report of the TRC. Those narratives are more than words on a page. Here, I invoke Phelps, who conceives of truth commission reports as state building documents that are engaged in the work of (re)building the master narrative of the state. In the absence of more diverse stories, a master narrative of essentialized victimhood emerges. The Sierra Leone TRC missed an opportunity to build a master narrative of strength, and allow room for the construction of a female experience of autonomy and power.

In the following chapter, I investigate whether this experience was unique to Sierra Leone, or if it is a trend reflected across cases. The replication of findings would have significant implications for the field, particularly in terms of policy considerations for future truth commissions. I intentionally selected five cases from around the world whose operational approach to gender varied, and found that post-conflict outcomes in terms of women’s legal status and levels of political participation had less to do with operational approach and more to do with the “completeness” of a commission’s narrative about women.

## Chapter 4

### Searching for Unmarried Women Around the World

The following chapter builds on my findings from Sierra Leone through a structured, focused comparison of five cases from around the world—Liberia, Ghana, Peru, East Timor, and Guatemala. I intentionally selected these cases because they represent the three ways in which truth commissions have addressed gender: through mainstreaming, a gender unit, or a combination of the two. In light of my findings from Sierra Leone, I aim to determine whether Sierra Leone's experience was exceptional or commonplace. Do the narratives about women found in other truth commission's reports have a similar influence post-conflict? To answer this question, and draw larger conclusions, I evaluate all cases on the same basis: how "complete" the narratives within the truth commission reports are about women (my independent variable); and then on two dependent variables: legal and political outcomes for women. For each case, I provide a brief historical overview of the conflict after which point I discuss the country's truth commission and its approach to gender. I then analyze the final report of each commission and evaluate the completeness of its narrative, and then evaluate its post-commission outcomes in terms of women's legal status and political participation.

#### **Liberia**

Liberia, which borders Sierra Leone to the Southeast, was embroiled in a civil war between 1989 and 2003 (though some scholars divide the war into two distinct phases, the first from 1989-1997, and the second from 1999-2003) (Hegre et al. 2009). Founded by freed slaves from the

United States and the West Indies in 1816, Liberia gained independence in 1847, and while relative political stability followed for a long time, ethnic cleavages were salient (Tripp 2015). Until the 1980s, positions of power were held, for the most part, by Americo-Liberians at the expense of indigenous African-Liberians (Harris 2011). In 1980, Samuel Doe and his People's Redemption Council (PRC) launched a successful coup against then President William R. Tolbert, and installed a cabinet in its place that was dominated by African-Liberians, particularly those of Doe's own Krahn ethnicity (Harris 2011). Ethnic imbalances increased as the Doe government continued to favor those of the Krahn and Mandingo ethnicities. The Doe government was corrupt, and the economy relied heavily on foreign aid, particularly from the United States (Harris 2011).

In 1985, Doe and his new party, the National Democratic Party of Liberia (NDPL) won (rigged) elections by a landslide, causing deeper frustrations throughout the country. Almost immediately afterwards, Thomas Quiwokpa of the Gio ethnic group launched a failed coup against Doe, who subsequently purged the military of all Gio and Mano members, and launched attacks on them, "fostering a charged ethnic atmosphere that set the scene for the war" (Harris 2011, 66). Charles Taylor (who would eventually support the RUF in its insurgency) first held a position in the Doe government before he was accused of embezzling L\$900,000 and went into exile in the early 1980s (Tripp 2015). After that, he joined Foday Sankoh and others in Libya where he received insurgency training (Abdullah 2004). On Christmas Eve 1989, Taylor and the National Patriotic Front of Liberia (NPFL) invaded Liberia from Côte d'Ivoire and launched an attack in an attempt to overthrow Samuel Doe's government, and, with that, the first phase of the Liberian Civil War began. The government responded to the NPFL insurgency by employing a scorched earth policy against the Gio and Mano ethnic groups, a strategy that the NPFL would

retaliate against by attacking the Krahn and Mandingo ethnic groups (Duyvesteyn 2005). While corollaries have been drawn between the RUF and the NPFL, Taylor and his rebel group had much more coherent political goals than did the RUF (Harris 2011).

The Economic Community of West African States Monitoring Group (ECOMOG) sent troops to Liberia in 1990 in an attempt to stop the war, but the conflict raged on. A breakaway faction of the NPFL, the Independent National Patriotic Front of Liberia (INPFL), assassinated President Doe in September 1990, following which ECOWAS stepped in to help install an interim government called the Interim Government of National Unity (IGNU). Taylor refused to accept the legitimacy of the IGNU and continued his campaign of terror (Tripp 2015). As the war continued, new rebel groups emerged, making the conflict more difficult to contain. ECOWAS sponsored over forty-six peace talks between 1989 and 1997, and though more than a dozen peace agreements were signed, Taylor and the NPFL continued to be spoilers. Finally, in 1996, Taylor signed the Abuja Peace Accords, which set up a five-person transitional government, and laid the framework for elections. In 1997, Taylor and his National Patriotic Party won the election, gaining a staggering 75.3 percent of the popular vote against Ellen Johnson Sirleaf's Unity Party. Elections were acknowledged as flawed, as "Taylor won much of the popular vote because many feared he would return the country to war if he did not win" (Tripp 2015, 84), but ultimately held up. Unfortunately, the war began again in 1999 when two new rebel groups, the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL), launched attacks on the capital in an attempt to overthrow Taylor's government. The war intensified, with the death toll in the capital climbing to 200 casualties every day by the wars end (Ouellet 2013). In June 2003, the Special Court for Sierra Leone (SCSL) issued a warrant for Charles Taylor's arrest, derailing yet another round of

peace talks (Tripp 2015). After the collapse of these talks, negotiators came under pressure from women peace activists, and eventually the Comprehensive Peace Agreement (CPA) was signed in August 2003. The war devastated all sectors of Liberian society, and the United Nations estimates that at least 250,000 people were killed, 500,000 forced into exile, and that half of all Liberians were forced to become internally displaced persons (Tripp 2015).

Sexual- and gender-based violence was rampant throughout the war. Some estimate that during the war 75% of Liberian women were victims of sexual violence (UNFPA 2006), though that figure has been highly contested as an over-estimation (Cohen and Green 2012). Despite controversy over statistics, it is indisputable that rape and sexual violence were used as a weapon of war during the conflict. This included violations such as rape, sexual torture, forced marriage, and the disembowelment of pregnant women. It is also important to note that men and boys were also subjected to sexual violence and torture throughout the war. One study of former combatants found that 32.6% of male respondents had experienced sexual violence during the conflict (Johnson et al. 2008). Social norms that might have deterred perpetrators from committing such acts of violence during peacetime disintegrated, and “The war led to breakdown in the social fibre and cohesion of communities” (Liebling-Kalifan et al. 2013, 7). In the wake of a fourteen-year civil war, Liberia implemented several transitional justice mechanisms, including a truth commission.

### ***Liberia Truth and Reconciliation Commission***

Initially provided for as part of the CPA in 2003, the Liberian Truth and Reconciliation Commission was established in May 2005 when the Liberian Transitional Legislative Assembly passed the Truth and Reconciliation Commission Act. The Act mandated that the commission

investigate “gross human rights violations and violations of international humanitarian law,”<sup>12</sup> as well as determine “whether these were isolated incidents or part of a systematic pattern; establishing the antecedents, circumstances factors and context of such violations and abuses and their motives as well as their impact on victims”<sup>13</sup> between January 1979 and October 14, 2003. In several places the Act stipulated that the TRC was to address the experiences of women and be sensitive to issues such as sexual- and gender- based violence. For example, the Act directed the commission to “Adopt[ing] specific mechanisms and procedures to address the experiences of women, children, and vulnerable groups, paying particular attention to gender-based violations,”<sup>14</sup> and included “giving special attention to the issues of sexual and gender-based violence,”<sup>15</sup> as a goal of the commission. Under the direction of nine commissioners, four of whom were women, the commission began its work in February 2006 and fulfilled its mandate in June 2009.

The Liberian TRC officially took the first approach to gender, making gender mainstreaming its official policy, “ensuring therefore that women are fully represented and staffed at all levels of the work of the TRC and that special mechanisms are employed to handle women and children victims and perpetrators, not only to protect their dignity and safety but also to avoid re-traumatization.”<sup>16</sup> In practice, however, the Liberian TRC abided by the second approach to gender by establishing a committee that was tasked specifically with ensuring that women’s experiences of war were included and addressed by the commission (Pillay 2009). The Gender Committee did not make efforts to *mainstream* gender sensitivity protocols into other

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<sup>12</sup> TRC Act of 2005, Article 4, Section 4a.

<sup>13</sup> Ibid.

<sup>14</sup> TRC Act of 2005, Article 4, Section 4e.

<sup>15</sup> TRC Act of 2005, Article 7, Section 26f.

<sup>16</sup> TRC Act of 2005, Article 6, Article 24.

aspects of the commission, and instead focused on outreach projects to encourage women's participation (Pillay 2009). Without the benefit of using gender as a tool of analysis, the commission missed an opportunity to investigate "the reasons why women were targeted for particular violations and how notions of masculinity and femininity had shaped the way that women and men behaved during the conflict" (Pillay 2009, 95). This was the commission's first, and perhaps most glaring misstep. By failing to interrogate gender as a category of analysis, and by interpreting what it meant to include gender as the simple inclusion of women, the TRC was unable to fully understand women's experiences of war. The commission was able to involve an impressive number of women in the statement-taking and testimony giving process, but failed to investigate what those experiences meant. This failure went beyond shortcomings in the analysis of the conflict, and "imposed a tendency to focus on victimhood, especially sexual and physical violations" (Pillay 2009, 97).

### ***Completeness of the Truth Commission Narrative***

The commission fell into the familiar trap of conflating gender with the category of women, and thus conceived of sexual violence as an exclusively female experience. James West problematizes the way in which the final report characterizes the phenomena of bush wives and sexual slavery as an exclusively female experience. He notes that the commission defined sexual slavery as the "non-consensual keeping of a woman as a sexual slave and/or domestic servant...also known as bush wife," which "ignores the possibility of a man being kept in sexual slavery... [despite] a small number of statements given to the TRC testify to male victims in this category of abuse" (West 2013, 116). This is problematic for two reasons: first, it perpetuates the idea that women's wartime identity is that of being a victim of sexual violence; and second, it

erases some men's experiences of abuse, and misses the opportunity to subvert the traditional notion of wartime sexual violence as only a women's issue. The portrayal of women solely as victims of sexual violence, or their experience as combatants as synonymous with sexual slavery, becomes even more troubling considering that many women participated in rebel movements as combatants. In fact, the commission estimated that more women were perpetrators during the Liberian civil war than any other similar conflict (West 2013). The report also glossed over much of the rich history of women's robust role in peacemaking, often through acts that subverted dominant gender roles in Liberian society, most notably by members of the Women of Liberia Mass Action for Peace (Tripp 2015). They engaged in acts of civil disobedience designed to use their social standing to push for peace, for instance by organizing a sex strike "until they saw God's face for peace" (Tripp 2015, 97). This is highly significant when one considers that rape was frequently used as a weapon of war over the course of the conflict, by refusing sex until peace was realized, these women had reclaimed their bodily autonomy that had been violated during the conflict (either personally or symbolically).

The narrative in the final report of the Liberian TRC earns a "partial" rating—while it did include a separate section devoted to discussing women's experiences during the conflict, it only briefly, in two pages, engaged in a structural analysis, and reduced women's experiences of war to their bodies and sexuality.

### ***Women's Legal Status Post-Commission***

Liberia's legal system earns a "medium laws, weak enforcement" rating in terms of women's legal status post-commission. The Rape Amendment Act of 2006 expanded the penal codes definition of rape, and "is written broadly enough to encompass sexual acts against men and

boys” (Thuy Seelinger and Freccero 2015, 25). The law also established the minimum age of consent as 18 years of age, though the minimum age of marriage in Liberia is 16 (The Rape Amendment Act of 2006). Unfortunately, rates of sexual violence in the country remain troublingly high—so high, in fact, that the United Nations Special Representative to the Secretary General for Sexual Violence in Conflict has named Liberia as one of its eight “priority” countries.<sup>17</sup> A report co-authored by the UNMIL and the Office of the High Commissioner for Human Rights consider “legal and institutional weaknesses, social mores and attitudes, corruption, lack of will or diligence on the part of government officials, and legal constraints” to be the factors responsible for such widespread impunity (UNMIL and UNHCHR 2016, 7). The report also acknowledges that the culture of impunity likely stems from the fact that despite the staggering rates of sexual violence during the conflict, no individual perpetrator has been held accountable for crimes committed during the conflict, sexual or otherwise (UNMIL and UNHCHR 2016).

Domestic violence is currently outlawed in Liberia through the National Plan of Action for the Prevention and Management of Gender-Based Violence (2006-2011). In July 2016, the Liberian parliament passed a law that explicitly criminalized domestic violence, though it has yet to go into effect. The law itself has received harsh criticism by some activists for removing a ban on female genital mutilation (FGM)<sup>18</sup> from the bill (Reuters 2016). Liberia does not currently have a law against femicide or hate crimes against women because of their gender.

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<sup>17</sup> The other priority countries are: Bosnia and Herzegovina; the Central African Republic; Colombia; Cote d’Ivoire; the Democratic Republic of Congo; South Sudan and Sudan.

<sup>18</sup> According to the World Health Organization, FGM “includes procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons.” FGM is a controversial cultural practice, and while it has adverse health outcomes and has been condemned as a violation of human rights, I refrain from discussing the practice in depth in this thesis to avoid demonizing another culture. <http://www.who.int/mediacentre/factsheets/fs241/en/>.

### *Women's Political Participation Post-Commission*

Though Liberia was the first African country to elect a female head of state in 2006,<sup>19</sup> that milestone is not representative of high levels of participation by women in the rest of Liberian politics. As of today, there is no legislated gender quota at either the national or sub-national level, and women only occupy 11% (8 of 73) of the seats in the House of Representatives (The World Bank 2016). Liberia earns a “weak” rating in terms of women’s political participation after the truth commission.

### **Ghana**

After gaining independence from Britain in 1957, the West African country of Ghana underwent four military coups and regimes (Valji 2006). Former President J.J. Rawlings was responsible for two of those coups, both of which were the most serious periods of human rights violations and repression (Hayner 2011). Over the course of the twentieth century, a disregard for the rule of law and corruption became entrenched in the political culture. Torture, disappearances, abductions, mass arrests, killings, and suppression of free speech and expression were part of the everyday reality (Alidu 2010). Women also suffered greatly during this period: under Rawlings’ administrations, there were several instances during which market women were publicly flogged and humiliated for the crime of selling goods at a higher price than those mandated by the government (Alidu 2010). Economic crises of the 1980s had a marginalizing effect on women’s participation in the economy, and made women and girls more vulnerable to violence and abuse as they migrated across the country in search of economic opportunity (Preston and Wong 2004).

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<sup>19</sup> Johnson Sirleaf is a controversial figure for her early involvement with Charles Taylor and the NPFL.

In 2001, newly elected President John Agyekum Kufour (the first democratically elected president since Rawlings left office) made addressing the human rights violations of the past an immediate priority, and quickly established a truth commission (Hayner 2011).

### ***National Reconciliation Commission of Ghana***

The National Reconciliation Commission (NRC) operated from January 14, 2002, until October 14, 2004, and was mandated to investigate all abuses of human rights committed between March 1957 and January 1993 (in particular during the periods of unconstitutional governance) (Hayner 2011). In this way, the NRC did not differentiate between civilian and military rule, thereby not differentiating between abuses committed during different periods (Hayner 2011). A large portion of the population was skeptical of the commission, and many accused the NRC of bias against those participants who were Rawlings' supporters (Valji 2006). In spite of distrust by some, the NRC gathered a significant number of statements (some of them by perpetrators) with regard to the smaller number of human rights violations that they were seeking to document (Hayner 2011).

### ***Completeness of Truth Commission Narrative***

The NRC took the first approach to gender, which is to adopt gender as a mainstreamed category of analysis across the commission's work, but not to have a special unit to work on these issues. The commission did not hold public hearings specifically for women to testify about their experiences, and there was no specific focus on gender-based violations in the final report (Scanlon and Muddell 2009). Women submitted less than 20% of all statements to the commission, and in the end, "gender-based violence [was rendered] largely invisible within the

process” (Scanlon and Muddell 2009, 12). The report itself has yet to be disseminated widely (Odartey-Wellington and Alhassan 2016), but, based on secondary sources (Scanlon and Muddell 2009; Sharp 2014), the NRC’s final report earns an “absent” rating, as women’s experiences of war were overlooked by the commission itself, and seemingly subsumed into a general discussion and analysis of generic, non-gendered violations. For example, the report focused on the links between political violence and economic violence throughout Ghana’s history, but did not address the specific implications that those economic injustices had for women (Sharp 2014).

### ***Women’s Legal Status Post-Commission***

Ghana’s legal system earns the rating of “medium legislation, weak enforcement” in terms of women’s legal status post-commission. In 2007, marital rape was included as part of the revision of the Criminal Offenses Act of 1960 that also criminalizes rape (Adodo-Samani 2017). The criminalization of marital rape is not a part of the Domestic Violence Act of 2007, which outlaws domestic violence and establishes a framework for the establishment of a Victims of Domestic Violence Management Board (Domestic Violence Act of 2007). The minimum age of consent in Ghana is 16, and 18 is the minimum age to enter into a marriage. Ghana does not have a law that specifically deals with femicide and gender-based hate crimes.

In general, cases of sexual abuse and domestic violence are not taken seriously within the court system. According to a 2016 report, only 4.4% of perpetrators of sexual-and gender-based violence are prosecuted (Peace FM Online 2016). Domestic violence is widely considered to be a private family matter, and women have reported being pressured by police to resolve the matter outside of the judicial system (Cantalupo et al. 2006).

### ***Women's Political Participation Post-Commission***

As of today, there are no legislated gender quotas in Ghana, and women occupy only 11% (30 of 275) seats in parliament (World Bank 2016). Ghana earns a “weak” rating with regards to women’s political participation after the truth commission. This is not to say, however, that Ghanaian women are not attempting to break into the political sphere—since 1996, particularly between 2000 and 2012, there were a significant amount of female candidates who contested parliamentary seats (Ocran 2014).

### **Peru**

The South American nation of Peru endured a decades long civil war between the armed groups the Shining Path, the Túpac Amaru Revolutionary Movement (MRTA), and government military forces from 1980 until November 2000 (Hayner 2011). The conflict began when the Shining Path, a group whose goals were “aimed at destroying the existing social, political and economic structures in order to build a new society,” (Boesten 2008, 207) took up arms in the Andean highlands. Because the Andes and its predominantly indigenous population have been historically isolated, and thus marginalized from the central state apparatus, it took the state nearly two years to respond to the insurgency (Chauca 2016). In December 1982, the government placed several areas in the Andes under a state of emergency, which gave the military near-total control over the area (Dal Secco 2008). The military’s counterinsurgency strategy treated every peasant in the region as a potential terrorist, which further alienated the local population.

One of the most brutal conflicts in Latin America, the war was characterized by extrajudicial killings, disappearances, and torture, among other serious violations of human

rights (Hayner 2011). Peru's indigenous population suffered most severely, as the "Quechua-speaking rural population of Ayacucho and surroundings was perceived to be 'inferior'" (Boesten 2008, 208). The truth commission would eventually find that of the nearly 70,000 victims, 85% were indigenous, from rural areas, had little to no formal education, and spoke an indigenous language as their first language (Boesten 2008).

Sexual- and gender-based violence were widespread throughout the war. Over 80% of all cases of sexual violence are thought to have been perpetrated against indigenous Quechua women (Suarez 2012). In contrast with other conflicts discussed here, sexual violence in Peru during the war was decidedly more selective, meaning: "they [women] would also be targeted for sexual violence because of their relationship to others who were wanted by the state" (Leiby 2009, 463). Rape and other sexual violations were also used in interrogations as torture techniques (Leiby 2009). In addition to traditional sexual violations, women's reproductive rights were violated through abuses such as forced sterilization, forced pregnancy, and forced abortions (Dal Secco 2008). In the wake of twenty-years of devastating war, Peru's foray into the field of transitional justice included a truth commission.

### ***Truth and Reconciliation Commission of Peru***

The Truth and Reconciliation Commission of Peru (Comisión de la Verdad y Reconciliación, CVR in Spanish) began its work in July 2001, and completed its mandate and released its final report on August 28, 2003. Priscilla Hayner considers the CVR to be one of the five strongest truth commissions to date, particularly because of the sheer number of statements that commission staff were able to collect, even in the rural highland communities (Hayner 2011). The commission's mandate directed it to investigate human rights violations on the part of the

state, the Shining Path, and the MRTA. The CVR was the first truth commission in Latin America to hold public hearings, which proved to be powerful for those who lived in Lima, the capital city, an area of the country that had been sheltered from much of the violence (Hayner 2011).

The CVR took the second approach to gender by establishing a single gender unit that was responsible for ensuring that women's experiences of war were addressed and their needs met. Unlike the Liberian commission, which also took this approach, gender-sensitive protocols informed the commission's work outside of that unit, particularly through staff trainings and statement taking procedures (Valji 2006). More than half of the 18,123 statements given to the CVR were from women, though only 538 gave evidence about instances of sexual violence, a number which is thought to be much lower than the likely number of victims of rape and sexual violence (Dal Secco 2008). Alessandra Dal Secco posits that this signals "that the goal of engendering the truth telling process may be a much more complex enterprise than merely getting women to testify" (Dal Secco 2008, 73). A shortcoming of the commission and its gender unit was that because of the limitations of the coding system, sexual-and gender-based crimes often lost their nuances when recorded, and were often generally categorized as rape (Dal Secco 2008). This meant that the "structural and socio-cultural roots of extraordinary violations of reproductive freedom on Quechua women, as well as their implications, remained completely unexplored" (Dal Secco 2008, 74). Accordingly, the CVR's final report portrayed women's experience of conflict as defined by rape, without sufficient attention to the various other ways in which women were victimized.

### ***Completeness of Truth Commission Narrative***

The narrative found in the final report of the CVR earns a “partial” rating. The report included two chapters that were dedicated to women’s experiences of war: “Violence and Gender Inequality”; and “Sexual Violence Against Women”. While “Violence and Gender Inequality” includes a structural analysis of pre-war systems of inequality, much of the analysis about the role that racism played in the conflict was addressed in a separate chapter, which “disaggregates two key components necessary for understanding what had happened to women during the conflict—gender and race/ethnicity” (Bueno-Hansen 2010, 69). The failure to properly address the intersections of gender and race/ethnicity is most demonstrated through the report’s failure to record and discuss reproductive crimes against indigenous women (Amnesty International 2004). Between 1996 and 2000, the Peruvian government under President Alberto Fujimori forcibly sterilized between 200,000 and 300,000 women, virtually all of whom were indigenous Quecha women living in poverty (BBC 2002; Van Eerten 2016). The practice was part of Peru’s Family Planning Program, which gave poor indigenous women biased medical information, or pressured them into consenting to sterilization procedures by threatening jail time or the withdrawal of State food aid (Amnesty International 2004). Despite a brief section that acknowledges the variety of roles women played during the conflict (Bueno-Hansen 2010), the over-arching narrative of the final report reduces women’s experiences of war to rape and sexual violence, and, in doing so, renders violations of women’s reproductive rights invisible.

### ***Women’s Legal Status Post-Commission***

Peru’s legal system earns a rating of “strong legislation, weak enforcement,” in terms of women’s legal status post-commission. Peru has legislation that outlaws or addresses each of the

five criteria that constitute a “Strong” rating (including a 2013 law that codifies and criminalizes femicide,<sup>20</sup>) but impunity for rape, domestic violence, and femicide are the norm. With specific regard to domestic violence, Jelke Boesten argues: “the legal and policy framework [in Peru] does not focus on women’s rights, but on a male-headed family unit. The emphasis on the family unit, instead of women’s security, greatly impedes the necessary change in attitudes toward women” (Boesten 2012, 364). Another factor in the persistence of impunity is that state officials have not been held accountable for systematic violence against women during the war, particularly through forced sterilization campaigns (Collins 2016).

### ***Women’s Political Participation Post-Commission***

Peru has had legislated gender quotas at both the national and sub-national level since 1997, before the war ended and the truth commission began its work. At both the national there is a legislated candidate quota that stipulates that candidate lists for seats in Congress or municipal regional councils must include at least 30% men or women candidates. If the list does not meet that requirement, it will not be accepted. The law is much the same at the sub-national level, except that the law explicitly states that 30% of the candidates on the candidate list for municipal and regional councils must be women (Quota Project 2016). As of today, at the national level, women occupy 28% (34 of 130) seats in Congress. Peru earns a “strong quota, partial implementation” rating.

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<sup>20</sup> Congreso de la República. Law no. 30.068 of 2013.

## East Timor

East Timor (also known as Timor-Leste) is a sovereign state that comprises approximately half of the Island of Timor in Southeast Asia. Originally a Portuguese colony, the people of East Timor endured twenty-four years of a violent occupation by Indonesia between 1975 and 1999 that some scholars argue constituted genocide against the East Timorese.<sup>21</sup> Though estimates vary, general consensus holds that by 1999, approximately 200,000 East Timorese had died as a result of the Indonesian occupation—either by direct killing or starvation and disease (Taylor 1999).

In 1974, Indonesia had gained control over the western part of the Island of Timor, and when the Portuguese dictatorship collapsed, Indonesia jumped at the chance to integrate the eastern part of the island into its control (Kammen 2015). At the time, there were three major political parties in East Timor: the Timorese Democratic Union (UDT); the Revolutionary Front for an Independent East Timor (Fretilin); and the Timorese Popular Democratic Association (Apodeti) (Kammen 2015). The UDT and Fretilin supported independence, and Apodeti supported integration with Indonesia. The occupation began gradually, as the Indonesian military worked strategically to destabilize East Timor by conducting small military operations, spreading propaganda that preyed on Cold War Communist fears, and eventually infiltrating the UDT party (Thaler 2012). By mid-1974, Portuguese troops had completely withdrawn from East Timor, leaving the popular Fretilin to take control of the government. The newly infiltrated UDT attempted a coup, but failed, causing the Indonesian military to decide to take more drastic

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<sup>21</sup> For example, scholar Ben Saul (2001) contends that Indonesia's counterinsurgency tactics do not fulfill the criteria set by the UN Convention on the Prevention and Punishment of the Crime of Genocide, as the East Timorese people were not considered a sovereign group prior to 1999, and therefore do not constitute a national group. However, Kai Thaler (2012) argues that the majority of East Timorese people supported the Fretilin, an act of self-determination that makes them a national group.

measures. On December 7, 1975, Indonesia succeeded in launching a full-scale occupation of East Timor, and almost immediately began to employ counterinsurgency tactics that targeted East Timorese civilians (Thaler 2012).

Indonesia's counterinsurgency against the Fretilin was ethnically charged, as "Indonesia's rhetoric promoted the biological extermination of the Timorese" (Thaler 2012, 212). Between 1977 and 1979, Indonesia's counterinsurgency tactics adopted a policy of "encirclement and annihilation" of the Fretilin, who had retreated to more remote, rural areas of the island (Thaler 2012). No one was safe from violence, and the Indonesian military began to target means of food production so as to deliberately starve the civilian population if they were not killed by overt military operations (Kammen 2015). In 1981, the Indonesian military modified its tactics in an attempt to "Timorize" the war by using the civilian population as human shields to manipulate the Fretilin into surrendering, while also making the conflict appear to be a case of internal conflict between the Timorese people (Robinson 2001). Though violence fluctuated in intensity throughout the 1980s, the brutality did not, illustrated by one event in August 1983 during which "the village of Malim Luro was looted by Indonesian troops who then bound over 60 men, women, and children, forced them to lie on the ground, and crushed them with a bulldozer" (Thaler 2012, 213). It is estimated that over the course of the Indonesian occupation, approximately half of all East Timorese had been tortured physically, sexually, or psychologically (Modvig et al. 2000).

In the face of a severe economic crisis in 1998, then President of Indonesia Suharto was forced to resign. His successor, B.J. Habibie, was, at least superficially, more open to peace, and authorized a referendum on East Timorese Independence (Thaler 2012). Despite efforts by the Indonesian military to sabotage the effort, the referendum saw an incredible voter turnout, and

the overwhelming majority voted for an independent East Timor. Unfortunately, this unexpected turn of events provoked retaliation by the Indonesian military, which embarked on a “campaign of total destruction” (Thaler 2012, 214), and it took UN interference to remove Indonesian troops from East Timor in 1999 to end the occupation—and the unthinkable violence—once and for all.

Rape, sexual, and gender based violence were a central part of the Indonesian occupation and counterinsurgency tactics, used as a “method of emphasizing Indonesia’s dominance of East Timor and a way to destroy Timorese communities” (Thaler 2012, 214). Many East-Timorese women were forced into coercive sexual relationships with Indonesian military troops, either through capture or more formal “marriage proposals” that were understood to not be questions at all (Kent 2014). Oftentimes, women who were targeted by the Indonesian military with regard to sexual relationships had ties to the resistance, meaning that “sexual violence was used as a specific strategy by the Indonesian armed forces to weaken and destroy those opposed to the Indonesian occupation” (Kent 2014, 298). In addition to sexual violations, women were subjected to reproductive violence as Indonesia “embarked on a program of forced population control,” which included forced surgical sterilization, injections of the contraceptive Depo Provera, and infanticide (Thaler 2012, 214). Men and boys also suffered sexual violations at the hands of Indonesian troops, though the phenomenon was underrepresented in post-conflict discussions of sexual violence during the occupation.

### ***Commission for Truth, Reconciliation and Friendship***

In the wake of decades of imperialist violence, the government of East Timor established the Commission for Truth, Reconciliation and Friendship (Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste, or CAVR in Portuguese) through the United Nations Transitional

Administration in East Timor (UNTAET) in 2001. The CAVR began its work on February 7, 2002, and was charged with investigating human rights violations committed between 1974 and 1999. The CAVR completed its mandate and concluded operations on October 31, 2005. The commission was the first of its kind in Asia, in that it modeled its protocols after the Latin American truth commissions of prior years (Roosa 2008). The CAVR was unique in that because it sought to address human rights violations perpetrated by a since vacated occupying power, the commission was able to operate without interference—or even sabotage—from the Indonesian government. On the other hand, this meant that the CAVR could not demand that high level commanders appear and testify, and limited opportunities for reconciliation (Roosa 2008).

The CAVR implemented a combination approach regarding gender, whereby the commission had both a unit designated to work on issues of gender, while at the same time making sure that gender was a cross cutting theme across the commission's work (The World Bank 2006). Among its gender-sensitive policies were that the CAVR made sure that half of all statement takers were women; held a special public hearing on women's experiences during the conflict; and even undertook a six-month research project in collaboration with several women's NGOs to document violations of women's rights across the country that supplemented findings in the final report (Kent 2014). Unfortunately, these measures did not result in high levels of participation by women. The protocols were not without merit, but they failed to address "gendered barriers to participation...[such as a] cultural expectation that women do not take part in public activities" (Kent 2014, 293).

### ***Completeness of Truth Commission Narrative***

In addition to low levels of participation in the truth seeking process, the commission's final report, *Chega!* (which means no more!; stop!; or, enough! in Portuguese), fell into the all too familiar trap of portraying women only as victims of sexual violence. Lia Kent writes:

Even though this story detailed the complex, structural dimensions of violence against women by showing how women suffered at the hands of the Indonesian military *and* their own communities, it nonetheless shaped women's experiences into an overarching narrative of sexual violence and sexual slavery. The recognition of women principally as victims of sexual violence did not encapsulate their multiple subjectivities during the conflict, including their roles in the struggle against the Indonesian occupation (Kent 2014, 294).

Though the report acknowledges that women participated in various resistance movements, that experience is not investigated separately from the experience of being a male resister except to detail sexual violations that women resisters were often subjected to when captured by Indonesian forces. Thus, by only drawing specific attention to their experiences as victims of sexual violence, the report shifts the focus from their contributions to the resistance to their vulnerability as women. *Chega's* narrative earns a "partial" rating—it engages in a structural analysis and details violations that women suffered, but reduced women's experiences of war to experiences with sexual violence, failing to use the rich history of female resistance as an opportunity to portray women as active, autonomous subjects.

### ***Women's Legal Status Post-Commission***

East-Timor's legal system earns "medium legislation, weak enforcement," in terms of women's legal status post-commission. Decree Law No. 19/2009 which approves the country's penal code codifies rape (and marital rape) as a crime, and also distinguishes between sexual aggression (rape); sexual exploitation (child prostitution and or child pornography); and sexual abuse

(sexual abuse of a minor, statutory rape (the age of consent is 16), sexual fraud and sexual exhibitionism). The Domestic Violence Act of 2010 codifies domestic violence as a crime. There are currently no laws that specifically criminalize femicide or gender-based killings. These laws are not widely or effectively enforced. Domestic Violence offences were the most commonly charged offences in East Timor in 2015, but the court system's response is inadequate at best (US Department of State 2015). The National Police's Vulnerable Persons Units (VPU) are charged with addressing sexual- and gender-based crimes, but are underfunded, and lack the capacity to respond effectively to the problem they are mandated to address (US Department of State 2015). The VPU's performance across the country is variable, and the police "often referred cases of domestic violence to traditional leaders for resolution or to work toward family reconciliation rather than pursue in the formal justice system as required by law" (US Department of State 2015, 15).

### ***Women's Political Participation Post-Commission***

East Timor has some of the highest levels of participation by women in politics in the region, thanks in part to the country's policy of legislated quotas at the national and sub-national level. Enacted into law in 2006, and then amended in 2011, the Law on Elections of the National Parliament mandates a legislated candidate quota at the national level. The law stipulates that on all electoral lists, one out of every group of three candidates must be women. East Timor has surpassed the quota, and today women hold 39% of seats in Parliament (World Bank 2016). At the sub-national level, there is a quota that reserves seats for two women and one female youth representative on all local councils (Quota Project 2016). East Timor earns a "strong" rating for its post-commission participation by women.

## Guatemala

From 1960 until a United Nations brokered peace agreement took effect in 1996, the small Central American country of Guatemala was engulfed in a brutal civil war between the government and leftist guerrilla groups. The government, in an attempt to crush dissent, engaged in actions of widespread, indiscriminate violence—violence that, in particular, targeted indigenous Guatemalans and rose to the level of genocide. Though the roots of the Guatemalan civil war can be traced back through centuries of colonialism, ethnic exclusion and hyper-militaristic policies, the history that is of particular relevance to the start of the civil war can be traced back to the 1954 U.S. sponsored coup d'état of the democratically elected President Jacobo Árbenz. Acting in favor of American business interests and against a perceived communist threat, in 1954 the Eisenhower administration approved a military coup in Guatemala, whose mission was to overthrow Árbenz and instate a new, U.S. backed president (Schlesinger and Kinzer 1983). Led by General Carlos Castillo Armas, the force engaged in both traditional and psychological methods of warfare between their invasion on June 18, 1954, and Árbenz' eventual surrender on June 27 (Immerman 1982).

Following Arbenz's resignation, Castillo Armas came to power, the first in a line of various military dictators who would crush dissent with widespread political violence (Schirmer 1998). The war officially began in 1960, when, following an unsuccessful military uprising against then President Fuentes' administration, leftist guerilla groups launched a full-scale civil war against the government (Immerman 1982). As a result, the government, along with paramilitary groups, intensified its counterinsurgency tactics (Schirmer 1998). By 1966, state terror had reached a new height, "resulting in a state of siege, suspension of all rights (including habeas corpus), as well as assassinations, kidnappings... the army moved from being a

determinant presence within the civilian state structure to assuming control of the State itself” (Schirmer 1998, 17).

Indigenous Mayan communities were disproportionately targets of state violence, as, early in the war, Mayan communities had supported some guerrilla organizations in the hopes that such groups could address the historical economic and political marginalization of their communities (Jonas 2000). Due in part to deep-seated racism, the government began to see indigenous populations as inherently sympathetic to the guerrillas, and, therefore, as enemies of the state (Memory of Silence: Genocide). Extra judicial killings and disappearances were commonplace during the 1970s, however, it was not until General Ríos Montt came to power in 1982 that systematic violence against Guatemala’s indigenous population became military protocol. (Schirmer 1998). During his tenure as president from 1982-1983, Montt employed a scorched earth campaign against the Mayan people, marking that year as the bloodiest of the war, and one of the bloodiest in all of Guatemalan history (Schirmer 1998). Jennifer Schirmer writes that, during this period, “No distinction is made between combatant and noncombatant; separation is purely rhetorical. Nor are killing accidental “abuses” or “excesses”; rather, they represent a scientifically precise, sustained orchestration of a systematic, intentional massive campaign of extermination” (Schirmer 1998, 45).

The war officially came to an end in 1996 following nearly six years of peace negotiations between the government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). Negotiations were fraught with resistance by the Guatemalan military and civilian elites (Jonas 2000), but ultimately prevailed in part due to the efforts of the international community, particularly the United Nations, who stepped in to mediate the negotiations in 1994 (Jonas 2000). Negotiations consisted of a myriad of smaller accords signed

by both parties. These accords each tackled specific issues of relevance to the conflict and to the end to war, such as the resettlement of populations displaced by war, and institutional reforms to the military and judicial systems (Jonas 2000). Final peace accords were signed in Guatemala on December 29, 1996, activating the previously signed accords.

Rape and sexual violence were rampant during the war, and often accompanied massacres and other acts of genocide. Due to the shame and stigma that is associated with such violations, the recorded number of sexual violations is likely only a fraction of the total. The CEH registered 9,411 female victims and 1,465 cases of rape, 90% of which were perpetrated against Mayan women (Nolin-Hanlon and Shankar 2000). Rape was often preceded by public displays of sexual humiliation—women were forced to dance or walk long distances naked for hours, even days at a time before they were raped,. Rapes also occurred when women came to military bases to inquire about a relative who had disappeared, in an attempt to intimidate them from coming back and investigating further. The intention of the public nature of these acts was to terrorize entire communities who the government viewed to be insurgent threats (Leiby 2009).

### ***Commission for Historical Clarification***

In the aftermath of decades of brutal conflict, Guatemala implemented a truth commission as part of its transitional justice response. The Commission for Historical Clarification, or the Comisión para el Esclarecimiento Histórico (CEH) was established through the Oslo Accord in June 1994 as part of the peace agreement that would eventually end the civil war. The goal of the commission was to “clarify with all objectivity, equity and impartiality the human rights violations and acts

of violence,”<sup>22</sup> that occurred during the thirty-six year armed conflict. The commission was administrated by the UN, began its operations in February 1997, and completed its mandate in February 1999. Though the mandate itself made no mention of gender, the commission was the first to attempt to highlight gendered violations “instead of merely subsuming them in the universalistic rhetoric of human rights” (Rosser 2007, 397). Because there was no official framework that standardized the commissions approach to gender, the CEH does not fit into any one of the three approaches, though the final report of the CEH, *Memory of Silence*, produced a narrative about women during the war.

### *Completeness of Truth Commission Narrative*

Emily Rosser argues that in *Memory of Silence*, women are “located on a spectrum of gendered visibility: Invisible, Neutral-Human and Special-Different, the last of which encompasses both what I call Tokenism and Sexed-National Bodies” (Rosser 2007, 400). Invisible and Neutral-Human are self-explanatory: when invisible, women do not figure in to the narrative in any way, and when Neutral-Human, women are portrayed as humans who experience victimhood—and violations—in the same way as men. Special-Different and the sub-categories contained within it are usefully defined as:

3) Special-Different: The common attempt to frame women as ‘special victims’ stems from what many consider a paternalistic desire to acknowledge harm but to protect women’s dignity (often meaning men’s dignity) by keeping sexual violence a euphemized affair controlled in private by patriarchal figures. The term ‘different’ here is a reference to how, even when they are made highly visible, women’s bodies and experiences are illustrated as ‘eccentric,’ or outside the universal/neutral norm (Rosser 2007, 401).

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<sup>22</sup> Commission for Historical Clarification: Charter. MINUGUA, United Nations Mission for the Verification of Human Rights in Guatemala, 23 June 1994.

In tokenism, women are featured as a Special-Different afterthought; and in Sexed-National Body, women are Special-Different within the theme of genocide (Rosser 2007). Throughout the report, Memory of Silence discusses gendered violations such as rape and their impact on women, but did not work to understand the socio-political history of those crimes. As a result,

Its narrative is one that laments sexual violence and simultaneously naturalizes them into trauma narratives by refusing a structural analysis. In doing so, the Commissioners neglect a significant opportunity to decry ‘ordinary’ structural violence against women that feeds into genocidal violence in war. They also fail to respond to the recurrent cry of ‘never again’ that emerges from the women’s testimony” (Rosser 2007, 409).

Memory of Silence’s narrative earns a “weak” rating. It did not include a structural analysis, and reduced women’s experiences of war to that of passive victims of sexual violence. However, it did contain a distinct discussion of human rights violations that were committed against women.

### ***Women’s Legal Status Post-Commission***

I rate Guatemala’s legal system as having “strong legislation, weak enforcement” in terms of women’s legal status post-commission. Like Peru, Guatemala has laws that address or criminalize each of the five issues that constitute a “Strong” rating. Though Guatemala codified and criminalized femicide in 2008, the crime is still committed at staggering rates. Between April 1, 2015, and March 31, 2016, a total of 262 cases of femicide were reported. During that same time period, only 74 sentences were handed down (TeleSur 2016). Scholars argue that the war was the inception of femicide and the states acceptance of the phenomenon (McKinley 2007; Tuckman 2007). Violence against women in its many forms has become a “constitutive—rather than aberrant—feature of the social fabric because sexism and the civic exclusion, public degradation, and physical abuse of women have been socially and legally excused” (Carey and Torres 2010, 144). In failing to include a structural analysis, the CEH missed an opportunity to

interrogate the systems of inequality that allow femicide and other forms of violence against women to occur.

### ***Women's Political Participation Post-Commission***

In Guatemala today, there are no legislated quotas, two political parties, the National Unity for Hope (UNE) Party<sup>23</sup> and the Guatemala National Revolutionary (URNG) Party,<sup>24</sup> participate in voluntary quotas legislated by party rules (The Quota Project 2016). At the national level, women only occupy 14% of seats in Congress (World Bank 2016). Guatemala earns a “weak” political rating.

### **Conclusion**

Though the truth commissions in all five cases considered in this chapter took a different operational approach to gender, post-commission outcomes did not vary as one might have expected. One aspect that all the cases had in common, however, was that none of their final reports featured a “Complete” narrative about women. Analysis of women’s legal status and levels of women’s political participation after the commission reveals that, like in Sierra Leone, challenges still persist. While one could potentially attribute less than positive post-commission outcomes to contextual factors within each country, the role that truth commission reports play should not be discounted. In fact, as demonstrated in the table below, there appears to be a relationship between the level of completeness of a truth commission’s narrative and women’s lives post-conflict. The table below is designed to demonstrate the effect that the “completeness”

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<sup>23</sup> The UNE has mandated that 40% of candidates on their electoral lists be women since 2007.

<sup>24</sup> The URNG mandates that at least 30% of each sex should be represented on their candidate lists.

of the truth commission narratives (the independent variable) had on women's legal status and levels of political participation following the truth commission. I evaluate each case in terms of the variables shown across the top. I qualify the "completeness" of a truth commission's narrative as "complete"; "partial"; "weak"; or "absent" based on whether the report engages in a structural analysis, if it writes specifically about abuses that women suffered (and whether that discussion is reduced to experiences of sexual violence), and finally how whether women are framed as passive victims or active subjects. I note which operational approach the truth commission took to gender before presenting my two independent variables—women's legal status after the truth commission, and women's participation after the truth commission—on a scale that takes into account both legislation and whether or not it is enforced.<sup>25</sup>

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<sup>25</sup> For more information on the methodology behind my variables, see pages 2-5.

<b>Case</b>	<b>Completeness of Truth Commission Narrative</b>	<b>Operational Approach to Gender</b>	<b>Legal Status of Women Post-TC</b>	<b>Women's Political Participation Post-TC</b>
Sierra Leone	Partial	Mainstream	Strong Legislation, Weak Enforcement	Weak
Liberia	Partial	Unit	Medium Laws, Weak Enforcement	Weak
Ghana	Absent	Mainstream	Medium Legislation, Weak Enforcement	Weak
Peru	Partial	Unit	Strong Legislation, Weak Enforcement	Strong Quota, Partial Implementation
East Timor	Partial	Combination	Medium Legislation, Weak Enforcement	Strong
Guatemala	Weak	None	Strong Legislation, Weak Enforcement	Weak

I argue that the different operational approaches do not appear to have a significant impact on post-conflict outcomes because a truth commission's methodological approach is an internal process in many ways. Technical decisions are made to strengthen a commission's outreach strategies towards women, to provide psychosocial support to those testifying about experiences with sexual violence, and to inform the commission's analysis with a gendered perspective. These measures are important, and not without merit. However, it is important to recognize that gender sensitive protocols are designed to better include women in the truth telling process, not to address long-standing systemic social inequalities, like truth commission reports are. To fully

understand the impact of the narratives found within these reports, future research would have to engage in an in-depth analysis of each country's unique context, and eventually evaluate the outcomes when a future truth commission does produce a complete narrative, a prospect I expand upon in the following chapter.

## Chapter 5

### Implications for Theory and Practice

A truth report, with its core personal narratives, announces, “we hold these truths to be self-evident”; it proclaims that it is published in a country in which such harms are unacceptable, in which these voices can be heard and valued, and in which these stories can be acknowledged. We hold *this* truth to be henceforth *self-evident*. By its very existence, such a report brings a new nation into being. — Teresa Godwin Phelps, *Shattered Voices: Language, Violence, and the Work of Truth Commissions*, 81-82.

In light of increased awareness about the staggering rates of sexual violence during conflict, the field of transitional justice has adapted to include a gendered perspective to ensure that women’s experiences of war are addressed. With respect to truth commissions, the field has largely focused on procedural and policy changes that are designed to better include women in the truth telling process. On the whole, truth commissions have taken three distinct approaches to gender—mainstreaming, in which gender is a cross-cutting theme across the commission’s work; a gender unit, in which one branch of the commission is charged exclusively with including a gendered perspective; or a combination of the two. The field has focused almost exclusively on designing the “best” operational approach to gender, and in doing so has failed to critically examine the impact that the commission’s final report has on women’s lives post-conflict.

I argue that the singular focus on women as passive victims of sexual violence within truth commission reports (re)produces pre-existing gender stereotypes, and thus hinders social progress for women post-conflict. I invoke Teresa Godwin Phelps’ conception of truth commission reports as constitutive state-building documents with the power to affect the emerging state. Phelps argues that the inclusion of personal stories within truth commission reports “allows for the *carnivalization* of history, an entirely new kind of history telling and

nation making that encompasses a fuller dialogic truth” (Phelps 2004, 69). I take Phelps’ theory one step further to argue that the inclusion of personal stories of women as more than just victims of sexual violence—as fighters, resisters, and peacemakers—has the potential to carnivalize gender roles in the post-commission context by shifting the focus from women’s bodies and sexuality (read: vulnerability) to their agency as participants in the emerging state.

To investigate this claim, I conducted an in-depth analysis of the case of Sierra Leone, and found that though the TRC was successful in including women in the truth telling process, its final report undermined much of that work by framing women solely as victims of sexual violence, ignoring other subjectivities that might have resisted this narrative. By drawing on conceptions of womanhood in popular Sierra Leonean culture, tracing legal trends, and examining NGO reports pre- and post- commission, I argue that the narrative that paints women as passive victims of sexual violence in the final report has hindered progress. I build on these findings by engaging in a focused, structured comparison of five other cases from around the world—Liberia, Ghana, Peru, East Timor, and Guatemala. I find that differences in methodological approaches do not have a clear impact on post-commission outcomes; instead the “completeness” of a truth commission’s narrative about women more strongly influences women’s lives after the truth commission. While these findings illuminate gaps in the field, they also point to the tremendous potential for truth commissions, and the field of transitional justice more generally, to harness moments of transition to more positively impact women’s lives in the future. Perhaps most significantly, this thesis underscores the power of language, and specifically problematizes the frequent reduction of women’s experiences of war to experiences of rape and sexual violence. Future truth commissions must be mindful of this fact, and must walk the fine line between acknowledging and analyzing the prevalence of sexual violence during war,

without letting that narrative overshadow the various other ways in which women experience conflict. A truth commission's operational approach to gender should be considered a first step; not an end in itself. Reports must be conceived of as constitutive documents with the power to affect the emerging state. Commissioners and staff must look beyond narratives of victimhood for narratives of agency. Those stories are out there—but the right questions must be asked.

### ***Future Research***

Future research should focus on the impact that truth commissions and their final reports have on women's lives post-conflict. The next step is to apply these findings on the ground by talking to women in transitional and post-commission contexts about their experiences. How do they feel their experiences were represented? As no truth commission to date has produced a complete narrative that discusses sexual violence without undermining women's autonomy, when such a report is published scholars should evaluate post-commission outcomes in that context to test the validity of this argument.

A natural extension of this project would be to engage in an in-depth case study of East Timor as a paired case with Sierra Leone, in order to make deeper connections between two well-regarded cases within the field. This is an intuitive pairing because while the recommendations of the Sierra Leone TRC were legally binding, recommendations made by the CAVR in East Timor were not. It is important to know if enshrining recommendations as legally binding has a significant effect on women's lives post-conflict.

In the coming years as countries transition out of conflict, a new generation of truth commissions will have the potential to use the platform as a tool for post-conflict reconstruction. Unfortunately, gender inequality and sexual-and gender-based violence are persistent problems

around the world, particularly in post-conflict settings. At times, the issue can seem overwhelming, even insurmountable. Focusing on the power of truth commission reports to positively impact women's lives post-conflict is one step the field of transitional justice can take towards creating a safer and more prosperous future for women and girls.

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