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THE VICTIM-WITNESS EXPERIENCE IN THE SPECIAL COURT FOR SIERRA LEONE

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ABSTRACT

This paper reports the findings of an interview study of 144 victim-witnesses who testified in the Special Court for Sierra Leone (SCSL). Witnesses expressed satisfaction with the preparation they received for testifying from their lawyers, particularly appreciating emotional support, as well as practical preparations. Victim-witnesses generally evaluated their interactions with all court staff positively, and reported feeling well-treated by the Court. The experience of cross-examination was difficult for a large proportion of witnesses in the current study, but an even larger group of witnesses reported the experience to be positive. For some witnesses, the experience of successfully coping with the challenge of cross-examination may be empowering. The feelings reportedly experienced by witnesses during their testimony are similarly mixed: a large proportion reported painful feelings, but others reported feeling confident, relieved and happy when they testified. The importance of continued post-testimony contact with witnesses is supported by the current study; witnesses expressed a strong desire for ongoing contact with the SCSL. According to witnesses' own evaluations, their security was not negatively affected by their involvement with the court. This indicates that the SCSL has been largely successful in its attempt to protect the identities of those who testify in its trials.

Keywords: SCSL — Sierra Leone — victim — witness

INTRODUCTION

In the last decade or so, there has been a considerable amount of research carried out in the field of transitional justice. Initially, this focused on 'macro' concerns, such as the effectiveness of different types of mechanisms for dealing with the past. More recently, there has been a shift in focus towards more socially-oriented 'micro' level issues, such as the role played by victims and witnesses in the judicial process. This has led to research being carried out to investigate the impact that witnesses have on the war crimes tribunal process, but much less, up to now, on the impact the process has on the witnesses themselves.

The establishment of special sections to deal with witness welfare in international war crimes tribunals, such as the International Criminal Tribunal

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for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), indicates that there is now a recognition that the process of giving evidence in a court dealing with crimes against humanity can be stressful and difficult. However, little is known about the witness experience from the perspective of the witnesses themselves. Those who gave statements to the Truth and Reconciliation Commission (TRC) in South Africa have been studied relatively extensively, especially those who testified to the Committee on Human Rights Violations of the TRC (Kagee, 2005; Young, 2004; De la Rey and Owens, 1998; Kaminer *et al.*, 2001; Byrne, 2004). However, the TRC procedures were designed to be as supportive and positive an experience for those who testified as possible. For example, the hearings were community events, witnesses were extensively prepared and supported, they were encouraged to tell the story of the violation in their own words, and were allowed as much time as necessary to relate events without interruption. Whilst the experiences of those who testified to the TRC can inform us, their experience is different in many ways to those who testify in international courts of law. Up to now, there have been very few studies of the experience of those who testify in international war crimes tribunals. The most extensive study so far has been conducted by Eric Stover (2005), and focuses on the experiences of 87 prosecution witnesses in the ICTY.

Most of the limited research in this area, including that conducted by Stover (2005), has focused on witnesses for the prosecution, primarily victim-witnesses. Of course, not all witnesses are victims; a proportion of witnesses, especially those who testify for the defence, are 'insider-witnesses'. 'Insiders' are witnesses who were active members of one of the armed groups during the war, and participated in the fighting, so have special 'insider' knowledge of the activities conducted by that armed group. Other types of witnesses include 'non-fighting insiders' (witnesses who were part of the armed group but as non-combatants, such as chiefs or advisors), and witnesses who observed events but were neither victims nor insiders (e.g. those who lived in a village controlled by an armed group, but who were not directly victimised). To the knowledge of the authors, there has been no research into the experience of non-victim witnesses.

This paper will report the findings of a study of witnesses who testified in the Special Court for Sierra Leone (SCSL). A total of 200 witnesses were included in this study, the majority of whom were victim-witnesses, but the sample also included insider-witnesses and other types of witness. The aim of this paper is to describe the experience of witnesses in the SCSL, and compare it with that of witnesses who testified in other courts, specifically witnesses in the ICTY, with whom Stover (2005) conducted his research. In order to make this comparison meaningful, only the findings relating to SCSL victim-witnesses will be reported in this paper. It is likely that different issues affect non-victim witnesses, and this would be a fruitful area for further research.

The Special Court for Sierra Leone

The Special Court for Sierra Leone (SCSL) was established jointly by the Government of Sierra Leone and the United Nations. It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. The SCSL is an international body that is independent of any government or organisation.

Currently, nine persons associated with all three of the country's former warring factions stand indicted by the SCSL. The three factions are the Civil Defence Force (CDF), the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF). The indictees are charged with war crimes, crimes against humanity, and other serious violations of international humanitarian law. Specifically, the charges include murder, rape, extermination, acts of terror, enslavement, looting and burning, sexual slavery, conscription of children into an armed force, and attacks on United Nations peacekeepers and humanitarian workers, among others. Indictments against two other persons were withdrawn in December 2003 due to the deaths of the accused. A third detainee, Hinga Norman, died on 22nd February 2007. Two of the trials (CDF and AFRC) have now been completed, and the five accused have been found guilty and sentenced. A third trial, against three members of the RUF, is ongoing at the time of writing. The fourth trial, against Charles Taylor (the former president of Liberia) began in January 2008; this trial is being held in the Hague rather than in Freetown but remains a SCSL trial.

METHODOLOGY & PROCEDURE

Structured Interview Schedule

A structured interview schedule was developed following exploratory interviews with 38 witnesses to identify issues, both positive and negative, most salient to those who have testified in the SCSL. These were then combined with issues identified in research conducted in other relevant settings (e.g. ICTY, South African TRC) to create a list of factors which impact on the wellbeing of witnesses. This list formed the basis of a structured interview schedule. The interview was piloted with 30 witnesses, and subsequently administered to a further 170 witnesses*. Most questions included both a qualitative and a quantitative part, giving the respondent an opportunity to respond to each issue in two ways. For the quantitative parts, a five-point Likert scale was used. The interview schedule was translated into Krio, the language used most widely in Sierra Leone, by the SCSL Language Unit. Both Krio and English versions of

* A copy of the full interview schedule is available from the authors on request.

the interview schedule were available, and the interviews were conducted in the language preferred by the witness.

Administration of Interview

Thirteen staff from the Witness & Victims Section (WVS) of the Special Court for Sierra Leone were trained to administer the interview. It was necessary to use WVS staff to conduct these interviews, because, due to the sensitivities associated with testifying in the SCSL, the identities and locations of witnesses are known only to WVS staff and the legal personnel concerned. Not only are the witnesses known to WVS staff, but the WVS staff are known to the witnesses, and are trusted by them. Most districts in Sierra Leone were visited, and attempts made to contact all those who had testified in the SCSL (excluding expert witnesses, those relocated abroad and those interviewed in the pilot study). The total number interviewed (200) constitutes 68% of the total number of witnesses who had testified at that point (292).

Preparation of Data

The qualitative data were analysed thematically. Responses with similar meanings were grouped together into thematic categories, and whenever a response did not fit into the already identified 'themes', a new category was added.

The quantitative interview data were entered into a Statistical Package for the Social Sciences (SPSS) database for analysis. Data from other sources were also entered into the SPSS database, including witness gender, and whether the witness testified for the defence or for the prosecution.

DESCRIPTION OF SAMPLE

The interview sample consisted of 144 victim-witnesses (72%); 40 insider-witnesses (20%) and 15 'other' witnesses (8%). The characteristics of the witnesses interviewed are described below. Since this paper will focus on the experiences of the 144 victim-witnesses, their characteristics will be reported separately from the 'non-victim' witnesses.

Witness for Defence/Prosecution

Of the 144 victim-witnesses interviewed, 103 (72%) testified for the prosecution, and 41 (28%) for the defence. This can be compared with the 55 non-victim witnesses, 15 (27%) of whom testified for the prosecution, and 40 (73%) for the defence. Significantly more victim-witnesses testified for the prosecution, and non-victim witnesses for the defence, as might be expected (chi-squared = 32.30, df = 1, $p < 0.001$).

TABLE 1

Gender of witnesses interviewed.

	<i>Victim interviewees</i>	<i>Non-victim interviewees</i>
Male	110 (76%)	53 (96%)
Female	34 (24%)	2 (4%)
TOTAL	114	55

Gender

The numbers of male and female witnesses interviewed are shown in Table 1. The proportion of female witnesses is significantly higher amongst victim-witnesses than amongst non-victim witnesses (chi squared = 10.72, df = 1, p = 0.001).

Age

The mean age of the victim-witnesses interviewed is 45.97 (sd = 15.16), whilst that of the non-victims is 44.93 (sd = 16.49). Although victim-witnesses are slightly older, on average, than non-victim-witnesses, this difference is not significant.

Education

Table 2 shows the educational level reached by the witnesses interviewed. The Table shows that the victim-witnesses interviewed have lower levels of education than the non-victim witnesses interviewed. Of the victim-witnesses, 60% had less than secondary-level education, compared to 31% of the non-victim witnesses. This difference was found to be statistically significant (chi-squared = 15.67, df = 4, p = 0.003).

THE EXPERIENCE OF VICTIMS TESTIFYING IN INTERNATIONAL WAR CRIMES TRIBUNALS

Despite the dearth of research in this area, it is possible to identify a number of aspects of the victim-witness experience which are likely to be particularly

TABLE 2
Educational level of witnesses interviewed

	<i>Victim interviewees</i>	<i>Non-victim interviewees</i>
None	57 (40%)	10 (18%)
Primary	29 (20%)	7 (13%)
Secondary	36 (25%)	19 (35%)
Tertiary	15 (10%)	14 (25%)
Vocational training	3 (2%)	3 (5%)
Missing	4 (3%)	2 (4%)
TOTAL	144	55

salient. These will be discussed in turn; in each case the research in that area will be summarised, and the results of the current study presented for comparison.

Extent to Which the Witness is Prepared for the Experience

The importance of ensuring that witnesses are well-prepared for the experience of testifying in court has been well-established in both international and domestic settings. Stover (2005) suggests that, in many cases, negative experiences of testifying may stem from the witness being unprepared for both the emotional distress involved in the process, and for the processes and procedures involved in testifying in a legal setting. Most of the ICTY witnesses he interviewed said they had not fully thought through how testifying would affect them. Most had not told their stories publicly before testifying in the Hague, so had no way of knowing how the recounting of painful stories might affect them emotionally. They were also unprepared for the strategies used by defence lawyers, whose questions could feel like a personal attack. Witnesses he interviewed varied in their opinions about the extent and quality of the pre-trial preparation they received, including being told what is expected of them as witnesses; seeing the courtroom ahead of time; being told what to expect from the defence, and prepared for cross-examination; and courtroom issues such as knowing who they should look at when they give their testimony. A positive experience of testifying was closely related to being well-prepared by prosecutors and investigators. In a domestic setting, Angle *et al.* (2002) found that one of the strongest predictors of dissatisfaction among witnesses is the extent to which they felt intimidated by the process or environment. Writers

and researchers in this area (e.g. Ilic, 2004; Stover, 2005; Dembour and Haslam, 2004) have suggested that preparation for those testifying in an international criminal court should include fully informing witnesses about the nature of the legal process in advance, and thoroughly preparing them for cross-examination, including acquainting them with prior statements, and trying to develop their emotional stamina so they can cope effectively on the witness stand.

In the current study, witnesses were asked to describe the help they were given by their lawyers in the period before they came to the SCSL to prepare for, and to give, their testimony. The vast majority of witnesses said their lawyers had given them reassurance, encouragement and advice during this period (107; 75%), and more than half said the lawyers had given them helpful information (75; 53%). It seems the support witnesses received from their legal teams was good during the pre-trial period, and, indeed, witnesses expressed satisfaction with it (witnesses responded using a scale ranging from 'not at all satisfied' [1] to 'extremely satisfied' [5], mean = 4.37; sd = 1.02).

Witnesses were equally satisfied with the preparation they received from their lawyers once they had arrived at the SCSL immediately prior to testifying (witnesses responded using a scale ranging from 'not at all satisfied' [1] to 'extremely satisfied' [5], mean = 4.67; sd = 0.67). Large numbers of witnesses reported that their legal team had reviewed the witness's statement with them (68; 50%); encouraged the witness (66; 48%); explained the legal process and what the witness should expect in the courtroom (61; 45%); explained the questioning process, and how the witness should respond (54; 40%); and shown them the courtroom (47; 34%).

When asked to describe the kind of preparation they think would be helpful for others who testify in a court like the SCSL, more than half the witnesses interviewed said that encouragement and giving the witness confidence is important (71; 51%). A large proportion of witnesses suggested that reviewing the statement (59; 42%); explaining how to answer questions from both sides (57; 41%), and familiarising the witness with the courtroom (53; 38%) would help future witnesses. In addition, around one-fifth of interviewees referred to the need to ensure that witnesses know what to expect in the courtroom (28; 20%) and how to behave in the courtroom (e.g. to ask for questions to be repeated if necessary; to listen carefully to questions before answering) (30; 22%). It is interesting that the most frequent suggestion related to encouraging the witness and providing emotional support. The other suggestions made by interviewees relate to practical preparation for giving testimony; none of them suggested that witnesses should be assisted to cope with the painful emotions they experienced during their testimony.

Feeling Appreciated and Respected

This leads onto the importance to witnesses of feeling that they are respected and that their contribution to the trial is appreciated. This has been referred to in

various contexts, including the ICTY (Stover, 2005; Wald, 2002), the South African TRC (Sonis *et al.*, 1999; Byrne, 2004), and in domestic court settings (Angle *et al.*, 2002). In all cases, the belief that they have been treated with respect and appreciation is said to be one of the strongest predictors of witness satisfaction with the experience of testifying. Herman (2003) cites research which indicates that respectful policies can have a positive impact on victim-witnesses' mental health, as well as their feelings of satisfaction with the process. Communication, and the relationship with court staff (especially the legal team working with the witness and the witness support staff) are important aspects of this.

In the current study, victim-witnesses reported that they felt extremely well-respected by court staff at the time of their testimony (witnesses rated the respect they received from court staff on a scale ranging from 'not at all respected' [1] to 'extremely respected' [5], mean = 4.69; sd = 0.63). They also expressed satisfaction with the attitude of their legal team towards them (witnesses rated their satisfaction on a scale ranging from 'not at all satisfied' [1] to 'extremely satisfied' [5], mean = 4.45; sd = 0.84). A positive evaluation of the attitude of lawyers towards the witness was found to be related to witnesses' overall evaluation of the experience of testifying (Pearson's correlation = -0.28 , $p = 0.001$), but the level of respect a witness felt they were shown by court staff generally was not related to overall evaluation of the testimony experience (Pearson's correlation = -0.13 , ns). The interactions between SCSL staff and witnesses were generally perceived by witnesses to be positive, and witnesses' relationships with their lawyers appeared to play a particularly important role in the witness experience of testifying in an international war crimes trial.

Giving Testimony in Court

The actual experience of giving testimony in the court can vary greatly and has a considerable impact on the witnesses' overall evaluation of the experience.

The legal focus on facts and data prevents witnesses from telling the story in the way they want to (Stover; 2005; Dembour and Haslam, 2004; Wald, 2002). The information which is important to them is not necessarily important to the court, and being directed only to give factual information can be frustrating to witnesses who want to tell the court what happened in their community, and what happened to their relatives and friends who were killed or disappeared. The way court personnel interact with witnesses can also have an impact on their experience. Judges may admonish witnesses who try to talk about issues deemed irrelevant, or can respond to witnesses in an unsupportive or impatient way (Dembour and Haslam, 2004). The adversarial nature of the trial, especially a cross-examination which attempts to undermine the credibility of the witness, can be distressing (Stover, 2005).

For many witnesses, testifying will involve confronting the person responsible for the harm that was done to them. This can be an intimidating

prospect to some, whilst for others it is one of their main motivations for testifying. The witnesses interviewed by Stover (2005) reported various emotions when they saw the accused in court (awestruck, angry, superior, calm), whilst the confrontations between witness and perpetrator at the South African TRC were intense and, in many cases, painful (Byrne, 2004). In domestic court settings, direct confrontation with the perpetrator (along with cross-examination by the defence lawyer) has generally been identified as the worst aspect of testifying (Herman, 2003).

Wald (2002) and others have noted the intense emotions triggered in witnesses who have to relive traumatic experiences in a courtroom setting, 'They break down on the stand, they cry, sometimes they curse the defendants in the dock (and their counsel as well)' (Wald, 2002: p. 235). The emotional toll of participating in the South African TRC has been referred to as a negative aspect of the experience by witnesses (e.g. Byrne, 2004), and Herman (2003) found that the majority of victim-witnesses who testified in domestic courts reported some negative emotional consequences at the time of their hearings, even when they testified in an affirming and supportive environment.

Support during the trial can be very helpful in assisting witnesses to cope more effectively with the difficulties involved in actually giving testimony. Ilic (2004) suggests that the presence of a familiar and trusted psychologist, psychiatrist or social worker may assist particularly vulnerable witnesses during the testimony process. The experience of the South African TRC suggests that any trusted person can perform this function.

The 144 SCSL victim-witnesses who were interviewed for the current study were asked to evaluate and describe various aspects of their experience of giving testimony. Overall, they reported it to be a positive experience (they assessed their overall experience of testifying in the SCSL using a scale ranging from 'very good' [1] to 'very bad' [5], mean = 1.72; sd = 0.73) and 120 of the witnesses (85%) said they would testify again if asked to do so.

There was considerable variation in the levels of anxiety witnesses reported feeling when the time came for them to testify (witnesses responded using a scale ranging from 'not at all worried' [1] to 'extremely worried' [5], mean = 2.66; sd = 1.61). Of those who said they were not worried (i.e. responded with 'not at all worried' or 'a bit worried', n = 65), the main reason given by far was that the witness was confident because they only had to say what they knew to be true (n = 56). Smaller numbers of 'non-worried' witnesses referred to the number of security personnel who were present (n = 11) and to being reassured by their legal team and/or WVS staff (n = 9). Of those who were worried (i.e. responded 'quite a bit worried' or 'extremely worried', n = 45), the main reason given was that the witness was unfamiliar with the court (n = 36). A smaller number of witnesses said that they feared that they themselves would be arrested (n = 10).

Most of the witnesses (110; 77%) felt there was at least one supportive person present in the courtroom when they testified. Of those 110 witnesses, the

median number of supportive people identified was three. The people most commonly referred to as supportive were WVS staff and members of the witnesses' legal team.

The judges were generally perceived as fairly supportive and helpful to the witness (witnesses were asked to rate the helpfulness of the judge using a scale ranging from 'not at all helpful' [1] to 'extremely helpful' [5], mean = 3.68; sd = 1.44). The main reasons for this relate to judges protecting witnesses from questioning they perceived as hostile; for example, judges were said by some witnesses to have overruled unfair or hostile questions (69; 48%); to have stopped lawyers repeating questions (44; 31%) or interrupting the witness (37; 26%); and to have stopped lawyers accusing the witness of lying (36; 25%). In general, therefore, judges were seen by witnesses as 'protectors', rather than impatient or unsupportive, as suggested by Dembour and Haslam (2004).

As stated above, the experience of cross-examination has been identified as particularly difficult for witnesses. In the current study, witnesses were asked to evaluate their experience of cross examination, using a scale ranging from 'very good' [1] to 'very bad' [5]. In general, their evaluations were around the mid-point on the scale, with considerable variation amongst witnesses (mean = 2.82; sd = 1.42). Of those who said the experience was positive (i.e. rated it as 'good' or 'very good', n = 78), the reasons most commonly given were that the witness had no problems with cross-examination because they were confident (n = 58); the witness was ready because they had been well-prepared by their lawyers (n = 30); and the experience was good because the witness felt they had been tested and had succeeded (n = 22). Of those who rated the experience negatively (i.e. rated it as 'bad' or 'very bad', n = 59), the reasons given tended to relate to the strategies used by the lawyers during cross-examination, as might be expected. For example, witnesses said the experience was bad because the lawyers tried to confuse the witness (n = 39), accused the witness of lying (n = 33), kept repeating questions (n = 21) and harassed or tried to provoke the witness (n = 19). These findings suggest that there is a group of victim-witnesses who find the process of being cross-examined difficult, for all the reasons identified by other researchers. However, it is interesting that there is another, slightly larger, group of victim-witnesses who not only do not find the process difficult, but seem to actively enjoy it, partly because they feel they have been successful under pressure. In this sense, the cross-examination process could be seen as empowering for those victim-witnesses who are able to cope with it.

One-third of victim-witnesses interviewed (46; 32%) were not in a position of confronting the accused when they testified, because the accused did not attend court on that day. However, of those who did see the accused, the main emotion reported was a negative feeling triggered by being reminded of what that person had done (49; 34%). A smaller number of witnesses said they were happy that the accused were there to hear what the witness had to say (23; 16%), or that they did not pay any attention to the accused (23; 16%). Thirteen

witnesses (9%) said they felt fear when they saw the accused, specifically fear that the witness could suffer reprisals now that their identity was known to the accused. The situation of witnesses in the SCSL is different to that in many other international war crimes tribunals, because the accused are not necessarily those who committed the offence against the witness, but are those said to 'bear the greatest responsibility' for the crimes committed by their particular armed group during the war. Victim-witnesses did not necessarily, therefore, confront their own perpetrator in the courtroom. The number of witnesses who were victimised by the men actually standing trial is not known, but it is likely to be a minority, since those on trial were at the top of the command chain. This makes it difficult to compare the responses of SCSL witnesses to confronting the accused, with witnesses' responses in other settings (e.g. South African TRC), where they confronted their perpetrators directly.

Most victim-witnesses said they experienced some level of painful feelings when they testified (witnesses responded using a scale ranging from 'feelings were not painful at all' [1] to 'feelings were extremely painful' [5], mean = 3.58; sd = 1.27). When asked to describe their feelings during testimony in their own words, witnesses talked about experiencing painful or sad feelings at being reminded of painful events (72; 50%); but also described feeling confident (56; 39%); relieved (42; 29%); and happy because, for example, it felt good to be listened to (34; 24%). The feelings described by witnesses are much more mixed than have been described in previous studies, with positive feelings being reported as well as negative.

The Outcome of the Trial

There is a lack of clarity over the importance to witnesses of the verdict, or outcome, of the trial in which they testify. According to Stover (2005), the verdict and sentences given had a significant impact on ICTY witnesses, and he claims that 'a witness's response to the stress of the court experience will largely be dependent on his or her perception of the trial's outcome and the extent to which it validated his or her participation in it' (p. 130). A 'not guilty' verdict, or a light sentence given to a defendant found guilty, was found to trigger feelings of helplessness, abandonment, and anger. Some believe that survivors are unlikely to feel any sense of resolution unless the perpetrator is punished (e.g. Sonis *et al.*, 1999), and have claimed that the practice of granting amnesty to perpetrators who testified in the South African Truth & Reconciliation Commission limited the extent to which those who testified benefited from the process (Byrne, 2004; Kaminer *et al.*, 2001; Kagee, 2006). In domestic court settings, the perceived fairness of the verdict has been found to strongly predict satisfaction with the overall process (Angle *et al.*, 2002).

However, Ilic (2004) writes that participation in a criminal trial is an important part of a survivor regaining control over his/her life, so participation may be more important than the sentence passed against the perpetrator. In

addition, social psychological research on judgements of fairness in civil litigation, workplace disputes and minor criminal offences demonstrate consistently that the process by which a decision is reached is more important to feelings of satisfaction than the outcome. The theory of procedural justice holds that people are likely to be more satisfied with the justice system when they perceive that the process is respectful and fair, and when they have a voice in the proceedings. Sonis *et al.* (1999) state that such satisfaction is mainly due to: 1) the belief that the authority will try to make fair decisions; 2) the belief that the authority has treated the person with dignity and respect; 3) the belief that decisions are based on neutral assessment of all the facts. This is true even when the desired outcome is not fully achieved (Herman, 2003).

At the time of the current research, the SCSL had not reached verdicts in any of the cases, so it was not possible to directly assess the importance of trial outcome on witness evaluation of their own experience. However, in an attempt to address this issue, interviewees were asked how much they would care if the verdict in their case was not as they hoped. They responded using a scale ranging from 'not at all' [1] to 'extremely' [5], and there was found to be considerable variation in their responses (mean = 3.38; sd = 1.69).

Witnesses generally believed the SCSL to be extremely fair (witnesses responded using a scale from 'not at all fair' [1] to 'extremely fair' [5], mean = 4.43; sd = 0.98), and reported great confidence that the SCSL would achieve its aims (witnesses responded using a scale from 'not at all confident' [1] to 'extremely confident' [5], mean = 4.47; sd = 0.74). No relationship was found between witnesses' evaluation of the fairness of the court, and how much they said they cared about the outcome (Pearson's correlation = 0.008, ns); this finding does not support the theory that those who believe a judicial system to be fair will be less concerned about outcome. The relative importance of process and outcomes of trials has yet to be established. Witnesses in the SCSL could, perhaps, be re-interviewed once verdicts in the trials have been announced.

Post-trial Support

The importance of pre-testimony preparation has been described above, but there is also clear evidence of the impact of ongoing support and follow-up after testimony is over: witnesses who receive no post-trial follow-up or information frequently report feeling 'abandoned' and have a more negative overall view of their experience (e.g. Stover, 2005; Byrne, 2004). In contrast, those who received information about their cases after their testimony was over; who were contacted by court staff to check on their welfare; and who were able to contact court staff easily in case of any problem (especially in relation to security), reported much more positive feelings overall about their experience with the court. Stover describes how prosecution witnesses who testified in the ICTY appreciated those prosecutors who debriefed them in a meaningful way after

their testimony, and who continued to communicate with them about the case after the trial.

Other studies have reported similar findings in domestic settings. For example, a study of 276 victims of violent crime in central England (Shapland *et al.*, 1985) found that victim satisfaction dropped significantly when police investigators failed to tell them about the progress of the case, particularly the outcome and sentence, or to consult them about giving information to the press, cautioning the accused, deciding not to prosecute, or changing or dropping charges. The main reason for victim dissatisfaction was lack of information and a consequent feeling that the police did not perceive it as necessary to keep in touch with the victim.

Witnesses in the SCSL do not generally stay in contact with their legal teams once their testimony is over, and witnesses interviewed for the current study confirmed this. Witnesses were asked to rate how well they were kept informed by their legal teams about progress in the case in which they testified, after they had finished their testimony, and in general witnesses said they were not kept well-informed (witnesses responded using a scale from 'not at all well' [1] to 'extremely well' [5], mean = 1.15; sd = 0.59). The Witness & Victim Section (WVS) of the court, however, does maintain contact with witnesses post-testimony, and witnesses are given contact information for WVS staff, and invited to contact them at any time. In the SCSL context, witness evaluation of their post-testimony contact with WVS might be more important than their contact with legal personnel.

Once they have completed their testimony and returned home, witnesses are no longer under the care of WVS, but if a witness has been disadvantaged in some way by testifying in the SCSL, WVS has a responsibility to rectify that. Before they leave the SCSL, witnesses are given the contact details of key personnel within WVS, and told to call if they have problems related to having been a witness. Within 6 months of their return, WVS aims to visit the witness at home to carry out an assessment of their security and their physical, emotional and psychological well-being. On the basis of such assessments, further services may be provided to the witness. However, no material assistance will be provided unless the witness has experienced some financial disadvantage as a result of testifying.

Most witnesses expressed some level of confidence that they could contact WVS once they had returned home after testifying if they needed to, and were reasonably confident that WVS would respond if the witness contacted them for help, although there is considerable variation in responses to both these items (witnesses responded using a scale ranging from 'not at all confident' [1] to 'extremely confident' [5]. Confidence could contact: mean = 3.71; sd = 1.33; confidence WVS would respond: mean = 3.45; sd = 1.47). Further analysis showed there was no difference between witnesses based in Freetown (n = 18, mean = 3.39, sd = 1.46) and those based 'up-country' (n = 119, mean = 3.45, sd = 1.48) in their confidence that they could contact WVS if they needed to (t =

0.17, $df = 135$, ns). A difference might have been expected, since those based in Freetown can contact court staff much more easily, and in many 'up-country' locations there is no mobile phone network.

In general, witnesses were rather mixed in their evaluations of the services they received from WVS after they testified (witnesses responded using a scale from 'not at all satisfied' [1] to 'extremely satisfied' [5], mean = 3.29; $sd = 1.51$). Three witnesses said they were unaware that support was available after testifying, and 13 said they did not receive any support. However, of those who did receive support, the service referred to by the highest number of witnesses was being provided with transport home (78 witnesses mentioned this, 68 of whom were happy with this aspect of the support they received). It seems being transported home after testifying was greatly appreciated by witnesses. However, the second most commonly-mentioned issue (by 66 witnesses) is that of follow-up visits, and ongoing contact between witnesses and WVS. The majority of witnesses who talked about this issue were not satisfied with the follow-up contact they received (49 of the 66 witnesses who mentioned it), indicating that witnesses want to maintain contact with the SCSL after testifying, and are unhappy when this does not take place as they expected. The kinds of support witnesses say they want from the SCSL after they have testified include financial assistance (60 witnesses referred to this; 35 were happy with this aspect of their support, and 25 were unhappy); medical care (58 witnesses referred to this; 40 were happy with post-testimony medical services, and 18 were not); assistance with security issues (20 witnesses referred to this; 12 were happy with post-testimony security services, and 8 were not); encouragement and reassurance (25 witnesses referred to this; 21 referred to it as a positive aspect of the post-testimony support they received, and 4 referred to it negatively). These findings confirm Stover's claim that post-testimony contact with the Court is important to witnesses, and further show that the issues which concern witnesses are, in order of priority, financial, medical, receiving encouragement and reassurance, and security. Witnesses who testified at the SCSL, and who were interviewed for this study, were generally happy with the medical care they received post-testimony and with the care shown for them by WVS (encouragement and reassurance). They were more mixed in their feelings about the financial allowances and compensation they received and assistance with security issues, but slightly more witnesses referred to these factors in positive terms than negative.

It is important to note that witnesses' disappointment with the financial allowances and compensation they received post-testimony is likely to be due to miscommunication and unrealistic expectations, since no witness receives long-term financial assistance. The only exception, as stated above, is if a witness is financially disadvantaged by testifying (e.g. lost their job because their identity as a witness became known), but this is a very rare event. When asked what would improve the care given to witnesses when they return home after testifying, the largest proportion of witnesses said there should be more

follow-up visits and contact with WVS after returning home (95; 69%), and more financial allowances and compensation (80; 58.4%). Around one-third of witnesses said that there should be more medical care available for witnesses after they testify (46; 34%), and the same proportion said witnesses should be assisted to pay school fees for their dependents (43; 31%). One-quarter of interviewees said that more post-testimony security assessments should be conducted (34; 25%). Again, the importance to witnesses of ongoing contact with WVS is highlighted, along with the desire for financial assistance. It should be noted that Sierra Leone is one of the poorest countries in the world, with very few opportunities for people to generate income. The emphasis placed by witnesses on financial assistance should be seen, therefore, in this context. It is not necessarily a feature of witnesses generally, but is likely to be a feature of SCSL witnesses' expectations due to the poverty and lack of opportunities in the country.

Protection and Security Issues

The need for safety and security is a basic human need (Maslow, 1943), and is a significant concern for SCSL witnesses. Sierra Leone is a small country, with only 5 million inhabitants, and the majority of those who perpetrated violence during the civil war are now living in the same communities as witnesses. A minority of witnesses in the SCSL testified openly, but most witnesses' identities were concealed for their own protection. In some cases, even witnesses' own family members did not know they had testified. Similar issues affected witnesses in the ICTY and ICTR, and, according to Stover (2005), ICTY witnesses primarily feared recriminations against themselves or their families when, after testifying, they returned to the area in which both they and the accused live. There was a particular problem for witnesses who testified in the ICTY in this regard, since the court, and the witness support services, were not located in their home country, and when they returned home there were limited support and protection services available. The majority of protected witnesses interviewed by Stover (2005) said the protection measures failed to guard their anonymity, which put them at risk when they returned home. Basoglu *et al.* (2007) found that the factors most strongly associated with psychological problems amongst survivors of the conflict in the former Yugoslavia were fear and loss of control associated with perceived threat from perpetrators.

In the SCSL, one of the aims of WVS is to ensure, as far as possible, that witnesses' security is not negatively affected by the fact that they testified. Interviewees in the current study were asked to rate their security on a scale ranging from 'not at all secure' [1] to 'extremely secure' [5] for four time periods: before coming to the court to testify; whilst with the court to testify; on returning home; at time of interview. They were also asked how afraid they were for their future security, with possible responses ranging from 'not at all afraid' [1] to

TABLE 3
Witness rating of their personal security at five points in time

<i>Rating of security</i>	<i>Mean</i>	<i>sd</i>	<i>Missing</i>
1. Pre-testimony	3.74	1.43	2
2. During testimony period	4.70	0.62	4
3. On return home	3.66	1.36	6
4. Now	3.91	1.31	2
5. Future (<i>reversed</i>)	2.89	1.53	6

'extremely afraid' [5] (the scoring for this item was reversed). Descriptive statistics for the victim-witness interviewees are shown in Table 3.

The statistics in Table 3 show that victim-witnesses reported feeling extremely secure during their time with the Court to testify. We would expect this, since during this period they stay in secure accommodation, are escorted to and from Court, and are accompanied at all times in the Court building. They feel less secure at other periods, but at all points witnesses report, on average, they feel relatively secure. It is encouraging to note that witnesses did not report feeling significantly less secure when they returned home after testifying, compared to their 'pre-testimony' security rating. Witnesses expressed some concern about their future security; this is likely to be due to fears related to the national elections which were imminent at the time the interviews took place. Witnesses feared that if people who were not supportive of the SCSL were elected, the accused might be released, and witness identities revealed.

Importance of Other Life Stressors in Witnesses' Wellbeing

Most witnesses who testify in international criminal courts are living in post-conflict societies and, as such, have a whole series of problems unrelated to their experience of testifying. It may well be that testimony-related factors are not the most important predictors of witnesses' wellbeing.

Stover (2005) found that even those ICTY witnesses who reported feeling very positive about their experience of testifying found that those feelings quickly faded once they returned to their homes and faced realities such as the loss of a job, death of a loved one, or eviction from their home. Their main concerns were job security, money and accommodation. In a South African context, Kagee (2005) suggested that the psychological benefits of testifying in

the TRC were limited by the ongoing economic problems experienced by both those who testified and those who did not. Whatever immediate psychological benefit there may have been to those who testified, their daily struggle for survival was what preoccupied them subsequently. In a later study (Kagee, 2006), he found that that emotional distress amongst political detainees was related less to their traumatic experiences than to current difficulties, including illness; poor living conditions; domestic stress; death or separation of family members; family problems; employment status; and economic problems. Kagee suggests that poor health, in particular, may be an important factor accounting for high levels of distress. This suggests that the number and severity of other stressors in a witness's life is likely to mitigate any psychological benefits of testifying.

Although in the current study no assessment was carried out of SCSL witnesses' standard of living, or of other issues affecting their lives, witnesses interviewed were asked to describe their current concerns. Financial matters were said to be a concern by the majority of witnesses (85; 61%), and ensuring that their dependents receive an education concerned a large proportion (51; 44%). Other issues referred to frequently were physical health problems (46; 33%); accommodation difficulties (41; 30%); security (34; 25%); and future peace and stability in Sierra Leone (34; 25%).

Pre-existing Psychological Problems

A final factor to consider, when identifying factors likely to impact on witness wellbeing, is any psychological problems which affected witnesses prior to their testifying in an international court. The psychological impact of previous traumatic experiences, and any other mental health issues affecting a witness, are likely to have a significant effect on their experience of testifying. Stover (2005) expresses particular concern for the psychological wellbeing of witnesses who may not have realised how deeply they were still affected by their traumatic experiences. Even a person who appears to be 'recovering' from the psychological impact of extremely violent experiences may have little control over whether and when intrusive thoughts occur. Such a person may find that on the witness stand, being questioned about painful events and perhaps even having their account challenged, they are not able to control the memories and feelings that are triggered, which could have an extremely negative psychological impact on the witness. It should be noted that whilst this theory has considerable weight, most studies have not found differences in psychological distress between those who testify and those who do not. It is likely that those who are most psychologically distressed by their experiences of violence would refuse to testify, since they will try to avoid situations which may trigger painful memories. A limitation of the current study is that it is retrospective, so it is not possible to assess the extent of witnesses' pre-existing psychological problems, or, indeed, the extent to which their psychological

wellbeing might have changed over the course of their contact with the SCSL. A future study could address this issue by assessing the psychological health of witnesses pre-testimony, shortly after testifying, and again at a later date.

CONCLUSIONS

This study describes the experience of 144 victim-witnesses who testified in the SCSL. Comparison of the 144 victim-witnesses with 55 non-victim witnesses interviewed for the same study showed that the victim group had a higher proportion of female, poorly educated witnesses than the non-victim group.

Witnesses in the SCSL expressed satisfaction with the preparation they received for testifying from their lawyers. They particularly appreciated the encouragement and emotional support they received, as well as practical preparations, such as information relating to the legal process and what the witness should expect in the courtroom. These findings support the recommendations made by writers such as Stover (2005), Ilic (2004) and Dembour and Haslam (2004), that witnesses should be fully informed about the nature of the legal process, and fully prepared for what will take place in the courtroom. However, they also highlight the importance of legal personnel encouraging their witnesses, and building their confidence. Confident witnesses seem to find the whole experience more positive than those who are less confident, and to be less anxious when the time comes for them to testify.

Given these findings, it is perhaps to be expected that witnesses expressed high levels of satisfaction with the attitude of their legal teams towards them. However, it is encouraging that witnesses felt that they were well-respected generally by SCSL staff, and were supported in the courtroom, including by judges, who were generally perceived as 'protectors' of witnesses. This research indicates that victim-witnesses generally feel well-treated by the Court, and that witness welfare is a high priority for SCSL personnel.

In terms of the testimony experience itself, witnesses gave mixed reports which support the findings of other researchers to some extent. However, witnesses in this sample seem to be particularly mixed in the feelings they report, compared to witnesses who participated in other studies. As others have found (e.g. Stover, 2005; Herman, 2003), the experience of cross-examination was difficult for a large proportion of witnesses in the current study, who struggled with the strategies used by lawyers. However, an even larger group of witnesses reported their experience of cross-examination to be 'good' or 'very good', and their explanation of this suggests that, for some witnesses, the experience of successfully coping with the challenge of cross-examination could be empowering. This is an aspect of our findings which could usefully be explored further, perhaps using a more qualitative methodology.

The feelings reportedly experienced by witnesses during their testimony are similarly mixed. Others have written that giving testimony can trigger painful feelings for victim-witnesses (e.g. Wald, 2002; Herman, 2003; Byrne, 2004),

and the findings of the current study support this. However, witnesses interviewed for the current study also reported feeling confident, relieved and happy when they testified. A large proportion of witnesses reported negative feelings when they saw the accused, but a significant proportion reported either positive feelings or that they paid no attention to the accused. Stover (2005) found that ICTY witnesses also reported a variety of feelings when they saw the accused. This variation in witnesses' feelings during testimony is another area which may benefit from further exploration. It is not possible in the current study to identify combinations of feelings reported by individual witnesses, but it is likely that each witness experiences a complex mixture of feelings both during and after testifying, and a more in-depth, qualitative study of this aspect of the testimony experience could shed more light on this.

The importance of continued contact with witnesses after they have finished their testimony and returned home has been emphasised by Stover (2005), and is supported by the current study. Witnesses expressed a strong desire for ongoing contact with the SCSL, and were disappointed if this was not forthcoming. This raises the question of how realistic witnesses' expectations of the court are, especially given the expectation of financial assistance that was expressed by a large proportion of those interviewed. It is encouraging, however, that, according to witnesses' own evaluations, the security of witnesses was not negatively affected by their involvement with the court. This indicates that the SCSL has been largely successful in its attempt to protect the identities of those who testify in its trials.

An area touched on in the current study, but not addressed in any depth, is that of the importance of the outcome of an international criminal trial on witnesses' evaluation of their experience with the court. Research in this area has not yet been able to establish the importance of the verdict, although Stover's (2005) study indicates that it has considerable importance for witnesses. The timing of the current study made this difficult to address, since no verdicts had been announced by the SCSL at the time the interviews were conducted. At the time of writing, however, verdicts have been announced in two of the SCSL trials, and it would be interesting to return to the witnesses interviewed for the current study to find out how their evaluations of the experience (and of the SCSL itself) may have changed in the light of the verdicts.

This study was not able to consider the ways in which current stressors and pre-existing psychological problems might interact with the witness experience of testifying. It is likely that these have a considerable impact on witness motivations, expectations, and the ways in which they experience the actual process of testifying. This would be an extremely interesting area for future research.

The research reported in this paper was an applied study, conducted in a post-conflict setting, with a group of highly vulnerable participants. As a result of these conditions, there are limitations to the study. A factor which is likely to

have influenced the data is the fact that the people conducting the research interviews were also members of WVS staff. Although this was unavoidable, for reasons already given, there are several ways in which this could have impacted upon the data. There was an existing relationship between the interviewer and interviewee, based on the interviewer having provided assistance and support to the interviewee in the past. If the witness's previous experience of this interviewer had been positive, and a trusting relationship existed between them, then the witness may have felt secure enough to answer openly and honestly. Alternatively, the witness may have wished to please the interviewer, and so given what they believed to be desirable responses. On the other hand, if the witness's previous experience with the interviewer, or with the SCSL generally, was negative, then it is equally likely that this was reflected in their responses. It is not possible to say exactly how the involvement of WVS staff in the data collection affected the data, but we must acknowledge that there will have been some impact. It should be noted, however, that the data would also have been affected by interviewers unknown to the witnesses conducting the interviews, especially considering the fear of many witnesses that their identity might be exposed.

One way in which the involvement of WVS staff in the research certainly had an impact is in witnesses' expectations of material assistance. The relationship between WVS and witnesses had been one of providing assistance, and it is likely that some witnesses saw the research interview as an opportunity to request further assistance, despite being told they would not receive any material benefit from participating. This may have affected the validity of the information about witnesses' current circumstances and concerns; it may be that some witnesses exaggerated the extent of their problems in an attempt to obtain material assistance from WVS.

Although we attempted to locate all those who had testified in the SCSL (excluding expert witnesses and those relocated outside Sierra Leone), there were some who could not be found. It may be that the experiences of these witnesses are different to those who were interviewed; perhaps they moved away from their home area because of security difficulties, or perhaps they did not maintain contact with the SCSL because their involvement with the Court had been negative. In addition, it is unfortunate that it was not possible to interview relocated witnesses now residing outside Sierra Leone, since these are the witnesses who had the most serious security concerns, and, again, their experience of those SCSL may have been different to those included in this study.

A final important methodological limitation is the retrospective nature of the study. Witnesses were asked to report on an experience which took place many months earlier, in some cases, and the effects of memory, plus the effects of subsequent events, are likely to have an impact on their responses. A much more effective approach would be to conduct a longitudinal study with witnesses, beginning when they are first involved with the court, continuing throughout

their testimony period, and conducting follow-up interviews after they have returned home. Logistically, this is likely to be a difficult study to conduct, but the information it would produce would make an invaluable contribution to our understanding of the impact on witnesses of testifying in international criminal trials, such as the SCSL.

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