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**TESTIFYING IN THE SPECIAL COURT FOR SIERRA LEONE:
THE IMPACT ON WITNESS SECURITY AND EMOTIONAL WELFARE**

RUNNING TITLE: Testifying in the Special Court for Sierra Leone

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Abstract

This paper describes the experience of those who have testified in the Special Court for Sierra Leone (SCSL), particularly in terms of the impact on witness security and emotional welfare. The SCSL is an international war crimes tribunal located in Freetown, Sierra Leone. Testifying in such a court has the potential to negatively impact on witnesses' personal security, and their emotional, social and economic wellbeing. Therefore, the SCSL has a number of measures in place to protect witnesses, and to ensure they are not negatively affected by testifying. One hundred and seventy one witnesses who had completed their testimony were interviewed. Their responses indicate that witnesses do not feel less safe as a result of their involvement with the SCSL, and that they become less worried as their familiarity with the Court and its processes increases. Aspects of the SCSL's work with witnesses that particularly contribute to their wellbeing are identified, along with aspects of the service which could be modified or improved.

KEY WORDS: international war crimes tribunals; witnesses; security; emotional welfare; Special Court for Sierra Leone

Introduction

International War Crimes Tribunals

‘Criminal justice is an essential part of an integrated response to massive human rights violations’ (International Center for Transitional Justice, n.d.). The international Military Tribunal at Nuremberg, or the ‘Nuremberg Trials’, together with the Tokyo Tribunals, can be thought of as ‘first generation’ of international war crimes tribunals. The ‘second generation’ consists of the International Criminal Court, based in the Netherlands, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR). The ‘third generation’ emerged in the late 1990s and early 2000s; these are known as ‘hybrid courts’, so-called because they are ‘mixed’, incorporating national and international features. They are located in the country where the crimes occurred, are composed of international and local staff, and apply a compound of international and national substantial and procedural law.

The Special Court for Sierra Leone (SCSL) is one of these hybrid courts. It was set up jointly by the Government of Sierra Leone and the United Nations, following a resolution passed in August 2000. 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 Special Court is an international body that is independent of any government or organisation, and is located in Freetown, Sierra Leone.

The UN and Government of Sierra Leone signed an agreement establishing the Court on 16th January 2002, and the first indictments were brought on 7th March 2003.

Thirteen people have been indicted for war crimes, crimes against humanity and other violations of international humanitarian law. However, three indictments were later dropped because of the deaths of the indictees. A fourth indictee, Sam Hinga Norman, died in February 2007, after his case had been heard but before judgement had been passed.

The indictees have been grouped into four trials, according to the factions they belonged to during the war. Three indictees, including Sam Hinga Norman, were leaders of the Civil Defence Force (CDF); this trial has now been completed and the two surviving defendants have been found guilty and sentenced. Five leaders of the Revolutionary United Front (RUF) were indicted, but the charges against two were dropped following their deaths. The case against the remaining three RUF indictees has been heard, and the judgement is awaited at the time of writing. Four indictees were leaders of the Armed Forced Revolutionary Council (AFRC), but one (Johnny Paul Koroma) has not yet been apprehended. The AFRC trial has now been completed and the three detained indictees were found guilty and sentenced. The fourth trial is of Charles Taylor, the former President of Liberia. For security reasons, this trial is being heard in The Hague, Netherlands, under the auspices of the Special Court.

The Role of Witnesses in International War Crimes Tribunals

Both Prosecution and Defence legal teams can call witnesses. The trials in the SCSL have relied mainly on eyewitness testimony, rather than documentary evidence, so a large number of witnesses have testified in the Court, compared to some other war crimes trials (e.g. Iraqi Special Tribunal) (Perriello & Wierda, 2006). The total number of

witnesses who testified in the SCSL up to the point the RUF defence trial began (when the study reported here was conducted) is 324. Of these, 149 testified in the AFRC trial; 116 testified in the CDF trial; and 87 testified for the RUF prosecution. Twenty-eight witnesses testified in two trials.

The number of witnesses who have been called to give evidence in the SCSL points to the importance of the role of witnesses in the proceedings. The success of the SCSL is dependent, in part, on those who testify before it. If witness welfare is not taken care of, or if the witness experience is negative, there will be consequences in terms of the effectiveness of the trials. Witnesses in international criminal courts are in need of support and protection in order to ensure that they do not suffer unnecessarily from the experience of testifying (e.g. Ingadottir, Ngendahayo & Sellers, 2000).

Protection and Support of Witnesses Testifying in the SCSL

In recognition of this, systems have been put in place to try to ensure that witnesses are not adversely affected by their experience of testifying in the SCSL. Within the Registry is a specialist unit, the Witness & Victims Section, which is responsible for the welfare of all those who testify in the SCSL. This initiative is not unique to the SCSL; the ICTY and the ICTR both contain units whose task is to support and protect all witnesses called to testify in front of the tribunal, although each unit is organised differently.

The Witness and Victims Section (WVS) of the SCSL is a single unit which provides services to both Prosecution and Defence witnesses. The WVS draws its mandate from two key documents: the Statute of the Special Court for Sierra Leone, and the Rules

of Procedure and Evidence.¹ The tasks with which the WVS is charged are outlined in the extract shown in Figure 1.

FIGURE 1 ABOUT HERE

In addition to providing services to witnesses who testify at the SCSL, WVS provides services to:

1. Family members of witnesses (e.g. children, spouses etc).
2. Individuals selected to be witnesses but subsequently dropped by the legal team before testifying.
3. Individuals who were not selected to testify, despite having given statements to investigators, but were nevertheless affected by their involvement with the Court.

The initial stage of the SCSL's involvement with witnesses

Initial contact with a witness is coordinated by the Office of the Prosecutor (OTP) or the Defence team. WVS, as a neutral body, has no involvement in the selection of witnesses.

The investigations personnel make a preliminary assessment of whether or not the witness is under any threat in their community. If no threat is perceived, then the witnesses' details are not disclosed to the WVS at this point. If a threat is perceived, a Threat Assessment Report is passed onto WVS. WVS assesses this report and the

¹ Statute of the Special Court for Sierra Leone, <http://www.sc-sl.org/scsl-statute.html>; Rules of Procedure and Evidence (29 May 2004), <http://www.sc-sl.org/scsl-procedure.html>

credibility of the threat. If WVS determines that the threat is credible, the witness becomes eligible for the security and protection services of the WVS with immediate effect.

A witness deemed to be under a ‘perceived threat’ is taken into protective care. Protective care includes secure furnished accommodation, with all bills and maintenance taken care of by WVS. It also includes a weekly subsistence allowance, medical support for the witness and their family living with them, and education for children. Witnesses in protective care also receive emotional support and counselling from a WVS psychosocial support officer, where required.

The witness remains in the safe house until after they have testified. Following their testimony, some are relocated within Sierra Leone, and others are relocated abroad within the West Africa region. WVS covers the expenses of relocation and provides the witness with a one-off ‘start-up’ payment.

In practice, the vast majority of witnesses are not deemed as being under a high ‘perceived threat’, although their security status is always open to review. Most witnesses receive no services until the testimony date is imminent.

Services provided to witnesses when they come to the SCSL to testify

Some days or weeks before they are due to testify, witnesses are brought to the SCSL for a period of preparation with their lawyers. WVS coordinates the transportation of the witness to the SCSL in liaison with the witness management units of the OTP or Defence teams. During their stay with the Court, the witness (and sometimes their family) is housed in secure accommodation in Freetown, which is guarded. Visitors are not allowed into the accommodation (with the exception of approved Court staff), and if a

witness wishes to leave the premises he/she must report back at a designated hour. This accommodation space is shared with other witnesses, but not those from opposing sides in a case. Whilst housed in this accommodation, all the witnesses' basic needs are met (e.g. food; toiletries) and they receive a financial allowance as recompense for lost wages. Medical care is provided by two WVS nurses, and by a doctor who works for WVS on a sessional basis.

WVS psychosocial support officers spend time with all witnesses during their stay with the Court, in order to reassure and encourage them, address any issues concerning them, and to provide emotional support and counselling where required. A member of the psychosocial team is constantly available within the main accommodation facility, where most witnesses are housed, and they make regular visits to witnesses housed in other accommodation. Psychosocial staff also brief witnesses on what to expect when they are in Court, and take them to visit the courtroom in advance of their testimony, in order to familiarise the witness with the layout and the procedures of the Court.

When the time comes for a witness to testify, they are taken to wait in a designated room within the court building, with a member of psychosocial staff, until they are called into the courtroom. Another member of the psychosocial team accompanies the witness into the courtroom, along with a member of WVS security staff, and stays in the courtroom throughout the witness's testimony. In certain cases, where the witness is particularly vulnerable, the member of psychosocial staff may sit next to the witness while they testify.

Almost all witnesses receive some kind of protection when they testify. This ranges from concealing their identity, through voice distortion, right up to testifying in a

closed session, which involves the court being closed to the public, all details of the proceedings being withheld, and a transcript of the session not being released.

Post-Testimony Follow-Up

After they have testified, a witness whose ‘threat level’ remains low will normally return to their original place of residence. Before they leave the SCSL, they are given the contact details of key personnel within WVS, and told to call if they have problems related to having been a witness. 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.

Within 6 months of their return, WVS aims to visit the witness at home. The post-trial monitoring team includes both psychosocial and security/protection staff. The security/protection team carry out a general assessment of the witness’s security conditions, and how the witness could access help if it were needed. The WVS psychosocial staff carry out an assessment of the witness’s physical, emotional and psychological well-being. On the basis of such assessments, further services may be provided to the witness.

Effectiveness of Witness Protection and Support Procedures

There is currently little concrete information as to how witnesses experience testifying in an international war crimes tribunal, or how their wellbeing is affected by the experience. In the early days of international criminal justice the focus was much more on the legal aspects of the process, and it is only recently that there has been a shift towards issues such as the role of victims and witnesses in the judicial process. Also, witnesses’

identities are closely protected, which makes it difficult to research their experience of testifying. It would only be possible to carry out such research with self-identified witnesses, or under the auspices of one of the tribunals, with the researchers bound by the same confidentiality agreements as other tribunal staff.

Witnesses who have testified in Truth and Reconciliation Commissions (TRCs), such as that which took place in South Africa, have been studied more extensively, perhaps because many of the hearings took place in public, so witnesses are more accessible (Kagee, 2005; Young, 2004; De la Rey & Owens, 1998; Kaminer, Stein, Mbanga & Zungu-Dirwayi, 2001; Byrne, 2004). However, TRC procedures are designed to be as supportive and positive an experience for those who testify as possible. For example, in South Africa 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 testify at TRCs can inform us, their experience is different in many ways to those who testify in international courts of law. The most extensive study so far of the experience of those who have testified in international war crimes tribunals has been conducted by Eric Stover (2005), and focuses on the experiences of 87 witnesses for the Prosecution in the ICTY.

Very little is known, therefore, about the impact of testifying on witnesses' wellbeing. Some writers have suggested that testifying in a legal environment can be 're-traumatising' for those who have experienced atrocities during the war; others suggest it can be empowering to 'tell one's story' in an international arena such as a criminal

tribunal. There is little research from international war crimes tribunals which can be used to advance this debate; arguments are based on anecdotal evidence, plus that drawn from other contexts, such as witnesses testifying in TRCs and domestic courts, and those who participate in testimony therapy (Agger & Jensen, 1990; De la Rey & Owens, 1998; Herman, 2003; Kaminer et al, 2001; Strejilevich, 2006; Van Dijk, Schoutrop & Spinhoven, 2003).

There is evidence, however, that witnesses' feelings of safety, both prior to and after testifying, are crucial to their overall sense of wellbeing. The need for safety and security is a basic human need (Maslow, 1943), and if it is not met, it impacts on other aspects of wellbeing (e.g. social, psychological). 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 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 one of the factors most strongly associated with psychological problems amongst survivors of the conflict in the former Yugoslavia was fear associated with perceived threat from perpetrators. Witness protection may be particularly complex in a small country such as Sierra Leone (approximately 5 million inhabitants), in which information travels quickly through informal networks, and where many of those who

committed atrocities during the war are living freely in the community, alongside survivors (Perreillo & Wierda, 2006).

The importance of ongoing contact with witnesses once they have returned home after testifying, both in terms of security and other support, has been emphasised by a number of writers. Witnesses who receive no post-trial follow-up or information often report feeling ‘abandoned’ and have a more negative overall view of their testimony experience (e.g. Stover, 2005; Byrne, 2004). In contrast, those who are contacted by court staff to check on their welfare, and who are able to contact court staff easily in case of any problem (especially in relation to security), report much more positive feelings overall about their experience with the court. Ongoing contact appears to make an important contribution to witnesses’ wellbeing.

The aim of this study

There is a clear need to increase the body of knowledge relating to the experiences of witnesses who testify in international war crimes tribunals. Firstly, there is an ethical requirement to ensure that those who have experienced human rights abuses are not further traumatised by their participation in the process of bringing the perpetrators to justice. Secondly, if witnesses are not properly prepared and supported throughout their involvement with the court, they are unlikely to be able to give useful testimony. Thirdly, if the experience of testifying in war crimes tribunals is found to be excessively distressing, frustrating or dangerous, this may prevent other potential witnesses from agreeing to testify. It is, therefore, crucial to the effectiveness of international war crimes tribunals that good policies and practices are in place to support witnesses. The most effective

policies and practices are likely to be grounded in the experiences of those who have already been through the process. Witness-based research is indispensable to a better understanding of international criminal courts, and it forms the necessary basis for the design and evaluation of any witness protection and support programme. A witness protection and support programme can only be successful if it responds adequately to the needs of those it serves.

The research described in this paper was conducted as part of a larger study of the experience of witnesses who had testified in the SCSL as of May 2007. The aims of this paper are (1) to investigate the ways in which witnesses in the SCSL report that their security and emotional wellbeing are affected by their testifying; (2) to identify factors which contribute to these perceptions; and (3) to identify ways in which witnesses in international war crimes tribunals can be supported to ensure that they experience their involvement as positive.

It should be noted that this study was conducted from within the SCSL, and was initiated by the Chief of the Witness and Victim Section, with the joint aims of: understanding more about the witness experience; evaluating the service provided to witnesses by WVS; and conducting post-trial assessments of witnesses' wellbeing. The design of the study reflects the need to achieve all three aims. It was planned and conducted as an applied study designed to improve the work of WVS, rather than an academic piece of research.

The research presented here focuses on two hypotheses:

1. 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. If this objective is achieved, one would predict that witness ratings of their personal security will remain the same, or increase, as they go through the testimony process.
2. If WVS provides effective emotional support to witnesses as they go through the process of testifying, we would predict that witness concern will reduce over time.

Methodology & Procedure

Selection of interviewers

The priority for all SCSL staff who have contact with witnesses is the security of those witnesses. The identities and locations of those who have testified in the SCSL are only known by WVS staff and the witnesses' legal teams, and great efforts are made to preserve the anonymity of those who have testified. Therefore, the only people able to find and approach witnesses regarding their participation in this study were staff of the SCSL who already knew, and were known by, the witnesses.

Thirteen staff from the Witness & Victims Section (WVS) of the SCSL were trained to administer the structured interview. Although all these staff had experience of conducting interviews, they varied considerably in their research skills and experience. All were Sierra Leonean nationals able to communicate in English, Krio (the common language of Sierra Leone) and at least one of the local languages (e.g. Mende, Temne). The research team also consisted of two British nationals, whose roles included research design and analysis, and logistics.

Structured interview schedule

A structured interview schedule was developed, to be administered in a standardised way with all witnesses located. A structured interview was most appropriate for the following reasons:

- The variety of research skills and experience within the research team. A more structured interview would provide more guidance for those with limited experience.
- The need to limit the length of time the information-gathering exercise would take with any one individual.
- It was anticipated that the majority of the interviews would be conducted in Krio. It would be possible to translate a structured interview schedule into Krio, whilst a less structured method would rely more on the understanding and translation skills of the interviewers.

A draft structured interview schedule was developed following exploratory interviews with 38 witnesses to identify issues most salient to those who have testified in the SCSL. These were then combined with issues identified in research conducted in other relevant settings to create a list of factors which impact on the wellbeing of witnesses. This list formed the basis of a structured interview schedule.

The initial version of the structured interview consisted of questions with both qualitative and quantitative response formats. For the quantitative parts of the interview schedule, a rating scale ranging from 1 (not at all) to 5 (extremely) was used to assess witness feelings and beliefs about various aspects of their experience with the Court. A picture-card was produced to help witnesses understand the scale. It consisted of five jerry-cans filled with

varying amounts of water, which corresponded to the points on the scale. Respondents were told they could point to the picture of the jerry-can that best represented their point of view or feelings.

In addition to the questions using a rating-scale response format, the interview schedule included some questions with a ‘yes/ no/ not sure’ response format, and a series of open-ended questions.

The interview schedule was translated into Krio by two members of the SCSL Language Unit, and was back-translated by a third member of the Unit.

Training sessions were conducted for 13 WVS staff, following which the pilot interview schedule was administered to 30 witnesses; 13 in the Western Area (including Freetown) and 17 in Kono district.

The data from the pilot study were used to revise the items and create a ‘multiple choice’ response format for the open-ended questions. This meant that in the final version of the interview schedule, instead of interviewers writing out in long-hand the responses given by the witness, they would be able to indicate their responses on a check-list. A question of this type, and the response format, is shown in Figure 2.

FIGURE 2 ABOUT HERE

The interviewee first rates how worried they felt using the 1-5 scale, and then is asked to explain their response. The interviewer ticks any of the options mentioned by the

witness, and issues raised which do not correspond to one of the existing options can be written in the 'other' category.

The interview was preceded by an 'introduction and informed consent' section, during which the interviewer explained who they were and the purpose of their visit. The nature and aims of the research were explained to the witness, and what would be involved if they chose to participate. The uses to which the information would be put were explained, and they were assured that their identity would not be disclosed. Finally, they were told that their decision about whether to participate in the study would not affect any assistance they might receive from WVS, and that, if they agreed to participate, they could stop at any time, or decline to answer any questions they chose.

The final version of the interview schedule was translated into Krio by two members of the SCSL Language Unit, and was back-translated by a third. Both Krio and English versions of the interview schedule were available, and the interviews were conducted in the language preferred by the witness.

Sampling strategy

We aimed to interview all those who had testified in the SCSL at that point (May 2007), with the exception of expert witnesses, and witnesses who had been relocated outside Sierra Leone. Expert witnesses were excluded because their experiences are qualitatively different to that of the majority of witnesses, and because they were mainly located outside Sierra Leone. No witnesses residing outside Sierra Leone were interviewed due to a lack of resources. The total number of witnesses who had testified in the SCSL at that point was 324. Once expert witnesses and those relocated abroad were

excluded, a total of 292 witnesses were eligible to participate in this study. In addition, we did not attempt to re-interview the 38 witnesses who had been interviewed for an initial exploratory study, or the 30 witnesses included in the pilot study, which reduced the number of witnesses eligible for inclusion in the final stage of the study to 224. We attempted to interview all of these 224 witnesses.

Administration of interview

Over a ten-week period, eight visits were carried out to districts in which witnesses were located, and a total of 171 witnesses were interviewed. It was not possible to locate all witnesses, due to the poor flow of information regarding witness location. It was difficult to contact witnesses beforehand because some lived in remote and inaccessible locations, had no phone or there was no phone network in their area. On arrival in each district, the researchers sometimes discovered that individuals had moved or were unavailable for interview.

As stated above, the priority for WVS is the security of witnesses. The WVS staff who were responsible for locating the witnesses for this study and conducting the interviews were very familiar with the procedures used to protect the identities of witnesses when making home visits, and all protective measures were taken. To our knowledge, no witness's identity was revealed as a result of their participation in this study.

The interviews were carried out in a variety of locations, according to the witness's preference. The most common location was the witness's home (70 interviews), although a significant proportion of interviews conducted outside Freetown took place in the hotel/

guesthouse where the researchers stayed (32), and many of those in Freetown took place in a WVS office (20). Other locations include the witness's workplace (9), a friend's house (11), inside the WVS vehicle (10) and in a public building such as a school (9) (the remaining ten witnesses were interviewed in a variety of other locations). Although witnesses were not paid for participating in the research, they were reimbursed for any costs incurred (e.g. transport), and provided with refreshment.

Interviews lasted between 40 and 155 minutes (M=85; SD=24). Since all interviews were conducted within a ten-week period, and the first witnesses had testified in June 2004, there was a wide variation in the amount of time between witnesses testifying, and their being interviewed about the experience. The shortest length of time was 1.5 months, and the longest was 33 months (M=17.5; SD=8.6).

Preparation of data

The interview data were entered into a Statistical Package for the Social Sciences (SPSS) database for analysis. Data from SCSL and WVS records were also entered into the SPSS database (e.g. whether the witness testified for the defence or for prosecution).

Description of participants

Thirty-two women and 139 men were interviewed, with a mean age of 46.17 (SD=15.63). More than one-third of the sample (40%) has no education at all, and almost another third (27%) has secondary education. The remaining third is divided between those who completed primary school only (17%), and those who continued to tertiary education (13%), with a smaller proportion completing a vocational training course (2%)².

² This information was missing for 1% of those interviewed.

Nineteen of the witnesses interviewed lived in the Freetown area, with the others living throughout the country, including Bombali district (27), Kenema district (26), Bo (24), Koinadugu (21), Kono (16), and Bonthe (13).

Seventy (41%) of witnesses interviewed testified for the Defence and 101 (59%) for the Prosecution. Fourteen of the witnesses interviewed were known to be survivors of sexual or gender based violence (SGBV), according to the WVS records, although it is possible that other survivors chose not to disclose this to WVS staff. All 14 were female, and were victim-witnesses testifying for the Prosecution.

Results

Witness security

Witnesses 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 they came to court to testify; while they were in the care of WVS; when they returned home; and at the time of the interview. The questions were not asked consecutively, but were asked at different points in the interview. They were also asked how afraid they were for their future security, with possible responses ranging from ‘not at all afraid’ (1) to ‘extremely afraid’ (5). The scoring for this item was reversed, so all the values described below have been interpreted according to the same scale, whereby (1) represents ‘not at all secure’, and (5) represents ‘extremely secure’. Descriptive statistics are shown in Table 1.

TABLE 1 ABOUT HERE

A one-way analysis of variance was carried out to assess the significance of the differences between the means. The overall ANOVA was significant ($F(4,834) = 38.72$, $p < .001$), so post-hoc tests (Tukey) were carried out. These show that:

- Witnesses rated their security as being significantly higher while they were in the care of WVS than they did at any other period.
- There is no significant difference between witness ratings of their security pre-testimony, on return home and at the time of the interview.
- Witnesses' predicted future security was lower than their ratings of their security at any other time period.

Witnesses were also asked to describe their reasons for their rating at each time period. Many witnesses gave more than one reason, and all were recorded and included in the analysis.

In order to identify the factors contributing to high and low security at each time period, witnesses were divided into those who reported feeling more than moderately secure (i.e. rated their security as 4 or 5) at that time, and those who reported feeling less than moderately secure (i.e. rated their security as 1 or 2). The reasons given by the 'more than moderately secure' (highly secure) group were analysed separately from those given by the 'less than moderately secure' (less secure) group.

Witnesses' feelings of security in the pre-testimony period

Of the 117 witnesses who said they felt secure in the period before they came to Court to testify, just over half had no fear of attack (64), and others had been reassured by SCSL staff (40), and by the security measures that were in place to protect them and their

identities (41). Others felt secure because nobody knew they were a witness (36). This indicates that the measures currently in place to ensure the security of witnesses in the period before they testify are generally perceived by witnesses to be effective.

In the relatively small number of cases (33) where witnesses said they did not feel safe in the pre-testimony period, it was usually because they feared that people would come to know of their witness-status (15) and that they may be attacked as a result (16). A smaller number feared that they themselves might be arrested (6), and two said their identity as witnesses had been revealed already.

Witnesses' feelings of security while they were in the care of the Court during their testimony period

Of the 171 witnesses interviewed, 160 fell into the 'highly secure' category for the testimony period. The factor which made the majority of these witnesses feel secure was the physical protection measures in place, such as the presence of security personnel (134 witnesses) and being transported in a car with tinted windows (52). The second main factor was the witness believing there was no threat to them (93), and a number commented that their identities as witnesses were already known (36).

Only three witnesses fell into the 'less secure' group during this period. The reasons given included fearing arrest (1), and feeling uncomfortable with security personnel (1).

Witnesses' concerns regarding their future security

A larger number of witnesses (80) fell into the 'less secure' group regarding their future security. There seem to be two main issues contributing to witnesses' fear for their

future security. One is a fear that their identities as witnesses might be revealed (22), resulting in reprisal attacks (47). The second is a fear that the forthcoming elections could increase their insecurity (37), and that the next government may not support the SCSL, which could put the witness at risk (15).

Of those who fell into the ‘highly secure’ group for this time period (62), the main reason was that they had no problems in their communities, so had no reason to be fearful (30). Others said that security is now good in Sierra Leone, (12), nobody knows they testified (11), and that they believed the Special Court would protect them (9).

Evaluations of SCSL protection of witnesses

Witnesses were asked to evaluate the security and protection services they received from WVS both during their stay with the Court at the time of their testimony, and after they returned home. Witnesses rated their satisfaction using a five-point scale, ranging from ‘not at all satisfied’ (1) to ‘extremely satisfied’ (5). Witnesses reported high levels of satisfaction with the security they received during their time with the Court (M=4.78, SD=0.47), but there were much more mixed responses when asked how satisfied they were with the security they received after they returned home (M=2.74, SD=1.66). Witnesses were also asked to explain the reasons for their responses.

No witnesses reported low levels of satisfaction with WVS security provision during the testimony period (i.e. responded 1 or 2); 165 witnesses reported that they were satisfied (i.e. responded 4 or 5). The areas mentioned most frequently as contributing to satisfaction with security during their stay with the Court were the fact that other people were not allowed to enter the accommodation complex (98), and the presence of security

personnel around the accommodation complex (84) and around the Court (68). Other factors said by witnesses to increase their feelings of security were being transported in a car with tinted windows (54), being driven right into the Court (21), and having WVS staff accompany them to court (42).

Witnesses were more mixed in their satisfaction with the security services they received after they had finished testifying and returned home. Of the 171 witnesses interviewed, 64 fell into the ‘low satisfaction’ group (i.e. responded 1 or 2) and 51 fell into the ‘high satisfaction’ group (i.e. responded 4 or 5). Of those who reported being satisfied, the majority had not actually required assistance with security (32), but a proportion said they believed they would get help if they requested it (23), and others said they had been given good advice regarding their security (19). Those in the ‘low satisfaction’ group complained about a lack of follow-up visits from WVS to check on their security (41), and that it would be difficult to request help if the need arose, because they have no mobile phone or are living in an area without network coverage (12). A small number (8) said they were not aware that post-testimony assistance with security concerns was available, and others reported low levels of satisfaction despite having no security concerns (7).

Witnesses’ confidence that they could contact WVS after they returned home if they needed to was also rated on a 5-point scale (ranging from ‘not at all confident’ to ‘very confident’), and was found to be somewhat mixed ($M=3.29$, $SD=1.50$). They were also asked to rate their confidence that WVS would respond if they called them for help (using the same scale); the mean response was slightly more positive ($M=3.70$, $SD=1.36$).

Factors contributing to witnesses’ evaluation of their current security

A multiple linear regression analysis was conducted to assess the impact of a number of factors on witness evaluation of their security at the time they were interviewed. In the absence of a body of research in this area on which to base the selection of the predictor variables, nine factors were hypothesised to have a potential impact on the witness experience of testifying: gender; age; ability to support self and dependents³; whether the witness testified for the defence or the prosecution; witness satisfaction with post-testimony security services provided by WVS⁴; confidence that they could contact WVS if necessary; confidence that WVS would respond if the witness asked for help; whether the community are aware that the witness testified in the SCSL⁵; and the extent to which the witness's community would agree with their testimony if they knew about it (as a measure of the extent to which the witness feels their testimony goes against community opinion)⁶. Since there were no solid theoretical reasons for entering the predictor variables in any particular order, the nine variables were entered in a single step, using a 'forced entry' method. Witness rating of their security at the time of interview was entered as the

³ Witnesses were also asked to rate on a 3-point scale how well they were able to support themselves and their dependents (M=2.46, SD=0.60).

⁴ It was not possible to include witness satisfaction with security during the testimony period, or witness assessment of their security in this period, because these distributions were heavily skewed.

⁵ Of the 171 witnesses interviewed, 107 (62.6%) said their identities were not known in their communities, and 64 (37.4%) said their identities were known.

⁶ Witnesses were asked how many people in their community would agree with their testimony, if they knew. They responded using a five-point scale: all (1), most (2), some (3), one or two (4), none (5) (M=2.37, SD=1.19).

outcome variable. Missing data were dealt with by pairwise removal of cases. An initial assessment of multicollinearity found that none of the variables were highly correlated. The model significantly predicted witness evaluations of their security at the time of the interview ($F(9,115)=5.34, p<.001, R^2=.30$). The statistics for each predictor variable can be found in Table 2.

TABLE 2 ABOUT HERE

Witnesses who reported feeling less secure at the time of interview tended to be younger, to have difficulty providing for themselves and dependents, to have little confidence that WVS would respond if they asked for help, and to be known within their community to have testified in the SCSL.

Together, these variables accounted for 30% of the variance in witness evaluation of the experience of testifying in the SCSL.

Witness concern and emotional wellbeing

Witnesses were asked to rate their ‘worry’ at three points: when they were first contacted; when the time came for them to testify; and how worried they would feel if they had to testify again now. They rated their concern using a five-point scale, ranging from ‘not at all worried’ (1) to ‘extremely worried’ (5). The descriptive statistics for the three time periods are shown in Table 3.

TABLE 3 ABOUT HERE

If WVS is providing effective emotional support to witnesses as they go through the process of testifying, we would expect witness concern to reduce over time. This is, in fact, what we see in the mean ratings in Table 3, and a one-way analysis of variance showed that this difference is significant ($F(2,504) = 37.94, p < .001$). Post-hoc tests (Tukey) show that witnesses rated their levels of worry as highest when first approached; significantly lower by the time they came to testify; and as significantly lower again at the thought of testifying again now. Their levels of worry decrease over time, which suggests that WVS is achieving its aim of ensuring that witnesses are emotionally prepared to testify.

In addition to rating their levels of concern, witnesses were asked to describe their reasons for feeling worried, or not worried, at each time period. Many witnesses gave more than one reason, and all were recorded and included in the analysis.

In order to identify the factors contributing to high and low worry at each time period, witnesses were divided into those who reported being more than moderately worried (i.e. rated their worry as 4 or 5) at that particular time, and those who reported being less than moderately worried (i.e. rated their worry as 1 or 2). The reasons given by the 'more than moderately worried' (high worry) group were analysed separately from those given by the 'less than moderately worried' (low worry) group.

Witnesses' concern when first approached

Of the 62 'low worry' witnesses at time of first approach, the majority said it was because they knew they only had to talk about things they already knew, and to tell the

truth (43 witnesses). Around one-third (20) of ‘low worry’ witnesses said they were not worried because they had done nothing wrong.

The main reason given by the 84 ‘high worry’ witnesses for their feelings was a lack of familiarity with the court and its processes (59 witnesses). Other important reasons reported for witness worry when first approached are fear of arrest (30), fear of retaliation (18) and a fear that their identity as witnesses would be revealed (16). All of these can be considered to be a concern for one’s own personal safety and wellbeing.

Witnesses’ concern when the time comes for them to testify

When asked about the time of testifying, the overwhelming majority of the 95 ‘low worry’ witnesses said they only had to say what they already knew, so did not have any reason to worry (82 witnesses). Smaller numbers said they were reassured by the presence of security personnel (14), and by the encouragement they received from lawyers and/ or WVS staff (12).

Of the 52 ‘high worry’ witnesses, more than three-quarters attributed their feelings to a lack of familiarity with the court and its processes (41 witnesses). Smaller numbers described specific concerns, including fear that they themselves might be arrested (13), fear of cross-examination (6) and fear that their identities would become known and they would face insecurity (6).

Witnesses’ concern at the thought of testifying again

The vast majority (132) of witnesses fell into the ‘low worry’ group in relation to the thought of testifying again. Of these, most (110) said the reason they would not feel worried if they were to testify again is that now they know what to expect. Other reasons

include feeling confident throughout the process, so would have no reason to fear in the future (6) and feeling confident about security issues (3). Interestingly, the fact that they now know what to expect was also given as a reason for the concern of six of the 24 witnesses who make up the 'high worry' group. Other reasons given by 'high worry' witnesses are that they would not want to be away from home so long again (6), they would fear reprisals (5), and it would be painful to have to talk about their experiences again (4).

Factors contributing to witnesses' evaluation of their current security

The intention was to conduct a multiple linear regression analysis to assess the impact of a number of factors on witnesses' evaluations of their concern at the thought of testifying again. However, this was not possible due to highly skewed data, resulting from few witnesses expressing concern at the thought of testifying again.

Discussion

The aim of this study was to identify the impact of testifying in the SCSL on witness security and emotional welfare.

Witness security

The findings of this study show that the process of testifying in the SCSL does not negatively affect witnesses' self-reported feelings of security: no differences were found between their ratings of their own security pre-testimony, on returning home after testifying, and at the time of the interview. This suggests that the SCSL, specifically the WVS, are generally successful in their efforts to protect witnesses and maintain their confidentiality. In comparison with the ICTY, we could infer that the presence of the

Court (and in particular the WVS protection and support services) in the territory of the witness is beneficial for witnesses' feelings of post-testimony security.

Most witnesses reported feeling more than moderately secure at all the time periods assessed. Ratings of security were particularly high during their testimony period, whilst witnesses were in the care of WVS. This suggests that the steps taken by WVS to protect witnesses while they are in their care are very effective and could be seen as a model of good practice for other international war crimes tribunals.

The situation becomes more complex in the post-testimony period, with witnesses expressing more concerns about their security and the protection offered by WVS. This is to be expected, given the extremely high levels of satisfaction in the testimony period, and given that witnesses' contact with WVS decreases significantly once they return home.

The period when witnesses return home after testifying can be challenging for them (e.g. Stover, 2005). This research shows that those who are more likely to feel insecure once they return home are younger witnesses, those with fewer resources, those whose identities are known in their communities, and those who lack confidence that WVS would respond if the witness requested help.

The finding that witnesses who are younger and lack resources feel more insecure suggests that WVS and similar units should focus their support particularly on this type of witness. This could involve spending more time with them before they return home, exploring how they can contact WVS if the need arises, and steps they can take to protect themselves once they return home.

Concealment of one's identity as a witness is clearly an important factor in witnesses' sense of security. Witnesses who have spent several weeks away from home preparing for and giving their testimony may benefit from some support in preparing to return home and face curious friends and neighbours who want to know where they have been. A witness who is well prepared to respond to such questions is less likely to fear that the real reason for their absence from home may be revealed, or accidentally reveal it themselves.

Finally, confidence in WVS emerged as another important factor in witness feelings of security. This confidence can be developed over the period that the witness is in the care of the SCSL to give their testimony, since they will be supported by WVS staff throughout this period. There will be many opportunities for WVS staff to demonstrate their commitment to the witness's welfare, and to prepare them for returning home.

Ongoing contact with WVS staff after returning home seems to play an important role in building and maintaining confidence that WVS would respond if necessary. Those witnesses who were disappointed with the level of post-testimony contact with WVS tended also to be less satisfied with the security assistance received. Realistically, it is not possible in most cases for WVS to maintain high levels of contact with witnesses once they have returned home, or to make frequent follow-up visits. In order to prevent disappointment and a loss of confidence in WVS when they return home, it is important to prepare witnesses for this change, and to explore with them before they leave Freetown how they can contact WVS or get assistance in some other way if they require it.

Witness emotional welfare

The worry reported by witnesses reduced over the period of their contact with the SCSL, which indicates that SCSL staff who interact with witnesses are successful in their attempts to reassure witnesses, build their confidence and reduce their worry.

The factor which has by far the greatest influence is familiarity (or lack of it) with the Court and its processes. A lack of familiarity accounts for the concern of a large proportion of those witnesses who were worried when they were first approached, and those who were worried when the time came to testify. The low level of concern at the thought of testifying again is explained by the majority of witnesses as being because they now know what to expect. Clearly, the more information witnesses are given about the Court, its processes, what they can expect to encounter when they testify, and how they should conduct themselves in the courtroom, the less worried they are likely to feel. All witnesses are shown around a courtroom before they testify, but perhaps it would benefit the more worried witnesses to have a more thorough briefing.

A second significant cause of witness concern is fear for their personal safety and wellbeing. This includes fear of arrest, fear their identity will be revealed, and fear of retaliation. There is a clear relationship between security and worry, and a witness's confidence in the security systems in place to protect them has a considerable impact on their levels of concern.

A group of witnesses reported low concern throughout the process, because they said they only had to say what they already knew, so there was no reason for them to

worry. This perspective on what is expected of witnesses could perhaps be used to reassure more worried witnesses.

Although the majority of witnesses said they would not feel worried if they were to testify again, there was a very small group who would. The reasons they gave were that they would not want to be away from home for so long; they would fear reprisals; and that it would be painful to recount their experiences again. These three issues are not relieved by the increased familiarity that comes with the testimony experience; they appear to be particularly resistant to intervention from WVS or others.

Limitations

The research reported in this paper was an applied study that sought to meet a number of objectives, and was conducted in an extremely poor post-conflict setting, with a group of highly vulnerable participants. As a result of these conditions, this study has a number of limitations.

One factor that is likely to have influenced the data is that the people conducting the research interviews were also members of WVS staff who had provided assistance and support to the interviewee in the past. Although this was unavoidable, there are several ways in which this could have impacted upon the data. 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 know exactly how the involvement of WVS staff 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 the interviews being conducted by people unknown to the witnesses, especially considering the common fear of witnesses that their identity might be exposed.

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 they were dissatisfied. In addition, it is likely that witnesses who were relocated outside Sierra Leone, due to exceptional security risks, also differed in their experience of testifying in the SCSL, and the study would have been enhanced by the inclusion of this group.

An important methodological limitation is the retrospective nature of the study. Witnesses were asked to report how they felt at certain points in the process, but they made this assessment 'with hindsight'. A more reliable measure of witnesses' feelings would be to conduct a more longitudinal study, following witnesses through the process. Retrospective self-report will, necessarily, be a less reliable measure.

The wartime experiences of those living in Sierra Leone have been well-documented (see Perriello & Wierda, 2006). Sexual and gender based violence was widespread, as were amputations and abductions of children by the armed groups. Whilst

witnesses' wartime experiences (as victims and/ or perpetrators) and the nature of the events they testified about undoubtedly impacted on their perception of the experience of testifying, a decision was made not to ask about these issues in this study. People use various strategies to cope with extremely distressing experiences (e.g. Summerfield, 1999), including choosing not to talk about them (e.g. Tankink, 2004). Questioning about such events can trigger intense emotional and somatic reactions (e.g. Mikus Kos, 2008). Since WVS staff would not be readily available to the witness to provide ongoing emotional support following the interview, it was deemed inappropriate to include questions about witnesses' wartime experiences. Whilst such information would have been valuable for research purposes, we prioritised the imperative to 'do no harm' (Inter-Agency Standing Committee, 2007).

In addition, it was not possible to include the psychiatric status of witnesses as a variable in the current study, despite its undoubted relevance. Whilst others (e.g. Kaminer et al, 2001) have found that the act of testifying did not alter witnesses' psychiatric status, these studies were conducted with those who testified in the South African TRC, which is a very different environment. We were unable to assess this factor in the SCSL, in part because SCSL witnesses' psychiatric status had not been systematically assessed prior to their testifying, so we had no baseline data. Whilst it would have been possible to assess witnesses' psychiatric status at the time of the interview, it is now widely accepted that instruments developed to assess psychiatric problems in the West are not necessarily valid in African contexts (e.g. Summerfield, 1999). In order to conduct a valid and reliable assessment of witnesses' psychological wellbeing, it would have been necessary to

construct and validate a locally meaningful assessment tool (Hubbard & Miller, 2004), which was outside the scope of this study. It is likely that some witnesses continued to experience high levels of distress as a result of their traumatic experience, both throughout the trial and subsequently (including at the time of the interview). These people are more likely to perceive threats to their safety, and the fact that we were unable to take this factor into account in our study precludes a definitive conclusion regarding the impact of testifying at SCSL on sense of security.

Conclusions

International war crimes tribunals have evolved over the last few decades, and they continue to do so. Until recently, relatively little attention has been paid to the role of witnesses in the process, except in a narrow legal sense. Since the effectiveness of any war crimes tribunal depends on the quality of the evidence before it, it is essential that the impact of the process on witnesses is considered, and that guidelines are put in place to ensure that they are not negatively affected by their involvement. Many aspects of witnesses' lives can be affected by their decision to testify in an international war crimes tribunal; they and their dependents can be affected socially and financially, as well as in terms of their security and emotional wellbeing, as considered here.

The intention of this paper is to highlight not only the ways in which witnesses' security and emotional wellbeing can be affected by their testifying, but also how those who are responsible for their wellbeing can best support them, and ensure that their involvement with the tribunal is a positive one for the witness. The systems in place in the SCSL to protect those who testify before it seem to be fundamentally effective. This paper

has identified the aspects of the SCSL service which make a particular contribution to witnesses' wellbeing, and has also made suggestions for modifications to this service. It is hoped that this can be of assistance to others working with witnesses in similar circumstances.

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Table 1. Witness security at different time periods: Descriptive statistics

TIME	MEAN	SD	MISSING
Pre-testimony	3.80	1.43	2
During testimony period	4.67	0.66	6
On return home	3.65	1.35	8
At time of interview	3.98	1.23	2
Future (<i>reversed</i>)	2.98	1.54	8

Table 2. Summary of multiple regression analysis for outcome variable ‘witness evaluation of their current security’.

Predictor variable	Beta	SE	Std. Beta	t	p
(Constant)	3.00	.77		3.91	<.01
Gender	-0.40	.28	-.12	-1.41	.16
Age	0.02	.01	.20	2.42	.02
Ability to support self & dependents	-0.40	.18	-.19	-2.25	.03
Defence/ Prosecution.	0.43	.22	.17	1.94	.06
Satisfaction with post-trial security	0.08	.07	.11	1.29	.20
Confidence could contact WVS	0.09	.08	.10	1.15	.25
Confidence WVS would respond	0.19	.08	.20	2.30	.02
Community agreement with testimony	-0.17	.09	-.15	-1.90	.06
Whether identity known	-0.54	.22	-.20	-2.43	.02

Table 3. Worry at three time periods: Descriptive statistics

	MEAN	SD	MISSING
When first approached	3.10	1.60	3
When the time came to testify	2.50	1.55	0
At the thought of testifying again now.	1.69	1.22	0

Figure 1. Extract from the SCSL Rules of Procedure and Evidence

Rule 34: Witnesses and Victims Section (amended 29 May 2004)

(A) The Registrar shall set up a Witnesses and Victims Section which, in accordance with the Statute, the Agreement and the Rules, and in consultation with the Office of the Prosecutor, for Prosecution witnesses, and the Defence Office, for Defence witnesses, shall, amongst other things, perform the following functions with respect to all witnesses, victims who appear before the Special Court, and others who are at risk on account of testimony given by such witnesses, in accordance with their particular needs and circumstances:

- i. Recommend to the Special Court the adoption of protective and security measures for them;*
- ii. Provide them with adequate protective measures and security arrangements and develop long- and short-term plans for their protection and support;*
- iii. Ensure that they receive relevant support, counselling and other appropriate assistance, including medical assistance, physical and psychological rehabilitation, especially in cases of rape, sexual assault and crimes against children.*

(B) The Section personnel shall include experts in trauma, including trauma related to crimes of sexual violence and violence against children. Where appropriate the Section shall cooperate with non-governmental and intergovernmental organizations.

Figure 2. Illustration of question and response format.

When the time came for you to testify, how worried did you feel?

1 2 3 4 5

H1a. *Explore the reasons for the witness's answer.*

Not worried because ...	✓	Worried because ...	✓
1. Confident because I was only to say what I knew/ what is true		4. Unfamiliar with court/ first time in court	
2. Many security personnel present		5. Fear of cross-examination	
3. Reassured by lawyer/ WVS staff		6. Fear of arrest	
7. Other reason for not feeling worried [describe]		8. Other reason for feeling worried [describe]	