

“Archetypes of Humanitarian Discourse”: Child Soldiers, Forced Marriage, and the Framing of Communities in Post-Conflict Sierra Leone

In the aftermath of war, it is not just individuals but entire communities and the sense of belonging to them that require restoration. Indeed, conflicts can challenge the ways in which collectivities are conceived, as families, neighborhoods, and villages may be the very sites where the seeds of injustice and violence were sown. In this essay, I question the implication of safety that is often embedded in understandings of “community” in post-conflict and transitional justice institutions and practices—in particular, in the setting of the Special Court for Sierra Leone—in the context of ethnographic research carried out over almost thirty years in the country’s rural south-east.¹

When spatially conceived, the concept of community tends to privilege principles of residence or nativity (the fact of being born in a place) rather than other forms of belonging. And in post-conflict transitions, humanitarian actors often assume a therapeutic value in resettling populations displaced by war in communities of origin. But rural Africans usually have multiple options in such situations; the combination of extensive networks of kin, affines, and patronage on the one hand, and flexible, easily changed living arrangements on the other, means that many people make their homes in a series of different places over the course of their lives. The challenge is to identify which of these possible communities, with their different scales, affective resonances, and localizations, can have therapeutic roles, and under what circumstances.

Though the Sierra Leone civil war initially unfolded in urban as well as rural areas—and for long stretches of time in terrain that could not properly be called either, such as the semi-industrial rural wastelands produced by intensive mineral extraction—its disruption of agrarian landscapes and societies was more visible. This was in part because insecurity set rural farmers in motion toward the towns and nearby refugee camps where security and humanitarian aid were concentrated. Thus the war in part reconfigured social and livelihood options, especially for members of rural communities who were at the margins of power structures, such as youth and young women, or members of dependent, non-landowning lineages.

These members of rural communities greeted with some ambivalence the notion of being “reunited” with the families from whom they were separated, a reunion promoted by a number of humanitarian agencies. These programs were based on the assumption that family and community offered the best “psycho-social” environment for rehabilitating conflict-affected youth in particular, a position often expressed in a

rhetoric that fetishized the “local,” especially in rural areas. When paired with community, as in “local community,” rural locality appeared to offer the promise of stability, reintegration, and reconciliation in ways that promoted therapeutic outcomes. Even justice-seeking processes were relocated at the community level, for instance in the *gacaca* courts of Rwanda, which in 2004 were tasked with prosecuting perpetrators of the 1994 genocide in an effort to find alternatives to the expensive and lengthy trials of the International Criminal Tribunal for Rwanda (ICTR). Panels of nine judges, or “persons of integrity,” were assembled in rural communities and sat in judgment of proceedings where accused perpetrators were expected to confess, witnesses corroborated the evidence, and victims were expected to forgive the contrite *génocidaires*.

But ethnographic studies of the *gacaca* courts have shown that justice-seeking institutions characterized as local and traditional, and therefore as having greater legitimacy and restorative value in rural communities, can be products of top-down state policies that are not especially responsive to the needs of those directly involved. Thus the state-mandated *gacaca* courts are choreographed in ways that pressure community members to participate—even if only in the scripted role of witnessing audiences—by formal and informal surveillance mechanisms that reproduce the fear, paranoia, and mutual mistrust at the origins of the genocide.² Such collective mechanisms for justice-seeking and reconciliation, often undertaken in the name of national unity, put the interests of collectivities above those of grieving individuals, for whom processing grief and achieving closure—if any—may take different forms, and over variable lengths of time. In a similar manner, studies of the Truth and Reconciliation Commission in South Africa pointed to the temporal disjuncture between the needs of grieving relatives and survivors of the terrors of Apartheid, and the post-Apartheid state’s project of “national reconciliation” that called for a relatively expeditious and complete closure to particular investigations.³

In what follows, I examine some of the problematic assumptions about rural Sierra Leonean life and “customs” that emerged in the context of post-conflict transitional justice institutions, especially in the Special Court for Sierra Leone (SCSL). In particular, I focus on assumptions about agency, kinship, and marriage practices in legislation and courtroom discourse at the SCSL. The SCSL was the first war crimes tribunal to successfully prosecute individuals for the forced conscription of child soldiers, and it also distinguished itself for its vigorous prosecution of gender crimes, adding the new crime of forced marriage to the body of customary international humanitarian law. Though I focus in part on the discrepancies between perspectives at the SCSL and among my Sierra Leonean interlocutors on the rights and agency of children and women, I do so—to paraphrase Sally Merry on the topic of human rights more generally—not to fall back on anthropological arguments in favor of cultural relativism and against the universalizing discourse of rights, or to adjudicate whether these tribunals are “a good idea,” but to analyze instead “what difference they make.”⁴ In other words, while I aim to be attentive to the relationship between transitional justice mechanisms and “local” understandings of events and experiences, I want to avoid cultural moves that are sometimes based on rather depoliticized, overly homogeneous and static views of culture, tradition, and locality on the one hand, and, on the

other hand, on humanitarian discourse, which also has its contested and contradictory aspects.

My insistence on the political dimensions of humanitarian discourse owes much to Hannah Arendt's observations on the links between the rise of broad allegiances to the "inborn and inalienable rights of man" and totalitarianism in the twentieth century:

The conception of human rights based upon the assumed existence of a human being as such broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships—except that they were still human. The world found nothing sacred in the abstract nakedness of being human.⁵

For Arendt, there was no way of transcending the realm of the political—and of the robust protections offered by the political rights of citizenship—in the name of a humanitarianism that protected bare life. As I discuss in the final section of this essay, Arendt's understanding of rights as essentially political—and democratic, in particular—echoed with debates among some of the marginalized groups in Sierra Leone whose grievances had fueled the conflict. In the war's aftermath, these groups embraced in novel ways the discourse of rights, for instance to advance the interests of individuals against those of collectivities such as patrilineages and extended households, which tended to favor the older, powerful, and wealthy in these communities. In the process, they also insisted on anchoring these rights in political institutions and practices.

This reworking of the discourse of rights beyond the sphere of humanitarian law and war crimes courts appears to parallel the push in these latter settings to focus on rights-bearing individuals to the detriment of rights-bearing collectivities, even though it does so in different ways. But in the court setting, the focus on individual perpetrators of crimes is problematic in light of the fact that violence and abuses in war are experienced often as collective phenomena, which in some cases profoundly erode normal mechanisms of social reproduction, trust, and accountability. The developing body of international humanitarian law has moved, in its thinking about "personal responsibility," toward narrower definitions of individual accountability higher up in chains of command, which effectively target for prosecution people who were not necessarily the actual perpetrators of brutalities. Thus the indictment of "those most responsible" for particular war crimes accounted for dozens of indictments in the Yugoslavian and Rwandan tribunals, but by the time the second generation of "hybrid" war crimes courts got underway, after 2000 (i.e., those covering war crimes in Sierra Leone, East Timor, and Cambodia), prosecution had shifted to "those bearing *the greatest* responsibility"—a narrower designation that yielded fewer indictments and speedier trials.

Humanitarian discourse is contested and contradictory, then: on the one hand, communities have been seen as crucial to accountability, reconciliation, and the rebuilding of national unity in the aftermath of violence, as in the cases of the South African Truth and Reconciliation Commission and of the *gacaca* courts in Rwanda. These cases show that to some extent the healing of national communities comes at

the expense of the grieving processes required by individual victims, or other communities, on a smaller scale. On the other hand, at the International Criminal Tribunal for Rwanda, for instance, the focus on individual responsibilities for crimes flew in the face of the collective forms of violence, with state collusion, which resulted in the Rwandan genocide—a violence that undermined the very possibility of community.

Ambivalent Returns

In this section, I explore the ways in which family reunification programs in the aftermath of war highlighted some of the aporias embedded in efforts to reconstitute the wholeness of prewar families and communities. The cases I examine here underscore the contested nature of practices aimed at healing traumatized individuals and communities. Both cases involve young men who had been children or young teenagers at the outbreak of this decade-long war, and they highlight the uneasy fit between the therapeutic needs of traumatized individuals and those of collectivities in the aftermath of extreme violence. Youth were at the center of the proceedings in the SCSL, too, during which prosecutors issued indictments for the “new” crime of forced conscription of child soldiers, and in the next section I analyze the contradictions in the developing humanitarian discourse about war-affected youth which is the foundation of these prosecutions.

In spring 2002, I was present in the rural Sierra Leonean chiefdom where I had carried out research since 1984, when a young man was brought back by an organization devoted to Disarmament, Demobilization, and Reintegration (DDR) and to the reunification of families separated by war. Following the peace declaration in January 2002, efforts to repatriate refugees and reunite families separated by war were stepped up as the country prepared to hold its first post-conflict elections in May. A van pulled up to the home of the chiefdom’s section chief and dropped off a young man who looked vaguely familiar, accompanied by an employee of a non-governmental organization charged with repatriating war-affected youth.⁶ The people who had accompanied me from the village where we were staying exclaimed with surprise that this was “Kaikulo”—his nickname, meaning “squirrel” in Mende—a child who had lived next door to me some seventeen years earlier, and who often had come by to play with other children in the compound or to ask for food in exchange for doing small chores.

Somewhat shell-shocked, Kaikulo circumspectly answered questions posed to him by people crowding around him, including myself. I assumed that, like all other people in the village who had known me since they were children, Kaikulo would remember me as the only Caucasian stranger in the village of some 260 people in which we had lived, especially since we had been neighbors. He said he did not remember me, nor any of the other villagers.

Kaikulo’s father had died when he was young, and his mother had remarried and had other children, joining her new husband in his village, at the other end of the chiefdom. Her efforts to include Kaikulo in her new family had failed, so she had sent him to live with her widowed father, who lived in her native village. This situation was not uncommon, as factors ranging from the death of a caretaking parent, to the preferential treatment of particular wives and their children in polygynous marriages, to

personal incompatibilities between a parent and child, or the prospect of a better future with wealthier relatives resulted in children being raised in fosterage by adults other than their parents. But Kaikulo and his grandfather were an unusual pair, since as a widower his grandfather would have been expected to live with a younger sibling or one of his adult children, in order to have his daily domestic needs met by a woman in the house. Instead, Kaikulo and his grandfather had lived alone in a half-collapsed mud house—one too old and ill, the other too young to farm—with no female relatives to cook for them, and they were often dependent on the kindness of neighbors for their subsistence. On one occasion when Kaikulo's grandfather was seen preparing a meal in his dilapidated house, other villagers commented on the shameful, pathetic sight of a Mende man cooking for himself, suggesting that this was the epitome of social isolation and poverty. Some blamed the daughter, Kaikulo's mother, for dereliction of her filial and maternal duties. After the death of his grandfather in 1986, Kaikulo was sent to live with relatives near the Liberian border and never returned.

Kaikulo could not have been much younger than seven at the time he left. More likely he was older. He certainly was already of an age when developing children form lasting memories. Perhaps his failure to remember his earlier life was linked to traumatic experiences in the intervening time or to his concern that acknowledging any memories at all might lead to questions about the more recent past. The section chief sent for Kaikulo's mother, in a village a few miles away, and while we waited for her arrival, people began asking Kaikulo about the course of his life since he had left. Kaikulo said that he had been living near the country's eastern border with relatives when the civil war broke out and had almost immediately been captured and taken over the border in Liberia. People fell silent at this news: everyone knew that the war had "come to the country" in 1991 from Liberia, and that Liberian training, armaments, and shelter were central to the formation of the Revolutionary United Front (RUF), whose "rebels" had been the conflict's instigators. It was not unusual for civilians on the Sierra Leonean side of the border to seek refuge from the rebels in Liberia when the conflict heated up in eastern Sierra Leone, but Kaikulo's admission that he had been captured by them immediately raised suspicions that he might have been enlisted in their ranks.

One bystander voiced this suspicion, asking Kaikulo what he had done during the war, prefacing his question with a comment about how "we" had heard that many horrible things were done in some of the places where Kaikulo had lived. He added that "we" wanted to make sure that nobody came here to stir up trouble. The man spoke in the first-person plural to convey his sense that the community as a whole shared his sentiment—as the exchange of nods and looks all around seemed to imply. Before Kaikulo could answer, however, the section chief intervened and told the man not to question him, challenging the notion that he was speaking for all. Turning to Kaikulo, the chief told him that he would not ask him what he had done during the war but wanted him to know that from now on, if he wanted to live in the chiefdom, there were rules he needed to follow, and he had to stay out of trouble.

In silencing questions about Kaikulo's wartime experiences—all the while juxtaposing the interrogator's "we" with his own "I," the individual with the collectivity—and discouraging Kaikulo from talking about them, the chief was doing

the opposite of what many post-conflict transition experts considered an essential element of the move toward reconciliation, namely, the public acknowledgment of one's actions in wartime, in the name of accountability and justice. In those very weeks, a group of South African advisors was in the country, offering advice as Sierra Leone's own Truth and Reconciliation Commission (TRC) was beginning its work. To the TRC, which collected the bulk of its testimonies in 2003, "the need to know" was paramount in order to "heal communities," effect reconciliation, and move beyond the conflict. But to this chief—and to others I witnessed interrupting discussions about wartime activities on the occasion of similar returns—it was the setting aside of the war and its memories that offered the best chance for moving on. And while the man who had asked Kaikulo what he had done and where he had been during the war did not share this attitude, it was by far the prevalent one during this visit in the immediate post-conflict phase.

The ambivalence toward public discourse about personal war experiences became evident from the reception another village youth received when he tried to talk about his own traumatic war experiences. He had been a young recruit among the "hunter"—*kamajo*, in Mende—militias which had formed initially under the patronage of Paramount Chiefs but by 1996 had developed into a national, pro-government Civil Defense Force (CDF), whose leader acquired the rank of deputy minister of defense. The fact that most villages voluntarily "gave" some of their young men to the CDF cause for their own protection—especially during the early years of the war—meant that unlike other fighters kidnapped or forcibly conscripted by warring factions, they tended to enjoy the support of their communities. But this traumatized young man could not find a sympathetic ear for his story of a wartime wounding. He wandered in search of new visitors to whom he might show a wartime photo of himself in armed hunter attire and a bullet, which he carried with him. He would lift his shirt to show the scar left by the bullet on his body, and he spoke in a monotone about his illness.

Locals who had already heard the story many times moved away as he approached, others asked him to let go of his complaints, reminding him that they had suffered too. The implication of some of their responses was that in his pursuit of individual attention for his story, he was undermining their own collective hopes for moving beyond their suffering. This response was consistent with the skepticism noted by scholars and humanitarian NGOs toward the TRC process in Sierra Leone and the notion conveyed in its appeals that "vent(ing) thoughts and feelings" was a precondition for transitioning to a stable peace. Thus Rosalind Shaw has noted the "friction" between, on the one hand, "the concept of redemptive remembering" espoused by promoters of the TRC process and in the rhetoric of its proceedings, and, on the other hand, the "local techniques of forgetting" that were preferred by many Sierra Leoneans, in part out of fear that testimonies about wartime experiences would "reopen old wounds" and bring about more violence.⁷ This resulted in lower than anticipated attendance at the TRC's open sessions throughout the country—an avoidance anticipated by the scene surrounding Kaikulo's return in the year leading up to those proceedings, as well as confirmed by the experience of the young man

who was primed to talk by his experience at the TRC but could not find sympathetic listeners.

When Kaikulo's mother arrived, there was an awkward reunion between the estranged pair, and nobody was surprised when, given a choice of places in which to settle, he chose not to follow her but instead came with us to the village from which he had left so many years earlier, and where his grandfather's surviving brothers still lived. As Kaikulo walked around the village, being reintroduced to people and places, he seemed ill at ease. He had been born here but also left behind here by his mother, had suffered cold and hunger through his grandfather's terminal illness—when even other children spurned him—and eventually had been sent away to live with distant relatives. He had been kidnapped and taken to a foreign country, and now through the intervention of a project that facilitated family reunions he had decided to return to this particular “local community,” an expression the NGO staff member who had accompanied him kept repeating like a mantra.

I left a few days after Kaikulo's arrival, and on my next visit a couple of years later he was no longer there, having departed for one of Sierra Leone's larger provincial towns. Set in motion by the war and exposed to life in large, peri-urban refugee camps and towns, his community of reference did not appear to be the rural village where he had been born but spent a perhaps insignificant fraction of his life—and not a very happy one at that.

The contrast between the chief's avoidance of questions and the aggressive interrogation of Kaikulo that he interrupted suggests that the issue of whether it is preferable to air truths about wartime deeds or move beyond them was not settled in this part of rural Sierra Leone, as was true at the national level as well. This may have had to do in part with the fact that whatever Kaikulo did during the war—whether he was a victim, a perpetrator of violence, or both—his wartime experiences had unfolded far away, over the border in Liberia. By the time I returned to the village in May 2012, Kaikulo was back, and when conversations turned to the conflict that had ended ten years earlier, people casually mentioned that he had been “taken to Liberia” during the war, without the suspicion of those past conversations. Kaikulo had been reunited with his mother: they lived and farmed together, now that the husband who had not wanted him in his house had died, leaving her a widow. An easy familiarity had developed between them and with the broader village community. Kaikulo finally seemed at home.

But what of situations in which known perpetrators of violence were reunited with the communities that suffered at their hands? Rwanda posed some of the most extreme scenarios of cohabitation between victims and perpetrators of war crimes, as well as raising the issue of justice-seeking mechanisms at the local level in the aftermath of war, in the form of the *gacaca* courts. In a 2008 visit to a Rwandan village where a *génocidaire* lived who had served a prison term for the crimes he had committed and to which he testified in the local *gacaca* court, Philip Gourevitch found a climate of mistrust and ambivalence on all sides. The perpetrator had asked for forgiveness from his victims' relatives, but the survivors felt “forced” by the government to cohabit with the neighbor who had turned on them during the genocide. He had set up a checkpoint in front of his house, where he himself purportedly killed almost a dozen

people. The man had not confessed to all of these murders, and for this and other reasons survivors did not entirely trust that he would not turn violent again under the right circumstances. In turn, the perpetrator was now living and farming in greater poverty than most of those living around him, keeping to himself and to his family, rendered a virtual prisoner in his house by the fear of retribution.⁸

What was striking about many Rwandan cases was the intimacy of the violence and the contradictory feelings generated in its traumatic aftermaths. Among the victims of the Hutu *génocidaire* portrayed in Gourevitch's article were relatives of the man's Tutsi wife. She continued to live with him and wavered between defending him against his accusers and admitting that she feared him, while her surviving relatives openly expressed their hostility and disbelief that she could even consider remaining married to him. The "community" portrayed on this particular Rwandan hill in the aftermath of *gacaca* did not seem a place of redemption and reconciliation. To the contrary, it was a place where outright terror had been replaced by a veneer of formal civility, and where surveillance and mistrust were widespread, along with the fear that violence could break out again at any time.

In Kaikulo's Sierra Leonean village, memories of his past presence there remained among those left behind, but the violence of war had erased or made unacknowledgeable his own memories of this place when he first returned in 2002. He barely spoke of his grandfather, from whom he had been inseparable as a child. At the same time, the crisis produced by war—the "tear," or break, in the original etymology of the word—opened up the possibility of creating different networks of belonging, and perhaps of therapeutic forgetting. In Kaikulo's case, in which his "community" had not been able to protect him even from the structural violence of poverty and maternal abandonment before the war, let alone from war atrocities, the silence surrounding his wartime activities made it possible, in time, for him to return.⁹

As mentioned earlier, the focus (for example, in the discourse of the TRC and of NGOs working on refugee repatriation) on communities as sites of reintegration and post-traumatic healing was in part justified by the youth of many perpetrators and victims of the Sierra Leone civil war. But the cases of Kaikulo and of the young wounded hunter underscore the ambivalence as to whether such reintegration should include a process of "coming clean" with the truths about a subject's wartime past, or whether instead these memories should be silenced and forgotten, at least in public. Indeed, while Kaikulo managed to find, eventually, a measure of reintegration into the ordinary rural life he had known before the war, the wounded young hunter had become increasingly alienated over time. After being healed physically by humanitarian agencies, which along with the TRC offered him opportunities to articulate his "victim's tale" that found no sympathetic listeners in his own community, he left the village.¹⁰

But the other realm in which these issues were debated was the Special Court for Sierra Leone, whose proceedings, too, elicited contested memories of the war in the pursuit of justice and accountability—the complementary arm to the reconciliation sought by the TRC. Indeed, in the opinion of David Crane, the first chief prosecutor of the court, this link between war crimes tribunals and TRC processes was to be a

cornerstone of the new generation of hybrid national and international tribunals, of which the Special Court for Sierra Leone was one of the examples.¹¹

Child Soldiers and Individual Responsibility

From the outset, the forced conscription of child soldiers challenged the boundaries between perpetrators and victims, civilians and combatants—and the very meaning of “responsibility”—in mechanisms of justice whose main reason for existing is precisely this distinction. But it also challenges other boundaries. Thus began Graca Machel her influential 1996 report *The Impact of Armed Conflict on Children*, commissioned by the UN Secretary General: “Millions of children are caught in conflicts in which they are not merely bystanders, but targets.” The normal expectation that children would be “caught” up in war and not actively participate went hand in hand with the notion that they should at most be incidental witnesses to violence, not its targets. Machel goes on to characterize this attack as a sign of “the desolate moral vacuum” into which the world was falling and to identify the blurring of boundaries between combatant and civilian as one of its key symptoms.¹² Even though, in her discussion of the ways in which child soldiers are recruited, Machel mentions that “youth also present themselves for service,” she hastens to assert that this should not be construed as “voluntary” enlistment, given economic or other pressures that often play a role in such decisions.¹³ The picture of vulnerability and limited agency tends to simplify the category “youth,” but it also assumes much about the choices of adults who might be “caught” in war in ways they cannot control.

In 2000, when Secretary-General Kofi Annan presented to the Security Council the document establishing the SCSL and its statutes, he took a different position with respect to young perpetrators of violence. He wrote, under the heading “personal responsibility,” the following:

Within the meaning attributed to it in the present Statute, the term “most responsible” would not necessarily exclude children between 15 and 18 years of age. While it is inconceivable that children could be in a political or military leadership position (although in Sierra Leone the rank of “Brigadier” was often granted to children as young as 11 years), the gravity and seriousness of the crimes they have allegedly committed would allow for their inclusion within the jurisdiction of the Court.¹⁴

He goes on in the next section to discuss the “moral dilemma” posed by the prospect of children being prosecuted for crimes against humanity and the debates pitting representatives of the Government of Sierra Leone (who insisted that juveniles responsible for crimes against humanity be brought to justice) against representatives of international agencies and NGOs; the latter worried that such a move might jeopardize the youth rehabilitation programs set up during the post-conflict transition. In the event, the recommendation was to shift responsibility for collecting the testimony of perpetrators aged fifteen to eighteen at the time of the crimes to the Truth and Reconciliation Commission (yet to be established), to hire personnel with specific expertise in dealing with juvenile offenders at the court, to treat witnesses of that age

“with dignity and with a sense of worth,” and to subject them, where necessary, to “alternative options of correctional or educational nature.”¹⁵

In contrast with the Machel report, Kofi Annan’s document balanced an approach to children as at once victims and perpetrators, who might have been plied with drugs or psychological violence to join the fight, with an awareness of the atrocities committed by such fighters and the demands in Sierra Leone that even these perpetrators should be brought to account. His recommendation for the Special Court for Sierra Leone was that it should prosecute those “most responsible” for war crimes—the same mandate under which the international courts for Yugoslavia and Rwanda had issued dozens of indictments—rather than only those “bearing the greatest responsibility,” as ended up being the case. Annan, too, invoked morality in the discussion, but here it is not the “moral vacuum” of a world that no longer respects the sanctity of childhood and assumes the innocence of civilians always conceived of as “unarmed.” Rather, it is the dilemma posed by the possibility that these very populations might be the agents of violence, not its passive victims. The overlooked fact in this tendency to think of civilians as unarmed is that it is often championed by policy and legal experts from countries such as the United States and Canada, which rank first and third in world tables of civilian gun ownership, with respectively 42 percent and 26 percent of citizens reporting possession of guns in their homes!¹⁶

In the event, Kofi Annan’s more nuanced approach to the question of youth participation in armed conflict, and to the gray zone dividing their moral responsibility for committing atrocities from their status as victims of violence, was overtaken in the SCSL by the agenda of inscribing the very act of recruiting them into the roster of crimes against humanity. The focus on the individual moral responsibility of the child combatant gave way to the individual moral responsibility of those who recruited such children as fighters. In the process, the child soldier became *de facto* a victim in a permanent, timeless way, and this in a conflict that lasted more than ten years, a temporal span over which a young person so labeled at one time moves to different stages of moral reasoning, responsibility, and culpability, with respect to both socio-cultural institutions in which his or her life unfolds and international humanitarian legal mechanisms.

Though these subjects remain forever young in the language of legal debates and in the overly solicitous rhetoric of judges addressing them as vulnerable victims even as they testify as full adults, the court transcripts sometimes reveal more complex profiles. Witness DBK-113, who testified for the defense in the Armed Forces Revolution Council (AFRC) trial, was the son of a military man who had grown up in Freetown army barracks, and whose father aligned himself with the rogue group of mid-ranking military officers who in May 1997 formed an alliance with the Revolutionary United Front (RUF) to overthrow the civilian government elected the previous year. The man, born in 1974, was testifying about events that had occurred when he was twenty-three or older, during the nine months in 1997–98 when the AFRC/RUF junta held power, and during the period following the March 1998 reinstatement of the Kabbah government ousted by the junta. The return of Kabbah had been marked by efforts to weed out junta supporters among the civilian population; atrocities had

been committed on the government side as well as by the retreating AFRC-RUF forces.

During a line of questioning aimed at clarifying what the witness meant by the expression “soldier’s affiliates” to describe some of the young men with whom he had retreated toward the junta-held parts of the North in the face of advances by government militias, the witness explained that “when soldiers had been pulling out from Freetown . . . because of harassment which they had been receiving, and they had been burning soldiers, some were afraid to leave their children or their nephews, and nieces, so they went with them. So those kinds of people were in that group.”¹⁷ Affiliates, then, were youth who joined fighting factions because these were the safest places for them to be in situations of generalized chaos, such as Sierra Leone was in May 1998. For these young dependents, remaining behind in the communities they inhabited was the dangerous option, not the safe one, and, paradoxically, joining fighting factions was the only way to remain protected as civilians. Later in his testimony, the witness spoke about the leader of a new group of soldiers who had arrived in a village where he was staying. As his testimony unfolded, lawyers consistently distinguished civilians and combatants in their questions, and gradually so did he, for instance when he described the officer as incorporating “his own civilians that he came with, who were the relatives of soldiers, children—soldier’s children, who came from Freetown. They incorporated them into our own civilian group.”¹⁸

The nature of such “incorporation” interested the defense lawyers, who asked their witness whether among these civilians there were any who had been abducted against their will, but the witness was unable to say. Not only, then, was the line separating combatants from civilians difficult to draw in his own testimony and experience; so, too, was the line that separated forced abduction from forms of affiliation which, over time, impelled civilians to become either camp followers who provided a range of services for the active fighters or actual combatants themselves. Even taking into account the partisan nature of this testimony, which was being elicited to support the defense of an AFRC leader from accusations of forced conscription of child soldiers and forced marriage, this witness’s words echoed a point made by others who have studied the everyday unfolding of this and other conflicts, namely, that contemporary and historical evidence suggests that under situations of extreme social disruption, “armed children may actually be safer than unarmed civilians.”¹⁹ Thus some youth—including this witness—had joined the fighting factions to secure the protection of a group whose hierarchical structure blurred the distinction between their members’ young “relatives” and other “affiliates.”

In the indictments and judgments of the SCSL, such nuances in the forms of involvement, and hence degree of responsibility—and the moral dilemmas associated with these differences—were mostly overlooked. Even when testimony exposed different degrees and forms of involvement in conflict, as in the passage quoted above, these were often left unexamined by the judges. By contrast, in this particular instance, lawyers for the defense echoed in their line of questioning the writings of anthropologists who noted the parallels between, on the one hand, the living and support arrangements put in place by military officers for youth who ended up in their care during the conflict and, on the other, the expansion of extended family supervision in

ordinary rural settings that provided a safety net for orphaned and abandoned youth in prewar times.²⁰

Despite the defense's efforts to familiarize the court with the various forms of affiliation of young followers with fighting forces by assimilating them with ordinary peacetime social networks, the figure of the child soldier as "a generic archetype of humanitarian discourse" emerged in most of the testimony elicited by the prosecution. During the proceedings, clarifications about the exact age of a witness or victim testifying before the court at the time of the events being discussed resonated with the language of international conventions aimed at establishing the thresholds of particular forms of agency and responsibility in growing children. "Should the age of prohibition against child recruitment be eighteen or fifteen?" went the diatribe. There was little support for the lower age threshold from states that routinely conscripted men younger than eighteen in their armies. Here, even though "protectionist concerns about children have been central to major legal efforts to restrict the involvement of children in war," the "politics of age that underlies the development of the law . . . has engendered conflicts over the age of recruitment, privileged state over nonstate actors, and undermined local solutions to the problem of the culpability of children."²¹ It has also had the effect of depoliticizing "the uses of children as moral subjects" in international humanitarian thinking about peace and war.²²

This outcome belies the highly politicized nature of the international discussions that led to the treaties concerning the use of young combatants in war. While early drafts of the protocols added to the Geneva conventions in the 1970s on the question of child soldiers contained "anemic language" that encouraged signatory states to take "all necessary measures" to prevent the recruitment of child soldiers and also to prevent the "voluntary enrollment" of children under fifteen, the final document was altogether silent on the latter, a fact that reflects the contested nature of much international norm-setting.²³ Thus there are tensions in the ways in which the discourse on international human rights has framed the issue of child soldiers, ranging from exhortations to exclude children from armed conflict without any enforcement mechanism to making their recruitment a crime against humanity, as was done in the SCSL.

But while historical change is patently at work in the development of this jurisprudence, timelessness has characterized the representation of "child soldiers." And this in the context of conflicts—such as the Sierra Leone civil war and the broader regional conflict within which it was situated—which lasted for ten years and longer, a time span that, as I mentioned earlier, brings dramatic changes in the moral, physical, and psychological development of any child. Defendants and witnesses testifying in front of the Special Court for Sierra Leone were adults, but lawyers and judges tended to address them as though they still were the children involved in past events they were discussing. On more than one occasion, court judges intervened to reprimand a lawyer for not treating a witness with a gentleness consistent with his or her vulnerable status. Perhaps this behavior was informed by the scholarship on trauma and memory. In the temporalities of trauma, a subject is shielded by repressive mechanisms from the full, conscious knowledge of a "wound" in the moment in which he or she suffers it, only to experience the event consciously later, when a different trauma brings it back.²⁴ From this perspective, the subjection of a victim/witness to questioning in the court

setting—and the memories inevitably elicited in the process—could have traumatic effects, and therefore had to be undertaken with care.

But if this was the concern of the court, paradoxically its practices did more to fix in time such witnesses as “traumatized children,” rather than to recognize—as Kofi Annan advocated in his more nuanced recommendations—the ways in which the state of childhood, in particular, is one characterized by differences and rapid changes. That these changes had implications for moral responsibility was underlined by the ambivalence with which the villagers present at Kaikulo’s return addressed the possibility of his speaking out about his wartime experiences. His story, too, makes one consider that in its very destructiveness, war unmoors people from communities that sometimes are sites of structural violence and suffering, and in the process it can offer them better choices.

The Making of “Bush Wives”: Gendered Justice in Translation

We will show that this condition, these forced marriage arrangements, were and are inhumane and should forever be recognized as a crime against humanity. Sadly, even today, there are women and girls in the bush out there in these forced marriage arrangements. It is now time to cry out to the world about what took place in Salone regarding sexual violence. These despicable degradations should be the last time they are committed, for future war lords must know the price they will pay.²⁵

Q: Mr. Witness, during the time that you were with the fighting forces, all the way up to Freetown, did you ever hear people using the word “bush wife”?

A: No.

Q: Have you heard the word “rebel wife” before, Mr. Witness?

A: No.

Q: During the time that you were with the fighting forces did any of the female civilians, at any point in time, inform you that they had been forcibly taken away from where they were, and brought to—sorry, Your Honours, let me rephrase the question. My question is that during the time that you were with the fighting forces, did you hear of any forced marriages between any female civilians and any of the fighting forces?

A: No.²⁶

Forced marriage emerged as a new, distinct crime against humanity at the SCSL and was successfully prosecuted for the first time in this court. The practices of sexual violence, impregnation, and enforced “domesticity” encompassed within this expression were examined and condemned in previous tribunals, notably those for the former Yugoslavia and Rwanda, but in these venues they were tried as instances of sexual slavery and rape. And while the unlawful conscription of child soldiers was already in the statutes that established the SCSL, as well as of the International Criminal Court (ICC) in the Hague, the SCSL was the first court where indictments were brought—and judgments successfully attained—under the crime of forced marriage. This was a fitting landmark for a court whose first chief prosecutor, David

Crane, “was determined to make gender violence the cornerstone” of his indictments.²⁷

The legal wrangling that moved forced marriage out of the domain of sexual crimes—at first under the broader umbrella of “other crimes against humanity,” to emerge eventually as a *sui generis* crime—offers a glimpse into the making of international customary law. But it also highlights the gap between the concerns of the tribunal-hoppers—the court legal staff—who help expand the body of humanitarian case law and those on whose behalf they seek justice.²⁸

Indeed, in the Mende language spoken by this witness and about half the population of Sierra Leone, the term *nyaha* means “woman,” as well as “wife.” It also signals the fact that a person has been initiated into the women’s Sande (or Bundu) society and is thus a social adult, ready for marriage and childbearing. By contrast, an uninitiated person of either sex is referred to as *ndopo*, a child, but also, with specific reference to his or her uninitiated status, *kpowa*, regardless of chronological age. *Kpowa* is a word that has connotations ranging from immaturity, lack of judgment and reason, to outright insanity. So being a *nyaha* for a Sierra Leonean Mende implies a number of things including a distinct gender identity, sexual and reproductive maturity, knowledge of appropriate actions and speech for a socially responsible adult, and the ability to act sensibly, reasonably, and with an understanding of one’s place in the world. What it does not imply is autonomous choice and responsibility in the way in which notions of social maturity and adulthood might elsewhere. To the contrary, the young and unmarried of either sex, and women throughout their lives, are most fully embraced by familial and social communities when they are “for” somebody (*nu[mo] lo flva*), when they are tied by relations of dependency to a *kpako* or *nu wai*, a “big” person. Among other things, a *kpowa* cannot bring lawsuits or testify in customary courts without a patron present.²⁹

Women may attain the status of big persons, of patrons in such relations, but usually this happens at times in their lives or under conditions in which their roles as mothers and wives are eclipsed by other socioeconomic and political roles.³⁰ Ultimately the backdrop against which these relations must be understood is one in which a great deal of value is placed on the (unequal) interdependence of members of familial, social, and political collectivities—and in which, therefore, even the powerful are beholden to those who depend on them—rather than on the ability of individuals to become autonomous from such webs of mutual obligation. An additional feature of this context is that any individual, even the most powerful, is assumed to be both a patron within certain collectivities and a dependent in others. In marriage, this means that family authorities tend to want some indication that their female relative is interested in a potential match before finalizing arrangements and accepting bride-wealth, for if they are strongly opposed to the potential husband, they might in the future—with the support of alternative patronage—seek a divorce. This, in turn, would force the wife’s family to return the marriage payments at a time when their financial circumstances might make it difficult to do so.

Alternatively, women who found themselves forced into an unhappy marriage could find ways to form more congenial relationships by taking lovers or leaving their husbands without formally divorcing them, while cohabiting with someone else. In

the latter cases, the linguistic ambiguity of “wife/woman” would mask the absence of a formal marriage ceremony. In general, prewar arrangements in these matters tended to increase the possible range of unions that went under the rubric of “marriage” rather than draw sharp distinctions. A corollary to these practices is that they bespeak a weaker, more contextual notion of “community,” one which offers alternatives to individuals who find themselves trapped in unhappy affinal, kin, or other relations.

The expression “bush wife,” which I first encountered in NGO and SCSL documents, was not used in Mende or the Krio language, Sierra Leone’s *lingua franca*, in the years leading up to the war. Furthermore, the testimony cited in this section’s opening suggests that even during the civil war the expression and the practices to which it refers were unevenly deployed. In the Mende areas I visited, there was no plausible translation of the expression in circulation, something along the lines of *ndogbo nyaha*. Instead, I was told the story, for instance, of how Moinyaha was approached by a rebel who “liked her” during a raid on the village; he took her, and she was never seen again. The ambiguity of the language used did not exclude the possibility that Moinyaha had some choice in the matter, as would be customary in relations ranging from the most informal to marriages arranged among representatives of the prospective groom and bride. Other stories were similar to that of Aminata in Chris Coulter’s 2009 book *Bush Wives and Girl Soldiers: Women’s Lives through War and Peace in Sierra Leone*: they were swept up in the war, raped, then offered the protection of an exclusive relationship with a particular fighter, whose “woman/ wife” they thus became. In Aminata’s case, she and her abductor sought to formalize their relationship and his status as the father of their two children after the war, but her family refused his marriage offer. Having decided that the best thing would be for her to have her family’s support, they separated, only to see her still shunned and ill-treated by her suspicious family and driven into prostitution by the need to support her children.

The degree of choice exercised ordinarily by women in their own marriages varied considerably in Sierra Leone, especially in rural settings where arranged polygynous marriages were the norm.³¹ Often the interests of extended families to cement alliances, or to secure connections with wealthy, powerful patrons, trumped the desires of the individual whose marriage was integral to such strategies. Cultural practices surrounding marriage were interwoven with political strategies from the outset, in other words, even in the understandings of those involved in these familial negotiations. Though horrible crimes were committed against women during the 1991–2002 civil war, in some cases the so-called forced marriages that joined rebels to kidnapped women ended up being better matches than the equally forced marriages that had preceded them in peacetime, particularly because they tended to be among partners who were closer in age than those selected by families to improve their socioeconomic prospects. The homogeneous characterization of all such unions as “crimes against humanity” did not reflect the range of wartime practices and experiences or their broader context outside wartime.

One of legal scholars’ key arguments in favor of adding forced marriage as a specific new crime against humanity was that “none of the other crimes against humanity that [compose] forced marriage describe the *totality* of the perpetrator’s

conduct or the victim's experience." For instance, "Sexual slavery describes the loss of personal freedom and the sexual violence, but does not speak to the forced domestic labor, childbearing, childrearing, and degradation of the institution of marriage." By contrast, rape addresses sexual violence, and sexual slavery the prolonged subjection to rapes and sexual abuses, but not the particular loss of "personal liberty" entailed in bearing and rearing children conceived in the process, which were imposed on some of the women abducted in the Sierra Leone civil war. Forced marriage, it was argued, was "a profound deprivation of individual autonomy" and "the denigration of an important and protected social and spiritual institution."³² But as I pointed out, a woman's individual autonomy in marriage matters was even in the best of circumstances only one factor among several, with her family's interests being paramount. The legal scholarship brought to bear on the jurisprudence on "forced marriage" recognizes that it is often families and not individuals who contract marriages in Sierra Leone, but even so, scholars argue that families have their daughters' interests at heart in this process—an argument for which there is not much support in the ethnographic evidence—and that the strength of tradition, ritual, and "community" values lends it legitimacy.³³

Writing about the abduction of women during India's violent 1947 partition, the anthropologist Veena Das observed that women and children—whose roles in normal times were subsumed within the family—became visible as a site for making claims about national honor in campaigns to obtain their return, even years after their abduction. Many had settled down and had children with men who were not only captors but sometimes known neighbors who had offered marriage as a way to protect women from violence.³⁴ And even as the Indian nation successfully reclaimed these women, their public recognition as victims of abduction stigmatized them. As a result, their original husbands and families often abandoned them to languish in camps rather than take them back after the polluting experience of sexual relations, and even childbearing, with other men. In several Sierra Leonean cases I know of, girls who were returned to their families after wartime abductions were similarly shunned, their "value" on the marriage market considerably diminished now that they were no longer virgins, especially if they had borne children. Though extramarital pregnancies are not necessarily stigmatized *per se* in Sierra Leone, "rebel babies" tended to be rejected by the families of abducted women.

During the 2005–7 phase of the SCSL, the issue of lasting stigma, illustrated by Aminata's experience noted earlier, became pivotal to this court's role in adding "forced marriage" as a new crime against humanity to the developing body of international humanitarian law. A key expert witness for the prosecution in the AFRC trial, Zainab Bangura, testified in 2005 about her encounters with "bush," or "junta," wives who had been abducted and forced into marriages that, while mimicking "peacetime situations in which forced marriage and expectation of free female labour are common practice," carried with them a stigma that permanently ostracized those women from their communities, along with any offspring conceived during the relationship.³⁵ During this trial, the prosecution's indictment initially called for forced marriage to be considered under the rubric of "sexual slavery," but as litigation evolved, arguments were advanced for situating the practice among "other inhumane acts," in order to

shift the focus away from the sexual component in the relationship. Ultimately, the prosecution was unsuccessful in making this argument in the AFRC consolidated trial, in which “forced marriage” was judged by the court to be a form of sexual slavery.

But this case also illustrates the process through which international humanitarian jurisprudence expands, as the two women among the three-judge panel at the AFRC appeal discussed precedents in the Rwandan and Yugoslavian tribunals (where forced marriages were prosecuted as sexual slavery and rapes) to introduce novel thinking in this area. Thus Presiding Judge Julia Sebutinde, in response to the recognized parallels between the lack of women’s consent to “arranged” marriages in peacetime as much as in wartime, wrote that while the former were surely violations of human rights “under international human rights instruments,” such as the 1979 UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), they were not recognized as crimes in international humanitarian law. By contrast, she wrote, forced marriage in wartime “is clearly criminal in nature and is liable to attract prosecution,” even as she rejected the prosecution’s appeal to concur with the argument that this constituted a distinct crime against humanity.³⁶ This point was argued in a more robust fashion by Judge Teresa Doherty, who in her own “Partially Dissenting Opinion on Count 7 (Sexual Slavery) and Count 8 (Forced Marriage)” to the AFRC appeal wrote that forced marriage should be distinguished from sexual slavery as “negatively impacting” the ability of victims “to reintegrate to society and thereby prolonging their mental trauma.”³⁷ Her argument appears to have swayed the appeals chamber, which in its February 22, 2008 judgment summary stated that the trial chamber “erred in law,” and that forced marriage should be considered “not predominantly sexual,” so that it should be “distinct from the crime of sexual slavery . . . [and] amount to other inhumane acts under Article 2(1) of the Statute.”³⁸

The reference to “junta wives” in Zainab Bangura’s expert testimony about forced marriage pointed, too, to the link between this practice and a particular phase of the war. This expression associated forced marriage with the nine months following May 1997, when rogue elements of the government armed forces, the AFRC, formed an alliance with their erstwhile opponents, the rebels of the RUF. This alliance came to power after ousting the civilian government elected the previous year, and the “junta time” was remembered by many in Sierra Leone as the worst phase of the war. Even as the language of their testimony began to conform to the legal discourse emerging around “forced marriages” in the AFRC trial, victims also revealed a diversity of experiences. One woman, having confirmed that she had been taken against her will to be given as a “wife” to a rebel commander, was repeatedly asked whether she had given her “consent,” and whether there had been a ceremonial aspect to this “marriage.” When she replied that there had not been any ceremony, she was asked

Q: Then how was it that you became the wife of this rebel commander?

A: That is what they used to do. *They would force people into forced marriage, marriage that is not legal.*³⁹

In stressing the (il)legal status of her marriage, the witness departed from customary marriage discourse in rural Sierra Leone, in which the rhetoric of familial alliances combines with that of “ownership” (of the labor, reproductive, and other capacities

of a prospective bride) in negotiations between the families of prospective brides and grooms.

In the customary marriage ceremonies I witnessed in Sierra Leone during the decade preceding the war, and in the years since, after the couple's families were done discussing bridewealth, offering gifts and money, performing ritual blessings, and seeking in turn the consensus of representatives of mothers' and fathers' relatives, there came a point when the prospective bride was called into the center of the gathering. She would be shown and told in detail about all the food, cloth, money, and ritual sacrificial things offered—some to her—which were normally neatly piled in rows on the ground in the middle of the meeting space, and then her father would turn to her and ask, "All of this, which we have shown you—should we eat it?" Her public assent was essential to the completion of the wedding ceremony. These were among the rare occasions when women would be addressed and asked to speak in public gatherings. Otherwise, they generally conveyed their requests or opinions through a male senior relative, who also represented them in court when they were involved in legal cases.

The testimony of female victims was not entirely framed within the SCSL's legal discourse, however. The same victim of forced marriage testified later that she had been with her "husband" only during the three weeks of his occupation of her village, and that during this time their relationship had some give and take. When he asked her to prepare a meal—a normal expectation of a wife—she answered that she could not cook, and she was not forced to do so, nor was she punished.⁴⁰ Indeed, later in her testimony the witness mentioned that as a commander's wife she was respected and that "[she] was not forced to do anything."⁴¹ However, like other women, she felt that she was not free to refuse sex to her "husband," or to leave him, lest she be seen as fair game by other fighters and thus raped and abused in other ways. The fact that this witness was connected with a commander accounts at least in part for her being spared some of the expectations of other abducted women.

During her testimony, this witness sometimes spoke with the first-person pronoun, but more often she referred to herself as the object, not the subject of actions (e.g., "They just handed me over to him, and they said I should be his wife"). This posture contrasted starkly with the issue of her will and consent, repeatedly raised in the prosecution's line of questioning, but would sound quite familiar in customary marriage negotiations in Sierra Leone. Thus despite the presence in her speech of elements of "legalese" adapted to the courtroom setting ("forced marriage that is not legal"), the form of this witness's testimony also placed her in a different cultural and political landscape, one in which a woman's consent was more ambiguously defined and sought, and in different discursive forms.

Conclusion

Ultimately, a more lasting legacy of the SCSL and of "justice sector reform" NGOs that tried to spread awareness of humanitarian law in the country is to be found elsewhere than in the domain of the court. In the aftermath of the 2002 declaration of peace, I was struck by the appearance of the neologism *raiti* (rights), a vernacularized version of the English word, in Mende-speaking communities in Sierra Leone's

rural hinterlands. In a conversation about the upcoming national elections with some men I knew, for example, one said, in Mende,

We have democracy now, we didn't before, because now we have rights [*raiti*]. Right now, here, I have rights, that man too . . . [the friend walking alongside him] . . . has rights . . . All of us, every single one of us has rights. Things were not this way during the APC time [the All Peoples' Congress single-party government, which had been in power in 1991 when the war began and had dominated politics during most of the previous two decades].⁴²

The stress on his separateness from his friend, on the fact that “every single one of us has rights,” went beyond rhetoric: it informed new ways of thinking about the relationship between individuals and the various collectivities to which they belonged. Thus when food aid or other resources brought by humanitarian organizations in the aftermath of war were presented to entire village communities, the modes of distribution were now under discussion, whereas before the war they would have followed a predictable pattern. In a village with ten extended households, for example, each of the male elders at the head of each household's core patrilineage would be allocated an equal share of rice, tools, seed, domestic animals, or whatever was being distributed for sharing among his dependents. The latter, their rights, and their representations were subsumed under the collective, familial ethos of the extended household and its hierarchical organization.

Now this extended familial “community,” this collective entity, was in question, and those who had the most to lose in its unequal internal allocation of power and resources used the discourse of democracy and rights to assert themselves as individuals. In one instance I witnessed, in which ten 50-kilogram bags of rice were brought for distribution, young men in the village refused to allocate one per each of the ten households, instead emptying their contents to form a large mound in the center of the village meeting place so that each adult could be called by name to receive his or her share—“no matter how small,” as the group overseeing the distribution kept on repeating.

These deployments of new words like *raiti*, and the politics of individual recognition they informed, deliberately sought to undermine the ways in which collectivities such as the extended household masked the unequal distribution of power and resources within. The connection with democracy made by the man cited above was not accidental: to the elders' invocation of the familial and affective values of the extended household, these dissenting voices responded with an insistence on the recognition of the inherently political nature of this entity. And in turn, they invoked particular political and economic rights, rather than appeal to more general human values.

But we should not assume that the subject of these rights was a sovereign one, who having challenged one set of hierarchies was now in a position to make autonomous choices. Though women, for instance, insisted on their individual shares of rice as well during the discussions about its distribution, within the discursive practices of marriage that defined their adult lives they continued to figure as objects, rather than subjects, in their roles as wives. As members of patrilineages, however, women

also could become wife-“owning” subjects on behalf of their brothers and sons, and of the collectivity—the lineage—for which their menfolk stood in metonymical relation. Thus, at the intersection of two different kinds of collectivity—the patrilineage and its core kin on the one hand, and the extended household with its heterogeneous composition of kin and in-marrying affines on the other hand—different subjects emerge, endowed with different kinds of agency and rights.

The relationship between these subjects and their rights articulates with the collectivities they reference in particular contexts, and these too are conceived as rights-bearing entities. But their interests tend to be formulated in more overtly political, and therefore contested, ways, which contrast with the “antipolitics” of much human rights discourse, especially when it presents itself as “a pure defense of the individual against . . . instantiations of collective power . . . as a moral discourse centered on pain and suffering rather than political discourse of comprehensive justice.”⁴³ We may perhaps interpret his fellow villagers’ lack of response to the young hunter’s tale of suffering, discussed in the first section of this essay, in light of this effort to think in novel terms about the political future—one in which resources can be distributed in a more equitable manner—rather than to locate human compassion in the affective realm of “pain and suffering.” And just as he was denied an opportunity to articulate his “victim’s tale,” so too Kaikulo was spared the dangers of telling a different story, in which he might have figured as a perpetrator of violence.

Thus instead of thinking of post-conflict transitions as a series of recursivities (remembrance, reconstruction, reconciliation, reintegration, family reunification, and so on), we could consider whether the promise of a different future might reside in more radical departures: in experimenting with new forms of sociality, subjectivities, and communities of belonging. The neologisms that emerged during the war and in its aftermath, in rural villages as much as at the Special Court for Sierra Leone, from *raiti* to “bush/junta wives,” speak to efforts in different domains and on different scales to harness the creativity that also resides in violence—the other side of the destruction it wreaks. The court and the jurisprudence it sought to advance are part of a global humanitarian apparatus that moves toward an increasingly totalizing discourse about archetypal “subjects of human rights,” for instance in the identification of additional crimes, such as that of forced marriage at the SCSL, to better reflect the totality of a woman’s experience of victimization in war, or in linking particular ages to degrees of moral responsibility in the child-soldier debates. And while witnesses at the court appeared to be docile subjects in this process, describing themselves and their experiences in the court’s terms, as the concepts became unmoored from this setting they took on a life of their own, reworking in unexpected ways the balance of interests of individuals and collectivities, as well as the politico-economic hierarchies of prewar times.

NOTES

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text. At the Special Court for Sierra Leone, several staff members generously gave of their time and expertise, but I would like to single out for special thanks Saleem Vahidy and Peter Anderson.

1. For instance, in Robert Putnam's discussion (following Alexis de Tocqueville) of the centrality to their proper functioning of "self-interested" reciprocity and trust. See Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000), chap. 8.

2. Susan Thomson, "The Darker Side of Transitional Justice: The Power Dynamics behind Rwanda's Gacaca Courts," *Africa* 81, no. 3 (2011): 373–90.

3. Brandon Hamber and Richard Ashby Wilson, "Symbolic Closure through Memory, Reparation and Revenge in Post-Conflict Societies," *Journal of Human Rights* 1, no. 1 (2002): 35–53.

4. Sally Engle Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108, no. 1 (2006): 39. See also Richard Ashby Wilson and Jon P. Mitchell, "Introduction: The Social Life of Rights," in *Human Rights in Global Perspective: Anthropological Studies of Rights, Claims, and Entitlements*, ed. Wilson and Mitchell (London: Routledge, 2003), 1–2.

5. Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace Jovanovich, 1951), 299.

6. A chiefdom section encompasses several villages, and this particular chiefdom comprised four sections, so there is a nesting hierarchy of rural chiefs ranging from village to section and finally to the highest-ranking, paramount chief.

7. Rosalind Shaw, "Memory Frictions: Localizing the Truth and Reconciliation Commission in Sierra Leone," *International Journal of Transitional Justice* 1, no. 2 (2007): 184, 206; International Crisis Group, "Sierra Leone: The State of Security and Governance," *ICG Africa Report*, no. 67 (2003): 12, <http://www.crisisgroup.org/en/regions/africa/west-africa/sierra-leone/067-sierra-leone-the-state-of-security-and-governance.aspx> (last accessed September 17, 2012).

8. Philip Gourevitch, "The Life After," *New Yorker*, May 4, 2009.

9. For a discussion of structural violence and the genealogy of the concept as "the social machinery" that produces inequalities and oppression, see Paul Farmer, "An Anthropology of Structural Violence," *Current Anthropology* 45, no. 3 (2004): 307. Arthur Kleinman expands the scope by including the violence of difficult-to-define, sometimes "bourgeois" ailments such as "stress," for which he claims that discussing it as a form of violence offers "a cultural critique of the normal" in modern life. See Arthur Kleinman, "The Violence of Everyday Life: The Multiple Forms and Dynamics of Social Violence," in *Violence and Subjectivity*, ed. Veena Das et al. (Berkeley: University of California Press, 2000), 230–31.

10. The expression is Peter Van de Veer's in "The Victim's Tale: Memory and Forgetting in the Story of Violence," in *Violence, Identity, and Self-Determination*, ed. Hent de Vries and Samuel Weber (Stanford, Calif.: Stanford University Press, 1997), 186–200. Van de Veer uses it to analyze the fate of individual suffering in the face of national historical accounts of large-scale religious violence in India.

11. David Crane, "White Man's Justice: Applying International Justice after Regional Third-World Conflicts," *Cardozo Law Review* 27, no. 4 (2006): 1683–88.

12. Graca Machel, *The Impact of Armed Conflict on Children*, United Nations A/51/306, August 26, 1996, <http://www.unicef.org/graca> (last accessed September 17, 2012).

13. *Ibid.*, 12.

14. Kofi Annan, "Report of the Secretary-General on the Establishment of a Special Court

for Sierra Leone,” UN Security Council S/2000.915, pt. 2, 7, <http://www.undemocracy.com/S-2000-915> (last accessed September 17, 2012).

15. *Ibid.*, 8.

16. Data drawn from surveys conducted in Canada and in the United States. For the former, see Canadian Department of Justice, “Firearms, Accidental Deaths, Suicides and Violent Crime: An Updated Review of the Literature with Special Reference to the Canadian Situation,” http://www.justice.gc.ca/eng/pi/rs/rep-rap/1998/wd98_4-dt98_4/p2.html (last accessed September 17, 2012). For the latter, refer to a 2005 Gallup poll on gun ownership in America, <http://www.gallup.com/poll/20098/gun-ownership-use-america.aspx> (last accessed September 17, 2012).

17. AFRC trial transcript, October 13, 2006, 19. Available online at <http://www.sc-sl.org> (last accessed September 17, 2012).

18. *Ibid.*, 35–36.

19. David Rosen, “Child Soldiers, International Humanitarian Law, and the Globalization of Childhood,” *American Anthropologist* 109, no. 2 (2007): 299.

20. Paul Richards, *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone* (Oxford: Currey, 1996), 81–82.

21. Rosen, “Child Soldiers,” 300.

22. Liisa Malkki, “Children, Humanity, and the Infantilization of Peace,” in *In the Name of Humanity*, ed. Illana Feldman and Miriam Ticktin (Durham, N.C.: Duke University Press, 2010), 60.

23. Rosen, “Child Soldiers.”

24. Cathy Caruth, *Unclaimed Experience: Trauma, Narrative, and History* (Baltimore: Johns Hopkins University Press, 1996).

25. David Crane, chief prosecutor of the SCSL, in his opening remarks to the RUF trial, July 5, 2004, “The Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao,” case no. SCSL-04-15-T, Trial Chamber I.

26. AFRC trial, SCSL, October 13, 2006, transcript, 90.

27. Interview with David Crane, March 8, 2011.

28. The expression is the legal scholar Elena Baylis’s in “Tribunal-Hopping with the Post-Conflict Justice Junkies,” *Oregon Review of International Law* 10, no. 2 (2008): 361–90.

29. I cannot here do justice to the complexity of what since 1963 have been known as “local courts” in Sierra Leone. For an ethnographic account, see Mariane C. Ferme, “The Violence of Numbers: Consensus, Competition, and the Negotiation of Disputes in Sierra Leone,” *Cahiers d’Études Africaines* 38, nos. 150–152 (1998): 555–80, esp. 571–73. For a critical overview of the legal landscape in post-civil war Sierra Leone, see Vivek Maru, “Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide,” *Yale Journal of International Law* 31, no. 2 (2006): 427–76, esp. 436 on customary legal institutions.

30. For a discussion of Mende gender roles, ideal forms of marriage in contrast with actual practices, and gendered notions of big personhood, see Mariane C. Ferme, *The Underneath of Things: Violence, History, and the Everyday in Sierra Leone* (Berkeley: University of California Press, 2001), chaps. 3–5.

31. See *ibid.*, chap. 3.

32. All quotes are from Michael P. Scharf and Suzanne Mattler, “Forced Marriage: Exploring the Viability of the Special Court for Sierra Leone’s New Crime against Humanity” (working

paper, Case Research Paper Series in Legal Studies #05-35, Case Western Reserve University School of Law, October 2005), 17, emphasis original.

33. On the politics of marriage, including its historical role in mediating relations under conditions of domestic and war slavery, see Ferme, *Underneath of Things*, 81-107, 122-57.

34. Veena Das, *Critical Events: An Anthropological Perspective on Contemporary India* (Delhi: Oxford University Press, 1995), chap. 3.

35. Bangura discussed by Presiding Judge Julia Sebutinde in her “Separate Concurring Opinion” to the Appeals Judgment in the AFRC trial, case number SCSL-2004-16-T, June 21, 2007, 577. Zainab Bangura’s testimony about the stigmatizing aspects of forced marriage can be found in transcript number SCSL-2004-16-T (AFRC trial), October 3, 2005, 15-16.

36. Sebutinde, “Separate Concurring Opinion,” 578.

37. Judge Teresa Doherty, “Partially Dissenting Opinion on Count 7 (Sexual Slavery) and Count 8 (Forced Marriage),” AFRC Appeals Judgment, SCSL-2004-16-T, June 21, 2007, 591.

38. Case Number SCSL-2004-16-A, Prosecutor of the Special Court v. Alex Tamba Brima et al., Friday, February 22, 2008, Appeal, 23-25.

39. AFRC trial at SCSL, March 9, 2005, session transcript, 88, emphasis added.

40. *Ibid.*, 97.

41. *Ibid.*, III.

42. See Mariane C. Ferme and Danny Hoffman, “Hunter Militias and the International Human Rights Discourse in Sierra Leone and Beyond,” *Africa Today* 50, no. 4 (2004): 84.

43. Wendy Brown, “‘The Most We Can Hope For . . .’: Human Rights and the Politics of Fatalism,” *South Atlantic Quarterly* 103, nos. 2/3 (2004): 453.