

THE HYBRID’S HANDMAIDEN: MEDIA COVERAGE OF THE  
SPECIAL COURT FOR SIERRA LEONE

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“Today, fortunately, in my view for the criminal justice system, we have television; we have newspapers; we have radio.”

— Justice Richard J. Goldstone

“Some of the communities in Sierra Leone that experienced the conflict are hearing over the radio that someone is answering to these accusations.”

— Peter Kahler, West Africa Democracy Radio

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## The Hybrid's Handmaiden

In her analysis of Adolf Eichmann's war crimes trial in Israel, Hannah Arendt compared the courtroom in Jerusalem to a theater. The proceedings, she said, "happen on a stage before an audience, with the usher's marvelous shout at the beginning of each session producing the effect of the rising curtain."<sup>1</sup> This observation is critical; Arendt implied that the trappings of a theater – with "orchestra and gallery" and "side doors for the actors' entrance"<sup>2</sup> – abandoned higher principles of justice in favor of a show trial. But it ought to be asked: can there be justice without an audience?

Forty-eight years after Eichmann's trial, the cumulative experience of international criminal trials indicates that the answer is no. Or more particularly: the multiple goals of international trials are frustrated when the intended audience is barred, through distance and a dearth of media coverage, from accessing courtroom proceedings.

As Warren Burger observed in 1980, most people acquire their information about trials through the press: "this validates the media claim of functioning as surrogates for the public."<sup>3</sup> Despite this fact, in most developed countries with well-established judiciaries, an often-antagonistic relationship exists between the third branch of the government and the "fourth estate." Media coverage of trials is viewed as prejudicing defendants<sup>4</sup> and turning prosecutors, defenders, and judges into the "actors" that Arendt abhorred.<sup>5</sup> In the United States, for example, television coverage of the O.J. Simpson trial created an "anticamera backlash,"<sup>6</sup> likewise, one commentator argued that inflammatory media coverage of the so-called Central Park jogger case led to a hasty police investigation and false confessions.<sup>7</sup> In the United Kingdom, cameras are barred from courtrooms altogether.<sup>8</sup>

In the realm of international criminal justice, however, the old adage that justice must be "seen to be done" reigns with particular force. International criminal courts, from the International Military Tribunal at Nuremberg to the International Criminal Tribunal for the Former Yugoslavia (ICTY), have demonstrated that the media's power to publicize is a vital tool in the creation of

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<sup>1</sup> HANNAH ARENDT, *EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL* 4 (Penguin Classics 2006) (1963).

<sup>2</sup> *Id.*

<sup>3</sup> *Richmond Newspapers, Inc. v. Va.*, 448 U.S. 555, 573 (1980) (holding that the media is entitled to attend criminal trials under the First and Fourteenth Amendments and serves numerous purposes by doing so). *Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980).

<sup>4</sup> *See, e.g., Sheppard v. Maxwell*, 384 U.S. 333, 356 (1966) (holding that news media coverage of a murder prosecution "inflamed and prejudiced the public" against the defendant, influenced the jury, disrupted proceedings, and ultimately denied the defendant due process).

<sup>5</sup> *See, e.g., Simone Monasebian, Media Matters: Reflections of a Former War Crimes Prosecutor Covering the Iraqi Tribunal*, 39 CASE W. RES. J. INT'L L. 305, 307 (2006-07) ("the media influenced the behavior of any subject in front of its lens.").

<sup>6</sup> MARJORIE COHN & DAVID DOW, *CAMERAS IN THE COURTROOM: TELEVISION AND THE PURSUIT OF JUSTICE* xiii (Rowman & Littlefield 2002) (1998).

<sup>7</sup> Lynnell Hancock, *Wolf Pack: The Press and the Central Park Jogger*, 41 COLUM. JOURNALISM REV. 38, 39 (2003).

<sup>8</sup> Criminal Justice Act, 1925, 15 & 16 Geo. 5, c. 86, § 41 (Eng.).

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legitimacy and lasting legacy for nascent legal traditions. Nevertheless, the process of fully engaging the media has been gradual in the international criminal arena, especially given logistical hurdles of distance and resources.

As the first international war crimes court since Nuremberg to be located in the country where the crimes occurred,<sup>9</sup> the Special Court for Sierra Leone (SCSL) has had a unique opportunity to directly impact its primary audience: Sierra Leoneans.<sup>10</sup> This paper examines the interactions between the SCSL and the local West African media (rather than the international media) – in particular, Sierra Leonean journalists. Through interviews with Special Court officials, third-party observers, and West African journalists, I sought to analyze the approach the SCSL has adopted with regard to media relations and its subsequent effect on both local coverage of the Court and the development of journalism in Sierra Leone.

This paper argues that the SCSL has succeeded in its relations with local media where past international criminal courts have failed, largely through the early creation of proactive outreach and public affairs sections. The Court has provided unprecedented access to the local media, facilitating media coverage through both traditional and innovative means. However, there remain areas of improvement for future courts: the SCSL has failed to invest in local media as part of its legacy, overlooking outreach to journalists and leaving the task of training and support to the patchy work of NGOs. In the long run, this undermines the legacy of the SCSL, which remains a predominantly foreign institution in a country facing major issues of corruption and government accountability.

Part I explicates various reasons for the necessity of media coverage of criminal trials; Part II reviews media coverage of preceding war crimes courts; Part III considers the effects of the long war on the media in Sierra Leone, and the current state of journalism in that country; Part IV inspects the SCSL's media strategy and interactions with the local media; Part V examines coverage of the SCSL in the local media; and Part VI discusses the shortcomings of the SCSL's approach to the media.

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<sup>9</sup> The Special Court is based in Freetown, Sierra Leone, where three of its four trials were held; the trial of Charles Taylor was moved to The Hague for security reasons. The ICTY is located in The Hague, Netherlands, while the International Criminal Tribunal for Rwanda is primarily located in Arusha, Tanzania. The Supreme Iraqi Criminal Tribunal, formerly the Iraqi Special Tribunal, was established under Iraqi law.

<sup>10</sup> See, e.g., James Cockayne, *The Fraying Shoestring: Rethinking Hybrid War Crimes Tribunals*, 28 *FORDHAM INT'L L.J.* 616, 644 (2005) ("perhaps the greatest advantage achieved by the move to the 'in theater' prosecution of hybrid tribunals is this immediate effect on public discourse within the affected population."); Nancy Kaymar Stafford, *A Model War Crimes Court: Sierra Leone*, 10 *ILSA J. INT'L & COMP. L.* 117, 133-34 (2003). "[T]he Court in Sierra Leone will reap immeasurable benefits," among them that

[T]he local population will have greater access to the proceedings of the Special Court if they are local. Local journalists will be able to provide updates in native languages, in periodicals read by the local population. This is important not only for the successes of the Special Court, but also for the failures.

*Id.*

## I. The Media as 'Surrogates for the Public'

The common law tradition views the media as the “handmaiden of effective judicial administration, especially in the criminal field.”<sup>11</sup> There are several reasons frequently offered for the importance of media coverage of criminal trials; these may be grouped under two general roles of the press: 1) as facilitator of public awareness and distributor of information; and 2) as “watchdog,” a critical check on abuse of power.

### A. Publicity

First, in broadcasting trial proceedings and outcomes to the public, the media enables several of the broader goals of criminal justice: the deterrent effect of ordered justice, the fostering of peace and reconciliation after discord, and the promotion of the rule of law. Each of these applies equally to domestic and international proceedings, although the latter – the promotion of rule of law – is particularly urgent for post-conflict nations. Common sense would indicate that any impact criminal trials may have beyond those actors in the courtroom depends largely on media publicity. Kingsley Moghalu, formerly the Legal Adviser to the International Criminal Tribunal for Rwanda (ICTR), thus wrote, “deterrence and reconciliation – the stated aims of the tribunals – rely on the public’s awareness and perception of its work.”<sup>12</sup> The deterrent effect of criminal justice on potential criminals depends entirely on public awareness of trial proceedings and outcomes, in particular, of the convictions rendered and punishments administered. In 1996, Justice Richard J. Goldstone, then Chief Prosecutor for the newly created ICTY, acknowledged to Court TV the role that journalism plays in the deterrence of future war crimes, “the media is a partner in the whole criminal justice system. If people in the country are not told what their criminal courts are doing, then there’s certain to be the deterrent aspect of criminal justice is going to fail.”<sup>13</sup> Although the deterrent effect of criminal trials is difficult to gauge, particularly in an international context, there is some evidence that today, war criminals may be at least aware of the probability of criminal accountability.<sup>14</sup>

In addition to the prevention of future crimes, criminal trials provide catharsis for victims, pacifying anger, grief, and the desire for revenge.<sup>15</sup> Especially after

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<sup>11</sup> *Sheppard*, 384 U.S. at 350.

<sup>12</sup> Kingsley Chiedu Moghalu, *Image and Reality of War Crimes Justice: External Perceptions of the International Criminal Tribunal for Rwanda*, 26 FLETCHER F. WORLD AFF. 21, 22 (2002).

<sup>13</sup> Monasebian, *supra* note 5, at 316 (citing an interview with Justice Richard Goldstone, Prosecutor, ICTY & ICTR (1996)).

<sup>14</sup> *Id.* at 317 (noting that a Rwandan genocidaire discussed the possibility of prosecution over the radio before the establishment of the ICTR).

<sup>15</sup> See, e.g., Jenia Iontcheva Turner, *Defense Perspectives on Law and Politics in International Criminal Trials*, 48 VA. J. INT’L L. 529, 542 (2008) (noting that international criminal trials provide closure to survivors of war crimes and genocide, serving as “an enormous national psychodrama, psychotherapy on a nationwide scale”) (quoting Mark J. Osiel, *Ever Again: Legal Remembrance of Administrative Massacre*, 144 U. PA. L. REV. 463, 471 (1995)); Antonio Cassese, *Reflections on International Criminal Justice*, 61 MOD. L. REV. 1, 6 (1998) (“justice dissipates the call for revenge”).

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war, criminal trials can therefore support the restoration of peace as well as reconciliation by laying blame on the few rather than the many.<sup>16</sup> This catharsis, again, depends on public awareness of the trial. Victims must hear and see the processes of justice at work. In *Richmond Newspapers*, Justice Burger wrote that “open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. Without awareness that society’s responses to criminal conduct are underway, natural human reactions of outrage and protest are frustrated and may manifest themselves in some form of vengeful ‘self-help’ . . . .”<sup>17</sup> The catharsis that criminal justice provides is innately understood. For example, Peter Kahler, Station Manager of West Africa Democracy Radio, thinks victims of the conflict in Sierra Leone must feel some “relief” when they hear about the trial of Charles Taylor on the radio.<sup>18</sup>

Of course, through covering the details of a particular trial the media also promotes knowledge of the generalized criminal justice processes. The media therefore performs a didactic function, informing the public on matters of procedure and punishment otherwise outside the ambit of the average citizen. As Wigmore stated, “The educative effect of public attendance is a material advantage. Not only is respect of the law increased and intelligent acquaintance acquired with the methods of government, but a strong confidence in judicial remedies is secured which could never be inspired by a system of secrecy.”<sup>19</sup> Although in nations with well-established judiciaries there exists a general knowledge of how criminal trials work, many commentators argue that in post-conflict nations, establishment of the rule of law depends on the public demonstration of an often Byzantine criminal procedure. In establishing the SCSL, the U.N. Secretary-General anticipated that

If the role of the Special Court in dealing with impunity and developing respect for the rule of law in Sierra Leone is to be fully understood and its educative message conveyed to Sierra Leoneans of all ages, a broad public information and education campaign will have to be undertaken as an integral part of the Court’s activities.<sup>20</sup>

Although he did not specifically mention media coverage of the Court, this would eventually become a tool in the SCSL’s educative mission.

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<sup>16</sup> See, e.g., Cassese, *supra* note 15, at 6 (stating that “trials . . . establish that not all Germans were responsible for the Holocaust, nor all Turks for the Armenian genocide, nor all Serbs, Muslims, Croats, or Hutus, but individual perpetrators . . .”).

<sup>17</sup> *Richmond Newspapers*, 448 U.S. at 571.

<sup>18</sup> Telephone interview with Peter Kahler, Station Manager, West Africa Democracy Radio (April 7, 2009).

<sup>19</sup> *Richmond Newspapers*, 448 U.S. at 572 (quoting 6 JOHN HENRY WIGMORE, EVIDENCE IN TRIALS AT COMMON LAW § 1834 (3rd ed., rev. vol. 1976)).

<sup>20</sup> The Secretary-General, *Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone*, ¶ 7, 26, delivered to the Security Council, U.N. Doc. S/2000/915 (Oct. 4, 2000).

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### B. Watchdog

Second, while facilitating public awareness of criminal justice, the media may also play the role of watchdog over the judiciary or court. Jeremy Bentham described publicity as the greatest check on abuse of power;<sup>21</sup> the U.S. Supreme Court likewise stated in *Richmond Newspapers* that an open trial “gave assurance that the proceedings were conducted fairly to all concerned, and it discouraged perjury, the misconduct of participants, and decisions based on secret bias or partiality.”<sup>22</sup> In a similar vein, media coverage of court proceedings allows the public to monitor the judiciary’s performance of its allotted duties, insuring that it is doing so without economic, jurisdictional, or political mismanagement.<sup>23</sup> When the eye of the broader public is trained on a trial through the media, every participant in that process – judges, prosecutors, witnesses, and defense attorneys alike – faces judgment. Simone Monasebian, who served as a prosecutor at the ICTR, noticed that tribunal judges sat straighter when the international media was present; positive press analysis of her own performance ultimately allowed her greater influence on prosecution strategy.<sup>24</sup>

Media coverage therefore amplifies – and in the modern world, is arguably inseparable from – the oft-cited beneficial effects of the public trial; it produces greater judicial accountability, educates on the rule of law, enables deterrence of future crimes, and promotes communal catharsis, peace, and reconciliation. Further, because international courts depend on the cooperation and financing of states, media publicity helps courts insure the continued cooperation and attention.<sup>25</sup> However, while international war crimes courts and tribunals have, to some degree, recognized the significance of the press to the promotion of criminal justice, historically, these institutions have been slow to proactively harness the media as an ally.

## II. Local Media Coverage of Preceding International Criminal Trials<sup>26</sup>

International legal institutions have long recognized the power of journalism to stir the public if only because journalists have several times found themselves

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<sup>21</sup> *Richmond Newspapers*, 448 U.S. at 569. “Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small amount.” *Id.* at 569 (quoting 1 J. BENTHAM, RATIONALE OF JUDICIAL EVIDENCE 524 (John Stuart Mill ed., Hunt & Clarke 1827)).

<sup>22</sup> *Richmond Newspapers*, 448 U.S. at 569; see also *Sheppard*, 384 U.S. at 350 (“The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism.”).

<sup>23</sup> See, e.g., Stafford, *supra* note 10, at 134 (“the people of Sierra Leone are present to judge the proceedings and ensure the Special Court does not deviate from its mandate or get bogged down in political issues or mismanagement.”).

<sup>24</sup> Monasebian, *supra* note 5, at 307.

<sup>25</sup> Moghalu, *supra* note 12, at 23 (international criminal tribunals “depend largely on the cooperation of the states because they do not possess the automatic enforcement mechanisms of justice that are available to national jurisdictions.”).

<sup>26</sup> I have declined to discuss the International Criminal Court in this paper because it commenced its first trials in 2009. The experience of the ICC is thus not part of the precedent on which the SCSL has been built.

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defendants in war crimes tribunals. In the International Military Tribunal at Nuremberg, the first international war crimes court, Julius Streicher was sentenced to death for the anti-Semitic articles he published as the editor of the newspaper *Der Stürmer*.<sup>27</sup> Based on Streicher's words and writing alone, the Nuremberg Tribunal found him guilty of incitement to murder and extermination of the Jews.<sup>28</sup> More recently, the ICTR "media trial" convicted three members of the Rwandan press who encouraged the 1994 genocide through their media outlets.<sup>29</sup> In finding this, the ICTR Trial Chamber I warned, "The power of the media to create and destroy fundamental human values comes with great responsibility."<sup>30</sup>

### A. Nuremberg

It is a pity that historically, the Tribunals have focused more on the abuse of journalistic power rather than promoting its positive uses. As much as journalism can cause crimes, it may also, as noted above, prevent them. The utility of the media was recognized from the outset at Nuremberg: "The Allies were determined that the Nuremberg trial would resonate with the international public. Explicitly by means of the publicity with which it was carried out, an enlightening and deterring effect, indeed a catharsis, was intended."<sup>31</sup> Coverage of the trials was "prescribed" for the local German media as part of the Allied Occupying Powers' re-education of the German people.<sup>32</sup> The trial was an international as well as a "national news event."<sup>33</sup> Most German news items were produced by centralized German news agencies, in part because this allowed the Allies closer management of the coverage, and in part because few German journalists could attend the trials.<sup>34</sup> Despite this fact, the difficulty of producing consistent, accurate coverage of Nuremberg foreshadowed the experiences of future international courts, including the SCSL. In a pattern repeated in later tribunals, media coverage of and interest in Nuremberg – especially international coverage, since it was not prescribed – was huge at the start of the tribunal, but died down considerably afterward until verdicts were read, ultimately becoming inconsistent.<sup>35</sup> In addition to the difficulty of turning dull proceedings into entertaining news clips, journalists at Nuremberg faced logistical hurdles as well, including a lack of ade-

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<sup>27</sup> Prosecutor v. Nahimana, Case No. ICTR 99-52-T, Judgment, ¶ 981 (Dec. 3, 2003). Hans Fritzsche, head of the Nazi Radio Section of the Propaganda Ministry, was also charged with crimes against humanity at Nuremberg, but acquitted. *Id.* ¶ 982.

<sup>28</sup> *Id.* at ¶ 981.

<sup>29</sup> *Id.* at ¶ 943.

<sup>30</sup> *Id.* at ¶ 945.

<sup>31</sup> AKIBA A. COHEN ET AL., *THE HOLOCAUST AND THE PRESS: NAZI WAR CRIMES TRIALS IN GERMANY AND ISRAEL* 11 (Hampton Press 2002).

<sup>32</sup> *Id.* at 137.

<sup>33</sup> *Id.* at 58.

<sup>34</sup> *Id.* at 71.

<sup>35</sup> See, e.g., Monasebian, *supra* note 5, at 309 ("the Palace of Justice was packed to capacity with hundred of reporters the first week, and dwindled down to a fraction of that as the trial progressed until verdict when interest peaked again"); COHEN ET AL., *supra* note 31, at 61 (coverage was high in the beginning and the end of the trial; however, the middle was marked by overall decline).

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quate facilities, transportation, libraries or other research tools.<sup>36</sup> And, as with most war crimes cases, the trials were factually complicated, often requiring detailed knowledge of German history and language that many international reporters lacked.<sup>37</sup>

### B. Second Generation Tribunals

Nearly fifty years after Nuremberg, the ICTY and ICTR did not immediately seek to improve upon Nuremberg's journalistic track record. Whereas German coverage of the trials was considerable at Nuremberg, (if only because pre-scribed),<sup>38</sup> the ICTY and ICTR mostly failed to seek publicity in the media of the former Balkan republics and Rwanda, respectively. This is primarily because neither the ICTY nor the ICTR proceedings were *in locus criminis*, but rather, in foreign countries, a factor consistently criticized by commentators.<sup>39</sup> Tribunal officials initially focused on judicial matters rather than issues of communication and publicity. Although the ICTY was established in 1993 and the ICTR in 1994, neither Tribunal made organized outreach efforts to national populations until years later. Not until 1999 did the ICTY launch a limited outreach program,<sup>40</sup> while Kingsley Moghalu noted that only in 1998 did media coverage of the ICTR increase somewhat due to a prioritization of communications.<sup>41</sup> Of course, the term "outreach," as used by these tribunals, extends beyond traditional notions of publicity, implying much more than interactions with the press; it also incorporates an education of the public-at-large through direct contact with court officials. Nevertheless, the existence of an outreach program indicates general concern with public awareness as well as an organized, proactive strategy to achieve this. It follows that the media is often the most effective way to reach out to the public. The lack of outreach strategies at these tribunals until years after their establishment permanently damaged their image with their primary audiences, indicating that the local media was ignored in the process.

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<sup>36</sup> Monasebian, *supra* note 5, at 309-310.

<sup>37</sup> *Id.*

<sup>38</sup> COHEN ET AL., *supra* note 31, at 137.

<sup>39</sup> Pierre-Richard Prosper, the former lead prosecutor at the ICTR's first trial, commented that experience has shown the Tribunals were too far from the countries where the crimes were committed. Etell R. Higonnet, *Restructuring Hybrid Courts: Empowerment and National Criminal Justice Reform*, 23 ARIZ. J. INT'L & COMP. L. 347, 371 (2006); see also William W. Burke-White, *Regionalization of International Criminal Law Enforcement: A Preliminary Exploration*, 38 TEX. INT'L L.J. 729, 734 (2003) ("The International Criminal Tribunal for the Former Yugoslavia (ICTY) has been much criticized for its lack of connection to the national context of the cases it adjudicates.").

<sup>40</sup> Monasebian, *supra* note 5, at 317. Justice Gladstone, prosecutor for the ICTY and ICTR, tried to establish positive relations with the media. However, these efforts were largely inadequate. It was only after being criticized for not reaching the population for whom they were created to serve that both the ICTY and ICTR launched an official public outreach program. *Id.*

<sup>41</sup> Moghalu, *supra* note 12, at 23 (explaining the improvement in media coverage is attributed largely to more efficient communications operations and strategic initiatives, such as the creation of a news media based permanently at the ICTR).



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Both the ICTY and ICTR suffered undeniable “communication failures.”<sup>42</sup> At the ICTY, the “failure to publicize its work within Bosnia”<sup>43</sup> – that is, to take early, proactive communications measures – led to harmful, inaccurate, and biased local reporting.<sup>44</sup> The ICTR, meanwhile, “massively failed in its outreach and public relations to Rwandans.”<sup>45</sup> In a detailed article on the ICTR’s relations with the media, Moghalu noted that, as of 2002, the visibility of the ICTR remained low in both international and Rwandan media and coverage was frequently critical.<sup>46</sup> Thus, while tribunal officials like Justice Goldstone were concerned with media relations from the start, with regard to local media coverage, “war crimes tribunals’ efforts in this area were seen to be inefficient.”<sup>47</sup>

### C. ICTR

It is perhaps worth taking a more detailed look at media coverage of the ICTR in particular because it illuminates some of the challenges facing African media. As of 2002, a significant problem, according to Moghalu, was a lack of original reporting on the tribunal by the African press, with the exception of some outlets in Tanzania and Rwanda.<sup>48</sup> Instead, newspapers and radio reproduced international media reports.<sup>49</sup> The reasons behind the lack of original African media coverage are twofold, according to Moghalu. First, African media organizations lack the financial resources to send their reporters and correspondents to cover the trial.<sup>50</sup> The three main organizations that have correspondents regularly covering the trial (Internews, Hironnelle, and Intermedia) are not African owned.<sup>51</sup> Second, Moghalu argues that the African media suffers from apathy, and “lag[s] far behind the continent’s civil society in advocating judicial accountability for mass crimes.”<sup>52</sup> Based on my research on Sierra Leone, I think that this is due in part to a lack of training on legal matters and a brain-drain of educated, competent journalists, which results from poor wages. Regardless of the reasons, the lack of original reporting by the African media has had real consequences for the ICTR, resulting in an adoption of international prejudices and misconceptions in the African press due to reproduction of international wire reports.

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<sup>42</sup> Higonnet, *supra* note 39, at 363.

<sup>43</sup> *Id.* at 423.

<sup>44</sup> *Id.* at 423-24. “According to Bogdan Ivanisevic of Human Rights Watch, ‘Untruthful and inaccurate reporting about the ICTY’s work [largely lies behind] the prevailing negative attitude of the Serbian public toward the Hague tribunal.’” *Id.* (quoting Bogdan Ivanisevic, *The Grapes of Wrath*, HUMAN RIGHTS WATCH, May 7, 2004, available at <http://www.hrw.org/en/news/2004/05/06/grapes-wrath>).

<sup>45</sup> *Id.* at 418.

<sup>46</sup> Moghalu, *supra* note 12, at 23-24, 27.

<sup>47</sup> Monasebian, *supra* note 5, at 317.

<sup>48</sup> Moghalu, *supra* note 12, at 27.

<sup>49</sup> *Id.* (“African media . . . rely exclusively on the often-cursory newswire reports from Associated Press, Reuters, and Agence France Presse.”).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

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The lack of original, direct coverage of the tribunal by African media allows the domination of distorted perspectives that do not relate its work to the overall development and promotion of the rule of law in Africa. It robs the ICTR of the sort of profile it should have in the continent in which the crimes it is addressing occurred.<sup>53</sup>

As noted above, local reporting may also include a more nuanced understanding of the factual backgrounds of the cases. Moreover, local reporters also have greater knowledge of what issues are of interest to their audience and can carry feedback to the court. The experience of the tribunals shows that diversity of perspective is lost when there is a dearth of local journalism, while courts lose the opportunity to communicate directly to their target audience.

### III. The Media in Sierra Leone

Decades of war and unrest have created serious challenges for journalism in West Africa. In Sierra Leone, one of the poorest nations in the world,<sup>54</sup> lack of capital and basic infrastructure pose major hurdles to fostering local media coverage of the Special Court.

#### A. History

The war in Sierra Leone lasted more than a decade, from March 1991 until January 2002,<sup>55</sup> during which few in Sierra Leone escaped the violent chaos. Prior to the war, beginning in 1978, a corrupt, one-party system existed in the country<sup>56</sup> that prevented a free press. In the 1980s and early 1990s, Sierra Leone had few regular newspapers which were heavily censored. It was a crime to criticize the government, and journalists were regularly beaten and imprisoned.<sup>57</sup> Thus, for more than a decade prior to the war itself, independent journalism was suppressed in Sierra Leone.

Although citizens and journalists alike suffered during the war, it was a particularly dangerous time for journalists, who found themselves caught between the rebels (the Revolutionary United Front and Armed Forces Revolutionary Coun-

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<sup>53</sup> *Id.* at 37.

<sup>54</sup> In 2009, the United Nations Development Programme ranked Sierra Leone number 180 out of 182 countries on the "Human Development Index," which incorporates factors like GDP, literacy, and life expectancy. UNITED NATIONS DEVELOPMENT PROGRAM [UNDP], HUMAN DEVELOPMENT REPORT 146 (2009), available at [http://hdr.undp.org/en/media/HDR\\_2009\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf).

<sup>55</sup> Prosecutor v. Sesay, Case No. SCSL-04-15-T, Trial Judgment, ¶¶ 12, 24 (March 2, 2009). In contrast, the SCSL is mandated to try only those responsible for serious violations of international humanitarian law since November 30, 1996, the second half of the war, when the most murders and atrocities were committed. Statute of the Special Court for Sierra Leone art. 1, Aug. 14, 2000, available at <http://www.sc-sl.org/LinkClick.aspx?fileticket=uClnd1MJeEw%3d&tabid=176>.

<sup>56</sup> *Sesay*, Case. No. SCSL-04-15-T, ¶ 8.

<sup>57</sup> Interview with Solomon Moriba, Outreach and Press and Public Affairs Officer, The Hague Sub-Office of the Special Court for Sierra Leone (March 9, 2009). Mr. Moriba worked as a journalist for twelve years prior to joining the SCSL in May 2007. Among other jobs, he has served as a producer, presenter, and news editor at Sierra Leone Broadcasting Service and as Sierra Leone Country Coordinator for West Africa Democracy Radio.

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cil) and the government. "It was like being on an airplane with a faulty engine," said Solomon Moriba, who worked as a journalist in Sierra Leone during part of the conflict, "you knew you could crash at any time."<sup>58</sup> Members of the press were vilified by both sides during the war;<sup>59</sup> journalists and media facilities in particular were targets.<sup>60</sup> During the 1999 invasion of Freetown, the invading rebel soldiers harassed and harmed journalists as well as civilians who called into radio shows. Mr. Moriba recalls being forced into hiding during the invasion; he had several colleagues singled out and murdered.<sup>61</sup> In addition to obvious consequences of the loss of life and infrastructure, Sierra Leonean journalists also had few opportunities for proper training in the 1980s and 1990s. Most had to obtain fellowships abroad in order to receive an education.<sup>62</sup>

### B. Post-Conflict Media

Since the official end of the war in January 2002, the press in Sierra Leone, as with every sector of society, has slowly begun to rebuild. As Peter Andersen, Chief of Outreach and Public Affairs for the SCSL, explained, "Post-conflict media is like post-conflict anything. You're starting from square one."<sup>63</sup> Government restrictions on the media have relaxed since the end of the war, but, as Reporters Without Borders stated in 2006, "an impoverished and disparate written press has to deal with a society mired in corruption, a heavy legacy of violence and draconian laws."<sup>64</sup> There is still a fair amount of government interference with the press.<sup>65</sup> Nevertheless, most observers report major changes over the past eight or so years. Sierra Leone now has a vibrant – perhaps even overcrowded – media sector, including a proliferation of radio stations as well as

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*; e-mail from Isaac Massaquoi, Lecturer in Mass Communications at University of Sierra Leone (April 24, 2009) (on file with author). Mr. Massaquoi is a journalist; among other jobs, he has worked for the Sierra Leone Broadcasting Service and the Open Society Justice Initiative for West Africa, with whom he helped establish twelve community radio stations across Sierra Leone.

<sup>60</sup> U.S. Department of State, 1999 Country Reports on Human Rights Practices: Sierra Leone (last visited Mar. 28, 2010), available at <http://www.state.gov/g/drl/rls/hrrpt/1999/270.htm> (finding that journalists and their families were "particular targets" during the January 1999 Freetown invasion); e-mail from Isaac Massaquoi, *supra* note 59; telephone interview with David Tam-Baryoh, Proprietor, Center for Media Education and Technology in Freetown, Sierra Leone (Apr. 4, 2009). Mr. Tam-Baryoh is a journalist and the station director for Citizen FM 103.7, a community radio station in the populous Kissy district. The station also reaches the northern Port Loko area.

<sup>61</sup> Interview with Solomon Moriba, *supra* note 57. Mr. Massaquoi also discussed the deaths of journalists and the destruction of media facilities during the war. E-mail from Isaac Massaquoi, *supra* note 59.

<sup>62</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>63</sup> Telephone interview with Peter Andersen, Chief of Outreach and Public Affairs, Special Court for Sierra Leone (Mar. 23, 2009). Mr. Andersen joined the Special Court in 2003. In 1996, he founded Sierra Leone Web, [www.sierra-leone.org](http://www.sierra-leone.org), the first online site dedicated to Sierra Leonean news. Archives of news coverage from 1994 to 2003 are available at the site.

<sup>64</sup> REPORTERS WITHOUT BORDERS FOR PRESS FREEDOM, 2006 ANNUAL REPORT 30, available at <http://www.rsf.org/IMG/pdf/report.pdf>.

<sup>65</sup> Telephone interview with Peter Andersen, *supra* note 63.

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a wide range of daily and weekly newspapers in Freetown.<sup>66</sup> Various observers note improvements in the press, including diversification of available media as well as an increase in the quantity and quality of reporting.<sup>67</sup>

The Sierra Leonean media is heavily dominated by radio and print journalism. Television is costly and therefore not widely available.<sup>68</sup> Internet is increasing in popularity, as is the mobile phone network.<sup>69</sup> However, infrastructure, tradition, and high rates of illiteracy<sup>70</sup> make radio by far the most popular journalistic medium in Sierra Leone.<sup>71</sup> Recent surveys by Foundation Hironnelle and the BBC World Service Trust indicate that approximately eighty percent of Sierra Leoneans have access to radios.<sup>72</sup> Foundation Hironnelle reported that in 2008 the daily reach of radio was 48.5 percent of the population, while the weekly reach was seventy-two percent.<sup>73</sup> In 2005, Search for Common Ground listed 23 FM radio stations in Sierra Leone in both Freetown and the provinces;<sup>74</sup> this number has surely increased since then. Mr. Moriba estimated there are as many as 40 smaller community radio stations.<sup>75</sup> Radio stations feature news reports, music, talk shows with phone-ins, and other formats.<sup>76</sup>

In contrast to radio, accessible in most parts of the country, the vast bulk of newspapers are concentrated in Freetown, where the literacy rate is the highest. Freetown features a glutted newspaper market of around 50 newspapers, mostly weekly or bi-monthly, of which about ten to fifteen are daily papers.<sup>77</sup> The most widely read are the *Concord Times*, *Awoko*, *Awareness Times*, *For Di People*, *Standard Times*, and *Premier News*, although only eleven percent of the popula-

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<sup>66</sup> SEARCH FOR COMMON GROUND - SIERRA LEONE, KEY FINDINGS FROM 2005 MEDIA SECTOR MAPPING SURVEY 2, available at <http://radiopeaceafrica.org/assets/texts/pdf/Sierra%20Leone%20Media%20Sector%20Mapping%20Key%20Findings.pdf> [hereinafter SEARCH FOR COMMON GROUND].

<sup>67</sup> See, e.g., telephone interview with Peter Andersen, *supra* note 63. Mohammed Bangura said that the improvement of reporting in Sierra Leone is "marked" because journalists now enjoy greater freedom of expression. Interview with Mohammed Bangura, Trial Attorney, Office of the Prosecutor, Special Court for Sierra Leone (Mar. 24, 2009). Mr. Massaquoi said that the media in Sierra Leone has "changed considerably" since 2002. "Today there are many newspapers on the streets[,] never mind the small advertising revenue they all depend on. They cover a lot more material than before, pictures and general presentation – improving." E-mail from Isaac Massaquoi, *supra* note 59.

<sup>68</sup> SEARCH FOR COMMON GROUND, *supra* note 66, at 3.

<sup>69</sup> *Id.*

<sup>70</sup> According to the United Nations Development Programme, in studies conducted from 1999 to 2007, it was found 38.1 percent of Sierra Leonean adults over the age of 15 years were literate. UNDP, *supra* note 54, at 174. This number is likely much higher in Freetown than in the rural countryside.

<sup>71</sup> See, e.g., GRAHAM MYTTON, 2008 MEDIA USE SURVEY: SIERRA LEONE, FINAL REPORT 4 (2008); BBC WORLD SERVICE TRUST, SIERRA LEONE ELECTIONS 2007 SURVEY, available at [http://www.bbc.co.uk/worldservice/trust/research/reports/2008/03/080320\\_research\\_impact\\_reports\\_sierra\\_leone.shtml](http://www.bbc.co.uk/worldservice/trust/research/reports/2008/03/080320_research_impact_reports_sierra_leone.shtml); SEARCH FOR COMMON GROUND, *supra* note 66, at 2.

<sup>72</sup> MYTTON, *supra* note 71, at 5; BBC WORLD SERVICE TRUST, *supra* note 71.

<sup>73</sup> MYTTON, *supra* note 71, at 5.

<sup>74</sup> SEARCH FOR COMMON GROUND, *supra* note 66, at 2.

<sup>75</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>76</sup> SEARCH FOR COMMON GROUND, *supra* note 66, at 2.

<sup>77</sup> Interview with Solomon Moriba, *supra* note 57.

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tion reads newspapers at any time.<sup>78</sup> Indeed, the largest newspaper in Freetown has a circulation of only around 2,000.<sup>79</sup> In general, newspapers are not regarded as the most credible sources of information.<sup>80</sup> Nevertheless, the Chief of the Special Court's Outreach and Public Affairs section emphasized that newspapers are still important because many now have websites that distribute articles farther afield, for example, to foreign governments and other agencies that do not monitor the radio.<sup>81</sup>

### C. Challenges

The largest challenge facing journalists in Sierra Leone is economic. In 2009, Sierra Leone's GDP ranked number 180 out of 182 countries. David Tam-Baryoh of the Center for Media Education and Technology in Freetown said that Sierra Leonean newspapers and other media suffer from lack of external investment, in particular, investment by those outside the media sector with business acumen.<sup>82</sup> According to Mr. Tam-Baryoh, nearly all newspapers are owned by journalists who lack solid business models. Scarce advertising revenue and over-competition barely keeps most papers afloat from day to day. This translates into a low pay scale for journalists.<sup>83</sup> "Journalists often have to struggle to earn a reasonable standard of living," said Anne Bennett, Country Director for Foundation Hironnelle in Sierra Leone.<sup>84</sup> Umaru Fofana, President of the Sierra Leone Association of Journalists, said that his organization is working to establish a minimum wage for journalists to alleviate "the rampant appalling conditions of service. . . ."<sup>85</sup> The poor pay scale, compounded with "enormous" technological hurdles<sup>86</sup> – a lack of basic infrastructure such as electricity, few computers and spotty internet access – means that journalists face basic, every day struggles to research, physically cover events, and then write and distribute their reports. According to Mariama Fornah, a reporter for Cotton Tree News, many reporters

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<sup>78</sup> MYTTON, *supra* note 71, at 4, 20.

<sup>79</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>80</sup> SEARCH FOR COMMON GROUND, *supra* note 66, at 3; e-mail from Isaac Massaquoi, *supra* note 59.

<sup>81</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>82</sup> Telephone interview with David Tam-Baryoh, *supra* note 60.

<sup>83</sup> *Id.*; telephone interview with Peter Andersen, *supra* note 63; telephone interview with Alpha Sesay, Founder of the Sierra Leone Court Monitoring Programme & CharlesTaylorTrial.org (April 25, 2009). Mr. Sesay is a Sierra Leonean lawyer with an LLM in international human rights law; he has worked on the Defence Team for Morris Kallon at the Special Court and as a consultant on the issue of the Special Court's legacy. E-mail from Anne Bennett, Country Director, Foundation Hironnelle, Sierra Leone (April 7, 2009) (on file with author).

<sup>84</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>85</sup> E-mail from Umaru Fofana, President, Sierra Leone Association of Journalists (April 14, 2009) (on file with author). Mr. Fofana has been a journalist for twelve years. From April to October 2008, he worked as the Consultant Coordinator for the BBC World Service Trust's coverage of the Special Court's trial of Charles Taylor in The Hague.

<sup>86</sup> Telephone interview with David Tam-Baryoh, *supra* note 60.

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lack equipment like digital recorders and laptop computers. This can make sourcing information difficult.<sup>87</sup>

Several problems result from the poor economic situation of journalists and media organizations, among them, corruption as well as a siphoning of talent away from journalism. Several individuals noted that many journalists seek kick-backs for positive reporting and threaten negative press coverage or omission of coverage if they are not paid for their services.<sup>88</sup> Often, NGOs or other agencies will accept the scheme and pay for coverage.<sup>89</sup> Simultaneously, young, talented journalists are quickly lured away from journalism into more lucrative and influential career tracks, such as public relations, work for NGO agencies, or government. This results in a constant “brain drain” away from the media sector.<sup>90</sup>

The preceding years of suppression and war have also affected the quality of reporting produced by Sierra Leonean journalists. In large part, this is due to a lack of basic training on reporting, writing, and ethics. As noted earlier, during the previous twenty years, training opportunities were scarce. Since the end of the war, the University of Sierra Leone has started a communications department, and other opportunities for media education have arisen in the country itself. As will be discussed later, several NGOs, such as Foundation Hirondelle, train journalists as part of their own media organizations. In addition, the Sierra Leone Association of Journalists provides local and international training for its members when resources are available; but Mr. Fofana says that, in general, “resources are few and far between.”<sup>91</sup> Three observers who have interacted with Sierra Leonean journalists say that, on average, journalists lack very basic reporting skills.<sup>92</sup> Mr. Andersen recalled a SCSL press conference where many of the younger reporters remained silent, even when solicited for questions.<sup>93</sup> Further, the dearth of training feeds the production of biased and ill-informed reporting.

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<sup>87</sup> E-mail from Mariama Fornah, Reporter, Cotton Tree News (May 2, 2009) (on file with author). Ms. Fornah has worked as a journalist for five years in Sierra Leone and The Hague. She started her career at a community radio station in Kenema district and has reported on the trial of Charles Taylor for the BBC World Service Trust.

<sup>88</sup> Telephone interview with Peter Andersen, *supra* note 63; e-mail from Anne Bennett, *supra* note 83 (“quite a few succumb to the temptation to accept monetary rewards in exchange for favorable reporting.”).

<sup>89</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>90</sup> *Id.*; telephone interview with David Tam-Baryoh, *supra* note 60; *see, e.g.*, Alie Turay, *Another Journalist Gets Appointed in Sierra Leone*, THE AWARENESS TIMES (Sierra Leone), Dec. 18, 2007 (reporting on a “growing number of local journalists whose skills President Koroma intends to tap into by utilising them as information Attaches to various [sic] diplomatic posts.”).

<sup>91</sup> E-mail from Umaru Fofana, *supra* note 85.

<sup>92</sup> Interview with Mohammed Bangura, *supra* note 67; telephone interview with Peter Andersen, *supra* note 63; telephone interview with Afua Hirsch, Legal Correspondent, THE GUARDIAN (Mar. 30, 2009). Ms. Hirsch is a barrister with extensive experience in West Africa. *See also* Rachel Horner, *Role of the Media in Fighting HIV/AIDS*, CONCORD TIMES (Sierra Leone), Apr. 14, 2008, available at <http://allafrica.com/stories/200804141347.html> (stating “the general standard of journalism in Sierra Leone is rather low. . . some of the reporters still lack the skills in the areas of writing, editing and effective dissemination of information – especially in the print media.”).

<sup>93</sup> Telephone interview with Peter Andersen, *supra* note 63.

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Many of the newspapers have overt political leanings or political backing.<sup>94</sup> Articles can lean toward inflammatory, imbalanced speech, rather than careful, fact-based arguments.<sup>95</sup> And, after years of suppression and intimidation by the government – some of which continues today – journalists without political backing are cautious in their criticisms. In an e-mail from Anne Bennett, she cites the “subculture of self-censorship created by a history of authoritarian rule” as one of the ills that plagues the Sierra Leonean press. Afua Hirsch, Legal Correspondent for *The Guardian*, likewise said there is very little investigative journalism in Sierra Leone; instead, journalists tend to reproduce government press releases.<sup>96</sup> The watchdog function of the media in Sierra Leone is thus underdeveloped due to historic and economic factors.

### IV. The Special Court's Approach to the Media

Against this journalistic backdrop, beset by economic, infrastructural, and historical challenges, the SCSL has sought to publicize its proceedings. The Special Court's success in this regard has been substantial; the result of a proactive and facilitative attitude toward the media.

The SCSL's particular approach to the media is due in large part to the Court's unprecedented concern with its “legacy.” More than any past international tribunal, the SCSL began to pay attention early in its development to the lasting imprint the Court would leave on its host nation. As early as 2002, SCSL Justice Pierre Boutet said, “The main objective of the court is to reestablish the rule of law in this country and then show the people of Sierra Leone that justice can be done in this country.”<sup>97</sup> This focus on “rule of law” legacy, rather than solely on adjudication, is arguably the largest contribution the Special Court has made to the area of international criminal law. No doubt, this focus stems from the same impulse that planted the SCSL in the nation where the crimes occurred. In general, the SCSL has placed greater emphasis on the “consumers” of justice than its predecessors.

Over the years, the SCSL has shifted more and more of its energy to legacy building. The Special Court's 5th Annual Report lists legacy as “one of the Court's topmost priorities.”<sup>98</sup> To help establish the rule of law, the SCSL seeks

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<sup>94</sup> *Id.*; see, e.g., Abdul Rashid Thomas, *APC Propaganda Media Sets Low Standards with which They Measure President Koroma's Government Performance: Is this Sycophancy or Blind Loyalty?* THE AWARENESS TIMES (Sierra Leone), Apr. 9, 2009 (discussing the role of the APC government's “sponsored news media”).

<sup>95</sup> Telephone interview with Afua Hirsch, *supra* note 92; see, e.g., Christian Foday Sesay, Jr., *Is Journalism in Country a Blessing or a Curse?* THE CONCORD TIMES (Sierra Leone), Apr. 9, 2009, available at <http://allafrica.com/stories/200904090749.html> (“The contents of what we write, the intonations and emotional picture with which we convey the message of our writings, the fiery and inciting dictions we use in proving a point offer no future hope to the land we all claim to love dearly.”).

<sup>96</sup> Telephone interview with Afua Hirsch, *supra* note 92.

<sup>97</sup> Stafford, *supra* note 10, at 133 (citing *The National: Recovery* (CBC television broadcast Dec. 26, 2002)).

<sup>98</sup> SPECIAL COURT FOR SIERRA LEONE, 5TH ANNUAL REPORT OF THE PRESIDENT OF THE SPECIAL COURT FOR SIERRA LEONE 6 (2007-08), available at <http://www.sc-sl.org/LinkClick.aspx?fileticket=hopZSuXjicg%3d&tabid=176>.

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to make its trials “accessible to people of the West African sub-region, who were most affected by the sub-regional civil conflicts and instabilities.”<sup>99</sup> Communication – and hence, involvement of the local media – is a tool necessary to enable this goal. Thus, the SCSL has sought to engage the local media as a means to an end.

### A. Outreach and Public Affairs

In his criticism of the ICTR's interactions with the press, Kingsley Moghalu suggested the Tribunal should pursue a “more proactive strategy to building external perceptions of its work.”<sup>100</sup> The SCSL adopted this proactive tack very early in its existence, creating a Press and Public Affairs Office under the Registry in 2002. Shortly thereafter, in its first year of existence, the Registry also created an Outreach Office, originally intended to be subordinate to Press and Public Affairs.<sup>101</sup>

Not all went smoothly from the very start. At first, the two sections overlapped and were somewhat antagonistic.<sup>102</sup> Mr. Andersen, who joined the Press and Public Affairs Office in 2003, said that the Court's media policy was disorganized at the beginning; multiple parties – the Prosecution, the Registry, Public Affairs – would speak on behalf of the Court, thereby sending mixed signals.<sup>103</sup> Nevertheless, the very fact that the SCSL created both a press office and an outreach section in its first two years allowed it to sort these difficulties out much more rapidly than the ICTY and ICTR. The SCSL dedicated itself very early to interactions with the local media and public. As Mr. Andersen pointed out, neither the ICTY nor the ICTR had an independent and comprehensive outreach programs until after the SCSL established its own.<sup>104</sup>

Eventually, Outreach and Press and Public Affairs delineated their respective roles:<sup>105</sup> Outreach's goal is to educate Sierra Leoneans and West Africans about the trials, often through direct contact and interactions between Court officials and citizens; Press and Public Affairs more narrowly deals with the media.<sup>106</sup> But the two are ultimately interrelated – educating the populace depends on successful engagement with the media – and in 2008, as part of the Court's winding

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<sup>99</sup> *Id.* at 39.

<sup>100</sup> Moghalu, *supra* note 12, at 40.

<sup>101</sup> Telephone interview with Peter Andersen, *supra* note 63; Charles Chernor Jalloh, *The Contribution of the Special Court for Sierra Leone to the Development of International Law*, 15 AFR. J. INT'L & COMP. L. 165, 185 (2007).

<sup>102</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> HUMAN RIGHTS WATCH, JUSTICE IN MOTION: THE TRIAL PHASE OF THE SPECIAL COURT FOR SIERRA LEONE pt. VI.A.1 (2005), <http://www.hrw.org/en/node/11565/section/1> (“The Registry has helped promote effective implementation of outreach and communications programming by developing an internal policy procedure on coordination of these activities. This procedure clearly delineates responsibilities between the organs of the court, and between the relevant units within those organs.”).

<sup>106</sup> Telephone interview with Peter Andersen, *supra* note 63; interview with Solomon Moriba, *supra* note 57.



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down, they were fused into the Office of Outreach and Public Affairs.<sup>107</sup> Together, they form a holistic communications strategy. In 2005, Human Rights Watch stated that, "The priority the Court has given to outreach and communications is particularly commendable as these represent one of the most difficult areas for any international justice institution to address."<sup>108</sup> Indeed, the difficulties inherent in a post-conflict media market have made the Special Court's work in this area more challenging, necessitating a creative approach to public relations.

### B. Proactive Information Dissemination

Several of the employees of Outreach and Public Affairs formerly worked in the media. Peter Andersen, the section chief, founded the first online website dedicated to Sierra Leonean news. As a result, the SCSL has worked effectively to produce and package information that caters to the needs of journalists.

The Special Court's strategy seems to be one of taking the information to the media sources, rather than waiting for the media to come to the Court. This allows the Special Court to carefully control its image in the press and to aggressively promote itself. In some respects, Press and Public Affairs has actually stepped into a journalistic role. In addition to standard press releases, the SCSL began producing weekly audio/visual summaries of court proceedings – fifteen minutes in English and fifteen in Krio – that were then distributed to radio stations and the state television network, as well as used by Outreach in its town hall meetings.<sup>109</sup> These summaries are meant to contain no editorial content, but are meant to allow those who cannot attend a glimpse inside the courtrooms.<sup>110</sup> Press and Public Affairs has also created and maintained a database of journalists and their contact information, including email and phone numbers. In The Hague, Mr. Moriba said he has amassed a database of roughly 250 journalists; these journalists are "accredited" to cover the Charles Taylor trial once they provide Mr. Moriba with their contact information and affiliation. Through these lists, the SCSL distributes press releases, press kits with timelines and other background information on the Court and trials, and alerts about proceedings and news.<sup>111</sup>

The SCSL's Press and Public Affairs section has done an admirable job anticipating the needs of journalists; for example, it creates witness summaries in ad-

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<sup>107</sup> The Special Court for Sierra Leone, Outreach and Public Affairs, <http://www.sc-sl.org/ABOUT/CourtOrganization/TheRegistry/OutreachandPublicAffairs/tabid/83/Default.aspx>; Charles Jalloh noted that the Outreach Office "employs both modern and traditional media to broadcast the work of the Court, for example, through community town hall meetings, radio programmes, publications, seminars, and training." Jalloh, *supra* note 101, at 185.

<sup>108</sup> HUMAN RIGHTS WATCH, *supra* note 105, pt. VI.A.

<sup>109</sup> Telephone interview with Peter Andersen, *supra* note 63; interview with Solomon Moriba, *supra* note 57; HUMAN RIGHTS WATCH, *supra* note 105, pt. VI.A.1 ("These summaries provide a crucial way for people who do not have the opportunity to attend trials to hear testimony, follow developments, and in the case of the video summaries, observe the courtroom.")

<sup>110</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>111</sup> *Id.*

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vance of testimony so that journalists can plan whether they want to cover the proceedings.<sup>112</sup> According to Human Rights Watch, “the Public Affairs Unit has appropriately used the knowledge of local staff to help identify developments that will likely be of the greatest importance or interest to Sierra Leoneans, and then focuses summaries accordingly.”<sup>113</sup> Together, Outreach and Public Affairs have conducted call-in discussions of the Court’s work on community radio stations. In addition, the Court has tried to make information remotely accessible through its website, [www.sc-sl.org](http://www.sc-sl.org). The website allows access to important court documents, such as the Rules of Procedure and Evidence, indictments and judgments from the various trials, and background on the indicted individuals. For the trial of Charles Taylor, the website offers a live video link to proceedings in The Hague.

### C. Flexibility and Accessibility

Successfully promoting the work of the Special Court in a post-conflict environment has required more than the packaging and proactive distribution of information; it also calls for flexibility on the part of the Press and Public Affairs staff. Infrastructural challenges have been the impetus for media management innovations. In 2003, when Mr. Andersen began working for the SCSL, internet and email were too expensive for most Sierra Leonean journalists.<sup>114</sup> Press and Public Affairs at first tried to distribute paper copies of press releases and summaries to media houses, which proved impracticable. Mobile phone networks, however, were rapidly becoming popular in Sierra Leone; texting in particular was often used as a cheap means of communication. Press and Public Affairs therefore began texting reporters with information and press updates. Today, more Sierra Leoneans have email than ever before. Still, in addition to email, the Special Court has continued to use mobile texting as its most effective means of communication with reporters. When I spoke with her, reporter Ndeamoh Mansaray had just received a text from the Special Court informing her about an upcoming international law institute she could attend.<sup>115</sup> In addition to texting, Mr. Andersen said he often employs a method called “flashing:” a journalist will call a member of Press and Public Affairs’ mobile phone, let it ring once, and then hang up; the recipient will then call back.<sup>116</sup> In this way, reporters who lack the resources to make expensive phone calls can communicate with the Press and Public Affairs Office. “It’s a rapidly changing environment, so we’ve had to adapt as the landscape has changed,” explained Mr. Andersen.<sup>117</sup> Nor has the Special Court shied away from more expensive communications modes, where they are deemed necessary. The SCSL funded Press and Public Affairs’ initiative to provide satellite coverage in Sierra Leone of the Prosecution’s opening

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<sup>112</sup> *Id.*

<sup>113</sup> HUMAN RIGHTS WATCH, *supra* note 105, pt. VI.A.1.

<sup>114</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>115</sup> Telephone interview with Ndeamoh Mansaray, Reporter, Cotton Tree News (April 21, 2009).

<sup>116</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>117</sup> *Id.*

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statement and first witness in the Charles Taylor trial.<sup>118</sup> Outreach and Public Affairs hopes to do the same for the opening of the Defense.<sup>119</sup>

Calling journalists who cannot afford to call the Court is just one example of the facilitative attitude the Special Court has adopted toward the media; the SCSL does its best to give local journalists the information they need. Press and Public Affairs provides reporters with access to phones in the courts in Freetown and The Hague; it also arranges interviews with key Court officials, like Chief Prosecutor Stephen Rapp, and meetings with other Court personnel.<sup>120</sup> In conjunction with the BBC World Service Trust, the Special Court has provided logistical support for Sierra Leonean and Liberian journalists covering the Taylor trial in The Hague by arranging visas and transcribing audio reports for these reporters.<sup>121</sup> “We have not really put any restraints on getting information,” said Mr. Moriba in his interview, “[t]here are no bottlenecks.”<sup>122</sup>

The Press and Public Affairs office has gradually worked toward forging relationships with local journalists.<sup>123</sup> Learning the profiles of the various local media organizations allows Outreach and Public Affairs to better cater to their needs, as well as to more efficiently target the Court's publicity and resources. Mr. Andersen said that he is a proponent of practicing “beer bottle” diplomacy: “You have to go to the weddings and funerals,” he said. “People notice those things. You cannot do your job in a country if you do not interact with the community.”<sup>124</sup> Members of the Outreach and Public Affairs Office are well aware of the basic challenges facing journalists in Sierra Leone. Mr. Andersen said that he never turns journalists away if they show up a few minutes late for a meeting – he knows how hard it is for them to get there at all.<sup>125</sup> According to Mr. Andersen, this awareness of the local environment and personalized interaction with local journalists has helped make the SCSL more accessible than either the ICTY or the ICTR, despite the greater resources of those tribunals.<sup>126</sup> It has also helped to establish the SCSL's institutional credibility among reporters. As a largely foreign institution, gaining the trust and respect of the local media is crucial for fostering a positive image for the Court.

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<sup>118</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>119</sup> *Id.* However, the ICTJ reports that technical problems have upset the SCSL's plans to live-stream proceedings of Taylor's trial. “Taylor's trial is only broadcast in one of the two courtrooms at the court's compound [in Freetown], and few people are there to watch. Even in this case, the live streaming is sometimes interrupted by technical problems.” INT'L CTR. FOR TRANSITIONAL JUSTICE & THIERRY CRUVELLIER, FROM THE TAYLOR TRIAL TO A LASTING LEGACY: PUTTING THE SPECIAL COURT MODEL TO THE TEST 15 (2009), available at <http://www.ictj.org/en/where/region1/141.html> (citation omitted).

<sup>120</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>121</sup> E-mail from Umaru Fofana, *supra* note 85.

<sup>122</sup> For criticism of the SCSL's handling of press coverage of the Charles Taylor trial in particular, see INT'L CTR. FOR TRANSITIONAL JUSTICE & CRUVELLIER, *supra* note 119.

<sup>123</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

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### D. Relations with Local Journalists

As a result of these efforts, the Press and Public Affairs Office of the Special Court enjoys a mostly positive reputation among local journalists. Given the antagonism sometimes apparent between the local press and the tribunals,<sup>127</sup> this is no small achievement.

The Sierra Leonean journalists I spoke with gave the Press and Public Affairs Office good reviews primarily for the ease with which they receive information from the Special Court. "Largely because of the relatively reasonable proactive churning out of news and information, the relationship between the [C]ourt and local journalists is very cordial," said Mr. Fofana.<sup>128</sup> Isaac Massaquoi, who reported on the Special Court in its early days, said his interactions with Court officials were positive, "from a professional point of view, I got information easily from [C]ourt officials, and the SLBS [Sierra Leone Broadcasting Service] was able to satisfy this hunger for information about the [C]ourt in those early days."<sup>129</sup> Particularly in comparison with national Sierra Leonean courts, Mr. Massaquoi said he was overwhelmed by the organization of the Special Court.<sup>130</sup> Ndeamoh Mansaray, who regularly covers the Court in Freetown for Cotton Tree News, said that if she does not understand some aspect of the Court proceedings, she feels comfortable asking the Outreach and Public Affairs Office to provide further explanation.<sup>131</sup> "This Court is very open to every Sierra Leonean," said Ms. Mansaray. "The Court is very supportive of journalists because we are going to tell the people what is going on in the Court."<sup>132</sup> Peter Kahler of West Africa Democracy Radio likewise called the Special Court "very, very supportive" of his work; when he traveled to The Hague, Outreach and Public Affairs arranged his visa and lodging and set up meetings for him with the prosecution, defense, and other Court officers. Mr. Kahler is on the Special Court listserv, and said he receives all the press releases and updates by email.<sup>133</sup>

Of course, not all interactions have been positive. The International Center for Transitional Justice reported that in its early years, relations between the local media and the Public Affairs Office were difficult, but they have improved since then.<sup>134</sup> Mr. Fofana said that he suspects that the Special Court makes judgments and sentences available to "white journalists" before the local media, although he offered no proof of this assertion.<sup>135</sup> And Mr. Andersen admitted that some

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<sup>127</sup> Higonnet, *supra* note 39, at 424. "Influential reporters and analysts in Serbia who strongly dislike the Tribunal present flagrant untruths about factual and legal aspects of its work . . . in the most prominent media in Serbia. . . ." (quoting Ivanisevic, *supra* note 44).

<sup>128</sup> E-mail from Umaru Fofana, *supra* note 85.

<sup>129</sup> E-mail from Isaac Massaquoi, *supra* note 59.

<sup>130</sup> *Id.*

<sup>131</sup> Telephone interview with Ndeamoh Mansaray, *supra* note 115.

<sup>132</sup> *Id.*

<sup>133</sup> Telephone interview with Peter Kahler, *supra* note 18.

<sup>134</sup> TOM PERRIELLO & MARIEKE WIERDA, THE SPECIAL COURT FOR SIERRA LEONE UNDER SCRUTINY 37 (2006), available at <http://www.ictj.org/static/Prosecutions/Sierra.study.pdf>.

<sup>135</sup> E-mail from Umaru Fofana, *supra* note 85.

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newspapers that support the ruling Sierra Leone Peoples Party (SLPP) have refused to cover the Court at all because the SLPP is critical of the Court.<sup>136</sup> Nevertheless, given the media environment in which it is operating, the positive comments from journalists I interviewed testifies to the constructive working relationships the Special Court has fostered with members of the local media. This, in combination with an innovative and proactive strategy for bringing information to the media, indicates that the SCSL has attempted more, and as a result accomplished more, in the area of communications management than any previous international criminal court.

### V. Local Coverage of the Special Court

Nevertheless, a closer look at local media coverage of the SCSL shows that the Court's successes, while substantial, are only partial. Media coverage of the SCSL still exhibits many of the shortcomings that confronted preceding international courts.

#### A. Broad Media Coverage

Regardless of whatever other publicity mechanisms the Special Court uses – the principal one being direct outreach – radio and newspapers are the primary means by which Sierra Leoneans hear about the SCSL. These information channels reach, as noted above, upwards of eighty percent of the population and preexisted the Special Court's arrival in Freetown.<sup>137</sup> Since the vast majority of citizens cannot attend court, they learn from the media about the Special Court proceedings: "People [in Sierra Leone] do rely on the reporting for what goes on in Court. The amount of material that the Court produces makes interesting reading, [and] exciting reporting."<sup>138</sup> To that regard, in general there has been a significant amount of reporting on the Special Court in local media outlets. In 2006, Human Rights Watch reported that local media coverage of the SCSL "has been substantial."<sup>139</sup> According to James Cockayne, "Catch a taxi in Freetown in the late afternoon on a day that the Court happens to be sitting, and you are likely to hear Krio and English radio talk-shows – perhaps even talk-back – discussing the day's events at the Court."<sup>140</sup> Indeed, Mohammed Bangura attested to the wide reach of radio coverage of the Court; people he meets have told him they heard him speak about the Special Court on radio shows.<sup>141</sup> Through such media, Mr. Cockayne asserted the proceedings of the Special Court have entered mainstream public discourse.<sup>142</sup>

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<sup>136</sup> Telephone interview with Peter Andersen, *supra* note 63.

<sup>137</sup> MYTTON, *supra* note 71, at 5.

<sup>138</sup> Interview with Mohammed Bangura, *supra* note 67.

<sup>139</sup> HUMAN RIGHTS WATCH, TRYING CHARLES TAYLOR IN THE HAGUE: MAKING JUSTICE ACCESSIBLE TO THOSE MOST AFFECTED 10 (2006), <http://hrw.org/backgrounder/ij/tj0606/tj0606.pdf>.

<sup>140</sup> Cockayne, *supra* note 10, at 644.

<sup>141</sup> Interview with Mohammed Bangura, *supra* note 67.

<sup>142</sup> Cockayne, *supra* note 10, at 644.

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There are many examples of good reporting on the Special Court. Newspaper coverage does sometimes offer balanced reports, such as an April 2009 article in the *Concord Times* about reactions to the United Revolutionary Front (RUF) trial sentences: frequent court reporter Ibrahim Tarawallie quoted the Defense counsel, a judge, and the Prosecution; his article also gave context for the sentences handed down (“the longest ever handed down by the UN backed hybrid”) and accurate information about the appeals process.<sup>143</sup> Newspapers and radio have offered exclusive interviews with the Prosecution and other court officials, summaries of witness testimony, and victims’ reactions to Court decisions.<sup>144</sup> Further, local reporting has provided readers with colorful descriptions of courtroom proceedings. In a piece about the RUF sentencing hearing, Alpha Bedoh Kamara of *Premier News* reported, “[t]here was a sudden burst of wailing from a female observer but was quickly restrained, as the faces of other observers, among them legal practitioners, remained gloomy and tense.”<sup>145</sup> Such descriptions allow readers who cannot attend a glimpse inside the courtroom, conveying a sense of the import – both procedural and emotional – of the occasion.

### B. Misreporting, Bias, Irregularity, and Lack of Original Coverage

However, press coverage of the Special Court has been hampered by a number of problems, many of them issues confronted by past international criminal courts as well, and all of them stemming from systemic problems in the Sierra Leonean media. These include: 1) inaccurate and biased journalism, 2) irregularity of reporting, and 3) a relatively small amount of original local coverage of the court.

Misreporting often stems from a basic ignorance of legal vocabulary and technicalities.<sup>146</sup> Many members of the press have received little or no training on court reporting. Afua Hirsch, who led a training seminar for Sierra Leonean and Liberian journalists, said that she at first “underestimated how low a level of understanding there is about the judicial system itself.”<sup>147</sup> Improper word usage – a failure to employ legal diction properly or at all – often lies at the root of

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<sup>143</sup> Ibrahim Tarawallie, *RUF Sentences Unfair, Says Defense Counsel*, CONCORD TIMES (Sierra Leone), Apr. 9, 2009, available at <http://allafrica.com/stories/200904090739.html>.

<sup>144</sup> See, e.g., Joseph Cheeseman, *Interview: Stephen Rapp Raps on Charles Taylor's 'Hidden Wealth'*, STANDARD TIMES PRESS (Sierra Leone), Oct. 9, 2008, available at [http://standardtimespress.net/cgi-bin/artman/publish/article\\_3429.shtml](http://standardtimespress.net/cgi-bin/artman/publish/article_3429.shtml); *Liberian Journalist Could be Forced to Reveal his Source*, STANDARD TIMES PRESS (Sierra Leone), Feb. 5, 2009, available at [http://standardtimespress.net/cgi-bin/artman/publish/article\\_3741.shtml](http://standardtimespress.net/cgi-bin/artman/publish/article_3741.shtml) (describing the testimony of a Prosecution witness in the Charles Taylor Trial); Byrna Hallam, *Verdict on RUF Trial Today – But Will It Wipe Away the Wounds?* CONCORD TIMES (Sierra Leone), Feb. 25, 2009, available at <http://allafrica.com/stories/200902250722.html> (describing the reaction of forced marriage victim Marion Kargbo to the anticipated verdict).

<sup>145</sup> Alpha Bedoh Kamara, *“Is This the Price for Bringing Peace?”*, PREMIER NEWS (Sierra Leone), Mar. 24, 2009, available at <http://www.premiernews-sl.com/detail.php?id=754>.

<sup>146</sup> Interview with Mohammed Bangura, *supra* note 67; telephone interview with Afua Hirsch, *supra* note 92; e-mail from Isaac Massaquoi, *supra* note 59; e-mail from Anne Bennett, *supra* note 83; e-mail from Umaru Fofana, *supra* note 85; e-mail from Mariama Fornah, *supra* note 87 (stating “many journalists are struggling to cover stories related to court proceedings due to lack of legal training on how to report on court matters”).

<sup>147</sup> Telephone interview with Afua Hirsch, *supra* note 92.

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inaccuracies. Journalists may use a phrase like “sent away” rather than “convict,” thereby miscommunicating what happened in court.<sup>148</sup> As a result, “The [C]ourt sometimes suffers from the general misreporting of issues which is due largely to the technicality involved in court reporting[,] especially of such international jurisprudence.”<sup>149</sup> Many articles also lack balance; they quote either the prosecution or defense without interviewing them or subjecting those assertions made to further factual analysis. For example, a recent article about a defense press conference quoted Charles Taylor’s lead defense counsel, but offered no rebuttal by the prosecution or explanation of how the defense’s version of events differed from that of the prosecution’s.<sup>150</sup> Biased reporting is due in part to a need for basic journalism training, but also because many journalists now reporting on the Court were affected by the war themselves. “[Q]uite many people have not forgiven the rebels,” said Isaac Massaquoi. “[S]ome of these people are journalists.”<sup>151</sup> Defendant Charles Taylor, the former president of Liberia, is a polarizing figure, especially in neighboring Liberia. Few in West Africa regard him with neutrality, and press coverage of his trial has often failed to reflect the presumption of innocence.<sup>152</sup> Indeed, during the three now-completed trials (RUF, AFRC, and CDF), coverage at the time of judgment and sentencing tended to be biased and sensational.<sup>153</sup>

As at Nuremberg and the ICTY,<sup>154</sup> the irregular frequency of trial coverage has proved to be a difficulty for the Special Court. During the first few months of its operations, local media gave “extensive” coverage to the Court, with regular front-page stories in national newspapers.<sup>155</sup> Since then, however, coverage has been “sporadic.”<sup>156</sup> Many journalists will only monitor the Court if there is a particularly interesting issue or event.<sup>157</sup> “[I]t is unfortunate that it is only few of us journalists in the country that are really showing interest in reporting the proceedings of the [C]ourt effectively,” said regular court reporter Ndeamoh Man-

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<sup>148</sup> Interview with Mohammed Bangura, *supra* note 67.

<sup>149</sup> E-mail from Umaru Fofana, *supra* note 85.

<sup>150</sup> Nfa’ Alie Koroma, *Who Bears the Greatest Responsibility*. . . , PREMIER NEWS (Sierra Leone), Mar. 25, 2009, available at <http://www.premiernews-sl.com/detail.php?id=765>.

<sup>151</sup> E-mail from Isaac Massaquoi, *supra* note 59.

<sup>152</sup> Telephone interview with Afua Hirsch, *supra* note 92; see, e.g., Jamila Nuhu Musa, *The Twist in Charles Taylor’s Trial*, DAILY TRUST (Nigeria), June 10, 2007, available at <http://allafrica.com/stories/200706111596.html> (reporting that Liberia, Sierra Leone, Africa, and the whole international community have been “anxiously waiting for the trial, which they expect to bring Taylor’s guilt to bear on him for the role that he played in the war crimes”).

<sup>153</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>154</sup> Monasebian, *supra* note 5, at 309. Coverage of the ICTR was most likely sporadic as well, although I have found no statement or statistics with regard to that fact.

<sup>155</sup> PERRIELLO & WIERDA, *supra* note 134, at 37.

<sup>156</sup> E-mail from Isaac Massaquoi, *supra* note 59. Nor has international media coverage of the high-profile Taylor trial proved any more regular; after a week, even the wire services had ceased regular reporting. INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, THE SIERRA LEONE COURT MONITORING PROGRAMME AND THIERRY CRUVELLIER, FROM THE TAYLOR TRIAL TO A LASTING LEGACY: PUTTING THE SPECIAL COURT MODEL TO THE TEST 17 (June 2009), available at <http://www.ictj.org/en/where/region1/141.html>.

<sup>157</sup> Telephone interview with Alpha Sesay, *supra* note 83.

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saray. “Some [reporters] only turn up when there is going to be a pre-sentence hearing, judgement [sic] or the sentencing itself.”<sup>158</sup> Sporadic coverage of the Court is understandable given that day-to-day proceedings do not always make for good reading material; moreover, most media houses have few personnel and cannot afford to dedicate one reporter to the Court.<sup>159</sup> Irregular coverage is nevertheless problematic: effective “watchdog” monitoring – especially of a new and controversial institution like the SCSL – requires constant attention.<sup>160</sup> Articles produced just for the big occasions – like judgment and sentencing – can lack nuance and background because reporters will have missed developments along the way. And, perhaps most importantly for the Court, continuous media attention fosters continued local awareness and support for the SCSL. Over the years, coverage has become more irregular even as the pressure for the SCSL to insure its “legacy” has increased.

Finally, as at the ICTY and ICTR, the SCSL has suffered a dearth of original local reporting. Mr. Tam-Baryoh estimated that fewer than five Sierra Leonean radio stations produce their own, original coverage of the SCSL.<sup>161</sup> Instead, most radio stations and newspapers reproduce the coverage of a few larger content providers. “The print media tend[s] to pick up stories off the wire, rather than provide good ongoing local coverage,” said Ms. Bennett in her e-mail. Frequently, media outlets will rely on the Special Court’s video and radio segments, with little or no original editorial input. For example, *Cocorioko Newspaper* simply reprinted the SCSL press release and photos from the RUF sentencing.<sup>162</sup> Although some unoriginal coverage is better than no coverage, reliance on external media reports does little to help the SCSL’s image as a foreign transplant, alien to Sierra Leoneans, their history, and their daily challenges. “When [Sierra Leoneans] hear on the radio that the program was pre-recorded by the SCSL, then they think that they are hearing propaganda,” said Mr. Tam-Baryoh. “If there were greater coverage by local journalists, people would begin to see [the Special Court] as less of a foreign institution.”<sup>163</sup> Ms. Mansaray said that local reporters understand better the interests and needs of their target audience:

I believe with foreign journalists covering the court, it is more for the good of the elite mainly at [an] international level. But with national journalists reporting on the trials, it will benefit the wider Sierra Leonean public at both urban and rural levels. . .[W]e bring these [sic] informations [sic] to the public in the best way possible that they can be able to

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<sup>158</sup> E-mail from Ndeamoh Mansaray, Reporter, Cotton Tree News (Apr. 22, 2009) (on file with author).

<sup>159</sup> Telephone interview with Alpha Sesay, *supra* note 83. According to Peter Andersen, some newspapers that support the current government have refused to cover the Court at all because the government itself does not support the Court. Telephone interview with Peter Andersen, *supra* note 63.

<sup>160</sup> Telephone interview with Alpha Sesay, *supra* note 83.

<sup>161</sup> Telephone interview with David Tam-Baryoh, *supra* note 60.

<sup>162</sup> Special Court for Sierra Leone Outreach & Public Affairs Office, *Long Sentences for Convicted RUF Leaders*, COCORIOKO NEWSPAPER (Sierra Leone), Apr. 8, 2009.

<sup>163</sup> Telephone interview with David Tam-Baryoh, *supra* note 60.



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understand and see the need of having the [C]ourt in post war Sierra Leone.<sup>164</sup>

Peter Kahler agreed that for the Court's version of justice to take root in the region, media coverage must cater to the perspective of the locals: the "BBC would do a good job covering [the Special Court], but local people would not identify, [they would] not see the justice as their own."<sup>165</sup>

### C. NGO and Non-Profit Support for Local Coverage

The constant local coverage of the Special Court that does exist is almost entirely supported by international organizations. It is local to the extent that NGOs provide training and infrastructural support to Sierra Leonean journalists, distributing their coverage on NGO-established networks as well as to other subscribing media outlets. Given the difficult economic and journalistic situation in Sierra Leone, "only those [journalists] that are able to obtain some amount of support from NGOs are able to overcome poor practices and unprofessional, shoddy journalism," said Foundation Hironnelle's Anne Bennett.<sup>166</sup> Foundation Hironnelle, a Swiss-based non-profit organization that sets up and operates media services in crisis areas,<sup>167</sup> operates both Cotton Tree News (CTN) in Sierra Leone and Star Radio in Liberia. Roughly a quarter of radio listeners in Sierra Leone listen to CTN's broadcasts, while more than half of all radio listeners have heard CTN programs through some channel.<sup>168</sup> CTN trains its local journalists on newsgathering, reporting, digital editing, and other journalism skills.<sup>169</sup> When the Court was in session in Freetown, CTN reporters like Ndeamoh Mansaray filed daily half-hour radio reports. CTN has also produced live discussions about significant SCSL decisions and special programs on the SCSL and issues of international justice.<sup>170</sup>

When the SCSL moved Charles Taylor's trial to The Hague in the Netherlands, NGOs stepped in to provide funding for West-African-based coverage of the trial. The Open Society Justice Initiative (OSJI) helped finance West Africa Democracy Radio's (WADR) special coverage of the trial.<sup>171</sup> WADR, founded in 2005, offers programming to local community radio stations in the sub-region on issues of government transparency, regional economics, and security, with the aim of fostering open and democratic societies.<sup>172</sup> Station manager Peter Kahler said WADR, with the support of OSJI, employs freelance journalists in The

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<sup>164</sup> E-mail from Ndeamoh Mansaray, *supra* note 158.

<sup>165</sup> Telephone interview with Peter Kahler, *supra* note 18.

<sup>166</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>167</sup> Foundation Hironnelle, Who We Are?, <http://www.hironnelle.org/hironnelle.nsf/caefd9edd48f5826c12564cf004f793d/a6e5047cb649da7ac1256597007387e6?OpenDocument> (last visited Mar, 28, 2010).

<sup>168</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>169</sup> E-mail from Mariama Fornah, *supra* note 87.

<sup>170</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>171</sup> Telephone interview with Peter Kahler, *supra* note 18.

<sup>172</sup> *Id.*

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Hague; these have included one Sierra Leonean and two Liberian journalists.<sup>173</sup> Their trial reports are worked into the daily news and turned into the weekly half-hour radio show "Echoes of a Trial," produced in Dakar, Senegal.<sup>174</sup> These broadcasts are then distributed to five radio stations in Sierra Leone and five in Liberia. WADR also has bureaus in Monrovia and Freetown from which reporters gather local coverage and feedback on the trial. "People see the trial [of Charles Taylor] as a witch hunt," said Mr. Kahler. "Having local reporters covering the trial helps correct that perception." "When you hear a Sierra Leonean or a Liberian reporting from The Hague, that's important."<sup>175</sup> The BBC World Service Trust, the non-profit arm of the BBC, also has funded Sierra Leonean and Liberian journalists like Mariama Fornah to travel to The Hague and cover the Taylor trial.<sup>176</sup> In addition to providing training to these journalists on court reporting and issues particular to the SCSL, as well as laptops and recorders, the World Service Trust then distributes their reporting to nearly every radio station and newspaper in Sierra Leone and Liberia; occasionally, reports have been translated into French and broadcast in Guinea as well.<sup>177</sup> CTN, for example, broadcasts BBC World Service Trust radio reports as its coverage of the Taylor Trial.

Court monitoring projects that are not specifically focused on journalism have unexpectedly filled the void produced by scarce original local reporting. Alpha Sesay, a Sierra Leonean lawyer, helped found the Sierra Leone Court Monitoring Programme (SLCMP, originally the Special Court Monitoring Program) in 2004 with the support of the International Center for Transitional Justice.<sup>178</sup> Mr. Sesay, who had interned with the SCSL, started the project primarily to insure a constant source of accurate information and analysis of the Court's proceedings.<sup>179</sup> The SLCMP put monitors in the courtrooms in Freetown who attended nearly every session; these monitors created detailed summaries that were posted to the SLCMP's website. The SLCMP also aimed to provide feedback to the Court obtained from engaging civil society and the public. Mr. Sesay viewed the lack of consistent media coverage of the SCSL a problem: the media was not fulfilling its role as a check on judicial power. "There had to be a measure to hold the Special Court accountable to the people," Sesay said.<sup>180</sup> As an unexpected consequence of the Project, journalists who did not have time to cover the SCSL themselves began to rely on the SLCMP's posted summaries. Some news outlets reproduced them in their entirety.<sup>181</sup>

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<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> E-mail from Umaru Fofana, *supra* note 85; e-mail from Mariama Fornah, *supra* note 87.

<sup>177</sup> E-mail from Umaru Fofana, *supra* note 85; e-mail from Mariama Fornah, *supra* note 87.

<sup>178</sup> Telephone interview with Alpha Sesay, *supra* note 83.

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

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When the Taylor trial was moved to The Hague, Sesay began hearing expressions of concern from journalists who could not afford to cover a trial so far away. In response, he founded CharlesTaylorTrial.org – part blog, part wire service – with the primary purpose of providing West African journalists information on the Taylor trial.<sup>182</sup> As with the SLCMP, CharlesTaylorTrial.org has monitors post daily summaries and issue analyses. “For some journalists, [the website] has been their sole source of information,” said Mr. Sesay in his interview. Some newspapers reproduce the summaries word for word, and the website has become the *de facto* source for information on the trial.<sup>183</sup> Traffic on the website during key witnesses such as former Liberian president Moses Blah is huge, according to Mr. Sesay. Radio stations in Liberia used the website’s summary of Blah’s testimony as the cornerstone of radio discussions. Mr. Sesay, who has since conducted training for Sierra Leonean and Liberian journalists, said providing content for journalists will achieve a broader goal: “To get information to the public, we need the journalists.”<sup>184</sup>

Where courts are not located “in theater,” such as the SCSL, websites such as CharlesTaylorTrial.org provide a cheap and efficient means of supplying information to the public and journalists who cannot attend in person. No doubt, given the success of Mr. Sesay’s projects, similar monitoring programs will be used for future international courts. However, such independent projects cannot substitute for a fully functional local media; they are only band-aids for a void that will remain once the court disappears.

### VI. A Missing Link in the Legacy

Viewing local media as a means to an end – the end being the broader goals of criminal justice – is at once accurate and problematic. It is accurate because, as Mr. Sesay explained, journalism is often the most effective and efficient way to inform the public at large about trial proceedings and the rule of law. It is problematic because it encourages the notion of journalism as the servant of narrow, institutional and time-specific goals. Such a mindset indicates that once verdicts are read and the appeals processed, it does not matter whether a strong, independent media remains or not.

For all its focus on legacy, the SCSL has failed to work journalism into that picture in any way other than as a means. Certainly, the primary legacy of the SCSL should be legal – strengthening the national courts of Sierra Leone and reestablishing the rule of law. But if the media is the handmaiden of justice, then omitting the media from this permanent legacy is more problematic than it may otherwise appear. As Ms. Hirsch explained, an ethical, robust, and legally liter-

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<sup>182</sup> The Trial of Charles Taylor, <http://charlestaylortrial.org/> (last visited Mar. 28, 2010). The website is supported by non-profit organizations, including Open Society Justice Initiative, the War Crimes Study Center at Berkeley, and The International Senior Lawyers Project. The Trial of Charles Taylor, Who We are, <http://www.charlestaylortrial.org/about/who-we-are/> (last visited Mar. 28, 2010).

<sup>183</sup> *Charles Taylor Order Bocakrie [sic] Killed*, THE ANALYST (Liberia), Sept. 10, 2008, available at <http://allafrica.com/stories/200809101011.html> (reproducing the charlestaylortrial.org daily summary and noting that “The Analyst lifts this from the trial website.”).

<sup>184</sup> Telephone Interview with Alpha Sesay, *supra* note 83.

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ate press is critical for lasting stability, especially in a post-conflict nation like Sierra Leone. A newly revived national judicial system needs to be monitored for corruption and other failures, while the huge influx of aid money and concomitant contracts require close scrutiny so that funds are not mismanaged.<sup>185</sup> If the press is not able to assume these tasks, it is unlikely that they will be fulfilled.

It must be acknowledged that the SCSL has very limited funds<sup>186</sup> and a narrow mandate: to prosecute “persons who bear the greatest responsibility” for the atrocities in Sierra Leone.<sup>187</sup> Within this framework, the SCSL could only devote itself to a very specific set of the problems confronting Sierra Leone. To do otherwise would have been to detract from the Court’s central adjudicative mission. Nor, as this paper should have already shown, has the Special Court ignored the role of the media. In fact, as part of its legacy building strategy, the SCSL created the “Strengthened Media Coverage Project,” aiming to deploy journalists to The Hague and to train and mentor journalists in the issues of transitional justice.<sup>188</sup>

However, by most accounts, the lasting impact of the SCSL on the media in Sierra Leone will be minimal. Mr. Sesay, who has researched legacy issues as a contractor for the SCSL, said that both in his research and his own interactions with journalists, he found that “The Court has not done so much for the media.” On the other hand, many Sierra Leonean journalists have become more familiar with the judicial process through interactions with the Court, said Ms. Hirsch.<sup>189</sup> But Anne Bennett argues that most of the improvement in the media has occurred because of the parallel efforts of the international community – that is, NGOs like Foundation Hironnelle.<sup>190</sup> This appears accurate, given the dearth of original local coverage, as discussed above, and the large role that NGOs have played in what regular coverage does occur. While NGO-support for the local media is important – and necessary given the economic situation in Sierra Leone – it can be problematic in its own right, especially when these organizations produce their own reports in lieu of more traditional local coverage. Such reporting can suffer from conflicts of interest<sup>191</sup> and a restricted view of the issues.

### A. The Need for Consistent Training

In sum, the SCSL has failed to *invest* in local media to the same extent as other sectors of society. This may be in part because the Court can attempt to educate the populace about the trial proceedings through direct outreach, thus bypassing

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<sup>185</sup> Telephone interview with Afua Hirsch, *supra* note 92.

<sup>186</sup> The Special Court is financed primarily through voluntary contributions from U.N. Member States. Cockayne, *supra* note 10, at 630.

<sup>187</sup> Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone art. 1, U.N. Doc. S/2002/246/Annex (Jan. 16, 2002), available at <http://www.specialcourt.org/documents/SpecialCourtAgreementFinal.pdf>.

<sup>188</sup> SPECIAL COURT FOR SIERRA LEONE, *supra* note 98, at 39.

<sup>189</sup> Telephone interview with Afua Hirsch, *supra* note 92.

<sup>190</sup> E-mail from Anne Bennett, *supra* note 83.

<sup>191</sup> Monasebian, *supra* note 5, at 321.

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the need to educate the media. However, the idea that journalism can be skipped as a link in the chain is misguided if only for reasons of long-term stability and the rule of law. Although the SCSL has limited resources, given the funding the Court successfully procured for outreach activities, it would not have required much additional financing or staffing to incorporate frequent training for journalists into the SCSL's legacy-building strategy.

The Court has conducted some training. Outreach and Public Affairs has coordinated a couple two-week training programs for journalists organized in conjunction with the Sierra Leone Association of Journalists.<sup>192</sup> Mr. Moriba said these sessions were well-attended.<sup>193</sup> Further, as noted above, the SCSL has worked with the BBC World Service Trust to coordinate West African journalists' coverage of the Taylor trial in The Hague, including obtaining for them the information, interviews, and the logistical support they need. In addition, office staff are generally available to answer journalists' questions.

But such piecemeal efforts are not enough. Across the board, independent observers and journalists said training for journalists on issues related to the Court has been inadequate.<sup>194</sup> Several individuals specifically said they thought the Court should do more.<sup>195</sup> According to Mr. Sesay, while the SCSL has targeted other specific constituencies with outreach events – in particular, law enforcement, the army, and the legal sector – the Court has not done nearly as much for journalists.<sup>196</sup> “I think the Court should do more not only to engage journalists, but to give them the necessary capacity to be able to be engaged,” Mr. Sesay said.<sup>197</sup>

As with local coverage of the SCSL, the training that does take place is spearheaded by non-profit organizations like the Sierra Leone Court Monitoring Programme. These groups will often invite the SCSL to send Court officials to the events. For example, the prosecution sent Mohammed Bangura to a training session for journalists held in Freetown in August 2008; the session was organized by the SLCMP and the BBC World Service Trust.<sup>198</sup> At the training session, Mr. Bangura discussed the role of the prosecution, explained basic legal terms and concepts, and encouraged the journalists to read the Rules of Procedure and Evidence.<sup>199</sup> Although Mr. Bangura praised the BBC World Service Trusts' efforts at educating journalists about the Taylor trial, he said more train-

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<sup>192</sup> Interview with Solomon Moriba, *supra* note 57.

<sup>193</sup> *Id.*

<sup>194</sup> Telephone interview with David Tam-Baryoh, *supra* note 60; telephone interview with Alpha Sesay, *supra* note 83; telephone interview with Afua Hirsch, *supra* note 92; telephone interview with Ndeamoh Mansaray, *supra* note 115; e-mail from Isaac Massaquoi, *supra* note 59; e-mail from Anne Bennett, *supra* note 83.

<sup>195</sup> Telephone interview with David Tam-Baryoh, *supra* note 60; telephone interview with Alpha Sesay, *supra* note 83; telephone interview with Afua Hirsch, *supra* note 92; telephone interview with Ndeamoh Mansaray, *supra* note 115.

<sup>196</sup> Telephone interview with Alpha Sesay, *supra* note 83.

<sup>197</sup> *Id.*

<sup>198</sup> Interview with Mohammed Bangura, *supra* note 67.

<sup>199</sup> *Id.*

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ing is needed: “Other institutions should come on board and engage media practitioners so that they will disseminate the message about the trial in The Hague.”<sup>200</sup> Ms. Hirsch, who organized a training session for fifty senior Sierra Leonean and Liberian reporters and editors in Monrovia, likewise said the single training session was far from adequate. “A lot of training for journalists is done on a really patchy basis,” Ms. Hirsch said. “What they really need is consistent training. The journalists said, ‘[t]his is great,’ but they want this type of training session every month.”<sup>201</sup> Ms. Hirsch was spurred to organize the three-day training session because inaccuracies in local coverage of the Taylor trial had led to widespread misunderstandings about the trial process.<sup>202</sup> In particular, Ms. Hirsch said that it was obvious that Liberian journalists – a prime constituency for coverage of the Taylor trial – in particular lacked basic knowledge and court reporting skills.<sup>203</sup> In fact, her opinion that the SCSL has overlooked Liberian journalists, who have less access to SCSL staff and resources, is shared by Mr. Sesay, who has also conducted training for Liberia journalists, and who stated in his interview: “Liberian journalists have more challenges than Sierra Leoneans; outreach programs have not been effective there; the soul source of information is our website.” If the Special Court organized more training for journalists, it would likely see both short term and long term improvements in the accuracy of coverage of the SCSL as well as the national courts and government.

### B. Expanding Coordination with NGOs and Non-Profits

If marginalized constituencies like Liberian journalists are not to be overlooked and more frequent training sessions are to have lasting impact on West African journalists, then future courts in post-conflict areas will need to expand their comprehensive communications strategy. This strategy should move beyond increasing coverage of the court itself with an eye toward fostering adaptable skills.

Indeed, it seems that in Sierra Leone, much of the interest and resources for an enlarged media initiative are already there, but have not been organized or efficiently deployed. Greater coordination with international NGOs and local non-profit groups would go a long way toward a more lasting media strategy. In Sierra Leone, Ms. Bennett recommended that the organizations concerned with media development convene with the Special Court to “articulate a common approach to improving coverage of international or transitional justice in the [Sierra Leonean] media.” This, she said, would “avoid overlap and gaps and allow for

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<sup>200</sup> Betty Milton, *Journalists Conclude Training on the Taylor Trial*, Awoko (Sierra Leone), Aug. 22, 2008, available at <http://awoko.org/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=3617&cntnt01returnid=15> (quoting Mr. Bangura).

<sup>201</sup> Telephone interview with Afua Hirsch, *supra* note 92.

<sup>202</sup> *Id.* The training session ran from April 24 to April 26, 2008, and was coordinated by Advocates for International Development, the International Centre for Media Studies and Development in West Africa, and the law firm Reed Smith Richards Butler, with financial support for Open Society Justice Initiative.

<sup>203</sup> *Id.*

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the pooling of resources and greater synergy.”<sup>204</sup> Mr. Sesay pointed out that the SCSL could have engaged with the communications schools in Freetown, working coverage of the Court into the educational requirements of the student journalists. Future courts in post-conflict environments can assume a leadership role among the NGOs and other organizations without much expenditure of resources. Simply discussing needs and delegating tasks could, as Ms. Bennett argued, mobilize the resources already available more effectively. Furthermore, the court could then monitor the information communicated to journalists to a greater degree, making sure that accurate information was reaching journalists and the public. And, since courts like the SCSL are short-lived institutions, it could leave behind a better-coordinated non-profit sector to continue to work with the media.

### VII. Conclusion

The Special Court for Sierra Leone is already a success story: three completed trials and a slew of convictions in just over six years speak to the effectiveness and efficiency of the “hybrid” court model. Certainly there are many areas for improvement and for new approaches, and not just in providing a more lasting legacy for local journalists. In the end, no one would call the SCSL a failure. The Special Court’s communications strategy and approach to the local media is one area in which the SCSL has made major strides over preceding international tribunals. These are due to the early formation of press and outreach sections. The press section proactively sought media coverage by effectively producing and packaging information for journalists and using innovative means of information distribution when confronted with infrastructural challenges. Most importantly, the Special Court adopted a facilitative attitude toward local journalists with the result of making the Special Court more accessible to the Sierra Leonean media and thus encouraging broad coverage of the Court.

The creation of a robust local press in a post-conflict nation is not a small task. Courts cannot and should not take on the project alone. Nevertheless, international criminal courts can take a leadership role in the process. Indeed, their own success depends on it.

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<sup>204</sup> E-mail from Anne Bennett, *supra* note 83.