
SIERRA LEONE'S TRUTH AND RECONCILIATION COMMISSION:

A FRESH START?

I. OVERVIEW

Since January 2002 when President Ahmed Tejan Kabbah officially declared Sierra Leone's brutal eleven year civil war over, numerous efforts have been made to consolidate the peace. The 14 May election in which the Revolutionary United Front (RUF) rebel group participated and was politically defeated, was, even if flawed, a significant step forward.¹ The country seems internally secure for the first time in over a decade, despite looming trouble across the border due to fighting between Liberian government forces and the Liberians United for Reconciliation and Democracy (LURD) insurgents.

Regional insecurity has not diminished the optimistic belief among citizens that Sierra Leone has entered a new phase. Nonetheless, the transition from war to peace is fraught with dangers. Many root causes of the conflict remain unresolved, including high levels of corruption, greed, uneven distribution of revenue from natural resources, a weak and compromised judicial system, and widespread poverty. Immediate challenges are to bring to justice those responsible for crimes committed during the war and to reconcile a war-torn nation.

Two transitional justice mechanisms have been set up to address these latter requirements: the Special Court and the Truth and Reconciliation Commission (TRC). The Special Court is meant to adjudicate the cases of those accused of bearing greatest responsibility for war crimes and crimes against humanity. It is the core institutional means of addressing impunity. The TRC is mandated to create "an impartial, historical record of the conflict", "address impunity; respond to the needs of victims;

promote healing and reconciliation; and prevent a repetition of the violations and abuses suffered".² These hybrid institutions – each with an international as well as a national component – have only begun to operate in the last few months.

This briefing paper focuses on the difficulties faced by the Truth and Reconciliation Commission. The TRC has its origins in the 7 July 1999 Lomé peace agreement between the Government of Sierra Leone and the RUF. Unfortunately, the Lomé process quickly collapsed, and resumption of the war delayed establishment of the TRC, despite legislation that formally provided for its creation in 2000. In early 2001, with improving stability in the country, serious efforts were made by both national and international actors to set the process in motion. This led to creation of the TRC's Interim Secretariat in March 2002 followed by the inauguration of the TRC proper on 5 July 2002.

In a report at that time, ICG noted a number of concerns about government manipulation of the selection of key officials, the relationship between the TRC and the Special Court, and lack of funding.³ From July to December 2002, ICG continued to monitor the TRC and found substantial problems with its start-up performance. These could undermine the hopes of many victims of war and indeed

¹ For details see ICG Africa Report N°49, *Sierra Leone After Elections: Politics as Usual?*, 12 July 2002, pp. 3-7.

² The Truth and Reconciliation Act of 2000, Part III "Functions of the Commission", 22 February 2000; "Called to Serve: A Profile of the Sierra Leone Truth and Reconciliation Commission", Published by the Media and Public Education Unit of the Commission, October 2002, p. 2. Unlike its South African predecessor, the Sierra Leone Truth and Reconciliation Commission has no power to grant amnesty. It is also smaller, with fewer commissioners and staff. For more on the South African Truth and Reconciliation Commission, see Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (New York, 2002), pp. 40-45.

³ ICG Report, *Sierra Leone after Elections*, op. cit., pp. 17-19.

perpetrators to tell their stories and ultimately impair the institution's contribution to reconciliation. Many specific problems facing the TRC are rooted in the three-month preparatory phase that followed the formal launch and left it ill-prepared to begin its operational phase on schedule in October. Apparent inaction in October and November resulted in a growing lack of confidence among donors and Sierra Leone's civil society.

Management issues have stymied the process from the start. As these multiplied during the preparatory phase, tensions arose between the national and international members and between the TRC and the Geneva-based Office of the United Nations High Commissioner for Human Rights (OHCHR).⁴ Funding has been a severe problem from the start. Donor fatigue, poor fundraising efforts by the TRC and by OHCHR, and management difficulties have discouraged donors.

On 4 December 2002, the TRC deployed statement takers, who are to collect the stories from all citizens who wish to come forward, regardless of war-time affiliation. These stories will be the basis for public hearings in early 2003 and for the creation of an official historical record of the war. However, the TRC commissioners are still a largely dysfunctional body that has not yet developed a comprehensive operational plan.

Since October, a concerted effort between OHCHR and the TRC has produced some positive signs. The arrival of new and qualified staff through a more transparent hiring process is expected to resolve accusations of political bias and inefficiency. An effort is being made to reach out to civil society and build partnerships with a number of local organisations.

Given the TRC's limited time mandate,⁵ a number of measures must be taken urgently to keep it on track, in particular improving the work of the commissioners and relations between the national and international staff within the TRC, and between

nationals and OHCHR. The latter cannot remain distant, only sending in trouble-shooters at moments of crisis. Although the TRC is a national and independent institution, OHCHR, which controls the purse strings, should take a more hands-on approach. The TRC must show it is working well in order to provide donors with concrete reasons to support it. For its part, the international community must be actively engaged to ensure that the TRC plays its crucial role in the peace process.

II. FROM PREPARATION TO OPERATION: THE DIFFICULT LAUNCH

The TRC's work has two phases: a three-month preparatory period followed by a twelve-month operational one. The preparatory phase began on 5 July 2002 and, although a number of tasks were not completed, concluded on 4 October. Most significantly, although the Interim Secretariat produced an operational plan with indications of staff and logistic requirements, as well as a timetable for collecting statements, holding hearings and writing the final report, no overall strategy was developed. The TRC has been slow to disseminate information to the population and to donors. There has been little discussion of how the objectives of each stage will be achieved, and this communication gap has created the impression that the TRC is idle and incoherent. This has contributed to increasing citizen frustration and disappointment as well as donor reluctance.⁶

A. PREPARING FOR OPERATIONS

The Interim Secretariat was not mandated by the February 2000 Truth and Reconciliation Act. It was created in late March 2002 by OHCHR to facilitate a quick start for the TRC by performing a series of initial tasks.⁷

1. Setting up regional offices

The Interim Secretariat was slow to locate and establish offices in Freetown and in the three

⁴ OHCHR provides technical assistance and raises funds for the TRC.

⁵ The enabling legislation provides for a twelve-month operational phase, which technically began on 5 October 2002. However, as discussed below, work was essentially suspended for much of October and November and resumed in earnest only in December. Under the law, the commissioners are entitled to request one six-month extension if they deem it necessary – to April 2004, presumably.

⁶ ICG interviews with national and international NGO representatives and with private Sierra Leone citizens, September-October 2002.

⁷ "Called to Serve", *op. cit.* See p. 5 for a complete listing of the tasks.

provincial capitals. The headquarters and Western region office will be in Freetown, and the offices for the Northern, Southern, and Eastern regions will be in the provincial capitals, Makeni, Bo, and Kenema respectively. The argument that delays were caused by the difficulty of finding quarters not damaged by the war has no merit, but the TRC informed ICG that lack of funds prevented it from securing office space in some areas.⁸ Other areas, such as Kono, Kailahun and Kambia, which were particularly affected by fighting, will also have contact points. For logistical and financial reasons, TRC representatives will be co-located in the existing offices of organisations already working in these areas.⁹ The government has permitted the TRC to establish its headquarters in the Brookfield Hotel in Freetown, which should be open by late December.

2. Developing operational resources

The Interim Secretariat was to coordinate establishment of a resource centre, including a database of human rights violations, provide logistic support to the TRC, and organise a staff training program. The United Nations Mission in Sierra Leone (UNAMSIL) has provided the bulk of logistical needs but the database has not yet been created, although a number of important documents have been received.¹⁰ The New York-based International Centre for Transitional Justice (ICTJ) provided a series of training seminars for the commissioners and the Interim Secretariat staff. However, the Interim Secretariat did not devise a plan for taking training statements, which had to be done hurriedly in late November.

3. Building relations with stakeholders and raising public awareness

The Interim Secretariat was responsible for developing the good working relationships with the government, UNAMSIL and other organisations which are essential for the TRC to fulfil its mandate. The TRC readily admits that it remains heavily

dependent on NGOs and community organisations to assist in educating the population about its mission. It lacks staff and budget to cover the country on its own.¹¹

The TRC has had mixed results with UNAMSIL, which is willing to support it in cooperation with OHCHR.¹² UNAMSIL could do more, however, to quickly build up TRC logistical capacity, especially in transportation and radio communication.¹³ The relationship with national NGOs also needs improvement. Some are frustrated with the TRC's slow pace, almost to the point of giving up on it. One NGO representative called the TRC "dormant". Others express concerns about its failure to reach out and launch public awareness campaigns.¹⁴

There are many indications of public ignorance about the TRC. For example, much of the population still believes, wrongly, that it will be paid if it testifies to the Commission. Many express doubt about the need for a TRC, saying they believe Sierra Leoneans can simply forgive and forget. Others say the TRC has no power to compel or punish and so can serve no useful purpose.¹⁵

It must be said however, that the difficulties of informing the public are considerable. A high illiteracy rate, estimated at 80 per cent, makes it hard to disseminate information in print. Because many citizens do not speak English, everything must be translated into local languages. While the TRC has attempted to make frequent visits to the provinces¹⁶ and hold weekly press briefings in Freetown, its capacity is greatly limited by small staff and lack of resources. The commissioners reported that the visits were well-received, despite the fact that they were poorly organised.¹⁷ In some cases, commissioners arrived in towns unannounced and found that all the

⁸ ICG interview with TRC official, October 2002.

⁹ TRC weekly press briefing, 9 October 2002.

¹⁰ These documents were the Conflict Mapping Project, initiated by OHCHR; the report from the Argentinean Forensic Team that visited in August 2002; and a report, funded by the Ford Foundation, which assesses information in a number of existing documents and writings. Along with calls to organisations and individuals to donate further materials, they mark the beginning of the resource centre.

¹¹ In each of the weekly press briefings held by the TRC between August and October 2002, the commissioners asked the community to assist in spreading the word about the institution's work.

¹² *Fifteenth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, S/2002/987, 5 September 2002, para. 44, p. 9.

¹³ ICG interview, December 2002.

¹⁴ ICG interviews with national NGO representatives, September-October 2002.

¹⁵ ICG interviews.

¹⁶ The commissioners conducted two series of "barray" meetings throughout the provinces in September and October 2002. *Barray* is a Mende word for "town hall".

¹⁷ ICG interviews with TRC officials, October 2002.

men were out in the fields.¹⁸ Despite this, commissioners said that people were consistently eager to share their stories with the TRC.

National and international NGOs try to educate the population through information campaigns, radio shows, and dramatic skits. Local NGOs have conducted information sessions and workshops, but a thinly stretched resource base that holds down the numbers of participants and activities has limited the impact.¹⁹ The hope is that the relatively few who can take part directly will share what they learned with their communities. Some question how effective this "trickle down" method has been, especially for those in distant areas. Radio jingles and television advertisements have been effective in Freetown, but less so in the provinces where access to electronic media is very limited.

4. Relationship to the Special Court

A long-standing problem has been lack of knowledge about the work of the TRC in relation to the Special Court. It is clear from ICG interviews with NGOs as well as public opinion polls available in Freetown that while many have heard of the two institutions, few truly understand their purposes or how they will operate. A recent survey conducted by Campaign for Good Governance, a national civil society organisation, revealed a high level of popular support for the TRC, but also a pressing need for more information.²⁰

Visits to the provinces by the TRC commissioners reinforced this assessment, showing in particular a lingering misconception that the TRC is an investigative arm of the Special Court. There is also evidence, however, that the more citizens learn about the TRC, the more favourable they tend to become to it. Thus, a small research study conducted among ex-combatants found that support for the TRC increased by nearly 30 percent after educational efforts.²¹

ICG has reported ex-combatants are particularly concerned about whether the TRC will share information given to it with the Special Court.²² The TRC and the Special Court have attempted to address this contentious issue. Special Court Prosecutor David Crane has said that his investigators have their own strategy for investigating war crimes that does not include seeking information from the TRC.²³ Crane explains that any information gathered from the TRC would in any event be largely inadmissible in court.

The TRC has stated categorically that it will not give information to the Special Court. While this issue is largely quiet for now, it is likely to reappear when the Court begins trials. The challenge is most likely to come from defence lawyers who will want any material with potential bearing on their clients' cases.²⁴ However, the Prosecutor's stance has allayed some fears about testifying to the TRC.²⁵

B. STARTING OPERATIONS

The TRC's operational phase, itself with three stages, began officially on 5 October 2002.²⁶ The first stage is "deployment". During this phase, statement takers are to collect stories across the country from both ex-combatants and victims. The second stage allows six months for both public and confidential hearings. Upon completion of these hearings, the third stage, the writing of the final report, should begin in summer 2003 and finish by December 2003.²⁷

The work of the TRC was virtually on hold during October and November as the commissioners waited for the arrival of the permanent Secretariat staff and the statement takers. The latter have now been trained and deployed. The permanent Secretariat should be

additional evidence of the positive impact of educational ("sensitisation") programs on the views of ex-combatants regarding both the TRC and the Special Court.

²² ICG Report, *Sierra Leone after Elections*, op. cit., p. 18.

²³ Interview with Special Court Prosecutor David Crane, October 2002. This position has been reiterated in a number of public appearances by the Special Prosecutor and the Registrar, Robin Vincent, since their arrival in August 2002 to set up the Special Court.

²⁴ ICG interviews with officials of the Office of the Prosecutor, Special Court for Sierra Leone, October 2002.

²⁵ ICG interviews with civil society and NGO representatives, September-November 2002.

²⁶ "Called to Serve", op. cit.

²⁷ See footnote 5 above.

¹⁸ TRC weekly press briefing, 9 October 2002.

¹⁹ Examples of national organisations include: Campaign for Good Governance, the National Forum for Human Rights (NFHR), the TRC Working Group, and the Campaign against Violent Events.

²⁰ Survey conducted by Campaign for Good Governance, October-November 2002. Publication forthcoming.

²¹ "Ex-Combatant Views of the Truth and Reconciliation Commission and the Special Court, The Post-conflict Reintegration Initiative for Development and Empowerment (PRIDE), 12 September 2002, p. 12. This report provides

in place within weeks. If the hiring process produces a highly skilled and energetic staff, commissioners remain confident that they can complete their mission within the allotted timeframe.²⁸

III. MANAGING THE PROCESS

A history of acrimonious and bitter divisions, accusations of biased hiring processes, lack of communication and lack of clarity over roles has been at the heart of the TRC's management problem.

A. STAFFING OF THE INTERIM AND PERMANENT SECRETARIAT

Many of the problems can be traced to the initial process by which the Interim Secretariat was staffed. That process was rife with allegations that it was driven by political favouritism and lack of transparency.²⁹

The Interim Secretary, Yasmin Jusu-Sheriff, ran the disputed hiring process for national consultants.³⁰ Some who participated in the initial screening process and raised concerns about certain applicants were said to have been excluded from later stages.³¹ The result was two-fold. First, approximately a third of those hired were deemed unqualified for their positions or redundant by an independent personnel review conducted by the United Nations Development Program (UNDP) office in Freetown in July 2002.³² Secondly, the hiring process was seen as politically-driven.³³

Following receipt of the UNDP review at the end of August, OHCHR refused to extend the contracts of

those identified as unqualified or redundant and advised the TRC to find new personnel.³⁴ OHCHR asked UNDP to enforce these findings and terminate those identified in the review. The TRC, however, was reluctant to follow this advice and did not act. On the contrary, the Interim Secretariat staff completed their contracts on 4 October. On 7 October, OHCHR authorised the extension of the contracts of the Interim Secretary and the administrative and logistic assistant until 19 October in order to assist in completing the transition from the preparatory to the operational phase. The TRC was effectively left without a Secretariat staff after that time.

The initial hiring process for the permanent Secretariat was also fraught with problems. Positions were listed nationally and internationally in August but the application deadline was 30 September, only five days before the operational phase of the TRC was to begin. The commissioners initially assumed responsibility for the hiring process but turned it over to UNDP after concerns were raised about transparency and fairness.³⁵ However, ICG was informed that the files given to UNDP contained only the already short-listed candidates, not all applications.³⁶

The qualifications set for the key job of Executive Secretary were also controversial. Claims were made that the requirements for this and other positions were written to fit the profiles of certain candidates, and that Interim Secretariat staff were automatically moved to the short list even after being disqualified by UNDP review.³⁷ Disputes over the national/international designation of certain posts led the three international advisors to the Interim Secretariat initially to refuse to apply for positions in the permanent Secretariat.³⁸

The hiring process was halted temporarily in mid October on OHCHR recommendation. UNDP, in cooperation with OHCHR and the TRC, then restarted it from scratch in late October by re-

²⁸ ICG interview with TRC commissioners, October-November 2002.

²⁹ ICG interviews with TRC, Western embassy, national NGO, UNDP, OHCHR, and UNAMSIL officials, September-November 2002.

³⁰ Mrs. Jusu-Sheriff was appointed by the government of Sierra Leone and hired by OHCHR on its recommendation. OHCHR hired the international advisors for the Interim Secretariat.

³¹ ICG interview with TRC official, October 2002.

³² ICG interviews with TRC and UNDP officials, October-November 2002. UNDP is the administering office in Sierra Leone for OHCHR.

³³ ICG interviews with Western embassy officials, civil society and national NGO representatives, September-October 2002.

³⁴ ICG interview with TRC and OHCHR officials, October 2002.

³⁵ ICG interviews with TRC, OHCHR, and Western embassy officials, October-November 2002.

³⁶ ICG interview, October 2002

³⁷ ICG interviews with TRC officials, October-November 2002.

³⁸ ICG understands that all three did apply for positions following the renewal of the hiring process.

advertising all positions. A caretaker committee was put in place to manage the selection process.³⁹ It has been selecting candidates throughout December, and the permanent Secretariat staff should start work on 6 January 2003.

While this change in procedure will hopefully renew faith in the TRC, it does not come without cost. National commissioners feel that OHCHR effectively reduced their independence by conditioning release of the funds OHCHR holds in trust for the TRC upon fulfilment of the demands.⁴⁰

B. THE COMMISSIONERS

The seven commissioners – four national and three international⁴¹ – began work on 5 July 2002. Between July and October several concerns were raised, most notably the lack of strong leadership within and from the body and the apparent inefficiency of having internationals who are part-timers.

1. Need for Strong and Proactive Leadership

TRC critics have suggested that its chairman, Bishop Joseph Humper,⁴² needs to put forward a guiding vision for the coming year.⁴³ Given the increasingly tense relationship between the TRC and OHCHR, the TRC needs a strong voice not only to guide it, but also to maintain its independence. While leadership is certainly necessary from the chair, all

the commissioners need to engage together to push the process forward.

ICG was informed that the commissioners were fully aware of the management problems in the Interim Secretariat and even discussed them in September but were unwilling to redress them.⁴⁴ Some suggest this stemmed from political considerations or at least lack of will to take politically sensitive action. Others argue that the national commissioners simply did not perceive the situation to be that grave.⁴⁵

An OHCHR representative suggested that OHCHR may be partly to blame because it never clarified the relationship between Interim Secretariat and commissioners. Therefore, the latter did not understand that they were supposed to be running the show with Interim Secretariat support, not vice-versa.⁴⁶ Indeed, because the Interim Secretariat was in place for three months before the commissioners, the roles of each may have appeared somewhat unclear. The inexperience of many of the commissioners may have left them overly dependent on the Interim Secretariat, or willing simply to accept practices already in place. Regardless, commissioners should have taken charge earlier.⁴⁷

2. The Role of International Commissioners

Complaints surfaced throughout ICG interviews that the international commissioners need to spend more time in the country.⁴⁸ Only one of the three international commissioners, Madam Ajaaratou Satang Jow of The Gambia, is in Freetown on a full-time basis. William Schabas and Yasmin Louise Sooka are there only part-time.⁴⁹

³⁹ The caretaker committee created panels for interviewing and short listing. Both contain representatives from UNDP, UNAMSIL, and the National Forum for Human Rights, as well as TRC commissioners.

⁴⁰ The national commissioners recognised grudgingly that they had to yield to international advice on the matter because OHCHR holds the purse strings and that is “just how it works”. ICG interview with TRC commissioner, October 2002.

⁴¹ See ICG Africa Report, *Sierra Leone after Elections*, op. cit., “The TRC at a Glance”, National Commission for Democracy and Human Rights, Sierra Leone, Series N°7 – 2001, and The Truth and Reconciliation Act, 2000 for descriptions of the selection process. This composition is similar to the formula used in Haiti.

⁴² The Rt. Rev. Dr. Joseph Christian Humper is Bishop of the United Methodist Church of Sierra Leone and also President of the Inter-Religious Council of Sierra Leone.

⁴³ ICG interviews with OHCHR and Western embassy officials, international NGO representatives and civil society, September-November 2002.

⁴⁴ ICG interviews with TRC and OHCHR officials, October 2002.

⁴⁵ ICG interviews with TRC and OHCHR officials and civil society, September-November 2002.

⁴⁶ ICG interview with OHCHR official, October 2002.

⁴⁷ ICG interviews with TRC officials and commissioners, November 2002.

⁴⁸ The Truth and Reconciliation Act, 2000, provides only that “Members of the Commission shall work full-time or nearly as full-time as possible and shall, accordingly, be paid such remuneration as the President may determine, on the recommendation of the Selection Co-ordinator, acting on the advice of the United Nations High Commissioner for Human Rights”.

⁴⁹ The four national commissioners are: Bishop Humper, Chairman; The Hon. Justice Laura Marcus-Jones, Deputy Chairman, a former judge of the Sierra Leone High Court for eight years and before that a magistrate for thirteen years;

OHCHR argues that it allowed the international commissioners to operate on a part-time basis because it would otherwise have been difficult to find high calibre candidates.⁵⁰ Schabas and Sooka made clear that they could not be in Sierra Leone full-time before being hired. The national commissioners also accepted the conditions for international commissioners, though some were admittedly unhappy.⁵¹

It is uncertain how important the more regular presence of all three international commissioners would be.⁵² Several commissioners argue that the situation would not have deteriorated so much and issues would have been resolved earlier if they were present on a more sustained basis.⁵³ Others are more sceptical that the international commissioners could have pushed the necessary changes through quickly but suggest they might have been able to bring matters to a head sooner.⁵⁴

One TRC commissioner compared the institution's role to that of a board of directors, suggesting that commissioners are to guide the process, but are not necessarily to be involved in daily operations assigned to the permanent staff such as

Professor John Kamara, a veterinary surgeon and former principal of Njala University College, one of the two colleges of the University of Sierra Leone, Freetown; and Mr Sylvanus Torto, a teaching fellow, working with graduate students at the Institute of Public Administration and Management of the University of Sierra Leone. The three international commissioners are: Ms Yasmin Louise Sooka, Director of the Foundation for Human Rights in South Africa and a former Truth Commissioner on the South African Truth and Reconciliation Commission, as well as a member of the Report Writing Committee for the final report of that body; Madam Ajaaratou Satang Jow, a former principal of Gambia High School and later Minister of Education and Secretary of State for Education in the Gambia (1994-1998); and Professor William Schabas, director of the Irish Centre for Human Rights at the National University of Ireland, Galway, as well as a member of the Quebec bar. A full profile of each commissioner is available at www.sierra-leone.org/trc-biographies.html.

⁵⁰ ICG interview with OHCHR official, October 2002.

⁵¹ ICG interviews with TRC officials and commissioners, October-November 2002.

⁵² Most truth commissions have functioned with part-time international commissioners without any deleterious effects, e.g., Guatemala and Haiti. Interview with international NGO, December 2002.

⁵³ ICG interviews with TRC commissioners and OHCHR officials, October-November 2002.

⁵⁴ ICG interviews with TRC officials and commissioners, October-November 2002.

administration, statement taking or investigations.⁵⁵ Nevertheless, given the nature of the management problems, the burden did fall to the commissioners, thereby making the absence of some the more significant. The lack of good communication facilities means that those out of the country are not always well informed.⁵⁶ It can be hoped that the international commissioners will spend more time in Sierra Leone at least once hearings begin and during the writing of the final report.⁵⁷

3. Training of Commissioners

While national and international commissioners come from strong professional backgrounds, only two of the three internationals and none of the four nationals have any experience with truth and reconciliation commissions. Though previous experience is not required for a commissioner, OHCHR should have provided additional educational opportunities during the preparatory phase for all commissioners.

C. THE ROLE OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

OHCHR has been slow to step in and help set matters right. It argues that it is reluctant to interfere in order to maintain national ownership of the TRC process.⁵⁸ However, given that it controls 95 per cent of the budget and receives all international donations for the TRC, it has a great deal of leverage.⁵⁹

This is the first time that OHCHR has directly been in charge of overseeing the construction and operation of a truth and reconciliation commission. A representative of OHCHR readily admitted that even though OHCHR recognised the need to provide a training and education program for the commissioners, it was unable to offer this itself and was unwilling to hand over to an outside agency.⁶⁰

⁵⁵ ICG interview with TRC commissioner, November 2002.

⁵⁶ ICG interview with TRC official, November 2002.

⁵⁷ ICG interview with TRC commissioner, November 2002.

⁵⁸ ICG interview with OHCHR official, October 2002.

⁵⁹ The TRC did establish a national bank account for receipt of local donations. As of December 2002, it has received U.S.\$97,000 from the Sierra Leone government, which the TRC can use without having to make a request to UNDP, the UN agency handling the disbursement of TRC funds held by OHCHR.

⁶⁰ ICG interview, October 2002.

The OHCHR Africa Coordinator visited Freetown in October 2002 and had the first serious face-to-face meeting with the commissioners since their inauguration in July. Prior to this, the organisation's only intervention had been the request to UNDP to conduct a personnel review of the Interim Secretariat staff. This visit left resentment among TRC national staff. One TRC official went so far as to state that OHCHR has "terrorised" the local staff through abrasive and dictatorial behaviour.⁶¹ Others have expressed concerns that OHCHR does not always approve requests for funds.⁶²

Many of the management and administrative problems in the TRC have led to divisions between its international and national members. These divisions are dangerous to the work and credibility of the institution. One commissioner suggested that Bishop Humper needs to address this issue by holding a meeting of all commissioners to air issues and emphasise the need for coherence and unity of purpose.⁶³

IV. FUNDING

Funding problems have dogged the TRC since its inception. According to its statute, it is financed through a fund that can receive gifts and donations from the Sierra Leone government and from "foreign governments, international governmental organisations, foundations, and non-governmental organisations".⁶⁴ As of September 2002, the TRC had received pledges of U.S.\$1,580,739, of which just over U.S.\$1 million had been received.⁶⁵ By December the amount pledged was roughly U.S.\$2.5 million. This fund is managed by OHCHR and disbursed through the UNDP office in Freetown.⁶⁶ Although OHCHR lacks jurisdiction over the TRC agenda, concerns about the use to which money would be put and corruption were reasons for giving it this leverage.

⁶¹ ICG interview with TRC official, November 2002.

⁶² ICG interviews with TRC officials, October 2002.

⁶³ ICG interview with TRC commissioner, November 2002.

⁶⁴ "Called to Serve", op. cit., p. 25. Also see The Truth and Reconciliation Act, Act of Parliament, February 2000.

⁶⁵ TRC weekly press briefing, 11 September 2002. This amount does not include the U.S.\$97,000 received from the Sierra Leone government.

⁶⁶ ICG interviews with TRC and Western embassy officials, October-November 2002.

A. SELLING THE PRODUCT

The then High Commissioner for Human Rights Mary Robinson and her team embarked on a funding appeal for the TRC quite late. According to some donors, discussions in 2001 focused on an expected budget of U.S. \$8 million.⁶⁷ When an estimate of U.S.\$10 million was presented to donors in February 2002, most viewed it as too expensive and initially refused to contribute.⁶⁸

It is possible that an inaccurate assessment of the costs of operating hurt the funding process.⁶⁹ OHCHR argues that its initial estimate for a working budget was generated by consultants in late 2001 merely as a starting point for the donor appeal. It was expected that the budget would be revised once the commissioners took office.⁷⁰

The TRC did revise the budget downwards in August 2002, to roughly U.S.\$6.6 million.⁷¹ However, some donors consider this still too high. Several said that if the budget could be reduced by so much so quickly, it could be cut even further.⁷² More problematically, some donors have not seen the revised budget and operational plan. The new appeal was only launched in August 2002, and it is unclear how widely OHCHR has distributed it. The TRC considers that OHCHR is responsible for publicising the new budget plan.⁷³ OHCHR has made a number of written appeals to donors in the past few months, which have been largely unsuccessful.⁷⁴ There is some expectation, however, that new funding will be

⁶⁷ ICG interview with Western embassy official, October 2002.

⁶⁸ The cost of Sierra Leone's Truth and Reconciliation Commission is not out of the ordinary. For example, the commission in South Africa cost roughly U.S.\$18 million per year, while the commissions in Peru and Guatemala each cost over U.S.\$11 million, and East Timor cost roughly U.S. \$4 million. The main difference is that the other commissions received a majority of their funding from their respective governments.

⁶⁹ ICG interview with international NGO representative and TRC official, October and November 2002.

⁷⁰ ICG interview with OHCHR official, October 2002.

⁷¹ *Fifteenth Report of the Secretary-General*, op. cit., para. 44, p. 9.

⁷² ICG interviews with TRC commissioners and Western embassy officials, October-November 2002.

⁷³ ICG interview with TRC official, October 2002.

⁷⁴ ICG interview with Western embassy official, November 2002.

available in early 2003 when donors enter a new funding cycle.⁷⁵

Several people interviewed by ICG have questioned the extent to which OHCHR has made sufficient efforts to raise funds. One TRC staff member claimed, OHCHR "is fundraising for itself and for another body so how can it find the time to effectively raise funds for the TRC".⁷⁶ Some on the ground defend the TRC's slow start partly with the argument that it is difficult to begin when it does not know how much it has to work with and so can not devise a definitive implementation strategy or hire all permanent staff.⁷⁷

OHCHR, on the other hand, makes the reasonable assertion that "the TRC is a product to sell, but that it needs to be a good product for OHCHR to sell it and sell it honestly".⁷⁸ It says that donors are playing a "wait and see game" – waiting to see the TRC begin operations in order to decide if and how much to contribute. OHCHR further argues that the commissioners need to start their work if they want to attract additional funds.

B. THE GOVERNMENT OF SIERRA LEONE

President Kabbah's government has pledged its moral commitment to the TRC process and, more concretely, has provided U.S.\$97,000 in seed money, donated a building for the Secretariat, and made available other facilities in government ministries.⁷⁹ The President has also pleaded with the international community to provide extra funding. Many within civil society, however, say critically that the government anticipates that the international community will come up with the necessary money and so is less active than it should be in finding resources itself.⁸⁰

The TRC has stated that it believes the government is committed to seeing the TRC succeed and that it is providing funding in stages. It has been informed, however, that it must start to use the funds already

donated by the government before more will be forthcoming.⁸¹

C. DONOR MALAISE

The lack of funding has several reasons. Firstly the donor community feels inundated with requests to meet humanitarian crises and development projects.⁸² A more compelling reason, however, is that donors do need confidence that a worthy cause is also an operational and effective one.⁸³ They are not prepared to give the TRC more until they see significant changes in management and operation.⁸⁴

D. INTERNATIONAL FOCUS ON THE SPECIAL COURT

A number of people have cited funding competition with the Special Court as part of the TRC's problem.⁸⁵ Money is not being diverted *per se* away from the TRC and to the Special Court but as one Western diplomat told ICG, the Special Court, although established well after the TRC, is far ahead in approaching donors and requesting funding.⁸⁶ The Special Court hit the ground running with the arrival of the Special Prosecutor and his team on 9 August 2002 and gives the impression of being more organised and competent in managing its task.

Donors have stated that the Special Court has not only demonstrated that it can function on the ground but also presented a clear plan of action and a solid appeal for funding. The TRC's task arguably is more complex – to lay the broad foundations for reconciliation throughout society rather merely prosecute the relatively few who bear greatest responsibility for war crimes and crimes against humanity – but it has not helped itself sufficiently with donors by its performance to date.

⁷⁵ ICG interview with TRC commissioner, November 2002.

⁷⁶ ICG interview, November 2002.

⁷⁷ ICG interviews with TRC and UNAMSIL officials, October-November 2002.

⁷⁸ ICG interview with OHCHR official, October 2002.

⁷⁹ "Called to Serve", op. cit., p. 25.

⁸⁰ ICG interviews with TRC officials and civil society representatives, October 2002.

⁸¹ ICG interview with TRC official, October 2002.

⁸² ICG interviews with civil society and national NGO representatives, September – October 2002.

⁸³ ICG interviews with Western embassy and OHCHR officials and international NGO representative, October-November 2002.

⁸⁴ ICG interviews with OHCHR and Western embassy officials, October 2002.

⁸⁵ ICG interviews with TRC officials, civil society and national NGO representatives, October-November 2002.

⁸⁶ ICG interview with Western embassy official, October 2002.

V. THE WAY FORWARD

There are signs that the TRC process is at last picking up speed. At least the statement takers have been deployed, and a transparent recruitment process for Secretariat and other permanent staff positions is nearing completion. However, the TRC itself and the Office of the High Commissioner for Human Rights must take a number of concrete and definitive steps if they are to make up lost time and ground.

The TRC must start fulfilling its mandate. The most immediate and vital step to jumpstart the process must come from the commissioners themselves. They must put forward a strategic plan for conducting the operational phase and then follow through. This includes taking a sure grip on the work, informing international donors about what they are doing and campaigning hard for additional funds. The TRC needs to start spending what has already been donated on the operational phase, a procedure only begun when the statement takers were sent out on 4 December. And the TRC needs to create an investigative plan, including the development of a research branch. ICG recommends that the commissioners should establish more formal collaborative partnerships with individuals and NGOs with expertise in specialised areas, such as gender violence or children's issues, to capitalise on a wealth of available information.

The Office of the High Commissioner for Human Rights and the Commissioners must work more closely together. OHCHR has reasonably taken some firm stances toward the TRC but it now needs to provide better guidance by playing a more central role in day-to-day operations. One way of doing this is to place one of its officials inside the TRC, to work alongside the staff, while respecting the TRC's national and independent status.

OHCHR needs to provide the necessary tools to enable the TRC to function well. In particular, it should ensure that the commissioners have qualified staff with experience of working in the UN system to facilitate the administrative and management process and to strengthen the TRC's relationship with OHCHR and other UN agencies. OHCHR, with the assistance of UNDP, should be doing more monitoring to ensure that the TRC sticks to the operational plan written by the commissioners and to timelines and budgets. Ultimately, OHCHR is

responsible to the donor community for accounting for funds donated to the TRC.

Several complaints about the slow and bureaucratic nature of the disbursement of funds by the UNDP office in Freetown, as well as reports of UNDP deciding what the TRC can and cannot spend money on, indicate that the TRC/UNDP relationship also needs to be improved.⁸⁷

Commissioners need to communicate about their work in order to help fundraising. Rather than plead penury, the TRC must demonstrate its capacity to deliver. Commissioners should design a better package to sell and actively seek to sell it. While this may be part of the OHCHR's job, the commissioners must also make an effort to be more visible and dynamic.

Commissioners must develop a more independent voice. The commissioners, particularly the nationals, need to stand up for the TRC and make their voices heard if they feel the process is not progressing as it should. The nationals must use the knowledge of their own country to shape the work if the TRC is to live up to the high expectations of Sierra Leone's citizens that the truth will be told and the reconciliation processes begin.

Civil society must be brought back into the process. Civil society must reengage and offer its resources to encourage popular participation. It is needed to assist with education efforts and to act as a watchdog. Unfortunately civil society feels betrayed by a process that it has advocated and lobbied for since 1999. It is becoming increasingly apathetic about the ability and will of the TRC to reveal the truth and heal a divided nation – the crux of the TRC's mission. While some organisations continue to work with the TRC to assist with education, many others have turned to other areas of concern out of frustration. This is starting to change for the better as the TRC reaches out more. But efforts need to continue to strengthen and broaden these relationships.

All these points are indicators of success and factors that can increase donor confidence in the TRC. If the commissioners can demonstrate a capacity to revitalise the institution, donors will have to stop playing a "wait-and-see" game and start contributing funds and other support to a process that is critical to sustain Sierra Leone's hard won and still tenuous peace.

Freetown/Brussels, 20 December 2002

⁸⁷ ICG interview with TRC officials, October 2002.

APPENDIX A

MAP OF SIERRA LEONE



General Staff Map Section, GSGS 11187 (CAD), Edition 3-GSGS, August 1998 672/98

Produced by Military Survey, MOD UK 1998

Users should note that this map has been designed for briefing purposes only and it should not be used for determining the precise location of places or features. This map should not be considered an authority on the delimitation of international boundaries nor on the spelling of place and feature names. Maps produced by Military Survey (UK) are not to be taken as necessarily representing the views of the UK government on boundaries or political status. © Crown copyright 1998



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