

**SEARCHING FOR TRUTH AND
RECONCILIATION
IN SIERRA LEONE**

**AN INITIAL STUDY OF THE
PERFORMANCE AND IMPACT OF
THE TRUTH AND RECONCILIATION
COMMISSION**

**The Sierra Leone Working Group on Truth and
Reconciliation**

February 2006

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“And differing judgements serve to declare,
that truth lies somewhere, if we knew but where”
(William Cowper, English novelist, 1731-1800)

Introduction

It is now over 15 months since the presentation on 5 October 2004 of the report of the Truth and Reconciliation Commission (TRC) to the President of Sierra Leone at a well-attended ceremony in Freetown. The presentation should have ushered in the ‘follow-up phase’ to the work of the TRC. Yet at the time of writing, the work of implementing its recommendations is not even close to beginning. First, there was a long delay in making the report of the TRC available to Sierra Leoneans. Copies of the report only arrived in August 2005. In the previous month, the Government of Sierra Leone (GoSL) published a White Paper in response to the report that was widely regarded as weak and inadequate. All this prompted many Sierra Leoneans to fear that the TRC process had fatally lost momentum.

In recent months, there has been progress. Following private interventions by the Commissioners of the TRC and civil society campaigning, there was a parliamentary debate on the TRC report in November 2005 and a Bill is due to be tabled before the legislature which reportedly contains many of the key recommendations in the report.

This bumpy start to the ‘follow-up phase’ is only the latest of many difficult moments for the TRC. It has been a deeply flawed and problematic process from its birth in 1999, when the peace agreement was signed.

Although the story of the TRC process is not yet over, the Working Group on Truth and Reconciliation (WG) has undertaken an initial assessment, based on over 30 interviews and meetings between April and August 2005 with Sierra Leonean and international stakeholders in the process, of the performance and impact of the TRC – this with a view to identifying what lessons can be learnt for future transitional justice initiatives elsewhere and developing recommendations for action that will help ensure that the ‘follow-up phase’ here in Sierra Leone is credible and effective.¹ While most of those we interviewed were happy to be quoted, a small number were willing to do so

¹ See Appendix 1 for a full list of those interviewees that were prepared to be wholly or partly ‘on the record’.

only if it could be 'off-the-record'. While events have inevitably moved on somewhat with regard to the 'follow-up phase' since the interviews and meetings were conducted, we have nonetheless included a section on this issue. We accept that the views of some of those quoted with regard to the 'follow-up phase' now have changed. However, we believe that they remain valid as an insight into feelings at the time of interview.

We hope that this report will be seen as a constructive early contribution to what should be a much wider and deeper debate in Sierra Leone and internationally.² The WG believes that an independent evaluation of the TRC should be jointly commissioned by all stakeholders to the process during 2006, with a commitment to publishing its conclusions and recommendations promptly and in full. This should include a systematic sampling of public views through focus group work. The importance of getting down to community level cannot be overstated. The sampling would also be an opportunity to discover public views about the Special Court, which ran concurrently with the TRC.³

It is particularly important that Sierra Leonean voices are heard at the international level, where criteria for assessing the successes and failures of the Sierra Leonean 'experiment' may be different from those locally and where different agendas may shape the conclusions reached. People have a right to know the truth about the Truth and Reconciliation Commission.

With regard to the 'follow-up phase', we are aware that the historical record elsewhere is not encouraging. Few TRCs have been characterized by effective follow-up. Even in the South African case, there is widespread disaffection on the part of victims' support groups about the response of the Government to the recommendations of the TRC report, not least in the sphere of reparations. If there is not a credible and effective 'follow-up phase', many Sierra Leoneans will legitimately ask whether the TRC was ever more than an expensive 'talking shop'.

Our study has identified a series of key issues in relation to which important lessons should be learnt regarding the TRC process in Sierra Leone. They concern:

- The role of the Office of the High Commissioner for Human Rights
- The appointment and role of Commissioners
- The relationship between the TRC and the Special Court
- The issue of local ownership and participation
- The role of international NGOs
- The 'follow up phase'

² For another interesting discussion of the impact of the TRC, see Rosalind Shaw *Rethinking Truth and Reconciliation Commissions – Lessons from Sierra Leone* (USIP, February 2005).

³ We asked David Crane, the then Prosecutor of the Special Court, if it had undertaken any surveys recently of how Sierra Leoneans viewed the Court. He responded that the Court was "not in the popularity business". However, earlier he had described the Court as "for and about the people of Sierra Leone". See Appendix 2 for additional extracts from this interview.

The report explores each of these issues in turn, drawing directly upon statements made by interviewees where appropriate. It then sets out some proposals for the way forward during the ‘follow-up phase’.

1 The TRC process – Lessons to be Learnt

1.1 *The role of the Office of the High Commissioner for Human Rights*

When the Office of the High Commissioner for Human Rights (OHCHR) agreed in 1999 to play the leading role in organising and overseeing the implementation of the TRC process, the decision was widely welcomed. Mary Robinson, then High Commissioner, had been a signatory in June 1999 of the *Human Rights Manifesto for Sierra Leone*, which endorsed the idea of a TRC. However, based on the interviews we have conducted for this report, Sierra Leonean and international stakeholders were generally very disappointed by the performance of the OHCHR. There was a remarkable consensus on this issue amongst interviewees who disagreed on many other issues. Here are a few examples of what people said:

“The role of Geneva was experimental. The experiment should not be repeated. It did not succeed” - John Kamara, National Commissioner

“The OHCHR operated a remote control system over the TRC” – Bishop Humper, Chairperson of the TRC

“Geneva spoilt the whole thing...” – Bondu Manyeh, TRC Counsellor

“The problem was that the Commission was treated as a programme of Geneva. It didn’t give it the attention it should have done” – Yasmin Sooka, International Commissioner

“The Commission did need help, but it was the wrong model” – Priscilla Hayner, ICTJ

The OHCHR was widely seen as having fatally combined an unhealthy obsession with micro-management with an inadequate capacity to undertake a professional oversight role. It was allegedly weak at raising funds and then very slow to release them. It was also claimed by some interviewees that OHCHR exercised excessively close control over staffing appointments to TRC Secretariats during both the preparatory and operational phases. TRC Commissioners had little say over appointments. Numerous interviewees stated that OHCHR proved highly reluctant to work openly and transparently with Sierra Leonean civil society organisations. Indeed, at times it seemed to be pursuing strategies of ‘divide and rule’ amongst those organisations. Some interviewees noted the strong role of Nigerians at all levels of UN involvement, whether at the OHCHR in Geneva or in UNAMSIL and UNDP within Sierra Leone itself and referred to allegations that procurement and staffing decisions came to reflect such nationality networks.

We are not in a position to judge the truth or otherwise of such allegations. The same is true of wider allegations and counter-allegations regarding nepotism and corruption within the TRC Secretariat during both the interim and operational phases.⁴ An audit of the TRC has been conducted by KPMG. It is attached as an Appendix to the final version of the TRC report. The WG believes that, while it makes a valuable contribution, it nonetheless leaves important questions unanswered. In addition, it does not cover the period when the TRC report was being edited and printed in Accra, Ghana. An independent evaluation of the TRC process should revisit these allegations again to see what more it can uncover.

1.2 The appointment and role of Commissioners

There was a widespread feeling amongst those we interviewed that, despite the efforts that were made to ensure that the appointment process for the four national commissioners was credible and produced national commissioners that were independent of the Government, these efforts were unsuccessful. For example, it is commonly believed that the Government was able to prevent Bishop Biguzzi, the Bishop of Makeni, from being appointed Chair of the TRC.

Here are a few examples of what people said:

“Bishop Humper was not suitable material” – Charles Lahai, Former Executive Secretary, National Forum for Human Rights

“National Commissioners tried to protect party people” – Helen Bash-Taqi, Director, Global Rights

“We need to ask why a process which was fine produced pro-government commissioners” – Priscilla Hayner, ICTJ

“At the start they were seen as SLPP-ers, but at the end of the day they went (minus Commissioner Torto) along with our findings on the government and CDF” – Howard Varney, Head, Investigations Unit, TRC

There was widespread concern that the Chairperson of the TRC was known to be a close supporter of the ruling party, the Sierra Leone Peoples’ Party. In addition, it was felt by many we interviewed that he had been a largely ineffective Chairperson – an impression reinforced for Sierra Leoneans by the apparent inactivity witnessed since the report was presented to the President in October 2004. While we encountered praise for individual national commissioners, the dominant view was that overall they had lacked dynamism and energy. Bishop Humper, when interviewed, disagreed that he and his colleagues had ever been anything other than impartial.

⁴ Yasmin Sooka stated that the problems during the preparatory phase badly damaged the TRC’s credibility, including with donors. For more, see the ICG’s report *Sierra Leone’s Truth and Reconciliation Commission: A Fresh Start?* (December 2002).

As for the three international commissioners, while there was consensus that international involvement had been necessary in order to uphold the credibility of the TRC, there was a widespread feeling that they had not spent enough time in Sierra Leone and, when there, had shown insufficient willingness to travel to chiefdom and village level outside Freetown. Their part-time status had also limited their ability to address weaknesses in the TRC process when they arose.

Here are some examples of what people said:

“Having international commissioners was by and large a success, but being part-time was a problem” – Bishop Humper

“The international commissioners needed to be there permanently. The role of the international commissioners was marginal compared to that of the international staff” – Marieke Wierda, ICTJ

1.3 *The relationship between the TRC and the Special Court*

This has been a highly contentious issue. We encountered a wide range of views amongst those Sierra Leonean and international stakeholders that we interviewed about whether running the two accountability mechanisms concurrently had been wise or not.

The majority of Sierra Leoneans interviewed argued that it had been a mistake and that the credibility of both institutions had been negatively affected by doing so. Many referred to the way in which Sam Hinga Norman had been prevented from testifying before the TRC by his indictment and arrest by the Special Court in 2003 as indicative of the way in which in practice the two institutions clashed. Few felt that the timing was coincidental and it suggested that the Special Court too was vulnerable to political manipulation. In addition, many believed that the arrival of the Special Court on the scene effectively relegated the TRC to ‘second class status’ in the hierarchy of accountability mechanisms and that donors increasingly deserted the TRC.

Overall, then, efforts to conceptualize and operationalize a coherent and clear relationship between the TRC and Special Court were unsuccessful. Every Sierra Leonean we interviewed referred to the way in which ordinary people were confused by the relationship between the two institutions until very late in the TRC process, fearing indictment by the Special Court should they co-operate with the TRC. Many interviewees felt that in future the option of sequencing such institutions should be kept open. The majority of Sierra Leoneans interviewed felt that the TRC should have come first, although a minority felt that the Special Court should have preceded the TRC. One or two even asked whether in retrospect the mandate under law of the TRC might have been amended when the Special Court was established to create a South African-style conditional amnesty procedure for those who committed

gross human rights violations but who were not covered by the definition employed by the Special Court of 'greatest responsibility'. This might have addressed the feeling among many victims that those people have entirely escaped justice.

Here are some examples of what Sierra Leoneans said:

"It was always clear that the Special Court had priority over the TRC, so the relationship between the two was not an issue" – Helen Bash-Taqi

"The establishment of the Special Court created a problem. It scared off victims and perpetrators" – John Kamara

"I was told by the elders that I would go to prison if I gave a statement to the TRC. There is no support in the village for the Special Court. I now regret not talking to the TRC. I would still like to tell my story." – Amara Ndomawa, Gbekah village, Lower Bambara Chiefdom, Kenema district

"It was common while taking statements to find fear of the Special Court. Some refused for that reason. Not many perpetrators came forward. The problem was inadequate sensitization." – Daisy Marion Bockarie, Statement Taker for the TRC, Kenema District

"Some TRC researchers went to work for the Special Court later...it was very unfortunate that they ran together" – James Vincent, Consultant

"The Government requested the Special Court, but it was a 'forced request'...The TRC was affected by concurrence. The Special Court is a runaway train that has lost direction" – Senior Government Official who wished to remain anonymous

These perspectives were different from those held by many (but not all) international stakeholders. The majority of international stakeholders interviewed felt that the relationship between the TRC and Special Court was poorly handled but that this did not mean that concurrence could not work well in other situations. Views differed as to where the blame lay for the poor relationship.

We are worried that an 'official view' may take shape at the international level that the 'experiment' was a success and that concurrence will uncritically be endorsed as 'best practice'. For example, the then Chief Prosecutor, David Crane, claimed that he had persuaded Luis Moreno Ocampo, the Chief Prosecutor at the International Criminal Court, that it should copy the Sierra Leonean experience in other countries. This potential disconnect underscores the importance of local experience being given due weight in evaluations of transitional justice initiatives around the world.

Here are some examples of what international stakeholders said:

“The relationship between the TRC and the Special Court was never clarified. If two such institutions were to co-exist again, they should be sequenced” – Benedict Sannoh, Head, UNAMSIL Human Rights Section

“Sequencing would have been a disaster for the Special Court. I was the TRC’s biggest supporter but it undermined itself, it drifted. It had an inferiority complex” – David Crane, Chief Prosecutor, Special Court (2002-5)

“As far as possible, we should not have them running together in future. There will be tensions between truth, justice and reconciliation” – Yasmin Sooka

“Where both are on the table, I would generally recommend they take place simultaneously. But we should avoid blueprints and need to hear local voices more” – Priscilla Hayner

“Why was no action taken to ensure that the relationship was harmonized at the legislative stage?” – Bishop Humper

1.4 *The issue of local ownership and participation*

The majority of Sierra Leonean and international stakeholders that we interviewed felt that the TRC process had fallen seriously short of what had been hoped for in terms of local ownership and participation. The sensitization exercise during the preparatory phase was widely viewed as deficient. For example, there was a tendency to assume that radio messages would be enough by themselves to alert Sierra Leoneans to the existence of the TRC when what was needed was to work with civil society organizations to ensure that each chiefdom and village was visited and re-visited. Only by these means could public confidence and understanding of the TRC process – and its relationship to the Special Court - have been achieved. While this failure partly reflected lack of funds, it also reflected a reluctance to develop a genuine partnership with local civil society organizations that could have assisted. During the operational phase of the TRC, this failure to sensitize adequately was compounded by the fact that there were not enough statement-takers employed and public hearings took place only at District Headquarters level. Many Sierra Leoneans were unable to tell their stories to the TRC as a result. Another criticism expressed was that those who did testify before the TRC did not receive adequate counselling support afterwards.

Finally, strong views were also expressed about the failure to use traditional reconciliation mechanisms appropriately. Particular anger was directed by some at incidents where such mechanisms were allegedly ‘customized’ to fit the time available before the Commissioners and staff had to move on to their next appointment. In general, many felt that not enough time had been given to the reconciliation aspect of the TRC’s mandate. At other points, ‘western’ models of reconciliation were reportedly employed, such as handshakes or hugs, which had little relevance to the Sierra Leonean context.

Here are some examples of what people said:

“The TRC was job creation for a lot of external people and now the job is over” – David Tam-Baryoh, Journalist

“This was supposed to be our baby” – Ngolo Katta, National Coordinator, CCYA

“There was not enough sensitization. Most people in the provinces are still ignorant or confused about the TRC... we were ready to assist. But they never came to ask to work with us” – Claude Kondor, Director, Network of Collaborative Peacebuilding

“Statement-takers got down to chiefdom level. The public hearings had the biggest effect. It created demand – more than we could handle. But the statement-taking phase was too short. So were the hearings. Only a few victims spoke. The TRC did not make enough use of civil society. It was centralized in Freetown. The Makeni office was always empty and unused.” – Gibril Massie Bah, TRC Coordinator, Bombali District

“We expected the researchers to accompany us. They never did... in the public hearings, people often had no more than 5-10 minutes to speak. I didn’t see any perpetrators speak in the Kenema hearings.” – Daisy Marion Bockarie, Statement Taker for the TRC, Kenema District

“The TRC has not achieved any true reconciliation. The ‘shaking hands’ approach does not work here. Perpetrators tended to play a ‘role’ in hearings. Victims are still waiting for revenge. It needed a cultural dimension and sustainability for at least three years” – Joe Rahall, Green Scenery

“90 per cent of those who testified before hearings wanted a second or third opportunity to see a counsellor... There was not enough follow up due to lack of time and money. There is now a sense of abandonment.” –Bondu Manyeh

“The TRC could have managed partnerships much better... it lost the support and engagement of the best in civil society... on reconciliation, it was unable to crack some of the local dynamics” – Marieke Wierda

“We were still debating what reconciliation should mean right at the end of the TRC. No programme on reconciliation was developed until October 2003 – right at the end... it was too little too late” – Howard Varney

1.5 *The role of international NGOs*

A number of Sierra Leonean stakeholders that we interviewed expressed the view that the role of international NGOs in the TRC process was not always as positive as it could have been. There was particular reference to the way in which certain international NGOs, most notably the International Centre for Transitional Justice (ICTJ), based in New York, failed to address apparent

'conflicts of interest'. The ICTJ has provided 'expert services' not just to the TRC but also to the Special Court. At the same time, it has sought to work with local civil society. Some felt that its role as provider of expert services undermined its capacity to support effective independent monitoring or advocacy by local civil society of either the TRC process or the Special Court. Similar views were expressed about the International Human Rights Law Group (known in Sierra Leone today as Global Rights) during the preparatory phase of the TRC.

The ICTJ and Law Group have a close relationship with the OHCHR and other parts of the UN system. Sierra Leoneans have become aware of the international networks that exist in the sphere of transitional justice in the course of the TRC process. The time may have arrived for these international networks to be rendered more transparent and for potential conflicts of interest such as those raised by our experience in Sierra Leone to be addressed. Nobody doubts the need for professional expertise in the sphere of transitional justice; however, experience shows there will be occasions when the perspectives and interests of governments, multilateral agencies and local civil society will diverge. Surely it will then become difficult for the ICTJ to combine an 'expert services' role to governments and multilateral agencies with support for civil society

Here are some examples of what people said on this issue:

"There is a danger that the ICTJ becomes a 'purveyor of elite deals'" – Piers Pigou, Consultant on Transitional Justice issues

"I have never considered this an issue, but if others do then we need to look at it. First and foremost we are civil society advocates." – Priscilla Hayner

"Perhaps we got too intent on propping up the TRC. We could have engaged more in civil society capacity building. But we were never in a conflict of interest" – Marieke Wierda

"Sometimes it felt as if the ICTJ was sitting on the fence" – Charles Lahai

"You cannot be both poacher and gamekeeper" – Bishop Humper

"There seemed to be an 'incestuous relationship' between the ICTJ, Law Group and Geneva. They were the custodians and validators of what was happening" – Yasmin Jusu-Sheriff, Former Executive Secretary of the TRC

Several interviewees also referred to ARTICLE 19's role in the TRC process between 1998 and 2002, arguing that the organization came to be too narrowly identified with the WG.⁵

⁵ See also ARTICLE 19 and Forum of Conscience, *Moments of Truth in Sierra Leone: Contextualizing the Truth and Reconciliation Commission* (August 2000)

1.6 The 'follow-up phase'

The Sierra Leoneans we interviewed between April and August 2005 were deeply frustrated by the long delay that had occurred in publishing the final version of the TRC report. So too were many international stakeholders, although some felt that it had been unavoidable because of the poor quality of the report – including the omission of some conclusions and recommendations that had previously been agreed – that was presented to the President in October 2004. Whatever the reasons, between October 2004, when it was presented to the President, and August 2005, when copies of the final report arrived in Freetown, there were reportedly only ten copies of the report in the entire country. Expectations had been raised, only then to be dashed.⁶ The former Chairperson of the TRC, Bishop Joseph Humper, claimed that the reason for the long delay was that the report was being re-edited and typographical errors eliminated. He assured people that no doctoring of the report was taking place.

While the final version of the report remained unavailable, key sections – the overview chapter and the chapters summarizing the findings and recommendations – of the report presented to the President were made available on the internet by the ICTJ. Quite legitimately, some Sierra Leonean and international civil society organizations began the process of producing appropriately simplified or 'customized' versions of what was available and taking the findings and recommendations down to chiefdom and community level for dissemination and debate.

Here are some examples of what people said about the delay that occurred in making the TRC report publicly available:

"We feel betrayed by the TRC " – Alhaji Jusu Jaka, Chair, Amputees Association

"The delay has been potentially fatal. Momentum has been lost" – Howard Varney

"It has been an anti-climax. We need to know what came out of it" – Father Francis Ishmael, Makeni Town

"We are very concerned that the government may be doctoring the report" – Helen Bash-Taqi

In July 2005, the GoSL published its White Paper in response to the TRC report – at the time, the final version of the report had still not been distributed in Sierra Leone. The contents of the White Paper appeared to confirm fears raised by many of our interviewees that the government was not committed to implementing the recommendations of the TRC report, as it is required to do under the 2000 Act:

⁶ This is not the place for the WG to set out its response to the arguments and analysis contained within the final version of the report.

“The government is not serious, it is not interested in the exercise” – David Tam-Baryoh

“Kabbah will bury his head in the sand” – Yasmin Jusu Sheriff

“The government wants to sweep the report under the carpet... civil society needs to put it on the agenda” – Howard Varney

Reservations were also expressed by some of the Sierra Leonean stakeholders that we interviewed in relation to the organizational arrangements proposed by the TRC for the ‘follow-up phase’.

The TRC report calls for a Follow-up Committee to be established, which should be part of the Human Rights Commission (HRC). But, although the enabling Act to establish the HRC was passed in 2004, the body does not yet exist. There are reports that Commissioners are to be appointed in the near future. That would be not before time. But it will still be a considerable period before the HRC is ready to assume its full responsibilities.

Here are examples of what people said on this issue:

“The HRC Act may have to be amended once the TRC report is out. So the two must be taken together. This is why there has been a delay in setting up the HRC” – Hon FM Carew, Minister of Justice and Attorney-General, GoSL

Why was the establishment of the HRC conditional upon the publication of the final version of the TRC report? The mandate of the HRC extends well beyond its intended responsibilities in relation to the TRC. In addition, we believe that the linkage of the HRC and the TRC is spurious. It is difficult to avoid the suspicion that the linkage made by the Minister of Justice reflected a lack of real commitment at the time of interview to either institution. We hope that the official view has changed since last year.

At the time we conducted our interviews, others were also worried about the dangers of linkage:

“The government should not use any linkage between TRC follow-up and the HRC to delay things” – Benedict Sannoh

“The follow-up committee should be other than the HRC. Or, at least, we could have an interim committee prior to establishing the HRC” – Jo Rahall

Our experience shows that past Sierra Leonean governments have been skilled at undermining ostensibly autonomous institutions. How can we be sure that the HRC will not be so undermined? Civil society needs to remain vigilant on this score.

We believe that the TRC should have recommended that an interim follow-up committee involving all stakeholders be established pending the creation of the HRC. It is not too late to do so. Accordingly, the WG calls for the immediate establishment of an interim follow-up committee that spans both government and civil society.⁷

The TRC report also recommends that the National Council for Social Action (NACSA), should be given responsibility for coordinating the Reparations programme. The programme will deal with the needs of victims in the areas of health, housing, pensions, education, skills training and micro-credit, community reparations and symbolic reparations.

The WG is concerned that NACSA, as a parastatal, may also lack the independence required properly to carry out the mandate given to it. It is crucial that NACSA counter such fears by ensuring that processes of designing and implementing the Reparations programme are open, consultative and inclusive from the start. There is work to be done to improve relations with the National Amputees Association, whose chair, Alhaji Musa Jaki, stated when interviewed: "I am not confident that NACSA will do a good job on reparations". He claimed that on a previous occasion, when US \$10,000 for the Amputees Association was channelled through NACSA, it received only one-tenth of that sum.

It is also striking that the Special Fund for War Victims has still not been established. Provided for under the 1999 peace agreement, there is no good reason why its establishment should have had to await the publication of the final version of the TRC report or further legislation. The WG calls for its immediate establishment and urge Sierra Leoneans to begin to contribute whatever they can afford towards it. We also call on donors to contribute to the Fund.

Here are some examples of what people said about the TRC process if there is no credible 'follow up' phase:

"It will not have been worth doing without follow-up. People will turn against the whole idea of the TRC" – Daisy Marion Bockarie

"The follow-up phase is crucial to bringing peace and reconciliation in Sierra Leone" – Bondu Manyeh

"The value of the TRC will depend on its results. For now, it is necessary to suspend judgement" – Bishop George Biguzzi

The TRC was established to help tackle the 'root causes' of conflict in Sierra Leone. Our interviewees had some interesting views on this question when spoke to us:

⁷ In recent months, there has been a civil society-led TRC Follow-Up Project. It has been working with the Government to push forward the implementation phase of the TRC process. The WG will consult with those involved in the Project about the possibility of establishing a broad-based interim follow-up committee.

“The root causes are yet to be addressed.” – Benedict Sannoh

“There are not many signs of a new mentality. There is a lack of vision, a lack of leadership... the regional divide is not being addressed... corruption and the economy are still a problem...but there is a greater level of awareness of human rights, a greater openness, a greater willingness to challenge” – Bishop George Biguzzi

“There is no work. The cost of food is increasing by the day. Things were cheaper before the war... Everybody is fed up” – Amara Ndomawa

But let us end on a more hopeful note. Very few of the Sierra Leonean or international stakeholders that we interviewed were willing to write-off the TRC. Some felt that even if there was no adequate follow-up it will still have made a valuable contribution to building peace. For example, Father Joe Turay, Fatima Institute, Makeni Town, said: “The TRC has counteracted our passivity and fatalism. It ensured that problems were not buried. It was a key moment in the process of reconciliation. The TRC, however flawed, started this process. We can’t expect the TRC to do everything”. Marieke Wierda from ICTJ argued: “The final report is very good. It is a great advocacy tool”.

Now is indeed the moment of truth in terms of whether the TRC leaves a lasting positive legacy or not. Now is the time for Sierra Leoneans to take back control of their TRC. We call on civil society and government to work together in good faith to ensure that the ‘follow-up phase’ of the TRC process delivers on the hopes and expectations of the people of Sierra Leone.

Recommendations

The WG makes the following recommendations for consideration in relation to future transitional justice initiatives.

Those involved in designing and implementing future transitional justice initiatives should:

- Consider carefully whether the OHCHR is the best body to lead in organizing and co-ordinating TRCs
- Establish stronger safeguards to prevent political interference in transitional justice processes
- Ensure that international commissioners working for TRCs spend enough time in-country to discharge their roles effectively
- Take steps to avoid ‘conflicts of interest’ in terms of the role of international NGOs
- Ensure that local ownership and participation are more strongly reflected in sensitization work, evidence giving/collection and reconciliation initiatives
- Keep open the possibility that judicial and non-judicial institutions of accountability should be sequenced rather than run concurrently

- Ensure that never again will such institutions operate concurrently without clear and accepted rules governing their relationship and that neither should enjoy effective supremacy over the other
- Establish the principle that all transitional justice processes should be subject to independent evaluation and that reports arising should be published promptly and in full

The WG makes the following recommendations for consideration with regard to the 'follow-up phase' to the TRC.

The Government of Sierra Leone should:

- Take steps to encourage the dissemination of the final version of the TRC report
- Support the immediate establishment of an interim follow-up committee comprising all Sierra Leonean stakeholders
- Establish the HRC without further delay
- Establish the Special Fund for War Victims without further delay
- Mandate NACSA to undertake a Reparations programme that is open, consultative and inclusive, working closely with civil society
- Support the establishment of an independent evaluation of the TRC process

Sierra Leonean civil society should:

- Co-operate in the dissemination of the final version of the TRC report
- Take the lead in devising community-level reconciliation programmes
- Assist in the provision of extensive counselling services for victims
- Co-operate fully with the GoSL and NACSA in implementing the Reparations programme, provided they have demonstrated commitment and good faith
- Assist in raising funds for the Special Fund for War Victims
- Campaign for the establishment of an independent evaluation of the TRC process

The international community should:

- Support the dissemination of the final version of the TRC report
- Encourage the GoSL to establish the HRC and Special Fund for War Victims without further delay
- Support the establishment of a Reparations programme that is open, consultative and inclusive
- Support an independent evaluation of the TRC process in Sierra Leone

Appendix 1

List of Interviewees who were prepared to be wholly or partly 'on the record'

A Sierra Leonean interviewees

5 April 2005

David Tam-Baryoh, Journalist and Executive Director, Centre for Media and Technology

6 April 2005

Helen Bash-Taqi, Director, Global Rights
Charles Lahai, Executive Secretary, National Forum for Human Rights
Joe Williams, National Forum for Human Rights
Ngolo Katta, National Coordinator, CCYA
Rt Rev Dr Joseph Humper, former Chair of the TRC

7 April 2005

Yasmin Jusu-Sheriff, Attorney-at-Law and former Executive Secretary of the TRC
Hon FM Carew, Attorney-General and Minister of Justice, GoSL
John Kamara, former National Commissioner, TRC

8 April 2005

Benedict Sannoh, Head, Human Rights Section, UNAMSIL
Peter Mustapha, National Coordinator, Working Group on Truth and Reconciliation

9 April 2005

Alhaji Jusu Jaka, Chairman, National Amputees Association

10 April 2005

Foday Sesay, Executive Director, Democracy and Development Association-Sierra Leone
James Vincent, Consultant

11 April 2005

Claude Kondor, National Coordinator, Network for Collaborative Peacebuilding-Sierra Leone

Unisa Sesay, Programme Manager – Information, Communication and Education, NACSA
Jo Rahall, Executive Director, Green Scenery
Bondu Manyeh, Executive Director, Graceland (former TRC Counsellor)

12 April 2005

Father Francis Ishmael, Priest, Makeni Town
Bishop George Biguzzi, Bishop of Makeni
Gibril Massie Bah, Treasurer, Northern Province Working Group on Truth and Reconciliation (former Coordinator for the TRC, Bombali District)
Father Joe Turay, Director, Fatima Institute, Makeni Town
Andrew Cooper Jnr, National Amputees Association, Bo Town
Daisy Marion Bockarie, Eastern Province Working Group on Truth and Reconciliation (former statement-taker for the TRC in Kenema District)

13 April 2005

Josephine Jeneba Bendu, Ministry of Women, Gender Welfare and Women's Affairs, Kenema
Amara Ndomawa, Gbekah village, Lower Bombara Chiefdom, Kenema District
Mariama Shariff, Niahma village, Bumpeli Ngao, Bo District
John Koroma, Director, Centre for Human Rights and Peace Education, Bo Town
Patrick Adu, Coordinator, Eastern Province Working Group on Truth and Reconciliation

14 April 2005

Mohamed Sidi Bah, Programme Manager, NACSA
Abu Brima, National Coordinator, NMJD
John Caulker, National Chairperson, Working Group on Truth and Reconciliation

B International interviewees

11 April 2005

David Crane, Prosecutor, Special Court of Sierra Leone

20 May 2005

Piers Pigou, Consultant on Transitional Justice Issues

5 May 2005 (finished 11 May)

Yasmin Sooka, Director, Foundation for Human Rights (South Africa) (former International Commissioner on the TRC)

9 May 2005 (finished 19 May)

Priscilla Hayner, ICTJ

30 June 2005

Marieke Wierda, Sierra Leone Program Officer, ICTJ

2 August 2005

Howard Varney, former Head of Investigations Unit, TRC

Appendix 2

The Special Court - Extracts from interview with David Crane and other comments by interviewees

This report is not primarily concerned with the Special Court. However, interviewees inevitably had observations to make about it. We felt that it might be useful to set down some of these observations for the record so that they can be drawn upon in future evaluations of the performance and impact of the Special Court. We begin with extensive extracts from an interview held with David Crane, the Prosecutor until June 2005:

A Extracts from interview with David Crane

“There have been five main innovative aspects to the Special Court:

- 1) The town hall programme, which evolved into the outreach programme
- 2) Notice pleading to shorten indictments
- 3) Working with the TRC
- 4) Giving ‘other inhumane acts’ the force of law
- 5) The Legacy Programme...”

“The Witness Management Programme was another innovation...”

“The Special Court was for and about the people of Sierra Leone...”

“‘Greatest responsibility’ was a doable mandate...it was either ‘greatest responsibility’ or nothing...”

“[in the Town Hall Programme] we used the oral tradition of ‘palavers’... I would step down from the podium... I asked to part of ‘your family’ and then listen to them... its like you are a God...”

“The Special Court and TRC together was positive...”

“The judge arrested Hinga Norman, not me...”

“Sequencing would have been a disaster for the Special Court...”

“The Special Court is largely done now... the only missing element is Taylor and it is ‘when’...”

“We are not in the popularity business...”

“Six of the nine in the dock are AFRC/RUF... 20 individuals are ‘off the street’ and out of commission... Compaore is untouched but we will continue to name and shame him and Gaddafi...”

“We have broken up the guns-diamonds ring...”

“Ocampo is incorporating the Special Court into his strategy...”

“There have been no major weaknesses. We had a plan...”

B Selected comments by other interviewees on the Special Court

“The legalism of the Special Court confuses people...” – Helen Bash-Taqi

“Right now it doesn’t make sense... Gibril Massaquoi is a potential indictee and yet is a witness” – Ngolo Katta

“Is this court really for Sierra Leone?” – Benedict Sannoh

“The Special Court is pressurizing the government on reparations... I support the Special Court... I don’t argue with ‘special responsibility’...” – Alhaji Jusu Jaka

“Nobody in the Special Court asks Hinga Norman ‘why?’... the context is missing... it is an obscene display of wealth and wastage... it keeps asking for more money... the Government will soon ask for the Special Court’s accounts” – Anonymous government official

“Its unfair to criticize the Special Court about those it couldn’t indict... the Special Court outreach is doing its best but still only reaches a small percentage of the population... it has not struck a fatal blow against impunity, but it has not been a waste of time. Truth and especially justice do not come cheap” – Jo Rahall

“People get paid to testify... Lots of damage is being done by the Special Court...the Special Court outreach is very effective, it is limiting the damage. It is doing what the TRC should have done... Kabbah wants the Special Court over before he leaves office” – James Vincent, Consultant

“I supported the Special Court in principle but in practice it was not necessary...I would have preferred the South African model – truth for amnesty” – Unisa Sesay, NACSA

“I was originally told in 2001 that it was unlikely to start until 2004 and that there would therefore be little overlap with the TRC” – Yasmin Jusu-Sheriff

“Those responsible, sooner or later, must face justice... it’s a good signal... it needed a strong international component...” – Bishop Biguzzi

“If Taylor appears, it will transform its reputation... “ – Father Joe Turay

“The Special Court outreach has visited. They wanted to know our views on Hinga Norman... many were afraid when it came and are still afraid... the Special Court has no support in the village... who was most responsible for the death of my wife? The person who gave the order...” – Amara Odomawa

“A big minority supports the Special Court... People thought the Court would be mainly AFRC/RUF” – John Koroma

“The Special Court got off on totally the wrong foot with the local legal community... it is not perceived as ‘Sierra Leonean’” – Marieke Wierda