

WITNESS TO TRUTH:

Report of the
Sierra Leone
Truth & Reconciliation
Commission

VOL 1

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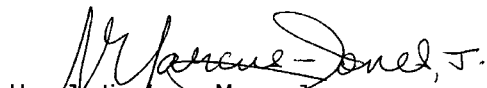
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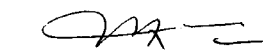
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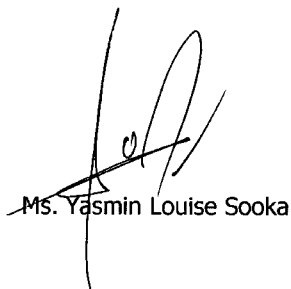
The Truth and Reconciliation Comision Report was presented to President
Ahmed Tijan Kabbah, President of sierra Leone on 5th October 2004


Bishop Joseph Christian Humper
Chairman

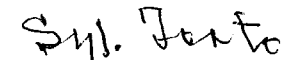

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LIST OF ABBREVIATIONS

AAAS/SHR	–	American Association for the Advancement of Science/Human Rights Programme
ABA/CEELI	–	American Bar Association/Central and East European Law Initiative
ACC	–	Anti Corruption Commission
ACHPR	–	African Charter on Human and Peoples Rights
ACRWC	–	African Covenant on the Rights and Welfare of the Child
ADMS	–	Alluvial Diamond Mining Scheme
AFL	–	Armed Forces of Liberia
AFRC	–	Armed Forces Revolutionary Council
APC	–	All Peoples Congress
AZAPO	–	Azanian Peoples Organisation
BBC	–	British Broadcasting Corporation
CBR	–	Community Based Rehabilitation
CCM	–	Country Coordinating Mechanism
CCP	–	Commission for the Consolidation of Peace
CDF	–	Civil Defence Forces
CEDAW	–	Convention on the Elimination of All forms of Discrimination against Women
CEIP	–	Community Education Investment Programme
CFN	–	Children’s Forum Network
CGG	–	Campaign for Good Governance
CMC	–	Ceasefire Monitoring Committee
CMO	–	Chief Military Observer
CMRRD	–	Commission for the Management of Strategic Resources, National Reconstruction and Development
COMAHS	–	College of Medicine and Allied Health Sciences
CPA	–	Child Protection Agency
CRC	–	Convention on the Rights of the Child
CREPS	–	Complementary Rapid Education for Primary Schools
CSM	–	Civil Society Movement
CWC	–	Child Welfare Committee
DDR	–	Disarmament, Demobilisation and Reintegration
DFID	–	Department for International Development
EBIM	–	Elections Before Independence Movement
ECOMOG	–	ECOWAS Ceasefire Monitoring Group
ECOWAS	–	Economic Community of West African States
EO	–	Executive Outcomes
FAWE	–	Federation of African Women Educationalists
FBC	–	Fourah Bay College
FGM	–	Female Genital Mutilation
GDO	–	Gold and Diamond Office
GGDO	–	Government Gold and Diamond Office
GoSL	–	Government of Sierra Leone
GSG	–	Gurkhas Security Group
GTZ	–	Gemeinschaft Technischer Zusammenarbeit (German Institute for Technical Cooperation)
HIPC	–	Heavily Indebted Poor Countries Initiative
HRC	–	Human Rights Commission

HRD	–	Belgium High Diamond Council
HRDAG	–	Human Rights Data Analysis Group
HRIMS	–	Human Rights Information Management System
ICC	–	International Criminal Court
ICCPR	–	International Covenant on Civil and Political Rights
ICECSR	–	International Covenant on Economic, Social and Cultural Rights
ICRC	–	International Committee of the Red Cross
ICS	–	Institute of Commonwealth Studies
ICTJ	–	International Centre for Transitional Justice
ICTR	–	International Criminal Tribunal for Rwanda
ICTY	–	International Criminal Tribunal for the former Yugoslavia
IDP	–	Internally Displaced Person
IHRLG/Law Group	–	International Human Rights Law Group
ILO	–	International Labour Organisation
IMC	–	International Medical Corps
IMU	–	Information Management Unit
INEC	–	Independent National Electoral Commission
IPAM	–	Institute of Public Administration and Management
IRC	–	Inter Religious Council
ISPO	–	International Society for Prosthetics and Orthotics
ISU	–	Internal Security Unit
JLSC	–	Judicial Legal Service Commission
JMC	–	Joint Monitoring Committee
KCP	–	Kimberly Certification Process
KPU	–	Kono Progressive Union
LAWCLA	–	Lawyers Centre for Legal Assistance
LUDF	–	Liberian United Defence Force
MADA	–	Ministry of Agriculture and Development Assistance
MEST	–	Ministry of Education, Science and Technology
MOCKY	–	Movement of Kono Youths
MOLHCPE	–	Ministry of Lands, Housing, Country Planning and Environment
MoU	–	Memorandum of Understanding
MILOBS	–	Military Observers
MRD	–	Movement for the Restoration of Democracy
MSF	–	Médecins sans Frontières
MSWGCA	–	Ministry of Social Welfare, Gender and Children's Affairs
NAC	–	National Aids Council
NaCSA	–	National Commission for Social Action
NACWAC	–	National Commission for War Affected Children
NAS	–	National Aids Secretariat
NATAG	–	Nigerian Armed Forces Training Group
NCCSL	–	National Council of the Colony of Sierra Leone
NCDDR	–	National Commission for Disarmament, Demobilisation and Reintegration
NCDHR	–	National Commission for Democracy and Human Rights
NCRRR	–	National Commission for Reconstruction, Resettlement and Rehabilitation
NCSL	–	National Council of Sierra Leone
NCSLW	–	National Council of Sierra Leone Women

NDP	–	National Democratic Party
NDMC	–	National Diamond Mining Company
NEC	–	National Electoral Commission
NFHR	–	National Forum for Human Rights
NGO	–	Non Governmental Organisation
NIBATT	–	Nigerian Battalion
NIGCON	–	Nigerian Contingent
NPFL	–	National Patriotic Front of Liberia
NPRC	–	National Provisional Ruling Council
NRC	–	National Reformation Council
NRC	–	Norwegian Refugee Council
NRS	–	National Recovery Strategy
OAU	–	Organisation of African Unity
OHCHR	–	Office of the High Commissioner for Human Rights
OSD	–	Operational Support Division
PAE	–	(Agency for) Plants, Animals and the Environment
PANA	–	Pan African News Agency
PANAFU	–	Pan African Union Organisation
PCMH	–	Princess Christian Maternity Hospital
PEPU	–	Protectorate Education Progressive Union
PETS	–	Public Expenditure Tracking Survey
PHR	–	Physicians for Human Rights
PMMC	–	Precious Metals Mining Company
PNP	–	Peoples National Party
PP	–	Peoples Party
PRIDE	–	Post Conflict Reintegration Initiative for Development and Empowerment
PRSP	–	Poverty Reduction Strategy Paper
RREP	–	Rapid Response Education Project
RUF	–	Revolutionary United Front
RUFP	–	Revolutionary United Front Party
RSLAF	–	Republic of Sierra Leone Armed Forces
RSLMF	–	Republic of Sierra Leone Military Forces
RVF	–	Rectal Vaginal Fistula
SAPA	–	Social Action for Poverty Alleviation
SBU	–	Small Boys Unit
SGU	–	Small Girls Unit
SHARP	–	Sierra Leone Aids Response Project
SLA	–	Sierra Leone Army
SLAMM-CDF	–	Sierra Leone Action Movement for the CDF
SLBS	–	Sierra Leone Broadcasting Service
SLENA	–	Sierra Leone News Agency
SLPIM	–	Sierra Leone Peoples Independence Movement
SLPMB	–	Sierra Leone Produce Marketing Board
SLPP	–	Sierra Leone Peoples Party
SLRRP	–	Sierra Leone Rural Reintegration Project
SLST	–	Sierra Leone Selection Trust
SLTU	–	Sierra Leone Teachers Union
SOFA	–	Status of Forces Agreement

SOS	–	Sierra Leone Organisation Society
SRSG	–	Special Representative of the Secretary General
SSD	–	Special Security Division
STI	–	Sexually Transmitted Infection
TRC	–	Truth and Reconciliation Commission
UDP	–	United Democratic Party
ULIMO	–	United Liberation Movement
UN	–	United Nations
UNAMSIL	–	United Nations Mission in Sierra Leone
UNDP	–	United Nations Development Programme
UNDPKO	–	United Nations Department for Peace keeping Operations
UNESCO	–	United Nations Educational, Scientific and Cultural Organisation
UNHCR	–	United Nations High Commissioner for Refugees
UNICEF	–	United Nations Children’s Fund
UNIFEM	–	United Nations Fund for Women
UNOCHA	–	United Nations Office for the Coordination of Humanitarian Activities
UNOMSIL	–	United Nations Observer Mission in Sierra Leone
UNSC	–	United Nations Security Council
UPP	–	United Progressive Party
USAID	–	United States Agency for International Development
VVF	–	Vesico Vaginal Fistula
WHO	–	World Health Organisation



Foreword by Bishop J. C. Humper — Chairman of the Commission

Foreword

The establishment of the Truth and Reconciliation Commission (the Commission) in Sierra Leone after eleven years of bitter civil conflict was appropriate, necessary and indeed, highly significant for the healing of a traumatised nation. The Report is all-inclusive in that it does not only expose perpetrators and identify victims but also serves as a mirror through which all Sierra Leoneans can and, indeed, are encouraged to examine their own roles in the conflict.

The Commission was a product of the Lomé Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front (RUF). The work of the Commission has laid the foundation for reconciliation and healing for all of those affected by the civil war. Victims and perpetrators are beginning to find a common ground on which to stand, live and develop the country together in peace and harmony.

The Report of the Commission (the Report) calls for introspection and a retrospective examination of the political, historical, economical, social and moral activities of both the state and the nation. While particular attention has been paid to the plight of victims, the motives and perspectives of those who committed terrible atrocities were intensively explored.

The Commission endeavoured in its report to address the questions: “Why Sierra Leone?” “What went wrong?” “What needs to change?” “How will we effect the change?” The Report is intended to enable Sierra Leoneans to understand the conflict and to come to grips with the problems which gave rise to it, many of which continue to plague Sierra Leone today. In this way, the Commission hopes the Report will serve as a roadmap towards the building of a new society in which all Sierra Leoneans can walk unafraid with pride and dignity.

The Commission's findings force us as a nation to confront the past. They reinforce the belief that the past cannot, indeed must not, be forgotten. Forgetting or ignoring the past means we cannot learn its lessons and are at greater risk of repeating it. Through attributing responsibility for the different causes of the conflict, and the many violations of human rights committed throughout it, we create accountability and state unequivocally that we reject impunity. With this knowledge and understanding we vow to build a society that will be able to prevent such causes and violations from recurring.

The Commission's recommendations touch on every aspect of the life of our nation. They will go a long way towards promoting restorative justice in Sierra Leone. The recommendations do not only deal with the technical and policy measures required to build a peaceful and stable future, they also call for a fundamental change in the attitudes of Sierra Leoneans. With common resolve and commitment on the part of every citizen and the ongoing support of the international community, we can say that the prospects for sustained peace and the development of Sierra Leone are indeed bright.

Our ultimate goal of peace and reconciliation will be reached if all living within its borders sincerely respect the human rights of all, without exception. We must reaffirm our resolve to live in a nation where justice reigns, where nobody is above the law, where unity and tolerance is the order of the day, where genuine democracy thrives, and where love and concern for each other and our country is paramount. True reconciliation requires real consideration for the total well being of all our citizens – including children,

youth and women. All citizens must have a genuine stake in society in order for there to be a lasting peace in Sierra Leone.

Reconciliation is strengthened through acknowledgment and forgiveness. Those who have confronted the past will have no problem in acknowledging their roles in the conflict and expressing remorse for such roles. True statesmen and leaders will also act accordingly for they will recognise the powerful healing and unifying force such acts will have on the nation. Those who have confronted the past will be able to forgive others for the wrongs committed against them. Where the act of forgiveness is genuine it does not matter whether the perpetrator declines to express remorse. Learning to forgive those who have wronged us is the first step we can take towards healing our traumatised nation.

These are my hopes for our people in Sierra Leone. As we read the pages of this Report let us do so with an open mind for the voices of thousands of Sierra Leoneans are contained in its volumes. These voices call upon all of us never to permit intolerance and brutality to afflict our Sierra Leone again. We are called upon to live in such a way that we can truly say “never again”. The future prosperity of our children and indeed future generations depend on how we conduct ourselves. We must meet this challenge.

I wish to acknowledge and pay tribute to the many organisations and individuals that made possible the fulfilment of the Commission’s mandate. Firstly, I wish to express my deep appreciation to several donor countries that supplied financial support: the European Commission, the United States of America, the United Kingdom, Norway, the Netherlands, Switzerland, Germany, Canada, Ireland, Sweden, France and Luxembourg. I wish to pay tribute to Mrs. Mary Robinson, the former United Nations High Commissioner for Human Rights, whose vision ensured the realisation of this Commission. Several persons in the Office of the High Commissioner for Human Rights played key roles in establishing and supporting the Commission, including Mr. Jan Cedergren, former Chief of Activities and Programmes Branch, Ms. Tokunbo Ige, African Team Coordinator, and Mr. Martin Ejidike, the Desk Officer for Sierra Leone. The Commission received valuable administrative and logistical support from United Nations Development Programme (UNDP) and the United Nations Mission in Sierra Leone (UNAMSIL). In particular, I would like to thank the members of the Human Rights Section and of the Media and Public Education Department of UNAMSIL for their unwavering support for the Commission’s work. I extend my appreciation to the President of Sierra Leone, Dr. Ahmad Tejan Kabbah and the Government of Sierra Leone for their committed support to the on-going and long-term truth and reconciliation process.

Several organisations, both within and outside Sierra Leone, played significant roles in promoting the work of the Commission. Within Sierra Leone such organisations included the Campaign for Good Governance, the National Forum for Human Rights, the print and broadcast media and the Inter Religious Council. The Truth and Reconciliation Working Group served as a useful liaison between the Commission and the NGO community. UNICEF provided support to the Commission and enabled it to publish the Children’s Version of the Report. The Commission wishes to thank Saudamini Siegrist for her dedication in compiling the Children’s Version. UNIFEM supplied advice and resources to assist the Commission to address the role of women in the conflict. WITNESS produced a video version of the Report and the Commission wishes to express its gratitude to Gillian Caldwell, Louis Spitzer and Tijanie Bah. The International Centre for Transitional Justice (ICTJ) supplied valuable support and input, and the Commission wishes to thank in particular Marieke Wierda who was always available for advice and counsel. The ICTJ provided consultants to the Commission and also supplied financial support for and the National Vision for Sierra Leone.

Finally I would like to pay tribute to the Commissioners and staff of the TRC. The Commissioners, Hon. Justice Laura Marcus-Jones, Mr. Sylvanus Torto, Professor John Kamara, Ms. Yasmin Louise Sooka, Professor William Schabas and Madam Ajaratou Satang Jow who took time out of their busy schedules to ensure the success of the Commission. In particular I would like to pay tribute to Mr Ozonnia Ojielo, the Head of Information Management Unit, who played an instrumental role in the establishment and management of the Commission, and in the production of this report.

As I commend this Report to my fellow Sierra Leoneans, I solicit the cooperation of the national government and the international community to do everything humanly possible to implement the Commission's recommendations. The recommendations represent the hopes of our children and youth as well as the yet unspoken hopes of future generations. We have a real opportunity to unlock the potential and talents of all Sierra Leoneans. We must seize this opportunity. Thus, to all peace loving people, I commend to you this Report of the Commission.

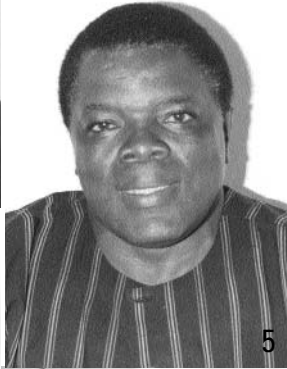


Bishop Joseph Christian Humper
Chairman

Commissioners



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1. Bishop Joseph
Christian Humper
- **Chairman**
2. Hon Justice Laura
Marcus-Jones
- **Deputy
Chairperson**
3. Professor William
Schabas
4. Ms Yasmin Louise
Sooka
5. Mr Sylvanus Torto
6. Madam Ajaratu
Satang Jow
7. Professor John
Kamara

TRC



Commissioners at a public hearing

Introduction

1. After years of brutal conflict in Sierra Leone, there existed a need to confront the past. The nation wanted to know what precipitated the wave of vengeance and mayhem that swept across the country. How was it that the people of Sierra Leone came to turn on each other with such ferocity? Why did so many abandon traditions of community and peaceful co-existence? Why were long held and cherished customs and taboos so wantonly discarded? It is only through generating such understanding that the horrors of the past can effectively be prevented from occurring again. Knowledge and understanding are the most powerful deterrents against conflict and war.
2. The Commission accordingly recommends the widest possible dissemination of its Report and its different versions, including the Children's¹ Video² and Pictorial³ versions. The Commission encourages the production of popular versions and summaries in different local languages. Dissemination committees should be organized to distribute the Report at the national and local levels. In particular, the Commission encourages the use of the Report and its different versions to promote dialogue and debate in workshops and other events around the country. The contents of the Report should be incorporated into education programmes from primary to tertiary level. The full Report and its appendixes will be made available on the internet.
3. Those who negotiated the Lomé Peace Agreement recognized that Sierra Leoneans as a nation had a need to express and acknowledge the suffering which took place, a need to relate their stories and experiences, a need to know who was behind the atrocities, a need to explain and contextualize decisions and conduct, a need to reconcile with former enemies, a need to begin personal and national healing and a need to build accountability in order to deal with impunity. The Lomé Peace Agreement required Sierra Leone to establish a Truth and Reconciliation Commission to meet these different needs. The Sierra Leone Parliament made provision for such a commission in early 2000 by virtue of the Truth and Reconciliation Act, 2000 (the Act). The chapter of this Report entitled "Mandate" sets out in detail the mandate of the Commission as provided for by the Act, including the context of the establishment of the Commission.⁴
4. Various principles and concepts that underpinned and guided the work of the Commission. These included the concepts of truth and truth telling. The Commission also addressed the concepts of a 'just war', 'just means' as well as who constituted a 'victim' and 'perpetrator'. The views of the Commission on these core concepts are set out in the chapter entitled "Concepts".⁵

¹ Produced in collaboration with UNICEF. The Children's Version was written with the assistance of children.

² Produced by WITNESS, in collaboration with the Commission. The Video Version has been produced in English and Krio. It provides a visual account of the Commission's Report.

³ Produced with the support of the International Center for Transitional Justice.

⁴ Chapter 1, Volume 1.

⁵ Chapter 3, Volume 1. For the Commission's views on the concepts of reconciliation and reparations see the chapters entitled 'Reconciliation' at Chapter 7, Volume 3B, and 'Reparations Programme' at Chapter 3, Volume 2.

TRC



Mr Oluyemi Adeniji, SRSG (left) and Mr Bacre Ndiaye, Special Representative of the UN High Commissioner for Human Rights at the inauguration of the Commission on July 5, 2002

Getting Started

5. Establishing the truth and achieving reconciliation is an ambitious project for any country struggling to overcome the bitterness of strife and war. This was particularly the case for Sierra Leone. The country was devastated by nearly a decade of civil war. Sierra Leone had become one of the poorest countries in the world. It took several years to establish the Commission. During this period, further disturbances broke out in parts of the country, which prompted the Government of Sierra Leone and the international community to take the initiative of establishing a Special Court for Sierra Leone. The Special Court was tasked with prosecuting those who bore the greatest responsibility for serious violations of human rights. All these factors impacted on the work of the Commission.
6. The Commission was supported in its efforts to raise funds through the United Nations Office of the High Commissioner for Human Rights (OHCHR). In view of the Commission's short timeframe, donors were skeptical about its capacity to realize its mandate. The Commission encountered difficulties in reaching its original funding target of \$9.9 million. The Commission's requirements were later realigned to meet the funding prospects while maintaining a credible institution. It became clear from the outset that the establishment of the Commission was beset with problems. This further complicated the Commission's ability to raise sufficient funding. Less than half the funds pledged eventually found their way to the Commission.
7. Internal difficulties saw the Commission effectively losing the first 6 months of its existence. These early difficulties led to a crisis of credibility that in turn exacerbated the Commission's funding crisis. The Commission acknowledges the fact that a measure of internal mismanagement contributed to the many problems experienced by the Commission, not only during the start-up phase but also throughout the life of the Commission. The background to the setting up of the Commission is contained in the chapter entitled "Setting up the Commission".⁶ A full account of the management and operations of the Commission is set out in the chapter entitled "Management and Operational Report".⁷
8. The Commission had to tailor its approach and processes to the constraints it faced. The Commission established two units, namely the Information Management Unit, which included the functions of investigation and research, and the Legal and Reconciliation Unit, which was largely responsible for spearheading the Commission's reconciliation activities. The Commission's activities were divided into three main phases: statement taking, hearings and report writing. The approach adopted by the Commission to advance its mandate is set out in the chapter, "Methodology and Process".⁸

Themes and Historical Record

9. Early in its life, the Commission identified certain key themes upon which it would focus its energies during its research and investigation. These themes were:

⁶ Chapter 2, Volume 1.

⁷ Chapter 4, Volume 1.

⁸ Chapter 5, Volume 1.

- Historical Antecedents to the Conflict
- Governance
- Military and Political History of the Conflict
- Nature of the Conflict
- Mineral Resources in the Conflict
- External Actors in the Conflict
- Women and the Armed Conflict
- Children and the Armed Conflict
- Youths and the Armed Conflict
- The TRC and the Special Court for Sierra Leone
- National Vision for Sierra Leone

Each theme is reflected as a chapter in this report.

10. The first objective of the Commission, as established by the Act, was to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone. The Parliament of Sierra Leone recognized that such a record would form the basis for the task of preventing the recurrence of violence.⁹ Several of the themes focused on by the Commission comprise the historical record of the conflict. The Commission does not claim to have produced the complete or exhaustive historical record of the conflict. The Commission is however satisfied that it has provided an essential version of the armed conflict, which includes an account of its main events and how it started. At times, this story accords with popular views of the conflict. At other times, the Commission's record of the conflict departs from popular history and debunks certain myths and untruths about the conflict.

Causes of the Conflict

11. While there were many factors, both internal and external, that explain the cause of the civil war, the Commission came to the conclusion that it was years of bad governance, endemic corruption and the denial of basic human rights that created the deplorable conditions that made conflict inevitable. Successive regimes became increasingly impervious to the wishes and needs of the majority. Instead of implementing positive and progressive policies, each regime perpetuated the ills and self-serving machinations left behind by its predecessor. By the start of the conflict, the nation had been stripped of its dignity. Institutional collapse reduced the vast majority of people into a state of deprivation. Government accountability was non-existent. Political expression and dissent had been crushed. Democracy and the rule of law were dead. By 1991, Sierra Leone was a deeply divided society and full of the potential for violence. It required only the slightest spark for this violence to be ignited. The Commission traced the roots of these lapses through the post-independence period and into the colonial period in the chapters entitled "Historical Antecedents to the Conflict"¹⁰ and "Governance".¹¹
12. The Commission highlights its finding that many of the causes of conflict that prompted thousands of young people to join the war have still not been

⁹ Statement of Objects and Reasons, which was attached to the Bill when it was enacted by Parliament.

¹⁰ Chapter 1, Volume 3A.

¹¹ Chapter 2, Volume 3A. See also 'Causes of the Conflict' in Chapter 2, Volume 2.

adequately addressed.¹² The Commission makes recommendations to strengthen the judiciary and the rule of law, as well as Parliament and the electoral system. The Commission proposes the introduction of a new transparent regime in which citizens will have reasonable access to government information, where senior public officials disclose their financial interests and where government informs people down to the community level of what amounts are being spent on services and amenities.¹³

The Story of the Conflict

13. The core of the historical record is to be found in the chapter titled “Military and Political History of the Conflict”.¹⁴ This chapter endeavours to tell the story of the conflict by charting its key events and dynamics in the military and political spheres. It begins by tracing the immediate causes of the conflict and the convergence of factors that led to the outbreak of hostilities. Thereafter, for the purposes of analysis, the chapter is divided into three distinct components, which are referred to by the Commission as “Phases I, II and III.” Each ‘phase’ assumed a slightly different character, although the common underpinning was the ongoing commission of violations by all warring factions. Phase One is titled “Conventional ‘Target’ Warfare” and covers the period from the outbreak of the conflict until 13th November 1993. Phase Two is titled “Guerrilla Warfare” and covers the period from 13 November 1993 until 2 March 1997. Phase Three is titled “Power Struggles and Peace Efforts” and covers the period from 2 March 1997 until the end of the conflict on 18 January 2002.
14. The story of the war reveals how Sierra Leoneans were denied their humanity and underscores the need for the creation of a human rights culture in Sierra Leone. A rights culture is one in which there is knowledge and recognition of the basic rights to which all human beings are entitled as well as a sense of responsibility to build it. A rights culture demands that we respect each other’s human rights, without exception. Among its recommendations to protect human rights the Commission recommends the immediate release of all those held in safe custody detention and that such detention never be resorted to again. The Commission also recommends significant changes to the legal regime governing public emergencies.¹⁵

Nature of the Conflict

15. The Sierra Leonean poet, Mahomed Sekoya, wrote:

“I saw abomination between man and woman, man and man, woman and woman, adults and children. Yes I saw.”¹⁶

Sierra Leone saw some of the most horrific and cruel atrocities committed by people against each other. In the chapter, “Nature of the Conflict”, the Commission endeavoured to provide the context in which abuses such as amputations, sexual abuse and slavery and forced cannibalism took place.¹⁷

¹² Chapter 2, Volume 2.

¹³ Chapter 3, Volume 2.

¹⁴ Chapter 3, Volume 3A.

¹⁵ Chapter 3, Volume 2.

¹⁶ Extract from the poem “I Saw”. Mahomed Sekoya is a contributor to the National Vision for Sierra Leone, a project of the Sierra Leone Truth and Reconciliation Commission.

¹⁷ Chapter 4, Volume 3A.

This chapter explores the nature of the violations committed and the essentially self-destructive character of the conflict.

16. The overwhelming majority of atrocities were committed by Sierra Leoneans against Sierra Leoneans. All the fighting factions targeted civilians. The Commission found the leadership of the Revolutionary United Front (RUF), the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army (SLA) and the Civil Defense Forces (CDF) to be responsible for either authorising or instigating human rights violations against civilians; alternatively for failing to stop such practices or to speak out against them. Sierra Leone was systematically plundered and looted by all factions in the conflict. The Commission found the RUF to have been responsible for the largest number of human rights violations in the conflict. The reader is referred to Chapter One in Volume 4 (the Appendix) of this report for a detailed explanation of how the Commission's database represents the abuses experienced during the war in Sierra Leone.

Mineral Resources and the Armed Conflict

17. There is a view commonly held, both within and outside Sierra Leone, that the Sierra Leone conflict was a war fought over diamonds. This is only partly true. The Commission found that the civil war in Sierra Leone was not simply a struggle for mineral resources. There were other factors that laid the grounds for the war which would have taken place even without the existence of diamonds in the country. The Commission concluded that the exploitation of diamonds was not the cause of the conflict in Sierra Leone; rather it was an element that fuelled the conflict. The Commission explains in its chapter, "Mineral Resources in the Conflict", how diamonds were used by most of the armed factions to finance and support their war efforts.¹⁸

External Actors and the Armed Conflict

18. Although the Sierra Leone war was one primarily fought by Sierra Leoneans, external parties played influential roles in intensifying the conflict. In the chapter, "External Actors in the Armed Conflict"¹⁹ the Commission explores the roles of the National Patriotic Front of Liberia (NPFL), Charles Taylor and Libya in bringing bloody conflict to Sierra Leone. The Commission calls on Liberia to make symbolic reparations to Sierra Leone and calls on Libya to make financial contributions to the War Victims Fund.
19. The Commission also considers the different roles of the Economic Community of West African States (ECOWAS), the ECOWAS Ceasefire Monitoring Group (ECOMOG), the United Liberation Movement for Democracy (ULIMO), mercenary groups such as Executive Outcomes and Sandline, the United Kingdom, the United Nations and the rest of the international community. The Commission laments the fact that the international community, apart from the ECOWAS states, declined to intervene in the unfolding human catastrophe in Sierra Leone until at a very late stage. The Commission calls on the international community to stay the course in helping to rebuild Sierra Leone.

¹⁸ Chapter 1, Volume 3B.

¹⁹ Chapter 2, Volume 3B.

TRC



His Excellency Ahmad Tejan Kabbah; President of Sierra Leone at the inauguration of the Commission on 5 July 2002

Women and the Armed Conflict

20. Women and girls became targets for abuse in the brutal conflict in Sierra Leone. They suffered abductions and exploitation at the hands of their abductors. Their vulnerability was exploited in order to dehumanize them. Women and girls were raped, forced into sexual slavery and endured acts of sexual violence. Many suffered mutilations, torture and a host of other cruel and inhumane acts.
21. The chapter titled, "Women and the Armed Conflict", sets out the violations suffered by women and considers the current position of women in Sierra Leone.²⁰ The Commission makes specific recommendations to redress the marginalization of women in the political and social life of Sierra Leone, including a minimum percentage of women to be represented in public office and as candidates in national and local government elections.²¹

Children and the Armed Conflict

22. The Commission's enabling Act required it to give special attention to the experiences of children in the armed conflict.²² Children were singled out for some of the most brutal violations of human rights recorded in any conflict. The Sierra Leonean conflict was characterised by the pernicious strategy employed by most of the factions in forcing children into combat. The Commission found it most disturbing that children were the main victims in the following violations: drugging²³, forced recruitment, rape, and sexual assault. The Commission found that children between the ages of 10 to 14 were specifically targeted for forced recruitment, rape, and sexual slavery.²⁴ Children were also forced, often under the threat of death, to commit a range of atrocities.
23. The Commission paid particular attention to identifying and exposing individuals and factions responsible for the violation and abuse of the rights of children.²⁵ The story of children in the Sierra Leone conflict is told in the chapter entitled "Children and the Armed Conflict".²⁶ Never again should the children of Sierra Leone be subjected to brutality.

Youths and the Armed Conflict

24. The last twenty years of Sierra Leone's history is, in large part, the story of Sierra Leone's youths. Youths were the driving force behind the resistance to one party state rule in the 1980s. As students, journalists, workers and activists, they exposed injustices and the bankruptcy of the ruling elite's ideology. They also bore the brunt of the state's repressive backlash. During the conflict, youths formed the bulk of the fighting forces in all the factions.

²⁰ Chapter 3, Volume 3B.

²¹ See Recommendations, Chapter 3, Volume 2.

²² Section 6(2)(b), Truth and Reconciliation Act, 2000.

²³ The forced consumption of drugs.

²⁴ For more detail, see the chapter entitled "Children and the Armed Conflict", Chapter 4 Volume 3B.

²⁵ See the following chapters: Children and the Armed Conflict, Military and Political History of the Conflict, Nature of the Conflict, and Findings.

²⁶ Chapter 4, Volume 3B.

25. Many of the dire conditions that gave rise to the conflict in 1991 remain in 2004. As in the late 1980s, many young adults continue to occupy urban ghettos where they languish in a twilight zone of unemployment and despair. The Commission found that the youth in Sierra Leone were and continue to be excluded from meaningful participation in the political process. The Commission recommends the creation of a Youth Commission and a minimum percentage of youth to be represented as candidates in national and local government elections.²⁷ The role of the youth in Sierra Leone's civil war is set out in the chapter entitled "Youths and the Armed Conflict".²⁸

Transitional Justice in Sierra Leone

26. The Commission worked alongside an international criminal tribunal, the Special Court for Sierra Leone. Most truth commissions have operated as an alternative to criminal prosecution. Given the pardon and amnesty provisions of the Lomé Peace Agreement, the Commission was proposed as an alternative to criminal justice in order to establish accountability for the atrocities that had been committed during the conflict. The Special Court was created after the abandonment of the amnesty provisions (or certain of them) following breaches of the Lomé Peace Agreement by elements within the RUF.
27. The Sierra Leonean case has brought into focus the different roles of truth and reconciliation commissions and international tribunals and the potential pitfalls that may arise when they operate simultaneously. While the relationship between the Commission and the Special Court was mostly cordial, it did falter following the refusal of the Special Court to permit the Commission to hold public hearings with the detainees held in its custody. In the view of the Commission, this decision of the Special Court did not sufficiently take into account the respective roles of the two bodies. The relationship between the two bodies is described in detail in the chapter, "The TRC and the Special Court".²⁹ The Commission makes specific recommendations aimed at addressing some of the difficulties that it encountered in this context. These may be of value to future transitional justice initiatives.
28. The Commission holds that the right to the truth is inalienable. This right should be upheld both in national and international law. It is the exploration of the wider truth through broad-based participation that permits a nation to examine itself honestly and to take effective measures to prevent a repetition of the past.

Reconciliation

29. The Commission recognizes that reconciliation is a long-term process that must occur at national, community, and individual levels. Being a process, it will take time and will need to continue even beyond the present generation. The Commission places no preconditions on the realisation of reconciliation. Reconciliation is an ongoing process that must be nurtured and promoted.
30. Reconciliation is about relationships and how to change them. Relationships of hatred, anger, frustration, alienation or indifference need to be changed into

²⁷ See Recommendations, Chapter 3, Volume 2.

²⁸ Chapter 5, Volume 3B.

²⁹ Chapter 6, Volume 3B.

relationships of respect, co-operation and trust. Reconciliation aims at restoring the social fabric within families, communities and the nation.

31. The reconciliation process is not finished when people peacefully co-exist. Reconciliation needs to go further: people need to understand that the only future they have is a common one and that the only way forward towards development is by working together. *Working together* requires more than tolerance and respect. It requires consultation, debate and agreement, an understanding of the fact that common interests can be in conflict with personal interests and that co-operation requires compromise.
32. The Commission's report on its own reconciliation activities and its guidelines for future action is set out in the chapter "Reconciliation".³⁰ Among the recommendations the Commission proposes to advance reconciliation is the establishment of a national reconciliation day to be held every year on 18th January, which is the day that the war was officially declared to be over in 2002 with the symbolic destruction of 3000 weapons at Lungi. The Commission offers guidelines that will facilitate reconciliation. However, it is ultimately up to all Sierra Leoneans to engage in imaginative acts that will serve the cause of reconciliation and healing at all levels.

Findings

33. The Truth and Reconciliation Commission Act enjoined the Commission to make findings in relation to the causes, nature and extent of violations and abuses in respect of the armed conflict in Sierra Leone.³¹ In particular, the Commission was mandated to deliberate on the question of whether such violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual.
34. The "Findings" chapter³² summarises the main findings of the Commission.³³ The detailed conclusions are to be found in the different chapters of the report. The main findings are preceded by primary findings. The primary findings are the central or most important findings made by the Commission. At the end of each section addressing the role played by a particular government, faction or group, the names and positions of persons found to have been its key office-holders are listed. In circumstances where a finding pertained to the actions of the government, faction or group in question, those office-holders were by implication held responsible.
35. The Commission by necessity devoted its energies to building the totality of the story of the conflict. Although specific cases were investigated, these were events that either served to illustrate the greater story or incidents that in themselves defined the nature and course of the conflict.
36. The "Findings" chapter sets out the conclusions and findings of the Commission in relation to the following topics and themes:
 - Causes of the Conflict
 - Nature and Characteristics of the Conflict

³⁰ Chapter 7, Volume 3B.

³¹ Section 6(1) read with s6(2)(a).

³² Chapter 2, Volume 2.

³³ As required by Section 15(2).

- Perpetrator Responsibility
- Military and Political History (includes individual and faction specific-findings)
- External Actors
- The Judiciary, the Rule of Law and the Promotion of Human Rights
- Youth
- Children
- Women
- Mineral Resources
- TRC and the Special Court for Sierra Leone

37. The Commission commenced its primary findings with the conclusion that the conflict and the independence period preceding it represented the most shameful years of Sierra Leone's history. These periods reflected an extraordinary failure of leadership on the part of many of those involved in government, public life and civil society. No enlightened and visionary leaders emerged to steer the country away from the slide into chaos and bloody civil war.

Recommendations

38. The Commission is required to make recommendations concerning reforms and measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission; namely preventing the repetition of violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation.³⁴
39. The proposed measures contained in the Recommendations chapter are designed to facilitate the building of a new Sierra Leone based on the values of human dignity, tolerance and respect for the rights of all persons. In particular, the recommendations are intended to help create an open and vibrant democracy in which all are treated as equal before the law.
40. The legacies of dehumanization, hatred and fear must be confronted on the basis that there is a need for tolerance, not prejudice; a need for acknowledgment, not recrimination; a need for reparation, not retribution; a need for community, not victimisation; a need for understanding, not suspicion; and a need for reconstruction, not greed.
41. The Act requires that the Government shall faithfully and timeously implement the recommendations of the report that are directed to state bodies and encourage or facilitate the implementation of any recommendations that may be directed to others.³⁵ The Government of Sierra Leone is therefore required to take all reasonable steps within its means to implement the recommendations. Such steps should be taken promptly and without unreasonable delay.
42. The Act further requires that the Government shall, upon the publication of the report of the Commission, establish a Follow-up Committee to monitor the implementation of the recommendations of the Commission and to facilitate

³⁴ Section 15(2).

³⁵ Section 17.

their implementation.³⁶ The effect of the law is to invite the closest scrutiny of the Government's response to the recommendations made by the Commission, not only by the Follow-up Committee, but also by civil society.

43. In the light of the mandatory obligation imposed on the Government, the Commission has been mindful of its heavy responsibility to make recommendations that are indeed capable of being implemented. In making its recommendations the Commission has been slow to enter the arena of governmental discretion with regard to what government programmes should be initiated and how they should be implemented. The Commission opted to focus on recommendations that serve to establish and safeguard rights, principles and values consistent with its mandate.
44. In order to give practical effect to its approach, the Commission divided its recommendations into three categories, namely "Imperative", "Work Towards" and "Seriously Consider". "Imperative" recommendations are those which fall strictly within the faithful and timeous obligations as required by the Act. Such recommendations tend to be those that establish and uphold rights and values and ought to be implemented immediately or as soon as possible. The "Work Towards" recommendations tend to be those that require in-depth planning and the marshalling of resources in order to ensure their fulfillment. Government is expected to put in place the building blocks to make the ultimate fulfillment of the recommendation possible and to do so within a reasonable time period. In the "Seriously Consider" category, while the Government is expected to thoroughly evaluate the recommendation, it is under no obligation to implement the recommendation.
45. The Commission provides specific guidelines to the Follow-up Committee with respect to the monitoring required in the three categories of recommendations. The Commission, at times, calls on institutions that do not form part of the Executive or Legislative arm of government, non-governmental bodies, and members of the international community to implement certain recommendations. In these circumstances, the Commission "calls on" the body in question to implement the recommendation. For ease of reference, the Recommendations chapter ends with tables in which every recommendation made by the Commission is reflected under columns representing the different categories of recommendations.
46. The recommendations cover the following areas and themes: the Protection of Human Rights, Establishing the Rule of Law, the Security Services, Promoting Good Governance, Fighting Corruption, Youth, Women, Children, External Actors, Mineral Resources, The Commission and the Special Court, Reparations, Reconciliation, National Vision for Sierra Leone, Archiving, Dissemination of The Commission's Report, and the Follow-Up Committee.
47. The Commission's recommendations are based on the findings it reached. The introduction to the Recommendations chapter highlights the Commission's central or core recommendations. These include:
 - The call upon leaders at all levels to commit themselves to new principles of committed leadership;
 - A call on all those in the public sector to usher in a new culture of ethics and service to fight the scourge of corruption which saps the life-force of

³⁶ Section 18(1).

- Sierra Leone;
- The enshrining of the right to human dignity and the abolition of the death penalty;
- The upholding of the freedom of expression which is the lifeblood of a vibrant democracy;
- The introduction of a common and equitable citizenship which will promote a new patriotism and devotion to Sierra Leone;
- Recommendations to strengthen democracy, the rule of law and institutions of accountability;
- New principles of National Security, which reflect the will of Sierra Leoneans to live in peace and harmony;
- Recommendations to bring government and service delivery to people throughout Sierra Leone.

Reparations Programme

48. The Commission's enabling Act required it to make recommendations concerning the measures needed to respond to the needs of victims.³⁷ The proposed measures are contained in the Reparations Chapter.³⁸
49. The Commission proposes that the Reparations programme be co-ordinated by the National Commission for Social Action (NaCSA). It is envisaged that NaCSA as the "Implementing Body" entrusted with governing the Special Fund for War Victims, will ensure the decentralisation of programmes in conjunction with different Ministries. It is proposed further that NaCSA be assisted by an Advisory Committee. The Commission recommends that the proposed National Human Rights Commission perform the role of the Advisory Committee.
50. The Commission's recommended measures deal with the needs of victims in the following areas: health, pensions, education, skills training and micro credit, community reparations and symbolic reparations. The Commission also makes recommendations to redress the wrongs suffered by those who were politically persecuted while they held public office.
51. The Commission decided to propose a programme to address and respond to the specific needs of victims, rather than recommending cash handouts. With regard to certain categories of victims, such as amputees, war wounded and victims of sexual violence, the Commission recommends that they be given free physical (and where necessary, mental) healthcare for the rest of their lives or to the extent that their injury or disability demands. The Commission recommends that a monthly pension be paid to all adult amputees, other war wounded who experienced a 50% or more reduction in earning capacity as a result of their injury, and victims of sexual violence. The amounts of such pensions should be determined by NaCSA.
52. The Commission recommends that there should be free education until senior secondary level for specific groups affected by the conflict. Those eligible should include children who are amputees, other war wounded, and victims of sexual violence; children who were abducted or conscripted; orphans of the war; and children of amputees, other war wounded who experienced a 50%

³⁷ Section 15(2).

³⁸ Chapter 4, Volume 2.

reduction in earning capacity as a result of their injuries, and victims of sexual violence.³⁹

National Vision for Sierra Leone

*We will drag ourselves out of this poverty zone
And we'll care for our own, our Sierra Leone
We will raise up our hearts and our voices as one*⁴⁰

53. The Commission looked to the past in order to tell the story of the civil war and to make recommendations to prevent a repetition of conflict. The Commission also looked to the future for the purpose of describing the kind of future post-conflict society that the recommendations were designed to achieve. The Commission called on Sierra Leoneans to tell the Commission what future society they envisaged for their country.
54. The Commission was overwhelmed by the effort, time and resources that so many Sierra Leoneans devoted to preparing their contributions. Among the contributors were adults and children of different backgrounds, religions and regions, artists and laymen, amputees, ex-combatants and prisoners. The contributions include written and recorded essays, slogans, plays and poems; paintings, etchings and drawings; sculptures, wood carvings, installations and even a sea-worthy boat. The contributions form part of the national heritage of Sierra Leone.
55. While most contributors worked separately, a number of common themes and forms emerged. Although the Commission asked Sierra Leoneans to speak about the future; the majority of contributions received addressed the future by making reference to the past. The contributions speak of struggle and hope. They point to the need for basic respect and tolerance among all human beings. Some of the contributions set out prerequisites for a future peaceful and prosperous Sierra Leone, while others point to the severe problems facing Sierra Leone. They serve as signposts for the future; signposts that we ignore at our peril.
56. The National Vision⁴¹ has provided an exciting opportunity for individual Sierra Leoneans to contribute their ideas and talents to the process of peace and reconciliation. Through the National Vision, Sierra Leoneans of all ages and backgrounds may claim their own citizenship space in the new Sierra Leone and make their contributions to the country's cultural and national heritage. Most of all, the contributions show what Sierra Leone can be. They show the enormous potential that exists – potential that must be harnessed positively and productively. In the words of one contributor, Wurie Mamadu Tamba Barrie:

“The inspiration is let's sprint, if we can't sprint, let's run, if we can't run, let's walk, if we also can't walk, then let's crawl, but in any way possible, let's keep on moving”.

³⁹ Only certain aspects of the reparations programme are highlighted here. For the full programme, including qualifications, see the Reparations Programme chapter.

⁴⁰ Extract from “My Vision, My Home, My Sierra Leone” by Ustina More

⁴¹ Chapter 8, Volume 3B.

CHAPTER ONE

The mandate of the Truth and
Reconciliation Commission

TRC

**Tru at
fo tok
but na im
nomo go
bring pis**

Produced by the TRC Steering Committee with support
from the International Human Rights Law Group

CHAPTER ONE

The Mandate of the Truth and Reconciliation Commission

The Legislative Framework

1. Truth and Reconciliation Commissions had been established in many countries following periods of protracted internal conflict, and were widely believed to provide an important mechanism for transitional justice. Generally, they have been presented as an alternative to judicial prosecution for atrocities, especially in cases where political exigencies made this unlikely or impossible. In the case of Sierra Leone, this was quite explicit. The creation of the Commission was provided for in the Lomé Peace Agreement of 7 July 1999. Article IX of the Lomé Peace Agreement provided a pardon and amnesty for participants in the conflict. The Commission was therefore viewed as the principal means of providing a degree of accountability for human rights abuses committed during the conflict.
2. It is worthy of note that the Abidjan Peace Agreement of 30 November 1996, which initially offered the hope of an end to the conflict but which did not succeed, for reasons detailed elsewhere in this Report, made no provision for a Truth and Reconciliation Commission or for any similar process. Yet article 14 of the Abidjan Agreement granted an amnesty to members of the Revolutionary United Front, allegedly so as '[t]o consolidate the peace and promote the cause of national reconciliation'.

Legal Framework for Mandate

3. Article VI(2) of the Lomé Peace Agreement described the Truth and Reconciliation Commission as one of several 'structures for national reconciliation and the consolidation of peace'. Article XXVI of the Lomé Peace Agreement reads as follows:

ARTICLE XXVI

HUMAN RIGHTS VIOLATIONS

1. *A Truth and Reconciliation Commission shall be established to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation.*

2. *In the spirit of national reconciliation, the Commission shall deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991. This Commission shall, among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations.*

3. *Membership of the Commission shall be drawn from a cross-section of Sierra Leonean society with the participation and some technical support of the International Community. This Commission shall be established within 90 days after the signing of the present Agreement and shall, not later than 12 months after the commencement of its work, submit its report to the Government for immediate implementation of its recommendations.*

4. The *Truth and Reconciliation, 2000* ('the Act') was adopted on 22 February 2000. However, it was, strictly speaking, only 'established' on 5 July 2002, when the seven Commissioners appointed by the President were formally sworn in during a public ceremony. The word 'mandate' is used three times in the Act, in the context of references to 'fulfilment of the Commission's mandate' (sections 8(1)(b) and c), 9(1)), but nowhere is there any attempt to explain or define what the mandate actually consists of. Section 6(1) refers to the 'object for which the Commission is established' and section 6(2)c) speaks of 'fulfilment of the object of the Commission', suggesting that the expression 'object' may be synonymous with 'mandate'. The Act is associated with an explanatory 'Memorandum of Object and Reasons', which was attached to the Bill presented to Parliament. Section 15(2) refers to the need 'to achieve the object of the Commission'. The Act also contains references to the 'functions of the Commission'. Part III of the Act, which includes the sections within which the 'mandate' and 'object' of the Commission are referred to, is entitled 'Functions of the Commission'.
5. For the purposes of this discussion, there does not seem to be any useful or meaningful distinction between 'mandate', 'object' and 'functions' of the Commission. It is not possible to glean any significant nuance in Parliamentary intent from the use of these three terms. They are all components of the 'mandate' of the Commission.
6. Section 6 of the Truth and Reconciliation Commission Act 2000 sets out the 'object' of the Commission:

6. (1) *The object for which the Commission is established is to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing*

of the Lome Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission -

(a) to investigate and report on the causes, nature and extent of the violations and abuses referred to in subsection (1) to the fullest degree possible, including their antecedents, the context in which the violations and abuses occurred, the question of, whether those violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual, and the role of both internal and external factors in the conflict;

(b) to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict; and

(c) to do all such things as may contribute to the fulfilment of the object of the Commission.

7. Section 7(1) of the Truth and Reconciliation Commission Act 2000 discusses the 'functions' of the Commission, which it says 'shall include the following three components':

undertaking investigation and research into key events, causes, patterns of abuse or violation and the parties responsible;

holding sessions, some of which may be public, to hear from the victims and perpetrators of any abuses or violations of from other interested parties; and

taking individual statements and gathering additional information with regard to the matters referred to in paragraphs (a) or (b).

8. Section 7(2) of the Act lists several features of the Commission's operations:

seeking assistance from traditional and religious leaders to facilitate its public sessions and in resolving local conflicts arising from past violations or abuses or in support of healing and reconciliation;

provision of information to the Commission on a confidential basis;

taking into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may wish to recount their stories in public;

implementation of special procedures to address the needs of such particular victims as children or those who have suffered sexual abuses as well as in working with child perpetrators of abuses or violations;

decision-making by consensus, to the extent possible;

provision of information or recommendations to or regarding the Special Fund for War Victims provided for in Article XXIV of the Lome Peace Agreement, or other assistance.

9. Section 8 of the Act sets out the powers of the Commission.
10. Indications as to the 'mandate' of the Commission are also provided for in Part V of the Act, which deals with the 'Report and Recommendations'. *The Report is to summarise the findings of the Commission and to 'make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission, namely the object of providing impartial historical record, preventing the repetition of the violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation'.*
11. The Memorandum of Objects and Reasons is not, strictly speaking, part of the enacted legislation creating the Commission. Nevertheless, as an attachment to the Bill presented to Parliament, it is of considerable significance for the interpretation of provisions of the Act that was eventually adopted. It provides useful guidance as to Parliamentary intent at the time the legislation was enacted. Several phrases in the Memorandum of Objects and Reasons are of particular relevance, notably the reference to the proceedings of the Commission 'as a catharsis for constructive interchange between the victims and perpetrators of human rights violations and abuses', and the intent that the Commission 'compile 'a clear picture of the past''. Also of interest is the suggestion that clause 6 of the Act refers to 'the principal function of the Commission' as being 'to create an impartial historical record of events in question as the basis for the task of preventing their recurrence'. In fact, section 6 of the Act lists five distinct 'objects' of the Commission, and suggests no hierarchy between them. The Memorandum of Objects and Reasons provides a helpful perspective for the interpretation of the various components of section 6 of the Act. Here is the text in full:

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to establish the Truth and Reconciliation Commission proposed by Article XXVI of the Lome Peace Agreement as part of the process of healing the wounds of the armed conflict which began in 1991. By clause 2 of the Bill, the Commission is being established as a body corporate.

Section 1 of Article XXVI of the Peace Agreement envisaged the proceedings of the Commission as a catharsis for constructive interchange between the victims and perpetrators of human rights violations and abuses and from this catharsis the Commission is to compile 'a clear picture of the past'. Accordingly, by clause 6, the principal function of the Commission is to create an impartial historical record of events in question as the basis for the task of preventing their recurrence.

To best ensure the Commission's independence and impartiality, the members of the Commission are to be appointed after a selection process involving both national and international expertise as stipulated in the Schedule to the Bill and involving a Selection Panel on which all the protagonists to the conflict and other interested parties are represented; (clause 3). By clause 5, the Commission shall operate for one year preceded by a period of three months during which the Commission is to carry out all the ground work necessary for its effectiveness when operations begin. For good cause shown, the term of the Commission may be extended by the President by statutory instrument for a period of six months.

Under clause 12, the Commission is required to raise the funds to finance its operations from both governmental and international non-governmental sources to which it is required to submit quarterly reports to account for the moneys donated (clause 13). Under clause 15, the Commission reports to the President who will then arrange to send copies of the report to the U.N. and Parliament. By clause 18, the Government is required to set up a follow-up Committee to monitor and stimulate the progress of the implementation of the Commission's findings. Under clause 19, the President is required to dissolve the Commission by notice in a statutory instrument not later than three months after the submission of the Commission's report.

12. *In the words of the President, at the swearing in ceremony of the Commissioners held on 5 July 2002, in Freetown, 'the Commission will investigate and report on the causes, nature and extent of the violations and abuses of human rights and international humanitarian law during the conflict. Of course it will create an impartial historical record of the atrocities perpetrated against innocent civilians during a ten-year period of the war. However, it is absolutely necessary that we look beyond those functions, and see the work of the TRC as a therapeutic process. It was a brutal war. It caused grievous physical and emotional damage for thousands of our compatriots. It also created divisions between families, and among neighbours and friends. To a large extent the conflict also fractured the body politic of the nation. Well, the guns may be silent, but the trauma of the war lingers on. We have a great deal of healing to do. This is why the TRC is, and should also be seen, as an instrument of national reconciliation, and another means of strengthening the peace.'*

The Context of Establishment of the Commission

13. The Commission is one of the accountability mechanisms established to deal with the human rights abuses that occurred during the armed conflict. Sierra Leone's transition from armed conflict to peace came about as a result of a peaceful negotiated settlement of the conflict between the government of Sierra Leone and the Revolutionary United Front, with the signing of the Lomé Peace Accord on 7 July 1999. The process began in the aftermath of the January 1999 invasion of Freetown. The Government of Sierra Leone proposed that the Abidjan Peace Accord should serve as a basis for negotiations. In his address to the nation, on 7 February 1999, President Kabbah called upon the nation and civil society groups to consult and build consensus around the Abidjan Peace Accord in that regard.
14. Civil society groups supported the Government's proposals for peace talks. However, while endorsing in general terms the government's decision to use the Abidjan Peace Accord as the basis for future dialogue with the rebels, the Human Rights Committee expressed reservation with regard to certain articles in the Abidjan Peace Accord, particularly Article 14, which appears to confer blanket immunity on all perpetrators of human rights violations in Sierra Leone. The Committee was of the view that while it was important to look forward rather than to the past during this critical peace process, the disturbing cycle of impunity in Sierra Leone could not be broken unless there was some form of censure or punishment to some perpetrators of gross abuses of human rights in the country.

*'Accordingly therefore, the Committee proposed the creation of a Truth, Justice and Reconciliation Commission in Sierra Leone which will, inter alia, enable the country to cope with the aftermath of the crisis by hearing the truth directly from perpetrators of gross human rights violations, help survivors of violations cope with their trauma, and recommend judicial prosecutions for some of the worst perpetrators of the violations. This Commission will be an independent structure comprising personalities of unimpeachable moral probity.'*¹

15. In preparations for the meeting in Lomé, the Sierra Leonean government also held a consultative conference on peace building on 12 April 1999. Members of civil society, students, various professional bodies as well as politicians were present at this attempt to build consensus around the content of a future peace agreement. The conference adopted a number of positions including a blanket amnesty clause. The consultative conference did not include an accountability mechanism as a component of the proposed negotiations. Nevertheless, the conference was also clearly opposed to power sharing between the democratically elected government and the RUF-AFRC. A communiqué to that effect and the summary consensus was given to the team that went to Lomé for the negotiations. Commenting on the Government's position in Lomé, Hon

¹ Paragraph 3 of Recommendations adopted by the Human Rights Committee on February 19, 1999 regarding the Sierra Leonean Peace Process. Human Rights Committee is a coalition of international and local human rights NGOs. Interview with Joseph Rahall, Chairman, National Forum for Human Rights, a coalition of Local Human Rights and Development Organisations. See also Interview with John Caulker, Executive Director, Forum of Conscience and Chairman of Truth and Reconciliation Commission Working Group, Freetown 16 December 2003.

Solomon Berewa, leader of the government delegation, has pointed out that the Government went to Lomé with two positions on which to negotiate:

- A) that there should be peace at all costs and
- B) the Constitution of the Republic of Sierra Leone should remain intact.²

16. In its desire to have human rights issues addressed as part of the peace process, civil society through the United Nations Mission in Sierra Leone (UNAMSIL) facilitated the visit of the United Nations High Commissioner for Human Rights, Mary Robinson, to Sierra Leone in June 1999. The essence of the visit was to lend the support of her office to the dialogue of peaceful negotiation, and also to add to the momentum gathered for the need to address human rights violations as well as the building of a culture of respect for human rights. During her visit, the Government, human rights, NGOs represented by the National Forum for Human Rights and the National Commission for Democracy and Human Rights,³ signed a human rights manifesto in which the parties agreed, among other things, that a truth and reconciliation commission should be established as an accountability mechanism to deal with the abuses which had occurred during the conflict.⁴
17. It was evident that the RUF would not agree to peace if there was no amnesty.⁵

*In the words of Solomon Berewa: 'We needed to have an agreement with the RUF on having permanent cessation of hostilities. The need for a Peace Agreement at the time became obvious from the panicky reaction of Sierra Leoneans to a threat issued in Lome by Corporal Foday Sankoh that he would call off the talks. I had to make a radio broadcast from Lomé to assure the Sierra Leone public that there was every probability that the Peace Agreement would be concluded. This assurance was necessary to put the population somehow at ease. Most importantly, the RUF would have refused to sign the Agreement if the Government of Sierra Leone had insisted on including in it a provision for judicial action against the RUF and had excluded the amnesty provision from the Agreement.'*⁶

He described the TRC as a 'balm' to heal the deep wounds of the Sierra Leonean society that have been occasioned by the conflict.⁷ It

² Interview with H E Solomon Berewa, Vice President of Sierra Leone. Freetown, 11th October 2003.

³ The National Forum is a Federation of Local Human Rights NGOs and Development Organisations.

⁴ See Article 4 of the Human Rights Manifesto.

⁵ Berewa, Solomon: 'Addressing Impunity using divergent Approaches: The Truth and Reconciliation Commission and the Special Court' Truth and Reconciliation in Sierra Leone a Compilation of Articles on the Sierra Leone Truth and Reconciliation Commission, UNAMSIL, Freetown 2001; Interview with H E Solomon Berewa, Vice President of Sierra Leone. Freetown, 11th October 2003; see also testimony of H.E. Alhaji Ahmad Tejan Kabbah, TRC Public Hearing, 5th August 2003 where he explained why his government granted amnesty to the RUF.

⁶ Interview with H E Solomon Berewa, Vice President of Sierra Leone. Freetown, 11th October 2003; see also Berewa Solomon: 'Addressing Impunity using divergent Approaches: The Truth and Reconciliation Commission and the Special Court' Truth and Reconciliation in Sierra Leone a Compilation of Articles on the Sierra Leone Truth and Reconciliation Commission, UNAMSIL, Freetown 2001

⁷ Berewa Solomon, 'Addressing Impunity using Divergent Approaches: The truth and Reconciliation Commission and the special Court', in Truth and Reconciliation in Sierra

should be noted that the Lomé Peace Agreement granted amnesty or pardon not only to the RUF combatants, but to all '*combatants and collaborators*', with specific reference to those of the RUF, ex-AFRC, ex-SLA or CDF. Thus – and in contrast with the Abidjan Agreement, which granted amnesty only to the RUF – the political leaders at Lomé appear to have amnestied themselves as well as their adversaries.

18. It can be said that the philosophy of the Lomé Peace Agreement is to hold perpetrators accountable to the truth and restore the dignity of victims by way of truth telling as opposed to trials and prosecutions. Although there might be technical arguments about the scope of the amnesty in the Lomé Peace Agreement, the Commission could realistically expect that its constituency – victims and perpetrators alike – would be immune from criminal prosecution for all practical purposes. In this respect, its mandate was therefore significantly different from that of other similar commissions, such as the South African Truth and Reconciliation Commission, where the threat of prosecution hovered over the TRC proceedings, and where amnesty was used to induce cooperation with the TRC process.
19. The philosophy of the Lomé Agreement was modified somewhat in 2000, when the Government of Sierra Leone called upon the United Nations to establish a tribunal. In a letter dated 12 June 2000, President Kabbah asked the United Nations Security Council '*to initiate a process whereby the United Nations would resolve on the setting up of a special court for Sierra Leone. The purpose of such a court is to try and bring to credible justice those members of the Revolutionary United Front (RUF) and their accomplices responsible for committing crimes against the people of Sierra Leone and for the taking of United Nations peacekeepers as hostages.*'
20. The letter noted that, in the Lomé Peace Agreement, the Government of Sierra Leone had agreed to a total amnesty as 'a price' for peace, adding that the RUF had subsequently 'reneged' on the Lomé Peace Agreement. Although President Kabbah's letter did not make clear whether the Government of Sierra Leone contemplated prosecutions for pre-Lomé offences, thereby repudiating the amnesty provision in that agreement, this subsequently became clear. On 16 January 2002, the Government of Sierra Leone reached agreement with the United Nations for the establishment of a Special Court with jurisdiction over pre-Lomé offences, irrespective of amnesty or pardon. The agreement was subsequently endorsed by Parliament in March 2002, when it adopted The Special Court Agreement, 2002, Ratification Act, 2002.
21. In May 2002, the Government of Sierra Leone proceeded with the establishment of the Commission. The seven commissioners were named by President Kabbah and duly sworn into office in July 2002. The Government subsequently provided financial assistance to the Commission. Accordingly, the Commission was born under a bit of a cloud, generated by the ambiguity surrounding the attitude to be taken to the Lomé Peace Agreement and its underlying philosophy. Clearly, both the Government of Sierra Leone and Parliament had repudiated at least one element of the Lomé Peace Agreement, in the recognition of the legitimacy of prosecution for at least part of the period

Leone, *A compilation of Articles on the Sierra Leone Truth and Reconciliation Commission*, UNAMSIL, Freetown, 2001. Pg. 55. Also available at www.sierra-leone.org/trc.html (last visited 01/12/03)

of the conflict (the temporary jurisdiction of the Special Court begins with the adoption of the Abidjan Agreement, on 30 November 1996).

22. It is important to consider to what extent these subsequent developments influenced the mandate of the Commission, if at all. The Commission might have viewed the creation of the Special Court as a factor that transformed its own *raison d'être*. Faced with prosecution of some perpetrators, the Commission might then have seen fit to recommend that immunity from prosecution be granted in exchange for cooperation with the truth and reconciliation process, as was the case in South Africa. Alternatively, it might have sought a close and synergistic relationship with the Court, operating to some extent as a pre-trial investigative body, somewhat along the lines of commissions in Timor Leste and Peru.
23. In fact, the Commission, although it recognized and was forced to contend with the practical consequences of parallel prosecutions, did not view these subsequent developments as having any effect whatsoever upon its mandate. The Commission's attitude towards and its relationship with the Special Court for Sierra Leone are fully discussed elsewhere in this report. For the purposes of the discussion here, it should be sufficient to note that the Commission has viewed its mandate as being derived from the Lomé Peace Agreement and the legislation adopted in February 2000, irrespective of the subsequent change in philosophy of the Government of Sierra Leone and of Parliament. Parliament was, of course, always free to do so, if it had believed that adjustments to the Commission's mandate were required, in the light of the establishment of the Special Court for Sierra Leone and the, at least, partial repudiation of the covenants reached in Lomé.

Creation of an Impartial Historical Record

24. The statutory definition of the 'object' of the Commission, in section 6(1), consists of an enumeration of five distinct elements. But these are separated by a semi-colon into two groups. The first comprises only one element, '*to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing of the Lome Peace Agreement*'. The second comprises the other four: to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered. No ranking or hierarchy is established in the legislation among the five elements or the two groups. But the Statement of Objects and Reasons, which was attached to the Bill when it was enacted by Parliament, says that '*the principal function of the Commission is to create an impartial historical record of events in question as the basis for the task of preventing their recurrence*'. There can therefore be no doubt that the creation of an impartial historical record lies at the core of the Commission's mandate.
25. On the other hand, the Lomé Peace Agreement implies somewhat different priorities: 'A Truth and Reconciliation Commission shall be established to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation.' Here, the only implication of the mission of the Commission as historian is the

rather colloquial suggestion that it 'get a clear picture of the past'. The incontestable conclusion is that the historical component of the Commission's mandate was strengthened by Parliament, and that it is of central importance to the fulfilment of its solemn mission.

26. Given the resources available to the Commission, in terms of professional researchers and investigators, not to mention its very short lifespan, Parliament was surely ambitious in thinking that the Commission could create anything resembling a comprehensive historical record of the conflict in Sierra Leone. In any event, the proximity of the events to the writing of the historical record makes any aspiration to a thorough study troublesome and possibly unrealistic. While it may be illusory to think that bodies like truth commissions can establish a complete historical record, they can nevertheless discredit and debunk certain lies about conflicts. If they can accomplish only this, their work may contribute validly to the rebuilding of a stable social environment on the ruins of conflict and war.
27. There is no shortage of examples of this historical mission being fulfilled by quasi-judicial bodies, like truth commissions, and judicial ones, like courts. The Nuremberg tribunal, for example, which was convened within months of the end of the Second World War and which rendered its judgment less than a year later, clarified much of the historical truth about Nazi atrocities. To take a more contemporary example, a recent judgment of the International Criminal Tribunal for the former Yugoslavia notes that the institution was established by the United Nations Security Council so that 'the truth about the possible commission of war crimes, crimes against humanity and genocide [would] be determined, thereby establishing an accurate, accessible historical record. The Security Council hoped such a historical record would prevent a cycle of revenge killings and future acts of aggression.'⁸
28. It is to be hoped that this report will clarify and resolve debates about the conflict. Possibly the Special Court for Sierra Leone will find that the impartial historical record established by the Commission is of value in its own proceedings.⁹

The historical record is based upon a variety of sources, including testimony in public hearings, private interviews and the examination of documents and other sources. Where available and relevant, existing historical accounts of the conflict and the period that preceded it have been consulted.

29. Although this surely goes without saying, the Act specifies that the historical record is to be 'impartial'. In any case, 'truth', including 'historical truth', must by definition be impartial. A 'partial' truth is no truth at all, merely the distorted version of events tailored to suit one of the parties. In this regard, the selection of Commissioners and the process of arriving at decisions and determinations

⁸ Prosecutor v. Momir Nikolic (Case no. . IT-02-60/1-S), Sentencing Judgment, 2 December 2003, para. 60 (references omitted).

⁹ In this respect, see the remarks of President Geoffrey Robertson in *Prosecutor v. Norman* (Case no. SCSL-2003-08-PT), Decision on Appeal by the Truth and Reconciliation Commission of Sierra Leone ('TRC' or 'The Commission') and Chief Samuel Hinga Norman JP Against the Decision of His Lordship, Mr Justice Bankole Thompson Delivered on 30 October 2003 to Deny the TRC's Request to Hold a Public Hearing with Chief Samuel Hinga Norman JP, 28 November 2003, para. 7. According to Judge Robertson, the TRC Report 'might provide considerable assistance to the Court and to all parties as an authoritative account of the background to the war'.

were crucial to its work. The Act envisioned a Commission composed of four nationals and three non-nationals to enhance the credibility of this process. The three non-nationals were selected by the United Nations High Commissioner for Human Rights, whose integrity is beyond question. The nationals were chosen as part of a transparent selection process overseen by the Special Representative of the Secretary-General of the United Nations to Sierra Leone. Commissioners were provided with terms and conditions of employment, as well as various legal immunities and protections, to further assure their independence and impartiality.

'Violations and Abuses'

30. The concept of 'violations and abuses' (or 'abuses and violations') lies at the core of the TRC's mandate. Section 6(1) of the Act focuses the content of the historical record on 'violations and abuses'. The concept of 'violations and abuses' re-appears in other subsections of section 6. Thus, subsection 6(2)(a) says that without prejudice to the generality of subsection (1), *'the function of the Commission' shall be 'to investigate and report on the causes, nature and extent of the violations and abuses referred to in subsection (1) to the fullest degree possible, including their antecedents, the context in which the violations and abuses occurred, the question of whether those violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual, and the role of both internal and external factors in the conflict'*.
31. Furthermore, it is also among *'the functions'* of the Commission, according to subsection 6(2)(b), *'to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict'*.
32. Section 7 also refers to this concept of *'violations or abuse'*. Accordingly, in subsection 1, the *'operating procedures and mode of work'* of the TRC are to include *'investigation and research into key events, causes, patterns of abuses or violation and the parties responsible'*, holding public and non-public sessions *'to hear from the victims and perpetrators of any abuses or violations or from other interested parties'*, and *taking of individual statements and gathering of additional information with regard to these matters'*.
33. Section 7 also refers to the concept of *'past violations or abuse'* and to *'child perpetrators of abuses or violations'*. The Report of the Commission, in accordance with section 15, is to include recommendations directed to *'preventing the repetition of the violations or abuses suffered'*.
34. The 'Memorandum of Objects and Reasons', which is attached to the TRC Act, notes that the Peace Agreement *'envisaged the proceedings of the Commission as a catharsis for constructive interchange between the victims and perpetrators of human rights violations and abuses'*.
35. It should be noted that, in the Lomé Agreement, the references (art. XXVI) are to *'human rights violations'*, and not to *'violations and abuses'*. The word

'abuse' appears nowhere in the Lomé agreement. Thus, Parliament somewhat enlarged the scope of the TRC from what had been originally contemplated in the Lomé Peace Agreement.

36. The mandate of the South African TRC – a model familiar to the Parliament of Sierra Leone when it created the Commission - spoke only of 'gross violations'.¹⁰ This is clearly a much narrower concept than 'violations and abuses'. According to Priscilla Hayner, the South African TRC was criticised for this narrow perspective, in that this presented a 'compromised truth' that excluded a large number of victims from the Commission's scope.¹¹
37. The TRC Act does not define what constitute violations and abuses with regard to international human rights law and international humanitarian law. The term 'violations and abuses' does not appear to have any recognised technical meaning within either human rights law or international humanitarian law. Obviously, there is a literal meaning of the two terms which should require no further explanation.
38. Of some interest within the field of international human rights law is the frequent use of the term 'abuse' in a very recent instrument, the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, adopted in July 2003. It uses the term 'abuse' in several provisions (articles 5(d), 12(1)(c), 12(1)(d), 13(m), 22(b), 23(b)). The context suggests that the term is used particularly with reference to acts committed by individuals against other individuals, rather than by States.¹²
39. There does exist within human rights and international humanitarian law a number of more specific terms to describe certain types of violation or abuse. These include: breaches, grave breaches, serious violations, gross and systematic violations, and so on. For example, in 2000, when the United Nations Human Rights Committee found that Sierra Leone had violated the *Optional Protocol to the International Covenant on Civil and Political Rights* for proceeding with twelve executions on 19 October 1998 despite an interim measures request from the Committee that it stay the executions pending consideration of a petition, the Committee described this as a 'grave breach' of the *Optional Protocol*.¹³ In fact, nowhere does the *Optional Protocol* speak of 'grave breaches', referring instead to 'violation'; the *Covenant* itself refers cautiously to 'not fulfilling' and 'not giving effect to' obligations.

¹⁰ 3(1) a. of the South African TRC Act provides: 'Establish as complete a picture as possible of the causes, nature, and extent of the gross violations of human rights which were committed during the period from 1 March 1960 to the cut-off date, including the antecedents circumstances, factors and context of such violations, as well as the perspectives of the victims and motives and perspectives of the conducting investigations and holding hearings.'

¹¹ Priscilla B. Hayner, *Unspeakable Truths, Facing the Challenge of Truth Commissions*, (Routledge: New York & London, 2002), pp. 74-75.

¹² The same expression appears in an earlier instrument, the *Declaration on the Elimination of Violence Against Women*, GA Res. 48/104, art. 2(a) and (b). The Vienna Declaration and Programme of Action of 1993 also refers to 'gender-specific abuses' and 'human rights abuses particular to women' (para. 42), 'abuse of children' (para. 48).

¹³ *Mansaraj et al., Tamba et al., Sesay et al. v. Sierra Leone* (Nos. 839/1998; 840/1998 and 841/1998), 16 July 2001, UN Doc. CCPR/C/72/D/840/1998, para. 6.2.

40. Within international humanitarian law, reference is made to 'violation' of the *Geneva Conventions*¹⁴ as well as to the more serious concept of 'grave breach' of the *Conventions*.¹⁵ The *Hague Convention* of 1907 refers both to 'abuse'¹⁶ and to 'violation'¹⁷ in its provisions. It is of some interest to note that the mandate of the Special Court for Sierra Leone is limited to 'serious violations of international humanitarian law'.
41. Human rights and international humanitarian law treaties are meant to bind sovereign states to various obligations. In principle, an individual cannot 'violate' a human rights treaty, as this is a form of contract or undertaking between sovereign states. Nevertheless, the *African Charter on Human and Peoples' Rights*, for example, establishes a list of 'duties' that apply to 'every individual'. Some violations of international humanitarian law, known colloquially as 'war crimes', are in effect – but by exception – applicable directly to individuals.
42. Under certain circumstances, a State may be held responsible for acts or omissions that constitute violations or abuses of human rights when committed by an individual or group under its control, or over which it has some responsibility. A State is expected to exercise due diligence in preventing individuals from violating the human rights of other individuals. The term '*horizontal violations of human rights*' is used in this context. An example would be the duty upon State authorities to ensure that a prisoner under their care is not victim of abuse by other prisoners.
43. There is a growing body of law to support the idea of the involvement of 'non-state actors' in violations or abuses of human rights. 'Non-state actors', be they individuals, groups or organisations, are neither parties to international human rights or international humanitarian law treaties nor are they, as a general rule, bound by national constitutions. Nevertheless, it may be possible to impute certain violations and abuses of human rights and international humanitarian law to them.
44. This would indeed seem to be the implication of the *Act*, with the reference to 'perpetrators of human rights *violations and abuses*' in the Memorandum of Objects and Reasons. That individuals and not only states or state-like bodies are contemplated is confirmed by the reference to 'child perpetrators of *abuses or violations*'. This is also suggested by section 6(2)(a), which asks 'whether those violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual'.
45. Individual perpetrators may be both natural persons and corporate bodies, such as transnational companies or corporations. But this leads to other difficulties. For example, let us consider the case of a transnational mining company operating in Sierra Leone but whose head office is in another country, say, South Africa. Although described colloquially as 'transnational', the company will in fact have the nationality of the State where it has its head office. Can South Africa be blamed for human rights violations committed by the company

¹⁴ e.g., *Geneva Convention (IV) Relative to the Protection of Civilians*, (1950) 75 U.N.T.S. 287, art. 149.

¹⁵ *Ibid.*, art. 146.

¹⁶ *Convention Concerning the Laws and Customs of War on Land (Hague IV)*, 3 Martens Nouveau Recueil (3d) 461, art. 33.

¹⁷ *Ibid.*, arts. 40, 41.

in Sierra Leone, for failing to regulate the activities of its company, in the same way that it might be blamed for human rights violations committed by the company in South Africa itself? Objections to the imputation of such liability may come not only from South Africa, but from Sierra Leone itself. Sierra Leone might consider attempts by South Africa to regulate the behaviour of South Africans within Sierra Leone as an infringement on the latter's sovereignty. Yet the TRC might well conclude that violations and abuses of human rights were committed in Sierra Leone not only by the hypothetical South African mining company, but also by both Sierra Leone and South Africa for failing to regulate it.

46. In the light of the reference to 'violations and abuses', the Commission has decided that its mandate is a very broad one. It is not limited by use of adjectives such as 'gross' or 'serious'. The addition of the term 'abuses', which may be taken to encompass human rights violations committed by individuals rather than States or governments, enlarges rather than restricts the mandate. Accordingly, the Commission's mandate is not confined to violations of human rights that might constitute crimes, under either national or international law, nor is it limited to violations committed by States or governments.

'Human Rights and International Humanitarian Law'

47. According to section 6(1) of the Act, the 'violations and abuses' must be of 'human rights and international humanitarian law'. This is a reference to two distinct, although related, bodies of international law. The distinct scope of each body of law, as well as the relationship between the two, shall be considered in turn.
48. 'Human rights' is a term used to describe a broad spectrum of rights that may belong to individuals, groups (such as ethnic and religious minorities) and 'peoples'. Human rights are those basic standards *inherent* to the human being without which a person cannot live in dignity. Human rights are *entitlements*, which every human being possesses by virtue of his or her humanity. Guarantees of human rights are expressed in both international and national law.
49. The 1991 Constitution of Sierra Leone devotes a lengthy section, Chapter III, to 'human rights and fundamental freedoms'. The formulation is awkward and unduly complex, making it inaccessible to the average citizen. Many of the provisions are devoted more to exceptions to human rights than to their affirmation. There is an exhaustive provision dealing with the use of emergency powers and the suspension of constitutional protections. The language is consistent with that in the constitutions of many other former British colonies, and reflects an historic unease of English lawmakers with the constitutional entrenchment of fundamental rights. For the purposes of the TRC's work, there is no significance in the distinction between 'human rights' and 'fundamental freedoms'; both terms can be subsumed within the expression 'human rights'.
50. The Lomé Peace Agreement attempts a definition of the term 'human rights' that is probably more helpful than that of the 1991 Constitution in this respect. It makes a useful reference to international legal sources, such as the Universal Declaration of Human rights and the African Charter of Human and Peoples'

Rights. The list of fundamental rights is not an exhaustive one, and serves merely to provide examples.

ARTICLE XXIV

GUARANTEE AND PROMOTION OF HUMAN RIGHTS

1. *The basic civil and political liberties recognized by the Sierra Leone legal system and contained in the declarations and principles of Human Rights adopted by the UN and OAU, especially the Universal Declaration of Human Rights and the African Charter on Human and Peoples Rights, shall be fully protected and promoted within Sierra Leonean society.*

2. *These include the right to life and liberty, freedom from torture, the right to a fair trial, freedom of conscience, expression and association, and the right to take part in the governance of ones country.*

51. The sources of international human rights law are in treaties, bodies of principles and customary international law. The Government of Sierra Leone is legally bound by many of the most important international human rights law treaties, by virtue of its ratification or accession. This is the case with such instruments as the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Rights of the Child* and the *African Charter of Human and Peoples' Rights*. But Sierra Leone is also subject to various other standard-setting instruments of which the most important is the *Universal Declaration of Human Rights*, adopted by the United Nations General Assembly on 10 December 1948.
52. Human rights are sometimes classified into civil, political, economic, social and cultural rights. They range from rights which contemplate the core values of human dignity, like the right to life and the prohibition of torture, to the right to housing and medical care. Efforts to separate human rights into categories of 'civil and political' as opposed to 'economic and social', which have characterised human rights law in the past and which reflected geo-political conflicts, have been rejected in favour of a more holistic approach sometimes described as 'indivisibility' of human rights. Thus, human rights are acknowledged as being universal, interrelated, indivisible and interdependent. The preamble to the *African Charter on Human and Peoples' Rights* states '*that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as the universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights*'. The *Universal Declaration of Human Rights* contains civil, political, economic, social and cultural rights, and makes no distinction between them. In any event, human rights violations and abuses will often have both civil or political and economic, social and cultural dimensions. Moreover, certain specific rights, such as the right to a fair trial, which are usually categorised as 'civil', have an economic dimension too. Indeed, although wartime atrocities usually involve the 'core' human rights, like the right to life and the protection against cruel and inhuman treatment, the conflict in Sierra Leone may also have involved, and have been caused by,

violations of such economic and social rights as the right to food, to housing and to medical care.

53. It might be argued that the human rights dimension of the Commission's mandate is narrower than has been proposed above, and that it should be defined essentially with respect to the Constitution of Sierra Leone and the human rights treaties ratified by Sierra Leone. This might suggest a somewhat narrower approach. However, the Commission's mandate extends well beyond an examination of the compliance of the Government of Sierra Leone with its legal obligations. The Act requires the Commission to consider a range of non-state actors, including armed groups, as well as 'external factors', which may even involve consideration of the role of foreign governments and international organisations. Thus section 6(2) of the Act refers to '*the question of whether those violations and abuses were the result of deliberate planning, policy authorisation by any government*'. For these reasons, it would be incorrect for the Commission to confine its examination of human rights to those that find expression in the Constitution of Sierra Leone and those international instruments to which Sierra Leone is a party.
54. For the purposes of its work, the Commission decided to adopt a broad view of the concept of human rights, using as its touchstones the *Universal Declaration of Human Rights* and the *African Charter on Human and Peoples' Rights*. It does not confine its approach to the legal obligations imposed upon the government of Sierra Leone by international or national law. Violations of economic, social and cultural rights as well as of civil and political rights have been examined, as well as other categories of rights such as the right to development and the right to peace.
55. The conclusion that a broad approach to human rights is required, also finds support in the reference in the TRC Act which mandates the Commission to pay '*special attention to the subject of sexual abuses and to the experiences of children within the armed conflict*'. Such issues might not be subsumed within a mandate focussed only on the 'core' civil and political rights listed in article XXIV of the Lomé Peace Agreement or the Constitution. To supplement the basic international human rights instruments referred to in the preceding paragraph, the Commission has sought guidance from specialised instruments in the area of the rights of women and children, such as the *Convention on the Rights of the Child*, the *African Convention on the Rights and Welfare of the Child*, the *Convention on the Elimination of Discrimination Against Women*, the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* and various United Nations and African Union declarations concerning sexual abuse of children and violence against women.
56. Section 6(1) of the Act also instructs the Commission to prepare an impartial historical record of violations and abuses of 'international humanitarian law'. The term 'international humanitarian law' has been described as a 'more recent and comprehensive' term for what in the past was referred to as the 'international law of armed conflict', or even earlier, the 'law of war'. According to the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia, in the authoritative statement on the subject, the term 'international humanitarian law' emerged 'as a result of the influence of human rights doctrines on the law of armed conflict'.¹⁸

¹⁸ *Prosecutor v. Tadic* (Case no. IT-94-1-AR72), Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 87.

57. In principle, 'international humanitarian law' applies only during armed conflict, as opposed to human rights law, which applies during peacetime as well as wartime. According to the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia, '*an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.*'¹⁹ With regard to its work the Commission has assumed the existence of armed conflict throughout the time frame defined in section 6(1) of the Act. It seems appropriate to consider that international humanitarian law continued to apply within Sierra Leone subsequent to the Lomé Peace Agreement and probably until 18 January 2002, when the conflict was officially declared to have come to an end.
58. The norms and principles of international humanitarian law have been codified in several quite complex international treaties, of which the 1949 *Geneva Conventions* and their two *Additional Protocols* stand at the centre. To a large extent, these principles are similar to those contained in the main human rights treaties, with the important distinction that the international humanitarian law instruments apply only during armed conflict. Given that the mandate of the Commission is concerned essentially with violations and abuses related to the conflict, the relevance and application of international humanitarian law can be taken as a given. Sierra Leone is a party to the main international humanitarian law treaties. But for the same reasons discussed above with respect to international human rights instruments, whether or not Sierra Leone is legally bound by a particular treaty or body of norms does not define the mandate of the Commission, given that it is to report on violations and abuses committed by non-State actors as well as by the Government of Sierra Leone and other governments.
59. 'International humanitarian law' makes an important distinction between international armed conflict and non-international armed conflict. This is explained by the historic reluctance of States to assume the same obligations with respect to civil wars, and their treatment of rebel armed groups, as they would undertake in the case of war with another State. For example, under the applicable treaties there is no concept of 'prisoner of war' in an internal armed conflict. Clearly, most of the conflict in Sierra Leone was of an internal nature. As a result, a somewhat more limited set of international humanitarian legal norms and standards applies than would have been the case had the conflict been international in nature. In practice, however, the distinction may not be all that important. The fundamental principles of international humanitarian law are much the same, whether the conflict is international or non-international. The International Committee of the Red Cross (ICRC) has attempted to summarise these principles as follows:
- a. Persons *hors de combat* and those who do not take a direct part in hostilities are entitled to respect for their lives and their moral and

¹⁹

Ibid., para. 70.

- physical integrity. They shall in all circumstances be protected and treated humanely without any adverse distinction.
- b. It is forbidden to kill or injure an enemy who surrenders or who is hors de combat.
 - c. The wounded and sick shall be collected and cared for by the party to the conflict which has them in its power. Protection also covers medical personnel, establishments, transports, and equipment. The emblem of the red cross or the red crescent is the sign of such protection and must be respected.
 - d. Captured combatants and civilians under the authority of an adverse party are entitled to respect for their lives, dignity, personal rights, and convictions. They shall be protected against all acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.
 - e. Everyone shall be entitled to benefit from fundamental judicial guarantees. No one shall be held responsible for an act he has not committed. No one shall be subjected to physical or mental torture, corporal punishment, or cruel or degrading treatment.
 - f. Parties to a conflict and members of their armed forces do not have an unlimited choice of methods of warfare of a nature to cause unnecessary losses or excessive suffering.
 - g. Parties to a conflict shall at all times distinguish between the civilian population and combatants in order to spare the civilian population and property. Neither the civilian population as such nor civilian persons shall be the object of attack. Attacks shall be directed solely against military objectives.²⁰
60. The mandates of the Commission and the Special Court for Sierra Leone overlap somewhat, as they are both to address issues of 'international humanitarian law'. In the case of the Commission, its attention is directed to 'violations and abuses', whereas the Special Court's jurisdiction is confined to 'serious violations' of 'international humanitarian law'.²¹ The concept of 'serious violations of international humanitarian law' is a technical one whose definition has been developed in judgments and decisions of the International Criminal Tribunal for the former Yugoslavia. It should be pointed out that the Special Court does not have jurisdiction over all 'serious violations of international humanitarian law', but only those listed in articles 4 and 5 of the Statute. The jurisdiction is limited principally to crimes committed within internal armed conflict. In addition, the Court has jurisdiction over three crimes that may be committed in international armed conflict, namely indiscriminate attacks on civilians, attacks on United Nations personnel and installations, and recruitment and use of child soldiers. Consequently, a broad range of serious violations of international humanitarian law, to the extent these are committed in international armed conflict, do not fall within the jurisdiction of the Special Court. For example, while the Special Court has jurisdiction over the 'serious violation' of 'intentionally directing attacks against the civilian population', it does not have jurisdiction over the 'serious violation' of 'intentionally directing attacks against civilian objects'. Such serious violations of international humanitarian law when committed in international armed conflict are not, in contrast, excluded from the work of the Commission.

²⁰ Basic Rules of the Geneva Conventions and their Additional Protocols (ICRC, 1987) (hereinafter, ICRC Basic Rules' as cited in Kittichaisaree Kriangsak: *International Criminal Law*, Oxford & New York: Oxford University Press, 2001, pp. 129-130.

²¹ Statute of the Special Court for Sierra Leone, art. 1(1).

61. The concept of 'violations and abuses' of 'international humanitarian law' is also considerably broader than that of 'serious violations' (the term used in the Statute of the Special Court for Sierra Leone), or, more colloquially, 'war crimes'. Criminality attaches to certain serious violations of international humanitarian law (of which the authoritative list appears in article 8 of the *Rome Statute of the International Criminal Court*; there are a few war crimes that are not listed in the *Rome Statute*, so the enumeration should not be taken as an exhaustive one). Nevertheless, many violations and abuses of international humanitarian law do not incur individual criminal liability. In this regard, the Commission's mandate is very significantly broader than that of the Special Court.
62. An illustration may be helpful to show how these distinctions were of relevance to the work of the Commission. The participation of mercenaries in the conflict (Gurkhas, Sandline, Executive Outcomes) has been widely documented. The use of mercenaries is not a 'war crime', and as such it is clearly outside the jurisdictional purview of the Special Court. But the use of mercenaries is condemned by international declarations and treaties, and is clearly discouraged by the relevant international humanitarian law instruments.²² It may arguably be described as an 'abuse' of 'international humanitarian law', but perhaps one that is confined to international armed conflict. The use of mercenaries would not therefore seem to fall within the remit of the Special Court, but it is a matter that can be fully examined by the Commission (at the very least, to the extent that it is determined that an international armed conflict exists).

'Related to the Armed Conflict in Sierra Leone'

63. Section 6(1) of the Act limits the scope of the impartial historical record to be prepared by the Commission to those violations and abuses of human rights and international humanitarian law that are 'related to the armed conflict in Sierra Leone'. In other words, not all violations and abuses of human rights and international humanitarian law fall within the ambit of the work of the Commission. This reference has consequences in terms of the time frame and territory addressed by the Commission, as well as the actual substance of the violations and abuses.
64. With respect to the time frame considered by the Commission, more specific language addresses this aspect of the mandate and will be dealt with later in this chapter. With respect to the territory to be considered, it is significant that section 6(1) does not confine the work of the Commission to the geographic boundaries of Sierra Leone. Moreover, section 6(2)(a) of the *Act* requires the Commission to consider '*the role of both internal and external factors in the conflict*'. In this respect, a useful comparison can be made with the jurisdiction of the Special Court for Sierra Leone, which is confined to the 'territory of Sierra Leone'.²³ Violations or abuses committed outside the territory of Sierra Leone are relevant to the work of the Commission, to the extent that they are '*related to the armed conflict in Sierra Leone*'. The report, and particularly the historical narrative, refers to many violations and abuses committed elsewhere in Africa,

²² *Protocol Additional I to the 1949 Geneva Conventions and Relating to the Protection of Victims of International Armed Conflicts*, (1979) 1125 U.N.T.S. 3, art. 47.

²³ Statute of the Special Court for Sierra Leone, art. 1.

and even on other continents. Those countries that border upon Sierra Leone are especially relevant to the impartial historical record. Some of them contributed to the violations and abuses. Other countries and international organizations also bear some responsibility. All of this is germane to the work of the Commission.

65. The reference to a relationship to the armed conflict also has a substantive limitation on the mandate of the Commission. Obviously, not all violations of human rights committed within Sierra Leone during the 1990s can be considered to be '*related to the armed conflict*'. For example, the practice of female genital mutilation is and has for many years been widespread within Sierra Leone. It continued to be practiced during the period of the conflict. The *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* refers to female genital mutilation as a harmful practice which violates the rights of women and which must be prohibited (art. 5(b)). It is probably unreasonable, however, to refer to female genital mutilation as a human rights violation or abuse that was '*related to the armed conflict*'. Nevertheless, it might well be argued that the practice of female genital mutilation contributed to a context of oppression and marginalisation of women that was manifested in violations and abuses that were unquestionably related to the armed conflict, such as gang rapes and sexual slavery.
66. In other words, the line between violations and abuses in general and those related to the armed conflict is not always an easy one to trace. It therefore seemed safe for the Commission to presume that violations and abuses committed in this period within Sierra Leone probably have some sort of relationship with the armed conflict. At the onset of the Commission's work, statement takers were instructed to record information of violations and abuses that might not initially appear to be related to the armed conflict. Subsequently, any doubtful allegations have been considered by the Commission, and either included or excluded on a case by case basis.
67. Human rights law applies in both peacetime and wartime, whereas international humanitarian law's application is confined to wartime alone, as a general rule. The two bodies of law are largely complementary. There is some authority for the proposition that international humanitarian law represents a kind of special law (or *lex specialis*) that in effect takes the place of human rights law during armed conflict. However, the international human rights conventions clearly contemplate their application during wartime, subject to the possibility that certain rights are limited or suspended because of the emergency situation.
68. International humanitarian law has always represented a compromise between the protection of the rights of non-combatant civilians and the requirements of military necessity. It recognizes that, under some circumstances, civilian lives may be taken where this is necessary for the attainment of military objectives, subject to the criterion of proportionality. But, under human rights law, there is virtually no situation where the killing of an innocent civilian can be tolerated. If the view were to be adopted that human rights law is, in a sense, superseded by the special rules of international humanitarian law, the Commission would be required to be considerably more tolerant of the killing and injury of innocent civilians than were in the case where the two bodies of law are viewed as providing two complementary but distinct levels of protection. In practice, given the nature of the conflict in Sierra Leone and the low level of humanitarian principles followed by the combatants, there were no situations where the Commission might be required to address a potential conflict between conduct

authorized by international humanitarian law yet prohibited by international human rights law.

The Time Frame

69. According to section 6(1) of the Act, the Commission is to provide an historical record *'from the beginning of the Conflict in 1991 to the signing of the Lomé Peace Agreement'*. With specific reference to the historical record, the Commission is instructed to examine the antecedents of the conflict (s. 6(2)(a)).
70. This reference to the time frame of the conflict applies to the first element of the 'object' in section 6(1), and not to the second. In other words, although the 'historical record' of the Commission is time-limited, there is nothing in section 6(1) to prevent the Commission from looking back prior to 1991 and forward beyond the Lomé Agreement in terms of the responsibility to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered. Aside from being justifiable on a literal reading of section 6(1), this interpretation is reasonable and helpful. Indeed, it would be futile for the Commission to attempt *"to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered"* while remaining blind or indifferent to events since the Lomé Peace Agreement. In this sense, the Commission does not have any temporal jurisdiction, in contrast, for example, with the Special Court for Sierra Leone.
71. For all of these reasons, the Commission has not felt itself to be particularly constrained by the time frame set out in section 6(1). The reference to the outbreak of the conflict in 1991 and to the Lomé Agreement serves to define 'the conflict', and the Commission's mandate is to consider the 'conflict'. It could not do this in an accurate and faithful manner if it were to begin mechanically with 23 March 1991 and to conclude in an equally mechanical manner with 7 July 1999.

To Address Impunity

72. The second limb of the 'object' of the Commission consists of four elements, the first being 'to address impunity'. Article XXVI of the Lomé Agreement listed this as the first of the functions of the proposed the TRC. The reference to impunity is somewhat enigmatic, given that the Lomé Agreement, in granting pardon and amnesty to the perpetrators of human rights and international humanitarian law violations and abuses, constitutes one of the more striking grants of impunity in recent history. The paradox of the Lomé Agreement, and of the Truth and Reconciliation Act 2000 that was adopted to give effect to certain of its provisions, is that it both enshrines impunity and seeks to address it.
73. According to one of the world's experts on the subject, Louis Joinet, who was the Special Rapporteur of the United Sub-Commission for the Promotion and Protection of Human Rights, *"Impunity" means the impossibility, de jure or de facto, of bringing the perpetrators of human rights violations to account - whether in criminal, civil, administrative or disciplinary proceedings - since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, convicted, and to reparations being made to their*

victims'.²⁴ Louis Joinet devised a 'Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity'.²⁵ These served as an extremely useful set of guidelines for the Commission in the interpretation of its mandate to address impunity.

74. The principles developed by Louis Joinet are grouped into three categories: the victims' right to know; the victims' right to justice; and the victims' right to reparations. The Commission can make significant contributions in all three of these areas.
75. According to Joinet, the right to know comprises what he calls '*the inalienable right to the truth*'. He says: '*Every people has the inalienable right to know the truth about past events and about the circumstances and reasons which led, through the consistent pattern of gross violations of human rights, to the perpetration of aberrant crimes. Full and effective exercise of the right to the truth is essential to avoid any recurrence of such acts in the future.*'
76. This 'right to the truth' includes a duty to remember: "*A people's knowledge of the history of their oppression is part of their heritage and, as such, shall be preserved by appropriate measures in fulfilment of the State's duty to remember. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments.*" Joinet also specifically recognises the right of victims to know, their families and dear ones to know the circumstances of violations and, if death or disappearance is the result, the fate of the victim.
77. In the context of the right to the truth, Joinet recognises the special role of 'extrajudicial commissions of inquiry', of which truth and reconciliation commissions are certainly the most significant manifestations. Here, then, the mandate and functions of the Commission fits squarely within the perspective outlined by Louis Joinet for combating impunity. It is with this component of the struggle against impunity that truth and reconciliation commissions excel. Indeed, they can generally respond to the needs of truth-seeking better than the alternatives, such as criminal prosecutions.
78. With respect to the second category, 'the victims' right to justice', the Commission cannot make as significant a contribution. According to Joinet, the right to justice

'implies that any victim can assert his rights and receive a fair and effective remedy, including seeing that his oppressor stands trial and obtaining reparations. There can be no just and lasting reconciliation without an effective response to the need for justice; as a factor in reconciliation, forgiveness, a private act, implies that the victim must know the perpetrator of the violations and that the latter has been able to show repentance. If forgiveness is to be granted, it must first have been sought.'

This may be overstating the point. There are valid examples of post-conflict societies where victims were denied access to traditional justice mechanisms, and yet where reconciliation is indeed possible, such as Mozambique and

²⁴ 'Question of the impunity of perpetrators of human rights violations (civil and political), Final report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119, UN Doc. E/CN.4/Sub.2/1997/20.

²⁵ *Ibid.*

South Africa. Justice is not always a reliable option, if only because the perpetrators are dead or cannot be identified, and those responsible may be indigent and unable to provide compensation. If criminal or civil justice is seen as a *sine qua non*, inevitably many will be frustrated and disappointed.

79. With respect to amnesty, Joinet declares bluntly: '*Amnesty cannot be accorded to perpetrators before the victims have obtained justice by means of an effective remedy.*' This view is widespread in international justice circles. But amnesty cannot always be excluded. Sometimes it may simply be an unavoidable political reality, dictated by the need to bring an end to conflict. To be sure, many amnesties given to tyrants in recent decades are vulnerable to severe criticism. But it is too absolute to rule them out altogether.
80. In terms of addressing impunity in the context of this 'right to justice', the Lomé Agreement is unquestionably deficient. The amnesty was criticised by the United Nations, and left bitterness among many Sierra Leoneans who believed that terrible crimes were to go unpunished. The Commission is without power to change this situation. It can, however, within its mandate, make observations and recommendations about the wisdom of the amnesty provision in the Lomé Agreement, of the objection formulated at the time by the United Nations Special Representative of the Secretary-General to Sierra Leone, and of the subsequent initiatives that rescinded the legal effect of the amnesty and established the Special Court for Sierra Leone. Just as the Commission may address the 'right to truth' component of the struggle against impunity better than the Special Court for Sierra Leone, the contrary may be the case with respect to the 'right to justice' component. The Special Court responds, but only to a limited extent, given the limitations on its own mandate and its resources. The findings of the TRC in this respect are discussed in the Findings Chapter.
81. The third category is the 'right to reparation'. Louis Joinet sees this as being composed of a number of elements, namely restitution (seeking to restore the victim to his or her previous situation), compensation (for physical or mental injury, including lost opportunities, physical damage, defamation and legal aid costs), and rehabilitation (medical care, including psychological and psychiatric treatment). In this area, too, the Commission has much to contribute, although it is not authorised to actually adjudicate or award reparations in any specific form. According to section 7(6) of the Act, the Commission is empowered to '*provide information or recommendations to or regarding the Special Fund for War Victims provided for in Article XXIV of the Lomé Peace Agreement, or otherwise assist the Fund in any manner the Commission considers appropriate but the Commission shall not exercise any control over the operations or disbursements of that Fund*'. The Commission is also instructed to make recommendations '*concerning the reforms and other measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission, namely the object of providing impartial historical record, preventing the repetition of the violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation*' (s. 15(2)). The Government is required by the Act to implement these recommendations. Many of the Commission's recommendations are intended to give effect to the 'right to reparation'. This matter is addressed in detail in the Recommendations Chapter.

Promoting Healing and Reconciliation

82. In addition to enabling the Commission to prepare an impartial historical record of the conflict, its principal activities – statement-taking and hearings – provided the people of Sierra Leone with a forum for private and public acts of reconciliation. These included public confrontations between victim and perpetrator that led to various expressions of contrition and a desire on both sides to put the past behind them. These concretely vindicated the interpretation given to section 6 and to its mandate in general by the Commission.
83. The setting up of district support committees and the partnership of the Commission with the Inter-Religious Council to continue working on reconciliation up to late 2004 are expressions of the Commission's interpretation of this component of the mandate.
84. Article XXVI of the Lomé Peace Agreement of 7 July 1999 obliges the Commission to, *'among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations'*. While the Commission's enabling legislation did not explicitly mention the term 'reparations', the Commission has considered the matter within the context of the portion of its mandate instructing it to *'promote healing and reconciliation'*.

Preventing a Repetition of Violations and Abuses Suffered

85. The mandate of the Commission is focussed on both the past and on the future. Obviously, the historical dimension of its work looks to the past. But, in instructing the Commission to consider the question of prevention of a repetition of violations and abuses, Parliament has given it an authorisation to peer into the future.
86. For this reason, the Commission has made a large number of recommendations that target institutional and other reforms. Many recommendations are directed to the government for administrative action, and to Parliament which must repeal certain legislation and introduce new measures. In many cases, these recommendations are deemed mandatory by the Commission. The TRC Act 2000 directs that the Commission's recommendations be implemented. In order to ensure this implementation, the Act provides for the establishment of a follow-up committee, which is to report on government compliance with the recommendations of the Commission.
87. Prevention of a repetition also involves a change in the way the people of Sierra Leone behave with each other, on individual and collective levels. It also concerns their attitude towards themselves, to their own country and to their public institutions. The Commission has taken up this aspect of its mandate through a project called the National Vision for Sierra Leone. The National Vision attempted to provide Sierra Leoneans with a platform to reflect on the conflict and to describe the future society they wish to see in Sierra Leone.

CHAPTER TWO

Setting up the Commission

TRC

**Learn from
Yesterday
for a better
Tomorrow**

Produced by the TRC Steering Committee with support
from the International Human Rights Law Group

CHAPTER TWO

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Introduction

1. During the discussions on the Sierra Leone Human Rights Manifesto adopted by civil society in June 1999, the then UN High Commissioner for Human Rights, Mrs Mary Robinson, undertook to provide appropriate technical assistance for the establishment of the Commission. In a letter of 15 July, 1999 accepting the offer of assistance by the High Commissioner, President Kabbah pledged the unqualified support of his Government to the process of reconciliation.
2. Since the Lomé Peace Agreement¹ granted a blanket amnesty, under Sierra Leonean law, for violations committed by the armed factions, civil society at various conferences within and outside Sierra Leone insisted that the enabling law of the truth commission should contain provisions for the grant of reparations for victims of the conflict and a mechanism to deal with their anguish. Following a conference in September 1999, civil society set up a Truth and Reconciliation Commission Working Group under the auspices of the National Forum for Human Rights. Prominent amongst the recommendations at the conference was that the Commission should consist of both national and international commissioners. It was believed that international commissioners, free of parochial interests, would bring a fresh perspective to the Commission.
3. Pursuant to the commitment made at the declaration of the Human Rights Manifesto, the Office of the High Commissioner for Human Rights (OHCHR) developed a project to support the establishment of the Commission. This could not be immediately implemented due to the resumption of armed conflict in Sierra Leone in May 2000. Following a reassessment of the operational environment in September 2000, a revised project was developed in March 2001.
4. The observance of the Ceasefire Agreement signed in Abuja, Nigeria in November 2000 and the commencement of disarmament in May 2001 among the armed factions increased the momentum for the establishment of the Commission. Furthermore, the Security Council in resolution 1346 adopted on 30 March 2001, encouraged the Government of Sierra Leone, together with the Secretary General of the United Nations, the High Commissioner for Human Rights and other relevant international actors, to expedite the establishment of the Commission.
5. Between July and December 1999, OHCHR organised a number of consultations with civil society and representatives of Government and the RUF where the preliminary issues related to the establishment of the Commission were canvassed. In December 1999 OHCHR submitted for the consideration of the Government and civil society the draft terms of reference for the Commission.

¹ For the full text of the Lomé Peace Agreement, see the Appendix section of this report.

TRC



Mr Oluyemi Adeniji, former Special Representative of the UN Secretary General was the Selection Coordinator for the nomination of Commissioners.

6. On 29 December 1999, OHCHR through UNAMSIL forwarded a draft statute on the Commission to the Government with the understanding that it represented technical assistance and did not impede the sovereign right of Sierra Leone to determine the exact nature of the law to be adopted.
7. The Government prepared a bill which substantially reflected the recommendations contained in the draft statute.² On 22nd November 2000, the Parliament of Sierra Leone unanimously passed into law the Truth and Reconciliation Commission Act.³
8. At the time of adoption of the Bill, OHCHR representatives were in the country consulting with Government and civil society on the preparation of a detailed plan of activities for supporting the Commission. The plan included support for the selection process of commissioners, a strategic framework for a public awareness programme, research on traditional methods of conflict resolution and conflict management, a project to identify violations and abuses committed during the conflict and to '*map*' the key incidents; and a project to establish an interim secretariat for the commission.

Preparatory Activities before the Establishment of the Commission

9. Following the enactment of the TRC Act, OHCHR began the implementation of a technical co-operation project entitled, "Support to the Preparatory Phase of the Sierra Leone TRC" to assist the establishment of the Commission. The project covered the following areas:
 - a. Public information/education campaign;
 - b. Mapping of the conflict i.e. compilation of information regarding key defining events within the period of jurisdiction of the Commission;
 - c. Research on the traditional methods of conflict resolution and reconciliation among the different cultural groups in Sierra Leone;
 - d. Selection of Commissioners, and;
 - e. Preliminary identification of the facility requirements of the Commission, for instance, the form of the secretariat required including staffing and logistic requirements;
 - f. Provision of a forum for the clarification of the relationship between the TRC and the Special Court authorised to be established by Resolution 1315(2000) of the United Nations Security Council;
 - g. Provision of technical support in developing mechanisms for the commission to fulfil its additional mandate regarding juvenile offenders;
 - h. Provision of assistance to the commission during the three months preparatory period immediately following its inauguration as provided for in Article 5(2) of the TRC Act which states that during this preparatory period, the Commission "will undertake all tasks necessary to ensure that it is able to work effectively from the commencement of its operations."

² Richard Bennett, Op. Cit.

³For the full text of the TRC Act, see the Appendix Section of this Report.

a. Projects on Public Education and Sensitisation.

10. The Office of the High Commissioner for Human Rights provided a grant to the International Human Rights Law Group (“the Law Group”) to start a campaign of public education and awareness about the Commission. The campaign used several media including radio, television, songs, drama and posters, among others, to create awareness and momentum for the establishment of the Commission. The Law Group partnered with Sierra Leonean civil society groups in implementing the campaign.⁴ OHCHR also provided financial support to a number of Sierra Leonean civil society organisations to conduct sensitization programmes on the Commission. These included the National Forum for Human Rights and the National Commission for Democracy and Human Rights. Other NGOs including the Forum of Conscience sought and obtained independent funding with which they engaged in substantial public education programmes on the Commission.

b. The Mapping Project

11. The final project sponsored by OHCHR, provided for a preliminary investigation into the human rights violation and abuses that occurred during the conflict. This was to enable the Commission to understand the trends and patterns in the conflict and in the violations and abuses that occurred. With this information, the Commission was expected to have a structured way of carrying out its statement taking exercise, as well as identify window cases for investigations and map the key issues on which to conduct research. A Sierra Leonean NGO, Campaign for Good Governance, executed the project, under the technical supervision of an OHCHR consultant.

c. Project on Traditional Methods of Conflict Resolution and Reconciliation

12. The OHCHR, approved a third project on traditional methods of conflict resolution and reconciliation. A Sierra Leonean NGO, Manifesto 99, implemented the project. The aim of the project was to provide guidelines to the Commission on how to integrate the traditional institutions and processes into its work. It was necessary for the Commission to understand how the different ethnic groups in Sierra Leone dealt with crime, punishment and reconciliation and how these attitudes could be utilised by the Commission to promote accountability and reconciliation in the country.
13. While Christianity and Islam are the main religions in Sierra Leone, a large number of people are traditionalists, with differing secret societies. Major decisions affecting local communities are sometimes taken in the sacred secret society bushes (groves/shrines). Many crimes and transgressions such as rape are culturally addressed. Sierra Leone is 70% illiterate⁵. The research argued that the bulk of the population, being illiterate, can relate to the Commission much more easily from a cultural context.
14. Since traditional beliefs play a major role in the lives of Sierra Leoneans, it suggested that the processes involved in the Commission should be

⁴ A full report on the public education programme managed by the Law Group is contained in the Methodology Chapter of this Report.

⁵ UNDP Human Development Report, 2002

responsive to the diverse traditional beliefs and customs of the fourteen tribal groups in the country.⁶

d. Selection of Commissioners

15. The Commission's Act provided for seven commissioners, four Sierra Leoneans representing the diversity of the country and three international commissioners. An elaborate process for the appointment of the Commissioners was approved by the Act. The four Sierra Leonean Commissioners were selected through a process managed by the Special Representative of the UN Secretary-General, United Nations Assistance Mission in Sierra Leone (UNAMSIL) who was the Selection Coordinator.
16. Sierra Leoneans from all over the world put forward nominations of suitable persons. The Selection Coordinator, with the assistance of an Advisory Board and after broad consultation with a cross section of Sierra Leonean society and with the High Commissioner for Human Rights, drew up a shortlist of finalists from 65 nominees. Each of the finalists was interviewed by a Selection Panel of six persons representing the President, the Armed Forces Revolutionary Council, the Inter Religious Council, the National Forum for Human Rights and the National Commission for Democracy and Human Rights as set out in the Lome Peace Agreement. The Selection Panel then ranked and provided comments on each of the finalists to the Selection Coordinator who recommended four of them for appointment to the Commission by the President.
17. Suggestions for the international members of the Commission were submitted directly to the United Nations High Commissioner for Human Rights, or to the Selection Coordinator, who forwarded them to the High Commissioner. The High Commissioner for Human Rights recommended three persons as international commissioners for appointment to the Commission. Their names were first submitted to the Selection Panel for comments and finally submitted to the President for appointment. The selection process was concluded in March 2002.

e. Preliminary Identification of the Facility Requirements of the Commission

18. The OHCHR had received assurances from UNAMSIL that it would provide all necessary technical and logistical support to the Commission. Upon the establishment of the Interim Secretariat, UNAMSIL provided two offices and one desktop computer and printer to the Interim Secretariat. The Interim Secretariat operated out of the UNAMSIL facilities until late in April 2002, when it moved to rented temporary premises in Freetown. While the Secretariat was located at UNAMSIL, the Interim Secretariat had access to all UNAMSIL facilities including telephones, the internet, workstations and use of the mail room.

⁶ See Manifesto 99, "Traditional Methods of Conflict Resolution and Reconciliation of Possible Complementary Value to the Proposed Truth and Reconciliation Commission". July 2002.

f. Provide a Forum for the Clarification of the Relationship Between the Commission and the Special Court.

19. An agreement between the Government of Sierra Leone and the United Nations saw the creation of a Special Court to try those who had committed breaches of the Lomé Peace Agreement and international humanitarian law. The UN Secretary General's Report to the UN Security Council⁷ suggested a relationship and cooperation agreement between the proposed Special Court and the Commission. In a second report to the UN Security Council, the UN Secretary-General urged that the Special Court and the Commission should operate in a complementary and mutually supportive manner, fully respectful of their distinct but related functions.
20. OHCHR felt it was part of its responsibility to assist in clarifying the relationship between the two bodies. In November 2000, it organised an international workshop in Freetown in collaboration with UNAMSIL on the issue. The workshop recommended the establishment of a consultative process to work out the relationship between the Commission and the Special Court.⁸ In 2001, the Secretary-General reported that UNAMSIL and OHCHR would be preparing 'general guidelines' for the relationship between the two bodies.⁹
21. In December 2001, OHCHR and the Office of Legal Affairs of the United Nations Headquarters, New York, organised an experts meeting on the Commission and the Special Court in New York. The meeting agreed on a number of basic principles without suggesting any guidelines for a relationship. It also did not suggest any modality for cooperation but called for an agreement institutionalizing cooperation between the Commission and the Special Court, and, where appropriate, in their respective rules of procedure.¹⁰

g. Provide technical support in developing mechanisms for the Commission to fulfil its additional mandate regarding juvenile offenders

22. The OHCHR initiative in this area focused on the research study on traditional methods of conflict resolution and reconciliation, which was expected to provide the Commission with input on how various groups in Sierra Leone approached juvenile crime. Additionally, UNICEF, in 2001, organised a consultation on the participation of children in the Commission. The report of that consultation was a comprehensive study on how the Commission could partner with UNICEF and the child protection agencies in facilitating the participation of children in the Commission and ensuring that their rights were protected in the process.

⁷ UN Doc. S/2000/915 issued on 4 October 2000

⁸ UN Doc. E/CN.4/2001/35, p.13, paragraph 41

⁹ 'Eleventh Report of the Secretary General on the United Nations Mission in Sierra Leone'; UN Doc. S/2001/857; at paragraph 47.

¹⁰ S/2001/40, paragraph 9. See also S/2000/1234.

TRC



Some members of civil society organisations in Sierra Leone. Front row left, Joe Pemagbi Jr of the International Human Rights Law Group; Rev. Bob Kande of the Special Court Working Group (middle) and Mr. John Caulker of the Truth and Reconciliation Working Group.

h. Provide assistance to the Commission during the preparatory period.

23. The TRC Act provided that the Commission was to have a preparatory period of three months and an operational period of 12 months subject to extension for another six months. It was widely accepted that the three months preparatory period would be insufficient for the Commission to deal with all the issues prior to opening its doors. OHCHR therefore supported the establishment of an Interim Secretariat, which was to prepare the ground for the launch of the Commission and allow it time during the preparatory period to focus on the substantive aspects of its work. The Interim Secretariat was established in the period immediately preceding the conclusion of the selection process in March 2002. To ensure the full support of government institutions its head was recommended by the Government of Sierra Leone and remunerated by OHCHR.

THE INTERIM SECRETARIAT

24. The terms of reference of the Interim Secretariat included:
- a. Assisting in the determination, location and establishment of office premises for the Commission in Freetown.
 - b. Establishing a data base for the Commission.
 - c. Establishing logistical needs such as communications, transport, computers, power supply and security.
 - d. Establishing a financial management system, including a Trust fund for the Commission.
 - e. Negotiating support and assistance that may be provided to the Commission by UNAMSIL, the GOSL, and other bodies.
 - f. Identifying suitable regional offices for the Commission subject to the approval of the Commissioners and other decentralisation issues.
 - g. Organising, designing and developing skills transfer for national staff of the Interim secretariat.
 - h. Conducting a national public awareness campaign with the support of contracted parties.
 - i. Developing policy and preparing briefing materials issues such as the relationship with the Special Court, women's issues, children's issues, traditional methods of reconciliation and witness protection.
25. The Interim Secretariat was established on 25th March 2002 with the appointment of an Interim Executive Secretary. Three international consultants were recruited as technical advisers for the three departments in the Interim Secretariat: administration and programming, policy and operations respectively. They supported the work of six Sierra Leonean consultants who were responsible for the six operational units namely: Media and Public Education; Reconciliation and Witness Protection; Research, Investigation; Legal Affairs and Finance.
26. Problems arose almost immediately in the Interim Secretariat with the recruitment of the six national consultants. No clear guidelines or minimum standards of qualification for recruitment were published by the Interim Executive Secretary, neither were the positions advertised. No interview board was set up to interview prospective candidates. The only candidate who appeared for an interview was found unsuitable by the advisers, but was nevertheless employed as a consultant. The rest of the consultants were simply

appointed by the Interim Executive Secretary to their positions. The process of recruiting the consultants created dissension within the Interim Secretariat.

EVALUATING THE INTERIM SECRETARIAT

a. Location and establishment of office premises.

27. The Interim Secretariat was housed in a rented building in the city centre with inadequate office space and parking. The Interim Secretariat was unable to finalise agreement with the Government on the provision of an appropriate office accommodation for the Commission. The Commission eventually settled on the old Brookfields Hotel and persuaded the Government to make the building available. The Government also agreed to renovate the complex. The Commission was only able to move into its permanent home long after the commencement of its operational activities.

b. Establishing a database for the Commission.

28. Preliminary contacts had been made with the American Association for the Advancement of Science to assist the Commission in the design and construction of its database. However by the time the Commission began its operations; it did not have an operational database. The database was established in January 2003.

c. Establishing other logistical needs such as communications, transport, computers, power supply and security.

29. The strategic action plan identified all the logistic needs of the Commission and charged the management of the Interim Secretariat with responsibility for facilitating their procurement. The Interim Secretariat received technical support from UNAMSIL with computers, a telephone network linked to the UNAMSIL exchange and hand-held radios. The Interim Secretariat, through UNDP, placed orders for the supply of three four wheel jeeps and one saloon car. These vehicles were not delivered until September 2002. The Interim Secretariat also contracted a security company to provide services to the Commission.

d. Establishing a financial management system, including a Trust Fund for the Commission.

30. The Administration and Logistics Consultant created an adequate financial management system for the Interim Secretariat. This dealt with procurement processes, inventory procedures and financial controls. UNDP provided financial management and oversight services for the Commission.

e. Identifying suitable regional offices for the Commission, subject to the approval of the Commissioners and other decentralisation issues.

31. The Interim Secretariat did not receive any offers of office space in the regions from the Government. Much of the public infrastructure in the regions was destroyed and even Government institutions experienced difficulties finding office space. Efforts were made to identify suitable office accommodation in the three regional capitals.

f. Organising, designing and developing skills transfer for national staff of the Interim Secretariat

32. The Interim Secretariat organised two workshops before the launch of the Commission. The first was the strategic planning workshop while the second was a training programme in conflict resolution and reconciliation.

g. Conducting a national public awareness campaign with the eventual support from contracted parties.

33. A sensitisation programme was launched throughout the country which included a range of training programmes and media activities.
34. The Interim Secretariat was not able to fund the sensitisation campaign. It had to rely on the efforts of the civil society groups who had obtained funding from sources such as the OHCHR, to carry out sensitisation and public education. Regrettably, these were one-off grants and were not renewed once they expired and the programme could not be sustained.

h. Compiling international and national documents for the Commission (the beginning of a resource centre)

35. The Interim Secretariat hired a research consultant from the Fourah Bay College of the University of Sierra Leone whose responsibilities included establishing a research agenda for the Commission as well as establishing a resource centre on transitional justice and on the Sierra Leone conflict. By the launch of the Commission little progress had been made which placed the research staff at considerable disadvantage. The staff had to rely on electronic resources or materials that were brought in from outside the country.

i. Implementing preparatory activities including preliminary investigations

36. OHCHR had provided funding to a Sierra Leonean NGO, Campaign for Good Governance, to carry out a preliminary investigation to establish initial evidence from key events. This activity commenced in March, 2002 and concluded by July, 2002. The Interim Secretariat worked closely with the NGO in monitoring the progress of the investigation and providing direction on the areas in focus. Regular presentations on progress were organised by the Interim Secretariat and, by the time the project was concluded more than 1,300 testimonies had been collected from victims.
37. OHCHR also commissioned another research project on traditional methods of conflict resolution and reconciliation.¹¹ The Interim Secretariat provided monitoring and oversight of this project. However the project was not concluded as some of its key personnel prematurely left the project before completion. The research report presented to the Interim Secretariat was poor and of little use to the Commission.

¹¹ See research report by Manifesto 99 on "Traditional Methods of Conflict Resolution and Reconciliation of Complementary value to the proposed Truth and Reconciliation Commission", July 2002.

TRC



Leaders of Civil Society Organisations in Sierra Leone

j. Developing policy and preparing briefing materials for the Commissioners

38. These functions were poorly handled by the Interim Secretariat. Few briefing documents were made available to the Commissioners prior to the launch of the TRC. The Operations Department managed to prepare some briefing and policy materials including an operational plan for the substantive phases of the Commission's activities.

Managing the Administrative Crisis

39. The launch of the Commission was supposed to herald the commencement of its three months Preparatory Phase. During the Preparatory Phase, the Commission was to engage in the following activities:
- a. Procurement of office space,
 - b. Preparing a budget and securing funds,
 - c. Hiring of staff both national and international,
 - d. Adopting procedures on methodology,
 - e. Designing and undertaking a public education campaign,
 - f. Undertaking preliminary background research,
 - g. Designing and putting in place a database,
 - h. Collecting supporting materials for its investigation,
 - i. Holding training workshops for Commissioners and staff,
 - j. Review of materials prepared during the Interim Secretariat phase, including the reports of the commissioned research projects.¹²
40. The operations of the Interim Secretariat suffered due to the poor management skills which impacted negatively on the first six months of the Commission's operations. The Commission found itself in the midst of an unfolding administrative crisis.
41. The first issue that the Commission had to deal with was a budget. The Commissioners were shocked to discover that it had no funds to operate with. An indicative budget of \$9.9 million was prepared by OHCHR and UNAMSIL. In February, 2002, an appeal for funding was launched on the basis of this budget. OHCHR which was coordinating the fundraising for the Commission was experiencing donor resistance due to the size of the budget and advised the Interim Secretariat to review it. Subsequently, the indicative budget was considered by the commissioners and revised downwards to \$6.5 million in July, 2002. The Commission requested OHCHR to continue to fundraise for its operations. Faced with continued scepticism by donors and a considerable shortfall in funding relating in part to earlier difficulties in the Commission, the budget was further revised downwards in March 2003 to \$4.7 million.
42. Delays in the finalisation of the budget slowed down the release funds made available through OHCHR due to its internal project approval processes. The Commission now had an agreed budget but no monies could be released until the Project Review Committee of OHCHR had approved the budget. OHCHR facilitated the early consideration of the budget by its PRC and the budget was approved within six weeks. However, it meant that six weeks into its life the Commission was unable to spend any money.

¹² See S.5(3) of the TRC Act, 2000.

43. Staff members became polarised between those who supported the Interim Secretariat and those who did not. The Commissioners were not being supported in a systematic manner. There were no minutes of Commission meetings prepared even months after the meetings had taken place. Activities in which Commissioners were to participate were ad-hoc and not planned ahead of time. As the Interim Secretariat was to be subsumed into the Commission, the Commissioners sought to deal with the crisis by requesting a personnel audit by UNDP to determine the suitability of staff prior to their absorption. The result of the audit indicated that most of the staff members were unqualified and not suitable for the positions they were occupying. It recommended the immediate disengagement of the unqualified staff and a re-designation of the surplus staff or their disengagement as well. Their positions were to be advertised and a transparent recruitment process was embarked upon.
44. Regrettably, the Commission was unable to implement the report of the staff audit. All the unqualified staff stayed on in their positions, while UNDP stopped the payment of their salaries until the conclusion of the Preparatory Phase. Following the inability of the Commission to deal with the managerial crisis, the international staff left. It took the direct intervention of OHCHR in consultation with the Government of Sierra Leone to restore the Commission's operations in October 2002.
45. In a very scathing analysis of the Commission's first six months of operations, the International Crisis Group concluded that the Commission had permitted an impression to develop in the public eye that it lacked leadership and was unprepared for the challenges that lay before it. It hoped that the Commission would take measures to restore public confidence and speedily begin to implement its activities, which were already running behind schedule.

THE PREPARATORY PHASE OF ACTIVITIES

a. Procurement of office space

46. The Government made available to the Commission, the sum of \$90,000 for the renovation of the Brookfield Hotel premises which had been thoroughly vandalized by members of the Civil Defence Forces (CDF) who had occupied it since 1999. On 9 March, 2003, the Vice President, Hon. Solomon Berewa, formally opened the new premises at a colourful ceremony.

b. Hiring of staff

47. With the departure of the international staff and the termination of the contract of the Interim Executive Secretary, the Commission had no remaining staff. An emergency measure was quickly agreed to between the Commission, OHCHR, UNDP and the Human Rights Section of UNAMSIL. This was to establish a Caretaker Committee, which was to provide secretarial services to the Commission pending the recruitment of permanent staff. Recruitment of staff commenced during the operational phase of the Commission's work and is dealt with elsewhere in this report.

c. Designing and undertaking a public education campaign

48. By the end of July 2002, the Commission had commenced a weekly briefing session for the media and members of the public. These sessions were to continue throughout the Commission's lifespan.
49. People outside Freetown, particularly in the provinces, wanted to feel part of the process and engage directly with the Commissioners. In September, 2002, the Commission started its 'Barray (Town Hall) Phase' of activities. During that period which lasted until November 2002, the Commission visited each of the twelve districts and the Western Area. A Commissioner, accompanied by volunteer staff, spent an average of one week in each district, holding meetings and interacting with civil, community, chieftaincy and faith organisations.
50. During these visits, the Commission discussed the setting up of support structures for the Commission. These structures were to support all aspects of the work of the Commission, including statement-taking, hearings, providing psycho-social and mental health counsellors, healers and interpreters. They were also to identify focal points for the Commission in each district. Finally, the Commissioners explained the operations, methods and procedures of the Commission including the relationship with the Special Court, and issues such as reparations and confidentiality.
51. The Barray Phase had mixed success. In some districts, active district officers had taken the time to sensitise their communities for the arrival of the Commissioners and succeeded in organizing well attended meetings. In other districts, some of the district officers did not bother to receive the Commissioners or to notify chiefs and the people about their arrival. In such cases, the Commissioners from house to house in different villages summoning people to assemble at the town barray. Following these experiences, the Commission paid district officers to send runners to communities that were to be visited during the week, to prepare them for the arrival of the Commissioners.
52. The trips were poorly planned. They occurred when the Commission did not have any staff members and had to rely on volunteers. The Commission put too much faith in the ability of the Ministry of Local Government to mobilize the district officers and the chiefs. None of the district administrations had any transport to send people ahead to notify the communities. Some of the district officers were still operating out of Freetown or the regional capitals and in a number of cases actually arrived at the same time as the Commissioners at the district headquarters.
53. The visits brought home to the Commissioners the magnitude of the problems the Commission would be dealing with. For many people, this was the first time that an institution associated with the Government had visited them and their communities. It conveyed a message that the Commission cared and was willing to come to them as it implemented its processes. The visits also consolidated the sensitisation campaigns being carried out by NGOs on the work of the Commission.
54. The Commission also established a collaborative partnership with the Women's Task Force on the Commission, a network of women's NGOs that included FAWE and the Women's Forum. It sought to create partnerships with other

relevant stakeholders such as UNICEF, Centre for the Victims of Torture, The Amputees Association, and NGOs working with combatants. A number of meetings were held with the Inter-Religious Council to solicit the partnership of the faith community and with a view to organizing an international workshop on the role of religion in reconciliation. The workshop was held in January 2003.

d. Designing and putting in place a database

55. In January 2003, the American Association for the Advancement of Science (AAAS) dispatched two consultants in order to set up the database. One of the consultants was then recruited to manage the database on a full time basis.

e. Collecting supporting materials for its investigations and prioritising its work

56. The OHCHR "Mapping project" carried out by the Campaign for Good Governance had commenced in March 2002. The mapping report revealed patterns and trends in the violations that occurred as well as the geographical spread of the violations. The project implementers organised several briefings for Commissioners and staff, where they received substantive input on how they should proceed with their investigations and research. The Commission identified 40 window cases for investigation pending the completion of the Commission's statement-taking exercise.

f. Training for Commissioners and staff

57. The administrative crisis adversely affected training plans for the Commissioners and staff. During the briefings after their inauguration, the Commissioners had participated in a one-day programme on strategic planning and team building organised by the operations department. Regrettably, there was no follow up to this programme. The International Centre for Transitional Justice organised a one-day 'experience-sharing' session for the Commissioners, to compare how the Sierra Leone experience differed from other truth commissions.

g. Conclusion

58. The administrative crisis cost the Commission six months of operational time and it struggled to make up for this lost time. It abridged programmes and sought creative short-cuts to mainstream its activities and restore confidence in the Commission. The crisis created a perception problem that plagued subsequent fund-raising efforts.

MANAGEMENT STRUCTURE OF THE COMMISSION

59. The initial operational plan developed by OHCHR recommended the establishment of six departments namely: reconciliation and protection; administration and programming; research; public information and education; legal; and investigations. It also proposed the establishment of regional offices in each of the three regions. The commissioners would be responsible for providing policy guidance while implantation rested with a management committee headed by an Executive Secretary and the departmental heads. The proposed departments were subsequently revised following discussions with

the commissioners. The departments were reduced to four namely: legal and reconciliation; administration and programming; information management; public information and education.

- a. **Legal and Reconciliation:** Responsible for providing the Commission with legal opinion and advice on its operations as well as on issues of international human rights law. Responsible for the reconciliation mandate by developing strategies for reconciliation and healing while taking into consideration existing traditional methods of conflict resolution and reconciliation. It would also be responsible for the design and implementation of strategies for the protection of witnesses and victims where necessary.
 - b. **Administration and Programming:** This unit would be responsible for administrative functions as they related to personnel, finance, information technology, donor reporting and funding.
 - c. **Information Management: With two sub-units namely: Research and Investigations:** The Commission decided on the merger of research, investigations and data process departments into an information management unit. The Research unit would be responsible for research and data collection. It would supervise the conduct of extensive research into the background and causes of the conflict as well as the collation of statements from victims and witnesses. The Investigation unit was charged with following up all relevant information that come into the possession of the Commission as well as investigating trends and patterns in the violations and abuses.
 - d. **Public Information and Education:** The unit would be responsible for coordinating all public information activities of the Commission and work closely with the Ministry of Information, UNAMSIL Public Information Section and UN agencies in disseminating the Commission's activities and ensuring public involvement in them.
60. The revision of the organizational structure of the Commission also translated into a downward revision of its personnel requirements.
61. The Commission was to have full-fledged offices in the three regional capitals, each headed by a regional administrative officer. There was to be a full complement of staff. The regional offices were to supervise statement-takers and coders and entry clerks who were to enter the statements on mini databases in the regions. The mini databases would have a remote link to the main office in Freetown where the central database would be situated. The Head Office would access all the statements in the regional offices and build a comprehensive database of violations and abuses. However, due to a shortage of funds, this plan was amended by the Commission to provide for only a regional coordinator in the respective regions. The regional coordinator would be responsible for supervising the statement taking teams in the various districts.
62. While the Commissioners travelled in the districts they facilitated the establishment of district support committees. The Commission had hoped that these committees would act as the catalysts in leading civil society organisation involvement in the districts.

THE CARETAKER COMMITTEE OF THE COMMISSION

63. Between September and November 2002, the Commission did not have any staff members. In consultation with the Government, the Commission, UNDP and UNAMSIL, the OHCHR established a Caretaker Committee to manage the Secretariat of the Commission pending the recruitment of substantive personnel. The mandate of the Committee was to support the commencement of statement-taking and supervise the recruitment of personnel for the Commission. The Caretaker Committee was composed of the chairman of the Commission, one Commissioner, and representatives of the Human Rights Section of UNAMSIL and of UNDP.
64. A skeletal staff composed of an office manager, and two of the departed international staff members, the operations adviser and the administration and logistics adviser, supported the committee.
65. The Caretaker Committee issued advertisements both locally and internationally, for positions in the Commission. Interviews were conducted either directly with candidates present or remotely by telephone. Reports of interviews were discussed by the Caretaker Committee which forwarded its recommendations to the Commission. The full Commission considered the recommendations and approved the recruitment of staff. Between November 2002 and February 2003, the Caretaker Committee conducted interviews for most of the positions in the Commission. Recruits began to assume their positions from the end of January 2003 until late in March, 2004 when the majority of the newly recruited staff members finally assumed duty.
66. The Caretaker Committee was largely successful in steering the Commission through a very difficult time in its operations. The mandate of the Caretaker Committee and the role of the Office Manager lapsed with the appointment of a substantive Executive Secretary by the Secretariat of the Commission.

Conclusion

67. Most of the Commission's staff arrived in March 2003, just as the Commission was completing its statement-taking programme and getting ready for hearings which were to commence on 14th April 2003.
68. The Commission had managed to weather the storm that threatened to tear it apart and moved quickly to consolidate its activities, with a view to restoring donor and stakeholder confidence in its activities. Much credit is due to the staff members of the Commission who managed to complete the main objectives of the truth and reconciliation process through adversity and against the backdrop of many setbacks.

APPENDIX ONE

STAFF OF THE COMMISSION

Executive Secretary:

1. Yasmin Jusu Sheriff - Interim Executive Secretary (25th March 2002 to 19th October 2002)
2. Malika Akrouf – Office Manager, Caretaker Committee (9th November 2002 to 17th February 2003)
3. Frank Kargbo – Executive Secretary (17th February 2003 to 31st December 2003).
4. M. Ozonnia Ojielo – Officer in Charge (1st January 2004 to 31st August 2004).

Staff Members

1. Abu Joseph
2. Adekara Daniel
3. Ahmid Noella
4. Alghali Olu
5. Alie Joe
6. Alie, Lakoh
7. Allen Paul James
8. Amadu Jenneh
9. Amara Emmanuel
10. Anthony, Fanta Naomi
11. Apori-Nkansah Lydia
12. Bah Isatu
13. Bah Mariama
14. Bah Tijanie
15. Bangura, Abdul Karim
16. Bangura O. Ahmed
17. Bangura, Amy
18. Bangura, Anita
19. Bangura, Fatmata G.
20. Bangura Henry
21. Bangura Inggrid
22. Bangura Mabinty
23. Bangura Mohammed
24. Bangura, Mohammed Saalam
25. Bangura, Rosemary
26. Bangura Yabu
27. Barrie, Jogo
28. Bassie Massah
29. Benya Desmond
30. Bockarie, Sannoh
31. Bocharie, Daisy
32. Brown Charlris
33. Bockarie Buanie, Konyon
34. Bundu L T Augustine
35. Bureh, Catherine
36. Carew, Alfred
37. Carew Mohammed
38. Casey Greg

39. Ceasear Chinsia Ethleen
40. Charm Abdulai
41. Charm Isatu
42. Dr. Coker Eugenia
43. Cole Cordelia
44. Cole Cordelia Davies
45. Cole Hashim Tejane
46. Conibere Richard
47. Conte, Thomas
48. Conteh Kadie
49. Conteh Wusha
50. Dabo, Sarah
51. Cauda Christian
52. Ms. Davies Ursula
53. Dixon Robert
54. Finoh Tamba
55. Fitzmahan Maureen
56. Fofana, Mohammed
57. Fofana Osman
58. Rev. Forna Usman
59. Fornie Maada
60. Fullah Abdul
61. Ganda Mary Rose
62. Gandi, Joseph Tamba
63. Gbla Abubakar
64. Gborie Kasay Sahr
65. Ms. George, Augusta Jamiatu
66. Masie Bah Gibril
67. Goba Sylvia
68. Hanciles Osmond
69. Humper Thomas
70. Hussan Javed
71. Jalloh Foday
72. Jalloh, Alimamy Foday
73. Jalloh Kaday
74. Jalloh Mariama
75. Jimmy Martin
76. John Princetta
77. Johnson Charles
78. Jusu Marian
79. Kabba Alie Madi
80. Kai Aminata Foday
81. KaiCombey, Victor
82. Kailie, Thomas
83. Kaima, Arnold
84. Kain Gladys
85. Kaindaneh Florence
86. Kakay Ibrahim
87. Kallon Mohammed
88. Kamanda, Mohammed
89. Kamara, Abdul
90. Kamara, Adbulai
91. Kamara Abu Baker

92. Kamara Allie
93. Kamara Augustine
94. Kamara, Catherine J
95. Kamara Foday
96. Ms. Kamara, Hajia Mariama
97. Kamara Hassan
98. Kamara Ibrahim Sorie
99. Ms. Kamara, Isatu
100. Kamara, Michael S.
101. Kamara Mustapha
102. Kamara Abdul Rowland
103. Kanu, Mabinty Lucy
104. Kargbo, Alie
105. Kargbo, John
106. Kargbo, Peacemaker
107. Karimu Emmanuel
108. Kebbi Florence
109. Kellie, Kumba Judith
110. King Franklin
111. Koi Edwin
112. Ms. Koroma Ada Ann
113. Koroma Allieu V
114. Koroma Amidu
115. Koroma Daniel B.
116. Koroma Dauda
117. Koroma, John B.
118. Koroma Kussan
119. Mr. Koroma Momoh
120. Koroma, Moses
121. Koroma Osman
122. Koroma Philip
123. Koroma, Syl
124. Koroma Umaru
125. Kowa Johannes R
126. Kposowa Abdul
127. Lake Ralph
128. Lax Ilan
129. Ms. Lewis, Elisabeth
130. Ms. Maddy Elfrida
131. Mahoi, Ajaratu
132. Mansaray, James
133. Mansaray, Prince Philip
134. Mansaray Salif
135. Manye Bondu
136. Marah, Nene
137. Marah Samba
138. Mbawa Henry
139. Moiwa Safea
140. Mariatu Mustafa
156. Nallo Alex
157. Ngevubar, Aisatu
158. Ngombu Augustine
159. Nicol Valerie

160. M. Ojielo Ozonnia
161. Olivant Justina
162. Owusu Edwina
163. Peacock Maude
164. Pessima Michael
165. Rogers, Sarah
166. Sah, Konde A.
167. Sah, Martin R.
168. Saidu Cecilia
169. Samba, Alice
170. Samura Kadie
171. Samura Margret
172. Samurah Alhaji
173. Sandi, Alice
174. Sandi, Hawa
175. Sandi Philip
176. Sankoh, Abdulai
177. Sankoh Kadiatu
178. Schotsmans Martien
179. Sei Mohammed
180. Sesay, Abdul Rhaman
181. Sesay, Daniel B. K.C.
182. Sesay Denis
183. Sesay, Foday D. .M.,
184. Sesay Adbul Hakim
185. Sesay, Isata
186. Sesay, Kanku.
187. Sesay Kiphu B
188. Sesay Mohammed
189. Shyllon Reuben
190. Silah Abdul Karim
191. Simpson James Gavin
192. Smith Eddy
193. Smith Eva
194. Smith, Rose-Marie
195. Songo, Muniru
196. Swaray, Hawa
197. Taylor Sophie Amadu
198. Thomas Christine
199. Thompson Jesse Thompson
200. Thompson-Shaw Josephine
201. Turay Francis
202. Turay Unisa
203. Wright Rita
204. Valcarcel Princess
205. Varney Howard
206. Wihelm Alberta
210. Williams Donella
211. Wright Aisha Nancy
212. Wvede-Obahor Nwanne
213. Yilla Alhassan
214. Yillah, Nabieu Yayah
215. Yopoi, Juma

216. Zoe Dugal

Consultants

1. Annor Nimako
2. Allotey Ohui
3. Aragones Patricia
4. Asher Jana
5. Dr. Ball Patrick
6. Betts Wendy
7. Cibelli Kristen
8. Gaima Emmanuel
9. Handicap International
10. Hughes Charlie
11. King Jamesina
12. Professor Kofi Kumado
13. Luseni Dennis
14. Murungi Betty
15. Seigrist Saudamini
16. Sesay Mohammed Gibril
17. Triolo Anthony
18. Theuermann Bert
19. Udenta Jude
20. Williams Yada
21. Dr. Abdullah Ibrahim

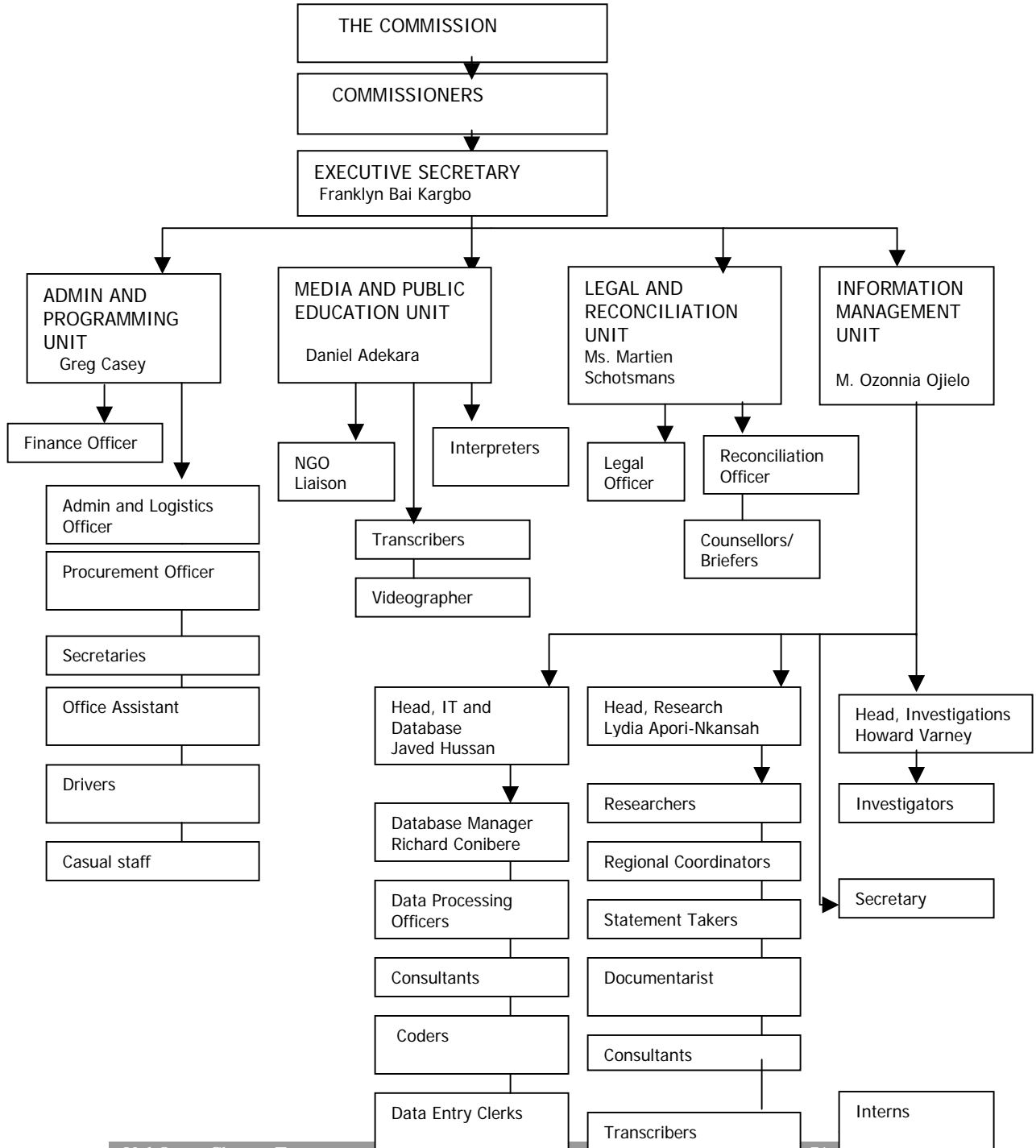
Interns

1. Abulaye Joseph
2. Barnicle Jeremy
3. Barrow Marrie
4. Conteh Kadie
5. Christodoulou Artemis

Artemis Christodoulou, a PhD student from Yale University, was an intern at the Commission during 2003. In May 2004, she returned to Sierra Leone to promote the National Vision for Sierra Leone. While returning to Freetown from Makeni, she was seriously hurt in a car accident. At the time of writing, Ms Christodoulou remains in a coma with severe brain damage. The Commission pays tribute to the selfless dedication that Ms Christodoulou gave to the people of Sierra Leone. Her work on amputations, memorials and the National Vision for Sierra Leone has advanced the cause of peace and reconciliation in Sierra Leone.

6. Darkwa Linda
7. Flattau Isaac
8. Hewett Dawn Yamane
9. Kamara Joseph
10. Mahoney Christopher
11. Verelst Sabastian
12. Sandon Shogilev
13. Vibeke Norgaard
14. Zervos Anthea

**APPENDIX TWO
ORGANOGRAM OF THE COMMISSION**



APPENDIX THREE

COMPONENTS OF THE STRATEGIC PLAN

The following were some of the components of the strategic action plan:

Mission Statement:

To develop a menu of operational strategies, create an enabling environment and lay the foundation for the successful implementation of the TRC as a unique Sierra Leonean experience

Vision:

To create a flexible, pro-active, accessible team committed to the establishment of a functional and successful TRC by the 5th July 2002 when the Commission was to be inaugurated.

Values: The values, which were set out as underpinning the work of the Interim Secretariat, included the following:

- a. Training for all staff
- b. To be gender and child sensitive
- c. Encourage life long learning
- d. To be ambassadors of reconciliation
- e. Show respect and dignity to and be aware of the 'victims'
- f. Respect for each other and demonstrate team spirit
- g. Human Rights knowledge and the basis for such rights
- h. To be hands-on and pro-active managers
- i. Be rooted and integrated in the community
- j. Transparency, honesty and accountability

The strategic action plan also focussed on how to transform the terms of reference of the Interim Secretariat into achievable targets. Some of the most important goals identified include the following:

- a. Partnership with the Government in securing an appropriate office accommodation.
- b. Appropriate human resources in the Commission through screening, recruitment, training, supervision, assessment, job descriptions and terms of reference.
- c. Financial management through review of the TRC budget, effective financial system, engaging in fund raising for the Commission, private sector supplies, donations and fund raising services.
- d. An administrative framework including recruitment procedures, resource material inventory procedures and control, administrative regulations, reporting requirements (internal and external), leases and contracts and evaluation and assessment.
- e. Partnership with members of the international community through exchange of letters, a work plan for assistance from UNAMSIL, finalise a memorandum of understanding, create framework for receiving logistics assistance.
- f. Training for Interim Secretariat and Commission staff.
- g. Design security plan (information and materials, physical security, witness security, protection of evidence).
- h. Design and implement a national public awareness campaign at zero cost, since OHCHR funding for public education has been given to NGO partners:

identify partners and what they can offer/contribute, press conferences and briefings, visits to schools and institutions, radio/TV magazine programmes, other activities including songs, drama, poetry, logo, stories, jingles, sponsored walks, flags and booklets. It also included the preparation of a media and NGO strategy for the Commission.

- i. Development of a resource centre and collection of documents from different sources including UNAMSIL, embassies, NGOs, ECOMOG, Sierra Leone Police, Sierra Leone Army, Media (local and international), etc.

CHAPTER THREE

Concepts

TRC

Truth
hurts but
war
hurts more

Produced by the TRC Steering Committee with support
from the International Human Rights Law Group

CHAPTER THREE

Concepts

Introduction

1. Truth and reconciliation commissions have, in recent years, become well-recognised as valuable and effective mechanisms in societies emerging from conflict. They help to ensure accountability for human rights violations, they clarify the historical record and put myths and lies about the past to rest, and they assist in giving a vision for the future. They are not a cure-all, but they can make a positive contribution when their work and activities are married with the dynamism of a civil society anxious for social transformation. This chapter addresses the principal concepts that underpinned and guided the work of the Sierra Leone Truth and Reconciliation Commission, and which are not specifically dealt with elsewhere in the Report. Concepts dealt with in the chapter include truth and truth telling, just war and just means, victims and perpetrators.
2. The Commission operated in a public and transparent fashion. Commissioners were appointed following a process of public consultation, in which all concerned citizens were invited to submit their names or the names of others as potential candidates. All major protagonists in the conflict were represented in the selection process and gave their consent to the eventual composition of the Commission. The staff members of the Commission were employed following public advertisement and interviews. The funds of the Commission were administered by the United Nations Development Programme office in Freetown, and audited by thoroughly independent accountants. The Commission has regularly reported on its activities, and has constantly called upon the people of Sierra Leone to participate to the fullest extent possible. The work of the Commission has been bolstered in a multitude of respects by civil society, and more specifically by non-governmental organisations (NGOs), both national and international. Funding for the Commission came from several donor countries, the Government of Sierra Leone and from individuals.
3. The underlying principles of the Commission were set out in the 'Memorandum of Objects and Reasons', which was attached to the Truth and Reconciliation Act 2000, the legal instrument responsible for the creation of the Commission. The Memorandum explains that the Commission was 'proposed by Article XXVI of the Lomé Peace Agreement as part of the process of healing the wounds of the armed conflict which began in 1991'. Furthermore, '[s]ection 1 of Article XXVI of the Peace Agreement envisaged the proceedings of the Commission as a catharsis for constructive interchange between the victims and perpetrators of human rights violations and abuses and from this catharsis the Commission is to compile 'a clear picture of the past'. Accordingly, by clause 6, the principal function of the Commission is to create an impartial historical record of events in question as the basis for the task of preventing their recurrence.'¹

¹ Truth and Reconciliation Commission Act 2000, Memorandum of Objects and Reasons.

4. The Lomé Peace Agreement itself declared that one of the purposes of the Commission was exactly to 'get a clear picture of the past in order to facilitate genuine healing and reconciliation'.²

Truth and truth-telling

5. What the 'Memorandum of Objects and Reasons' does not highlight is the fact that the Commission was created out of a tension between two contradictory intentions, on the one hand an impetus to forget the past and to forgive past violations of human rights, and another calling for the truth of the past to be determined and acknowledged. The controversial premise upon which the Lomé Peace Agreement was predicated is the pardon and amnesty set out in Article IX. The justification appears in the provision itself: 'In order to bring lasting peace to Sierra Leone...' and 'To consolidate the peace and promote the cause of national reconciliation'.
6. International law has acknowledged the validity of granting amnesty to combatants when a conflict comes to an end. In the case of Sierra Leone, as the Commission was told on more than one occasion by participants in the Lomé negotiations, amnesty presented itself as an essential condition if fighting was to stop and peace allowed to break out. The Commission has determined that serious violations of human rights and international humanitarian law took place on all sides in the conflict, so there can be no doubt that all of the participants in the Lomé negotiations in fact benefited from the amnesty. It cannot, in other words, be reduced to a one-sided concession.
7. However, in recent decades, the dangers of granting full amnesty for human rights violations have been increasingly appreciated. Amnesty overrides the interests of individual victims, who are also entitled to see their personal concerns addressed and balanced against those of society as a whole. International law refuses to accept the validity of amnesty for the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. These categories correspond in an approximate sense with the concept of gross and systematic violations of human rights. Even the practical justification for amnesty is called into question: it may not deliver the long-term peace that it promises. If the amnesty is granted in a way that ignores the past, it may sow the seeds for future conflict, and serve as a justification for future generations to settle scores that were left unresolved when the conflict came to an end.
8. All of these concerns meant that the grant of pardon and amnesty in article IX of the Lomé Peace Agreement had to be accompanied with other mechanisms and values that seek to remember and account for the past, and to respond to the needs of victims. It is out of this dialectic that the Truth and Reconciliation Commission was conceived. Truth and truth-telling, and the need to recognise and acknowledge the past, lie at the heart of this.

² Lomé Peace Agreement, art. XXVI(1).

An 'inalienable right to truth'

9. In one of the seminal documents of the United Nations on the issue of impunity for human rights violations, Special Rapporteur Louis Joinet has spoken of the inalienable right to truth: 'Every people has the inalienable right to know the truth about past events and about the circumstances and reasons which led, through the consistent pattern of gross violations of human rights, to the perpetration of aberrant crimes. Full and effective exercise of the right to the truth is essential to avoid any recurrence of such acts in the future.' Further, he explains: 'This is not simply the right of any individual victim or his nearest and dearest to know what happened, a right to the truth. The right to know is also a collective right, drawing upon history to prevent violations from recurring in the future. Its corollary is a "duty to remember" on the part of the State: to be forearmed against the perversions of history that go under the names of revisionism or negationism, for the history of its oppression is part of a people's national heritage and as such must be preserved. These, then, are the main objectives of the right to know as a collective right.'³
10. Truth commissions have largely come about in recent years to give effect to what Joinet called 'the inalienable right to truth'. There is a belief that truth can be established through mechanisms other than criminal trials which may, in the past, have been considered to be the ideal way to get at the truth. Where amnesty has been granted – this is the case of Sierra Leone, or where effective prosecution is difficult or impossible because of resource issues, or because perpetrators cannot be brought to trial, truth commissions offer a valuable alternative. But trials have their own shortcomings in establishing the truth, and the flexibility of truth commissions may in fact better suit them to this task of establishing and enforcing the 'inalienable right to truth'.⁴
11. The Special Court is also in search of the truth, but the Court's truth will necessarily be limited to the criminal responsibility of the accused. Moreover, the Court will only draw a picture of the criminal responsibility of those that 'bear the greatest responsibility'. The Special Court and the TRC have essentially different, although complementary, roles to play. Whereas the TRC cannot replace judicial investigations into the criminal responsibility of those that bear the greatest responsibility, the Special Court is not as well-suited for a broader inquiry into the causes, nature and circumstances of the conflict.
12. As Pedro Nikken, former president of the Inter-American Court of Human Rights, has written: 'There is no doubt that the discovery of the Truth, which is the responsibility of independent persons, destroys that element which, while not useful in itself for eradicating impunity, fulfils at least a dual function. First, it is useful for society to learn, objectively, what happened in its midst, which translates into a sort of collective catharsis. And second, it contributes to creating a collective conscience as to the need to impede the repetition of similar acts and shows those who are capable of doing so that even if they may escape the action of justice, they are not immune from being publicly recognized as the persons responsible for very grave attacks against other human rights. In this regard, even though [truth commissions] do not constitute

³ Question of the impunity of perpetrators of human rights violations (civil and political), Final report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119, UN Doc. E/CN.4/Sub.2/1997/20, para. 17.

⁴ See the chapter TRC and the Special Court.

punitive mechanisms, they may perform a preventive function that is highly useful in a process of building peace and the transition to democracy.⁵

13. A major challenge is ensuring that the search for the 'truth' or the 'truth' itself does not obscure this 'preventative function'. There are a few important cautions:
 1. The truth must be known;
 2. The truth must be complete;
 3. The truth must be officially proclaimed and publicly exposed.

14. The 'inalienable right to truth' is closely related to the 'right to an effective remedy' for violations of human rights. The right to an effective remedy is firmly entrenched in all major international law instruments.⁶ 'Establishing the truth' has been recognised as an essential part of the right to an effective remedy, as it is a crucial aspect of the guarantee of non-repetition of the original violation or abuse. This link between 'knowing what has happened' and 'avoiding the recurrence of violations in the future' has been repeatedly confirmed.⁷ Very illustrative in this respect is the innovative case law of the Inter-American human rights institutions, borne in the long and painful history of conflict in South and Central America.

15. In the case of *Ellacuria v. El Salvador*, the Inter-American Commission for Human Rights presented the right to know the truth as a direct remedy in itself, based on Article 1.1 of the Inter-American Convention providing that 'a State party is obligated to guarantee the full and free exercise of the rights recognized by the Convention'. In the opinion of the Inter-American Commission, ensuring rights for the future requires a society to learn from the abuses of the past. States must inform their citizens about the truth. This right to know the truth has two components: an individual right applying to the victim and family members and a general societal right. With respect to the public right, the Inter-American Commission said: 'Every society has the inalienable right to know the truth about what has occurred, as well as the reasons and

⁵ Paragraph 149.

⁶ Examples are Article 8 of the Universal Declaration of Human Rights (1948) and Article 2 of the International Covenant of Civil and Political Rights (1966). All the major human rights instruments including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (article 2.3), the American Convention on Human Rights (article 29) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (article 13) all guarantee the right to an "effective" remedy or recourse after a violation has occurred.

⁷ See for instance the "Proposed Basic Principles and Guidelines" attached to the Final Report submitted by Mr. Theo van Boven, Special Rapporteur, to the UN Commission on Human Rights, *Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms*, dated 2 July 1993 (E/CN.4/Sub.2/1993/8) and more recently the "Basic Principles and Guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law", annex to the Final Report of the Special Rapporteur, Mr. Cherif Bassiouni, to the UN Commission on Human Rights, *The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms*, dated 18 January 2000 (E/CN.4/2000/62). Also very relevant in this respect is the Revised final report prepared by Mr. Joinet on the *Question of the impunity of perpetrators of human rights violations (civil and political)*, presented to the UN Commission on Human Rights on 2 October 1997 (E/CN.4/Sub.2/1997/20/Rev.1). Both the UN Human Rights Committee and the European Court of Human Rights also recognize a positive duty of States to investigate human rights violations.

circumstances in which those crimes came to be committed, so as to avoid repetition of such events in the future.’⁸

16. These principles were developed further by the Inter-American Commission on Human Rights in the case of *Romero v. El Salvador*⁹. The Commission referred again to the dual character of the right: ‘The right to the truth is a collective right that enables society to have access to information essential to the development of democracies. At the same time, it is a private right of the next-of-kin of victims that makes possible one form of reparation, especially where amnesty laws are applied.’ Elaborating on society’s right to be duly informed, the Commission stated that it had held before that:

Independently of the problem of proving guilt, which in every case must be determined individually and with due process guarantees, by a pre existing court which applies the law in force at the time the crime was committed, one of the first matters that the Commission feels obliged to give its opinion on in this regard is the need to investigate the human rights violations committed prior to the establishment of the democratic government.... Every society has the inalienable right to know the truth about past events, as well as the motives and circumstances in which aberrant crimes came to be committed, in order to prevent repetition of such acts in the future. Moreover, the family members of the victims are entitled to information as to what happened to their relatives.... Such access to the truth presupposes freedom of speech....¹⁰

The Inter-American Commission concluded that the ‘right that all persons and society have to know the full, complete, and public truth as to the events transpired, their specific circumstances, and who participated in them is part of the right to reparation for human rights violations, with respect to satisfaction and guarantees of non-repetition. The right of a society to have full knowledge of its past is not only a mode of reparation and clarification of what has happened, but is also aimed at preventing future violations.’¹¹

17. An important aspect of the right to an effective remedy is the duty that international human rights law imposes upon States to investigate human rights violations and abuses. For example, the European Court of Human Rights has held that the right to an effective remedy (article 13 of the European Convention on Human Rights) guarantees both the availability of an effective domestic remedy to be exercised at the initiative of complainants and, in the event of very serious allegations, the carrying out of a full investigation by public authorities.¹² In *McCann v. United Kingdom*,¹³ the Court said that ‘[t]he obligation to protect the right to life under [article 2], read in conjunction with the State’s general duty under [a]rticle 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force by, inter alia, agents of the State’.¹⁴ In *Tanrikulu v. Turkey*, despite insufficient evidence to implicate the Turkish government in a victim’s death, the European

⁸ *Ellacuria v. El Salvador*, Case No. 10 488, Inter-Am. C.H.R., OEA/ser.L/V/II.106, do. 3 rev. (1999).

⁹ *Romero y Galdamez v. El Salvador*, Inter-Am. C.H.R., OEA/ser.L/V/II.106.

¹⁰ *Ibid.*, paragraph 146.

¹¹ *Ibid.*, paragraph 148.

¹² *Aksoy v. Turkey*, 26 Eur. Ct. H.R. 2260 (1996); *Mentes v. Turkey*, 59 Eur. Ct. H.R. 2689 (1997).

¹³ *McCann v. United Kingdom*, 324 Eur. Cr. H.R. (1995)

¹⁴ *Ibid.* p. 161

Court said that the duty to investigate was not confined to cases where it had been established that the killing was caused by an agent of the State. The fact that the authorities were informed of the murder established a right to an effective investigation.¹⁵

18. The same interpretation, by which the fundamental right to a remedy includes an entitlement to know the truth, through investigation, appears in the case law of the Inter-American Court of Human Rights. In *Velásquez Rodríguez v. Honduras*, the Inter-American Court held that the State is required to investigate every context involving a violation of the rights enshrined in the American Convention on Human Rights, even if the perpetrator is a private person. The 'effective search for the truth' must be assumed by the State itself and is not dependent on victims' initiatives. The Court also demanded an effective investigation despite the existence of difficult conditions within the country.¹⁶ Even where there are amnesty laws, the Inter-American Court has declared that the State is still obliged to use the means at its disposal to inform the relatives of the fate of the victims, and the location of their remains, if they have been killed.¹⁷
19. The United Nations Human Rights Commission has spoken of this right to an investigation to establish the truth in cases of forced disappearance. According to the Committee, 'state parties should also take specific and effective measures to prevent the disappearance of individuals and establish effective facilities and procedures to investigate thoroughly, by an appropriate and impartial body, cases of missing and disappeared persons in circumstances which may involve a violation of the right to life'.¹⁸ It has also said that complaints of torture and inhuman treatment 'must be investigated promptly and impartially by competent authorities so as to make the remedy effective'.¹⁹

Categories of truth

20. The Commission has had to address different types of truth. The Canadian writer Michael Ignatief, has stated that 'all a Truth Commission can achieve is to reduce the number of lies that can be circulated unchallenged in public discourse. In Argentina, its work has made it impossible to claim, for example that the military did not throw half-dead victims in the sea from helicopters. In Chile, it is no longer permissible to assert in public that the Pinochet regime did not dispatch thousand of entirely innocent people'.²⁰ In South Africa, no one can now claim that the apartheid state was not a criminal state who unleashed violence and death squads on its own citizens who opposed the state and dissented from it.
21. The South African Truth and Reconciliation Commission, which is in many respects the model for so many other similar institutions, including the Commission, dealt in its report with four different kinds of truth: factual or

¹⁵ *Tanrikulu v. Turkey*, 1999-IV Eur. Ct. H.R. 459 (1999)

¹⁶ *Velásquez Rodríguez Case*, Inter-Am. Ct. H.R., ser. C, no 4, P91 (July 19 1988), available at <http://www.corteidh.or.cr>.

¹⁷ *Barrios Altos Case*, Inter-Am. Ct. H.R. Ser. C. no 75P41 (March 14 2001)

¹⁸ *Laureano v. Peru*, U.N. GAOR, Hum. Rts. Comm. 56th Sess. P8.3, U.N. Doc. CCPR/C/56/D/540/1993 (1996)

¹⁹ *Rodríguez v. Uruguay*, UN. GAOR, Hum. Rts Committee, 51th sess. P12.3, UN Doc.

CCPR/C/51/D/322/1988 (1994).

²⁰ 'Articles of Faith', *Index on Censorship* (5) 1996, p. 113.

forensic truth; personal and narrative truth; social truth; healing and restorative truth. The list is probably not exhaustive.

22. *Factual or forensic truth.* One of South Africa's great human rights jurists, Albie Sachs, has called this 'microscopic truth'. It is akin to a version of events that is accepted after all the facts have been examined and can be supported by evidence. It involves bringing the facts to light. In this respect, the Commission was mandated by legislation to provide an impartial record into the violations and abuses of human rights and humanitarian law that were committed during the conflict. It was provided with robust powers of investigation, including the authority to summon witnesses and compel testimony, and to conduct searches and to take custody of documents and other material evidence.
23. Though not a court in the traditional strict sense, these powers of the Commission are akin to those available to traditional methods of justice, including criminal justice. The Commission used them, although sparingly, because as a general rule Sierra Leoneans were committed to the truth-seeking process and as a result they cooperated fully. But on occasion it was as a result of the threat to use these powers that witnesses appeared before the Commission, that official documents were provided, and that access was gained to premises normally closed to the public and to human rights investigators from NGOs and the United Nations.
24. In this area, the factual findings by the Commission complete a partial portrait of the conflict that has been provided in the past by journalists, by United Nations reports, and by the studies of various individual researchers and NGOs. This is, without doubt, the most thorough account of the conflict that has been produced. It is based on thousands of interviews, independent research, study of documents, and statistical analysis of a comprehensive database. And it is, as the Truth and Reconciliation Act 2000 requires, a truly *independent* account. Fact-finding has been approached empirically, without any preconceived notions about the 'truth' being sought. The approach of the Commission has been to investigate the truth according to an accepted methodology, and then to 'let the chips fall where they may'.
25. *Personal and narrative truth.* This is a witness's personal truth which he or she tells either in a statement or at a hearing. This is what he or she believes and should be respected. Often, the individual accounts did not initially appear to contribute significantly to the more general 'impartial historical record' that the Truth and Reconciliation Commission Act 2000 requires of the Commission. But over time, the sheer volume of these accounts provided a complex, multi-layered vision of the conflict. This truth is not the history of battles, military leaders and political parties, but rather a series of personal stories and accounts, telling a tale of the suffering, the pain and of the immense dignity of the common people of Sierra Leone. It is, perhaps more than anything else, a vision of the truth that describes the fundamental humanity of the people of this country.
26. The personal and narrative truth which the Commission has endeavoured to capture faithfully is inadequately presented in the present report of the Commission. It is simply impossible, in a document the length of the Commission's report, to provide a fair account of the complexity of the personal truths that make up the story of the conflict. But the materials remain largely available, in the archives of the Commission. Many of them have been transcribed. A full videographic record of the public hearings of the

Commission was taken and can be accessed by the public and researchers. The individual statements that were taken by the Commission have been coded and analysed in a data base to facilitate their consultation. We are confident that these resources will be drawn upon for years, possibly decades and even generations to come.

27. *Social truth.* This may come the closest to what the Truth and Reconciliation Commission is expected to establish. It is the truth established after interaction and dialogue that will be accepted by all after the myths and the lies have been discredited and disproven. In order to determine this 'social truth', the Commission endeavoured to provide a forum where the parties to the conflict, and the various components of civil society, including faith communities, political parties, the country's principal institutions, and various constituencies such as women, youth and children, could come together for debate and exchange. Even informally, out of this process a form of consensus has emerged about the nature of the conflict. The dynamics that were established between the participants in this process may provide a basis for future understanding and relationships.
28. *Healing and restorative truth.* This truth is necessary for the nation to cope with its pain. It is the truth of what happened. It involves an acknowledgement of people's pain and suffering by the nation. There were many opportunities for participants in the conflict to acknowledge the truth of what had happened and, in many cases, what they had themselves done to others. A significant number took full advantage of this opportunity. Their admissions and acknowledgement contribute without doubt to this 'healing and restorative truth'.
29. On occasion after occasion, and often during the public hearings, victims and perpetrators confronted each other, sometimes agreeing and sometimes disagreeing about the 'facts' of their encounters during the conflict. Out of this process a vision of the truth emerged that enables these members of Sierra Leonean society to deal with the past and, in a sense, put it behind them. The 'healing and restorative truth' in many respects, provides the foundation upon which the other wing of the mandate of the Commission, namely the quest for reconciliation can be built.

The relationship between reparation, truth and reconciliation

30. As a consequence of their victimisation, people often find themselves in a condition which is not conducive to forgiveness and reconciliation. The vast majority of them live in abject poverty, some having to endure the loss of limbs and others shunned because of their personal experiences such as rape and sexual slavery. Their dependency and social exclusion are constant reminders of the suffering they have endured. Faced almost on a daily basis by those who have harmed them, it is difficult to find within themselves the capacity to forgive. The humiliation of being dependent on the charity of others and often having to beg in order to live re-victimizes the victims, leaving conditions under which thoughts of revenge fester and grow. A reparations programme will assist those whose lives have been most devastated to move beyond the position they are in currently as a consequence of the war. The cycle of suffering must be broken.

31. One of the objectives of the Commission is to foster reconciliation in the country. A reconciliation which is based on a common understanding of the past and which allows both victims and perpetrators to find the space to live side by side in a spirit of tolerance and respect. Truth and reparation are key components of reconciliation. In most transitional societies, the political realities of the day force compromises on new governments which result in the rights of victims being compromised. Victims are required to forgive and to forgo opportunities to seek redress and punishment for wrongs done to them. They bear the brunt of these political compromises. In such societies truth telling and reparations become even more important.
32. Jose Zalaquett, a member of the Chilean Truth and Reconciliation Commission, has explained this in the following way:
- To provide for measures of reparation and prevention, it must be clearly known what should be repaired and prevented. Further, society cannot simply block out a chapter of its history; it cannot deny the facts of its past, however differently these may be interpreted. Inevitably the void would be filled with lies or with conflicting, confusing versions of the past. A nation's unity depends on a shared identity, which in turn depends largely on a shared memory. The truth also brings a measure of healthy social catharsis and helps to prevent the past from reoccurring.²¹
33. If the Commission had not intended to pursue a reparation policy for victims, truth-telling without reparation could conceivably be perceived by the victims to be an incomplete process in which they have revealed their pain and suffering without any mechanism being put in place to deal with the consequences of that pain. Similarly, reparations without truth-telling could be perceived by the beneficiaries as an attempt to buy their silence. Restorative justice requires not only truth telling but reparations which will strengthen the reconciliation process.
34. Reparations are an important instrument to achieving this goal. A sincere commitment from the Government to the execution of the proposed Reparations Programme would give a clear sign to the victims that the State and their fellow citizens are serious in their efforts to re-establish relations of equality and respect.²² Acknowledging the wrongdoing done to victims, engaging with those victimized and disempowered will lead to members of society having a renewed faith in the democratic process. This leads to the restoration of civic trust and a sense of ownership for the nation, attributes necessary if Sierra Leone is to take its rightful place in the community of nations.

²¹ J. Zalaquett, "extract from the Matthew O. Tobriner Lecture. Balancing Ethical Imperatives and Political constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations" 1992, 43 Hastings L.J. 1425, 1433.

²² Pablo De Greiff, "The Role of Reparations in Transition to Democracy", paper written for the International Center for Transitional Justice, New York, pp. 18-21 (forthcoming in "Repairing the Past").

Just war and just means

35. In the course of its work, the Commission frequently encountered those who consider that the justification for the conflict – on all sides - needed to be taken into account in assessing the existence and seriousness of alleged violations of human rights and international humanitarian law principles. For example, the Commission has often been told that the violations and abuses of human rights and humanitarian law for which the Civil Defense Forces (CDF) bears responsibility are in some sense less important than the violations attributable to the Revolutionary United Front (RUF), because the CDF was endeavouring to resist the rebels, a cause perceived by most to be just.
36. This argument is tantamount to saying that because a cause might have been just, the means used to pursue it are irrelevant. In other words, the ends justify the means. But this reasoning is not compatible with the normative framework of the Commission, which is to examine violations and abuses of human rights and international humanitarian law. Violations and abuses of human rights and international humanitarian law can be neither justified nor excused on the grounds that they are in some way responding to violations and abuses by the other side in a conflict.
37. At the outset, it seems important to state that the Commission is not called upon to assess the justness of the conflict itself. It may be argued by some that those who initiated the attempts to overthrow the Momoh regime were justified in taking up arms. The preamble of the *Universal Declaration of Human Rights* states: 'Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the Rule of Law.' Accordingly, human rights law seems to acknowledge that in extreme conditions, there is a 'right of rebellion'. It does not encourage rebellion, nor does it sanction *coups d'état*. Human rights law assumes that rights will be pursued using legal means and in a rule of law framework. The *Universal Declaration of Human Rights* declares that the will of the people shall be the basis of the authority of government, and that it shall be expressed in periodic and genuine elections. Governmental change, in principle, is to be effected at the ballot box. Sometimes, however, after long years of dictatorship, this aspiration may seem unlikely or even impossible. The Commission need not determine whether the conditions mentioned in the preamble of the *Universal Declaration of Human Rights* for the right of rebellion were indeed fulfilled. But, as this Report explains elsewhere, there is little doubt that the words 'tyranny' and 'oppression', and the failure to protect human rights by the Rule of Law, were appropriate descriptions of Sierra Leone in March 1991.
38. On the other hand, international human rights law also acknowledges the right of States to restrict and even suspend certain fundamental rights under certain circumstances. The *International Covenant on Civil and Political Rights*, in article 4, allows such suspension '[i]n time of public emergency which threatens the life of the nation...' Few would quarrel with the applicability of this provision to the situation in Sierra Leone during the decade-long war. Nevertheless, certain fundamental rights and freedoms cannot be suspended even in time of war. These core rights, which are sacrosanct, include the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment, and the right to protection against discrimination. Many acts committed by the

Government and by forces loyal to it cannot be excused on the grounds that the State was dealing with a public emergency.

39. If human rights law seems to leave a small amount of room for taking into account the justice of the cause being defended by the alleged perpetrator, international humanitarian law is essentially indifferent to the question altogether. International humanitarian law looks at the participants in an armed conflict without regard to whether or not the cause is legitimate. Its only concern is with the legality of the means and methods of warfare, and with the protection of vulnerable groups, especially civilians. Whether we are speaking of rebels or pro-Government forces, neither side can invoke the alleged justice of its cause as a defence to inhuman acts perpetrated by its combatants and collaborators.
40. The Commission need not examine the justness of the rebellion to overthrow the government in 1991, in order to fulfil its mandate, which is to address violations and abuses of human rights and international humanitarian law. Nor does it consider that those who fought to defend a democratically elected regime, from 1996 onwards were justified in using any means necessary to ensure that those chosen by the people actually governed the country.
41. Finally, a word should be said about the impermissibility of reprisals. Reprisals are undertaken in order to punish those who breach the rules of humanitarian law during armed conflict. In the past, international humanitarian law may have tolerated reprisals, but the permissibility has been constantly restricted over the years. It is now well established that under no circumstances may reprisals be committed against civilians, or against combatants who have laid down their arms and been taken prisoner. Even if they may be allowed *among* genuine combatants, they can only be used to the strict extent necessary, in order to compel the other side to stop its violations of the laws of armed conflict.

Victims

42. The Commission adopts the definition of a victim that is now generally accepted in international law,

A person is a 'victim' where as a result of acts or omissions that constitute a violation of international human rights and humanitarian law norms, that person, individually or collectively, suffered harm, including physical or mental injury, emotional suffering, economic loss, or impairment of that person's fundamental legal rights. A 'victim' may also be a dependant or a member of the immediate family or household of the direct victim as well as a person who, in intervening to assist a victim or prevent the occurrence of further violations, has suffered physical, mental or economic harm.²³

²³ The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, Final report of the Special Rapporteur, Mr. M. Cherif Bassiouni, submitted in accordance with Commission resolution 1999/33, UN Doc. E/CN.4/2000/62, para. 8.

Perpetrators

43. The term 'perpetrator' is widely used in international human rights law to describe individuals who are responsible for violations of human rights and international humanitarian law. Accordingly, the United Nation's Sub-Commission on the Protection and Promotion of Human Rights, in mandating Louis Joinet to examine the question of impunity, spoke of the 'Question of the impunity of perpetrators of human rights violations'.²⁴ A distinction is made here with the State itself, which is also responsible for human rights violations under international law.
44. Historically, human rights law addressed itself essentially to violations committed by the State. The rights of the individual were viewed in this context. The development of the concept of 'perpetrators' indicates a desire to focus on individuals who bear personal responsibility for human rights violations and abuses.
45. Perpetrators may be public officials or members of quasi-governmental or private armed groups with any kind of link to the State, or of non-governmental armed movements having the status of belligerents. Perpetrators may be the direct offenders, or they may be accomplices. Often, the accomplice is actually the person with greater responsibility for violations, because it is the accomplice who, from a leadership position, directs and encourages the violations, even if he or she does not personally commit the atrocity. At the same time, the fact that the perpetrator of violations acted on the orders of his Government or of a superior does not exempt him or her from criminal or other responsibility.

²⁴

UN Doc. E/CN.4/Sub.2/1997/20/Rev.1.

CHAPTER FOUR

Management and
Operational Report

TRC

**Save
Sierra Leone
From
another war.
Reconcile now,
the TRC
Can help**

Produced by the TRC Steering Committee with support
from the International Human Rights Law Group

CHAPTER FOUR

Management and Operational Report

1. Section 7 of the Truth and Reconciliation Commission Act 2000 outlined the methods the Commission should use to realise its objectives. They include the following:
Undertaking investigations and research into key events, causes, patterns of abuse or violation and the parties responsible;
Holding sessions, some of which may be public, to hear from the victims and perpetrators of any abuses or violations or from other interested parties; and
Taking individual statements and gathering additional information with regard to the matters being investigated or researched.
2. The Act provided for an operational period of twelve months within which the Commission was to achieve its objectives, with the possibility of a six months extension.
3. This chapter will review the management of these operations by the Commission, after the dissolution of the Interim Secretariat, from the statement taking (December 2002 to March 2003), investigations and hearings (April to August 2003) to the report writing (August 2003 to March 2004) and will outline the challenges faced by the Commission and the lessons learned.

The Operational Plan

4. The Project Document on the Commission, prepared by the Office of the High Commissioner for Human Rights, Geneva, envisaged an operational period of three major phases, namely: deployment, investigation and reporting, each lasting for four months. The staff requirements of the Commission were to be calibrated with the specific requirements of each operational period. The Commission was to retain a core staff of 28 while another 70 were to be recruited on short-term basis, not exceeding 6 months, depending on need.
5. According to the project document, during the deployment stage, the Commission would send staff to various localities to collect information and to review already existing testimonies. The Commission deployed 14 teams of 5 persons each to the 12 districts and 2 teams to the Western Area (which was split into Freetown East and West respectively) to collect information. The work of the teams were coordinated by regional coordinators based in each of the regional headquarter towns. Activities during this phase included the public dissemination of information on the mandate, organisation and basic structure of the Commission, from the village through to the chiefdom, district and national levels, collection and revisiting of testimonies from field investigation, collecting and collating information.

6. During the investigation stage, the project document envisaged the conduct of in-depth investigations, analysis and systematisation of the information with a view to verifying their authenticity. This would include detailed investigations of testimonies and cross checking information on human rights abuse and violations. Once the district teams had received voluntary statements, reviewed testimonies, investigations would be carried out to authenticate the violations and abuses. The Commission was also to identify and investigate the “window” or representative cases that would form the bedrock of the report. Other activities envisaged during this phase would include public hearings, reconciliation procedures and identification of the main elements of the final report.
7. The project document proposed that during the reporting stage (divided into systematisation and analysis; and final report stages), the Commission would start finalizing the content of the report, reviewing its consistency, drafting its conclusions and recommendations, organizing its archives, classifying documentation in accordance with the mandate and preparing for the presentation of the Report to the President of Sierra Leone. The systemisation and analysis stages were to require substantial interpretative and advocacy work, necessitating the creation of thematic teams to prepare the final report. Reconciliation activities were to take place at all stages of the work of the Commission, and range from local ward, village and town activities to national programmes. At the final Report writing stage, a much smaller team would be required to assist the Commissioners in reviewing the consistency of the Report, drafting its conclusions, classifying documentation in accordance with the mandate etc.
8. The Secretariat of the Commission was to function in a decentralized manner, with a network of offices at the 13 operational districts, coordinated and linked to the headquarters in Freetown through the regional offices in the Northern, Eastern and Southern provinces. The district offices were to be based in already existing offices of NGOs, consistent with the policy thrust of the Commission to support and link up with existing local structures.
9. An operational plan was developed providing for the commencement of statement taking on 4 December 2002 to 31 March 2003, while investigations and hearings would commence on 7 April 2003. The report writing would start on 1 August and would be completed before the end of the twelve months life span on 3 October 2003. The Report would then be submitted to the President of Sierra Leone later in October 2003.

Statement Taking

10. The Commission had to recruit, train and deploy 73 statement takers within a three-week deadline so that statement taking could start on 4 December 2002. The process for recruiting and training the statement takers has already been discussed elsewhere in this Report.¹

¹ See Chapter 5 of this Report: Methodology and Process

11. The training programmes were conducted in Kenema and Freetown. A major constraint was time. The Commission approved the revised operational plan on 12 November 2002. The statement taking positions had to be advertised, applicants interviewed and recruited. There was therefore only a three-week period between recruitment, training of the statement takers and their deployment.
12. The Commission faced four key challenges during the pilot phase of the statement taking. The first was the lack of staff. The two international staff members were supported by an administration and logistics officer, an accounts officer and an office assistant to supervise the 73 statement takers. The staff had to assume multiple roles to get the statement taking off the ground.
13. The second challenge facing the statement taking process was funding. UNDP was the clearinghouse for disbursing funds to the Commission and it was charged with ensuring that disbursements were in accordance with UN procurement procedures. While this process is suitable for ongoing UN programmes, it was problematic for a short-term intervention such as a truth commission, where funding needs could not be predicted with certainty. Matters were complicated by the fact that until April 2003 minor purchases had to be approved by UNDP. Delays occurred frequently in the release of funds and affected many of the activities that were scheduled to take place.
14. The third challenge was the recruitment of statement takers. Guidelines had been established for their recruitment. The Commission did not have the luxury of time to engage in an elaborate recruitment process. During the consultations the Commissioners had in all the districts between September and November 2002, the people had wanted assurances that the Commission would emphasise local ownership and participation through recruiting people to work in their respective communities. They believed that this would give confidence to prospective statement givers that those who would take their statements had the requisite sensitivity to customs and local mores. The project document on the Commission had stipulated that statement takers be recruited from NGOs and civil society organisations in the respective districts.
15. As provided for in the project proposal, the Commission relied largely on NGOs which were members of the Human Rights Committee established by UNAMSIL. It also relied on the UNAMSIL Human Rights Officers in the districts to make recommendations of potential candidates. The Commission recruited most of the statement takers who had worked for the Campaign for Good Governance in the "Mapping Project"² and some of those who participated in the research project on the conflict.³ Because of the limited time for training, the Commission conducted follow up training programmes to deal with lapses in performance.

² The preliminary investigation into the human rights abuses and violations that occurred in the conflict commissioned by OHCHR

³ Research project into the "Antecedents of the Rebel War in Sierra Leone", University Research Bureau, University of Sierra Leone" July 2002.

16. Finally, the Commission encountered tremendous logistical constraints. The Commission had contracted a car rental company to provide four wheel drive vehicles for the statement takers in the districts. Each district team reported problems with the vehicles or the drivers assigned to them. Due to the frequency of breakdowns, the Commission terminated the vehicle hire contract and diversified the range of suppliers. Items such as audio recorders and tapes were difficult to come by. The Commission was unable to procure digital video cameras for the use of the statement takers until the last month of statement taking.
17. These challenges persisted to certain degrees throughout the statement taking phase of activities. New and permanent staff began to arrive from early February, well into the statement taking exercise.
18. The Commission could not ignore the thousands of Sierra Leoneans outside the country in the statement taking exercise. It partnered with the UNHCHR in arranging for visits to refugees camps and other locations within the sub region by Commissioners and staff. UNHCR facilitated a visit to the refugee camps in Guinea by a commissioner and one staff member. This sensitisation visit was followed by the deployment of a statement taker in Guinea. The statement taker trained some of the refugees in statement taking, and together with them, took statements from many of the refugees. UNHCR paid all the accommodation and local travel costs of the statement taker.
19. The Commission attempted to partner with the Ministry of Foreign Affairs in Freetown in reaching out to Sierra Leoneans in different parts of the world, especially those in Europe and North America. The Commission had placed the statement taking protocol in a private website popular to Sierra Leoneans – www.sierra-leone.org. Sierra Leoneans could visit the site, and download the statement. After filling the form he/she was then required to send it to the nearest Sierra Leonean high commission or embassy, which would then send it to the commission under diplomatic cover, to ensure that the confidentiality requirements were complied with. Regrettably, the Commission did not receive a single statement through this process.
20. The Commission sent missions to countries in West Africa to interact with Sierra Leoneans and encourage them to make statements. It relied on the Ministry of Foreign Affairs to liaise with the respective host ministries and make facilities available to the Commission upon arrival. Regrettably the Ministry failed to notify the Sierra Leonean missions in these countries about the arrival of the Commissioners. The teams were forced to make their own local travel and other arrangements upon arrival.
21. The Commission had made adequate preparations for the security of the statement takers, including having the police service designate a liaison officer who could be contacted at any time of the day. Statement takers liaised with the police divisions in all the communities they visited. Apart from isolated cases of threats made by a few uniformed soldiers in the Eastern part of Freetown, the statement taking was conducted without incident. The chiefs and community elders were very cooperative and some of them mobilised their community members to make statements to the Commission.

22. There was limited storage space within the Commission's offices. Statements were locked up in safes and drawers pending the establishment of a database for the Commission. The coding and entry of the statements into the database continued well into the report writing phase. The Commission had to rely on the entries in the statement taking forms as most statement takers were unable to transcribe the audiotapes of their statements. Hundreds of hours of audiotapes remain waiting to be transcribed. This shortcoming seriously impacted on the ability of the researchers, investigators and report drafters to complete their tasks.
23. The database was not established until well into the statement taking exercise. This late start meant that much of the statement taking process was denied the benefits of informed feedback from the ongoing analysis of the information.

Recruitment of Staff

24. This was a problematic process for the Commission. The process of recruitment which began in November 2002 was concluded in February 2003. The recruitment was concluded with the hiring of a new executive secretary in mid February 2003. A lesson learnt from the recruitment exercise was the importance of personal interviews. Some people spoke quite well at their telephone interviews but turned out to be unsuitable for the position. A key lesson is the need to conclude the hiring of the key staff before operational activities begin.
25. The Commission did not move into its permanent offices until February 2003, one month before the end of statement taking. Most of the staff that had been recruited had no offices or equipment. They had to share computers and other office facilities.

Investigations

26. The "Mapping Report" was to serve as preliminary identification of key investigation activities for the Commission. The report was concluded in July 2002. There was not a single investigator in the employment of the Commission at that time, and up till February 2003. With the revision of the operational plan in November 2002, the investigation objectives also had to be revised. It was no longer feasible to investigate as many of the individual cases for corroboration. Furthermore, not all of the window cases would be investigated.
27. Ordinarily, investigations would be a prelude to the hearings, enabling the Commission to unearth all necessary information and materials as would make the hearings meaningful. With a revised operational plan that had specific time frames for all activities, this was no longer feasible. The investigators were only recruited in March 2003. It was not possible to tie investigations to the hearings. The investigations would simply feed into the research and underpin the report writing, especially in relation to accountability and responsibility for the violations.

28. There were to have been two international investigators. Only one had been recruited by February 2003. The post of second investigator was scrapped due to funding constraints.
29. The investigators encountered logistical constraints. They had no computers until late in April 2003. It was difficult to find vehicles that could endure the road conditions for a sustained period of time. A vehicle breakdown would mean sending a repair team from Freetown or a second vehicle while another team would leave for the provinces to retrieve the first one. This impacted on the time for the completion of scheduled investigations.
30. Some of the investigations required travel outside Sierra Leone, to Liberia, Nigeria and Guinea to investigate the roles of the NPFL and the Nigerian armed forces, and the Guinean connection to illegal arms trade with the RUF during the conflict. However there were no resources to send investigators outside the country and the plans were shelved.
31. There was some reluctance on the part of some witnesses in cooperating with the Commission's investigators. This was most notable in the Southern and Eastern provinces, the heartland of the Kamajor militia. Many people took offence that the Commission was asking questions about the movement, when they claimed they had defended democracy. Many refused to cooperate with the investigators and during the hearings would not answer questions about the internal management and operations of the Kamajors.
32. There were seven investigators in all including the head of the sub-unit. While the TRC Act did not require the Commission to investigate each statement made by a statement giver for purposes of determining their qualification for compensation or for any other remedy, the Commission would have benefited with more investigators. One option not explored by the Commission was reaching out to supporting governments, who could have seconded investigators to the Commission at the cost of the home governments. This would have allowed the commission to conclude its work within the time available while developing the skills base of the Sierra Leonean colleagues.

Research

33. Research was conducted simultaneously with investigations. Researchers were recruited in February 2003 while the head of the sub-unit arrived the following month. The first task the team faced was to prepare for the hearings. This included selection of witnesses for hearings, locating of witnesses, arranging to have them present during the hearings, and having counsellors brief them about what to expect. These activities took the whole of March and April 2003. The team also had to prepare briefing notes for the Commissioners and staff participating in the hearings.
34. The database developed by the Commission to capture statements about violations and abuses proved inadequate for purposes of hearings. Using the selection criteria for hearings already discussed in this report,⁴ the team had to

⁴ See the chapter on Methodology and Process in this Volume

develop summaries of the testimonies provided by the statement givers. It was also necessary to provide the alleged perpetrators with an opportunity to tell their own stories, and where they wished and the victims were willing, to meet with the victims and pursue options for reconciliation.

35. The hearings team developed a mini database to capture the selected statements for hearings. This meant that the team had to manually trawl through the thousands of statements using the selection criteria to identify statements suitable for hearings. These were then entered into the mini database, and efforts made to contact the statement givers. While databases are established to capture “who did what to whom, when, where, why and how,” they could certainly do more. If the database used by the Commission had a bigger section for narratives and captured those well, and the design of the forms for capturing the statistics had allowed for the inclusion of human interest angles and not just numbers and statistics, the Commission would have been able to quickly identify and select cases for hearings and saved a lot of time in addition.
36. In May 2003, the Commission organised the first research conference where the thematic themes were created and researchers assigned specific research topics. Further research conferences took place after the hearings in August and September 2003 with the participation of the Commissioners. The amount of information collected during the statement taking and from other sources was enormous. With only eight researchers, it became obvious that the October deadline for the submission of the report to the president of Sierra Leone was overly ambitious.

Hearings

37. The commencement of hearings had to be postponed by one week to 14 April 2003 to allow the Commission to make adequate logistical arrangements. The first challenge the Commission faced was to receive submissions from institutions, organisations and members of the public. As early as December 2002, the Commission had written to a select group of people from diverse institutions and backgrounds seeking submissions. From March 2003 that the first submissions began trickling in.
38. Many role-players invited to hearings did not appear or request a re-scheduling of their appearances, despite being notified well in advance of the dates and times for the hearings. The Commission had to issue subpoenas against five serving ministers and leaders of government institutions, including the Attorney General, and the chairman and secretary of the ruling political party. All this happened despite the president’s public admonition to all public officials at the commencement of hearings to cooperate with the Commission, and in spite of the fact that the TRC Act made it mandatory for all public institutions to respond to the Commission’s summons. The former head of state, Capt. Valentine Strasser who had ignored the Commission’s invitation on several occasions was also subpoenaed and compelled to testify.
39. The Commission made every effort to have the broadest possible representation at the hearings, in particular at the thematic, event specific and institutional hearings. Only the SLPP and the APC participated in all the

hearings to which political parties were invited. Although the RUPF had suffered institutional collapse, Secretary General, Mr. Jonathan Kposowa did attend and make submissions at some of the hearings.

40. Up until the hearings, the Commission did not have any equipment in its Media and Public Education Unit. The Commission had been hiring media equipment for all its public activities. For the hearings, the Commission had to procure its own equipment to minimise the cost and ensure that the right type of equipment were always available. The equipment enabled the Commission to partner with the state and private media to broadcast its hearings live, both in Freetown and in the districts via radio stations. The State television service, SLBS broadcasted a forty five minute summary of the day's proceedings each evening.
41. In the Commission's view, most of its activities were not sufficiently covered by the state media, particularly during the preparatory phase and early in the operational phase of activities. Scores of video tapes lie at the Commission's offices unaired by the state television service, which is the only TV station in the country.
42. The operational plan provided for daily hearings in Freetown for the first two weeks and then alternate weekly hearings in Freetown on thematic issues with weekly hearings in the districts. The Commissioners split up into two groups for purposes of hearings in the districts so that two district hearings could take place simultaneously. Each team departed Freetown on a Sunday for a district and spent the next five days conducting hearings in the district. The team would return to Freetown the following Saturday for another week of hearings in the city starting on the Monday.
43. There were a number of constraints to organising hearings in the districts. Hearings could only take place at district headquarters despite the commission's desire to conduct hearings in as many communities as possible, in particular, in those communities that suffered greatly during the conflict. In many of the communities, the infrastructure that could support the hearings such as community halls or school buildings had been destroyed. Accommodation facilities for the Commissioners and staff were also not available and opportunities for catering and other services such as water supply were minimal.
44. In the districts, the Commission used school halls, community and faith based facilities for the public hearings. Apart from the provincial capitals, there were limited hotel facilities in the districts. The paramount chiefs, traditional leaders, officers of government including the provincial ministers and UNAMSIL assisted the Commission in providing accommodation facilities. Many of them made their homes available to the Commissioners and staff at no cost. The military contingents, in particular, the Pakistani and the Nigerian contingents in many of the districts were generous in providing sleeping tents and catering facilities within their camps for the Commissioners and staff.
45. There was a staff support complement of 25 people for each hearings team. The Commissioners had to travel with all the facilities they would need as these

could not be obtained in the districts. They included bottled water, tables, chairs, lights, batteries, printers and generators.

46. Accessing witnesses proved problematic both in Freetown and in the provinces. Many of the witnesses had changed addresses. Some of them gave their statements when they were still displaced from their homes. Some had returned to their home communities or moved on. Others no longer wished to testify. Some were afraid that there could be repercussions to their testimony such as retaliation. The Commission was engaged in a daily process of seeking and replacing witnesses and looking for new ones.
47. Even where the witnesses were willing, bringing them to the hearings venue was another challenge. In Freetown, this was relatively easy. In the provinces, some of the witnesses lived eighty or more miles away from the district headquarters. Because the Commission arrived at the district usually a day before the commencement of hearings, it was not possible to bring the witnesses there earlier.
48. The terrain in most of the districts is rugged, made worse by the impassability of the roads due to several years of neglect occasioned by the war. On many occasions, vehicles sent out to bring witnesses broke down on the way. On occasion, the Commission had to abandon broken down vehicles in the districts because repair facilities could only be obtained in Freetown or at the provincial headquarter towns. Communication with the Commission headquarters in Freetown was impossible because most of the districts did not have telephone services.
49. Public attendance at the hearings in Freetown was poor. Apart from the opening ceremony and the hearings of high profile persons, attendance was low. It is possible that the live broadcast of the hearings on radio made attendance unnecessary for a majority of the people. The hearings recorded full houses when the Commission conducted public hearings on women and children. The Commission's appreciation goes to the members of its research staff on women and children, and to UNICEF, UNIFEM, the CFN, Voice of Children's Radio, the CPAs and other agencies which came together to make those hearings memorable.
50. Public attendance at the district hearings was significantly higher. In most of the districts, hundreds of people attended the hearings. The average daily attendance was more than 100 people. In districts with broadcast facilities, people showed up at the hearing venues clutching their radio sets to their ears, listening to the live broadcast and at the same time, being direct participants in the proceedings unfolding before them.
51. The hearings programme was a very punishing schedule that allowed the Commissioners very little time to review their notes and make full preparations for the hearings. It was embarked upon because the Commission was still uncertain that it would find the funding for an extension of its time frame. It therefore raced to complete everything before October 2003.

The Memorandum of Understanding and the Joint Implementation Committee

52. To formalise the support of the international community to the Commission, especially in relation to the management of the funds and for the provision of other support by UN agencies in Sierra Leone, a Memorandum of Understanding (MoU) was entered into between the Commission, the Government of Sierra Leone, OHCHR, UNDP and UNAMSIL. The MoU outlined responsibilities of the each of the signatories.
53. The Government of Sierra Leone would assist the Commission in acquiring offices as appropriate in Freetown and in the three regional headquarters. The Government was required to do all within its powers to facilitate the operations and functioning of the Commission and to allocate funds for its operations. The government provided office accommodation for the Commission in Freetown and the funds for the renovation of the premises. After the grant of a six month extension to the Commission, the government provided funding to pay the salaries of Sierra Leonean Commissioners and national staff members to enable them to archive the Commission's materials.
54. UNAMSIL was required to facilitate the movement and transportation of Commissioners and staff on scheduled helicopter flights on space availability basis. OHCHR was required to provide technical assistance to the Commission and assist it in the raising of funds to support its activities and operations.
55. The MoU provided that the funds raised by OHCHR shall be transferred to UNDP Freetown to be utilised for the sole purpose of meeting the costs of the Commission as set out in the project document and the costs of support services. UNDP Freetown would in accordance with the United Nations Financial Regulations and Rules administer the funds. All procurement arrangements were to be entered into in accordance with the provisions of such regulations and rules.
56. OHCHR's monitoring of its funding under the MoU would be effected through a local Joint Implementation Committee comprising of three representatives from the local donor community of UN Members States, one representative each from UNAMSIL, UNDP and OHCHR. The Committee was to be established in Freetown to ensure that the funds were utilised exclusively for the purposes of the Commission.
57. The Joint Implementation Committee was to meet once every three months to assess the status of implementation of the activities and to review the narrative and financial report for submission to OHCHR. The Joint Implementation Committee could not be constituted until July 2003 when it held its first meeting. After that meeting, no further meetings were held until the Commission completed its work
58. Finally, UNDP in addition to its assistance in the financial management was to provide technical support to the Commission in staff recruitment, placement and grading. Following this provision, all Commissioners and staff were issues with Special Service Agreement contracts by UNDP.

Report Writing

59. One of the challenges the Commission grappled with was whether it should publish a brief report of about 200 pages so as to meet the timeframe for the completion of its work. The Commission concluded that it would be doing injustice to its mandate and the people of Sierra Leone if it published a brief report. In the first place, most of the issues at the root of Sierra Leone's decline and which led to the conflict could not be thoroughly examined in a report of such length. Furthermore, Sierra Leone was still a divided country which required a thorough examination of the issues.
60. The Commission acknowledged that a commitment to canvassing all the issues in the report would require time. This would necessitate an extension of the time frame for the Commission. The Commission also needed to make up for the six months it lost during its start up phase. The government granted the Commission a six months extension commencing from October 2003.
61. While drafts of the various themes constituting the report had been produced by the end of December 2003, they were not in a publishable state. The Commission and OHCHR agreed on a remedial measure which would spill over into the New Year. A Report Rewriting Committee was established in January 2004 composed of the Head of the Information Management Unit and four other consultants, to rewrite the entire report.
62. It was further agreed that the Commission as a formal body would be wound up on 31st December 2003. All the remaining staff members of the Commission would be disengaged except essential staff to assist the consultants in rewriting the report. The Rewriting Committee would work on the drafts of the report and present a re-written report for the consideration and approval of the Commissioners in the New Year.
63. The consideration and approval of the report began on 1st March 2004 and was concluded on the 17th of the month. Early on, the Commissioners strove for consensus on the report. While there were sharp disagreements on a number of issues, the final report is the product of consensus building among commissioners.

Concluding Activities of the Commission

64. The concluding activities of the Commission included work on archiving its materials, conducting an audit of its financial management and the printing and dissemination of the report. The Commission had hired the services of a team of consultants from the University of Sierra Leone to archive the materials it had acquired. OHCHR had pledged to support the process by recruiting a consultant to assist in digitising the materials. While the materials have been archived, and are presently housed at the University of Sierra Leone on an interim basis pending the establishment of the Human Rights Commission, the final custodian of all the materials, the digitising is yet to take place. Digitising will help to protect the materials and prevent wear and tear. The Commission hopes that the materials will be digitised within the shortest possible time.

65. In accordance with the MoU, that an audit of the Commission's financial management be conducted before the conclusion of its activities, the Commission hired the firm of KPMG to conduct an audit inquiry from the establishment of the Interim Secretariat on 1st April 2002 to the winding up of its administrative structure on 31st December 2003.
66. The auditors raised a number of queries for the response of the Commissioners.⁵ It found the management of the Commission lax in complying with the procedures on a range of issues including procurement, recruitment and financial reporting. Its conclusions were that there was poor supervision of the financial management by the Commissioners.
67. The printing of the report was the final activity that engaged the Commission before it concluded its work. A number of options had been explored including printing the report in Europe, South Africa and Nigeria. The Commission settled for Ghana.
68. The Commission was remiss in not establishing a website. While the Commission had hired an IT manager who had designed a website for the Commission, the establishment of the website was not concluded before his services were terminated. Negotiations were subsequently begun with the Open Society Institute for West Africa (OSIWA) towards establishing a website for the Commission. OSIWA would recruit a consultant who would maintain the site pending final handover of the site to the Human Rights Commission.
69. The Commission was further remiss in not concluding arrangements for the dissemination for its report. Civil society partners of the Commission had been engaged in long term planning on disseminating the report. In partnership with the Human Rights Section of UNAMSIL a number of preliminary meetings had taken place to outline a dissemination strategy and plan. UNICEF also wished to use the report as an advocacy tool for its programmes and had engaged in meetings with staff of the Commission on the plans for the dissemination of the report. The Commission however failed to accept or support the offers of dissemination made by such groups and as a result no arrangements for dissemination were in place at the time of the report's publication.
70. The NGO WITNESS which received independent funding to produce the video version of the report, created a dissemination fund to assist civil society in Sierra Leone disseminate the video report. The fund includes support for TV and VCR sets and broadcast equipment so that the NGOs can engage in public education activities throughout the country. The Commission accepted an offer by WITNESS to piggyback the report dissemination on the back of the video distribution.

⁵ The audit report is attached as an appendix to this chapter of the report.

FINANCIAL REPORT

71. The preliminary budget on the Commission was \$9,998,091 million. It was produced in February 2002 by OHCHR with input from the Budget and Human Rights sections of UNAMSIL. The budget was a provisional one that was to be considered and modified where necessary by the Commissioners.
72. An appeal was launched by the High Commissioner for Human Rights on the 21st February 2002. The possible six month extension of the Commission was not considered in the preparation of the budgetary estimates. In its resolution 1370 (2001) of 18 September 2001 and 1400 (2002) of 28 March 2002, the Security Council had urged donors to commit funds to the Commission. The Commission on Human Rights had also requested assistance to the truth and reconciliation process in Sierra Leone in its resolution 2002/20 adopted at its 58th session. These calls were reiterated by a Presidential Statement issued by the Security Council after its informal consultations on Sierra Leone on 22 May 2002 in which the Council urged donors to contribute generously and provide urgently needed funds to the Commission.
73. Following the appeal, an informal donors briefing was organised by OHCHR on the 25th February 2002. The majority of the donors in attendance displayed a keen interest in the activities of the Commission despite concerns about the limited time available to implement a large number of activities. However no firm commitments were received from the donors.
74. Another donors briefing was organised by OHCHR on 5th June 2002. The donors strongly urged a reconfiguration of the budget with indications of what could be done with minimal funds. The general consensus among the donors was that the budget was over ambitious. They recommended a revision of the budget since it was unlikely that OHCHR would raise the US\$ 9.9 million required under the budget. As at that date, only the United Kingdom had made available some funds for activities related to the Commission, amounting to US\$ 502,873. Other donors indicated their interest in contributing, but had not made pledges in writing. This was one month prior to the launch of the Commission.
75. The Commission revised the budget to \$6,587,668.00. The budget was realigned to meet the operational exigencies at that time. Despite the revision of the budget in 2003, pledges received amounted to only US\$ 3.7 million by the middle of the year. In his appeal, the High Commissioner lamented that the continued operations of the Commission required that donors respond to its funding requirements.

Highlights of the revised budget

76. Considerable efforts were made to reduce the budgetary requirements of the Commission whilst at the same time maintaining a credible proposal which reflected the minimum requirements for an optimal and effective Commission. Changes were made in a number of areas.

Composition of staff

77. Reductions were made in the total number of staff from 135 to 98 (that is, 18 international and 80 national staff) and in the number of full-time staff. This brought down the total staff costs to US\$ 3,131,766 from US\$ 5,958,183. These reductions impacted on travel, recruitment, health insurance, office space and communication equipment.
78. The initial requirements for 188 field staff for four months was substituted with a proposal for 74 field staff to be sub-contracted through local NGOs to assist with data collection and collation. The remuneration for the staff during the period of their work was provided by the Commission and the concerned NGOs on a cost-sharing basis. The cost-sharing arrangement not only reduced costs but also provided for the training and skill development of staff affiliated to local groups.
79. The initial provision of consultants to allow the Commission to recruit expertise in specialized areas where it may be deficient was eliminated. The proposed cumulative remuneration for local staff was reduced to 38% (US\$ 1,160,798) of the original estimate (US\$ 3,084,050) through a reduction in salaries. The initial salary estimate based on the local consultancy scale was substituted with the common salary scale for local staff developed by UNDP Freetown.

Operational structure of the Commission

80. The operational units of the Commission were reduced by merging the legal and reconciliation units and submerging the research and investigation units as sub-units under a new information management unit (IMU). The IMU would be responsible for organising and implementing the process of collecting, collating and analysing information. In the revised format, instead of six operational units there would be four such units (i.e. administration and programming; public information and education; legal and reconciliation; and information management).

Subcontract services

81. The cost of rental, maintenance and utilities for premises was reduced by eliminating the provision for rental of a villa for Commissioners and three provincial offices since the Government was expected to provide these facilities. The cost of rental of vehicles increased to cover the expenses incurred during the deployment phase and due to the reduction in the number of vehicles to be purchased.
82. The cost of contractual services increased because an additional provision was made for forensic investigation (US\$ 30,000), security of documents and protection including communication software with encryption capabilities, information backup devices and information technology security expertise. The provision for forensic expertise will provide the Commission with the required expertise to follow-up on the recommendations of a forensic team commissioned by OHCHR to conduct a preliminary assessment of mass graves and execution sites in Sierra Leone.

83. Public information production costs increased due to the inclusion of expenses relating to the maintenance of portable recorders and satellite receivers to be used during the public sittings of the Commission.

Seminars

84. An additional provision of US\$ 14,000 was made for seminars during the preparatory period to support strategic planning, policy development and capacity building workshops for staff of the Commission and their implementing partners in crucial areas such as research methods, data analysis, investigation methods, information verification, gender sensitivity and psycho-social and other support structures. These activities were not carried out because of the administrative crisis in the Commission.

Procurement

85. With a reduction in the number of staff, the procurement requirements were cut in terms of the number of vehicles, office equipment, data processing and communications equipment and miscellaneous equipment and generators. The number of vehicles was reduced by two thirds bringing the total cost to US\$ 178,825 from US\$ 428,950. UNAMSIL made available to the Commission the use of its shuttle, taxi-despatch and scheduled helicopter services to the Commission at no additional costs.
86. Equipment maintenance, spare parts, supplies and communications increased because of the inclusion of the costs for mobile telephone services to augment the existing and largely inefficient fixed-net telephone services.

Miscellaneous

87. The provision for miscellaneous services increased because the budgeted adopted a 5 per cent flat rate of total expenses in addition to staff medical costs and bank charges as opposed to the previous fixed miscellaneous rate of US\$ 100,000 in addition to other costs including bank charges, medical costs and official hospitality.

The statutory preparatory period

88. An additional provision was made for the sum of US\$ 297,654 to support the operational requirements of the Commission during the statutory preparatory period. This provision deviated from the earlier proposal which provided for personnel only on the assumption that most of the work of the Commission during this period would be in its Freetown office. The additional provision responded to the objectives of the Commission to immediately commence implementation of its policies and anticipate some of its future activities.
89. The budget suffered one more revision in 2003 to \$4,167,033 for its operational activities. Many of the activities proposed in the amended budget could not be implemented. The activities had to be redesigned to meet the funding available.

Conclusion

90. The planning of the budget of the Commission was on the optimistic expectation that the international community would provide the funding required for all activities. This proved to be an unrealistic expectation. The final budget was a bare bones budget. The Commission struggled to implement its activities as a result of inadequacy of funding and because of delays experienced in the releasing of funds. Nonetheless the Commission is satisfied that it was able to carry out important activities such as statement taking, public hearings, research and investigations which enabled it to deliver a credible final report to the people of Sierra Leone. This was accomplished largely due to the dedication and tireless efforts of the staff and Commissioners.

APPENDEXES

APPENDIX ONE: DONORS TO THE COMMISSION

1. Canada
2. European Commission
3. France
4. Germany
5. Ireland
6. Luxembourg
7. Netherlands
8. Norway
9. Sweden
10. Switzerland
11. United kingdom
12. United States of America

APPENDIX TWO: THE AUDIT REPORT



*The Truth and Reconciliation Commission
Financial and Systems Audit
for the twenty-one months period ended 31 December 2003*

I. Introduction and Terms of Reference

Introduction and Background

The Truth and Reconciliation Commission was established by an Act of Parliament on 2 March 2000 after a decade of armed conflicts in Sierra Leone, and the Lomé Peace Agreement on July 7 1999. The Lomé Agreement was part of the other mechanisms put in place for the consolidation of peace in Sierra Leone. The Commission started an interim phase in February and March 2002 and then entered into a preparatory period in June 2002 and an operational period which was to start in October of the same year but which actually commenced in March 2003.

The Truth and Reconciliation Commission had the mandate to create an impartial historical record of violations of human rights and humanitarian law related to the armed conflict in Sierra Leone, to address impurity; to respond to the needs of victims; to promote healing and reconciliation and to prevent a repetition of the violation and abuses suffered.

The Commission is funded by Donor countries through appeals made by the United Nations Office of the High Commissioner for Human Rights (OHCHR), and also received a Grant of about Le 428 million from the Government of Sierra Leone.

The Truth and Reconciliation Commission is an independent organisation comprised of seven Commissioners (four Sierra Leoneans and three foreign nationals), who are responsible for overseeing a work force of approximately sixty (60) permanent staff and forty five (45) temporary contract workers. All but 14 of the staff are nationals of Sierra Leone.

The Commission's operational period started on 5 October 2002 and is scheduled to end on 4 October 2003, however the act allows a six months extension in the event that the Commission needs more time to conduct its affairs. The Commission is also expected to submit a final report of its work to the President of the Government of Sierra Leone, at the end of its operations.

Terms of Reference

Our terms of reference were discussed at the start of the engagement and the following were interpreted to be the key requirements of the audit:

- to audit the enterprise in accordance with International Auditing Standards so as to express an opinion on the financial affairs of the Commission.

To ascertain that:

- the accounts and financial statements have been kept and prepared in accordance with generally accepted accounting principles;



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- the accounts are in compliance with Part IV of the Truth and Reconciliation Commission Act;
- to recommend for disallowance of any item of expenditure which is contrary to the Truth and Reconciliation Commission Act;
- to confirm that expenditure is incurred with regard to economy, efficiency and effectiveness;
- to ascertain that all the assets of the company have been taken on charge and properly safeguarded;
- to submit the audit report i.e. management letter and audit opinion to the Government and other contributors to the fund of the Commission.



2. Methodology

We conducted a financial and systems audit of the Commission's financial affairs for the twenty one months ended 31 December 2003, in two visits, one visit in July/August 2003 and the final visit in December 2003 / January 2004. The audit was carried out in accordance with International Standards on Auditing. Those standards require that we:

- plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement;
- examine on a test basis evidence supporting the amounts and disclosures used and estimates made by the secretariat management;
- review internal controls and the control environment within which the management operates.

The following individual components of internal control were examined during our interim visit:

1. review of the control environment;
2. management's integrity, operating style and independent review;
3. the organisation structure;
4. the extent of management's delegation of responsibility and authority within the organisation;
5. design of personnel policies to ensure the competence of staff.

In addition we reviewed the following specific areas:

- treasury functions and financial management issues;
- property, plant and equipment and effectiveness of safeguard controls over their uses;
- effective use of the Commission's resources;
- implementation of decisions taken in management meetings;
- compliance with the Memorandum of Understanding with UNDP.



During the final visit, we followed up on matters which were raised during the interim visit to obtain assurances that the lapses identified have been corrected and that they did not lead to loss of resources.

We also compiled the Financial Report of the Commission for the twenty-one months period ended 31 December 2003 and with the available resources at the period end.

The outcome of our review has been included in the body of this report.

The drafts of the various reports (both interim and final) were discussed with the Secretariat. Their comments were obtained and included in the report. Later on the Commissioners provided their own comments on the report. For completeness we have included both comments in this final document and indicated whose comments they were.

The interim report issued on this assignment has also been included as an annex to this report.

3. Executive Summary

This section of the report summarises the salient issues highlighted during the course of the financial and systems audit of the Truth and Reconciliation Commission for the twenty-one months period ended 31 December 2003, details of which are included in the main body of the report.

The Commission expended \$ 4,080,242 from funds received from the United Nations Office in Geneva, through the UNDP Office in Sierra Leone and Le 689,337,045 received from the Government of Sierra Leone, UNDP and others.

Organisation Structure

The administrative and financial functions were being carried out by the Commissioners instead of the Secretariat. This resulted in inadequate segregation of duties, a vital arm of internal controls. It was therefore not possible for the Commissioners to independently review the financial and administrative functions of the organisation as a whole.

Budget and Accounting Functions

The Commission did not comply with Section 13(2) of the Truth and Reconciliation Commission Act 2000 as it failed to prepare quarterly statement of accounts to indicate monthly expenditure, and provide data for proper budgetary control. The above would have assisted the Commission in ensuring economic and efficient use of its resources.

Budget Utilisation

The Truth and Reconciliation Commission Act 2000 required that the funds of the Commission should be utilised only on the basis of the budget prepared under Section 5(3) of the Truth and Reconciliation Commission Act 2000 and accordingly shall keep proper books of account and other records in relation to the operations of the Commission. Funds were generally used on budget lines not previously provided for, albeit with authorisation from OHCHR and at times funds for budget lines already exhausted were provided by reallocating the budget from lines with apparent surplus. This may mean overspending in some budget lines or under-budgeting in others in the first instance.

Vehicle Hire

The Commission still had about 13 vehicles on hire, even though the use of these was limited when the Commission entered the report-writing phase in September 2003. An amount of approximately \$ 34,000 per month was being spent by the Commission on car hire.



Cash Management

Bank reconciliation statements were not being prepared and reviewed by independent personnel. We noted that almost all expenditure from the petty cashbook were not supported with any form of third party documentation. Generally controls over cash management at the Commission appeared weak.

Filing and Archiving

There was no proper filing and archiving system at the Commission. This led us to move into the UNDP office to compile financial documents before commencing our final audit review.

Final visit December 2003/ January 2004

No new issues arose during our visit in December 2003 and January 2004. We however reviewed the status of previous findings and have included that as section 12 to this report.

4. Review of the Memorandum of Understanding

As part of the requirements for the audit we reviewed the Memorandum of Understanding signed between the Government of Sierra Leone, The Truth and Reconciliation Commission, the office of the United Nations High Commission of Human Rights, the UNDP in Sierra Leone and UNAMSIL. The purpose of the review was to obtain a professional understanding of the document to enable us determine compliance with the various covenants in the memorandum.

There was compliance by all parties with the exception of the following:

- (i) The Commission did not take advantage of the tax exemptions provided by the Government of Sierra Leone. This resulted in inefficiencies in procurement which in turn led to financial losses by the Commission.
- (ii) the UNDP as managers of the funds did not review the procurement procedures to ensure full compliance with United Nation Financial Regulations and Rules. The amount contracted by the Commission and paid for by UNDP in respect of car hire was above the market price.
- (iii) there was no evidence that a Joint Implementation Committee to ensure that funds are utilised exclusive for the purpose of the activities of the TRC was set up. If it was set up properly and was meeting in accordance with its mandates the lapses mention in (i) and (ii) above may have been avoided.
- (iv) the UNDP should have supported the TRC in staff recruitment, placement, and grading through a Committee. It would appear that the UNDP took over the whole process of recruiting etc., to the extent that the TRC does not have copies of contract documents for its staff. At a latter stage coders and transcribers were recruited by the TRC without reference to the Committee. As a result this category of staff was not issued special service agreement contract by UNDP.

Secretariat's comments

This claim could have been correct if the Commission had time to place in orders and wait for shipment. The Commission had a mandate of 18 months to accomplish its tasks; this period was not only short but was rather interrupted by some problems that developed during the preparatory phase. The operational phase that was due to have started in October was delayed till November. In view of this fact the Commission had less time at its disposal and hence could not place orders for supply of items from overseas suppliers. However, the supply of some items was crossed-checked with overseas suppliers, but delivery time and cost did not make them competitive.



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UN procedures on procurement centers around the concept of competitive bidding that is the raising of three proforma invoices for the purchase of items worth more than two thousand dollars (US\$2,000). This information is then displayed on a matrix using average weighted method to show the supplier with the most competitive price.

5. Strategic Management

5.1 Organisation Structure

Observation

The secretariat is supposed to be responsible for administrative and financial management whilst the Commissioners should be implementing the Project. The Commissioners were managing the bank account without any input from the secretariat. The Commissioners were also engaged in the day-to-day administrative matters as well as recruitment and termination of employees.

Implication

As a result there is inadequate segregation of duties, which is a vital arm of internal controls. The responsibilities and powers of the secretariat are being duplicated. This also leaves supervisory and accountability roles intertwined and with no clear distinction. Consequently in the event of anomalies there will be no one to take direct responsibility for these.

Recommendation

We recommend that in the implementation of future project of this nature the secretariat be duly empowered to carry out its administrative and financial functions. We also recommend that the TRC accounts be maintained by the secretariat as well as all finance and administrative functions such as recruitment and termination till the end of the Commission. These functions could then be monitored by the Commissioners to ensure completeness and accuracy of reporting by oversight review.

Benefit

The Commissioners and the secretariat will be able to direct the activities of the Commission in a focused manner. It would also be in a position to achieve the target it has set itself in areas of service delivery.

Where the secretariat is granted the authority to manage the administrative and finance functions of the organisation, the Commissioners will then have the opportunity to carry out a periodic review of performance.

Secretariat's comments

We would advise that you distinguish GOSL input from that of the OHCHR. While the Government of Sierra Leone funds are managed by the Commission, OHCHR funds are managed by UNDP. Budgetary allocations are regulated in Geneva and managed by UNDP. The Secretariat makes requests as and when it needs funds through the UNDP. All payments are prepared and issued by UNDP. The Secretariat is not a signatory to any of the accounts. The Government accounts

are solely managed by the Commissioners. The Chairman or his Deputy and another Commissioner are signatories to the accounts. We however note your recommendations and are aware that these issues need to be fully addressed.

Commissioners' comments

No Commissioner has been engaged in performing daily Administrative duties of the Commission's secretariat. Commissioners have on very few occasions had the responsibility of deliberating on administrative issues brought before them by either the Executive Secretary or aggrieved staff for arbitration in cases of disputes.

For example, after the Public Hearings, the Commission also in accordance with directives from OHCHR Geneva, had to drastically reduce her personnel to cut costs by retaining only staff required for the report writing stage of the Commission. When the above was done, one or two staff especially international felt very aggrieved by the termination of their contracts, which were to end 31 October instead of July or August 31, 2003. The Commission had to listen to the grievances and thus ended up endorsing the termination of the contracts, though prematurely of some national and international staff as the financial exigencies of the Commission demanded. This action was made imperative by the dwindling financial resources of the Commission.

5.2 Budget and Accounting Functions

Observation

Section 13(2) of the Truth and Reconciliation Commission Act 2000 stipulates that the commission shall keep proper books of account and other records in relation to the operations of the Commission and shall prepare quarterly a statement of accounts in a form designed to:

- indicate monthly expenditure;
- provide data for up to date budget control based on the management information system of the Commission; and
- ensure correct use of funds of the Commission;

The above provision was not complied with as no quarterly statement of accounts was prepared.

Implication

As the above provisions of the Act was not complied with, the financial and accounting affairs of the Commission was therefore not subject to any proper monitoring mechanism and constant reviews which may impact on the integrity of the system.



Recommendation

We recommend that the provision of legislations be complied with. This will enhance proper reporting and monitoring mechanisms over the funds of any similar Commission on a timely basis.

Benefit

Proper book of accounts will be maintained which will aid supervision and assist in making decisions, with financial implications.

Secretariat's comments

While this is correct, the Secretariat is handicapped because of its inability to fully take charge of these funds. How can the Finance Officer get such statements from the banks when the accounts are in the charge of the UNDP and the Commissioners? Ideally and as recommended by you, the Secretariat ought to be in full charge of all funds meant for the Commission, supervised by both UNDP and the Commission. We also recommend that the present Finance Unit be strengthened possibly with an Assistant if the unit is expected to carry out any additional tasks.

Commissioners' comments

All financial transactions of the Commission are done in accordance with the UN financial rules and regulations as provided in Section 5 (3) of the TRC Act 2000. This service is supervised by the UNDP, which is also involved in all Commission financial transactions.

The Commission had developed a financial information management system that adequately provides information on monthly and quarterly basis.

KPMG's further comments

Keeping proper books of account does not only imply taking custody of cash and bank accounts. Details of expenditure made on behalf of TRC by UNDP should be maintained at TRC and used to prepare a complete set of accounts.

6. Budget Utilisation

Observation

Section 13 of the Act stipulates that the funds of the Commission shall be utilised only on the basis of the budget prepared under Sub section 5(3).

Although an approved budget exists, expenditure was not fully in compliance with the amounts approved. Funds were moved across approved budget lines from areas of surplus to fund areas of deficit especially for staff cost.

Implication

This may imply that the budget preparation is not carefully done, as a result of the Commission not being able to articulate its support requirements.

There is the risk that unrealistic budgets may have also been presented to donors.

It is also possible that the commission is overstaffed i.e. has employed more personnel than budgeted for in each period and also funds may not have been utilised economically and efficiently.

Recommendation

We recommend that realistic budgets are prepared based on properly articulated needs.

We also recommend that as the Commission enters the report writing phase a work force of 110 may not be realistic, as most of their functions have become redundant from our assessment of the various job descriptions. Funds should also be used efficiently and economically.

Benefit

Proper budget preparation and budgetary control will ensure efficient use of funds.

Secretariat's comments

It is correct that we move across budget lines. This is particularly due to the perennial funding difficulties of the Commission. On the advice of the OHCHR in Geneva, the managers of the budget, we are advised to move particularly slow lines in the budget. It is true that unrealistic budgets have been presented. This is due to the inability of the OHCHR to mobilise adequate funds for the operation of the Commission. The original budget was USD 6.5m but this had been revised to USD 4.5m while the work plan has remained the same.

We are presently urging the government to help with some additional funds to meet the above funding gap.

7. Vehicle Hire

Observation

The Commission entered the report writing phase in September 2003 and as such trips up country for statement taking are infrequent. Although this is the case, the Commission still had about 13 cars on hire which cost an average of \$ 34,000 a month.

Our concerns are:

- i. We have not been able to determine who the users of the vehicles are.
- ii. The average amount of US\$ 2,000 a month per car appears excessive given the state of the vehicles and the normal market price for car hire in Sierra Leone.

Implication

The economic and efficient utilisation of the funds of the Commission is again in question.

Recommendation

We recommend that the total number of hired vehicles be reduced and the official Truth and Reconciliation Commission vehicles utilised. We understand that the remuneration and DSA given to staff covers their transportation.

Benefit

This will ensure that the resources of the commission are judiciously utilised.

Secretariat's comments

The number of vehicles on hire at a particular time relates to the volume of work of the Commission. While you are correct that the Commission had completed its hearings phase and that the number of vehicles should have been reduced, we hasten to report that the number was reduced from 25 to 10 vehicles in July 2003. This figure does not include the Commission's 3 vehicles. Also the Commission has not completed its missions in the provinces. Presently the research, investigation and reconciliation units are regularly up the provincial centers identifying mass graves and perpetrators who have only recently agreed to cooperate with the Commission. We had recently ventured to rent vehicles as and when required but to our surprise the charges are astronomical. Daily charges range from USD80 to USD125. The current rate paid per month is therefore reasonable. We have successfully revised the rate of USD1,800 per month with effect from September. We plan to reduce the current rented fleet as we wind up the activities in the coming months. Currently we have 6 rented vehicles and these will be reduced to 3 at the end of the current month. If there is urgent need for additional vehicles not exceeding one month, we shall bring in a vehicle or 2 for the particular exercise.

8. Cash Management

Observation

1. The bank cash book and petty cash book are not properly maintained;
2. Controls over the management of cash are inadequate as there is no evidence of independent review or supervision of the finance functions of this department;
3. Petty cash transactions are not supported with any form of third party documentation (bills, receipts etc).

Implication

Some receipts and payments may have been omitted. Poor controls over cash may lead to losses in the Commission.

Recommendation

Cash control is of prime importance, receipts and payments should be recorded promptly and accurately.

Our recommendations are:

1. Bank reconciliation statements should be prepared at least monthly, and reviewed by an independent personnel;
2. All expenditures from the petty cash should require a voucher signed by a responsible official other than the person who has custody of the petty cash;
3. The level and location of cash floats should be clearly determined;
4. Vouchers together with the attachments should be produced before the cheque is signed for reimbursement;
5. Periodically the petty cash and bank cash book should be reconciled by an independent person.

Benefit

This will result in effective monitoring and recording of cash and bank balances, as a continual build up of reconciling items is avoided and improving controls over bank balances.

Secretariat's comments

Bank reconciliation is a routine task, which as stated earlier, will mean that we are given the authority to manage the accounts in the various banks. Regarding petty cash we concede that we have not been vigilant in the compilation of vouchers and receipts, in view of the nature and volume of the expenditures. For instance almost all requests are for items that are obtained in the local market places and during the district hearings incidental requests are made that require urgent attention. Also



until recently claimants are mainly service providers for instance electricians, plumbers or cleaners who are called in to carry out such menial jobs. Invariably some of them do not have proper receipts. We however note this and measures are now in place to address this anomaly. We have also decided that in view of the fact that the Commission activities are coming to an end, we have agreed to suspend petty cash accounts with immediate effect.

Bank reconciliation statements have been prepared for the Government contribution to the Commission.

There is nothing like cash been kept at the office of the Finance Officer. The Commission's cash is been managed by UNDP. The Government contribution to the Commission was only meant for the renovation of the office block although these funds proved to be helpful when the Commission got caught up in financial difficulties.

Please note that the Executive Secretary or the Chief of Administration and Programming signed all expenditures from the petty cash.

Commissioners' comments

It is however common knowledge to all Commissioners that the Chairman and one other Commissioner serve as signatories to the Truth and Reconciliation Commission local account in Freetown. The erstwhile Interim Executive Secretary served as signatory 'B' to the account. This arrangement is to ensure accountability on the expenditure of the fund. The Commission inadvertently did not continue with this arrangement when the current Executive Secretary came on board.

Thus apart from the above arrangement, no Commissioner is in any way even aware of not to mention been involve in the financial transactions of the Commission by any means.

9. Fixed Assets

We physically verified some of the fixed assets purchased by the Commission. These assets are listed in appendix I.

We were unable to identify the assets listed in appendix II.

The \$ 516,221 spent on fixed assets agree with the records maintained at the TRC. However in the listing, there are certain expenditure which although relate to maintaining the fixed assets, and bringing them to their present state and conditions, are not in themselves fixed assets and will not be physically verified.

These include:

Date	Description	Cost \$
July 2003	Data processing and Communication equipment	1,061.11
July 2003	Improvement cost, spare parts, supplies equipment	11,056.82
August 2003	Vehicle maintenance, fuel insurance, spare parts	1,255.65
August 2003	Data processing and Communication equipment	21,216.67
August 2003	Improvement cost, spare parts, supplies equipment	13,556.79
September 2003	Procurement of vehicles	764.44
September 2003	Improvement cost, spare parts, supplies equipment	333.33
October 2003	Procurement of vehicles	9,640.64
October 2003	Office furniture	360.00
October 2003	Data processing and Communication equipment	1,527.22
October 2003	Improvement cost, spare parts, supplies equipment	8,506.53
November 2003	Vehicle maintenance, fuel insurance, spare parts	5,922.67
November 2003	Data Processing and Communication equipment	7,173.63
November 2003	Improvement cost, spare parts, supplies equipment	7,731.60
December 2003	Vehicle maintenance, fuel insurance, spare parts	3,291.43
December 2003	Improvement cost, spare parts, supplies equipment	9,443.89
October 2002	Vehicle maintenance, fuel insurance, spare parts	12,951.99
		<u>115,794.41</u>



The summary of the assets purchased is:

	S
Appendix I - Assets that were physically verified	388,464.60
Appendix II - Assets that were not physically verified	11,962.43
Non capital expenditure on fixed assets	115,794.41
Total assets purchased by the Commission	516,221.44

Subsequent to our verification some already verified assets were reported missing or damaged by the Secretariat as follows:

Damaged

One Airconditioner

Missing

Two Airconditioners

We have not been able to review any documentation relating to the lost or damaged items. We therefore had to rely on representation made by the Secretariat staff. We believe however that damaged items should be retained in its form and handed over as part of the assets. They should not be disposed of before handing over.

10. Filing and Archiving

Observation

The Commission does not have a proper filing and archiving system and this impedes the speedy flow of information.

Copies of the supporting documents for payments submitted to UNDP are mostly not maintained by TRC, information relating to staff are not filed in any order, and as a result we had cause to change location for our field work and became involved in compiling records for the TRC prior to audit.

Implication

It will be difficult to trace documents or even notice if they are missing. The risk of omission of transactions is high.

Reporting and decision making will be flawed if information provided is incomplete or inconsistent.

Recommendation

We recommend that the Commission put all of these records in proper filing order for ease of reference and reporting.

Benefit

Proper maintenance of records and enhanced management decision based on available information.

Secretariat's comments

In order to address this anomaly, the Commission has engaged a Documentalist and hopefully in a few weeks the problems of filing and archiving will be addressed. We are presently undertaking compilation and copying all documents in the UNDP to update our files and archives. The Commission's filing is now in good shape.



11. Final Resources

At the end of the Commission the following resources were available:

Cash at Sierra Leone Commercial Bank	Le 8,260,864
Cash held by UNDP on behalf of TRC	USD 11,480
Fixed Assets- As listed in the appendices	

12. Summary of Matters Previously Raised

- Key:** X - Issue still to be resolved
 P - Issue in the process of being resolved/situation improving
 Y - Matters resolved

- 1) Organisation Structure
- 2) Staff Contracts
- 3) Budget and Accounting functions
- 4) Fixed Assets
- 5) Budget utilisation
- 6) Vehicle Hire
- 7) Cash Management
- 8) Filing and Archiving

No.	Matters Previously Raised	Status	Comments
1.	<p>Organisation Structure</p> <p>The administrative and financial functions were being carried out by the Commissioners instead of the Secretariat.</p>	X	The Commissioners have retained control over the Government contributions to the Commission leaving the OHCHR funds to be managed by both the Secretariat and the UNDP.
2.	<p>Staff Contracts</p> <p>There were fifty- six Staff members with no contracts document.</p>	Y	The Commission retained contract documents for all staff during the extension period. We were able to sight contract documents for the staff earlier reported to be without contract, at the UNDP office.
3.	<p>Budget and Accounting Functions</p> <p>The Commission did not comply with section (13(2)) of the Truth and Reconciliation Commission Act 2000 as it failed to prepare quarterly statement of accounts to indicate monthly expenditure, and provide data for proper</p>	P	The Budget officer maintains cash and petty cash books, which capture expenditure. There are no third parties supporting documentation for petty cash expenditure. It was also noted that petty cash payments were made to

No.	Matters Previously Raised	Status	Comments
	This will enhance proper reporting and monitoring mechanisms over the funds of the commission.		Security Agency, purchase of spare parts for generator, DV Cassette and tape recorders amongst others with no form of documentation available (like proforma invoice receipts etc).
4.	Budget Utilisation Funds of the commission should be utilised only on the basis of the budget prepared under Section 5(3) of the Truth and Reconciliation Act 2000 and accordingly proper books of account and other records in relation to the operations of the Commission should be kept.	X	Realistic budgets were not prepared, as there were recurring deficit for some budget lines.
5.	Fixed Assets Several assets of the commission could not be physically verified during the interim audit. Also the fixed register maintained did not include the costs of some of the assets and some assets were denoted not supplied.	P	Some assets are still missing (unverified).
6.	Vehicle Hire The commission hired about 13 vehicles, even though the use of these is quite limited, as the Commission has now entered the report writing stage.	P	The hired vehicles have been returned and the official Truth and Reconciliation Commission vehicles would be handed over as part of fixed assets.
7.	Cash Management Bank reconciliation statements were not prepared and reviewed by independent personnel. We noted that almost all expenditure from petty cash were not supported with any form of third party documentation. Generally controls over cash management at the commission appear weak.	P	The Budget officer prepares quarterly and monthly expenditure reports, which indicates monthly expenditure incurred by the commission, but there are no evidence of proper supervision.



No.	Matters Previously Raised	Status	Comments
8.	Filing and Archiving The Commission does not have a proper filing and archiving system and this impedes the speedy flow of information.	X	The Commission should ensure that proper filing of records must be in place as part of the handed over package.

13. Expenditure financed by UNDP from funds received from OHCHR in Geneva,

Funding received by UNDP from OHCHR in Geneva, on behalf of TRC.

Date	OBMO ID No.	For the fifteen months to 30 June 2003 \$	For the six months to 31 December 2003 \$	For the twenty-one months to 31 December 2003 \$
Brought forward		-	543,933	
12.03.02	15226	102,000		102,000
14.05.02	15757	230,000		230,000
30.07.02	16350	112,000		112,000
04.09.02	16664	627,000		627,000
31.12.02	17704	109,900		109,900
13.03.03	18425	1,008,050		1,008,050
05.05.03	21045	182,850		182,850
28.05.03	21298	119,480		119,480
13.06.03	21298	334,189		334,189
07.07.03	22026	254,592		254,592
04.08.03	22300		269,313	269,313
09.09.03	22718		742,348	742,348
		3,080,061	1,555,594	4,091,722
Staff costs		1,482,071	835,395	2,317,466
Travel		104,605	228,377	332,982
Rental, Cleaning, Security, Repairs and Maintenance		344,079	200,139	544,218
Public Information Costs		119,605	8,058	127,663
Training and Seminars		48,496	24,340	72,836
Furniture and Equipments		399,093	117,128	516,221
Miscellaneous		38,179	130,678	168,857
		2,536,128	1,544,114	4,080,242
Amount held by UNDP on behalf of TRC		543,933	11,480	11,480

14. Fund Accountability Statement

Funding received from the Government of Sierra Leone and other Donors on behalf of TRC.

	For the fifteen months to 30 June 2003 Le	For the six months to 31 December 2003 Le	For the twenty-one months to 31 December 2003 Le
Resources			
Balance brought forward		20,612,365	
Government of SL	428,219,403	-	428,219,403
UNDP	198,031,262	26,987,500	225,018,762
Donations and others	15,841,944	500,000	16,341,944
UNDP petty cash	11,250,000	16,767,800	28,017,800
Total resources	653,342,609	64,867,665	697,597,909
Expenditure			
Rehabilitation of Secretariat	278,757,325	9,051,182	287,808,507
Salaries and staff costs	283,232,047	29,450,800	312,682,847
Office running costs	70,740,872	16,102,319	86,843,191
Refund to UNDP	-	2,002,500	2,002,500
Total expenditure	632,730,244	56,606,801	689,337,045
Cash and Bank Balance	20,612,365	8,260,864	8,260,864

APPENDIX THREE: THE REVISED BUDGETS

Assistance to the Sierra Leone Truth and Reconciliation Commission

Estimated budget in US\$

Revision I (March 2002)

DESCRIPTION	TOTAL		Preparatory period (3 months)		2002/2003 (12 months)	
	US\$	US\$	US\$	US\$	US\$	US\$
PERSONNEL						
19 International staff	1,433,620		183,833		1,249,787	
116 National staff	3,084,050		160,810		2,923,240	
sub-total international/national staff	4,517,670		344,643		4,173,027	
Consultants (3 consultants for two months)	61,533				61,533	
Field staff (188 staff for 4 months)	1,207,480				1,207,480	
Official travel	13,900				13,900	
Local travel of staff	10,000				10,000	
Travel on appointment and separation	129,600				129,600	
Overtime	18,000				18,000	
Component sub-total	5,958,183		344,643		5,613,540	
SUBCONTRACT						
Premises rental, maintenance & utilities	525,439				525,439	
Equipment rental	33,600				33,600	
Security services	60,000				60,000	
Audit services	36,330				36,330	
Contractual services	73,500				73,500	

Cleaning services	16,200		16,200
Public information production costs	56,000		56,000
Component sub-total	801,069	-	801,069
TRAINING	45,850	-	45,850
PROCUREMENT			
Office furniture/equipment	371,565		371,565
Data processing & communication equipment	635,263		635,263
Equipment maintenance, spare parts, supplies & communications	228,463		228,463
Procurement of vehicles	428,950		428,950
Vehicles maintenance, fuel, insurance, spare parts	105,248		105,248
Procurement of miscellaneous and security equipment	54,100		54,100
Procurement of miscellaneous supplies	12,000		12,000
Component sub-total	1,835,589	-	1,835,589
MISCELLANEOUS	207,200	-	207,200
PROJECT TOTAL	8,847,891	344,643	8,503,248
<hr/>			
<i>Programme support costs (13%)</i>	<i>1,150,200</i>	<i>44,800</i>	<i>1,105,400</i>
<hr/>			
GRAND TOTAL	9,998,091	389,443	9,608,648

Assistance to the Sierra Leone Truth and Reconciliation Commission

Estimated budget in US\$
Revision II (August 2002)

DESCRIPTION	TOTAL	Preparatory period (Three months)	2002/2003 (12 months)
	US\$	US\$	US\$
PERSONNEL			
7 Commissioners (4 national, 3 international)	840,000	168,000	672,000
15 international staff	727,208	78,000	649,208
76 national staff	680,798	91,008	589,790
74 field staff	148,000	-	148,000
sub-total staff	2,396,006	337,008	2,058,998
DSA (international staff)	593,460	75,600	517,860
Official travel	23,900	-	23,900
Travel on appointment and separation	118,400	32,000	86,400
Component sub-total	3,131,766	444,608	2,687,158
SUBCONTRACT			
Premises rental, maintenance & utilities	443,911	84,072	359,839
Equipment rental	210,600	9,000	201,600
Security services	60,000	-	60,000
Contractual services	146,500	43,000	103,500
Cleaning services	18,600	2,400	16,200
Public information production costs	67,600	-	67,600
Component sub-total	947,211	138,472	808,739
TRAINING	45,850	-	45,850

SEMINARS	14,000	14,000	-
PROCUREMENT			
Office furniture/equipment	278,764	35,622	243,142
Data processing & communication equipment	518,100	58,300	459,800
Equipment maintenance, spare parts, supplies & communications	273,497	32,950	240,547
Procurement of vehicles	178,825	-	178,825
Vehicles maintenance, fuel, insurance, spare parts	102,519	4,310	98,209
Miscellaneous and security equipment	29,100	7,000	22,100
Miscellaneous supplies	12,000	-	12,000
Component sub-total	1,392,805	138,182	1,254,623
MISCELLANEOUS	298,163	7,000	291,163
PROJECT TOTAL	5,829,795	742,262	5,087,533
<i>Programme support costs (13%)</i>	<i>757,873</i>	<i>96,494</i>	<i>661,379</i>
GRAND TOTAL	6,587,668	838,756	5,748,912

Assistance to the Sierra Leone Truth and Reconciliation Commission
 Estimated budget and expenditures in US\$
 Revision III (May 2003)

DESCRIPTION	Original budget	Revised Budget	Expenditure/Obligations	Expected Expenditure
	July 2002 - Oct 2003	July 2002 Oct 2003	July 2002 - March 2003	April 2003 - October 2003
	US\$	US\$	US\$	US\$
PERSONNEL				
7 Commissioners (4 national, 3 international)	840,000			392,000
13 international staff	727,208			336,000
28 national staff	680,798	1,698,521	741,300	177,921
35 temporary staff	-			18,000
74 field staff	148,000			33,300
sub-total staff	2,396,006	1,698,521	741,300	957,221
DSA (international staff)	593,460	559,030	239,700	319,330
Travel on appointment and separation	23,900			
Official Travel	118,400	166,740	5,000	161,740
Component sub-total	3,131,766	2,424,291	986,000	1,438,291
SUBCONTRACT				
Premises rental, maintenance & utilities	443,911	239,450	179,600	59,850
Equipment rental/Local Transportation	210,600	510,300	270,300	240,000
Security services	60,000	22,500	5,000	17,500
Contractual services	146,500	81,718	18,250	63,468
Cleaning services	18,600	16,850	8,100	8,750
Public information production costs	67,600	69,500	69,500	
Component sub-total	947,211	940,318	550,750	389,568
TRAINING				
	45,850	35,000	35,000	

SEMINARS	14,000	37,000	14,000	23,000
PROCUREMENT				
Office furniture/equipment	278,764	97,200	82,700	14,500
Data processing & communication equipment	518,100	200,250	37,700	162,550
Equipment maintenance, spare parts, supplies & communications	273,497	16,500	6,000	10,500
Procurement of vehicles	178,825	-		
Vehicles maintenance, fuel, insurance, spare parts	102,519	102,293		102,293
Miscellaneous and security equipment	29,100	7,000	7,000	
Miscellaneous supplies	12,000	60,800	25,800	35,000
Component sub-total	1,392,805	484,043	159,200	324,843
MISCELLANEOUS	298,163	35,000		35,000
PROJECT TOTAL	5,829,795	3,955,652	1,744,950	2,210,702
Programme support costs (13%)	757,873	514,235	226,844	287,391
GRAND TOTAL	6,587,668	4,469,887	1,971,794	2,498,093

Assistance to the Sierra Leone Truth and Reconciliation Commission
 Requirements for the period Jan - March 2004 in US\$

DESCRIPTION	Budget Jan 2004 - March 2004 US\$
PERSONNEL	
7 Commissioners (4 national, 3 international)	28,000
International consultants	34,000
National staff	33,978
DSA/MSA	24,150
Travel	30,500
Component sub-total	150,628
Contractual services, vehicles & utilities	4,000
Auditing	28,000
Stationary and office supplies	8,000
Maintenance of office equipment	4,000
Public information, printing and production costs	166,000
CD rom version of the report	20,000
Distribution costs	5,000
Miscellaneous	30,000
PROJECT TOTAL	415,628
<i>Programme support costs (13%)</i>	<i>54,032</i>
GRAND TOTAL	469,660

CHAPTER FIVE

Methodology and Processes

TRC

Disarm your

Mind!

Tell the

Truth to

the TRC

Produced by the TRC Steering Committee with support
from the International Human Rights Law Group

CHAPTER FIVE

Methodology and Processes

Introduction

1. The Truth and Reconciliation Commission Act of 2000 (the Act or the TRC Act) charged the Commission with the sole authority to determine its operating procedures and mode of work, especially with regard to conducting investigations, research, statement taking and hearings. To engage in these activities as well as to produce an impartial Final Report, the Commission developed a philosophical and procedural framework, which ensured that the appropriate rigour and fairness standards were complied with in all aspects of its work. The policies and procedures that guided the Commission's work are discussed below in detail.

Policies

Women and Children

2. Section 6(2) of the TRC Act stipulates that the Commission should give special attention to the subject of sexual abuse and to the experiences of children in the armed conflict. Section 7(4) of the Act enjoins the Commission to implement special procedures to address the needs of victims such as children, those who have suffered sexual abuse and child perpetrators of abuses or violations.
3. During the conflict, women and children were the victims of the most brutal violations and abuses. It was necessary that they participated in all the activities of the Commission to ensure that their voices were heard. There was no single body or group representing victims' interests in Sierra Leone. There are instead various institutions and agencies, both local and international, providing services to women and children victims of the war. Many of these agencies existed long before the TRC was established and have been documenting violations and abuses, providing psychosocial support services and carrying out school enrolment and training programmes for women and children. The Commission worked closely with many such organisations. Furthermore, in 2001, UNICEF organised a consultation on the participation of children in the work of the Commission. That consultation supported the participation of children in the work of the Commission and outlined a number of measures to ensure the protection of participating children.
4. The Commission entered into agreements with key partner organisations for the provision of technical support. A Project Co-ordination Agreement was signed in November 2002 between the Commission and United Nations Fund for Women (UNIFEM). This partnership with UNIFEM was intended to ensure that gender-based violence was properly accounted for during the Commission's work. It also served to encourage the fullest possible participation from women's groups in Sierra Leone in the work of the Commission.

5. A second framework agreement was signed between the Commission, UNICEF and some Child Protection Agencies to provide the Commission with technical assistance to during statement taking and hearings in which children were participating.
6. The framework agreements entered into by the Commission with UNIFEM and UNICEF respectively are discussed in detail in the relevant sections of this report. As a public institution, the Commission felt that it was necessary to develop further policies to underpin its work with women and children, often after consultations with civil society and other stakeholders. Some of these policies are outlined below.

General policy

7. The Commission paid specific attention to the security and well-being of the children who appeared before it. Furthermore the Commission acted in a gender-sensitive manner by ensuring that women were well represented on its staff and by reaching out to women so that they could participate fully in all of its phases and processes.

Policies relating to statement taking and hearings

8. The Commission took testimonies from women and girls with an emphasis on the gender-specific nature of the violations and abuses they suffered. The Commission ensured that all its staff members were sensitive in their dealings with gender-based violence and that its statement takers, in particular, were properly briefed and trained. In conjunction with experts in gender-based violence, the Commission drew up a set of guidelines for dealing with victims of sexual violence in the statement-taking programme.¹
9. All the children who appeared in hearings did so in closed or confidential sessions. The Commission organised special public hearings on children and sexual violence to bring the issues around their experiences to the centre of public discourse. The physical and psychological security of children participating in the Commission's activities was paramount.²

Policies relating to report writing

10. The Commission ensured that gender-based violations and abuses were properly investigated and given extensive attention in its final report. The partnership with UNIFEM was to result in a dedicated chapter on the experiences of women. The Commission kept disaggregated data in respect of gender-based violence. The Commission also requested submissions and recommendations from institutions working with women and girls and those focussed on sexual violence issues. These materials would enable the Commission to formulate recommendations on the issues most pertinent to women and girls.

¹ More detail on the training of statement takers can be found in the Processes section later in this chapter.

² Special measures to protect children were implemented in collaboration with UNICEF and the Child Protection Agency Network. More detail on such measures can be found in the sections on statement taking and hearings in this chapter.

11. The Commission included in its Final Report a special section on children, along with a range of recommendations specifically designed to address the needs of children. The Commission also produced a child-friendly report with the support of UNICEF.³

Statement Taking⁴

12. In Sierra Leone, violations and abuses were committed on a wide scale and by all the factions in the conflict. It was not possible for the Commission to investigate all the violations and abuses that were committed during the civil war. Consequently the statement taking exercise aimed at representing the general spread of human rights violation and abuses. This enabled the Commission to obtain a sample of violations and abuses that occurred, such that “many people could relate to the narratives and the experiences told by those who testified before the Commission”.⁵

Media and Civil Society Participation

13. A TRC process is by nature a public process. Its success depends on public participation. The Commission organised its public interactions according to several principles. The most important of which was the need for public ownership and participation in the Commission’s activities and processes, as emphasised in both the Lome Peace Accord and the TRC Act. The media was an important tool in that respect.
14. Based on this philosophy of public ownership and participation, the Commission relied extensively on civil society to carry out the public education and sensitisation of its activities. The Commission developed partnerships with Sierra Leonean civil society organisations for public education on the different phases of its work. The implementation of the recommendations and in particular the reparations programme will depend in large measure on how civil society engages the government and other state institutions.
15. The media policy of the Commission was designed to ensure that:
 - a. The Commission was accessible to the public at all times. It also conducted many open processes that allowed the public to be aware of the activities.
 - b. Public education about the TRC process was a joint responsibility that the Commission shared with its civil society partners.
 - c. The radio, being the most popular means of communication in Sierra Leone, was utilised as much as possible for sensitisation and public education. Radio is often the only way in which remote communities are connected to the rest of the country. The level of illiteracy prevented the print media from reaching out to the general population.

³ More detail on the children’s version of the report can be found later in this chapter and in the chapter on Children in Volume Three B of this report.

⁴ Throughout this chapter, the term Statement Taker refers to a TRC employee who recorded statements on behalf of the Commission. The term Statement Giver refers to a victim, perpetrator or witness who made a statement to the Commission.

⁵ See Lax, Ilan; “Strategies and Methodologies for Finding the Truth”, A compilation of Articles on the Sierra Leone Truth and Reconciliation Commission; Human Rights Section, UNAMSIL, Freetown; December 2001; at page 75.

16. Following the principle of popular ownership of the TRC process, a National Vision campaign was organised to invite Sierra Leoneans to construct their images of a future Sierra Leone in the form of scholarly and artistic submissions. The National Vision for Sierra Leone will give impetus to the Commission's recommendations.

Reconciliation

17. Civil society had been doing much work on reconciliation prior to the start of the Commission. Through the efforts of UNICEF and the Child protection Agencies a number of child combatants were settled back into their communities after the performance of traditional ceremonies. Communities performed traditional cleansing ceremonies and other rituals. The faith community was also very strong in promoting reconciliation in the communities. The Commission wished to build on these efforts and encourage them. Within the time frame available to the Commission, it would not be able to actively engage in reconciliation activities all over the country.
18. The Office of the High Commissioner for Human Rights, (OHCHR) in Geneva, had commissioned a preliminary study on traditional methods of reconciliation and conflict resolution in Sierra Leone by a local NGO, Manifesto 99. The report of that study indicated the tremendous roles chiefs, elders and religious institutions could play in facilitating and promoting reconciliation in the communities. The challenge before the Commission was how to mobilise these institutions and bring them together under one umbrella to strengthen the potential for reconciliation in the communities. The Truth and Reconciliation Act also enjoined the Commission to seek assistance from chiefs and religious leaders in promoting reconciliation.
19. After a number of visits to all the districts in the country and widespread consultations with chiefs, civil society representatives, religious leaders and members of community organisations, between August and November 2002, the Commission decided to establish district support committees. These committees would be composed of members of civil society in the district, including chiefs, religious leaders and members of the armed factions. The aim was to replicate these committees in the chiefdoms. The work of the district support committees was to facilitate the Commission's engagement with people in the districts during statement taking, hearings and reconciliation activities. The Commission would refer any conflicts or potential conflicts to a district support committee. It was recognised by all relevant stakeholders that the Commission could not visit every community to organise hearings or facilitate the resolution of any existing disputes. These committees would have the responsibility for further engaging in "community palava management sessions" at their respective "barrays". At these sessions, each community would decide what it considered most important to engage in to promote reconciliation and it would be the work of these committees to support that effort.

Issues of Confidentiality

20. According to the TRC Act, “at the discretion of the Commission, any person shall be permitted to provide information to the Commission on a confidential basis and the Commission shall not be compelled to disclose any information given to it in confidence.”⁶ This provision allowed witnesses to testify confidentially, at the discretion of the Commission. Also, it protected the Commission from having to reveal the information it collected to third parties.
21. In relation to confidential testimony, the Act further states that the Commission was to “take into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may wish to recount their stories in public.”⁷ The Commission could conduct interviews and hearings in private, when it considered it necessary.
22. In designing its policy on confidentiality, the Commission had three major concerns: fulfilling its truth seeking purpose, ensuring the security of witnesses, and addressing its healing mandate. Truth seeking entails that the information collected from witnesses is used for investigation and will appear in the Final Report. Security and healing considerations require the Commission to take into account the personal history of each witness. For instance, some witnesses may wish their information to remain confidential in order to avoid persecution by perpetrators. Some witnesses might require confidentiality because of fear of rejection by their communities.
23. The Commission had to consider the impact of the Special Court on the willingness of perpetrators to come forward. Some perpetrators were afraid of either being indicted by the Court or being called as witnesses to testify against their former commanders. By extending confidentiality to them, the Commission hoped to convince them to reveal valuable information that would enable the Commission construct the truth about the conflict.
24. Where the statement giver had requested confidentiality, his or her name as well as any details permitting the identification of the statement giver, were not to be captured in the database or the Commission’s Final Report. The Commission would use the information without reference to the identity of the witness.
25. The TRC Act also states that: “the Commission may implement special procedures to address the needs of such particular victims as children or those who have suffered sexual abuses, as well as in working with child perpetrators of abuses or violations.”⁸ The Commission decided that child statement givers would be granted confidentiality automatically, without having to request it and those children would only appear in closed hearings. Children are vulnerable and the Commission felt it was its duty to extend a special protection to them. Women victims of sexual abuse were also encouraged to appear in closed hearings.

⁶ See Section 7(3) of the Truth and Reconciliation Commission Act 2000.

⁷ See Section 7(4) of the Truth and Reconciliation Commission Act 2000.

⁸ See Section 7(4) of the Truth and Reconciliation Commission Act 2000.

26. The agreement entered into by the Commission with UNICEF and the Child Protection Agencies was to ensure that children had the full protections at all stages of their participation in the work of the Commission. Child protection agencies oversaw the process of children testifying before the Commission. The participation of these agencies in statement taking offered assurance, comfort and security to the children. Counselling and psychosocial assistance was on hand for children. It was important that the children's emotional and physical well-being was assured at every stage of their participation in the work of the Commission.

Research and Investigations

27. Section 6 (2) (a) and (b) of the TRC Act stipulates that the Commission should "investigate and report on the causes, nature and extent of the violations and abuses [...] by undertaking investigations and research into the key events, causes, patterns of abuse or violation and the parties responsible". The first issue was to identify the key events, causes to the conflict and parties involved.
28. The UN Office of the High Commissioner for Human Rights (OHCHR), Geneva, commissioned a preliminary investigation into the violations and abuses perpetrated in the conflict, to provide background information to the Commission as it determined its research and investigation priorities. The project was contracted by OHCHR to a consultant working with the Campaign for Good Governance (CGG), a Sierra Leonean NGO. The project consisted of a statement-taking exercise in which 1,316 statements were collected throughout the country. In addition, several interviews were conducted with selected individuals who provided in-depth insights into the conflict and reasons behind the violations committed. The report into this 'Mapping Project' was a comprehensive preliminary assessment of the nature and extent of the violations committed.⁹ The report was used by the Commission to determine the categories of violations to be used in its database and to attain an overview of the key events of the conflict. 'Window cases' for investigation were partly derived from the information provided by the CGG report.¹⁰
29. The Ford Foundation provided financial support for a preliminary research on the "Antecedents of the Rebel War" by the Research and Publication Bureau the Fourah Bay College, University of Sierra Leone for the Truth and Reconciliation Commission. This research provided the Commission with background information on the district and local dynamics and historical antecedents of the conflict. The report assisted the Commission in developing some of the themes that constituted its research agenda.

⁹ Many of the preliminary conclusions reached in the CGG Mapping Project were subsequently borne out by the more expansive studies undertaken by the TRC. For instance, the CGG report attributed the majority of violations to the RUF faction, a conclusion which was subsequently validated by statistical analysis of the statements collected for the TRC. More detail can be found in the Findings chapter in Volume Two of this report.

¹⁰ A full list of 'window cases' used by the TRC can be found in the section on Investigations later in this chapter.

30. In understanding and analysing the conflict, the Commission deemed it necessary to devise a periodisation of the conflict that adequately reflected its main phases. To the extent that the greatest preponderance of key events in the military and political history of the conflict, not to mention the overwhelmingly majority of violations and abuses stemming from them, were driven by the combatants of the Revolutionary United Front of Sierra Leone, it was considered appropriate that the periodisation should reflect the evolving character of the conflict as it was prosecuted by that faction. The phases determined by the Commission for its own purposes were as follows:
- *Phase I: Conventional Target Warfare:* from immediate antecedents until 13 November 1993.
 - *Phase II: Guerrilla Warfare:* from 13 November 1993 until 2 March 1997.
 - *Phase III: Power Struggles and Peace Efforts:* from 2 March 1997 until the conclusion of the conflict on 18 January 2002.

Research

31. Themes of research were designed in accordance with the Commission's mandate, as set out in Section 6 (2) of the TRC Act. The Commission decided on twelve research themes, each of which has contributed one chapter to either Volume Three A or Volume Three B of this Report. The themes address the antecedents and causes of the conflict, the context in which the violations and abuses occurred and the question as to whether those violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual. Themes were also devoted to women, children and youth, as well as the role of external actors in the conflict.

Primary and secondary sources

32. The Commission used both primary and secondary sources to write its Report. Primary sources are the statements, testimonies given at hearings, unpublished material received from different sources in particular, the Office of the Attorney General and Minister of Justice and the Criminal Investigation Department of the Sierra Leone Police Services, submissions and interviews conducted by researchers and investigators. All of these materials have enabled the Commission conduct a comprehensive documentation of human rights violations in the country. Secondary sources used are reports from international and national organisations, books, articles from journals and other publications. Primacy was given to original sources in order to capture and integrate the experiences of the people of Sierra Leone.

Investigations

33. The methodology chosen for investigations was to focus on a selection of 'window cases'. The Commission decided to identify patterns and peculiarities in the conflict that enabled the roles played by all relevant actors to be highlighted. The window cases had to be representative of the different experiences, group affiliations and human rights violations that the Commission would report on. The investigations were designed to complement the research activities of the Commission by providing specific information on the important events and junctures in the conflict.

34. There are thousands of incidents and personal experiences that could warrant classification as window cases, but the Commission based its selection on the following criteria:
- The nature of human rights abuses and violations experienced in different Regions and Districts;
 - The range of victims and/ or perpetrators, including state and non-state actors, who suffered and/ or participated in such abuses and violations;
 - The various ethnic groupings of victims and/ or perpetrators;
 - The significance of particular incidents or events within the broader context of the conflict;
 - The impact of particular incidents, events or actors on a significant number of people or on the course of the conflict; and
 - Particular dynamics or types of behaviour among the fighting factions that required to be explained, either because of their systematic nature or because they figure prominently in the public consciousness of the conflict.

35. According to these criteria, the Commission was able to identify a total of sixteen window cases during the course of its investigations. Each window case is described briefly below:

The events at Bomaru

36. Bomaru is the town in Eastern Sierra Leone where violent conflict first started. The Commission found it necessary to document exactly what happened in the first few days of the conflict in order to understand the parties and their involvement in the conflict. This investigation also focused on the origins, the training and the incursion into Sierra Leone of the RUF.

Transformation of the Civil Defence Forces (CDF) into a fully-fledged fighting force and the establishment of Base Zero

37. This inquiry looked at the formation of the CDF and the establishment of Base Zero, reputed to be the main headquarters and training station for the Kamajors. Allegations of human sacrifice and cannibalism, as well as large-scale human rights abuses including summary executions, had to be investigated to offer deeper understanding of the CDF and its operations.

The NPRC executions of December 1992

38. It was alleged by the NPRC regime that a coup had been attempted against the government on 28 December 1992. On the basis of this allegation, 29 persons were arrested and executed. A large segment of the Sierra Leonean public had always doubted the veracity of the NPRC's allegation that a coup was attempted. There were also persistent claims that those executed were not given a fair trial. This became an important window case for investigating the human rights situation under the NPRC government.

TRC



President Kabbah arriving to declare open the commencement of public hearings by the Commission

The destruction of Koribundo

39. The CDF was alleged to have destroyed the town of Koribundo in 1998 because the townspeople allegedly supported a detachment of AFRC soldiers based there during the AFRC junta regime. Very senior officers of the CDF were alleged to have visited the town and told the people that the town was being destroyed as punishment for their perceived support of the AFRC.

The role of mercenaries in the conflict and the role of ULIMO

40. This investigation sought to determine at what points external parties got involved in the conflict. It also focused on the nature and impact of the involvement of mercenaries. These two window cases provided a lens for highlighting the military activities of non-Sierra Leonean actors in the conflict.

The role of the Special Security Division (SSD) in the conflict

41. The paramilitary wing of the police, known as the SSD, was charged with maintaining public order. It became a tool of abuse and manipulation by politicians and eventually got sucked into the war, fighting as one of the pro-government forces. The transmutation of the SSD and the lessons that flow from its involvement in the war made it an important window case.

Mass graves

42. The Commission sent investigators to several Districts in Sierra Leone in order to identify mass graves. These missions were not meant to produce an exhaustive survey of mass graves in the country. The goal was rather to give Sierra Leoneans a sense of the human loss in the conflict in different parts of the country, along with existing or potential measures to protect these sites, including the construction of memorials in remembrance of the dead.

The role of ECOMOG

43. ECOMOG entered Sierra Leone to provide general security as a peacekeeping force. ECOMOG got sucked into the conflict and fought on behalf of the government. It eventually became the only conventional military force in the service of the government. This inquiry investigates how this anomalous situation came to pass.

The invasion of Freetown on 6 January 1999

44. The 1999 invasion of Freetown is the event that finally forced the world to acknowledge the atrocities against civilians in Sierra Leone. It catalysed international intervention. There had been socially accepted truths about who was responsible for attacking and defending the city. It was necessary to uncover the plenitude of actors, experiences and dynamics behind an invasion that occurred when ECOMOG was said to be in full control of Freetown.

The role of the media in the conflict, especially Radio 98.1 FM

45. Media organs became tools of propaganda during the conflict. At a time when the elected government was in exile, one of its major challenges was how to keep up the morale of the populace and counter the propaganda of the AFRC regime through the state media. This inquiry focused on whether certain branches of the media exacerbated the conflict through their reporting and commentary.

The Westside Boys' hostage taking of 11 British army officers and one Sierra Leonean army officer in August 2000

46. This incident dramatised the fragile nature of the peace agreement signed at Lomé on 7 July 1999 and questioned the commitment of elements of the AFRC to sustaining the peace. It also raised questions about the capacity and willingness of the international community to respond to the challenges posed by the precarious peace that existed in the country.

The hostage taking of UN Peace Keepers in May 2000 and the demonstrations of 6 to 8 May 2000

47. These two, virtually concurrent events seriously undermined the Lomé Peace Agreement. There has been a widely accepted social truth about the events of May 2000 as they unfolded in Freetown and in the Provinces. It was necessary to establish whether this social truth matched the facts.

The Detentions, Treason Trials and Executions of 1998

48. This window case interrogated the weaknesses and challenges facing the judiciary during its most trying moments in the conflict. How did the judiciary respond to pressures from the ruling elite in the face of widespread public sentiments for victor's justice? Did the detentions, trials and executions of 1998 deviate from accepted judicial and procedural protections?

Corroboration Issues

49. Statement takers were asked to corroborate material information received in the statements. For instance, if a statement giver mentioned witnesses, victims or perpetrators who were part of the events described in the narrative, statement takers were required to try to find the named persons and corroborate the information given. If the named persons resided in another District, they were to request the District Co-ordinator there to ensure that follow-up interviews were conducted. Statement takers were also tasked to collect any supporting document that statement givers wished to bring to the attention of the Commission. They were to make a special note if they identified a site of interest, such as a massacre or torture site, or a mass grave. This information was subsequently used for further investigations.
50. The Commission also used its official database as a tool for corroboration. Events were coded according to location, time and the actors involved. Common links between the statements could therefore be identified and several accounts of the same event could be examined together.

51. In practice, several problems arose with regard to corroboration. Many statement givers who mentioned the names of witnesses did not know their whereabouts. Full details about witnesses were often missing. For instance, people who were abducted together by armed factions often hardly knew each other and were only bound by their common experiences. Many witnesses had moved, sometimes from displaced camps back to their communities. Time constraints prevented the conduct of extensive corroboration activities.

Report writing

52. The major product of a truth and reconciliation commission's inquiry is its Final Report. The Commission's mandate included the creation of an impartial historical record. This required the Commission to be independent from all the actors in the contested history, including government and all political parties. The Commission had to demonstrate that with regard to the perpetration of violations, irrespective of who committed them, it had examined all violations and commented on them in the same balanced way.
53. In order to create an authoritative account of the history of the conflict, the Commission had to cover the full breadth of violations carried out during different time periods. It was not enough to look only at violations of civil and political rights; it was also necessary to focus on the structural nature of economic dispossession insofar as they constitute causes of conflict.
54. The project document produced by the Office of the High Commissioner for Human Rights, Geneva envisaged the creation of six departments including research. The Commission decided that research could not be separated from investigations. Research and investigations are not ends in themselves. Rather, they are means for producing the final Report of the Commission. They feed and reinforce each other. The Commission decided to create an operational unit that would collate all information available to the Commission, be responsible for analysing them, and integrating them into the final Report. An Information Management Unit was created to supervise the research, investigations and data management units of the Commission. This would be the channel for processing information received by the Commission and passing them on to the Commissioners. This unit would also be responsible for producing the final Report of the Commission.
55. The project document on the Commission assumed that the staff would be responsible for producing the final Report and that the Commissioners would also participate in the production of the Report. The project document had anticipated a scaling down of the staff component of the Commission as certain phases in the work of the Commission were finalised.
56. The final decision on what went into the Report rested with the Commissioners. The Commissioners were tasked with ensuring that the final Report accords with the injunction in the TRC Act to produce an impartial historical record.

Internal Decision-Making Processes and Consultations

57. The report writing personnel included researchers, investigators, data analysis staff, unit heads and Commissioners. They were divided into thematic groups for each of the research themes. Each group had to create a management plan with detailed timeframes for the achievement of research and investigation objectives. The narrative and the analysis of each research theme was discussed in monthly plenary meetings organised by the Information Management Unit and at thematic group meetings that took place on a regular basis.
58. With the conclusion of hearings on 5th August 2003, a report writing workshop and a conference involving all the Commissioners and staff was held at the Sierra Guest House from 26th to 30th August 2003. The Commission grappled with the question of what its report was meant to achieve and the philosophical approach it would take in relation to the final Report. Volumes and size were also deliberated on. The objectives and format of each of the chapters were discussed and agreed upon.
59. At the report writing conference, which took place at Lakka Beach, from 30th August to 3rd September 2003, each of the themes constituting the final Report was unpacked to deal with issues such as meaning; context; content; resources; impact; time frame and outcome. The Commission grappled with the question of how to reflect its mandate in the final report and the peculiarities of its experience relative to the literature on the operational work of truth commissions. Other important issues that engaged the Commission at the conference included the question of reparations and how to deal with the accountability and responsibility of perpetrators. The discussions were open and free flowing. While the final responsibility for the conclusions rested with the Commissioners, they sought the views of the staff on what would be appropriate, fair and legal.
60. Where appropriate, the Commission invited relevant stakeholders to make presentations on relevant issues and on what would be appropriate recommendations. In this connection, the Commission invited a number of ministers to discuss possible recommendations in relation to the work of their ministries. The Commission also held extensive discussions with the leadership of the security forces. Many of the submissions received by the Commission dealt with reform of the security institutions. Civil society made substantial inputs into the recommendations, and in particular the reparations programme.
61. An extensive amount of time was devoted to deliberations on findings and recommendations. Workshops were held throughout November and December 2003 between Commissioners, senior staff and the researcher responsible for each chapter. Researchers proposed findings and recommendations based on the work they had done and in consultation with their thematic groups. Based on the feedback received during the meetings, each researcher conducted further research or provided further justification for the proposed conclusions. This process continued until the Commissioners were satisfied that all the issues had been analysed including the role of the different actors, and that the conclusions derived from the narrative represented an objective analysis of the issues.

Accountability and Naming of Names

62. The issue of naming individual perpetrators is always controversial. Truth commissions have used several approaches depending on their resources, the specific context and their different mandates.
63. In the Sierra Leonean context, the major arguments in favour of the naming of individual perpetrators were:¹¹
- a. *The need for accountability, especially considering the amnesty clause under the Lomé Peace Agreement.* Truth commissions usually address impunity as part of their mandates. This becomes paramount when, as in the case of Sierra Leone, there was a general amnesty provision that prevented perpetrators from being prosecuted. The naming of names was seen as a way of attributing responsibility for human rights abuses and violations committed.
 - b. *The need to address the victims' healing.* The TRC Act required the Commission to pay special attention to the needs of victims. Naming perpetrators provides acknowledgement for the victims' suffering and recognition of the wrongs that have been done to them.
 - c. *Accuracy of the historical record.* Attributing responsibilities for human rights violations and abuses committed enhances the accuracy of the understanding of the conflict. In the case of Sierra Leone, the role of many perpetrators is poorly known and myths have been created around them.
64. However, there were arguments against the naming of names. These included:
- a. *Lack of resources.* The strongest argument was the lack of time and human resources to engage in the investigations necessary for naming perpetrators. The process of naming perpetrators would include notifying them of the allegations against them, providing all necessary proof and giving them sufficient time to respond.
 - b. *The danger to appear arbitrary.* Due to its limited life span, the Commission could not engage in considerable investigation of every aspect of the conflict. While conclusions can still be extracted from the evidence collected, the naming of individual perpetrators requires extensive and conclusive evidence on every allegation. While the Commission possessed strong evidence against certain individuals, it would have been unable to name others. It therefore ran the risk of being perceived as partial.
65. Several perpetrators appeared in public hearings and were named or identified in their communities by victims or witnesses. The Commission gave them the opportunity to respond publicly to these allegations. Many victims were able to identify their perpetrators. Where the perpetrators were named in the victims' narratives, the Commission sought to corroborate specific allegations.

¹¹ See "Issues of accountability and naming names in the final TRC report"; briefing paper submitted to the TRC by the International Center for Transitional Justice; 27 October 2003.

66. In presenting the narrative of the conflict, the Commission made several findings concerning the responsibility of the respective factions and certain individuals. These findings were based on empirical evidence linking the perpetrators to the violations. Where the evidence was inconclusive, the Commission declined to make a finding. Most of the Commission's findings were made against the armed factions that participated in the conflict rather than against individual perpetrators. However, where the information at the disposal of the Commission pointed conclusively to the role of an individual in the conflict the person in question was named. The Commission published the names of all the leaders of the respective factions in its Findings chapter.¹² The Commission holds all these leaders accountable for the violations and abuses that were committed by members of their respective factions.

Organisation of the Report

67. There were two competing perspectives before the Commission on how to organise the final Report. One perspective was to write a report of 200 pages or less which would summarise the narrative and present the Commission's conclusions and findings. This was an attractive option considering the resource constraints under which the Commission operated. The Commission rejected this option for a number of reasons.
68. The Commission felt that a brief report would do injustice to the range of issues that account for the conflict in Sierra Leone. While a number of issues triggered the conflict, there were clear structural issues dating back to the time of colonialism. If these issues were not addressed in detail, the Commission would not have met its broad ranging mandate. The individual, factional and institutional fluidities assist an understanding of the dynamics of the war. Without this nuanced interpretation, the real history may have been lost in a summary. A nuanced interpretation required that the narrative be discussed in depth, including the roles and experiences of people, institutions and the respective factions.
69. The Commission recognised that a truth commission report speaks to different targets and audiences. Some may be interested in a statistical summary while others want a simplified version of what happened. The Commission accordingly decided that its report would be published in several volumes. The Commission collected thousands of hours of video testimony as it travelled around the country engaging the people of Sierra Leone. Selected footage has been incorporated into a groundbreaking video version of the report. The Commission entered into a partnership with WITNESS, an international NGO based in New York to produce the video report. The video version of the Report will be an important tool for purposes of public education in relation to the report and its recommendations.
70. In recognition of the limited time it had for its operational work, the Commission decided that many of its materials should be made available to the public as a basis for encouraging further research and inquiry. It was decided that all the public testimony and submissions should be published in an appendix volume. Since these documents ran to some 3,000 pages in total, the Commission decided that the testimonies and submissions should be published in electronic format only, on a CD-Rom accompanying this report.

¹² See the Findings chapter in Volume Two of this report.

71. At a technical meeting on “Children and the Truth and Reconciliation Commission for Sierra Leone” convened in June 2001 by UNICEF, the National Forum for Human Rights and UNAMSIL Human Rights Section, it was resolved that the Commission should publish a simplified version of the Commission’s Report for children. During the Commission’s thematic hearings on children, the Children’s Forum Network (CFN) called on the Commission to produce “a child-friendly version of the Truth and Reconciliation Commission Report, which could be used by teachers and children’s organisations, such as the Children’s Forum Network, to disseminate the findings and recommendations of the Commission to the children of Sierra Leone.”¹³ The Truth and Reconciliation Commission Act 2000 further required the Commission to pay special attention to the needs and experiences of children during the armed conflict. The Commission was accordingly mindful of the need to involve children in all aspects of its work.
72. Building upon its partnership with UNICEF and the CPAs, the Commission decided to create a “child-friendly version” of its report. It sought and received technical assistance from UNICEF and the Child Protection Unit of UNAMSIL, which assisted the Commission’s staff in the writing of the child-friendly version. The members of the Children’s Forum Network also collaborated with the Commission in the writing of the Report. At a Children’s Parliament convened in Freetown by the Ministry of Gender, Women and Children’s Affairs in Freetown in December 2003, the Commission made a presentation to the representatives who had assembled from all over the country on the key philosophical and conceptual issues around the child-friendly version. The Commission received substantive input from the Children’s Parliament on how to make the report attractive to children and the kinds of issues they would wish to see discussed.
73. The publication of a child-friendly report is the first such initiative by a truth commission. The Commission was imbued with a sense of history in undertaking this significant exercise. It was important that the report be accessible to children and that the contents not traumatise them. The Commission is satisfied that its partnership with UNICEF, UNAMSIL and the CPAs in this undertaking has led to the production of an outstanding report that will prove to be an important educational tool for children in Sierra Leone.

¹³ See Children’s Forum Network; Submission to the Thematic Hearings on Children by the Truth and Reconciliation Commission; YWCA Hall, Freetown; 16 June 2003.

Processes

74. The following section discusses the processes in which the Commission engaged in the course of its work. These included public education and media relations, statement taking, hearings and the creation of a database.

Public Education and Media Relations

The Interim Phase of the Commission

75. In August 1999, a coalition of human rights NGOs, professional groups and development organisations was created under the direction of the National Forum for Human Rights (NFHR). The coalition was named the Truth and Reconciliation Commission Working Group,¹⁴ with Forum of Conscience as the focal point. The purpose of the Working Group was to involve Sierra Leonean civil society in the TRC process and to ensure that civil society's concerns would be addressed in the design of the TRC Act and in the ways in which the Commission was going to undertake its task.
76. The events of May 2000 put a hold on the establishment of the TRC. In November 2000 and June 2001, NFHR and UNAMSIL Human Rights Section organised two conferences on the Truth and Reconciliation Commission to put the Commission back on the agenda of civil society.
77. The TRC Working Group received funding from the Office of the High Commissioner for Human Rights in Geneva to conduct sensitisation and public education campaigns on the TRC. Its central purpose was to prepare the ground for the establishment of the Commission. Despite some problems between the Working Group and OHCHR due to perceived poor management on the part of the Working Group, the following activities were undertaken:
- a. A national consultation on attitudes towards the TRC process, organised in Freetown in July 2000;
 - b. Different workshops and sensitisation activities throughout the country to galvanise public interest and involvement in the setting up of the TRC;
 - c. Several radio and television programmes broadcast in Freetown and in the Provinces for purposes of public education, with members of the Working Group sitting in as panellists; and
 - d. Starting in March 2001, the publication of a monthly magazine named "The Truth Bulletin", aimed at educating the public on the developments in the TRC and its processes.
78. NFHR subsequently received separate funding from UNAMSIL to conduct training for chiefs and NGOs in the provincial areas. The National Commission for Democracy and Human Rights (NCDHR) received funding from the OHCHR to produce a booklet on the TRC and to translate it into several local languages.

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¹⁴ The TRC Working Group was later renamed the Truth and Reconciliation Working Group, in recognition of the hope that its work should continue beyond the lifespan of the Commission itself.

¹⁵ See 'Evaluation of Sierra Leone Working Group on the Truth and Reconciliation Commission', Report by Brandon Hamber Consulting, commissioned under Article 19; 8 January 2001.

79. OHCHR provided funding to the International Human Rights Law Group to conduct an assessment of the requirements of an effective sensitisation and public information campaign on the TRC process.
80. Following consultations by the International Human Rights Law Group (“the Law Group”) and Sierra Leonean civil society, a Steering Committee was created that included representatives of the TRC Working Group, the Inter-Religious Council, the Law Group itself, NFHR, NCDHR and the Human Rights Section of UNAMSIL, to serve as the implementing mechanism for the Law Group project.
81. The outcome of the Law Group consultation was a consensus on the way forward. It was decided to build a framework for the TRC sensitisation campaign. A four-day workshop was organised from 7 to 10 August 2001 and was attended by 15 human rights activists representing key organisations involved in promoting the TRC process. Participants developed a unified approach to sensitisation on the TRC, emphasising consistent messages and a framework for community meetings. Activities were planned in four areas: radio and television; print media; community sensitisation; and sensitisation of critical stakeholders. Focal points were designated for each area and a coalition was created for the sensitisation campaign that included the National Forum for Human Rights, the Inter-Religious Council, the National Commission for Democracy and Human Rights and UNAMSIL.

Supporting implementation of the TRC sensitisation campaign

82. The Steering Committee provided training to implementing organisations which were encouraged to submit project proposals to the Steering Committee. These projects included:
 - a. General sensitisation: public awareness and education;
 - b. Targeted sensitisation: specially designed programmes aimed at particular audiences such as combatants and ex-combatants, refugees, women and children; and
 - c. Critical stakeholders: in-depth programmes aimed at ensuring understanding and support from traditional, community, and religious leaders, DDR, humanitarian organisations and media providers.

Enhanced co-ordination of sensitisation efforts

83. The Steering Committee was to co-ordinate sensitisation activities by all parties involved in the campaign, including private media, NGOs, government institutions and people involved in the disarmament and reintegration activities, ensuring that all these parties sent a clear and consistent message on the TRC.
84. Due to management problems, the Steering Committee could not implement the projects identified in its operational plan. The Committee was revitalised with the setting up of the Interim Secretariat of the TRC in late March 2002. The Interim Secretariat facilitated several meetings where the contentious issues to effective sensitisation activities were ironed out. Numerous sensitisation and public education activities were carried out, such as radio programmes, publication of literature on the TRC, training programmes for

local chiefs and the appointment of co-ordinators for each of the districts whose role was to conduct sensitisation and organise public meetings on the TRC throughout their respective districts.

85. The Law Group assisted in the formation of a Women's Task Force, a coalition of women's groups, which advocated for the creation of an enabling environment for the participation of women in both the TRC and the Special Court processes.
86. The Interim Secretariat visited all the districts in June 2002. The purpose of these visits was to identify local partners for the Commission and discuss collaboration on sensitisation with the district co-ordinators and other stakeholders in the districts and to monitor the activities undertaken by the members of the Steering Committee.
87. The Law Group project was to have ended in late 2001. It was carried over into 2002 because of the problems already identified. In essence, while there was an Interim Secretariat for the Truth and Reconciliation Commission, it didn't have any funds to engage in public education and sensitisation activities. Rather it had to depend on civil society initiatives to inform the public about the work of the Interim Secretariat and of the Commission, in the first few months following the establishment of the Commission. The initial successes of the Law Group and other interventions were not sustained. In the absence of continued funding, these organisations could not continue their programmes. This was at a time when the Commission had begun to outline its objectives and what it intended to do during its preparatory phase.

The Preparatory Phase of the Commission

88. Public education during the Preparatory Phase work focused on explaining its mandate and role, the kinds of processes involved in a truth and reconciliation commission, the areas of participation of the public and how the Commission was different from the Special Court, which had also been established by this time.
89. The Steering Committee organised weekly radio and television programmes on SLBS Radio and television. A skit was also produced and broadcast on SLBS radio and television in Freetown and Bo. The Steering Committee developed TRC slogans, which were produced in posters and leaflets and printed in the local newspapers. A weekly 30-minute programme on the TRC was commenced at Radio UNAMSIL. Following public demand, this was extended to an hour-long live magazine programme, with a repeat broadcast during the week. This scheduling continued throughout the lifespan of the Commission.
90. The Commission engaged in scheduled meetings with a range of institutions and groups, including the Ministry of Information. These meetings were ongoing throughout the preparatory phase. A number of media organisations like Radio UNAMSIL, the SLBS, Radio Democracy, the Talking Drum Studio and a host of newspapers also dedicated programmes and news to the Commission.

91. Regular media and NGO briefings were organised at the Commission's offices to keep the public informed of its activities. These briefings also allowed the Commission to respond to public concerns or inquiries.
92. The Commission faced many challenges in conducting effective public sensitisation. The establishment of the Special Court for Sierra Leone raised the fears of many witnesses concerned about the relationship between the TRC and the Special Court. Commission staff had to go to great lengths to explain to ex-combatants that the two institutions were independent of one another, that they would not share information and that testifying before the TRC would not lead to being called by the Special Court to give testimony.¹⁶
93. The Commission initiated many workshops and information sessions to educate people on the benefits of the truth seeking process and the role the TRC could play in helping people recover from their suffering.
94. The Barray Phase was a weeklong awareness-raising exercise in each district carried out in November 2002.¹⁷ Each Commissioner was assigned to visit a number of districts and / or the Western Area. The objective of these visits was to introduce the Commission, its policies and procedures to the public and to undertake the following tasks:
 - a. Create a support structure for the Commission in each district by convening meetings of representatives of chiefs, local structures, religious groups and NGOs, and receive public input on the reconciliation procedures the Commission intended to implement;
 - b. Identify focal points such as reputable NGOs that could serve as focal points for the Commission in each district. The focal point would co-ordinate the activities of the support structure and possibly provide the team leader for the statement taking teams; and
 - c. Explain the operations, methods and procedures of the Commission for statement taking and hearings, as well as announcing the views of the Commission on other areas of potential concern, such as reparations, relationship with the Special Court, confidentiality, issues of justice and impunity.
95. Commissioners visited a range of people and institutions in each district, including the Senior District Officers (the public administrators in charge of the respective districts), Chiefs, Town Officials, provincial ministers and secretaries, NGOs and religious groups. Town meetings were held. A final meeting for the district was then held at the district headquarters to which representatives came from all over the district. At this final meeting a District Support Committee was established to which the relevant institutions nominated representatives.
96. Overall, the visits were not well planned. Too many visits were crammed into a short time period because the Commission did not have the resources for extended stays in the districts. This resulted in lost opportunities to meet a wide range of people and limited the impact of the effort.

¹⁶ More detail on the challenges posed by the co-existence of the Special Court can be found in the chapter on the TRC and the Special Court for Sierra Leone in Volume Three B of this report.

¹⁷ A 'barray' is a gathering place in the centre of a community, roughly equivalent to a town hall.

97. In most of the districts, the District Support Committees were filled with volunteers from civil society organisations, many of whom lacked the financial resources to commit to the work of the Committees. These Committees were supposed to provide the support structure for the Commission's activities, including statement taking and hearings. However, lack of funding and poor management impinged on the work of the Committees and no real work was accomplished. In addition, the Committees were supposed to be co-ordinated by the Interim Secretariat of the Commission, but a staffing crisis prevented the Secretariat from accomplishing this task. These support structures had to be re-established during the hearings phase.

The Deployment Phase of the Commission

Statement Taking

98. Jingles and slots for radio and television were produced and aired on SLBS. The skits and jingles contained appropriate messages mobilizing people to come out and give statements to the statements takers. Posters with appropriate messages were also produced and distributed nationwide through the Commission's NGO partners and community-based organisations. Slogans produced by the TRC Steering Committee were used extensively.
99. Sensitisation during the statement-taking phase focused on explaining the role of statement takers, the procedure for statement taking and the fact that all statements were to be made on a purely voluntary basis. The statement takers themselves handled the bulk of the sensitisation, apart from the radio programmes and advertisements. Each trip to a village or a town would start with a visit to the Chief and elders to explain the role of the Commission and the purpose and process of statement taking. When an agreement was reached with the Chief, statement takers would address the village or town population and begin taking individual statements.

Hearings

100. A memorandum of understanding was signed between the Commission and the Ministry of Information concerning airing of the Commission's programmes. On the basis of this agreement, the Opening Ceremony of the hearings in Freetown was aired live on SLBS radio and television. It was also broadcast live on Radio UNAMSIL. Other hearings in Freetown and the district headquarter towns were broadcast live on Radio UNAMSIL and SLBS radio. The Talking Drum Studios recorded hearings in Freetown and the districts. On selected nights of public hearings, SLBS broadcast a 45-minute television highlights programme featuring footage of the proceedings.

TRC



Commission staff participate in the National Reconciliation Procession through the streets of Freetown on 6 August 2003.

The Report Writing Phase

101. Sensitisation during the Report Writing Phase started with the Commission's 18th media briefing, held on Wednesday 17 September 2003. Discussion programmes were arranged on radio and television to sensitise the public on the report-writing phase of the Commission's work. During this phase, most of the Commission's activities were closed to the public. It was necessary to keep the TRC and its work in the public mind, so that people would be aware of the measures being taken by the Commission to complete its mandate
102. A workshop was organised by UNIFEM and the Commission with the participation of civil society organisations and women from the provinces to garner input from them on the recommendations that the Commission should make on women. A conference on reparations was organised by the TRC Working Group to make suggestions for recommendations to the Commission. The International Centre for Transitional Justice and the International Human Rights Law Group also facilitated a series of civil society consultations on the possible recommendations that the Commission should make. The outcome document was formally presented by civil society to the Commission at a public briefing organised by the Commission in December 2003.

The National Vision for Sierra Leone

103. Towards the end of its mandate, the Commission launched a National Vision Campaign calling for contributions from the people of Sierra Leone on their ideas and inspirations on the future of their country. The campaign was advertised in print and electronic media.
104. The following guidelines were published for contributions:
 - a. Describe the kind of society the contributor would like to live in;
 - b. Suggest how to make Sierra Leone a better place to live in;
 - c. Set out the contributor's hopes and aspirations for Sierra Leone;
 - d. Where the contributor would like to see Sierra Leone in 5 or 10 years;
 - e. Devise slogans for a national vision;
 - f. Supply poems, songs, paintings and photographs that symbolise the new Sierra Leone;
 - g. Provide anything creative that inspires peace and unity - and pride in being Sierra Leonean; and
 - h. Supply anything creative that symbolises the future of Sierra Leone.
105. Hundreds of contributions were received. They were divided into categories, including visual art forms, written contributions and theatre. Prizes were awarded to the most original contributions based on their visionary content, aesthetics, creativity and effort.
106. An exhibition of the contributions was formally launched at the National Stadium in December 2003. Subsequently, the exhibition was put on display in Freetown at the National Museum. The exhibit was viewed by hundreds of Sierra Leoneans, including President Kabbah and a number of government Ministers.

Statement Taking

107. The first component of the operational phase of the Commission was the statement taking exercise. The TRC Act states that the Commission should take individual statements as part of its information gathering exercise.¹⁸ The purpose was to reach out to every part of Sierra Leone to capture the experiences of the population, including specific groups such as women, children and amputees.
108. The Commission started its statement-taking phase on 4 December 2002 at Bomaru, Kailahun District, where the first attack of the conflict had been reported on 23 March 1991. The statement taking exercise officially lasted for four months, until 31 March 2003. At the formal end of the exercise, 7706 statements had been collected.

The Statement Form

109. The statement taking form had four major sections: victims, witnesses, perpetrators and those who wished to give a statement on behalf of someone else. Separate sections were required because the nature of the questions varied from one group of statement givers to the other. For example, in the perpetrator section, the Commission needed to ask the statement giver about the command structure of the armed faction he or she belonged to.
110. Several consultations were held with civil society organisation on the design of the form, to ensure that it was user friendly and contained all the relevant questions to which the Commission needed to collect answers. Groups consulted included Pride, Campaign for Good Governance, Manifesto 99, the National Forum for Human Rights, Caritas Makeni, several women's groups and UNIFEM.
111. After these consultations, Commissioners and staff reviewed the draft form and designed the final product. The statement form was composed of eight sections, designed to provide information on basic issues around the mandate of the Commission (including its confidentiality provisions) and to record the personal details of the statement giver and the narrative he or she told the statement giver.
112. The statement form is reproduced in its entirety as an appendix to this chapter. The statement form was printed in English, but the testimonies were recorded in any language chosen by the statement giver and subsequently translated into English by the statement taker.

Categorisation

113. The Commission categorised statement givers into victims, witnesses, perpetrators and those making statements on behalf of others. The rationale behind the categorisation was to make the information collected more accessible for the subsequent selection of cases for hearings and for the Commission's longer-term investigation and research activities.

¹⁸ See Section 7 (1) (c) of the Truth and Reconciliation Commission Act 2000.

114. Statement givers were entitled to fill more than one section of the form if they considered themselves to belong to more than one category. Indeed, many people in Sierra Leone were victims, perpetrators and witnesses at the same time. An example is the case of a child soldier. If the child was forcibly enlisted, he was a victim. On the other hand, after his forced recruitment, he was likely to have committed human rights violations during his time as a combatant, thus qualifying him as a perpetrator. Furthermore, the child soldier was likely to have been a witness to atrocities committed by others.

The Hiring of Statement Takers

115. In addition to suggestions on reformulation of the draft statement form, NGOs and partners provided the Commission with suggestions on how to conduct the statement-taking exercise and especially on how to encourage people to make statements. Statement taking was conducted on the basis of the following inputs:
- a. Sensitisation should occur prior to the commencement of statement taking in order to increase awareness among the general population. Sensitisation should include: explanation of the differences between the TRC and the Special Court; reassurance for ex-combatants that the two bodies were completely independent of one another and would not share information; and the purposes of the TRC, which included creating an impartial historical record and making recommendations to the government and other institutions;
 - b. The Commission should hire at least two women as statement takers in each district to take statements from women victims of sexual abuse. The hiring policy was to reflect gender balance among the statement takers. This policy was largely fulfilled, except in Kambia District, where only one woman applied to be a statement taker;
 - c. Statement takers should be hired from the district in which they lived and should take statements for the Commission in their home districts. Statement takers should be well known in the community, in order for people to feel comfortable speaking to them. They should speak the local languages of the district, in order to give confidence to statement givers and to protect the confidentiality of their testimony by reducing the need to resort to interpreters;
 - d. Statement takers should be trained to explain carefully to statement givers what confidentiality means and allow statement givers to request confidentiality based on an informed choice; and
 - e. All statements from children should be declared confidential.
116. Three Regional Co-ordinators were hired for each of the three provinces. They were to supervise statement taking in their respective provinces. Five statement takers were appointed for each district, one of whom would act as the District Co-ordinator. The role of the District Co-ordinator was to supervise the daily taking of statements by developing a work and deployment plan, as well as managing the resources provided by the Commission. Resources supplied included a 4x4 vehicle, audio and video recorders. Co-ordinators were required to liaise with the police and the Chiefs in each district to make communities aware of their presence and ensure the safety of their teams.

Training and Deployment

117. Prior to deployment, District Co-ordinators and Statement takers received a three-day training workshop. The first training took place in Kenema for statement takers from the Eastern and Southern regions from 26 to 28 November 2002. The second one took place in Freetown for the Northern region and the Western Area from 30 November to 2 December 2002. Commission staff, UNAMSIL and NGO partners conducted the training programmes.
118. The training was divided into three modules. The first module addressed the mandate and functions of the Commission. The second module provided an understanding of human rights issues, interviewing techniques, confidentiality and corroboration issues, and how to use the Commission's statement form. The third module was composed of special interview techniques for specific groups: women and girls, victim of sexual violence, children and ex-combatants. Specific instruction was given on how to deal with post-traumatic stress experience by interviewees. All the modules included exercises and interactive role-playing. Statement takers were instructed to use the one on one interview technique. Statement takers were provided with a Manual for guidance and reference (see appendix section).
119. At the end of the training, the teams were deployed for a pilot phase of statement taking which took place from 4 to 20 December 2002. This was followed by a review session from 7 to 9 January 2003. After analysing the problems and challenges faced in the pilot phase, modifications were made to the statement form and statement taking resumed. The second period extended from 9 January to 31 March 2003.
120. The statement form was accessible on the Internet for Sierra Leoneans living abroad. The Commission also engaged in statement taking in neighbouring countries to reach out to Sierra Leonean refugees in Guinea, Ghana, Gambia and Nigeria. During the exercise, 46 statements were collected from Guinea, 59 from The Gambia and 70 from Nigeria (making a total of 175). Since there was a high concentration of refugees from Sierra Leone in refugee camps in Guinea, the Commission sent a District Co-ordinator who spent two months on the ground. UNHCR Sierra Leone, through its office in Guinea, provided logistical support for this exercise.

On-going Monitoring and Assessment

121. In order to ensure quality, evaluate performance, identify problems and implement remedial measures, the Commission engaged in on-going reviews, assessments and monitoring of the statement taking process. Commission officials made several field trips to monitor the work of statement takers. Meetings with Regional Co-ordinators, District Co-ordinators, Statement takers, Commissioners and NGO partners were held on a regular basis to assess the logistical and substantive problems encountered on the ground. Those attending the meetings reported problems with logistics, difficulty using the statement form and the need for more sensitisation.

122. A second evaluation conducted early in February 2003 showed significant improvement in the quality of the narratives recorded. Some problems were identified which included: statement takers were not asking enough details about the perpetrators and the armed factions they belonged to; and more details were needed concerning the actual circumstances of the interview itself. The Commission needed to know why some interviews were stopped before the end. Did the statement giver decide to stop? Did security concerns require the statement taker to interrupt it? These problems were addressed in subsequent meetings with the statement takers. The Head of Information Management also travelled to all the districts to meet statement taking teams and address problems specific to each district.
123. Perpetrators were reticent to talk to the Commission for various reasons. The main reasons articulated were the fear of being indicted by the Special Court or being called as a witness by the Court and the fear of reprisals from their communities. To remedy the problem, a sensitisation project targeted at ex-combatants was carried out by the local NGO, PRIDE, with funding from the International Centre for Transitional Justice. The project lasted for three weeks in March 2003. During the sensitisation, PRIDE employees accompanied by statement takers travelled to areas with high concentrations of ex-combatants. They conducted sensitisation sessions with ex-combatants, which were immediately followed by statement taking. The Commission felt strongly that an accurate narrative of the conflict could not be developed if ex-combatants refused to participate in the statement taking process.
124. In order to address the low level of statements given by members of the Republic of Sierra Leone Armed Forces (RSLAF), Campaign for Good Governance (CGG), another Sierra Leonean NGO, organised awareness-raising campaigns in March 2003 for soldiers in various regions of the country. Commissioners and senior staff, together with representatives of CGG, travelled to many military installations. The purpose was to give more detailed information on the TRC and its processes to the military and their dependents in order to facilitate their participation. Copies of the TRC Act and leaflets featuring questions and answers on the TRC were distributed. The CGG also assisted in the airing of jingles on statement taking on various radio stations in Freetown and in the provinces in March 2003.
125. Although the TRC obtained full co-operation from the RSLAF authorities, the number of statements given by members of the military remained low. However, some military personnel gave testimony during the hearings and others participated in confidential interview sessions with the Commission.
126. The Commission also collaborated with UNICEF and the Child Protection Agencies (CPAs). A Framework for Co-operation was developed which led to social workers of the CPAs identifying children to make statements to the Commission.¹⁹ Following the development of this framework, another training programme was carried out for statement takers in the three regional headquarter towns and in Freetown on how to take statements from children, and to introduce the statement takers to the social workers from the CPAs.

¹⁹ More detail on the role of CPAs in assisting children who gave testimony to the Commission can be found in the section on Procedures for Hearings later in this chapter.

127. The framework agreement on children yielded mixed results. The level of co-operation between statement takers and social workers varied from district to district. In addition, a variety of practical problems emerged. For instance, children who were not recommended by social workers approached statement takers in order to make statements. In a number of cases, the statement takers decided to take the statements and contacted the social workers afterwards to conduct follow-up assessments on the children. In other cases, lack of time and other resources prevented social workers from referring a sufficient number of children, forcing statement takers to identify children themselves to ensure that the voices of children were adequately represented in the Commission's overall proceedings.
128. The last group that did not initially wish to collaborate with the Commission was the amputees. They insisted that their participation was subject to the fulfilment of certain conditions by the government. These conditions included the provision of housing, a monthly allowance in cash, rice allocations, education for their children, a reintegration allowance, medical treatment and assistance with transport.
129. The War Affected Amputee Association of the Aberdeen Road Camp, Freetown, issued a press statement in which they explained the reasons for their non-cooperation:
- “We understand that there is a provision in the Lomé Peace Accord for War Affected Amputees in this country. At this while, we have been waiting to see the implementation of this provision in the Lomé Peace Accord. We have had no statement from the Government and our living conditions are becoming very appalling. We want to draw the attention of those concerned and the Government of Sierra Leone, that a bill be passed which could be accepted as a law for better care for amputees. Otherwise, we are not prepared to talk to TRC. Finally, if these problems are not addressed, no amputee will appear before the TRC.”²⁰
130. The Commission made considerable efforts to address these problems. A number of meetings took place between the Amputee Association and senior staff of the Commission. A meeting was organised by the TRC Working Group in February 2003 between representatives of the Amputee Association and the Commission, where all the issues relating to their participation were addressed. The amputees were sensitised to the fact that the Commission did not have a budget of its own to fulfil any of their demands. Furthermore, the Commission reiterated its independence from the government. The Commission sought to emphasise that participation in its proceedings would give amputees a forum to explain their plight and to make an input to the recommendations and reparations proposals.
131. These meetings resulted in an agreement between the Amputees Association and the Commission on 15 March 2003. Two members of the organisation were recruited as assistant statement takers, to take statements from amputees.

²⁰ Press Statement issued by the War Affected Amputee Association of the Aberdeen Road Camp, Freetown, December 2002.

132. Statement taking in the Amputee Camp in Freetown started on 19 March 2003. Joint sensitisation campaigns took place from 3 to 6 April 2003 in Bo, Kenema, Kono, Makeni and Masiaka. TRC staff and representatives of the Amputee Association of Freetown worked together to encourage amputees to give statements to the Commission. Sensitisation exercises were followed immediately by statement taking in the amputee camps in these locations.
133. Amputees and war wounded victims testified during hearings in all the districts of the country. The Amputees Association and the War Wounded Association both participated in the thematic hearings on reparations and reconciliation, making recommendations on how their concerns should be addressed in the Commission's final Report. The Amputees Association and the War Wounded Association participated actively in other Commission activities, such as the National Reconciliation March on 6 August 2003 and in the national and district workshops on reconciliation.²¹ Their local representatives were elected to the District Reconciliation Committees in many of the districts.
134. The Commission was uncertain as to whether women would be willing to testify about sexual violence and rape. A number of publications had referred to the "closed" nature of Sierra Leone's traditional societies and concluded that women would not be willing to testify about their experiences for fear of stigmatisation by their communities. To the Commission's surprise and satisfaction, women testified in large numbers and in great detail about their experiences. While women were advised that they could request to give their statements to a female statement taker, many of them declared that they did not mind talking to male statement takers. Such testimonies enabled the Commission to fully incorporate the experiences of women into its work.

Conclusion of Statement Taking

135. The statement-taking teams managed to cover the overwhelming majority of chiefdoms in what turned out to be a largely successful exercise. Nevertheless, logistical and time constraints impacted on the reach of the statement taking teams. The statement takers had to work under very tight time schedules and often under very difficult conditions.
136. Fewer than ten statements were collected from each of the following chiefdoms: Paki Masabong in Bombali District; Benducha, Kwamebai Krim, Nongoba Bullom and Dema in Bonthe District; Penguia and Kissi Tongi in Kailahun District; Gbane Kandor and Toli in Kono District; and Kagboro and Timdel in Moyamba District.
137. Nine chiefdoms out of the 149 in the Provinces were not covered at all by the initial statement taking teams (Kissi Teng and Kissi Kama in Kailahun District; Mambolo and Braiama in Kambia District; Gorama Mende in Kenema District; Neya in Koinadugu District; Mafindor in Kono District; Sanda Magblonthor in Port Loko District; and Mano Sakrim in Pujehun District). The reasons mainly pertained to accessibility. The chiefdoms in Kambia District are riverine and the Commission could not secure transport for its statement taking team because of time constraints. The chiefdoms in Kailahun, Koinadugu and Pujehun Districts are border areas with Liberia. The precarious security situation in those locations prevented the statement taking teams from visiting them.

²¹ More detail on the national and district workshops can be found in the chapter on Reconciliation in Volume Three B of this report.

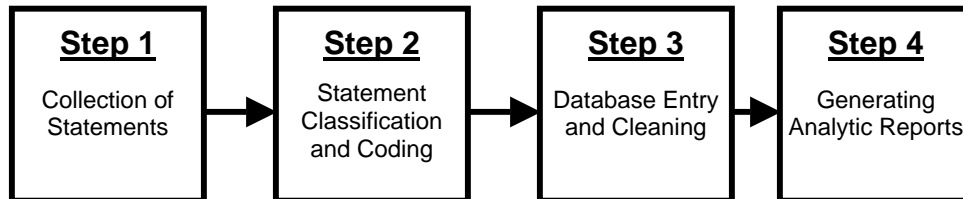
138. Of the total of 7,706 statements collected, 36% were collected from women and 5% from children. Statements were recorded in 15 different languages, with the major ones being Mende (40%), Krio (39%) and Temne (12%).²²

Data Processing

139. The TRC made use of the Human Rights Information Management System (HRIMS). This system is designed to perform the following functions:
- To document the complete list of statements gathered by the Commission;
 - To index the statements enabling researchers and investigators to access statements according to their own specific criteria, such as those that made mention of diamonds or those that named a certain perpetrator; and
 - To allow a statistical analysis of the statements in order to identify trends and patterns. Examples of analytical questions included ascertaining the typical age of a forced recruit or identifying the faction that targeted children to the greatest degree.

The Data Processing Pipeline

140. The data processing system comprised four basic steps. It was called a 'pipeline' because, for every statement, each step had to be completed before proceeding to the next.
141. The data processing steps are as follows:



Step 1 – Collection of Statements.

Step 2 – Classification and Coding: The statements were analysed by coders to identify the victims, perpetrators and violations. This information was recorded on paper forms.

Step 3 – Database Entry and Cleaning: The set of forms generated by each statement were inputted into the database. As mistakes were inevitable, each entry was double-checked. For example, if the forms indicated that a victim was killed twice then this anomaly was corrected. Persons and violations that were described more than once were merged to ensure that the numbers of abuses were not exaggerated.

²² These figures are derived from queries of the TRC database. Please note that the percentage figure for child statement givers is based on a count of those whose year of birth was after 1985.

Step 4 – Generating Analytical Reports: The information was extracted from the database in a form that could be used by a statistician. Graphs and statistics were used to answer research questions. These results were used to produce the statistical report included in the Appendices and the statistical information reflected in other chapters of the Commission’s report.

Classification and Coding

142. Classification and Coding was the second step in the data processing pipeline. Classification ensured that the database fitted the Sierra Leonean context. The classified violations had to be representative of those that typically occurred during the conflict. Once the classification system was complete, the coding proceeded.

Vocabularies

143. The classification system consisted of a number of “vocabularies”. A vocabulary, sometimes referred to as a “thesaurus” or “taxonomy”, is a controlled list of items. For example the “Sex” vocabulary has items “Male”, “Female” and “Unknown”. The vocabulary listing locations was arranged hierarchically. Each region contained a number of districts, each district contained a number of chiefdoms and, finally, chiefdoms contained towns and villages. Depending on the vocabulary the number of items varies: hence, there are only three items under the “Sex” list, while there are more than 4000 items for the “Locations” list. Coding is so named because each vocabulary item has an associated code. For example, the “Institutions” vocabulary contained a list of armed factions – the Revolutionary United Front has the code “arm/ruf” and the Sierra Leonean Army has the code, “arm/sla”. For brevity’s sake, it was these codes that were reflected on the coding forms.
144. By using a vocabulary, the facts within the narrative were reduced to a distinct and countable set of values. This allowed the free text narrative to be represented in the database and enabled the quantifying and statistical study of the data. The vocabularies and database are structured such that their use did not misrepresent or discard information in the narrative. Without the use of vocabularies, patterns within the data based on variables such as location, gender and ethnicity would not have been identified. Ultimately it was possible to illustrate the magnitude, trends and patterns of human rights violations.
145. The vocabularies were created and tested by the American Association for the Advancement of Science in March and April of 2002.²³ To ensure that the vocabularies were appropriate, a variety of sources were used. Sources included input from local experts and the examination of maps (supplied by the UN Office for the Co-ordination of Humanitarian Affairs), as well as statements gathered by the TRC during its preparatory phase of December 2002.

²³ The American Association for the Advancement of Science - Science and Human Rights Program (AAAS/SHR) provided funding and a field consultant to conduct this testing. The International Center for Transitional Justice (ICTJ) provided additional funding for this purpose.

Classifying and coding the violations

146. Care had to be taken to ensure that the item lists were complete and that they avoided ambiguity or overlap between possible selections. Given the large range of abuses perpetrated against victims, it was necessary to devise categories that covered a range of perpetrator behaviours. Without such categories, the list of violations would be unwieldy and it would be difficult to ensure that each abuse in the statement fitted into only one violation category. The Commission used a boundary condition to indicate what behaviour was considered to be a violation. For example, the assault violation boundary condition covered beating, kicking, punching, whipping, stabbing and dropping victims from a height.
147. It was noted that a victim could suffer most violations more than once, with the obvious exception of killing. Therefore a counting rule was required to ensure that the coders would count violation repetitions consistently.
148. Consider a victim who is being punched by one perpetrator. A second perpetrator then joins the attack, repeatedly kicking the victim. This event could be interpreted as either one assault by two perpetrators or, alternatively, as two assaults. With a counting rule that states that one sustained period of abuse counts as one violation, the example would count as one violation.
149. The example below illustrates the TRC assault violation with the associated boundary condition and counting rule:

Description/ Boundary Condition	An assault consists of physical harm inflicted on a victim by punching, kicking, and/ or striking with an object or objects over a period of time. Also whipping, lashing, stabbing and shooting a victim. Committed by persons on the list of perpetrators. Assault is sufficient to cause bruising, bleeding and internal injury. Also includes dropping a child or pushing / shoving resulting in injury. Excludes incidental injuries such as those caused by a stray bullet.
Counting Rule	1 Continuous Assault = 1 Violation

150. Ultimately the use of boundary conditions and counting rules ensured that the coding of a violation was relatively objective.

Coding

151. Human rights data is initially generated as a 'free text' narrative. Within the narrative there may be mention of various violations, the places they occurred, when they happened and who was involved as a perpetrator or victim. Additional background facts about the various role players may be included such as their ethnicity, religion and occupation.

152. The coding exercise for the TRC captured essentially “who did what to whom, when and where”. The “who” is the perpetrator. The “what” is the violation committed by the perpetrator. The “whom” is the victim who suffered the violation. The “when” is the date of the violation and the “where” is the location of the violation.

Coding Model

153. The model adopted by the TRC was based on that proposed by Dr. Patrick Ball in his book entitled ‘Who did What to Whom?’.²⁴ It is a model proven to produce accurate statistical results. It has been used extensively by other truth commissions and human rights documentation projects, including the truth commissions in Haiti, Guatemala, South Africa and, most recently, in Peru. The model used by the TRC allows for the following complex situations:
- a. Many victims: the statement giver may describe violations that happened to one or many victims. The statement giver may himself be a victim. The list of victims may further include his friends, relatives, community members or even groups of strangers. The statement giver may, for example, discuss his own detention and subsequent torture in addition to his wife’s killing or the abduction of his son.
 - b. Many violations: each of the victims described in a particular statement may have suffered several violations. For example, the statement giver’s son may have been beaten and forced to work for his captors after his initial abduction. Violations may be isolated or can happen as part of a broader incident in which a sequence of abuses occurs.
 - c. Many perpetrators: several perpetrators may have committed each of the violations described in the statement. Furthermore, each of the identified perpetrators in the narrative may have been responsible for several violations. In other cases, though a perpetrator may not have directly committed a violation, the statement may identify him as the person who ordered the violation. Alternatively, where the names or nicknames of the perpetrators are not known, it may be possible to determine at least the responsible faction.
 - d. Many roles: an actor is a broad term for a person or group described by the statement. An actor can, at different times, be both a victim and a perpetrator. For example, the statement giver’s son was a victim when he was abducted, beaten and forced to do hard labour, but was a perpetrator when he committed violations after his captors trained him to fight.
 - e. Many facets: some details describing the profile of an actor can change over time – for example their age and occupation. A statement can contain several separate incidents in different years, with some actors involved in more than one incident.

²⁴ See Ball, Patrick; “Who Did What to Whom? – Planning and Implementing a Large-Scale Human Rights Data Project” (1996); published by AAAS: Washington, DC, USA.

154. The forms used by the TRC reflected the chosen coding model. Source and summary forms provided basic details such as the statement number, the date it was coded and a summary of the content. Person forms described each of the actors named in the statement. Group forms were used for groups of unnamed victims described in the statement. Incident forms were used to split the statement into distinct, isolated events. Incident forms also allowed persons to be identified as having authorised or ordered an incident.
155. Act forms are used to describe violations, including when and where they occurred and the responsible faction(s). Each act took place as part of an incident. Actors on both the person and group forms could be assigned as victims. Actors on the person forms could be assigned as perpetrators. Biography forms were used if a statement described more than one incident and reflected the changing circumstances of an actor, such as his age or occupation.

Coding Completeness

156. The coding exercise allowed for partial or incomplete information. A system for coding 'partial dates' allowed for a situation where the statement give knew only the month or year when the abuse occurred. For example the coded date '00/05/91' is the month of May in the year 1991 – the day is unspecified. This system of partial dates could also be applied to dates of birth.
157. Where the precise town or village where an event occurred was unknown, the coder attempted to indicate the chiefdom or district where such information was available.
158. Some background details, such as weapons used by the perpetrators or relationships between actors, were captured in a special 'remarks' section of the coding form.

Staffing

159. The Commission initially employed a team of 25 coders in March 2003. They worked until November 2003 and were responsible for the coding of over 9000 statements. They worked with all the statements gathered by the TRC, as well as those collected for the CGG mapping project.
160. Training of the coders took one week. Each trainee was provided with copies of the vocabularies, and a manual explaining the coding procedure. The training involved seminars, statement coding exercises, coding form evaluations, discussion groups and peer review sessions.
161. It was important that the work of the coders was consistent and reliable. For example, where two coders work with the same statement form they should identify the same victims and violations. The coders were given regular tests in which they were handed the same statement to code. The results were compared using a measure known as the 'overall proportion of agreement'. If the measure was 70%, this indicated that the coders would identify the same victims and violations 70% of the time. Experience has shown that it is realistic to attain measures above 80%. Initially the test was conducted every two days. One week after the training was completed, the 80% target was attained. Thereafter the tests were conducted on a monthly basis.

162. Since coding entails reading about a large number of atrocities, the coders also attended a workshop on vicarious trauma and methods of coping with such trauma.

Database Entry and Cleaning

163. Data Entry and Cleaning was the third stage of the data processing pipeline. In this step the coded forms were entered into the database system, where human rights violations data could be safely stored. Once a significant amount of information had been entered into the database, preliminary analysis began.

System Principles

164. Security was a major concern in setting up the computer network. The database contains names, addresses and contact details of statement givers. Furthermore, the statements often named those alleged to be responsible for abuses. The secrecy of such information had to be maintained, particularly since many statements had been given in the strictest of confidence.
165. As a general principle, the system used 'open source' software. Commercial software products are costly and sometimes contain "backdoors" that make it possible to gain entry to a computer system. In contrast, 'open source' software is free and tends to be more secure.
166. The following security measures were adopted by the TRC:
- The majority of the computers were 'client machines', meaning that they connected to and updated the database but did not store any violations information on their own hard-drives. All client machines were kept in one data processing room that was locked when not in use.
 - One primary machine, the database server, stored the database of human rights violations. The database server, statements and coding forms were all held inside a reinforced 'strong room'.
 - A network connected the client machines to the database server. The network was isolated so that no database-related machine could share information with other TRC computers or the Internet. Database output was printed and given only to those who required it.
 - All computers were protected by passwords. Each data entry clerk was assigned a unique user name so that changes to the database could be logged and audited if necessary.
 - Backups of the database were taken regularly to protect against fire and theft. This precaution included off-site backups that were sent abroad by secure means.

Hardware

167. The TRC used nine computers in total, combining those borrowed from UNAMSIL with those purchased by the IT Manager. All were desktop machines with 17" screens. Each was configured with a static IP address and was networked via a router to the database server. The server machine was provided by UNAMSIL. During the final months of the TRC's work, the server machine was returned and replaced by a more conventional desktop.
168. Some delays in establishing the network meant that each client machine maintained its own database for a short time. Once the network was established these disparate databases were merged onto the central server.

Software

169. The Human Rights Data Analysis Group (HRDAG) within the American Association for the Advancement of Science and Human Rights Programs (AAAS/HRP) provided the database and client software. The chosen system, 'Analyzer', is open source software specifically designed for the storage and processing of human rights violations data.²⁵ HRDAG was able to apply modifications to the software specifically to meet the requirements of the TRC.
170. All computers ran the operating system known as 'Red Hat Linux'. Originally Red-Hat 8 was used, later upgraded to Red-Hat 9. The server used the PostgreSQL Database Management System (DBMS) to store the data. The client programs for interacting with the database were written in Java script.
171. The data entry work was a relatively straightforward procedure. The database interface presented a series of forms. These corresponded to the various coding forms. All values on the coding forms were inputted into the database.

Data Cleaning and Quality Assurance

172. The coding work involved sustained periods of concentration, often dealing with complicated statements involving numerous actors and violations. The data entry work was repetitive. Due to the nature of the work it was understandable that, occasionally, the coders and data entry workers would make mistakes, such as those set out below:
 - a. Data Entry: After adding a violation, occasionally a data entry clerk would forget to add the victim or perpetrator, instead proceeding directly to the next violation. This oversight was easily solved, by producing a list of violations with missing victims or perpetrators, recovering the relevant coding forms and entering the missing information.
 - b. Coding: When working with a complex statement, a coder sometimes entered the wrong victim or perpetrator of an act. Such problems tended to be more difficult to fix, because it was necessary to re-read the whole statement and check all the coding thoroughly.

²⁵ More detail on the 'Analyzer' software can be found at the following Internet address:
http://www.hrdag.org/resources/data_software.shtml.

173. Some of the more elaborate accuracy checks on statements included:
- To ensure that the violations were geographically feasible. For example, in the first year of the conflict, the fighting was largely confined to Bo, Kenema, Pujehun and Kailahun Districts. Some statements reported abuses outside these areas. The statements were checked for location and date and corrected as appropriate.
 - To observe the lineage of ethnicity (through the father). In cases where the ethnicity of the father or a sibling was known, this ethnicity was applied to relatives as appropriate.
 - Where a violation had more than one perpetrator faction, to establish whether those factions collaborated to commit the act. If a statement implied collaboration between factions, it was checked to see if this combination of factions was consistent with known conflict trends.
174. The coding exercise aimed to reproduce the quantifiable content of the statements in a faithful manner. Corrections did not deviate from this principle.

Staffing

175. Initially five data entry workers were recruited in early May 2003. Training took two days under the direction of the Data Processing Officer. To ensure that the work would be completed on time, this team was expanded to eight people in October 2003. The data entry work was completed by the end of November 2003. The majority of the data cleaning and quality control was also completed during this period. Thereafter coders and data entry workers were employed occasionally to assist with remaining data entry and coding corrections. Correction work was completed by mid-February 2004.
176. In total 7700 statements were entered into the database. This covered all the statements collected by the TRC, both in Sierra Leone and internationally. Regrettably there was insufficient time to input the statements from the CGG Mapping Project, although they had been coded.

Data Matching and Judgement

177. The coded statements were entered into a 'Source Layer' in the database. In other words the database contains each item of information in isolation. To avoid the duplication of incidents mentioned in more than one statement the Commission employed a 'judgement process' to match the duplicate actors and violations. The matched data was stored separately in the database in a 'Judgement Layer'. An audit trail between the Source and Judgement layers ensured that matches were linked back to their origin in the statements. The Judgement Layer was used to compile the final statistical results.

The Judgement Process

178. In preparation of the judgement process, deliberations were held to establish what information was considered sufficient to assume that two actors or violations matched. Matching was conducted in two stages.
179. First, actors were matched based on details such as name, date of birth, ethnicity and, where appropriate, time and place of death. This was done by displaying the complete list of victims and repeatedly ordering the data by different variables so that potential matches would appear in adjacent rows.
180. Second, violation matching was applied to the matched actors. For example, supposing that two actors had been matched, the violations each actor suffered would be matched to determine whether they had any information such as time or place in common. Violation matching was largely automated.
181. A team from the Human Rights Data Analysis Group (HRDAG) of the Benetech Initiative (Palo Alto, California, USA) conducted the judgement process with the support of the American Bar Association, Central and East European Law Initiative (ABA/CEELI). The matching exercise took three weeks to complete.

Final Data

182. In total, raw information given to the TRC included 30,638 victims who suffered 64,297 violations. However, many of these victims were anonymous and their details could not be confirmed. The anonymous victims were removed, leaving 16,281 victims. In this group, some victims and their violations were reported to the TRC in more than one statement. When these duplicates were identified, the number was reduced to 15,143 victims who suffered 40,703 violations. This set was given an additional review, and a further 148 additional duplicate victims and their violations were identified. The final data therefore reflected 14,995 victims who suffered a total of 40,242 violations. This set of data was passed on for statistical analysis.

Analytical Reporting

183. Analytical Reporting is the fourth and final stage of the data processing pipeline. The aim was to produce a statistical analysis of the magnitude and trends of violations during the course of the conflict. Whilst some initial analysis was conducted with Source Layer information, the final analysis used to compile information in the TRC report was done with matched data from the 'Judgement Layer' described above.
184. In addition to its quantitative outputs, the database provided a comprehensive index of violations and their associated victims and perpetrators. This information assisted in the qualitative work undertaken by the Commission's researchers.

Qualitative Research

185. To enable the database to support qualitative research work, the TRC Data Processing Officer built a 'reporting interface'. This tool was made available to the Commission's researchers and investigators so that they could query the database directly and generate simple reports showing the data they needed.
186. The reports displayed statement details, statement lists and lists of names. Researchers and investigators could input particular criteria into the reporting interface and generate lists of statements that matched those criteria. For example, before embarking on their missions to identify mass graves in a particular district, the investigators generated lists of statements involving killing violations with multiple victims in that district.
187. The most frequent use of this reporting system was in helping to identify violations against specific types of victim. The system was also used to extract poignant quotes and victim testimony for use in various chapters of the report.
188. In addition, researchers could search the statement summaries and remarks sections to identify specific words or phrases. These searches could generate a variety of interesting insights. In one instance, a search for statements mentioning the word 'diamond' revealed that the most frequently reported violation linked to diamonds was the extortion of diamonds from dealers and miners.

Initial Quantitative Research

189. All statistical work was done using 'flat files' extracted from the database. Each flat file was a comprehensive list of every violation against every victim along with all associated information, including:
 - Facets of the victim such as age, sex and ethnicity;
 - The violation, when it occurred and where it happened; and
 - The responsible faction or factions.
190. Prior to the judgement process it was possible to carry out some preliminary statistical work. Though these results were not used in the final report, the work was vital in gaining an understanding of the conflict and the factors influencing the violations. Typically graphs were produced to consider various key variables in relation to each other, such as:
 - Comparing age and sex of victims for each violation suggested that sexual slavery and forced recruitment violations were most frequent for children between the ages of 10 and 14 years old
 - Examining the prevalence of each violation through time, it became clear that amputations commenced considerably later than most other abuses
191. More specific graphing exercises were undertaken to test specific theories or concerns raised by the researchers. For example, the theory that the Kamajors faction had targeted victims of Northern origin was initially tested with the graphing application.

192. The preliminary graphing work was done by the Data Processing Manager and was completed by the end of November 2003. An initial report was presented to the Commissioners during the pilot phase.

Analytical Reporting

193. Reporting work was divided into two parts. The first part aimed to answer specific questions posed by the researchers. The second part was a refined version of the first, which produced a statistical chapter for inclusion in the TRC's final report. Both were completed with the assistance of a statistician and the HRDAG team provided as part of the ABA/CEELI's assistance to the TRC. Graphs, tables and other statistics were all produced using statistical software packages such as 'R' and 'Stata'.

Hearings

194. The second main component of the operational phase of the Commission was the conduct of hearings. Witnesses and experts were invited to testify before the Commission on their experiences of the conflict. A training session was organised for Commissioners and Commission staff by UNIFEM in March 2003. The training was aimed at giving a gender-balanced perspective to the hearings to prepare Commissioners and staff on how to deal with the gender issues that would arise during the hearings.
195. One of the goals of the hearings was to give victims an opportunity to relate their experiences. For many of them, it was the first time they had talked about what happened to them. The hearings enabled the Commission to catalyse a public debate about such issues as the causes of the conflict, the role of institutions and what needs to be done to transform Sierra Leone. The hearing phase started on 14 April 2003 and was concluded on 5 August 2003. Although attendance was somewhat sparse at the initial hearings in Freetown, audience numbers increased steadily, with large crowds gathering especially in the districts where most of the atrocities took place.

Types of hearings

196. One week in each district was devoted to public hearings for individual statement givers. Victims, witnesses and perpetrators came forward to give testimony on their experiences or roles in the conflict and to answer questions from the Commissioners and staff. The public hearings were held in the district headquarter towns, in appropriate venues such as school buildings or community centres.
197. Each set of district hearings included one day of closed hearings. These hearings were designed to allow children and victims of sexual abuse to testify in a private setting. Closed hearings were also arranged for alleged perpetrators or ex-combatants who were reluctant to speak before the public for security or other reasons.

198. The Commission also held a series of thematic, institutional and event-specific hearings in Freetown. These sessions were held in public and featured submissions and testimony from Government ministers, political parties, UN agencies, local and international NGOs, civil society institutions and other experts. The following subjects were addressed during these hearings:

- Governance in Sierra Leone, including the extent of participation in political processes and respect for human rights
- The role of civil society and immigrant communities
- Management of mineral resources
- Issues of corruption
- Women and girls²⁶
- Children and youths
- Militias and armed groups
- The role of external groupings and international actors
- The Sierra Leone Armed Forces and Police
- The civil service
- The judiciary, the legal profession and the rule of law
- The role of the media
- Promoting reconciliation and national reintegration

199. Hearings were also conducted on the following specific events:

- The NPRC 'coup trials' and executions of December 1992
- The AFRC coup of 25 May 1997
- The SLPP detentions, trials and executions of 1998
- The destruction of Koribundo
- The attack on Freetown in January 1999
- The taking of UN peacekeepers as hostages in May 2000

Selection of cases for hearings

200. Witnesses for hearings were initially selected from among those who made statements during the statement-taking phase. Statements were put forward for hearings according to the following criteria:

- Indication that the statement giver wished to appear in a hearing;
- Ensuring that a representative balance was achieved with regard to region, ethnic group, age group, political affiliation and gender of statement givers;
- Ensuring that a representative balance was achieved with regard to the range of violations that occurred in the conflict and the range of perpetrator factions;
- Fair and equal exposure for violations that were committed by, in the presence of, or with the knowledge of a faction leader or other key role player;
- Proper hearing for statement givers who had information about the administrative and military command structures, internal policing, policy making and sources of authority within the combatant groups; and
- Ensuring public acknowledgement of massacres, mass killings and other systematic violations through first-hand testimony at hearings.

²⁶ The Commission wishes to acknowledge the expertise of UNIFEM in providing guidance and assistance to women's groups in the preparation of their submissions for the TRC Thematic Hearings on Women and Girls.

201. After the initial selection of statements for hearings, District Co-ordinators and statement takers travelled across their districts to contact the relevant statement givers and schedule their appearances. Logistics and other constraints prevented the teams from locating all the witnesses selected. However, the publicity generated in the districts by the holding of hearings brought a whole range of new witnesses who had not given statements during the statement-taking phase and who wanted to testify in public. They were invited to make statements and, in appropriate cases, some of them testified.

Procedures for Hearings

202. The Commission published a set of guidelines on Hearings Procedures, which outlined the rules and processes to be followed, including the role of legal representatives of the parties. A truth commission hearing is a quasi-judicial process. While the Commission did not want to turn itself into a court of law, it was necessary that fair procedures be accorded to all persons appearing before it.
203. Prior to public hearings, the Commission's counsellors briefed individual witnesses on what they might expect from the experience. All witnesses were also debriefed after the hearings. Witnesses were encouraged to bring along a family member or a friend to provide emotional support during the hearings. Witnesses were able to testify in the language of their choice, with interpreters translating their testimonies into English, or into Krio or into the prevailing language in the district.
204. The seating arrangement for the podium party in public hearings resembled a semi-circle, with the witness facing the audience, sitting in the middle between the Commissioners and the leaders of evidence. The witness sat with a family member or friend, or with a counsellor provided by the Commission to offer psychosocial and emotional support. Everybody sat at the same floor level. All of these measures were designed to make TRC witnesses feel secure, relaxed and confident to tell their stories.
205. The presiding Commissioner at each hearing administered an oath to every witness before he or she proceeded to give testimony. After the testimony, the Commissioners and leaders of evidence asked questions of the witness. Finally, the witness was invited to ask the Commissioners questions if they so desired and to make suggestions for the Commission's recommendations.
206. When witnesses mentioned the names of perpetrators, Commission staff made all reasonable efforts to locate alleged perpetrators and invited them to make statements or to participate in a hearing and relay their own version of events. If the whereabouts of a particular perpetrator were not known, a public announcement was made at the hearing venues and letters written to their last known addresses to invite them to contact the Commission and respond to the testimony given about them. Victims were not asked directly by the Commission to forgive their perpetrators. However when victims expressed willingness to meet their perpetrators – and the perpetrators agreed – private meetings were organised by the Commission.

207. The Commission worked together with the Sierra Leone Police Force, the RSLAF and UNAMSIL to ensure the safety of witnesses during the hearings, as well as the security of TRC personnel and equipment. Red Cross volunteers and medical personnel from the district hospitals were also present at every hearing.
208. Only female Commissioners and staff members attended the closed hearings for victims of sexual violence. The dignity of such victims had to be respected and the trauma of their experiences appreciated. The electronic recording of their testimonies was done in such a way as to avoid their being identified. Counsellors were present during the hearings to offer emotional support.
209. The Commission advised women victims of sexual violence who indicated interest in appearing before the Commission to opt for a closed hearing. Nevertheless, some women insisted on appearing before the Commission in public. In such cases, the Commission undertook great efforts to explain to the women the possible consequences of such an appearance and sought to know if they had consulted their family members. Thus only in exceptional circumstances did victims of sexual violence give any testimony in public.
210. Further to the Framework for Co-operation established during statement taking between the Commission and the CPAs, an agreement was reached on the participation of children in hearings. The Commission provided a list of potential child witnesses. The CPAs conducted the necessary vulnerability and safety assessments and consulted with the children and their families. If approval was obtained, the children were prepared for a hearing. A social worker was always present at a child hearing, sitting next to the child and offering any emotional or other support required. After the hearing, the social worker conducted further visits to the child, to ensure no adverse consequences from his or her participation.

The use of subpoenas

211. Where individuals or organisations were unwilling to co-operate with the Commission in the fulfilment of its mandate, the Commission was compelled to resort to its powers of subpoena, as set out section 8(1) of the TRC Act. These powers were used very sparingly, since the spirit of co-operation was generally positive. The Commission preferred, wherever possible, to encourage full, voluntary participation from everyone.

Archiving of the Commission's Materials

212. As the Commission was winding up its activities, decisions had to be taken on the archiving and public accessibility of its source materials. The Commission resolved to make as much material as possible available to the public to encourage further research, debate and public education.
213. The Commission decided that the statements and transcripts from hearings that were not confidential should ultimately be made available to the public. A procedure for accessing these materials was also approved by the Commission. The Commission has recommended that its non-confidential materials be digitised and made available on a CD-Rom of 'Appendices' that will accompany the final report.

APENDICES

APPENDIX ONE: MANUAL FOR STATEMENT-TAKERS

MANUAL FOR STATEMENT TAKERS

The purpose of this document is to guide statement-takers in their work. It explains the Commission's mandate and functions, and offers some guidance regarding the appropriate way to take a statement. The term 'statement-taker' refers to the person who receives and records the statement on behalf of the Commission. The term 'statement-giver' refers to the person telling his/her story to the Commission.

1. **What is the Commission, its mandate and functions?**

The Commission is an independent organisation whose mandate is to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement on 7 July 1999. The Commission has the mandate to address impunity and to respond to the needs of the victims of the conflict in Sierra Leone. The Commission has also been established to prevent a repetition of the conflict.

The general function of the Commission is to investigate and report on the causes, nature and extent of the human rights violations and abuses, and on the context in which these violations and abuses occurred. It also has to report on whether or not the human rights violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual. The Commission will investigate and report on the role played by both internal and external factors in the conflict. In this respect, it will investigate the role that foreign individuals, groups or governments might have played in the conflict in Sierra Leone.

During its statement-taking phase, the Commission has to provide an opportunity to victims to give an account of the human rights violations and abuses they have suffered in order to assist them restore their dignity and to promote reconciliation. It also has to provide an opportunity to perpetrators to relate their experiences and to create a forum within which victims and perpetrators can speak to each other. Statement-takers will therefore collect statements from both victims and perpetrators in the conflict.

The Commission will give special attention to the needs of child victims, to those who have suffered sexual abuses and to children who were perpetrators in the conflict.

The Commission has no money of its own to give to victims. On the other hand, it will, in its Final Report, make recommendations to the government of Sierra Leone. There is a place in the statement form for victims, perpetrators and witnesses to indicate to the Commission the recommendations that they would like it to make.

2. What is the difference between the Commission and the Special Court, and what is their relationship?

The Commission and the Special Court are two independent organisations who have started their work at the same time. The Special Court is a court of law, and will therefore try people who have responsibilities in the conflict in Sierra Leone. But the mandate of the Special Court is to try those who bear the greatest responsibilities in the conflict, that is, not more than 25 people in all (?).

The Commission is not a court of law. It will not prosecute anybody and will not apply any sentence to any perpetrator in the conflict. The purpose of the Commission is to give an opportunity to victims, perpetrators and witnesses to the conflict to speak about their experiences. It will not limit itself to those who bear the greatest responsibilities. The Commission is for everybody; it is to seek truth and promote reconciliation.

The Commission and the Special Court both have the mandate to address impunity, but by different means. They are complementary organisations, but are totally independent from one another. That is to say that the Commission will not disclose any information collected in its statement-taking phase to the Special Court.

3. Understanding of human rights violations and abuses

Human rights law applies in times of conflict as well as in times of peace. "Human rights" is a term used to describe a broad spectrum of rights that may belong to individuals, groups (such as ethnic and religious minorities) and "peoples". Human rights are sometimes classified into civil, political, economic, social and cultural rights. They range from rights which contemplate the core values of human dignity, like the right to life and the prohibition of torture, to the right to housing and medical care.

The Commission is interested in all of these categories. Although wartime atrocities usually involve the "core" human rights, like the right to life and the protection against cruel and inhuman treatment, the conflict in Sierra Leone may also have involved, and have been caused by, violations of such economic and social rights as the right to food, to housing and to medical care. The Commission takes a broad approach to the term human rights.

A list of human rights is provided in annex 1. This list should be regarded as a sample of human rights and therefore, it is not exhaustive. Statement-takers should be careful in excluding any type of right that is not included in the list. The Commission wishes not to exclude anyone who thinks he/she has suffered a human rights abuse or violation.

4. Understanding of violations of international humanitarian law

International humanitarian law applies in times of armed conflict. These are the laws of war, found in documents like the Geneva Convention. They protect civilians, non-combatants like wounded soldiers and prisoners, and even combatants, against inhuman abuses.

5. Differences between victims, perpetrators and witnesses

The Commission considers four categories of statement givers. The statement-taker will have to determine in which of the four categories each person belongs. The categories are made according to the role played in the conflict.

Victims: This category regroups statement-givers who have suffered a human rights violation or abuse or a violation of international humanitarian law during the conflict. Those statement-givers will tell the statement-takers about what they suffered.

Perpetrators: This category is for statement givers who have themselves committed human rights violations or abuses or violations of international humanitarian law during the conflict. Those statement-givers will tell the statement-takers about what they inflicted to other people.

Witnesses: The Commission also provides for people who have seen human rights violations or abuses or violations of international humanitarian law committed during the conflict. These are the people who have witnessed an incident and want to tell the Commission about it.

Person making a statement on behalf of someone else: This category includes the statement-givers who want to tell the story of a victim family member, relative or friend who is not able to speak to the Commission himself, either because of emotional, mental or physical problems (including death).

The statement form contains a section for all of the categories, namely one for victims, one for perpetrators, one for direct witnesses and one for people making a statement on behalf of a family member, a relative or a friend.

It is crucial for the statement-takers to understand that the statement-giver can belong to more than one category.

Indeed, many people in Sierra Leone are victims, perpetrators and witnesses at the same time. As an example, let's consider the case of a child soldier. If the child was recruited involuntarily, he can be considered as a victim. On the other hand, after his forced enrolment, he is likely to have committed himself human rights violations or abuses or violations of international humanitarian law during his time as a combatant. That makes him a perpetrator as well. Furthermore, this same child soldier is likely to have been a witness to atrocities committed by others; he is therefore also a witness. The statement-takers will then have to fill in three of the statement form sections, one for each role that the statement-giver has played in the conflict.

6. **Issues of confidentiality and self-incrimination**

Confidentiality:

The issues of confidentiality and self-incrimination must not be confused. Confidentiality means that no name or information leading to the identification of a statement giver will be published in the Final Report of the Commission. It is important to note that by making a statement to the Commission, the name and the details of the statement the person makes may appear in the Final Report of the Commission. Perpetrators whom the statement-giver names may also be informed of any allegations that the statement-giver makes, unless the statement-giver specifically requests that any information he/she gives to the Commission be regarded as confidential. The statement-giver may also require that the Commission does not disclose his/her name or details which may make it possible to identify him/her. In this instance, the statement-giver will need to request that the Commission extends this kind of protection to him/her by telling his/her statement-taker. When making the statement, statement-givers will have to inform their statement-taker that they want to request confidentiality from the Commission.

Self-incrimination:

The right to avoid self-incrimination means that a person's testimony at the Commission cannot be used against that person in any court of law, including the Special Court. During the statement-taking phase, perpetrators giving a statement will have to provide the Commission with details related to the human rights violations and/or abuses they committed. These details will not, under any circumstance, be used to prosecute them. The right to avoid self-incrimination is part of the law and is granted automatically to all statement givers (they do not have to request it).

7. **How to take a statement¹**

A. General rules of statement taking

Confidence

Statement-takers should always keep in mind that giving a statement may be a difficult and even painful experience for the person giving the statement. Indeed, it will force the statement-giver to relive his/her experience: the human rights violations suffered, witnessed or committed. Feelings of fear, sadness or guilt may resurface during the statement-giving. It is therefore crucial that the statement-taker be attentive and compassionate. The statement-giver must feel that his/her experience is of interest to the statement taker. The statement-giver must be allowed to take breaks when tired or when overwhelmed by emotions.

The statement-taker should always avoid appearing to be judging the statement-giver, disapproving his/her conduct or disbelieving the information given. Overall, the statement taker should appear as neutral as possible, while at the same time show compassion for the statement-giver's suffering.

The statement form

The statement-taker will have to explain the different sections of the statement form to the person giving the statement. The statement-taker should first explain the Commission's role and functions, briefly if the statement-giver seems already aware, more in depth if the statement-giver does not seem familiar with it. Then, the statement-taker will read and explain the rules of confidentiality and make sure that the statement-giver understands them, by insisting that he/she may ask questions in order to clarify these issues. The statement-giver must sign the declaration at the bottom of the page, indicating that he/she understands and agrees to the conditions outlined.

The statement-taker has then to fill up the section on his/her own personal details and sign it. He/she will then read the section on personal details of the statement-giver and complete the questions. The statement-giver has to sign the declaration at the end of this section to indicate that the information provided is accurate and true.

At this point, the statement-taker will ask the statement-giver what kind of statement he/she wishes to give to the Commission. That is to say, does the statement-giver wish to tell the Commission about human rights violations and abuses he/she suffered, witnessed, committed or that a relative suffered? The corresponding section is to be completed by the statement-taker. If the statement-giver considers himself/herself as belonging to more than one category, each corresponding section will be completed in turn.

Each section comprises several questions. The statement-taker has to ensure that the statement-giver understands perfectly each question and allow the statement-giver to ask for clarification at any time. At the end of a section, the statement-taker reads the declaration and asks the statement-giver to sign his/her statement, indicating that the information provided is accurate and true to the best knowledge of the statement-giver.

The narrative

Each section of the form asks for the statement-giver to tell his/her story. Although the statement-taker should let the statement-giver speak as freely as possible, some clarification questions might become necessary. For example, clarification questions regarding the number of persons present during the incident, the actions of a specific person, etc., may be useful.

The statement-taker must avoid asking leading questions at all times. A leading question may present a temptation for the statement-giver to answer what he/she thinks that the statement-taker wants to hear rather than the truth.

It is important to note that extra pages have been added to the statement form to allow the statement-taker to take extra notes regarding any of the questions. Therefore, statement-takers should never interrupt a statement-giver because of a lack of space in the form to record answers. Statement-takers will need to identify any extra page used with the number of the section and question to which it belongs.

The recording of statements

Some statement-takers will be asked by the Commission to record statements using an audio tape recorder or a camera. This equipment should never be hidden from the statement-giver and the statement-taker should always request the permission of the statement-giver to use it. It must be explained carefully to the statement-giver that his/her name will not be recorded on the tape. The statement-taker must never photograph the face of the statement-giver, in order to preserve confidentiality and to protect the statement-giver.

If the statement-giver does not feel comfortable with the use of a taper recorder or a camera, the statement-taker should not insist on using it. If the use of an audio tape recorder is not permitted by the statement-giver, the statement-taker will have to rely on taking notes by hand.

Translation issues

1. Translation of the statement form:

The statement is in English. It will be the responsibility of the statement-taker to translate the questions for statement-givers that do not speak English. Two conditions are necessary: 1) the statement-taker must understand the questions perfectly and 2) he/she must speak the language of the statement giver well enough to be able to translate the questions clearly. If this is not the case, the statement-taker will have to rely on the use of an interpreter (this will be covered below).

When translating the questions, the statement-taker should use simple words and short sentences, in order to make sure that the meaning of the question is not lost during translation. He/she must also make sure that the statement-giver understands the questions perfectly and that there is no confusion. A good strategy is to ask the statement-giver if the question is clear, and repeat the question using different words if necessary. Again, the statement-taker must refrain from asking leading questions at all time.

It is up to the statement-taker to decide if he/she prefers to take notes in English or in the language used by the statement-giver. In the latter case, it will be the responsibility of the statement-taker to translate the answers in English after the statement-taking.

2. The use of interpreters:

In the case where an interpreter is necessary, the statement-taker should have a meeting with the person chosen before the statement-taking. They should review the statement form together and the statement-taker should ensure that the interpreter understands all questions. The interpreter must be instructed to relay the questions exactly, without using words or expressions that may be confusing to the statement-giver. The interpreter must let the statement taker know immediately if the statement-giver does not seem to understand a question, in order to let the statement-taker rephrase the question.

B. Taking a statement from special groups

Victims of torture

Statement-takers must be very careful when taking a statement from a victim of torture. The retraumatization of the victim must be avoided as much as possible. The statement-taker needs to be prepared to deal with the emotions that the victim will necessarily experience while telling his/her story. The statement-taker should always be compassionate and attentive to the victim, and allow him/her to take breaks when the emotions seem too painful.

Women victims of sexual abuse or rape

In most countries around the world, sexual abuse and rape are socially attached to feelings of shame. According to some cultural values, women victims of sexual abuse or rape feel guilty about their experience and may be reluctant to speak about it. It is therefore highly important that the statement taker establish trust with the statement-giver and avoid asking for embarrassing details when these details are not indispensable to the telling of the story. The statement-giver should not be pushed to relate details that she does not feel comfortable revealing. The Commission will allow for women victims of sexual abuse or rape to request that a female statement taker take their statement.

Children

Very special care must be used when taking a statement from a child. Children have been implicated in the conflict in Sierra Leone in many ways: most child perpetrators are also victims, because most of them have been abducted and enrolled against their will into the warring factions. In that regard, statement-takers must always look compassionate and avoid judging the child. They must be very attentive to the needs of the child and avoid pushing by asking for answers that the child does not want to provide. The child should be allowed to ask for breaks or to stop the statement taking at any time. Breaks should be planned by the statement takers even if the child does not ask for it.

The statement-taker must explain the form very carefully to the child, using simple language to avoid confusion. The statement-taker needs to keep in mind that children may not understand the formulation of a question that has been designed for adults and that rephrasing questions might be useful. The child should also be allowed to be accompanied by a family member or a friend if he/she feels the need for it.

Perpetrators

When taking a statement from a perpetrator, the most important thing for statement-takers is to avoid judging the statement giver, whatever the violations committed. Statement-takers must be prepared to deal with feelings of guilt and anger during the statement-taking. Finally, statement-takers must keep in mind that a lot of perpetrators to the conflict in Sierra Leone are also victims as well.

Appendix Two: List of Human Rights

The following simplified list, derived from the Universal Declaration and the African Charter, is proposed for the guidance of statement-takers:

Discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, disability
Right to life
Right to be free from violence
Slavery
Torture
Cruel, inhuman or degrading treatment or punishment.
Wrongful arrest or detention
Right to a fair trial
Right to privacy
Protection of home and family
Freedom of movement
Right to nationality
Right to marry and have a family without discrimination
Right to property
Freedom of religion
Freedom of speech
Right to receive information
Freedom of association
Freedom of peaceful assembly (meetings)
Right to vote and to democratic government
Right to work
Right to decent working conditions
Right to equal pay for equal work
Right to join trade unions
Reasonable limitation of working hours and periodic paid holidays
Right to food, clothing, housing and medical care
Right to education
Right to participate in the cultural life of the community
Protection against ill-treatment of children and the elderly
Right to a healthy environment
Right not to be forced to enroll or participate in an armed conflict?

APENDIX THREE STATEMENT-TAKING PROTOCOL

Number : _____

THE TRUTH AND RECONCILIATION COMMISSION
SIERRA LEONE

STATEMENT

Block A, Brookfields Hotel, Jomo Kenyatta Rd., Freetown.

THE TRUTH AND RECONCILIATION COMMISSION

Object of the Commission as set out in Section 6 (1) of the TRC Act of 2000

The Commission is established for the object of:
Creating an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement on 7 July 1999;
Addressing impunity;
Responding to the needs of victims;
Preventing a repetition of the violations and abuses suffered.

The function of the Commission as set out in the Act is:

1. To investigate and report on the causes, nature and extent of the human rights violations and abuses, and on the context in which these violations and abuses occurred;

To report on whether or not the human rights violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual;

To investigate and report on the role played by both internal and external factors in the conflict.
2. To provide an opportunity to victims to give an account of the human rights violations and abuses they have suffered in order to assist them restore their dignity and to promote reconciliation;

To provide an opportunity to perpetrators to relate their experiences and to create a forum within which victims and perpetrators can speak to each other;
3. The Commission is to give special attention to the needs of child victims, to those who have suffered sexual abuses and to children who were perpetrators in the conflict.

Making a statement to the Truth and Reconciliation Commission

The Truth and Reconciliation Act 2000, envisages that a number of different people and institutions will make statements to the Commission. These will include victims, witnesses, perpetrators, political parties, civil society institutions and interested parties. The Commission sets out below those categories of people who may be interested in making either a statement or submission to the Commission.

1. Those who have suffered violations

You may make a statement to the Commission in the following circumstances:

- If you have suffered a human rights violation or abuse or a violation or abuse in terms of international humanitarian law during the conflict period in Sierra Leone which you wish to share with the Commission;
- If you have a relative or a friend who has suffered a human rights violation or abuse or a violation or abuse of international humanitarian law and they are not able to make the statement themselves because they are dead or missing or not in an emotional frame of mind to do so themselves and you wish to share this information with the Commission;
- If you have witnessed a human rights violation or abuse or a violation or abuse of international humanitarian rights law and you wish to share this information with the Commission.

2. Those who have committed violations and abuses

You may also make a statement to the Commission if you have committed or been responsible for the commission of a human rights violation or abuse or a violation or abuse of international humanitarian rights law and you wish to share this information with the Truth and Reconciliation Commission;

3. Those who have knowledge of the commission of violations and abuses

If you are an ex-combatant, a policeman, a soldier and you wish to inform the Commission of violations and abuses you have witnessed being perpetrated, you may also make a statement to the Commission sharing your experiences.

If you have witnessed a human rights violation or abuse or a violation or abuse of international humanitarian rights law and you wish to share this information with the Commission.

3. Political Parties, civil society institutions and interested parties (including governmental institutions and agencies)

The Commission will be requesting that political parties, civil society institutions and interested parties make submissions to it on their knowledge of the violations and abuses of human rights and international humanitarian law which has taken place. The Commission intends particularly to address the issue of whether these violations and abuses were the result of deliberate planning, policy or authorization by any government, group or individual as well as the role of both internal and external factors in the conflict.

Confidentiality

Should you wish to give information to the Commission on a confidential basis, the Commission will ensure that such information is never used by it in such a way as to permit your identification, either directly or indirectly. The Commission will never disclose a statement given to it after confidentiality has been requested. You must exercise this request by signing this form in the appropriate place on page 5. If you wish to give some information on a

confidential basis, but are willing to provide other information without requesting confidentiality, please use two separate sheets, indicating the information that is confidential on one of them and signing the request for confidentiality.

Confidentiality is the prerogative of the Commission. The Commission has decided to extend this protection to all who require it.

It is important to note that the Commission will not be sharing any information with the Special Court. No information given to the Commission on a confidential basis will be provided to the Special Court.

Public Hearings

The Commission will be holding public hearings for victims, perpetrators and witnesses. Please inform the Statement-Taker whether you will be willing to appear at a Public hearing to share your experiences publicly if you are invited.

Special Hearing Procedures

The Commission is cognizant of the fact that many victims and witnesses may not feel secure in making statements or giving their testimony in public. The Commission has the power in terms of the Act to implement special procedures to protect victims and witnesses and in particular women and children. The Commission will also implement special procedures to address the needs of those who have suffered sexual abuse. Special Procedures will also take into account the needs of Child perpetrators.

Telling the truth

Truth telling is important for the Commission. It is your duty to tell the truth. Only in this way can the Commission accomplish its goals of genuine reconciliation. If you intentionally provide misleading or false information to the Commission, you are liable to trial by the High Court of Sierra Leone for contempt of court, and may be punished with fine or imprisonment.

Please sign this declaration at the end of this page as proof of the fact that you have read and understand what has been stated above. You may ask the Statement-Taker to explain this section to you.

Declaration

I, _____ affirm:

That I have read this section and understand its contents insofar as they pertain to me; or the Statement-Taker has explained this section to me and I confirm that I understand the contents thereof insofar as they pertain to me.

Signature or thumbprint

Dated at _____ (Chiefdom and District) on this the _____ day of _____ 2003

Please sign the following section as well if you wish the information you give to the Commission to be treated as confidential

Declaration by Those Wishing to Give Confidential Information

I _____ affirm that I request that the Commission treat the information I am giving as confidential. I understand that the Commission will not use the information that I provide in such a way as to permit me to be identified.

Signature or thumbprint

Dated at _____ (Chiefdom and District) on this _____ day of _____ 2003

Section 1: Section for Statement-Taker

The Statement-Taker is an employee of the Truth and Reconciliation Commission authorised to complete this form.

This section should be completed by the Statement-Taker and refer to his/her particulars.

1. Particulars of Statement-Taker

Name of statement-taker: _____

2. Areas of responsibility for Statement-Taker

Please circle the number of the region which you are responsible for taking statement from:

1. Western Area 1
2. Western Area 2
3. Northern Region
4. Southern Region
5. Eastern Region

Please circle the number of the district you are responsible for:

1. Kailahun
2. Kenema
3. Kono
4. Bombali
5. Kambia
6. Koinadugu
7. Port Loko
8. Tonkolili
9. Bo
10. Bonthe
11. Pujehun
12. Moyamba
13. Western Area 1
14. Western Area 2

3. Please fill in the name of the town/place/chiefdom where this statement has been

taken: _____

4. Please fill in the language in which this interview was conducted: _____

Section 2: Personal Details of the Statement-Giver

The Statement-Giver is the person who tells his/her story to the Commission.

A. Personal details:

1. Family name: _____
2. First name: _____
3. Other names: _____
*Alias, combat name, nickname.
4. Date of birth: _____
5. Age at incident _____
6. Ethnic group: _____
7. National Identity / Passport (where available): _____
8. Place of birth: _____
9. Nationality: _____
10. Occupation/Education level: _____
11. Marital Status: _____
12. Sex: _____

B. Contact details:

1. Where can you be contacted in the future:
2. Address: _____

3. Telephone : _____
4. Mobile: _____
5. Fax number: _____

Family member or relative where you may be contacted:

1. Name and Address: _____

2. Telephone: _____
3. Mobile: _____
4. Fax number: _____

Other (person with whom a message can be left):

C. Please indicate whether the statement is about violations and abuses suffered by
(please circle):

1. You personally
2. A family member, a relative, a friend or someone known to you
3. Another person known or unknown to you

D. Is the information you will be providing the Commission confidential? YES NO

General instructions for the Statement-Giver

1. If this statement is about you and the human rights violations and abuses you have personally experienced or suffered, please complete section 3.
2. If this statement is made by you on behalf of a family member, a relative or a friend, who have experienced human rights violations and abuses, please complete section 4.
3. If this statement is about human rights violations and abuses you have witnessed, please complete section 5. In the case of mass victims, please give the Commission estimates of the numbers of people, their sexes, ages and any other relevant information that could enable the Commission disaggregate the information.
4. If this statement is about human rights violations and abuses you have carried out, please complete section 6.

Please attach any photographs, medical records or certificates that may assist the Commission understand your story.

1.2 Please provide the statement taker with details as to the date, places and circumstances of the human rights violations and abuses you have suffered.

1.3 Do you think that you were specifically targeted or singled out?

YES NO

If yes, please explain why you believe that you were targeted or singled out.

2. Perpetrator information

2.1 Do you know the identity of the person / persons or group who committed the violations and/or abuses? Did he/they call themselves by any aliases or names?

YES NO

2.2 Did they belong to one of the groups or factions indicated below and, if yes, which one (please circle)?

- UN Peacekeepers Police RUF AFRC SLA
- ECOMOG NPRC APC Govt. SLPP Govt. The Peoples Army
- CDF: Kamajors Donsos Gbethes Tamaboros Kapras
- Executive Outcomes Gurkhas Civilian Collaborator to any of these groups

Others: _____

Further details: _____

2.3 Is there any particular detail that you remember about the perpetrator(s) (for example, physical details such as scars, clothes, names, insignia or languages spoken)?

2.4 Do you know the region or district where the perpetrator(s) came from?

2.5 Could you identify him/her/them if you saw them again?

YES NO

2.6 Please provide the current whereabouts and address of the perpetrator(s), if known to you.

2.7 Which language was spoken by the perpetrator(s)?

2.8 Do you know to which ethnic group the perpetrator(s) belonged?

2.9 Male or female: _____

3. Political affiliation / organisation that you belong to

3.1 At the time of the violation / abuse, were you a member of any organisation, faction or group?

YES

NO

3.2 If you were a member of an organisation, please indicate if it was one of the following:

1. Community 2. Political grouping or party 3. Military
4. Police 5. Other

3.3 Please detail the name of the organisation, the dates of your membership and the position(s) you held:

Name of organisation: _____

Dates of membership: _____

Position(s) held: _____

3.4 Were you sick, injured, captured or surrendered at the time of the violation?

YES

NO

4. Witness details

4.1 Did anybody witness the violations and abuses you suffered?

YES

NO

4.2 If there is a witness or witnesses who saw what happened, please provide the Commission with the following details:

Name of witness / witnesses: _____

Contact address(es): _____

Telephone / mobile number: _____

4.3 Would they be willing to make a statement to the Commission about what they saw?

YES

NO

DON'T KNOW

5. Other victims in the same incident

5.1 Are you able to confirm that other people have suffered human rights violations and/or abuses with you, in the same incident?

YES

NO

If yes, please provide the following details to the Commission (please use additional sheets if necessary):

Family name: _____

First name: _____

Other names: _____

*Alias, combat name, nickname.

Ethnic group: _____

Relationship with you: _____

*For example: spouse, child, neighbour, etc.

Address: _____

Telephone / Mobile: _____

Occupation: _____

Please fill in Sections 4 and/or 5 of this booklet for those other violations that you witnessed or know about.

6. Consequences of the human rights violations and abuses suffered

6.1 Did you sustain any physical or mental injury, damage or loss as a result of the human rights violation or abuse?

YES

NO

If yes, please describe the nature of the physical or mental injury, damage or loss sustained:

6.2 Did you receive medical treatment and/or counselling or participate in a traditional healing/cleansing process?

YES

NO

If yes, please provide details:

6.3 What is the current status of your health?

6.4 Have you received any compensation for the loss or damage you sustained?

YES

NO

6.5 What impact did the human rights violation or abuse have on you, eg are you disabled, have you lost your home, etc.?

6.6 How do you currently support yourself?

6.7 Family details (please circle)

A. Marital Status: Single Married Divorced Widowed

B. Children: Yes No If yes, how many: ____

C. Names of children: _____

D. Names of other dependants: _____

E. Accommodation:

Details: _____

7. Appearance at hearings

7.1 Are you willing to testify at a public hearing?

YES

NO

2.3 Did you witness the event or incident personally or were you informed by someone else of what happened (please circle)?

I witnessed it myself

Someone else told me

If someone else related the event to you, please provide the following details about this person:

Name: _____

Address: _____

Occupation: _____

Date when you were informed: _____

If there were several victims, please give the Commission an estimate of their number, sexes and ages.

3. Perpetrator(s) details

3.1 Do you know the identity of the person(s) who committed the violation and/or abuse?

YES

NO

3.2 Could you identify him/her/them if you saw them again?

YES

NO

Please tell the Commission about the perpetrator(s):

Name(s): _____

Ethnic group: _____

Other names: _____

*For example: combat name, nickname, alias, etc.

Combat unit / faction / other: _____

Rank: _____

Region from which perpetrator(s) came from: _____

Language spoken: _____

Address (if known): _____

Current whereabouts (if known): _____

Any other detail: _____

4. Consequences of the human rights violations and abuses suffered

4.1 Did the victim sustain any physical or mental injury, damage or loss as a result of the human rights violation or abuse suffered?

YES

NO

If yes, please describe the nature of the physical or mental injury, damage or loss sustained:

4.2 Did the victim receive medical treatment and/or counselling?

YES

NO

If yes, please provide details:

4.3 What is the current status of the victim's health?

4.4 Have the victim(s) received any compensation for the loss or damage he/she sustained?

YES

NO

4.5 What impact did the human rights violations or abuses have on the victim, eg is he/she disabled, have he/she lost their home, is the victim dead, etc.?

Ethnic group: _____
Combat unit / faction: _____
Rank(s): _____
Age: _____
Sex: _____
Region the perpetrator(s) is from: _____
Language spoken by the perpetrator(s): _____
Ethnic group: _____

3.2 Could you identify him/her/them if you saw them again?

YES NO

3.3 Please provide the current whereabouts and address of the perpetrator(s), if known to you.

4. Consequences for the victim(s)

4.1 Do you know what consequences the victim(s) has experienced following the human rights violations or abuses he/she/they suffered?

YES NO

If yes, please describe what these consequences are to the best of your knowledge (for example: death, physical or mental injury, loss of home, etc.):

1.2 Please give details as to the date and place of the human rights violations and abuses:

1.3 Did you act as an individual or as part of a group? _____

1.4 How old were you at the time you committed the violation?

1.5 Were you a civilian at the time you committed the violation and/or abuse?

YES

NO

1.6 Did they belong to one of the groups or factions indicated below and, if yes, which one (please circle)?

UN Peacekeepers Police

RUF

AFRC

SLA

ECOMOG NPRC

APC Govt

SLPP Govt.

Peoples Army

CDF: Kamajors Donsos Gbethes Tamaboros

Executive Outcomes

Gurkhas

Civilian Collaborator to any of these groups

Others: _____

Further details: _____

1.7 Please provide details of all the different groups you may have belonged to and the dates of your belonging:

1.7 Are you currently employed?

YES NO

If yes, please provide the details: _____

1.8 What are your educational training and qualifications?

2. Command information

2.1 Were you acting under orders to commit the human rights violations and/or abuses?

YES NO

If you were acting under orders, please provide the Commission with the following details:

Please indicate who ordered you to commit the violations/abuses.

Ethnic group: _____

Age: _____

Region or district they were from: _____

Male(s) or female(s): _____

3.2 What was the reason or motive for the human rights violations or abuses?

3.3 What were the consequences for the victim(s) of the human rights violation or abuse?

3.4 Are you willing to meet with your victim(s) if the Commission is able to facilitate such a meeting?

YES

NO

3.5 What are you willing to do in order to make it up to your victim(s)?

Accept responsibility and offer apology _____

Pay reparations _____

Participate in rebuilding _____

Other (please specify) _____

3.6 What is your reason or motivation for making a statement to the Commission?

4. Consequences:

4.1 What are the consequences of your experience to you?

Personal: _____

Familial: _____

Employment prospects: _____

Physical and emotional well-being: _____

4.2 Did you participate in any of the disarmament, re-integration or cleansing programmes or ceremonies?

YES

NO

If yes, please provide details:

4.3 Did you receive any assistance from any structure or body?

YES

NO

Please provide the details of any assistance received:

Body or structure: _____

Training: _____

Education: _____

Financial assistance: _____

Medication: _____

Emotional support: _____

4.4 Please tell the Commission how you currently support yourself:

4.5 Please provide details of dependants, if any: _____

5. Appearance at public hearings

5.1 Are you willing to testify at a public hearing?

YES

NO

5.2 Are you going to mention names in your testimony? The person you name may be informed and may wish to defend

APPENDIX FOUR

HEARING PROCEDURES PROCESS OF HEARINGS BY THE COMMISSION

GOALS OF THE HEARINGS

The primary goal of the hearings is to cater to the needs of victims. The hearings will also enable the Commission to collect information about the experiences of all the people during the conflict with a view to promoting social harmony and reconciliation.

OBJECTIVES OF THE HEARINGS

1. To provide witnesses with an opportunity to tell their stories either publicly or in private and help relieve their grief or recognise their feeling of remorse through providing them a platform that validates their experience and offers official acknowledgement of the wrongs done to or by them.
2. To create an opportunity for the country to be engaged in a dialogue with itself about what went wrong and what needs to change.
3. To provide information that may promote future accountability.
4. To educate the public on the patterns of abuse, the social environment in which violations and abuses took place, institutional complicity, and the actions and omissions of different actors, local and international.
5. To engage and mobilise civil society in the journey to reconciliation through embodying an open, dialogic and participatory process as an ethos for conflict resolution and democratisation in the country
6. To make recommendations towards charting a roadmap for development and sustainable peace in Sierra Leone.
7. To promote community and individual healing for victims, witnesses and perpetrators and the rehabilitation of victims through public recognition of their

suffering (and in the case of community reconciliation procedures, the reintegration of individuals back into their communities.)

8. To provide public education on human rights particularly the human and other costs of human rights violations.
9. To promote reconciliation through truth telling.

PRINCIPLES GOVERNING THE HEARINGS

1. Respect for diversity: The Commission respects the participants' rights to narrate the facts or events in an atmosphere of respect to their identity and without discrimination on gender, social, political, religious or cultural grounds. Participants will have the right to express themselves in their own language, for which there will be interpretation services provided.
2. No hierarchy: cases selected by the Commission for the hearings will be illustrative of the totality of abuses and violations committed with the aim of achieving dignity for the victim and creating an impartial historical record.
3. Emotional and social sustainability. Participants will have the right to be accompanied by their immediate family as well as by members of the local community. They will be protected from harassment and lack of respect which are likely to increase the emotional impact of giving public testimony.
4. Respect for all witnesses. All persons who appear at the hearings are witnesses for the Commission they therefore deserve respect. Nobody will be denied the possibility of providing his/her account of the events within the framework of the Commission's processes, either through statement taking and investigations or testimony at hearings.
5. The voluntary participation of all witnesses will be encouraged at all times. The use of subpoena to attend a hearing will be a last resort in appropriate cases.
6. The security of witnesses appearing at the hearings is important to the Commission. The Commission may in the interest of the witness decline to invite a witness to a public hearing, or take the witness's testimony in private.

TYPES OF HEARINGS

The Commission shall organise four types of hearings:

1. Individual witness hearings. Individuals are requested during statement taking whether they would be willing to attend and give testimony at hearings.
2. Thematic hearings. This is designed to produce a social analysis that describes and explains the past in relation to a number of identified themes. Such hearings will allow the Commission to address patterns of abuse and broader social analysis regarding the enabling background conditions.
3. Event-specific hearings. The Commission hopes to consider whether particular events served an especially catalytic role in the history of human rights abuse in Sierra Leone.
4. Institutional hearings. The Commission wishes to consider whether there were specific civil society institutions or state structures that warrant particular scrutiny for their role in inflicting, legitimising or ignoring abuses. Were there sectors of society which benefited from abusive structures? Were there other institutions that were targeted unfairly? Institutional hearings will therefore provide the Commission with an opportunity to address areas where broader institutional reform and policy change may be needed.

PRE HEARING PROCEDURES

1. Selection of Witnesses

- a. Witnesses to testify in the public or closed hearings are those who have given statements to the Commission.
- b. For thematic, institutional or event specific hearings, the Commission may invite any witness to testify (whether or not the witness has made a statement), if in the opinion of the Commission, the interests of truth finding and the mandate of the Commission will be best served by receiving testimony from the witness.

2. The criteria for selecting cases for hearings are as follows:

- a. Representative cases
 - I. Regarding different kinds of constituencies – diversity in relation to a whole range of factors, including region, ethnic group, political affiliation, gender, social status, class, age, military/civilian etc.
 - II. Different kinds of violations – the range of violations that have taken place in Sierra Leone's history. It is also desired to offer a full picture of the kind of repression suffered by victims so as to flag areas for institutional reform/retraining. This is also important to address violations that elucidate the broader socio-political environment that enabled human rights violations.
 - III. Different localities –to maximize national outreach, hearings will be held in every district and in a range of settings: schools, meeting rooms in faith institutions, community centres, halls etc.
- b. Where the violation was committed by, in the presence and/or knowledge of any one perceived as a key player/leader in the conflict.
- c. The statement mentions the following institutions APC Govt; NPRC Govt; RUF; ECOMOG; SLPP Govt; AFRC; People's Army; Guinean Armed Forces; Identified Mercenaries; Security Firms (Executive Outcomes, Sandline), UN Peacekeepers.
- d. The statement giver has information about the administrative/military command structure, internal policing, policy making, local authorities within the combatant groups.
- e. The statement mentions a mass killing (below 50 deaths) or a massacre (above 50 deaths).

- f. The statement refers to an international arms/drugs/diamond transaction.

3. Witness preparation prior to hearings:

- a. Those witnesses who will give testimony shall be given advance notice regarding the process and dates to reconfirm their interest in participating in hearings.
- b. A pre hearing interview will be held with a staff member of the Commission to help the witness prepare effective presentations on the facts and the meaning attributable to those facts
- c. At those briefings, witnesses would be given information on the hearings procedures and the position of the witness during the hearing. They will also be told what they might expect from participation in the hearings from media coverage to the psychological impact of testifying about painful events. Post hearings actions and support will also be discussed, such as the consequences if any, for the perpetrators they identify and the Commission's anticipated timeline for report writing.

4. Witness protection.

The Commission shall provide witness protection if it is determined that a witness is potentially at risk because of public testimony. If the potential risk is greater than the witness protection services the Commission can offer, the Commission will discourage the witness from testifying.

HEARING PROCEDURES

1. **Welcome**

- a. The Presiding Commissioner will invite prayers and/or religious songs before the start of the day's proceedings. The Commissioner will welcome all present, in particular the witnesses for attending the hearings.
- b. The Commissioner will explain the programme for the entire week or duration of hearings in the locality. He/she would also explain the procedures for hearings, including issues such as clapping, shouting or booing people; address any potential false expectations on the part of the people (such as ordering reparations; opportunities for testimony; investigation of all cases, etc); the availability of counsellors and the holding of closed sessions. Those wishing to make statements during the course of the hearings would be directed to the venue for doing so. It must be noted that the hearing is a solemn occasion deserving of rectitude. Those who want to participate in any processes to mark the end of hearings or who signify their desire to reconcile and engage in the rebuilding of their relationships or communities would be invited indicate to staff of the Commission.
- c. Each day's proceedings will be ended by reading a roll call of all those who have died and were mentioned in the course of the day's session, and observing a minute's silence in their honour.

2. **Status of witnesses**

Every person testifying at the hearing is a witness for the Commission including those against whom allegations have been made.

3. Oath

- a. All testimony shall be under oath. The Commissioner presiding shall administer the oath to the witness in the language he/she understands.
- b. All non-staff of the Commission, such as interpreters, who will be temporarily employed by the Commission during the hearings shall also be administered an oath before they begin to render service at the venue of the hearing.

4. Breaks

- a. The Commission will order breaks where it deems it necessary to do so, including such circumstances as where the witness is finding it difficult to continue with the testimony; is distraught and needs to compose him/herself, or for lunch etc. Witnesses also have a right to request breaks.
- b. The day's session however will not be adjourned on the grounds that the witness is in an emotional state, unless the witness requests the adjournment. The expression of emotion is encouraged by the Commission.

5. Orders

The Commission may make any orders as it deems fit in the course of the day's deliberations. Such orders may include ordering the attendance of any person who had been mentioned in the course of the proceedings, ordering a witness or his/her legal representative to produce any document or person at an agreed date and hearing venue. It may also issue subpoenas for any documents or persons to attend a subsequent session of the hearings. The order would be in writing and read out by the presiding Commissioner. Every opportunity for a witness or person to participate voluntarily in the hearings will however be explored.

6. Documents

Documents and other secondary evidence may be tendered at a hearing. Such documents will be registered with a number or such particulars as to enable it/them to be identified in the future.

7. Participation of Counsel

Where a witness is accompanied by a legal representative, the counsel shall be permitted to ask questions of the witness after the Commission has finished questioning the witness. The counsel is a legal representative for the witness and not of the Commission. The prerogative to first question the witness therefore rests with the Commission.

8. Naming Names

Witnesses may in any proceedings mention the names of the person/s or institutions allegedly responsible for or that participated in the violation of their or someone else's rights. Where this information is available to the Commission before the proceedings, the Commission will endeavour as much as possible to notify the alleged perpetrator and arrange with them on possible dates to give their own side of the story. Where this is not possible, at the conclusion of the witness's testimony, the Commission will announce (if the address of the perpetrator is known) that the perpetrator would be contacted and all efforts will be made by staff of the Commission to contact the person (and where the address is not known) that the alleged perpetrator is invited to contact the Commission for the purposes of telling their side of the story. They may in the alternative send a written submission to the Commission.

9. Confrontation between witnesses

- a. Any person who has been mentioned by a witness as allegedly being responsible for the abuse or violation of a witness' or someone else's rights shall have the right at the same or subsequent proceeding to rebut the story as told by the witness. The Commission shall not however allow a situation whereby the witnesses confront themselves with a view to rebutting or interrogating each other's story, neither

shall the legal representative of one witness be allowed to question another witness even if the witness consents to it.

- b. Where after both sides have told their stories and, both sides are willing to pursue reconciliation, the relevant personnel within the Commission shall hold separate discussions with the parties and at the appropriate time bring them together in promotion of their mutual desire to reconcile. The Commission shall at all times encourage and facilitate the involvement of NGOs, communities, civic, chieftaincy and other institutions and groups in arranging or facilitating reconciliation between people, communities or groups in the conflict.
- c. All persons who wish to testify at a hearing session in connection with any matter shall not be at the session where the matter is being considered until they have been called to testify. The Commission will ensure that before the commencement of any matter, all witnesses in the matter are advised to be out of hearing range. The Commission may waive this requirement in victim hearings.

10. Noise, disturbance, clapping etc.

There shall be general silence at the venues of all hearings. All participants are required to respect the solemnity of the proceedings. The presiding commissioner may order any person in breach of this requirement to leave the premises.

11. Conclusion

- a. At the end of the week of hearings in a district or location, the presiding commissioner shall do a careful summary of the testimony that has been led and inform the audience of what would happen to the information collected. The steps leading to the report of the commission will be laid out clearly for the audience.
- b. The Commission will encourage (and where necessary, participate in discussions within the communities on the erection of monuments and memorials for the victims of the conflict in the community and/or district.

CLOSED HEARINGS

The Commission shall organise closed hearings and adopt such other measures as it deems fit that enable it to respond to the two important aspects of its mandate that require it to “capture the experiences of women and children, and where the interests of the witness so dictate.

Special measures for hearings shall include:

- a. Witnesses may provide testimony in a closed room with only their voices broadcast into the public hearing rooms.
- b. The witness can be briefed to take out all identifiers from their testimony (name, address, location, violation), or
- c. A protective screen may be placed between the witness and the audience with a separate door for entry and exit.
- d. The testimony may be recorded on a prior occasion and then played during the public hearing and the video shot in such a way as not to reveal the identity of the witness.

The closed hearing is designed to respond to the cultural sensibilities of the community and the best interests of the witness. Circumstances in which a closed hearing may be advised include:

- e. Where the violation is of a sexual nature.
- f. If the re-entry of the witness into the community after the testimony will be jeopardized.
- g. Where there is a threat level to the security of the witness
- h. Where the witness is a child at time of testimony.
- i. Where the testimony may jeopardize the witness’ ongoing reintegration/re-absorption in the community.

Where the testimony relates to a sexual violation, the following procedure shall be followed:

- a. The witness shall be interviewed by female commissioners only. All male commissioners and other male staff shall be excused from the hearing.
- b. Where there is no female commissioner present, this fact should be communicated to the witness and the witness shall be notified of her right to give the testimony at another location and time where a female commissioner would be present.
- c. The witness reserves the right to waive the requirement of clause (a) above, and give her testimony in the presence of male commissioners and/or staff.

Process for closed hearing

1. The Commission will stop any information from the closed hearing to be known to the public.
2. The Commission will ensure that the identity of the witness is not revealed.
3. The Commission will ensure that the record of proceedings is kept in such a way, which continues to protect the witness.
4. The closed hearing shall be held in an appropriate room/space different from the location for the public hearings.
5. The Commission shall arrange for special attendants such as counsellors, psychosocial or child welfare workers to sit with the witness during the testimony.

ISSUES OF PROCEDURAL FAIRNESS FOR PERPETRATORS

1. Hearings involving perpetrators shall be governed by the following considerations:

The hearing will further understanding of the reason or motivation behind the actions of the perpetrators,

- a. The hearing has the objective of reconstructing the truth vis a vis victims,
- b. The perpetrator will be encouraged as much as possible to participate voluntarily in the hearings,
- c. The Commission will use its subpoena powers if the hearings will achieve (a) and (b) above.

2. Where perpetrators have been/would be named in a hearing, the Commission will ensure that:

- a. Reasonable and good faith efforts are made in locating them and giving them prior notice that they will be/have been named. This would include advertising in newspapers or electronic media, and specifying a reasonable number of days during which they are expected to respond.
- b. Provision will be made for the perpetrators to attend the session, offer a response and/or submit a written statement.
- c. Provision is made for perpetrators to bring legal counsel or have legal counsel available for the indigent (depending on availability of resources). The Commission will not allow legal counsel to speak for the perpetrators.
- d. The Commission will avoid legalised procedures that may compromise its mandate and mission.
- e. The Commission will not compel alleged perpetrators to answer questions.

EXTERNAL ACTORS

1. Consultation. There will be ongoing consultation with different sectors of civil society to maximize public participation and input. Hearings will generally be planned in collaboration with civil society institutions.
2. Media: The media will be permitted to offer full coverage of public hearings, with translation support that ensures that those hearings will be transmitted to communities in all parts of Sierra Leone.
3. The media may be provided information only on the subject matter to be heard so that it could prepare appropriately.
4. The Commission will draw the attention of the media on sensitivity for journalists covering human rights issues, particularly regarding the respect of witnesses, the important role the media can play in using its coverage to catalyse public debate and interest about the historical patterns of human rights violations, the factors that enhance abuse of power, the complicity of different institutions, the space for dissent etc., and will encourage training on these issues.
5. The Commission will establish its own accreditation scheme for media practitioners.
6. A special section of the public hearing room shall be designated as a press gallery.