

**WITNESS TO
TRUTH:**

Report of the
Sierra Leone
Truth & Reconciliation
Commission

VOL 3B

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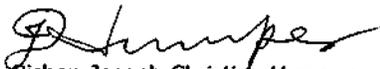
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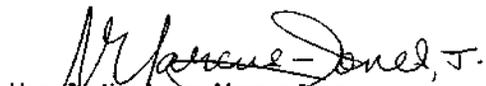
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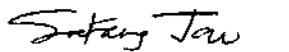
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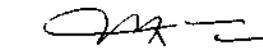
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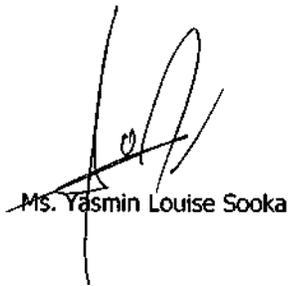
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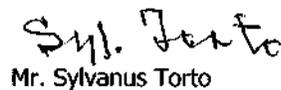

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CHAPTER ONE

Mineral Resources, their Use and their
Impact on the Conflict and the Country

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

Mineral Resources, their Use and their Impact on the Conflict and the Country

Introduction

1. The management of state resources is central to the quality of governance in any country. This is particularly the case in Sierra Leone, a country whose economy depends essentially on revenues from its mineral resources. The Commission deemed it important to examine how mineral resources were used by successive governments and how they may have contributed to the war. Furthermore, the Commission set out to explore the extent to which the combatant groups exploited mineral resources to sustain themselves and replenish their war-making supplies.
2. Despite its huge mineral resources, Sierra Leone has remained one of the poorest countries in the world.¹ Extensive alluvial and kimberlitic diamond deposits, as well as bauxite, rutile and gold, are found in the east and the south of the country. Gold, iron and more recently bauxite have been discovered in the north. Iron ore at Marampa was a major foreign-exchange earner until mining there was closed down in the mid-1990s. In the past, these resources have benefited a small elite group of Sierra Leoneans as well as Lebanese, Senegalese, Gambian, Guinean and Nigerian traders and a sprinkling of other groups from the sub-Saharan region.
3. The most important mineral resource in Sierra Leone is diamonds. This chapter will focus predominantly on diamonds and refer to other minerals where appropriate.
4. Throughout the world, diamonds are objects of desire and admiration. In Sierra Leone, diamonds were indirect causes and fuelling elements of the war. The misuse of diamond resources in an essentially single-product economy like Sierra Leone's has created huge disparities in socio-economic conditions. While the elite and their business associates in the diamond industry have lived in grandeur, the poor have invariably been left to rue the misappropriation of the collective wealth.
5. As a national resource, diamonds have been controlled and exploited largely by a non-Sierra Leonean community, the Lebanese, who have formed and maintained new centres of economic power in the country.

¹ Sierra Leone has ranked in last place out of more than 170 countries on the UNDP Human Development Index for the last three successive years from 2002 to 2004.

6. In the context of the Sierra Leone conflict, diamonds were highly coveted because they yielded tremendous revenues, which would enable the armed factions to procure additional weapons and ammunition. Possession of weapons conferred power upon the armed parties, as they could capture large areas of territory, which could in turn be exploited for economic purposes. The desire to expand “control areas” into parts of the country ripe for economic exploitation gradually became the main motivating factor for all the armed groups and many local commanders, thus triggering further conflict.
7. There is a widely held belief in the western world that the conflict in Sierra Leone was initiated and perpetuated because of diamonds, the country’s most important mineral resource. According to this version, the RUF, backed by Charles Taylor and the NPFL, initiated an armed rebellion in Sierra Leone to gain control of its diamond resources. In the years following the initial attack, it is alleged, the proceeds from an illicit diamond trade enabled the RUF to finance its war effort through the purchase of weapons abroad.
8. On the basis of its research and investigations, the Commission views this version of the conflict as simplistic. It fails to capture numerous complexities, the reasons for the decay of the state in Sierra Leone and the role minerals played prior to and during the conflict. It also does not reflect what unfolded on the ground in Sierra Leone. There were multiple causes of the conflict and reasons for the involvement of Liberian and other foreign actors. Although it is true that the RUF partly financed its war effort through diamond trafficking, diamonds did not yield significant revenues for the movement before 1997.
9. Using primary data gleaned from interviews, statements and hearings, along with secondary materials from reports issued by NGOs and international bodies such as the United Nations, the Commission will address the following issues in this chapter:
 - the political economy of mineral resources in Sierra Leone;
 - the role minerals played in the conflict, including their appropriation and use by armed factions;
 - the role of internal and external actors in the mining industry and its implications for the war;
 - the systematic targeting of communities in mining areas and the effect of the conflict on those communities;
 - government policies regarding the mining industry and their effect on the country; and
 - the weaknesses of the international diamond industry and the effect of the Kimberley Certification Process.
10. The Commission has divided the Sierra Leone conflict into three phases.² This chapter begins by examining the pre-conflict years with a view to setting the context for the conflict. Thereafter, the three phases are analysed as follows: first, the period of conventional “target” warfare from 1991 to late 1993; second, the guerrilla warfare phase from late 1993 up to March 1997; and finally the period from 1997 to 2002, encompassing the alliance between the AFRC and the RUF, the Lomé Peace Agreement, the resumption of hostilities and the eventual conclusion of the conflict.

² More detail on the Commission’s three phases, including a justification for the chosen parameters, can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

TRC



Artisanal miners, including many children, dig for diamonds on the outskirts of Koidu Town in Kono District. Most of this mining is illegal and involves deplorable labour conditions.

The Political Economy of Mineral Resources

11. To understand the failure of the state in Sierra Leone and the role that minerals played in the conflict, we need to consider the nature of the state that emerged in 1961. At independence, there was euphoria that the new indigenous leadership would extend development and services to the people exponentially. In Sierra Leone, as in many other parts of Africa, the first few years following colonialism actually witnessed economic growth. Two key factors reversed this trend and set the country on a very different trajectory from the forward path desired by the people.
12. The first factor was the management of the economy. The popular expectation in the years before independence in many countries was captured by the Ghanaian Kwame Nkrumah in his refrain: "Seek ye first the political kingdom and all other things will be added unto you". The assumption was that political independence would free latent energies in the nation. The new state would churn out a host of policies to create and empower an indigenous entrepreneurial class, which was expected to be the engine of growth and development. In reality, however, the beneficiaries of these new policies turned out to be the political elite rather than the common people. Unfortunately for Sierra Leone, the indigenous elite preferred rent seeking rather than active economic participation and quickly ceded control of important economic activities to Lebanese and Syrian businessmen. Furthermore, the dominant economic management theories of the time favoured state intervention and centralised management of the economy. Leading members of the ruling elite sought to privatise state resources, thus depriving the nation of the benefits of its most valuable assets. Such "predatory domination" has been defined as the "conversion of political power and position into economic wealth for the benefit of the few at the expense of the many."³
13. Huge economic and development resources were placed in the hands of the new leaders. As the inheritors of power, the political elite acquired the tastes and behaviour of the departing colonialists. Such undisciplined control over resources opened the way for burgeoning corruption. Sierra Leoneans began to question the role and mission of the emergent political elite.
14. In 1978 a one-party state was imposed upon the people of Sierra Leone. This move by the ruling All Peoples' Congress (APC) followed the co-optation of civil society leaders into government and the crushing of dissent. Political power became a means to economic wealth, with personal rewards so high that politicians would resort to extreme measures to win and maintain power.⁴ The state became the primary avenue for private enrichment. Gradually, power became de-institutionalised and personalised, resulting in dysfunctional public institutions and random violence. It was in the interests of the political elite to promote disorder, as it provided further opportunities to misappropriate the economic resources of the state. As a direct result, public institutions could no longer provide vital services to the people.⁵

³ See Callaghy, Thomas; *The State-Society Struggle: Zaire in Comparative Perspective*, New York, Columbia University Press, at page 191.

⁴ See Ake, Claude; "Address to the Inaugural Meeting of the Nigerian Political Science Association", in *West Africa* magazine, 25 May 1981, at pages 162-163. The article is cited in Kandeh, J.; *Political Economy of Democratisation*, unpublished manuscript (hereinafter "Kandeh, *Political Economy of Democratisation*"); at page 2.

⁵ See Kandeh, *Political Economy of Democratisation*, at page 3.

15. The political elite had preferential access to the machinery of the state. Politicians, senior civil servants and military officers exercised a great deal of power over access to foreign and domestic capital and markets, which they used to accumulate large fortunes and to consolidate their control of the economy. Exploitation occurred through a burgeoning de facto market in government contracts, licences and offices. The productive and regulatory capacities of the state became severely eroded and compromised. This led to the “informalisation” of the state.⁶ The state was misappropriated for the private benefit of the political elite, just as it had been in colonial times.
16. This brief background helps us to understand why diamond smuggling has been a perennial, seemingly uncontrollable problem in Sierra Leone. Key members of the elite and successive governments have promoted and continue to benefit from diamond smuggling. Efforts to contain smuggling during the APC rule were a façade. Smuggling was indeed promoted by the Office of the President. Today, so high are the personal and political stakes involved in the fight against diamond smuggling that every individual effort to achieve accountability will be fiercely contested and require sustained application.⁷

The Diamond Industry before the Conflict

The colonial period

17. A variety of minerals, including gold, iron and diamonds, were discovered in Sierra Leone in the 1930s; rutile, or titanium ore, was discovered in the 1960s.⁸ Diamonds were discovered in the Kenema and Kono Districts. The colonial government, through the Consolidated African Selection Trust (CAST), established the Sierra Leone Selection Trust (SLST) in 1934. CAST was a corporation controlled by the Selection Trust Group of London, with a portion of the shares held by De Beers.⁹ The SLST was granted exclusive mining and prospecting rights throughout the country for 99 years.¹⁰ In 1933, an iron-ore mine was opened at Marampa in Port Loko District and was generating almost 30% of the colony's export revenue by 1938.¹¹
18. The mining sector became the major source of export for the country.¹² In 1930, minerals accounted for a mere 0.5% of total exports and even in 1951, agriculture still accounted for 66.8%. However, by 1961, minerals had come to account for 87% of exports (79% of which were diamonds).¹³

⁶ See Kandeh, *Political Economy of Democratisation*, at page 3.

⁷ A former Minister and Member of Parliament who was imprisoned in 2003 for dealing in diamonds was recently released by the Appeal Court on technical grounds. For further details on such cases, see the public testimony of the Minister of Mineral Resources before the Commission in July 2003.

⁸ See Gwynne-Jones D.R.G., Mitchell, P.K., Harvey, M. E. and Swindell, K.; *A New Geography of Sierra Leone*, Essex, Longman, 1978 (hereinafter “Gwynne-Jones, et al., *A New Geography of Sierra Leone*”); at pages 109.

⁹ See Zack-Williams, A. B.; *Tributors, Supporters and Merchant Capital: Mining and Underdevelopment in Sierra Leone*, Avebury, 1995 (hereinafter “Zack-Williams, *Tributors, Supporters and Merchant Capital*”); at page 50.

¹⁰ See Smilie, I., Gberie, L. and Hazleton, R.; *The Heart of the Matter*, Partnership Africa Canada report, Ottawa, January 2000 (hereinafter “Smilie, et al., *The Heart of the Matter*”); at page 4.

¹¹ See Pratt, D. (MP for Nepean-Carleton, Canada), Special Envoy to Sierra Leone; *Sierra Leone: the forgotten crisis*, Report to the Canadian Minister of Foreign Affairs, Honourable Lloyd Axworthy MP, 23 April 1999 (hereinafter “Pratt, *Sierra Leone: the forgotten crisis*”).

¹² The Sierra Leone economy had been based prior to that time on agro-based export crops. See Zack-Williams, *Tributors, Supporters and Merchant Capital*, at page 56.

¹³ See Zack-Williams, *Tributors, Supporters and Merchant Capital*, at page 56.

These shifts rendered the economy vulnerable to fluctuations in the international market. Moreover, since minerals were only extracted in Sierra Leone but transformed abroad, the revenues from the value-added services that multiplied the price of the products were not being returned to the country. The profits of the industry went mostly to non-Sierra Leonean diamond industry interests involved at other levels of the transaction.

19. Beginning in the 1930s and 1940s, the colonial government adopted the strategy of relying on local chiefs to exercise control over the expanding diamond industry. However, the central government in Freetown had little control over the chiefs' actions and therefore could not curb nascent illicit mining:

“As the state's chosen administrative and, increasingly, political intermediaries, chiefs also voiced a popular dissatisfaction with state attacks on illicit mining. The harder Freetown pushed reform, the greater the risk of upsetting the accommodations that enabled Freetown to rule the hinterland in the first place.”¹⁴

20. These “accommodations” with local chiefs widened the loss of state control over the diamond industry in the years leading up to the conflict. Government officials, as well as the chiefs, benefited from these unofficial deals:

“Informal accommodations between officials and chiefs and a tolerance of limited illicit mining maintained social order.”¹⁵

21. The diamond rush in the 1950s created security problems. The number of new miners was so great that control became difficult. Thousands of people started illicit mining on the SLST lease¹⁶, many of them abandoning the rice fields for the diamond mines. This resulted in a significant drop in rice production.¹⁷ In the early 1950s, Sierra Leone was self-sufficient in rice production whereas in 1963, the country had to import 21,000 tons of rice to feed its population.¹⁸

22. In 1955, illegal miners attacked the SLST security forces and a police station in Kono. In 1955 and 1956, popular dissatisfaction with what was perceived as excessive control by Chiefs and the state led to several riots in Kono District. Indeed, “most Kono residents believed that SLST's monopoly on diamond mining bestowed benefits upon Europeans and chiefs” only.¹⁹

23. The SLST and De Beers began hiring private security companies to police the mining areas. They hired the Diamond Protection Force, a private British security company managed by Sir Percy Sillitoe,²⁰ to guard the border areas against smuggling and the diamond areas against illicit mining. This was the first instance of the hiring of mercenaries in Sierra Leone, but many others would follow, especially during the conflict. SLST also had planes fly over mining areas to monitor illicit mining.

¹⁴ See Reno, W.; *Corruption and State Politics in Sierra Leone*, Cambridge University Press, 1995 (hereinafter “Reno, *Corruption and State Politics in Sierra Leone*”); at page 57.

¹⁵ See Reno, *Corruption and State Politics in Sierra Leone*, at page 58.

¹⁶ See Reno, *Corruption and State Politics in Sierra Leone*, at page 59.

¹⁷ See Smilie, et al., *The Heart of the Matter*, at page 41.

¹⁸ See Reno, *Corruption and State Politics in Sierra Leone*, at page 74.

¹⁹ See Reno, *Corruption and State Politics in Sierra Leone*, at pages 61-62.

²⁰ See Smilie, et al., *The Heart of the Matter*, at page 42.

24. In 1955, the colonial government terminated the SLST – De Beers monopoly and introduced the Alluvial Diamond Mining Scheme (ADMS), under which Sierra Leonean miners could buy licences. Previously, Sierra Leonean nationals had not been allowed to own mining concessions.²¹ Parts of the SLST Yengema concession that were unsuitable for large-scale mining were leased to local, small-scale miners,²² who were required to sell all their diamonds to SLST. By allowing Sierra Leonean miners to operate mines, the colonial government sought to curtail smuggling and restore security to the SLST lease area.²³ The colonial government also established the Mining Area Development Administration (MADA), a state development expenditure programme incorporating local authorities into the decision-making process.²⁴
25. This new system gave more power to the local chiefs to grant leases to mine diamonds. The chiefs began assigning plots and collecting surface rents. One Kono businessman complained that the unofficial payments (or bribes) to chiefs to obtain a licence rose 500% under the new ADMS.²⁵
26. The other effect of ADMS was to create a “supporter” artisanal system in which wealthy Lebanese businessmen would “look after” African miners, providing funding for licences and mining equipment and protecting miners against SLST security forces. In exchange, miners would sell their diamonds to the Lebanese. Most dealers engaged in both licit and illicit buying of diamonds, paying low prices to illegal miners and selling at higher prices to the SLST.
27. Despite the ADMS, smuggling did not stop. Rather, it increased dramatically. Due to its borderless nature, artisanal mining could not be effectively controlled and policed. Table 1, below, shows that in the three years following the introduction of ADMS, smuggling increased over the three years preceding its introduction.

Table 1: Diamond Production, Value of Export and Smuggled for Selected Years

| 28. YEAR | 29. SLST | 30. ADMS | 31. TOTAL LEGAL | 32. SMUGG LED | 33. TOTAL |
|----------|----------------------------|----------|----------------------------|---------------|------------|
| 34. | 35. In thousands of carats | | 36. In thousands of Leones | | 37. |
| 38. 1953 | 39. 472 | 40. - | 41. 2,396 | 42. 4,000 | 43. 6,500 |
| 44. 1954 | 45. 401 | 46. - | 47. 3,399 | 48. 6,000 | 49. 9,500 |
| 50. 1955 | 51. 419 | 52. - | 53. 2,800 | 54. 16,000 | 55. 19,000 |
| 56. 1956 | 57. 427 | 58. 126 | 59. 6,914 | 60. 20,000 | 61. 27,000 |
| 62. 1957 | 63. 506 | 64. 547 | 65. 12,850 | 66. 30,000 | 67. 43,000 |
| 68. 1958 | 69. 648 | 70. 781 | 71. 14,367 | 72. 30,000 | 73. 45,000 |
| 74. 1959 | 75. 660 | 76. 651 | 77. 13,617 | 78. 30,000 | 79. 44,000 |

Source for Table 1: Mitchell, P.K. and Swindell K.; “Recent Changes in Sierra Leone Mineral Industry”, in *The Bulletin: The Journal of the Sierra Leone Geographical Association*, Volumes 9 and 10.²⁶

²¹ See Martinez, I.; *Sierra Leone’s Conflict Diamonds*, in “Africa at the Crossroads: Current Themes in African Law”, *International and Comparative Law Review*, 2001 – 2002 (hereinafter “Martinez, *Sierra Leone’s Conflict Diamonds*”).

²² See Zack-Williams, *Tributors, Supporters and Merchant Capital*, at page 120.

²³ See Martinez, *Sierra Leone’s Conflict Diamonds*.

²⁴ See Reno, *Corruption and State Politics in Sierra Leone*, at page 61.

²⁵ See Reno, *Corruption and State Politics in Sierra Leone*, at page 63, based upon an interview with a diamond merchant conducted in Kono District in 1990.

²⁶ This source is cited in Zack-Williams, A. B.; *Mining Resources and Post-War Reconstruction in Sierra Leone*, unpublished manuscript (hereinafter “Zack-Williams, *Mining Resources and Post-War Reconstruction*”).

28. As shown in Table 2, below, ADMS became a significant contributor to the total production of diamonds, accounting for a minimum of 50% of annual production. From 1980 on, while the value increased, the total number of carats recorded began to decline. Zack-Williams has argued that this fall was the result not of mine depletion but of the informalisation of mining by a decaying state.²⁷ Most production was by illicit dealers who smuggled their products out of the country. The state was losing money, but the political elite was getting wealthier.

Table 2: Diamond Production Under SLST and ADMS for Selected Years

| YEAR | ADMS (Carats '000) | ADMS (Le '000) | TOTAL ADMS and LST/NDMC (Carats '000) | Total Value SLST and ADMS (Le '000) |
|------|-----------------------|-------------------|--|---|
| 1961 | 1,406 | 22,655 | 2,045 | 31,938 |
| 1965 | 813 | 22,780 | 1,525 | 36,959 |
| 1970 | 1,048 | 26,182 | 1,955 | 52,803 |
| 1975 | 645 | 23,157 | 732 | 63,031 |
| 1980 | - | - | 592 | 127,944 |
| 1985 | - | - | 349 | 140,876 |
| 1986 | - | - | 315 | 88,430 |
| 1987 | - | - | 314 | 1,070,314 |
| 1988 | - | - | 175 | 106,646 |
| 1989 | - | - | 129 | 1,220,516 |

Source for Table 2: Mitchell, P.K. and Swindell K.; "Recent Changes in Sierra Leone Mineral Industry", in *The Bulletin: The Journal of the Sierra Leone Geographical Association*, Vol. 9 and 10.²⁸

From SLST to the NMDC

29. When Siaka Stevens came into power in 1968, he used populist rhetoric to gain support, claiming that small miners should have the opportunity to benefit from the diamond industry.²⁹ The government encouraged licensing of small-scale mining, proclaiming it as the small man's chance for success.³⁰ However, the government's unofficial encouragement of smuggling resulted in the theft of several shipments of diamonds belonging to the SLST. For instance, on 3 November 1969, the SLST's monthly production, worth US\$3.4 million, was stolen, allegedly on the orders of Stevens and Jamil Said Mohamed, a prosperous and influential Lebanese businessman with close links to Stevens.³¹

²⁷ See Zack-Williams, *Mining Resources and Post-War Reconstruction*, at page 8.

²⁸ This source is cited in Zack-Williams, A. B.; *Mining Resources and Post-War Reconstruction in Sierra Leone*, unpublished manuscript (hereinafter "Zack-Williams, *Mining Resources and Post-War Reconstruction*").

²⁹ See Smilie, et al., *The Heart of the Matter*, at page 44.

³⁰ See Smilie, et al., *The Heart of the Matter*, at page 44.

³¹ See Smilie, et al., *The Heart of the Matter*, at page 44.

30. The transformation of the diamond industry into an informal economy was complete with the “nationalisation” of the SLST and its replacement by the National Diamond Mining Company (NDMC) in 1970. In 1973, the government created the Cooperative Contract Mining (CCM) scheme, which allowed private mining operations within the NDMC lease. This initiative was presented as a concession to local miners. The main reason for this opening was the decrease in foreign revenues resulting from the government’s inability to curb illicit mining and smuggling, as well as the decrease in production arising from old equipment. CCM therefore did not really benefit the local miners. Rather, it strengthened Siaka Stevens’ underground economy.³²
31. Siaka Stevens had directed the state-controlled NDMC “to make land available for the people to mine”. In reality, this was a division of the diamond fields among the APC elite and their allies, including the chiefs in the diamond-producing areas and government officials, many of whom owned plots in other people’s names.³³ The then Minister of Finance, Tommy Taylor-Morgan, was quoted as warning that the country was losing more than US\$160 million of diamond income annually to smuggling.³⁴
32. Through the years, Siaka Stevens had allied himself with a group of powerful Lebanese merchants who controlled some of the official and much of the unofficial diamond trade.³⁵ The NDMC had a 51% share of the SLST lease, while Jamil Said Mohamed alone controlled some 12% through his company, the Precious Mineral Mining Company (PMMC).³⁶ Jamil Said Mohamed was very influential and controlled a large part of the industry, including the mining of other minerals, with the approval of Siaka Stevens. Corruption and smuggling reached such a level that official diamond production dropped significantly.³⁷
33. The CCM was designed to arrest the dramatic drop in NDMC production. In 1973, 94% of the legal non-alluvial diamond output was produced by NDMC. In 1980, the percentage had dropped to 29%.³⁸ This was coupled with the general decline in overall official production. In 1974, the government created the Government Diamond Office (GDO) to value diamonds and ensure the repatriation of profits from diamond sales abroad into the Bank of Sierra Leone. Although GDO was supposed to be a neutral institution, it was headed by Stevens and Jamil Said Mohamed, who tended to allow favoured people to repatriate only a portion of their profits. They also used GDO to undervalue diamonds, keeping the difference for themselves or for members of the elite close to the government.³⁹

³² See Smilie, et al., *The Heart of the Matter*, at page 6.

³³ See Zack-Williams, A. B.; “Sierra Leone: Crisis and Despair”, in *Review of African Political Economy*, No. 49, 1990 (hereinafter “Zack-Williams, *Sierra Leone: Crisis and Despair*”), cited in Zack-Williams, *Mining Resources and Post-War Reconstruction*, at page 9.

³⁴ See Zack-Williams, *Sierra Leone: Crisis and Despair*.

³⁵ See Pratt, *Sierra Leone: the forgotten crisis*.

³⁶ See Martinez, *Sierra Leone’s Conflict Diamonds*.

³⁷ Smilie, I.; *Motherhood, Apple Pie and False Teeth: Corporate Social Responsibility in the Diamond Industry*, Partnership Africa Canada, Ottawa, June 2003 (hereinafter “Smilie, *Motherhood, Apple Pie and False Teeth*”); at page 10. See also Reno, *Corruption and State Politics in Sierra Leone*, at page 106.

³⁸ See Reno, *Corruption and State Politics in Sierra Leone*, at page 106.

³⁹ See Reno, *Corruption and State Politics in Sierra Leone*, at page 110.

34. The government cut its export tax on diamonds from 7.5% to 2.5% in 1977, ostensibly to reduce smuggling. However, in practice, the tax cut increased the share of diamond resources that went into the pockets of the political elite. By the end of the 1970s, NDMC was in decline. In 1983, SLST sold its remaining shares to Jamil Said Mohamed's PMMC.
35. Overall, Stevens established a system through which he controlled the diamond industry using a network of partners and without having to engage the government apparatus.⁴⁰ The survival of this system was ensured internally by the use of elite-accommodation practices, such as offering favoured treatment to APC sympathisers and local chiefs.⁴¹ Stevens and his clients relied on paramilitary forces such as the Internal Security Unit (ISU) to maintain social order through physical repression of opponents and illicit miners. This transfer of ownership from formal state institutions to informal networks personally controlled by Stevens helped intensify smuggling, depriving the national treasury of potential tax revenues.
36. The popular perception that the state was favouring elites and giving away the diamond resources led to riots in Kono in 1984 and 1985, in which miners attacked the property of the state and of politicians.

The establishment of the GGDO

37. President Momoh came to power in 1985 and created the Government Gold and Diamond Office (GGDO) to remedy the shortage of foreign exchange. This attempt was part of a series of reforms aimed at re-establishing Sierra Leone's borrowing capacity with the International Monetary Fund and the World Bank.
38. GGDO was originally supposed to buy and sell gold, and to stockpile diamonds to be used as collateral to raise external loans, but these functions were never carried out.⁴² Although GGDO never bought diamonds, it advertised diamonds internationally and facilitated export deals.
39. Sierra Leone's diamonds were fuelling the Middle East conflict. Prominent Lebanese dealers were some of the main financiers of the Islamic movements in the Middle East. To undermine this control, the Israeli government got involved in the diamond industry at a time when President Momoh was in desperate need of foreign exchange and support to prop up his failing economy. Momoh invited an Israeli firm called LIAT Construction and Finance Company to manage the diamond industry, thereby undermining Jamil Said Mohamed's control. The Israeli company was accused of trafficking in drugs and arms, using the Sierra Leonean diamond industry as cover, and its director, Shaptai Kalmanovitch, was arrested for fraud in London in 1987.⁴³ Under the control of the Israelis, however, diamond exports rose 280% between 1985 and 1986.⁴⁴ Another Israeli company, N.R. SCIPA Group, replaced LIAT after Kalmanovitch's arrest. The company was allegedly dealing in both legal and illegal diamonds.⁴⁵ The ever-growing demands of Momoh's cronies resulted in further drastic reductions in government revenues and popular dissatisfaction led to riots again in 1988 and 1989 in Kono District.

⁴⁰ See Reno, *Corruption and State Politics in Sierra Leone*, at page 110.

⁴¹ For example, President Stevens waived the diamond license fee for Chiefs in 1981.

⁴² See Government Gold and Diamond Office (GGDO), Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003, at page 1.

⁴³ See Smilie, et al., *The Heart of the Matter*, at page 46.

⁴⁴ See Martinez, *Sierra Leone's Conflict Diamonds*.

⁴⁵ See Smilie, et al., *The Heart of the Matter*, at page 47.

Diamond smuggling

40. The rise in diamond smuggling during the Stevens and Momoh eras is explained by the rent seeking instincts of the political elite, which were furthered by the peculiar organisation of the international diamond industry. Inadequate monitoring of the origin of diamonds is one of the major problems in the industry. The Belgian Diamond High Council (HRD), on whose trading floors a large proportion of the international diamond trade takes place, records the origin of diamonds as the country from which they were last exported. Such recording tells nothing about where the diamonds were actually mined. For instance, a diamond can be smuggled from Sierra Leone into Liberia, then shipped to London, and be recorded as being of British origin, even if Britain does not produce diamonds.
41. Tables 3 and 4 and Figure 1, below and overleaf, show the discrepancy between the diamond production in some West African countries and diamond imports into Belgium. Throughout the conflict period, the HRD imported two or three times as many diamonds from Sierra Leone as the government of Sierra Leone officially exported. These numbers suggest significant smuggling. In 1999, official exports were worth US\$1.2 million, compared with a conservative industry estimate of US\$70 million in real commercial value.⁴⁶

Table 3: Diamond Production in Selected West African Countries for Selected Years ('000 carats)

| Year | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
|---------------|------|------|------|------|------|------|------|------|------|
| Sierra Leone | 78 | 243 | 347 | 158 | 255 | 213 | 270 | 104 | 8.5 |
| Liberia | 100 | 100 | 150 | 150 | 100 | 150 | 150 | 150 | 150 |
| Guinea | 127 | 97 | 153 | 167 | 381 | 365 | 205 | 205 | 205 |
| Ghana | 650 | 700 | 656 | 591 | 740 | 632 | 715 | 830 | 800 |
| Côte d'Ivoire | 12 | 15 | 15 | 15 | 84 | 75 | 302 | 307 | 307 |

Sources for Table 3: Smilie, et al., *The Heart of the Matter*, Partnership Africa Canada Ottawa, January 2000: Data for Liberia, Guinea, Ghana, Côte d'Ivoire for the years 1994 to 1998 from: Ronald F. Balazik, 'Gemstones', *1998 Annual Review* (United States Geological Survey, August 1999) at page EE 17. Remaining data for the same countries is from various mineral industry reports from 1990 to 1994 published by the United States Geological Survey. Sierra Leone data is drawn from the Government of Sierra Leone, Government Gold and Diamond Office (GGDO), Freetown, Sierra Leone, 1999.

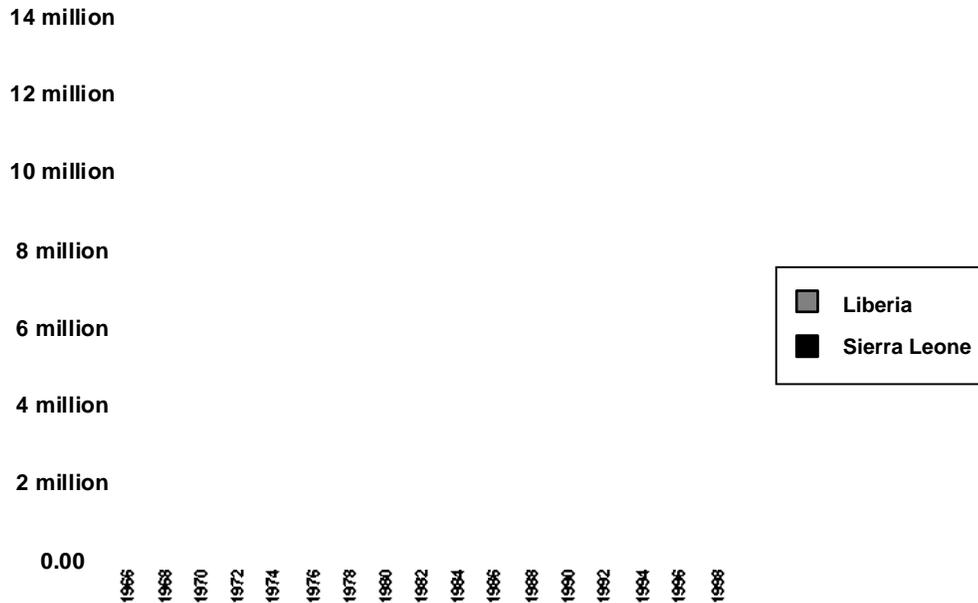
⁴⁶ See USAID; *Sierra Leone Conflict Diamonds – Progress Report on Diamond Policy and Development Program*, New York, 30 March 2001 (hereinafter "USAID, *Sierra Leone Progress Report*, 2001"); at page 1.

Table 4: Belgian Imports of West African Diamonds ('000 carats)

| Year | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
|---------------|-------|------|-------|-------|-------|--------|--------|-------|-------|
| Sierra Leone | 331 | 534 | 831 | 344 | 526 | 455 | 566 | 803 | 770 |
| Liberia | 5,523 | 658 | 1,909 | 5,006 | 3,268 | 10,677 | 12,320 | 5,803 | 2,558 |
| Guinea | 287 | 374 | 526 | 1021 | 875 | 780 | 439 | 533 | 596 |
| Ghana | 597 | 675 | 689 | 526 | 498 | 643 | 608 | 531 | N / A |
| Côte d'Ivoire | 825 | 946 | 868 | 683 | 605 | 1614 | 2214 | 885 | N / A |

Sources for Table 4: Smilie, et al., *The Heart of the Matter*, Partnership Africa Canada Ottawa, January 2000; Diamond High Council, *1998 Annual Report*, Antwerp 1999, at page 1, and additional information supplied directly by HRD.

Figure 1: Graph demonstrating disparities in Belgian diamond imports from Liberia and Sierra Leone



Source for Figure 1: *Progress Report*, Diamond High Council, 2003

42. The figures for Liberia, represented graphically in Figure 1, are even more interesting. While Liberia has never produced more than 150,000 carats per year, HRD records show that 12.3 million carats were imported from Liberia in 1996. In fact, the import figures for Liberian diamonds are in the million-carat range for every year from 1990 to 1998, except 1991. Between 1995 and 1999, Belgium imported 33.6 million carats from Liberia.⁴⁷ The HRD therefore concluded that “imports recorded from Liberia bear no relationship to local production capacity”.⁴⁸
43. The diamonds found in Sierra Leone are mainly gemstones, while those mined in Liberia are mostly industrial diamonds. Gemstones are clear and colourless stones used in jewellery, while industrial diamonds are imperfect stones used in drills and other tools.⁴⁹ It is therefore fairly easy for experts to differentiate between diamonds of Sierra Leonean origin and those of Liberian origin.
44. Diamond smuggling from Sierra Leone into Liberia and neighbouring countries was not invented by the RUF or Charles Taylor. It started as early as the 1950s. After the tightening of control over the industry by the Sierra Leonean state in the 1960s and 1970s, Liberian diamond exports decreased considerably.⁵⁰ Such controls enabled key officials of the Sierra Leonean government to become real players in the industry and channel trade in diamonds to Lebanese and other friends within the country, who then exported them to Belgium and parts of the Middle East.
45. It is also important to note the figures for Belgian imports from Côte d'Ivoire, Guinea and Ghana. Although it has not been demonstrated that the RUF and Charles Taylor were responsible for smuggling diamonds through these countries, the figures show that in all probability their government officials colluded in the smuggling of diamonds out of Sierra Leone. Consequently it is likely that officials of the Sierra Leonean state have been doing business in diamonds with people in Liberia, including Charles Taylor, while he supported the pillage and plunder of Sierra Leone.
46. Côte d'Ivoire has virtually no diamond-production capacities, yet between 600,000 and 2.2 million carats were exported to Belgium each year between 1990 and 1998. The 2.2 million carats officially exported from Côte d'Ivoire in 1996 is equal to the entire volume produced in Côte d'Ivoire during the 30 years between 1948 and 1978.⁵¹ This comparison suggests the massive smuggling of diamonds into Côte d'Ivoire during the 1990s.
47. The import and export figures for Guinea also raise suspicion of smuggling. The UN Panel of Experts has indicated that diamond smuggling from Sierra Leone into Guinea and the use of Guinea as the country of origin for exported diamonds are the two factors that explain these figures.⁵²

⁴⁷ See Report of the United Nations Panel of Experts on Sierra Leone, New York, December 2000 (hereinafter “UN Panel of Experts report, 2000”), at page 21.

⁴⁸ Diamond High Council (HRD), *Witness statement of the HRD at the hearing on Sierra Leone convened by the UN Sanctions Committee*, New York, 31 July and 1 August 2000 (hereinafter “Diamond High Council, *Witness statement to UN Sanctions Committee*”); at page 3.

⁴⁹ See Gwynne-Jones, et al., *A New Geography of Sierra Leone*, at page 113.

⁵⁰ See Gberie, L.; *West Africa: Rocks in a Hard Place - The Political Economy of Diamonds and Regional Destabilisation*, Partnership Africa Canada, Ottawa, May 2003 (hereinafter “Gberie, *Rocks in a Hard Place*”).

⁵¹ Gberie, *Rocks in a Hard Place*.

⁵² See UN Panel of Experts report, 2000, at page 26.

48. A further discrepancy exists in the figures for The Gambia. Imports of Gambian rough diamonds into Belgium averaged US\$100 million per year between 1996 and 1999.⁵³
49. The Commission's research demonstrates that the RUF could not have earned all the money attributed to it in official reports from conflict diamonds alone. Except for a brief period in 1992 when the RUF occupied Koidu, the headquarters of the diamond-rich Kono District, it did not have access to the major diamond-producing areas of the country until 1995, when it occupied Koidu again for four months before being driven out by Executive Outcomes. RUF's diamond pickings in those areas could not have constituted the colossal amounts reflected in the literature. Figure 1 shows that, except in 1986, Belgian imports of diamonds from Liberia have always outstripped those from Sierra Leone. Yet Liberia is not reputed to have substantial diamond deposits and does not have gemstone-quality diamonds. The conclusion to be drawn from the above tables and Figure 1 is that diamond smuggling within the axis of Guinea, Sierra Leone, Liberia and Côte d'Ivoire has been going on for more than 30 years, with Liberia being the principal conduit. This would suggest that those involved in diamond smuggling had developed networks and contacts in Liberia, which facilitated their smuggling and export of diamonds from within the region. Even in 1990, before the war in Sierra Leone started, Liberia exported more than 5 million carats of diamonds.
50. During the conflict, particularly between 1992 and 1997, control over Kono District seesawed between the RUF and government forces. Diamond exploitation and smuggling carried on unabated. Testimony to the Commission indicated that dealers continued to do business with whoever had control of the territory. Even the manager of Branch Energy in Kono tried to arrange a secure corridor to facilitate the continuation of his business.⁵⁴ It served the interests of both the RUF and members of the political elite to continue to use the same sources for laundering their diamond loot. Individuals laundering the proceeds from diamonds had direct connections to Charles Taylor, the alleged mastermind of diamond smuggling from Sierra Leone.⁵⁵ Control of the routes provided opportunities for rent seeking for both the RUF and the NPFL; it probably also yielded substantial revenues in "passage tax". An alarmed international community quickly outlawed business in what has come to be known as "blood diamonds".
51. The corruption in the Liberian diamond industry made "diamond laundering" extremely easy. Transactions and payments were made in U.S. dollars. This made Liberia a haven for diamond dealers. The UN Panel of Experts found the existence of several shelf companies whose given addresses in Monrovia turned out to be non-existent. These companies were used to legalise the diamonds exported. President Taylor controlled the trade through his Inspector General of Mines, who reported directly to him.⁵⁶

⁵³ See UN Panel of Experts report, 2000, at page 14.

⁵⁴ See Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interviews conducted in Kono and Freetown, June 2003.

⁵⁵ See UN Panel of Experts report, 2000, at page 14.

⁵⁶ See UN Panel of Experts report, 2000, at page 14.

TRC



Sierra Leone researcher Dr. Lansana Gberie makes a presentation on the role of minerals in the conflict to TRC research and investigation staff.

52. Charles Taylor benefited enormously from the diamonds that passed through Liberia. His control was institutionalised when he became President of Liberia in 1997. The RUF also profited substantially from fines and charges it levied against diamond miners in the territories it controlled. The revenues from these activities were used to procure arms, ammunition and supplies for continuing the war against the Sierra Leonean state.
53. On 5 July 2000, the UN Security Council adopted Resolution 1306, imposing an embargo on the trade of diamonds from Sierra Leone. The UN Panel of Experts was created at the same time to monitor violations of the embargo and investigate diamond smuggling from Sierra Leone and its effect on the conflict. The Panel conducted several interviews with senior officials in different countries, including the then Liberian President Charles Taylor and senior officials in Liberia and Sierra Leone. Its report was published in December 2000 and provided great insights into the relationship between diamond smuggling and arms trafficking.

Other minerals

54. Other mineral resources are present in Sierra Leone, especially gold, bauxite and rutile. Although these minerals represent potentially important financial resources for the state, government focus so far has been on diamonds.
55. Mining of such minerals requires deep digging and therefore heavy machinery and substantial capital investment. The same is true of kimberlitic diamonds, found deep below the surface of the earth. Illegal mining of these minerals is difficult and therefore easily monitored by the government. On the other hand, the mining of alluvial gold and diamonds is easy and requires no investment in major equipment. It is therefore very difficult to control and regulate.

The role of non-Sierra Leonean communities

“The problem with us Sierra Leoneans is that we discriminate against ourselves. Any time an outsider comes in, we immediately give him everything.”⁵⁷

56. This quote essentially reflects the behaviour of the Sierra Leone political elite who exploited every opportunity for personal benefit, through networks and partnerships with non-Sierra Leonean businesses.
57. The Lebanese did not come to Sierra Leone for the diamonds; they were in the country long before diamonds were discovered. Beginning in the 1940s, however, members of the Lebanese community got involved in all aspects of the Sierra Leonean diamond industry, from funding licence holders to exporting diamonds. By paying higher informal taxes to the miners, they have assumed dominance over the industry.

⁵⁷ This quote is drawn from an interview with a merchant in Kono, conducted on 8 March 1990 and cited in Reno, *Corruption and State Politics in Sierra Leone*, at page 116. The merchant was referring to various areas in which Sierra Leonean nationals are disadvantaged, including the fact that they have a hard time securing credits from local banks.

58. Bank loans have been far more accessible to non-Sierra Leonean communities than to Sierra Leonean nationals. Because of their wealth, members of these communities are widely perceived as being more capable of repaying loans. The result of such lending practices has been that non-Sierra Leoneans have taken advantage of opportunities for investment and business development, amassing tremendous resources from the diamond business and other industries. These captains of industry have allied themselves with the political elite as a means of protection. They have benefited enormously from doing business in Sierra Leone but they have returned little to the country in the form of investments. Most profits are sent to other countries.
59. Since the Lebanese possessed capital, they rapidly took control of the diamond industry, as well as much of the business sector in general. By 1966, 73% of all shops in the country belonged to Lebanese nationals.⁵⁸
60. In 1959, the government required joint ventures between the SLST and Sierra Leonean nationals to exploit aspects of the SLST lease. In 1961, a constitutional decree denied citizenship to anyone of non-African parentage, which meant that the Lebanese and members of other resident communities who had been in Sierra Leone for generations could not automatically obtain citizenship.
61. The combination of the new policy of indigenous participation in mining and the citizenship decree had two consequences. First, it consolidated the dependence of Sierra Leoneans - who did not possess the necessary capital - upon wealthier individuals, mainly the Lebanese, thus deepening the "supporter" system that had begun in the 1950s. Second, since the right to acquire a mining licence was now restricted to citizens of African descent, many Lebanese invested through the local chiefs, using the chiefs' names to get licences and sharing the profits.⁵⁹
62. This situation persisted for many years, creating a system in which Lebanese dealers associated with government officials and local chiefs dominated the diamond industry. These dealers supported the mine operators (also referred to as "diggers") who in turn hired labourers to dig the diamond plots. According to the 1963 census, there were 2,500 licensed and unlicensed diggers, most of them linked financially to Lebanese dealers. The diggers employed 25,000 to 30,000 labourers.⁶⁰ These links increased over the years, and in 1982, 80% of all Sierra Leonean nationals applying for a dealer licence listed the same address in Sefadu, which was connected to Jamil Said Mohamed.⁶¹
63. Directly or indirectly, the Lebanese are still dominant at every level of the process. At the extraction level, they create a "supporter system" and provide the mining tools and the money for the licence.⁶² The arrangement usually includes the sharing of profits on every diamond found. The Lebanese are also extensively involved at the dealer and exporter levels.⁶³

⁵⁸ See Reno, *Corruption and State Politics in Sierra Leone*, at page 72.

⁵⁹ See Reno, *Corruption and State Politics in Sierra Leone*, at page 64.

⁶⁰ See Report of the Census of 1963, published by the Government of Sierra Leone.

⁶¹ See Reno, *Corruption and State Politics in Sierra Leone*, at page 113.

⁶² See Emmanuel Kargbo, committee member of the Tankoro Youth Organisation; TRC interview conducted in Kono District; 10 June 2003.

⁶³ See Patrick Tche, UNAMSIL Civil Affairs Officer; TRC interview conducted in Kono, 8 June 2003.

64. The Marakas (Gambian and Senegalese nationals) have also been involved at the dealing level since the 1950s. Unlike the Lebanese, they do not own shops; instead they conduct their transactions on the streets of Kono towns, especially Koidu. The Marakas are generally held in higher esteem than the Lebanese by Sierra Leoneans involved in the diamond industry. The Marakas have invested some of their profits in community development.⁶⁴
65. Leading Lebanese dealers were close associates of government leaders. Jamil Said Mohamed, for example, was a business associate of Siaka Stevens. His company was granted a licence to take over the NDMC. When he ran it aground, he sold it back to the government. When the government could no longer pay civil servants' wages, Jamil Said Mohamed "lent" money to the government to do so. The perception deepened that the Lebanese were and still remain the greatest beneficiaries of the diamond business.
66. Diamond smuggling is facilitated by the possession of a "dealer licence". A holder of a dealer licence is required to declare a certain minimum amount of transactions every year to the GGDO. Once this benchmark is attained, the dealer may legally deal in diamonds in his possession as he pleases. Although dealers cannot export diamonds officially without an export licence, they can deal in diamonds inside the country without declaring such sales to the GGDO. A popular hotel on Aberdeen Road in Freetown has been identified to the Commission as the rendezvous point for foreign speculators and merchants eager to buy diamonds.⁶⁵
67. Ordinarily dealers are supposed to buy diamonds from licensed miners only, but there is minimal oversight of the dealership level of the industry. Since the dealers are the prime promoters of the supporter system, they have hundreds of miners, not all of whom are licensed, on their support lists. Once a diamond is received at a dealer's office, it can be certified as having been produced by any of the supported miners and can be "officially" sold to the dealer. One of the foremost diamond dealers in the country told the Commission during a closed hearing in Freetown that he wouldn't insist on licences from miners before buying diamonds from them, because "I can legalise any diamond and then sell it".⁶⁶
68. There is a perception among Sierra Leoneans that the Lebanese keep all the profits from the diamond trade within the Lebanese community and invest only in their own businesses or export the profits to Lebanon. Many Lebanese, despite their long years in the country, have not integrated into Sierra Leonean society and are resented by Sierra Leoneans for their failure to do so.⁶⁷

⁶⁴ See Emmanuel Kargbo,; TRC interview conducted in Kono District; 10 June 2003. The TRC conducted additional interviews with several other miners on the same day.

⁶⁵ TRC Confidential Interview with a state intelligence officer; Freetown; 23 December 2003.

⁶⁶ TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

⁶⁷ See Emmanuel Kargbo, committee member of the Tankoro Youth Organisation; TRC interview conducted in Kono District; 10 June 2003.

69. Non-Sierra Leonean communities perceived by the RUF/AFRC as being wealthy were specifically targeted for attacks during the conflict. In the diamond industry, the Lebanese, Maraka and Fullah communities are involved in dealing and exporting. Their houses were often searched and their diamonds and money seized in surprise attacks.⁶⁸ One victim, a wealthy diamond exporter of Lebanese origin with business interests in Kono and Freetown was attacked several times. During one of the attacks on his house in Koidu, his family was only rescued by the intervention of Executive Outcomes.⁶⁹
70. The Ukrainian and Russian communities were involved in the conflict mainly as mercenaries, training men and flying supplies to whoever paid them, including the RUF and the government forces.⁷⁰ According to statements and interviews obtained by the Commission, they were also involved in diamond smuggling and arms trafficking, using helicopters to transport weapons and gems.⁷¹
71. Links have been alleged between Sierra Leonean diamonds and international terrorist organisations. The *Washington Post* published an article claiming that Charles Taylor had facilitated a diamond deal for Al Qaeda. Taylor was allegedly paid US\$1 million, and the diamonds originated in Sierra Leone.⁷² The Commission found no evidence to substantiate such allegations.

Mineral Resources and the Conflict Period

72. The lack of total state control over the diamond industry and other mineral resources had major repercussions for the conduct of the war in Sierra Leone.
73. Mining companies often contract with private security firms to provide protection in conflict areas where collapsing states are unable to provide security. In Sierra Leone, diamond-, rutile- and gold-mining companies entered into arrangements with private security firms, such as Executive Outcomes, Sandline International, Lifeguard Security and ArmSec International (SL). Some of these firms, notably Executive Outcomes and Sandline, have also provided security services to the government.⁷³

⁶⁸ See TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

⁶⁹ TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

⁷⁰ See International Crisis Group (ICG); *Sierra Leone: Report on the state of Security and Governance*, Brussels, September 2003, available at the website: www.crisisweb.org (hereinafter "ICG, 2003 Report on Security and Governance"); at page 28. See also Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

⁷¹ See, *inter alia*, Neall Ellis, former Executive Outcomes helicopter pilot, TRC interview conducted in Freetown, 27 May 2003.

⁷² The reference to this article in the *Washington Post* newspaper is contained in the following report: Global Witness, *For a Few Dollars More*, Washington, April 2003.

⁷³ More detail on the role of private security firms in the conflict can be found in the chapter on External Actors, which follows directly in Volume Three B of this report.

Phase I of the Conflict: March 1991-1993

74. Phase I encompasses the start of the war in March 1991, the NPRC coup in 1992 and the RUF's efforts to regroup from the brink of defeat in 1993. Although this is a pivotal period in the history of the conflict, few significant events occurred in the diamond industry. The RUF started its military operations in 1991, but did not gain any significant control over any diamond area before 1992, when it first captured Kono. This period was characterised by the decline of NDMC and the retreat of GGDO from the diamond trade.
75. The NDMC shut its operations in Yengema in October 1992, its operations in Tongo Field in March 1993 and went into liquidation in October 1993. The demise of the NDMC left the government weakened by the loss of legal diamond revenues.
76. Throughout the conflict, the fighting factions used the tactic of diamond seizure to gain revenues quickly. Diamonds were looted or seized from individual miners and dealers and sold.
77. From 1991 to 1993, Kailahun District and parts of Pujehun District were under RUF control. In Kailahun, only two towns, Jojoima and Kotoma, were mining areas. Diamond mining was organised by the RUF in those towns on a very small scale and produced a modest quantity of diamonds.⁷⁴ These were handed over to a mining commander, who would record them and hand them either to Foday Sankoh or to NPFL fighters, who would take them to Liberia.⁷⁵
78. The RUF captured Kono for a brief period in 1992 and was in control of Koidu and the surrounding communities for four months between October 1992 and February 1993. However, some Chiefdoms in Kono District – Nimikoro, Nimiyyama and Sewafe – were under RUF control during almost all of the conflict.⁷⁶ The RUF mined diamonds on a small scale, seized mining equipment and abducted miners to operate it.⁷⁷ One former RUF commander witnessed the presence of Foday Sankoh, Issa Sesay, Sam Bockarie and Patrick Lamin in the Koidu area in late 1992 to oversee RUF mining activities.⁷⁸
79. The RUF attacked a diamond mine in February 1993 in Baakaar, Dama Chiefdom, in Kenema District,⁷⁹ but was forced from the area by the NPRC regime. Throughout the war, insufficient control on the ground prevented the RUF from organising large-scale mining in Pujehun District, where the Zimmi diamond mines were located.⁸⁰

⁷⁴ Moigboi Moigande Kosia, former RUF 'G-1' officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

⁷⁵ Moigboi Moigande Kosia, former RUF 'G-1' officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

⁷⁶ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

⁷⁷ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003. See also Moigboi Moigande Kosia, former RUF 'G-1' officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

⁷⁸ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

⁷⁹ Kamoh Nyakoi, TRC statement number 5098, Baakaar (Kenema), 6 March 2003.

⁸⁰ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

80. The situation worsened for the RUF from 1993 onwards. Military authorities told the BBC on 15 November 1993, that the Sierra Leone Army had recaptured Koindu after 13 months under RUF control. They also proclaimed the recapture of nine other towns in Kailahun and seven towns in Pujehun.⁸¹ By the end of 1993, the RUF had been largely pushed out of Sierra Leone into Liberia.
81. Army soldiers also engaged in diamond smuggling in Bo and Pujehun Districts from the beginning of the conflict. A miner was attacked by SLA soldiers in Sumbuya, Bo District, in 1991 and tortured because he refused to hand over the diamonds he had mined. A soldier assaulted him and raped his wife:
- “I was beaten by them severely until I was at the point of death. The reason was because I was a miner and they said I have never given diamonds. One of them raped my wife.”⁸²
82. This victim also witnessed the soldiers seizing diamonds from other miners. In the same year, in Gisiwulo village, Pujehun District, SLA soldiers forced villagers to guide them through the swamps where diamonds were found. Those who refused were tied up and left in the sun until they became co-operative:
- “The SLA soldiers used to gather the towns’ people and ask that we show them the swamps where big diamonds could be found. If we failed to cooperate, they would tie us up and bake us in the sun. One morning, Lieutenant Mallah ordered his men to tie me up because I was the town chief and I had refused to show them the swamps. I was held hostage for one whole day and night.”⁸³
83. In the town of Bo, in 1993, during a riot, a diamond digger was attacked and killed by an SLA soldier who had requested money from him. His employer witnessed the killing:
- “Hassan was stabbed and shot all over his body. I stood there for some time watching him, then his brothers came and joined me.”⁸⁴
84. The perceived wealth of diamond workers made them targets of armed factions throughout the conflict.

⁸¹ British Broadcasting Corporations (BBC), *Government troops reportedly recapture rebel-occupied town*, included in the BBC Summary of World Broadcasts, 15 November 1993.

⁸² Aruna Vandy, TRC statement number 2400, Sumbuya (Bo), 22 January 2003.

⁸³ Brima Kemokai, TRC statement number 1850, Gisiwulo (Pujehun), 21 January 2003.

⁸⁴ Mohamed Bangura, TRC statement number 4462, Konta Line (Port Loko), 31 January 2003.

Vigilantes and civil militias

85. From the first efforts at assembling civil militia forces in the south and east of the country, the collective resources of the host chiefdoms were typically gathered together to feed, fund or otherwise assist whatever force was present there. In chiefdoms with diamond and other mineral deposits, the young men were required to donate their finds to the community effort. In Pujehun District, where the RUF had allied itself with an amorphous body of militiamen known as the “Action Group”,⁸⁵ villagers in the Soro Gbema and Kpanga Krim chiefdoms provided fighters with shelter and the proceeds of their agriculture and industries.⁸⁶ This practice was reflective of the warm reception initially given to the RUF in the south. However, after the middle of 1991, there is evidence that locals ceased to contribute voluntarily and that the RUF then resorted to looting the resources they required, including diamonds and other minerals that people had in their possession.

Phase II of the Conflict: 1994-1997

86. Phase II of the conflict was characterised by a shift in the fighting strategy of the RUF to guerrilla warfare tactics. This change was effective: the RUF was able to gain significant territory and secure control over Kono for several months in 1995 and strike a decisive advance towards Freetown.⁸⁷ In the same year, the attacks on the SIEROMCO and Sierra Rutile Limited mines by the RUF had tremendous implications for the national economy and led to the destruction of the surrounding communities and the internationalisation of the conflict. The insecurity created by the attacks, coupled with the effectiveness of the RUF on the ground, led the government to hire the private security firm, Ghurkhas Security Guards.
87. The NPRC regime, in search of more revenue, opened the mining industry to “junior” diamond-mining companies. The term “junior” refers to “small prospecting and mining companies which work on the edge of the industry, discovering diamond fields, generating funds on international stock markets, sometimes selling diamonds directly but more often than not eventually selling out to larger companies”.⁸⁸ Such companies take risks to discover new resources and establish themselves in the world market.
88. These junior companies were associated with private security firms not just in Sierra Leone but throughout Africa. In conflict zones, such companies could not rely on the war-torn country to protect their mining operations. Therefore, to safeguard their profits, they turned to other means of security. The junior companies that entered Sierra Leone during the conflict period included those in the list overleaf.

⁸⁵ More detail on the “Action Group” and other local dynamics in the Pujehun District can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

⁸⁶ TRC Confidential Interview with an RUF combatant and erstwhile mining supervisor; interview conducted in Pujehun District; September 2003.

⁸⁷ For a detailed discussion and analysis of RUF military gains during this period, see the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

⁸⁸ See Smilie, et al., *The Heart of the Matter*, at page 51.

Rex Mining Company

89. Rex Mining Company NV acquired concessions in Tongo Field and Zimmi in March 1994. The leases were renewed by the government in August 1999 but were revoked in mid-October 2003 when the company failed to pay outstanding licence fees amounting to US\$282,000. The company claimed in 1999 to have close contacts with both government officials and the RUF. That claim was denied by Foday Sankoh. When the government's helicopter gunship was shot down in 1998, Rex's managing director and president provided the government with spare parts from Russia worth US\$3.8 million.⁸⁹

AmCan

90. AmCan came to Sierra Leone in 1993, and procured concessions for exploration in Kono District. Sierra Gold Limited, a subsidiary of AmCan, holds a 30-square-mile gold mine in Tonkolili District.⁹⁰ In 1996, AmCan purchased ArmSec International (SL), a private security company.⁹¹ It is not clear what role ArmSec played in the conflict, but it was used by AmCan to provide security for its mining concessions. As of 1999, David Quee was AmCan's lawyer and representative in Freetown as well as Chairman of the GGDO. Despite this apparent conflict of interests, the Ministry of Mineral Resources did not intervene.

Branch Energy, Diamond Works and Executive Outcomes

91. Branch Energy first entered Sierra Leone in 1995 and obtained a concession from the NPRC regime for mining kimberlitic diamonds in the Kono District. The lease was originally for 25 years and could be renewed. The contract was ratified by the Parliament in 1996. However, Branch Energy, which in 1996 became a subsidiary of Diamond Works, a mining company registered in Canada, decided to end its activities and evacuate its personnel after the May 1997 coup that led to the establishment of the AFRC.
92. The Commission travelled to Kono to visit the Branch Energy concession and conducted interviews with its employees. The company lost US\$15 million of its initial 1995 investment, because its equipment was looted or burnt. Jan Joubert, the company's country manager since 1995, arranged the evacuation of personnel after the May 1997 coup. After negotiations with the AFRC in Kono, the employees and other foreigners were finally evacuated by helicopter in August. However, Joubert stayed behind and managed to set up meetings between the military, the AFRC/RUF and the Kamajors. The ultimate aim was to achieve a secure climate in Koidu and in Kono District in general that would be safe enough to permit the resumption of the company's operations. Joubert succeeded initially in creating a forum for discussion with the AFRC but finally had to leave the country in September 1997 following the breakdown of negotiations.⁹²

⁸⁹ See Smilie, et al., *The Heart of the Matter*, at page 54.

⁹⁰ See Smilie, et al., *The Heart of the Matter*, in Annex 2.

⁹¹ See Smilie, et al., *The Heart of the Matter*, at page 55.

⁹² Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interviews conducted in Kono and Freetown, 2003.

93. Executive Outcomes (EO) was part of a bigger group, called Plaza 107, which included Sandline International, Lifeguard Security and other security firms, as well as some mining companies such as Branch Energy. From its inception, EO had been providing security for diamond companies in conflict zones. It had performed such services for Anglo American, De Beers and Branch Energy in its diamond operations in Angola.⁹³
94. The ostensible links between Branch Energy, EO and Sandline International in Sierra Leone are denied by Branch Energy and Diamond Works. After the end of Executive Outcomes' operations in Sierra Leone, Eeben Barlow, the former director of Executive Outcomes, became a shareholder in Diamond Works.⁹⁴
95. Executive Outcomes was allegedly introduced to the government by Branch Energy through Tony Buckingham.⁹⁵ Its mandate was to repel the RUF and retake the diamond-mining areas in Kono District.⁹⁶ EO was paid by the NPRC partly in cash and partly in mining concessions granted to Branch Energy. According to Captain Valentine Strasser, former Head of State and Chairman of the NPRC, Ghurkhas Security Services was also paid in diamond concessions.⁹⁷ One month after Executive Outcomes pushed the RUF out of the diamond areas, Branch Energy⁹⁸ secured its 25-year lease in Kono District. Reginald Glover, then Minister of Mineral Resources, claimed that he was ordered by the Head of State to give diamond concessions to Branch Energy.⁹⁹
96. Branch Energy, Diamond Works and Executive Outcomes became important players in the diamond industry in Sierra Leone. Using contacts in government and acquiring protection from the RUF, they continued to engage in diamond exploitation.

The RUF, diamond smuggling and arms trafficking

“We have signed the Peace Accord on 29 November 1996, just so as to relieve our movement of the enormous pressure from the international community while I will use this opportunity to transact my business in getting our fighting materials freely and easily.”

Foday Sankoh, Leader of the RUF, 4 December 1996¹⁰⁰

⁹³ See Harding, J.; “The Mercenary Business: Executive Outcomes”, in *Review of African Political Economy*, 1997 (hereinafter “Harding, *The Mercenary Business*”).

⁹⁴ See Smilie, et al., *The Heart of the Matter*, at page 59.

⁹⁵ See UN Panel of Experts report, 2000, at page 43. See also Harding, *The Mercenary Business*.

⁹⁶ Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interview conducted in Freetown, 11 June 2003.

⁹⁷ Captain (Retired) Valentine E. M. Strasser, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from 1992 to 1996; testimony before TRC Thematic Hearings held in Freetown, 30 July 2003.

⁹⁸ The company formerly known as “Branch Energy Limited” has undergone a name change since the conflict. At the time of writing it is called “Koidu Holdings Limited”.

⁹⁹ See Smilie, et al., *The Heart of the Matter*, at page 60.

¹⁰⁰ Letter from Foday Sankoh to Mohamed Talibi of the Libyan Peoples' Revolutionary Council, Accra, dated 4 December 1996; Criminal Investigations Department (CID) of the Sierra Leone Police; letter included in the dossier pertaining to the ‘Foday Sankoh / 8 May 2000’ case; dossier provided to the TRC in July 2003.

97. Before 1995, the RUF conducted diamond mining on a sporadic and unorganised basis. However, the Commission received multiple reports of civilians being forced to mine for the RUF dating back to 1994.¹⁰¹ In a letter allegedly sent to Mohamed Talibi of the Libyan Arab Bureau in Ghana, Sankoh stated in June 1996 that he had been able “to organise serious mining operations in precious minerals which [he] believes will help [them] generate the needed foreign exchange for [their] mission”.¹⁰²
98. In 1995, the RUF took control of the Koidu area and held it for about four months until being driven out by Executive Outcomes.¹⁰³ Witnesses recall several instances in which RUF fighters seized diamonds from civilians in Kono District, often beating or torturing them if they refused to hand the diamonds over. In Kelfala Chiefdom, Pujehun, in 1995, a miner was seriously beaten by RUF fighters when he refused to hand over his diamonds:
- “One rebel came with a mask and asked me to produce the diamonds. I told him I had nothing like diamonds in my possession. Failing to produce the said diamonds, I was severely beaten with a stick. He further threatened to kill me. I begged him not to kill me as I am a poor boy working for people. But he seemed not to care and continued beating me until the first stick was broken. He used a second stick until it was finished.”¹⁰⁴
99. A former RUF commander reported on RUF diamond-seizure tactics during the period when the RUF was in control of the Koidu area. Seizures were conducted during raids on towns and mining sites and also on individual miners and dealers.¹⁰⁵ Diamond seizures were also conducted in Pujehun District, often resulting in the death of civilians:
- “At Kpetewoma Lugbu in August 1995, we were in a hiding place mining when the rebels got to us. They surrounded us and got everybody to the mining site. We were asked to give them the diamonds we had. Because there was delay in giving them the diamonds, four miners were killed and others lined up to follow them. They took all we had in the huts plus our food.”¹⁰⁶
100. The tactic of diamond seizure was also used in Tongo Field throughout the war, but large-scale mining was not organised in that area during the period between 1994 and 1997.¹⁰⁷

¹⁰¹ TRC interviews and statements from Kailahun, Kono and Pujehun Districts; March to May 2003.

¹⁰² Letter from Foday Sankoh to Mohamed Talibi of the Libyan Peoples’ Revolutionary Council, Accra, dated 26 June 1996; Criminal Investigations Department (CID) of the Sierra Leone Police; letter included in the dossier pertaining to the ‘Foday Sankoh / 8 May 2000’ case; dossier provided to the TRC in July 2003.

¹⁰³ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁰⁴ Abdul Karim Koroma, TRC statement 3709, Makali Junction (Tonkolili), 18 February 2003.

¹⁰⁵ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁰⁶ Brima Bobor, TRC statement number 6668, Pujehun Town (Pujehun), 31 March 2003.

¹⁰⁷ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

101. The RUF used diamonds to buy weapons and supplies.¹⁰⁸ As illustrated by the Foday Sankoh quote above, it appears that the RUF signed the Abidjan Peace Accord only to gain time and re-establish its control on the ground. Indeed, by the time of the Abidjan signing in 1996, the RUF had suffered a major military setback and lost control of the diamond-mining areas.
102. The RUF diamonds were smuggled mainly to Liberia and Guinea, over footpaths through the borders.¹⁰⁹ The diamonds were carried by RUF commanders across the border to Foya-Kama and Voinjama, and then on to Monrovia. The profits from diamond sales were used to purchase weapons, ammunition, food and equipment.¹¹⁰ Several reports and testimonies indicate that the weapons came mainly from Eastern Europe by air, were trans-shipped in Burkina Faso and Libya, then imported into Liberia, usually by air as well, in violation of the UN arms embargo on Liberia. The weapons were then transported into Sierra Leonean territory mainly by road in load trucks.¹¹¹ The material included ammunition, RPGs, grenades and AK-47s.¹¹²
103. The estimates of RUF revenues from diamond smuggling vary from US\$25 million to US\$125 million per year. De Beers' estimate for 1999 is US\$70 million.¹¹³ The estimates refer to the optimal value of the production capacity of the land under the RUF's control and not to the actual RUF revenues, which are extremely difficult to estimate. Nevertheless, these estimates seem very high and, if accurate, suggest a very important role for diamonds in fuelling the conflict. The fact that there is no evidence that supplies matching these levels of profits reached the RUF fighters on the ground, suggest that the estimates were overstated.
104. Two possible explanations can be offered for the discrepancy between alleged RUF receipts in diamond sales and the supplies to the fighters. The first is that corruption within the ranks of the RUF was high and individual commanders were keeping some of the profits. Another possible explanation is that Liberian officials and other business partners in Liberia, who received the diamonds from RUF commanders, retained a high level of the profits for themselves.

¹⁰⁸ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003. See also Alhaji Conteh (alias Black Jesus), former RUF combatant; TRC interview conducted in Pademba Road Prison, Freetown, 20 May 2003.

¹⁰⁹ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹¹⁰ See, *inter alia*, Alhaji Conteh (alias Black Jesus), former RUF combatant; TRC interview conducted in Pademba Road Prison, Freetown, 20 May 2003. See also Musa Bunduka, former SLA soldier and later RUF fighter; TRC interview conducted in Palima, Tongo Field, 15 June 2003. See also Report to Foday Sankoh by RUF Commander Issa Sesay, dated 27 September 1999; Criminal Investigations Department (CID) of the Sierra Leone Police; report included in the dossier pertaining to the 'Foday Sankoh / 8 May 2000' case; dossier provided to the TRC in July 2003 (hereinafter "*Report by Issa Sesay, 27 September 1999*").

¹¹¹ See UN Panel of Experts report, 2000, at page 38.

¹¹² See Alhaji Conteh (alias Black Jesus), former RUF combatant; TRC interview conducted in Pademba Road Prison, Freetown, 20 May 2003.

¹¹³ See UN Panel of Experts report, 2000, at page 14. See also Fred Marrafono, former Executive Outcomes officer, TRC interview conducted in Freetown, 4 June 2003.

105. On several occasions, senior commanders in various factions attempted to keep diamonds for themselves. Former Head of State Johnny Paul Koroma, after the removal of the AFRC from power, tried to keep some diamonds to pay for his escape from the country. He was placed under house arrest by senior RUF officers (including Issa Sesay and Mike Lamin) until he returned the diamonds. He handed over diamonds reportedly worth US\$15,000.¹¹⁴
106. On another occasion, Issa Sesay was given 14 diamonds by Sam Bockarie to take to Monrovia to a business associate of President Taylor's. The objective was to exchange the diamonds for military equipment. Issa Sesay went to Monrovia with the diamonds, but claimed to have "lost" them in a tea shop.¹¹⁵ He later explained to the RUF command structure what had happened, and a fight with Sam Bockarie and Mike Lamin ensued.¹¹⁶ Issa Sesay has been accused of dealing diamonds for his own benefit and covering up the deals:
- "Issa was in charge as the overall commander; if he had a diamond of about 10 to fifteen carats, he would take it to somebody who he knows has money, and he would say: 'Go and sell that diamond; go to such and such person.' That person would buy the diamond and later on Issa would come around with his vehicle and his boys and say: 'What about that diamond you bought? Bring it, I want it.' The person would then be forced to produce that diamond and pay for it again."¹¹⁷
107. The People's Army of Sierra Leone, a combination of the RUF and AFRC forces, had a mining unit complete with Mining Commanders. The unit suffered from internal power struggles with commanders stealing diamonds from one another. One investigation obtained by the TRC, conducted by the People's Army Joint Security Board, followed the "loss" of 82 pieces of diamonds. The investigation concluded that "the administrative set-up within the Mining Unit was very poor" and recommended the daily weighing of diamonds in the presence of all the mining commanders, the issuance of receipts signed by witnesses and an increase in security within the Mining Unit.¹¹⁸
108. The TRC received testimony about the involvement in diamond dealing of high-ranking government and military officers in Liberia, including former President Charles Taylor. One former RUF combatant claimed to have witnessed an exchange of diamonds and weapons between Foday Sankoh and Charles Taylor in 1994 at the Kangari Hills base.¹¹⁹ Although his account was uncorroborated, this combatant's testimony does accord with widely-held suspicions in the international community.

¹¹⁴ See UN Panel of Experts report, 2000, at page 13. See also *Report by Issa Sesay*, 27 September 1999.

¹¹⁵ See also *Report by Issa Sesay*, 27 September 1999.

¹¹⁶ "Unofficial transcript of a recorded discussion between Foday Sankoh and his RUF Cohorts upon his return from detention in Nigeria in 1999"; Criminal Investigations Department (CID) of the Sierra Leone Police; transcript included in the dossier pertaining to the 'Foday Sankoh / 8 May 2000' case; dossier provided to the TRC in July 2003.

¹¹⁷ Moigboi Moigande Kosia, former RUF 'G-1' officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

¹¹⁸ Letter to Brigadier Peter Vandí, RUF Overall Brigade Commander, from the People's Army Joint Security Board of Investigations, entitled "Summary of findings and recommendations on the missing of 82 pieces of diamond stones on 5 April 1999 in Kono"; document provided to the TRC by a former RUF administrator, April 2003.

¹¹⁹ See Alhaji Conteh (alias Black Jesus), former RUF combatant; TRC interview conducted in Pademba Road Prison, Freetown, 20 May 2003.

109. In the aftermath of the overthrow of the AFRC/RUF regime by ECOMOG in February 1998 and the subsequent withdrawal of the RUF to its stronghold of Kailahun District, diamond transactions were allegedly conducted with the “leader of Liberia” and “the brother in Burkina” in exchange for arms and ammunitions. According to a conversational excerpt attributed to Mike Lamin:

“Although he [Sam Bockarie] had already made some contacts with them, he needed some of the gem stones to give to the leader in Monrovia to facilitate these contacts. Before this, of course, we were aware that some transactions were going on as on several occasions he made visits to Monrovia through the help of one Benjamin Legon, a Liberian security personnel; in collaboration with the Adjutant General. The Adjutant General knows about some diamonds given to Benjamin Legon for onward handing over to the Leader in Liberia.”¹²⁰

110. There is some evidence of diamonds for weapons and supplies deals between the RUF and some Guinean individuals and military officers¹²¹. There is however no proof of the involvement of the government or any high-ranking military personnel. It is alleged, in one instance, that the RUF bought a BM-21 multiple rocket launcher from the Guinean Armed Forces just after the invasion of Freetown in January 1999.¹²²
111. Allegations of corruption were made against Foday Sankoh when he became Chairman of the Commission for the Management of Strategic Mineral Resources, following the signing of the Lomé Peace Agreement in 1999. These allegations concern deals apparently made with the Integrated Group of Companies and BECA Company, the latter having signed a contract for exploitation of diamond and gold resources directly with the RUF and not with the Government of Sierra Leone.¹²³

The place of diamonds in the overall strategy of the RUF

112. Some of the RUF’s weaponry was acquired through purchases made abroad, paid with diamonds and other sources of revenue. However, this does not suggest that diamonds-for-arms exchanges was the only way, or even the primary way, in which the RUF acquired weapons; nor does it mean that diamonds were the only commodities used in such exchanges.

¹²⁰ Former RUF commander Mike Lamin was among the speakers attributed in the document entitled: “Unofficial transcript of a recorded discussion between Foday Sankoh and his RUF Cohorts upon his return from detention in Nigeria in 1999”; Criminal Investigations Department (CID) of the Sierra Leone Police; transcript included in the dossier pertaining to the ‘Foday Sankoh / 8 May 2000’ case; dossier provided to the TRC in July 2003.

¹²¹ See the document entitled *Report on a visit to some refugee camps in Gueckedou, Forest Region, Republic of Guinea, March 1995*; contained in confidential files compiled by the National Security Agency (NSA) of the NPRC Government, 1992 - 1996; presented to the Commission by the former NPRC National Security Adviser, Brigadier (Retired) Sam H. King; September 2003.

¹²² Neall Ellis, former Executive Outcomes helicopter pilot, TRC interview conducted in Freetown, 27 May 2003.

¹²³ See UN Panel of Experts report, 2000, at pages 16-17.

113. The Commission has received several testimonies from civilians forced to produce marketable agricultural produce for the RUF. All these events were reported from Kailahun District, which borders Liberia. In July 1998, the RUF came to an understanding with the authorities of Lofa County in Liberia for cross-border trade allowing the RUF to transport produce for sale in Liberia.¹²⁴
114. Villagers were forced to harvest cocoa and coffee and hand those products over to RUF commanders. Abu Yaku Gaima was the Paramount Chief for Dia chiefdom, Kailahun District, in 1993, when the RUF invaded the chiefdom:
- “Peter Vandy and Mohamed Ukulay (alias Mannawa), who was the RUF Brigade Commander, came to Baiwala and requested for 100 bags of cocoa to be produced in 5 days, as they urgently needed it to buy arms. He ordered me to register all civilians all over the chiefdom and that everybody should join efforts.”¹²⁵
115. Villagers were then forced to carry these items across the border to be exchanged for weapons, suffering many violations in the process, such as beatings and killings. The abductees would then be brought back to carry more items: *“I was subjected to forced labour to carry double bags with either cocoa or coffee to Liberia and back to Sierra Leone. This was done many times”*¹²⁶; or left behind upon reaching the destination:
- “When they entered into our hiding place and captured us, we had to carry one double bag loaded with either cocoa or coffee. But if they did not get the required amount, they would lock us in our houses until they get the quantity they wanted, after which they would open the door and ask us to carry these loads to Foyia in Liberia. When you reached your destination, they would abandon you and go for their business”.¹²⁷
116. From these testimonies, the focus appears to have been on the acquisition of coffee and cocoa, because they had a reasonably high market value.¹²⁸
117. Several witnesses speculated that the RUF acquired weapons mainly through the seizure of SLA equipment after taking over SLA bases. These testimonies are supported by evidence of the types of weapons and logistics that were used by the RUF: mainly SLA standard issue firearms rather than sophisticated weaponry imported from abroad. RUF weapons included small arms rather than mounted heavy artillery pieces. RUF vehicles were typically stolen vehicles rather than newly purchased trucks.

¹²⁴ See report of a meeting held on 16 July 1998 to iron out differences between the Joint Security of Lofa County (Liberia) and the RUF Movement; Criminal Investigations Department (CID) of the Sierra Leone Police; report included in the dossier pertaining to the ‘Foday Sankoh / 8 May 2000’ case; dossier provided to the TRC in July 2003.

¹²⁵ Abu Yaku Gaima, TRC statement number 47, Baiwala (Kailahun), 16 December 2002.

¹²⁶ Brima Amara Davowa, TRC statement 4311, Sandeyaru Town (Kailahun), 23 February 2003.

¹²⁷ Eddy Thomas, TRC statement 35, Kailahun Town (Kailahun), 20 February 2003.

¹²⁸ Further corroboration of the priority afforded to these goods came from Musa Bunduka, former SLA soldier and later RUF fighter; TRC interview conducted in Palima, Tongo Field, 15 June 2003.

Other minerals and natural resources

118. On 19 January 1995 the RUF attacked two important mines in Moyamba and Bonthe Districts. One was a bauxite mine owned by SIEROMCO, a subsidiary of Swiss Aluminium Company of Zurich. The second mine was owned by Sierra Rutile Ltd, a wholly owned subsidiary of Nord Resources of the United States. Sierra Rutile was then the largest producer of rutile, or titanium ore, in the world with a 25% share of the global market.¹²⁹ SRL employed 2,000 people and produced 150,000 tons of rutile per year.¹³⁰ The company was the largest private employer in Sierra Leone before the attack. The two mines accounted for 63% of export earnings in 1994 (with 48.7% for SRL and 14.5% for SIEROMCO), which represented US\$13 million of revenues for the government.¹³¹ The impact on the economy of these attacks was therefore disastrous.
119. Most of the employees of SIEROMCO and Sierra Rutile were evacuated, but the RUF took several foreigners hostage. The attack at Rutile was led by Mohammed Tarawallie, who was the RUF Battle Group Commander at the time. He was acting under the instructions of Foday Sankoh and is said to have communicated with him by telephone from the Sierra Rutile office.¹³²
120. One civilian witness told the Commission that many soldiers under the command of Lieutenant Colonel Tom Nyuma, Provincial Secretary of State under the NPRC, were brought in as reinforcements the day before the attack at Mokanji and Rutile in two helicopters. According to this account, the directors of Sierra Rutile Limited wanted to evacuate the employees, but were assured by Tom Nyuma that the area was secure and the advance of the RUF had been countered:
- “Tom Nyuma assured them of security since the soldiers were fully deployed; this same confidence he gave to the civilians. [The next day] we heard the information that the RUF had reached Kaibama. The township was full of panic as everyone wanted to leave but the soldiers deployed gave us confidence that nothing would happen.”¹³³
121. When Mokanji was attacked, the mother of this witness, Ibrahim Jusu, was shot dead by the RUF, along with other civilians. The employees of SIEROMCO were kidnapped. Witnesses before the Commission, including Ibrahim Jusu, accused Tom Nyuma in strong terms of collusion with the RUF.¹³⁴

¹²⁹ See *Sierra Leone*, in *The Mining Journal – African Mining*, 26 January 1996, at page 19.

¹³⁰ See *Bleak outlook in Sierra Leone*, in *The Mining Journal – Mining Week*, 15 September 1995, at page 190.

¹³¹ See *Sierra Leone*, in *The Mining Journal – Mining Annual Review*, July 1995, at page 152.

¹³² See the document entitled: “Rebels at Mokanji and Sierra Rutile”, dated January 1995; contained in confidential files compiled by the National Security Agency (NSA) of the NPRC Government, 1992 - 1996; presented to the Commission by the former NPRC National Security Adviser, Brigadier (Retired) Sam H. King; September 2003.

¹³³ Ibrahim Jusu, TRC statement number 2740, Taininihun Jakinah (Moyamba), 27 January 2003.

¹³⁴ Various perspectives regarding collusion between SLA officers and the RUF can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

122. A number of reasons have been advanced to the Commission for the attacks at Sierra Rutile and SIEROMCO. One reason was that the attacks were aimed procuring equipment and stealing cash from the Sierra Rutile office, allegedly amounting to “thousands of dollars”.¹³⁵ Another objective was to cut off the government’s revenue by disrupting production activities at the companies. A further reason was that the attacks were part of the RUF’s terror tactics in order to create a general climate of insecurity among the population.

123. Two victims of the attacks claimed that the attacks were carried out by a combination of RUF and SLA fighters, acting together in the looting of civilian properties and the burning of houses:

“The RUF rebels who were controlling the Sierra Rutile Company used the route from Sierra Rutile through our village, Moselolo. They opened fire on us and all of us abandoned the village. They set fire to 27 houses and some people were captured, all of our belongings were looted and some burnt down. The RUF rebels and SLA combined themselves to attack us.”¹³⁶

124. The attacks and the subsequent hostage taking were certainly part of a strategy to gain international notice. The RUF simultaneously demanded the cessation of British military help to the NPRC regime.¹³⁷ The hostage taking was widely reported in the Western press, as European nationals were among the abductees. The negotiations for the release of the hostages also resulted in the Sierra Leonean conflict receiving international attention some four years after it had started. The hostage taking sent a message to international aid workers that the country was not safe and that they should pull out.

125. The attacks on the two companies resulted in the disruption of community life in the areas close to the mines. The Commission has received testimony from villagers of Moyamba and Bonthe Districts describing the violations committed against them by the RUF as including looting of property, abduction, including of young children¹³⁸, summary executions¹³⁹ and the burning of houses¹⁴⁰. These violations resulted in extensive displacement of civilians, as they fled to neighbouring villages and to the bush, trying to escape the attacks.¹⁴¹ Young girls were abducted and turned into “bush wives”:

“We were captured on Wednesday 25 May 1995 and taken to Kpetema where we stayed for about a month. An RUF rebel who apprehended me forcefully took me for his wife. I was 15 years of age by then.”¹⁴²

¹³⁵ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹³⁶ Idrissa Conteh, TRC statement number 6846, Moselolo (Moyamba), 22 March 2003; and Gbessay Santigue, TRC statement number 3873, Mokeleh (Moyamba), 10 February 2003.

¹³⁷ Associated Press; *Rebels attack US-owned mine, threaten to kill foreigners*; 20 January 1995.

¹³⁸ TRC Confidential statement number 565, Magburaka (Tonkolili), 7 December 2002; TRC confidential statement number 4749, Mile 91 (Tonkolili), 26 February 2003; and TRC confidential statement number 2825, Moriba (Bonthe), 28 January 2003.

¹³⁹ Lansana Momoh, TRC statement number 2990, Jangalor (Bonthe), 5 February 2003.

¹⁴⁰ Massa Squire, TRC statement number 5383, Grafton (Western Area), 22 February 2003.

¹⁴¹ Lansana Momoh, TRC statement number 2990, Jangalor (Bonthe), 5 February 2003.

¹⁴² Female victim, TRC confidential statement 3047, Serabu Town (Bo), 3 February 2003.

126. A female witness was captured by the RUF with her two sisters on January 19th 1995 at Rutile:
- “One night, Edward Kaitibi (my RUF abductor) asked me to have sex with him but at that time I had no knowledge of sex. He forced me that night in the bush after which I saw blood all over me. It went on for about 30 minutes [...] I ended up with pregnancy.”¹⁴³
127. The towns of Rutile and Mokañji were specifically targeted, being closer to the mines. The Commission collected testimony regarding the looting and burning of the villages of Mata Gelema¹⁴⁴, Moselolo¹⁴⁵, Victoria¹⁴⁶, Nyandehun¹⁴⁷ and Mokeleh¹⁴⁸ during the months following the attacks at the mines. Civilians were displaced from these villages, sometimes for several months¹⁴⁹. The RUF conducted sporadic attacks, making it difficult for the population to return to the villages.
128. The attack at the Sierra Rutile plant itself was described by an employee as “tense, fearful and bloody”¹⁵⁰. The same employee witnessed the killing of many people, including his supervisor. After the attacks, several Rutile abductees were forced to become members of the RUF. The first contacts to secure their release were made with the help of the ICRC and the head office of SIEROMCO in Freetown. Fred Marrafono, a British citizen, was hired as a consultant by SIEROMCO to negotiate with the RUF.¹⁵¹ The contacts were made by telephone with RUF officers and the hostages were finally released.
129. As a result of the worsening security situation and the fear of losing control over the Moyamba area, the NPRC regime called in the Ghurkha Security Services. The arrival of the Ghurkhas opened the way for the involvement of private security firms in the conflict as mercenary forces for the government. Executive Outcomes and Sandline International soon followed the Ghurkhas. From that point on, various governments were to rely on the services of private security companies to provide security in mining areas, fight the RUF and provide logistical support to the Army and the Civil Defence Forces.¹⁵²
130. SIEROMCO resumed its activities after the crisis, but output declined drastically and production was finally ceased altogether. More recently Sierra Rutile Limited has begun initial steps towards resuming production. The plan for the renewal of operations was presented to the public at Mokañji in August 2003 and activities were about to resume at the time of writing in 2004. The project is expected to create 900 jobs at its inception, 90% of which will be for Sierra Leonean nationals.¹⁵³

¹⁴³ Female victim, TRC confidential statement 4312, Sandeyam (Kailahun), 23 February 2003.

¹⁴⁴ Fatmata Sandi, TRC statement number 1302, Bonthe (Bonthe), 13 December 2002.

¹⁴⁵ Idrissa Conteh, TRC statement number 6846, Moselolo (Moyamba), 22 March 2003.

¹⁴⁶ TRC Confidential statement number 3946, Victoria (Bonthe), 15 February 2003.

¹⁴⁷ Sharka Kamara, TRC statement number 3938, Nyandehun (Bonthe), 14 February 2003.

¹⁴⁸ Gbessay Santigue, TRC statement number 3873, Mokeleh (Moyamba), 10 February 2003.

¹⁴⁹ Kadie Sheriff, TRC statement number 3007, Gbangbama (Bonthe), 30 January 2003.

¹⁵⁰ TRC Confidential statement number 708, Bo II (Bo), 4 December 2002.

¹⁵¹ See Fred Marrafono, former Executive Outcomes officer, TRC interview conducted in Freetown, 4 June 2003.

¹⁵² More detail on the role of private security firms in the conflict can be found in the chapter on External Actors, which follows directly in Volume Three B of this report.

¹⁵³ See ICG, *2003 Report on Security and Governance*, at page 28. See also Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

131. One witness testified to the Commission about combat training he received in 1997 from a security company called Cape International. Cape International is owned by Fred Marrafono, the British citizen who conducted the negotiations for the release of the hostages taken by the RUF at Rutile in 1995. The witness was trained, along with 33 others, in providing security for a gold mining company named Golden Prospect Mining Company.¹⁵⁴ The original aim of the training was to provide security for the company's assets and personnel from attacks. The witness and his fellow trainees subsequently fought with the Tamaboros, the Northern Region-based group that was part of the Civil Defence Forces.

Mineral resources and civil militias

132. By the end of 1995, a growing consensus existed among chiefs particularly in the South and East that the army could no longer be trusted to provide effective defence for the civilian population. In their place, most chiefdoms were seeking to install a form of civil or community defence force, consisting of "sons of the soil", bolstered by the chiefdom police. As part of their undertaking to support and supply such a force, the chiefs in areas endowed with natural resources would put forward "offerings" of those resources. The Commission has heard evidence of diamonds being given directly to the CDF mined from the diamondiferous banks of the Sewa River, Bo District; from the lucrative alluvial diamond mines around Tongo Field, Kenema District; and from the smaller mining fields North of Zimmi, Pujehun District.¹⁵⁵ In addition, chiefdoms that possessed mineral resources other than diamonds contributed towards the war effort. Gold, for example, was donated by chiefs in the Mongheri township in Valunia Chiefdom, Bo District.
133. In order to institute an efficient system of supply of items such as diamonds and gold, chiefs had to assemble a labour force from among their own people. In this regard, while the majority of those engaged in mining or auxiliary tasks appear to have worked on a voluntary basis, the Commission received testimony from aggrieved persons who claimed that they were forced into labour or otherwise disadvantaged by their participation. One such claim suggested that in the chiefdom they were "regimented" into performing different types of labour and heavily punished if they refused the "orders" of their chiefs.
134. It is not clear what happened to the valuable minerals in question once the local chiefs collected them. The intended purpose was to convert them into their equivalent value in food, logistics such as vehicles or fuel, or arms and ammunition for the local civil militia (mostly Kamajors). However, while the testimonies from those who mined seem to indicate a relatively high value of minerals extracted, testimony from the "foot soldiers" of the CDF seem to suggest a paucity of provisions in every respect.

¹⁵⁴ Abu S. Marrah, former local commander of the Tamaboros; TRC interview conducted in Kondembaia, Koinadugu District, 15 August 2003.

¹⁵⁵ TRC Interviews with Members of the CDF War Council; interviews conducted at TRC Headquarters, Freetown, October 2003.

135. This disparity suggests that there was a high degree of embezzlement among those in control of such resources in the CDF.¹⁵⁶ A Commission of Inquiry into allegations of corruption in the CDF in Bo District resulted in the resignation of the CDF Regional Co-ordinator for the South, Alhaji Daramy-Rogers in 1999. When questioned on this issue, Alhaji Daramy-Rogers testified that claims of embezzlement against him were fabricated.¹⁵⁷ In his submission to the Commission, a coordinator of a CDF support group based in the United States recalled a telephone conversation in which Chief Hinga Norman requested the President to permit the take over of the diamond mines at Zimmi for exploitation by the CDF in order to boost the war effort. The President turned down the request because this would amount to the “mortgaging the nation’s resources”, to which Chief Norman replied “that they were already mortgaged.”¹⁵⁸
136. Despite the President’s demurrer, the CDF engaged in substantial mining of diamonds and other minerals in areas under its control. The Commission was unable to establish definitively how the mined resources were taken out of the country, or who the buyers were. The Commission has however heard testimony that Chief Norman made trips to Monrovia to procure arms and ammunition for the CDF. Monrovia had become the regional hub for international diamond dealing. The dealers there are known to have purchased diamonds from all available sources, which can safely be said to have included the RUF, AFRC, CDF, NPFL and a variety of private operators.

Phase III of the Conflict: 1997 – 2002

137. The coup of 25 May 1997 marked a veritable turning point in the conflict. The AFRC junta invited the RUF to join it in a governing coalition. At this time the RUF and AFRC retained combined control over most of the diamond mining areas. From 1997 the RUF engaged in extensive mining and smuggling. This expansion of activity resulted in a significant increase in both the quantity and the quality of weapons and ammunition distributed to RUF fighters on the ground.¹⁵⁹
138. Between 1998 and 2002, RUF revenues from diamonds came in three main ways: organised mining, continued seizure from civilians in diamondiferous areas and “washing” of already mined gravel by abducted civilians.¹⁶⁰ Mining ceased when the RUF and AFRC retreated into the bush in the face of the ECOMOG intervention of February 1998. However, the RUF regrouped and was able to launch its largest ever assault on Kono District in December 1998.

¹⁵⁶ A tendency among those in positions of power to ‘take a cut’ of profits intended for the common good is commonplace in Sierra Leone. It is symptomatic of the culture of ‘bad governance’ discussed at length in the chapter on Governance in Volume Three A of this report. A similar brand of leadership seems to have prevailed in all the combatant factions, hence the prominent tales of embezzlement relating to the leaders of the RUF, AFRC and CDF at different points in the conflict.

¹⁵⁷ Alhaji Daramy-Rogers, former Member of the CDF War Council at Base Zero and later Regional Co-ordinator (South) of the CDF; TRC Interview conducted at TRC Headquarters, Freetown; 24 – 29 October 2003.

¹⁵⁸ Reverend Alfred M. SamForay, former Secretary-General of the Sierra Leone Action Movement for the Civil Defence Forces (SLAM-CDF); written statement and supporting documentation submitted to the Commission by e-mail; 2-10 December 2003.

¹⁵⁹ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁶⁰ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

Prior to December 1998, the RUF had not had sufficient control over the most lucrative areas of Kono to organise large-scale mining operations. Upon capturing Koidu Town and its environs, though, the RUF and some elements of the AFRC were able to carry out large-scale mining across Kono District, as well as in parts of Kenema District, such as Tongo Field. Mining activity continued from late 1998 to 2002 and was especially concentrated from 2000 up to the 2002 elections. The best areas for mining were pointed out to the combatants by abducted civilians.¹⁶¹ The RUF relied on abducted miners for its mining operations, as most RUF commanders had no mining expertise.¹⁶²

139. Combatants even resorted to mysticism in their search for diamonds. The Commission received a report of a human sacrifice organised by AFRC soldiers in Tongo Field in July 1997. The sacrifice was aimed at providing mystical support to the search for diamonds:

“The soldiers arranged to perform a ceremony so that they can get more diamonds, but this ceremony must be performed on a human being. My husband was seriously tortured with a stick by the AFRC soldiers until he became hopeless. They finally beat him until he died.”¹⁶³

140. Towards the end of the war, some citizens of the diamond-producing areas resisted the mining of diamonds in their communities. There was a rebellion by the Kono people in the Koidu area in December 1998. The rebellion, led by the Movement of Concerned Kono Youth (MOCKY), was aimed at stopping the mining activities that were benefiting the RUF. A battle ensued between the civilians and the RUF forces with substantial casualties on both sides.¹⁶⁴

141. When Foday Sankoh was released from detention in Nigeria in 1999, he visited Kono and ordered the commanders on the ground to expand mining operations. Mining Units were created with one Mining Commander for each area. Mining Commanders registered all miners and ordered security forces to monitor all mining and ensure that the diamonds were not stolen.¹⁶⁵ According to one former RUF commander, any diamond found was handed over to the Mining Commander, then on to the Brigade Commander, the Battlefield Inspector and finally the Battle Group Commander, who in turn would pass it on directly to the “Leader” (Foday Sankoh).¹⁶⁶ The Battle Group Commander at the time was Sam Bockarie. RUF personnel had to deliver the diamonds to him in Buedu on foot, using the footpath between Koidu and Buedu.¹⁶⁷ There was one Overall Mining Commander for Kono and one for Tongo Field.¹⁶⁸

¹⁶¹ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁶² Moigboi Moigande Kosia, former RUF ‘G-1’ officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

¹⁶³ Massah Brima, TRC statement number 4014, Foindu Mamaima (Kenema), 18 February 2003.

¹⁶⁴ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁶⁵ Moigboi Moigande Kosia, former RUF ‘G-1’ officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

¹⁶⁶ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁶⁷ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁶⁸ Moigboi Moigande Kosia, former RUF ‘G-1’ officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

142. The people engaged in acquiring valuable resources for the RUF, including its miners and Mining Commanders, were strictly monitored. According to the same former RUF commander:

“There was one idea in the RUF: diamonds and foreign currencies were highly, highly needed. So whenever you captured these things, you should report them – no matter what quantities there were.”¹⁶⁹

143. There were several attempts by local RUF commanders and civilian miners to retain some of the diamonds and keep the profits for their own benefit. The Commission has received evidence of several investigations carried out by the RUF and by the People's Army into private appropriations of diamonds.¹⁷⁰ The diamonds were labelled “state property”. Sometimes, there were not even formal investigations. The accused were tortured on the spot. According to another RUF commander:

“When you are caught, then if you are lucky, they will say that they should investigate you. If you are unlucky, they will conduct their own jungle investigation, which means that they will torture you until you are dead.”¹⁷¹

144. During one investigation in January 2001, three civilians were arrested for allegedly stealing diamonds. The third accused, Fatmata Conteh, was tortured and beaten to death.¹⁷²

145. There are accounts of the RUF/AFRC forces attacking civilians for the purpose of diamond extortion. A miner was attacked in Kono in 1997 by the AFRC troops who stole his mining equipment.¹⁷³ Another witness claimed that he was arrested and tortured by the RUF in Tongo Field in July 2000 when he refused to hand over the diamond he found:

“During my arrest, I was seriously tortured, almost to death, for that diamond. The rebels burst my head and they made a deep cut in my fore head.”¹⁷⁴

146. The RUF destroyed many houses and buildings in Kono District to use the lands for mining.¹⁷⁵ In addition to the physical harm inflicted on civilians, was the displacement of the civilian population. The most striking example is Kono District. It was targeted throughout the war, by the RUF and by other armed factions, and many civilians have yet to return to the district after having escaped the attacks.

¹⁶⁹ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

¹⁷⁰ Moigboi Moigande Kosia, former RUF ‘G-1’ officer recruited in 1991; testimony before TRC Public Hearings held in Freetown; 17 April 2003.

¹⁷¹ Moigboi Moigande Kosia, former RUF ‘G-1’ officer recruited in 1991; TRC interview conducted at TRC Headquarters, Freetown; 24 May 2003.

¹⁷² “Report from the Mining Security Operations to the Office of the Overall Mining Headquarters, Koquima”, Revolutionary United Front (RUF), dated 15 January 2001; document provided to the TRC by a former RUF administrator, April 2003.

¹⁷³ Mohamed Foday, TRC statement number 5617, Calaba (Western Area), 29 March 2003.

¹⁷⁴ Alimamy Kamara, TRC statement number 1715, Kissy (Western Area), 22 January 2003.

¹⁷⁵ See TRC interviews with miners in Kono District, 10 June 2003. See also TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

147. According to one account, Kamajors were carrying out illicit mining in Dodo Chiefdom, Kenema District, in 2000.¹⁷⁶ There are also reports of Kamajors seizing diamonds from civilians, in Normiyama, Kono District, in 1999. The latter incident resulted in the witness being beaten, shot and detained, while six diamonds were taken from him.¹⁷⁷

ECOMOG

148. Allegations of diamond smuggling were made against the Nigerian troops of ECOMOG. According to some accounts,¹⁷⁸ high-ranking ECOMOG officials were involved in trading diamonds. Other accounts state that individual commanders were involved but the leadership was aware and did nothing to stop them.¹⁷⁹ The Commission has been unable to obtain sufficiently authoritative information to make decisive findings in this regard.

The Current Status of the Diamond Industry in Sierra Leone

149. The Ministry of Mineral Resources regained access to Kono District and control of the Tongo Field area in March 2002.¹⁸⁰ Mining began immediately and this has resulted in an increase in the level of legal diamond exports since 1999, as demonstrated by the figures in Table 5, below.

Table 5: Value of diamond exports from Sierra Leone since 1999

| Year | 1999 | 2000 | 2001 | 2002 |
|----------------------------------|-------------|------------|------------|------------|
| Value of diamond exports (US \$) | 1.5 million | 11 million | 26 million | 42 million |

Source for Table 5: Gberie, L. *West Africa: Rocks in a Hard Place - The Political Economy of Diamonds and Regional Destabilisation*, Partnership Africa Canada, Ottawa, May 2003.

150. The Government of Sierra Leone's target for 2003 was US\$ 60 million of diamond export value. As of 19 May 2003, the GGDO reported to the Commission that it had recorded an export value of US\$ 27.6 million.¹⁸¹

¹⁷⁶ Senesie Conteh, TRC statement 4099, Kpendebu (Tongo Field, Kenema), 25 February 2003.

¹⁷⁷ Khalilu John-Bull, TRC statement number 256, Sahrquee Town (Kono), 13 December 2003.

¹⁷⁸ See Neall Ellis, former Executive Outcomes helicopter pilot, TRC interview conducted in Freetown, 27 May 2003. See also Fred Marrafono, former Executive Outcomes officer, TRC interview conducted in Freetown, 4 June 2003.

¹⁷⁹ Gberie, L.; Sierra Leone researcher for Partnership Africa Canada, TRC interview conducted at TRC Headquarters, Freetown, 1 July 2003.

¹⁸⁰ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

¹⁸¹ See Government Gold and Diamond Office (GGDO), Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003, at page 5.

151. Although the level of smuggling seems difficult to assess, the expected level of exports from Sierra Leone has been estimated at between US\$ 70 million to US\$ 300 million per year.¹⁸² This estimate indicates that high levels of exports are still unaccounted for and suggests that smuggling continues on a large scale. Valuable profits remain unavailable to help rebuild the economy or to provide resources for the communities.

Kimberlite diamond mining

152. Branch Energy / Diamond Works came back to Sierra Leone in 2003 and resumed its activities. It started rebuilding its installations at the beginning of the year and began operations in November 2003. The Kono concession (Koidu Property, four square kilometres) has estimated reserves of 6.3 million carats, with a potential to generate US\$ 2.5 million in monthly revenues.¹⁸³ The company hopes to repay its investment during the first two years of operation and generate substantive profits over the following two years.¹⁸⁴
153. Acquisition of diamond licences is by agreement with the chiefdom authorities and the central government. All land in the provinces is community owned. Companies and individuals cannot buy land. They can only rent it for a given period of time. The local authorities have the prerogative to decide who is issued a lease.
154. The chiefdom authorities may, for example, require that the company reinvest a part of its profits in community development, hire a percentage of its employees from the local people and conduct environmental assessments before starting operations.¹⁸⁵ Branch Energy agreed to hire most of its labour force from the local community, and reinvest part of its profits into community projects.¹⁸⁶ In June 2003, hundreds of youths demonstrated in Koidu to request the company to keep to this commitment. The situation was resolved by a series of meetings between community leaders and the management of the company.¹⁸⁷
155. The government will issue a licence after negotiations have been concluded with the community. At the time of writing, Branch Energy is currently paying an annual rent of US\$200,000 for its Koidu Property, an annual lease rent of US\$25 per acre, an annual surface rent of US\$10 per acre and a 5% royalty on diamond sales and 4% royalty on precious metal sales.¹⁸⁸ According to the *Sierra Leone Mining Code*, the government has the prerogative to negotiate special mining agreements with private companies to provide incentives for foreign investment. These special agreements can include tax cuts and royalty payments.¹⁸⁹

¹⁸² See ICG, *2003 Report on Security and Governance*, at page 26.

¹⁸³ Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interviews conducted in Kono and Freetown, 2003.

¹⁸⁴ Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interviews conducted in Kono and Freetown, 2003.

¹⁸⁵ See TRC interviews with Jan Joubert. See also Diamond Works, *Annual Report 2003*.

¹⁸⁶ Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interviews conducted in Kono and Freetown, 2003.

¹⁸⁷ See ICG, *2003 Report on Security and Governance*, at page 28. See also Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interview conducted in Kono, June 2003.

¹⁸⁸ See Diamond Works, *Annual Report 2003*.

¹⁸⁹ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

TRC



The crumbling landscapes of the Kono District testify that alluvial diamond mining has led to the devastation of much of the natural environment.

Alluvial diamond mining

156. The government has never succeeded in establishing complete control over the alluvial mining of diamonds. Corruption of the state apparatus and the close relationships between diamond magnates and politicians has always undermined government control. Current regulations on alluvial mining are imposed by the national government and the chiefdom authorities. Since all land in the diamond producing areas is community owned, the plots are leased. The licence fee to government is set at Le 200,000, which is around US\$60. Le 120,000 is payable to the local Chief as surface rent.¹⁹⁰ Only Sierra Leonean nationals are permitted to buy mining licences.¹⁹¹
157. All alluvial diamond-mining licences are renewable every year and a miner is allowed to hold up to five licences. All applicants approved by the chiefdom authorities are granted licences by the government. Concerns relate to the manner in which selections are made and whether ruling families are favoured. The unregulated nature of the mining allows for corruption and abuse. Interviewees¹⁹² have alleged that the best parcels of land are allocated to privileged people in government and their associates. The procedure for the granting of licences by the chiefdom authorities needs to be revisited.
158. According to the district office of the Ministry of Mineral Resources in Kono, one thousand licences were issued in 2003.¹⁹³ Many Sierra Leoneans who do not possess the necessary capital to pay for the licence were “sponsored” by either wealthy Sierra Leoneans, Lebanese or Guinean dealers who control the mining operations through the intermediary of Sierra Leonean nationals. These supporters provide tools and food to miners, the cost of which is subsequently deducted from any diamonds that the miners sell to the supporters.¹⁹⁴ Alternatively the supporter receives all the diamonds mined and sells them with the miner receiving a portion of the sales.¹⁹⁵ Since all diamonds found are sold to the supporter, the supporter is able to fix prices and control market conditions unilaterally.
159. The monitoring system established by the government is composed of local offices in the diamond mining areas with Mines Monitoring Officers travelling to the chiefdoms to control illicit mining (plot owners who operate without licence) and illicit buying (dealers who do not possess licences and/or who buy from unlicensed miners). There are few Mines Monitoring Officers and their pay is low (less than US\$ 100 a month). Low remuneration encourages corruption, as Mines Monitoring Officers are tempted to supplement their low incomes with bribes.¹⁹⁶

¹⁹⁰ TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

¹⁹¹ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

¹⁹² See, *inter alia*, TRC Closed Hearing involving a diamond dealer; hearing conducted at TRC Headquarters, Freetown; 20 May 2003.

¹⁹³ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

¹⁹⁴ TRC Interviews with miners in Kono District, 10 June 2003. See also USAID, *Sierra Leone Progress Report*, 2001, at page 6.

¹⁹⁵ Patrick Tche, UNAMSIL Civil Affairs Officer; TRC interview conducted in Kono, 8 June 2003.

¹⁹⁶ Steven Koroma, Senior Mines Monitoring Officer, TRC interview in Kono, 9 June 2003.

160. The Mines Monitoring Officers lack the necessary resources, such as vehicles, to patrol the mining areas. In November 2003, alluvial diamond resources were identified in at least six of the 14 chiefdoms in the Kono District: Nimiyama, Nimikoro, Gbense, Tonkoro, Kamara and Fiama Chiefdoms. There were less than 30 Mines Monitoring Officers to cover the whole area. This area represents half of Kono District. One government official interviewed by the Commission assessed the need for about 60 officers in the district.¹⁹⁷
161. UNAMSIL and the Ministry of Mineral Resources started a joint project in Kono District in July 2003 with the aim of improving monitoring on the ground. Military Observers conducted an aerial survey together with representatives of the Ministry to identify the areas where diamonds are mined. 485 mining sites were identified¹⁹⁸. This data was subsequently compared with the licence registry to identify illegal sites. UNAMSIL MILOBS personnel then accompanied Mines Monitoring Officers in land patrols to visit the illegal sites and impose reprisals.¹⁹⁹ The Ministry hopes to extend this monitoring project to other alluvial mining areas outside of Kono District.
162. A dealer licence costs US\$ 3,000.²⁰⁰ Illicit buyers offer slightly higher prices to miners because they don't pay licence fees and taxes. The higher prices are an incentive to miners to sell to illicit buyers.²⁰¹ The border areas have many bush paths that are not policed at all. UNAMSIL has recruited a border control specialist to advise the government on border policing issues. One solution proposed by the Government Mining Engineer in Kono District is to encourage the licensed dealers to buy diamonds from illegal miners. The diamonds enter the system at the dealer level and will be exported legally, under government control.²⁰² This proposal cannot be a solution because the dealers are also reselling the diamonds locally. The government therefore does not earn any revenues at any stage of the dealing process unless the diamond is exported.
163. Mines Monitoring Officers have no authority to arrest illegal miners. They must report the cases to the police, who often lack the necessary means to act on the spot.²⁰³ The police are not always able or willing to proceed with arrests and illegal miners. The diamonds that are actually confiscated from unlicensed miners are sold at an auction. Forty percent of the selling price goes to the person who confiscated the diamond (Mines Monitoring Officer) and 60% to the government treasury.²⁰⁴ This clause has been given legal status by the Mines and Minerals (Amendment) Act, 2003.

¹⁹⁷ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

¹⁹⁸ Berhanemeskel Nega, UNAMSIL Governance and Stabilisation Policy Adviser, TRC interview conducted in Freetown, 9 October 2003.

¹⁹⁹ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

²⁰⁰ TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

²⁰¹ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²⁰² Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²⁰³ TRC Interviews with officials at the Ministry of Mines, Koidu, June 9th 2003. See also ICG, 2003 *Report on Security and Governance*, at page 27.

²⁰⁴ TRC Interview with Steven Koroma, Senior Mines Monitoring Officer, Ministry of Mineral Resources, Koidu, June 9th 2003

164. In the Mines and Minerals Decree of 1994, the punishment for offenders of the licence system is not more than one year's imprisonment or a fine not exceeding Le 200,000.²⁰⁵ The Amendment Bill approved by Parliament in 2003 removes the fine provision and provides only for sentences of a minimum imprisonment of three years.²⁰⁶ This measure was taken by the government to further dissuade illegal exporting.
165. The Mines Monitoring Officers can also confiscate illegal miners' implements and retain them until the miners obtain licences.²⁰⁷ Exporters need to have licences. The prices vary according to the nationality of the applicant, as the following comparison of annual prices demonstrates:²⁰⁸
- | | |
|------------------------------|----------------------------|
| i. Sierra Leonean nationals: | US\$ 1400 + 300,000 Leones |
| ii. ECOWAS citizens: | US\$ 1900 + 500,000 Leones |
| iii. Other nationals: | US\$ 3400 + 500,000 Leones |
166. Even if Sierra Leonean nationals pay a lot less than others, the export licence is still unaffordable to most of them. Accordingly, during the first half of 2003, 78.4% of the total diamonds exported were by foreigners and only 21.6% by Sierra Leoneans.²⁰⁹
167. It is forbidden for Ministers and Parliamentarians to hold licences. However when questioned on the issue at a Commission hearing, the Minister of Mineral Resources explained that many actually held licences through their relatives. It is not against the law for a Minister's wife or son to hold a diamond licence but it can engender a conflict of interest for the public official involved. The solution resides in the adoption of a code of conduct under which all civil and public servants will be restrained from getting involved in practices that are perceived as corrupt or that demonstrate a conflict of interest.
168. The export tax is determined by the value of the diamonds. The GGDO valuator establishes the export value of each parcel; then, an independent valuator gives his own estimate. If there is a discrepancy, the GGDO uses the higher estimate²¹⁰ and a tax of 3% is levied on the parcel. The distribution of the tax revenues is as follows.²¹¹
- | | |
|------|--|
| i. | 0.75% to cover GGDO costs of valuation and export processing |
| ii. | 0.35% to the Ministry of Mineral Resources for monitoring |
| iii. | 0.40% to the independent valuator |
| iv. | 0.75% to the Community Development Fund |
| v. | 0.75% to the government treasury |

²⁰⁵ See the Mines and Minerals Decree, Decree No. 5, 1994, section 118(2).

²⁰⁶ See the Mines and Minerals (Amendment) Act, 2003

²⁰⁷ TRC Interview with Steven Koroma, Senior Mines Monitoring Officer, Ministry of Mineral Resources, Koidu, June 9th 2003

²⁰⁸ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²⁰⁹ See Government Gold and Diamond Office (GGDO), Half-Year Report, 2003.

²¹⁰ See USAID, *Sierra Leone Progress Report*, 2001, at page 13.

²¹¹ See Government Gold and Diamond Office (GGDO), Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003, at page 3.

169. The 0.75% of the 3% tax that goes to the communities in the diamondiferous areas is released every six months, proportionally to the number of licences issued in each chiefdom.²¹² In Kono District, plot owners also pay Le 50,000 to the chiefdom authorities for infrastructural development projects.²¹³ The Community Development Fund was set up in January 2001 and a total of US\$ 786,481 has been returned to the communities as of June 2003.²¹⁴
170. The return of a portion of the tax to the local communities is an incentive to counter smuggling. Since the communities benefit from the legal export of diamonds, they may feel motivated to stop illegal mining practices. The fact that the revenues returned are proportional to the number of licences issued offers an incentive to issue more licences, which will in turn increase production.²¹⁵
171. There have been allegations from the communities that the revenues are being mismanaged.²¹⁶ The government should ensure that communities feel represented in the management of the revenues and that the process is transparent. Reports should be issued on a regular basis to assess the progress of the community projects being implemented, perhaps as part of the government's decentralisation strategy, thus empowering communities.
172. Between October 2000 and the end of the war, the independent valuator was responsible for determining the origin of the diamond parcels. Those that originated from areas under RUF control, i.e. "conflict diamonds", were confiscated.²¹⁷ The result was that exporters wanting to deal in conflict diamonds did not register them with the GGDO, but smuggled them out of the country outside of governmental channels. There is still confusion among miners and plot owners as to the role of the GGDO.²¹⁸ In the past, the GGDO used to facilitate the sale of diamonds. The current role of GGDO is to monitor the export process and the payment of taxes. GGDO does not organise the sales of diamonds anymore. More sensitisation needs to be done with miners so that they understand the process better.
173. The Lomé Peace Agreement provides for government revenues from gold and diamonds to be allocated to social projects and post-conflict reconstruction activities. As stated in Article VII, 6:
- "The proceeds from the transactions of gold and diamonds shall be public monies which shall enter a special Treasury account to be spent exclusively on the development of the people of Sierra Leone, with appropriations for public education, public health, infrastructural development, and compensation for incapacitated war victims as well as post-war rehabilitation and reconstruction. Priority spending shall go to rural areas."²¹⁹

²¹² See ICG, *2003 Report on Security and Governance*, at page 28.

²¹³ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

²¹⁴ The returns are itemised year-by-year in the GGDO Half-Year Report. For 2001, the return was US\$ 195,165. For 2002, it was US\$ 312,988; and in 2003, it was US\$ 278,328.

²¹⁵ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

²¹⁶ See Honourable Alhaji M.S. Deen, Minister of Mineral Resources; TRC interview conducted in Freetown, 9 October 2003.

²¹⁷ See USAID, *Sierra Leone Progress Report, 2001*, at page 20.

²¹⁸ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²¹⁹ The Lomé Peace Agreement, signed by the Government of Sierra Leone and the Revolutionary United Front, Lomé, 7 July 1999, at Article VII, 6.

174. While provision for public education, health and infrastructural development can be made through the Community Development Fund, such provisions are presently disbursed only to diamond-mining areas. The benefits of the Fund should be extended to cover all rural areas.

The international diamond industry, “conflict diamonds” and the Kimberley Process

“Natural resources can be a source of great good or dreadful ill. The key element is not the resource itself, but how it is exploited. An orderly mining regime, operating within a transparent and predictable legislative and fiscal framework, can be a major source of prosperity for governments and people. Without it, mineral wealth will be a magnet for the greedy and corrupt to line their own pockets at the expense of the people.”

Nicky Oppenheimer, former CEO of De Beers²²⁰

175. Diamonds are sold almost exclusively in two places in the world: the Central Selling Organisation (CSO) in London and the Diamond High Council (HRD) in Antwerp. About 80% of all rough diamonds mined in the world and 50% of all polished diamonds transit through Antwerp.²²¹
176. Anglo American, the company that bought De Beers in 2001, controls roughly 65% of the worldwide diamond trade. De Beers has submitted to the Commission that it has not purchased diamonds from Sierra Leone since 1985.²²² Nonetheless De Beers maintained buying offices in Monrovia, Liberia and Conakry, Guinea.
177. The term *conflict diamonds* refers to “diamonds that originate in areas controlled by forces fighting the legitimate and internationally recognised governments of the relevant country”.²²³ In order to accurately describe the Sierra Leonean context, this definition must be refined to include areas where the RUF and AFRC were present on the ground, but not necessarily in full control of. For the Commission’s purposes conflict diamonds include diamonds that were seized, stolen or otherwise acquired by the fighting forces and not only diamonds that were mined under RUF/AFRC control.
178. It is generally estimated that between 5% and 20%²²⁴ of the international diamond trade is from illicit diamonds (that is diamonds that are exported outside of state control). The secrecy of the international diamond industry, established for security reasons, is partly responsible for making the smuggling of diamonds easy, by rendering the control and monitoring of transactions very difficult.

²²⁰ Oppenheimer is quoted in Smilie, *Motherhood, Apple Pie and False Teeth*, at page 10.

²²¹ See Diamond High Council, *Witness statement to UN Sanctions Committee*, at page 1.

²²² De Beers, Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003.

²²³ See UN Panel of Experts report, 2000, at page 27.

²²⁴ Conservative estimates put the percentage of “conflict diamonds” at 5% (De Beers). Other accounts speak of 15% (Partnership Africa Canada) and even of 20% (diamond expert consultant quoted by the UN Panel of Experts in 2000). Considering the value of the international diamond trade, even 5% would represent a very important amount of money.

179. In response to the problem of conflict diamonds and the smuggling of diamonds in general, South Africa initiated the Kimberley Process Diamond Certification Scheme in 2000. Coming into effect in early 2003, this process includes 70 countries, the High Diamond Council and international NGOs. It aims at developing a system of diamond export monitoring. Each member state is responsible for establishing its own export certification scheme. All diamonds exported must be accompanied by a *certificate of origin*, stating the country where the diamonds were mined. Diamonds exported without a certificate of origin are rejected by the international diamond industry. The purpose is to avoid the sale of diamonds that have escaped the control of the state where they were mined, and to tackle smuggling and the trade in conflict diamonds.
180. On July 5, 2000, the UN Security Council by Resolution 1306 imposed a ban on the import of Sierra Leonean diamonds. In response, the government of Sierra Leone created a certification regime, which in turn led to the granting of a Security Council exemption in October 2000. The exemption requires all diamond exports to be accompanied by a certificate of origin.²²⁵ Technical assistance was provided by the governments of the United States, United Kingdom and Belgium, and by the Diamond High Council, to assist in the design of the certification system. In March 2003, all sanctions against Sierra Leone were finally lifted.
181. Sierra Leonean diamonds are exported mainly to Belgium, the US, Israel and the UK, with the vast majority going to Belgium (over 95% for the years 2000 to 2003)²²⁶. This renders the co-operation between the governments of Sierra Leone and Belgium paramount in establishing transparent trade practices. The two governments established a customs procedure to monitor the trade that includes an electronic data transmission system based in Freetown to secure the transmission of the information to the Department of Economic Affairs in Belgium prior to the shipment of the parcels.²²⁷ This information includes digital photos of the diamonds.²²⁸
182. The Diamond High Council considers falsification of the Sierra Leonean certification form impossible. Therefore, the Sierra Leone export figures and the Belgian import figures for Sierra Leonean diamonds must balance.²²⁹ The problem with this system is that as long as the Diamond High Council does not implement similar arrangements with other exporting countries in West Africa, diamonds smuggled out of Sierra Leone are still likely to be imported into Antwerp.
183. There are currently three major problems with the Kimberley Process. Countries that have no diamond resources have been accepted into the process. This means that smuggled diamonds finding their way to these countries can be "legalised" through certification. For example, the Republic of Congo-Brazzaville has been accepted even though it does not have any diamond resources. The same is true for Burkina Faso, which has been accused of diamond smuggling and arms trafficking in the past.

²²⁵ See ICG, *2003 Report on Security and Governance*, at page 26.

²²⁶ See Government Gold and Diamond Office (GGDO), Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003, at page 9.

²²⁷ Diamond High Council (HRD), *Progress Report*, available at the website: www.hrd.be.

²²⁸ See Government Gold and Diamond Office (GGDO), Submission to TRC Thematic and Special Hearings on Mineral Resources, July 2003, at page 4.

²²⁹ Diamond High Council (HRD), *New Belgian control systems on diamond trade implemented in Sierra Leone*, Press Release, Antwerp, Belgium, 27 October 2000.

184. There is no system independently to monitor the implementation of the certification process by the respective countries. Therefore if governments are not rigorous in delivering their certificates, smuggling is liable to continue. The certification applies only to the import / export sector. There is no regulation at the mining and dealing levels, leaving room for corruption and smuggling.²³⁰
185. It was decided at a meeting of the Kimberley Process held in South Africa during October 2003 to establish a voluntary monitoring process. According to this agreement, diamond-producing countries can request independent monitoring visits. This provision is aimed at improving the credibility of the monitoring systems by allowing independent experts to evaluate them. So far, the Congo, the Democratic Republic of the Congo, Lebanon and Mauritius have requested such visits. While increased monitoring is a step in the right direction, these independent monitoring visits should become compulsory for countries that are part of the process. There is also a provision for review missions for countries that demonstrate “significant indications of non-compliance”.²³¹
186. It has been suggested that the industry should get rid of the “middle-men”, a term referring to the diamond dealers. As was discussed earlier in the chapter, the “middle-men” can buy diamonds from anyone and resell them within the country. Their sale is not regulated. In order to reduce room for corruption, the miners should be encouraged to sell directly to the exporters, thereby removing a layer over which state authorities have little or no control.²³²
187. The process of issuing certificates of origin is managed in Sierra Leone by the GGDO. Four signatures are required for a certificate to be legal, including the GGDO expert, to certify the origin of the parcel; the Minister of Mineral Resources, to ensure that the exporter is licensed; the Governor of the Central Bank, to attest to the correct registration of foreign exchange; and the customs official to certify that export taxes have been levied.²³³ The actual form is in two parts: one stays in Sierra Leone; the other is sent back to GGDO by the authorities of the importing country.²³⁴ This is done in order to keep track of the parcels once they leave the country and to ensure that importers do not buy illicit diamonds. The procedure is completed by a *security slip* that is sealed and fixed on the box containing the diamonds and may only be broken by the importing authority.²³⁵ It seems that the process of issuing certificates of origin is well managed. However there is a long way to go before smuggling is brought to a halt at the mining and dealing levels.

²³⁰ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²³¹ TRC e-mail correspondence with Ian Smilie of Partnership Africa Canada, an NGO involved in the negotiations that established the Kimberley Process; October 2003.

²³² See Smilie, *Motherhood, Apple Pie and False Teeth*, at page 10. See also TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

²³³ See USAID, *Sierra Leone Progress Report*, 2001, at page 9.

²³⁴ Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²³⁵ Diamond High Council (HRD), *Progress Report*; available at the website: www.hrd.be.

Labour conditions, diamond-related abuses and impact of mining

188. The defining feature of labour relations in the mining of diamonds is the “tributor” system. Wealthy businessmen and sponsors provide equipment and cash to the “san san” boys, illicit diggers who spread out over the fields engaging in alluvial mining using only shovels and sieves to separate the gravel. Conditions started deteriorating from the diamond rush of the 1950s. Workers were fed by their sponsors and worked without payment. Most of the profits went to the supporters.
189. The RUF used forced labour throughout the war for all kinds of work, including mining in the diamond pits. The workers were forcibly recruited in villages. The RUF fed them, but they did not receive any salary.²³⁶ They suffered mistreatment and torture, and were forced to mine “under gun point”, with armed men monitoring the washing of the gravel²³⁷. The following account describes abuses carried out near Tombudu, Kono District in 1997:

“The RUF organised their diamond mining operations and the manpower was provided by us [civilian abductees]. When they obtained 100 pieces of diamonds, then there was no trouble for us. But when they obtained only 10 or 20, we were accused of being witches and we were tied, beaten and stripped naked and put in prison for several days.”²³⁸

190. The same witness complained about mistreatment to Brigadier Issa Sesay, but the abuses increased after the complaint. Another witness described similar violations near Tombudu and in Sandoh, Kono District, in 1998. The witness was forced to spend 4 days cleaning the pump in the water, without rest. The group of abductees was forced to mine day and night, without rest and with very little feeding, for 2 weeks. They were released and replaced by a new group of abductees.²³⁹ This was a system of slavery used by the RUF. Instead of letting the workers rest, they used them to the point of exhaustion and replaced them, to improve productivity.
191. The Commission received testimonies on the use of forced labour in the mines by the RUF up to 2001. There are also accounts of the Kamajors using forced labour to mine diamonds from 1997 onwards. A villager from Limba, in Bo District, testified that a group of Kamajors forcibly organised villagers to mine in 1997. A percentage of the diamonds found was seized by the Kamajors. The witness was punished because he was doing agricultural work instead of mining:

“I was tied up, despite several pleas, for several hours. This made me partially paralysed. For me to be freed I had to surrender the few bushels of the rice I had harvested.”²⁴⁰

²³⁶ See Alhaji Conteh (alias Black Jesus), former RUF combatant; TRC interview conducted in Pademba Road Prison, Freetown, 20 May 2003.

²³⁷ TRC Confidential Interview with an RUF combatant, ‘G-5’ commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

²³⁸ Tamba Ngekiea, TRC statement number 1782, Tombudu (Kono), 11 January 2003.

²³⁹ Sahr Komba II, TRC statement number 230, Komandor (Kono), 10 December 2002.

²⁴⁰ Patrick Foday Koroma, TRC statement number 4529, Limba (Bo), 13 February 2003.

192. According to another statement, one mine supporter was stopped by a group of Kamajors in Kono District in 1999 and asked to hand over the diamonds he had in his possession. When he refused, he was arrested and shot. The Kamajors stole his diamonds and money.²⁴¹
193. In order to assess present labour conditions in the mining areas, the Commission made a trip to Kono District and interviewed several miners, plot owners and government officials. The conditions observed were very poor. The government regulations stipulate that the miners should work eight hours a day, six days a week. Any extra hour worked should be paid overtime.²⁴² In reality, the miners usually work seven days a week, 12 hours a day.²⁴³ They do not earn a salary. Plot owners use the “two pile system” that was established by the NPRC regime: all the gravel shovelled in a day is divided into two piles, one for the plot owner, and the other for the miners.²⁴⁴ The diamonds found in the plot owner’s pile are for the plot owner, while the diamonds found in the miners’ pile become the property of the miners. Another variant of this system is the “one man, one bucket”. If a miner finds a diamond in his “one bucket”, he can sell it and therefore receive payment for his work. If he finds no diamonds, the miner would have worked for free.
194. Among the problems identified by miners and plot owners are the miners’ lack of knowledge of diamond valuation and the price variations. They recommended training for miners to assist them able to assess the value of the diamonds.²⁴⁵ USAID, the US development agency, is currently implementing a training programme for miners and local communities. The training pertains to the valuation of diamonds. USAID is also implementing a credit programme to enable local miners afford the cost of the licence and the mining equipment.²⁴⁶ This measure is aimed at reducing the dependence of small-scale miners on supporters.
195. The Ministry of Mineral Resources is supposed to monitor the safety of the miners in the pits.²⁴⁷ The Mines Monitoring Officers have the power to withdraw a licence because of poor safety conditions in a pit. In practice, the Commission has found no evidence of such monitoring. Miners work under difficult and even dangerous conditions, as landslides are common, especially during the rainy season. Safety is left to the plot owners.²⁴⁸
196. There is a system in place at the Ministry for complaints on labour conditions. In practice though, very few miners complain. More sensitisation needs to be carried out to inform miners about the system and about their rights as workers.

²⁴¹ Khalilu John-Bull, TRC statement number 256, Sahrquee Town (Kono), 13 December 2003.

²⁴² Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²⁴³ Mr. Kandeh, Chief Security Officer, Koidu mine, TRC interview in Koidu, 10 June 2003.

²⁴⁴ Mr. Kandeh, Chief Security Officer, Koidu mine, TRC interview in Koidu, 10 June 2003.

²⁴⁵ TRC Interviews with miners and plot owners in Kono District, 9 – 10 June 2003.

²⁴⁶ See USAID, *Sierra Leone Progress Report*, 2001, at page 4.

²⁴⁷ See USAID, *Sierra Leone Progress Report*, 2001, at page 4.

²⁴⁸ Mr. Kandeh, Chief Security Officer, Koidu mine, TRC interview in Koidu, 10 June 2003.

197. Alluvial diamond mining has several social and environmental consequences. The use and destruction of the land renders it unsuitable for agriculture. Even if the pits were refilled, the top soil is removed in the process of digging and therefore lost.²⁴⁹ This has a huge economic impact as it contributes to food shortages by disrupting agricultural production. The archaic nature of production also creates problems of deforestation, stagnant water (providing breeding ground for mosquitoes and other health hazards). These create tensions between mining and farming communities²⁵⁰. Diamond mining has created new communities that rely solely on the mines for their subsistence. It has also led to the loss of manpower in agricultural communities disrupting community life and leading to food shortages in the communities.

Women

198. Women are usually not miners. Their role is limited to providing food to the miners at the pits. But they are also plot owners and therefore are supporting miners.²⁵¹ One fifth of the total licences issued by the Ministry of Mineral Resources in Kono in 2003 went to women.²⁵² There appears to be no discrimination at the level of the Ministry. On the other hand, since the approval for the granting of licences comes first from the chiefdom authorities, discrimination is present at that level. If a family requests a licence, it would generally be granted to a male member of the family.

Child miners

199. Child abductees were forced to mine by the RUF throughout the conflict, as well as latterly by the AFRC and CDF. Most of the children were over 14 years old, since younger children were physically weaker and so less productive.²⁵³
200. Many children still work in the alluvial diamond mines. They are employed as miners, but also as food providers and cleaners.²⁵⁴ The international NGO, World Vision, conducted a survey in Kono District in August 2002 with 497 child miners, 454 parents or care givers and 495 mine supporters.²⁵⁵ The survey explored the reasons and the nature of the involvement of children in mining activities. The survey was limited to the Kono District. The children interviewed were mainly boys (90%) and the vast majority of them (97%) expressed their desire for alternative employment to mining.²⁵⁶
201. The reasons indicated by the children for their involvement in mining activities were to receive money payment (75%) and the absence of an alternative employment (15%).²⁵⁷ Similarly, 66% of the children interviewed declared that they would continue mining until they find something else to do. These children are subjected to hard labour conditions and long working hours. They are usually not attending school or any other form of alternative training.

²⁴⁹ See USAID, *Sierra Leone Progress Report*, 2001, at page 21.

²⁵⁰ See Zack-Williams, *Mining Resources and Post-War Reconstruction*, at page 7.

²⁵¹ Andrew Kandeh, Tankoro Youth Organisation, TRC interview in Koidu Town, 10 June 2003.

²⁵² Jonathan Sharkah, Government Mining Engineer, TRC interview in Kono District, 9 June 2003.

²⁵³ TRC Confidential Interview with an RUF combatant, 'G-5' commander and former intelligence officer; interview conducted in Koidu Town, Kono District; 12 August 2003.

²⁵⁴ TRC Interview with Mr. Kandeh, CSO, Koidu mine, June 10th 2003

²⁵⁵ See World Vision Sierra Leone and African International Mission Services SL, *Report on children in mining activities assessment survey, Kono District*, published in Freetown, August 2002 (hereinafter "World Vision et al, *Mining Assessment Survey*") at page 9.

²⁵⁶ See World Vision et al, *Mining Assessment Survey*, at page 36.

²⁵⁷ See World Vision et al, *Mining Assessment Survey*, at page 17.

202. Many children are sent to the mines by their parents or care givers in order to bring incomes to the household. When asked how they felt about their children's involvement in mining activities, 50% of the parents and care givers replied that they "liked it" and 17% declared that they "did not care"²⁵⁸. 80% of the mine supporters interviewed were relatives or parents of the children they employed.²⁵⁹ There is a clear need for a sensitisation campaign to inform families, mine supporters and communities about the consequences of child mining, such as the loss of educational opportunities and the physical damage done to young children's bodies. While organisations such as the Child Protection Agencies' Network have undertaken some sensitisation projects, there is a need for a consolidated approach by all stakeholders.
203. Many child miners in Kono are former child combatants and 18% of the mine supporters interviewed were former commanders employing their former child combatants.²⁶⁰ This continuity means that the patterns of abuse against children during the conflict are still in place. Many child ex-combatants are still displaced from their families and thus have to rely on their former commanders to provide their subsistence.
204. As part of the general strategy to monitor diamond-mining activities, the government introduced a new form (Form 19) that mining licence holders have to fill to declare the age of the miners they employ. The licence holder has to declare that he or she is not employing miners under the age of 18. While this is a valuable step forward in addressing the issue of child mining, the Commission believes that offenders should have their licences revoked.
205. The issue of remuneration of child miners presents the same problems as with adult miners. The mine supporters usually feed the children they employ and buy diamonds from them, but many children do not receive a salary.
206. Any strategy to combat child mining that does not address the root causes of why children go to the mines in the first place will not tackle the problem. Alternative opportunities have to be created for children, their families and their communities, such as education, skills training programmes and alternative employment.

²⁵⁸ See World Vision et al, *Mining Assessment Survey*, at page 33.

²⁵⁹ See World Vision et al, *Mining Assessment Survey*, at page 13.

²⁶⁰ See World Vision et al, *Mining Assessment Survey*, at page 27.

Conclusion

207. The exploitation of minerals and in particular diamonds did not cause the conflict but rather fuelled it. Diamonds were used by most of the armed factions to finance their war efforts. The sale of diamonds has contributed in large measure to the procurement and proliferation of small arms within the sub-region.
208. Successive post-colonial governments in Sierra Leone have mismanaged the diamond industry and placed its effective control in the hands of non-Sierra Leoneans in a way that has not benefited the majority of the people. The state never had effective control of the diamond industry prior to or during the conflict period.
209. The APC government abdicated its responsibility in ensuring effective control of the diamond industry. Other actors emerged who siphoned off the resources from the diamond industry to other countries and in the process denied the people of Sierra Leone the benefits of the country's mineral wealth. The political elite of Sierra Leone and of the neighbouring countries were complicit in this process.
210. Traditions of expropriation for personal gain have not been stamped out. While commendable efforts have been made to strengthen the regulatory regime, substantial weaknesses still exist. The Government of Sierra Leone is yet to win the war on diamond smuggling.

CHAPTER TWO

External Actors and their
Impact on the Conflict

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

External Actors and their Impact on the Conflict

Introduction

1. Non-interference of one state in the internal affairs of another state is a core principle of international relations. In reality, however, there has hardly been an intra-state conflict in the world that has not seen the involvement of external actors. These external actors typically provide military, political or moral support to one or a variety of competing factions, or they attempt to arbitrate and implement resolutions to the conflict.
2. There are many reasons and motivations behind the participation of external actors in intra-state conflicts. These parties may be lured into a conflict by a shared ideology with one of the factions, or by ethnic, religious or other identity sentiments. Furthermore, the strategic importance of the conflict-affected state, geo-political interests or economic considerations could also be taken into account before intervening in intra-state conflicts. The involvement of external actors could also result from compliance with obligations under international protocols or membership of regional or international institutions, like the Economic Community of West African States (ECOWAS) and the United Nations (UN). The conflict in Sierra Leone was not a war imposed from outside: it was an internal armed conflict in which certain external actors became involved.
3. As part of its mandate to unearth the antecedents, causes and nature of Sierra Leone's conflict, the Truth and Reconciliation Commission ("TRC" or "the Commission") recognised the importance of investigating the role of external actors. There were two main parties to the conflict in Sierra Leone - the Revolutionary United Front (RUF) and the Government of Sierra Leone. It should be accepted at the outset that each of these parties underwent numerous changes of character in the course of the conflict and formed alliances with other factions that were neither predictable nor enduring. Nevertheless, all the other factions that took part in the conflict can be loosely placed under one of these two parties, including the various external actors who offered their support in the course of the war.
4. For the purposes of analysis, the Commission has divided the Sierra Leone conflict into three phases.¹ This chapter begins by examining the involvement of external actors in the pre-conflict years and the first phase of conventional "target" warfare from 1991 to late 1993. It then tracks these external actors, along with others who joined the conflict, throughout the second phase, from late 1993 up to March 1997, and the third phase, from 1997 to 2002.

¹ More detail on the Commission's three phases, including a justification for the chosen parameters, can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

External Actors in the Pre-Conflict Period up to 1991 and in Phase I of the Conflict: March 1991-1993

Libya: preparing revolutionaries in pursuit of ideology

5. The involvement of external actors in Sierra Leone's conflict can be traced to the 1970s when attempts were made by different groups of Sierra Leoneans to undo Siaka Steven's decade-old hegemonic grip on the country. These efforts included the nation-wide student demonstrations of 1977, which largely failed in the face of a violent clampdown by state security forces. Since the demonstrations did not yield a regime change, the students resorted to political sensitisation on college campuses and among youths in greater Freetown.² Initially the sensitisation took the form of study groups. On the Fourah Bay College (FBC) campus of the University of Sierra Leone, a number of study groups sprang up. Prominent among these was the Green Book Study Group.³
6. The Green Book contains the political philosophy of the Libyan President, Colonel Muammar Ghaddafi, which is known as the Third Universal Theory. It advocates the creation of a Jamahiriya - a peoples' state. Ghaddafi claimed that the Third Universal Theory is instrumental to the emancipation of the human race. The spread of Ghaddafi's political philosophy became a key foreign policy objective of the Libyan state. Even before he began supporting revolutionary movements in different parts of the world, Ghaddafi offered diplomatic relations and foreign aid in furtherance of his aim of spreading his political philosophy. Libya gave financial assistance to Sierra Leonean Muslims in the late 1970s in order to perform the annual hajj pilgrimage to Mecca. The Libyan government also provided funds to assist the Sierra Leone government to host the Organisation of African Unity (OAU) summit in 1980.
7. As part of a wide range of foreign policy tools to influence events outside Libya, Ghaddafi provided a safe haven and weapons training for individuals who wished to instigate revolutionary struggle in their own countries. These were people who had been branded as terrorists, dissidents and insurgents⁴ by their own governments but who (in many cases) were engaged in resistance to overthrow dictatorial and colonial regimes. Ghaddafi also created front organisations for their operations in neighbouring states.⁵
8. A number of formal bodies were responsible for the execution of Libya's foreign policy. These included the Foreign Liaison Secretariat, the Secretariat for External Security, the Divisions of General and Military Intelligence, the Libyan Special Security Forces, and the Secretariat of Justice.⁶

² More detail on the pre-conflict phase and, in particular, on the rise of revolutionary thinking and the participation of Sierra Leoneans in training programmes in Libya can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

³ Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

⁴ Simons, G.; *International Ambitions – Libya: The Struggle for Survival*, Saint Martins Press, London, 2000 (hereinafter "Simons, *Libya: The Struggle for Survival*").

⁵ Simons, *Libya: The Struggle for Survival*.

⁶ Simons, *Libya: The Struggle for Survival*.

9. As part of Libya's foreign policy strategy, Libyan Peoples' Bureaus and Revolutionary Committees / Councils facilitated the setting up of revolutionary movements in a number of countries. In 1985, a renewed drive was undertaken to extend Libya's influence in the third world.⁷
10. Members of the Green Book Study Group at FBC had established contacts with Libyan authorities in the early 1980s. In 1985 three lecturers and 41 students were expelled from FBC following allegedly riotous conduct by students after a convocation ceremony, on and off the campus in Freetown. Alie Kabbah, the student union leader, along with some of the other students who were expelled, travelled to Ghana towards the end of 1985. The Commission received a variety of accounts of the steps that occurred next and the following descriptions can reflect only the experiences and perspectives of those cited.
11. The then President of Ghana, Flight Lieutenant John Jerry Rawlings, and his government had an avowed revolutionary posture. He was perceived as a proponent of pan-Africanism.⁸ The majority of the radical students who were expelled from FBC were members of the Pan-African Union organisation (PANAFU). Upon arrival in Accra, some of the students were received by the Chief of the Libyan Peoples' Bureau in Ghana.⁹ Some of the students gained admission into the University of Ghana at Legon to complete their studies. The Libyan government paid their fees and their up-keep on scholarships. While in Ghana, the student radicals were invited to attend seminars and conferences in Libya. Their trips were funded by the Revolutionary Council of Libya.¹⁰
12. Alie Kabbah and his colleagues in Ghana subsequently worked out a programme with the Libyan authorities to train Sierra Leonean revolutionaries to overthrow the All Peoples' Party (APC) regime. About 25 Sierra Leoneans participated in such training in Libya between 1987 and 1989.¹¹ In 1986 some of the students in Ghana travelled to Conakry to meet with members of PANAFU from Sierra Leone. It was resolved thereafter that four members of PANAFU would be sent from Sierra Leone for training in Libya. They travelled to Ghana where they stayed with Alie Kabbah and his colleagues in their hostel for a week before proceeding to Libya.¹² They were joined by three others who had been based in Ghana. All of these Sierra Leonean dissidents travelled to Libya without proper travel documents.¹³ This suggests that the Ghanaian authorities were aware of their presence and movement. The government however declined to comment on the issue on an invitation by the Commission.

⁷ Simons, *Libya: The Struggle for Survival*.

⁸ Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

⁹ Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

¹⁰ Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

¹¹ Victor Reider, Sierra Leonean participant in training programmes in Libya in the 1980s, TRC interview conducted at TRC Headquarters, Freetown, 21, October 2003. See also Cleo Hancilles, former lecturer at Fourah Bay College (FBC) who conducted ideological lessons for trainees in Libya, TRC interview in Freetown, 31 October 2003. See also Samuel Randolph Tenga, recruit of Foday Sankoh who participated in training in Libya, statement given to the Sierra Leone Police at the Headquarters of the Criminal Investigation Department (CID), Freetown, February 1999.

¹² Victor Reider, Sierra Leonean participant in training programmes in Libya in the 1980s, TRC interview conducted at TRC Headquarters, Freetown, 21, October 2003.

¹³ Victor Reider, Sierra Leonean participant in training programmes in Libya in the 1980s, TRC interview conducted at TRC Headquarters, Freetown, 21, October 2003.

13. The training in Libya was mainly premised on ideology. It commenced in around August 1987 and ended in January 1988.¹⁴ Sierra Leoneans who subsequently travelled to Libya received not only ideological training, but also military training. In 1988, another group of Sierra Leoneans was sent to Libya for training.

Liberia: assembling the RUF war machine and launching war

14. Liberians were undergoing military training during 1988 to begin a revolution of their own against President Samuel K. Doe.¹⁵ In the course of the training in Libya, a disagreement arose among the Sierra Leonean revolutionaries regarding the timing and manner of the proposed revolution in Sierra Leone. Contrary to what the Libyans and some Sierra Leonean radicals wanted, the group of student revolutionaries wanted a well-structured revolution that would be restricted to Sierra Leone. The student-led group became known as the Alie Kabbah group. The Alie Kabbah group wanted more time to plan such a revolution.¹⁶ The Libyans wanted the Sierra Leonean revolutionaries to join the National Patriotic Front of Liberia (NPFL), in their revolution against Doe and then move on to Sierra Leone.¹⁷ Charles Taylor, who was leading the Liberians, was quick to take advantage of the split in the ranks of the Sierra Leoneans by aligning with Foday Sankoh, a former corporal in the Republic of Sierra Leone Military Forces (RSLMF), who emerged as the leader of the more militant faction.¹⁸ Sankoh had no prior prominence within the Sierra Leonean revolutionary movement, but was willing to go with Taylor's NPFL to Liberia.
15. After the training of the NPFL forces concluded in Libya in 1989, Charles Taylor travelled to Sierra Leone and requested President Joseph Saidu Momoh to allow him to use Sierra Leone as a launch pad for his revolution into Liberia. The request was not granted because of the Mano River Union (MRU) Protocol that disallowed the interference of one MRU Member State in the affairs of another. Not only was Taylor's request turned down, he was also arrested and incarcerated at the Sierra Leone maximum security prison at Pademba Road.¹⁹ Nevertheless, it was alleged by President Kabbah that the APC Government received money from Taylor to look favourably on his request to use Sierra Leone as a launching pad for war in Liberia.²⁰

¹⁴ Victor Reider, Sierra Leonean participant in training programmes in Libya in the 1980s, TRC interview conducted at TRC Headquarters, Freetown, 21, October 2003.

¹⁵ Samuel Randolph Tenga, recruit of Foday Sankoh who participated in training in Libya, statement given to the Sierra Leone Police at the Headquarters of the Criminal Investigation Department (CID), Freetown, February 1999. See also Cleo Hancilles, former lecturer at FBC who conducted ideological lessons for trainees in Libya, TRC interview in Freetown, 31 October 2003.

¹⁶ Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

¹⁷ Samuel Randolph Tenga, recruit of Foday Sankoh who participated in training in Libya, statement given to the Sierra Leone Police at the Headquarters of the Criminal Investigation Department (CID), Freetown, February 1999.

¹⁸ ECOMOG Deployment Review Committee, chaired by Colonel D. D. Oyebanjo; *The Participation of the Nigerian Contingent in the ECOMOG Operation in Sierra Leone*; undated document marked 'RESTRICTED'; provided to the Commission in hard copy; September 2003; at page 8.

¹⁹ More detail and analysis of the events around Taylor's incarceration in Sierra Leone can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

²⁰ Alhaji Dr. Ahmad Tejan Kabbah, President of the Republic of Sierra Leone (hereinafter "President Kabbah"); testimony before TRC Thematic Hearings held in Freetown; 05 August 2003; at page 3.

16. In 1990, the Economic Community of West Africa States Ceasefire Monitoring Group (ECOMOG) undertook 'Operation Liberty' in an effort to quell the crisis in Liberia. Sierra Leone was used as a forward base and as a launch pad for subsequent ECOMOG operations in Liberia. ECOMOG's success in preventing the NPFL from taking over Monrovia in 1990 was regarded by Taylor as a calculated move to prevent his ascension as President of Liberia. Taylor saw Sierra Leone as a major player in the success of ECOMOG's operations in Liberia. In early 1991 Taylor, in an interview with the BBC, vented his disappointment with Sierra Leone and vowed that the country would "taste the bitterness of war".²¹ Taylor had captured territories in Liberia, which he made available for the further training of RUF fighters. On Sankoh's request, the NPFL began turning over Sierra Leoneans captured in Liberia for training.²² Taylor also provided trainers from among his NPFL commandos.²³ The recruits who received training from Taylor's men in NPFL territories in Liberia became known as the RUF "vanguards".²⁴
17. The RUF launched its insurgency without any independent direction or means, due to the sizeable presence of Taylor's men among them. As explained in the chapter on the Military and Political History of the Conflict, NPFL fighters outnumbered their RUF counterparts by four to one. In addition, as pointed out by one Sierra Leone researcher, "those Liberian NPFL fighters never took orders from Sankoh, but from Taylor or NPFL commanders".²⁵ Taylor and his men were in control of operations at the initial stage; indeed, it has even been suggested that the presence of Sierra Leoneans was merely designed to lend an indigenous flavour to the incursions.²⁶ It is perhaps best to relay the experience of local people on the ground at this time through excerpts from TRC statements in which Liberian or NPFL fighters are mentioned:

"... On 23 March 1991, there was a cross border attack on Bomaru town, Upper Bambara Chiefdom... The elders resolved to send a fact-finding mission to ascertain what happened...I led a team of seven men to Bomaru. On our arrival, we were shocked and dismayed about the killings of up to 13 civilians. We went to the point where Major Foday was killed. I met his body hanging through the roof and blood flowing freely on the ground. Among the 13 civilians killed were 7 men, 4 women and 2 children. They had bullet holes all over their bodies. We were informed that the conflict was...between the Sierra Leone Army stationed at Bomaru and rebels of the NPFL of Liberia....

²¹ BBC *Focus on Africa*; BBC Africa Service; "Interview with rebel leader Charles Taylor of the National Patriotic Front of Liberia (NPFL)"; broadcast on 01 and 02 November 1990.

²² More discussion of the RUF's recruitment practices can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

²³ Jonathan Kposowa, former Adjutant General of the RUF who worked closely with the Leader and other members of the High Command throughout the conflict; primary interview conducted at TRC Headquarters, Freetown; 25 June 2003.

²⁴ Jonathan Kposowa, former Adjutant General of the RUF who worked closely with the Leader and other members of the High Command throughout the conflict; primary interview conducted at TRC Headquarters, Freetown; 25 June 2003.

²⁵ Lansana Gberie, Sierra Leone researcher for Partnership Africa Canada, TRC interview conducted at TRC Headquarters, Freetown, 1 July 2003.

²⁶ John Benjamin, former Chief Secretary of State and Secretary-General under the National Provisional Ruling Council (NPRC), from 1992 to 1996; TRC Interview conducted at private residence, Freetown; 10 April 2003.

... Early in April, 1991, the Liberians launched the attack on a full scale... days later, the rebels attacked the chiefdom headquarter town of Pendembu. They entered the town firing and bombing from all angles... later they called the trapped residents to assemble at the town barray... The commander, speaking through an interpreter in Liberian pidgin English, explained the mission and their aim of taking on the APC Government. He announced his organisation as Revolutionary United Front of Sierra Leone... he was Colonel Sherita, a chartered mercenary for the mission..."²⁷

[and]

"...On the day my father was killed, he was at home discussing with his friends when the rebels attacked shooting indiscriminately with no specific target. These rebels were from Liberia...."²⁸

Burkina Faso: an early backer of the RUF's war efforts

18. Statements taken by the Commission show that fighters from Burkina Faso, known as Burkinabes, were involved in the early stages of the conflict. Burkinabes were fighting on the side of RUF. Sierra Leone military personnel found Burkina Faso identification cards on some members of the rebel fighters who were killed at battle front.²⁹

"It happened at Ngolawahun, Sorogbema in Pujehun district in May 1991 where Mr. Moseray was asked to hand over his cigarette to the Burkinabes who were part of the RUF. The rebels captured and killed him for refusing to give them his cigarette."³⁰

"It was in 1991 and I was staying with my aunt as a ward. When the RUF - Burkinabes - first entered Pujehun. I was at the stream with my companions. We were laundering clothes. We were caught and sexually abused by those rebels. I was eight years then and about three to four of them had sex with me. I was deflowered..."³¹

19. Although there were no suggestions that Burkina Faso was involved at state level, the relationship between Taylor and Blaise Campaore of Burkina Faso is noteworthy. The two were close friends. Campaore had introduced Taylor to Thomas Sankara and Ghaddafi in a bid to establish contacts for the rebellion in Liberia.³² In 1991, six Burkinabes, led by Captain Ndola Wasando, were captured by Sierra Leone Army personnel in Kailahun.³³

²⁷ Moijueh Kamara, TRC statement number 4772, Pendembu (Kailahun), 20 January 2003.

²⁸ Ibrahim Mansaray, TRC statement number 0614, Matotoka (Tonkolili), 8 December 2002.

²⁹ Brigadier (Retired) Julius Maada Bio, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from January to March 1996; TRC Interview conducted at private residence, Freetown; 30 September 2003.

³⁰ Senessie Johnny, TRC statement number 5843, Bendu-Jaiama Bongor (Bo), 27 October 2003.

³¹ Female victim; TRC confidential statement 4524, Limba Bagbo (Bo), 12 February 2003.

³² An account of these meetings and the personal relationships between the men involved is provided in the autobiography of former NPFL General Prince Yormie Johnson.

³³ See Sierra Leone Daily Mail; *Foreign fighters captured in Kailahun*; 14 June 1991, at page 1.

20. The speed with which the RUF attacked other towns and villages after the attack on Bomaru on 23 March 1991 was greatly assisted by the involvement of Liberian NPFL fighters and the Burkinabes. The Liberians and Burkinabes were trained in guerrilla warfare and had prior experience in the war in Liberia. The Liberians and Burkinabes fighters devised the crude strategies around enlisting new fighters, including recruiting child combatants. Their intimidatory practices included forcing children to kill their parents in the full view of onlookers from community. The rationale was that those children, forever haunted by their actions, would then stay with the rebels. The Liberians and Burkinabes also committed atrocities ranging from systematic rape to cannibalism.³⁴
21. The initial response of the APC Government of President Joseph Saidu Momoh to the attack on Bomaru was to dismiss it as an act of banditry. However, when Pujehun District and other parts of the country came under attack, it was clear that a strong army was needed to curb the invasion of the RUF. The strength of the military in 1991 was about 3,500 (three thousand five hundred) men. The military had an almost empty armoury.³⁵ It was under these circumstances that the RSLMF requested military assistance from the Republic of Guinea.³⁶

Guinea: the first state to provide combat support for the Government of Sierra Leone

22. The bilateral defence pact between Sierra Leone and Guinea to provide defence assistance in times of crisis dates back to 1971.³⁷ In 1971, Guinean soldiers were in Sierra Leone to help the government of President Siaka Stevens quell an attempted coup. In 1982 upon the request of the Guinean Armed Forces, the RSLMF sent a medical team to help Guineans in the face of a natural disaster.³⁸
23. Guinean Armed Forces personnel arrived in Sierra Leone three weeks after the attack on Bomaru³⁹ and went straight to the battle front at Daru where: "the intervention of the Guinean forces at that time saved the lives of men and officers of the RSLMF who were at Daru barracks which had been surrounded by the rebel forces".⁴⁰ The Guinean Armed Forces supplied much-needed arms and ammunition to the RSLMF up to 1993.⁴¹

³⁴ More detail on the atrocities committed by NPFL fighters can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

³⁵ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

³⁶ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

³⁷ The defence pact between Sierra Leone and Guinea certainly exists, according to officials contacted in the Ministries of Defence and Foreign Affairs. However, despite prolonged efforts through various channels, the Commission was not able to obtain a copy of the agreement.

³⁸ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

³⁹ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

⁴⁰ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

⁴¹ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 2 April 2003.

ULIMO: united with the Government in opposition to RUF / NPFL

24. Since the initial invaders of Sierra Leone were predominantly Liberians, the personnel of the RSLMF had reasons to be suspicious of anyone who had a Liberian accent. Liberians living in refugee camps in Eastern Sierra Leone were not spared such suspicion and in some cases they were targeted by personnel of the RSLMF. Some Liberians were killed in the process.⁴² The situation in the Liberian refugee camps became deplorable. This resulted in a meeting between Momoh and General Kapeh, who was a former Liberian ambassador to Sierra Leone under President Doe. At that meeting, Kapeh expressed his government's willingness to help the Sierra Leone government prosecute the war. Doe's government saw the war as an NPFL invasion.⁴³ As a result of that meeting, Dar Youlou was asked by Kapeh to organise Liberians in the refugee camps and other parts of Sierra Leone into a fighting group to fight along side the RSLMF. Dar Youlou (alias D-Wah) named the group 'Liberian United Defence Force' (LUDF). The name LUDF was rejected and changed to United Liberation Movement (ULIMO). According to a senior officer of the group, the name LUDF was changed because they were not in Liberia and they were not fighting for the Liberian people, but for Sierra Leoneans.
25. ULIMO mainly recruited Mandingos and Krahnns. Mandingos and Krahnns were supporters of the Doe regime and therefore the main targets of the NPFL fighting forces:
- “...At one time in Monrovia, my father called me and told me that the names Koroma and Kanneh were the names the Liberians didn't want to hear. If you were in Liberia and you carried any of those names, you would be killed. My father was a twin; Koroma was his name. When we crossed the river, they killed my father and took away all his belongings...”⁴⁴
26. Some former soldiers of the Armed Forces of Liberia (AFL), who fled from the war in Liberia, were also in the ULIMO group⁴⁵ and these soldiers were given guns and uniforms. One of the training camps of ULIMO was in an oil palm farm near Kpetema village along the Kenema and Zimmi highway in the East of Sierra Leone. Major James Yayah Kanu, who was the Brigade Commander in Kenema, was charged with the responsibility of overseeing the ULIMO training. After the training, ULIMO forces were put under his command.⁴⁶ The Liberian Roosevelt Johnson was named the field commander of ULIMO.

⁴² Philip Maxwell Cartos, Liberian former ULIMO fighter, TRC interview conducted at Mapeh Camp, Western Area, October 2003.

⁴³ Colonel M. S. Koroma, officer in the Sierra Leone Army (SLA), formerly of the Armed Forces of Liberia (AFL) and later ULIMO; TRC interview conducted in Freetown, September 2003.

⁴⁴ TRC closed hearing featuring a Sierra Leonean former resident of Liberia, conducted in Kailahun Town, Kailahun District, 14 May 2003.

⁴⁵ Colonel M. S. Koroma, officer in the Sierra Leone Army (SLA), formerly of the Armed Forces of Liberia (AFL) and later ULIMO; TRC interview conducted in Freetown, September 2003.

⁴⁶ Colonel M. S. Koroma, officer in the Sierra Leone Army (SLA), formerly of the Armed Forces of Liberia (AFL) and later ULIMO; TRC interview conducted in Freetown, September 2003.

27. ULIMO was to set up a joint task force with the RSLAF at the war front to launch offensives against RUF positions and recapture RUF-controlled territories. However, from the outset ULIMO commanders were intent on establishing a corridor into Liberia to resume the war against Taylor's NPFL. A former ULIMO fighter told the Commission that the organisation also wanted to save the Liberians in refugee camps in Sierra Leone from the abuses of personnel of the RSLAF.⁴⁷
28. Internal ethnic divisions soon began to compromise the cohesion of the ULIMO force. In particular, fighters began to align themselves according to their allegiances to either the Mandingo or the Krahn ethnic groups, the two dominant tribes in the organisation. Ethnic Krahn fighters remained close to Roosevelt Johnson and formed a loyalist group called ULIMO-J. Meanwhile Mandingo financiers in Kenema and some Guinean officials rallied around rival commander Alhaji Kromah to create the splinter group ULIMO-K.⁴⁸ In 1993 ULIMO fighters from both sets crossed into Liberia to fight against Taylor's NPFL. The weapons supplied for the war against the RUF were instead used by ULIMO to carry out its own fight against Taylor and the NPFL in Liberia.
29. ULIMO troops under the command of Charles Collins, who went to protect the diamond fields in Tongo in 1991, executed hundreds of civilians accused of being members or collaborators of the RUF. Most of the executions were carried out on a hill between Lalihun and Giehun. This hill became known as 'Rebel Hill', a nickname that is still used by the locals today.⁴⁹ Although ULIMO succeeded in retaking some areas, including Pujehun, the RUF invasion of the country persisted. Greater military strength was required to protect Sierra Leone from the incursions.

Nigeria: intervening to assist the Government of Sierra Leone

30. At the request of the Sierra Leone government, Nigeria sent a small force in late 1991 and they guarded RSLMF bases and installations. Apart from formal requests or protocols for military assistance, officials of both Nigeria and Sierra Leone pointed to socio-cultural ties between the two countries as good reason for Nigerian support. Socio-cultural ties between Sierra Leone and Nigeria have their genesis in the end of slavery and the establishment of Freetown as a haven for freed slaves. Slaves from Nigeria bound for the New World, freed by British naval boats, were resettled in Freetown. These ex-slaves from the Americas and Britain became known as the Krios, with a cultural identity that drew much from Nigerian heritage. President Olusegun Obasanjo talked about this 'blood relationship' between Nigerians and Sierra Leoneans as the foundation and justification for Nigeria's military and diplomatic intervention in Sierra Leone.⁵⁰

⁴⁷ Philip Maxwell Cartos, Liberian former ULIMO fighter; TRC interview conducted at Mapeh Camp, Western Area, October 2003.

⁴⁸ Bai Sidi, Liberian former ULIMO fighter; TRC interview conducted at Mapeh Camp, Western Area, October 2003.

⁴⁹ Chief Kini Lansana Charles, resident of Tongo Field, TRC interview conducted in Tongo Field, Kenema District, 3 August 2003.

⁵⁰ Brigadier-General R. A. Adeshina; *The Reversed Victory. The Story of Nigerian Military Intervention in Sierra Leone*, Heinemann Educational Books, Nigeria, 2002, at page 7.

31. The desire to give a regional outlook to ECOMOG in Liberia also accounted for Nigeria's deployment of troops in Sierra Leone. Nigeria also supplied direct support to Sierra Leone's own military efforts. It sent soldiers to Sierra Leone to protect military installations and other strategic facilities so as to enable Sierra Leone send a contingent of troops to the ECOMOG mission in Liberia.⁵¹
32. In April 1992 junior officers of the RSLMF moved to Freetown from the war front and overthrew the government of Momoh. They established the National Provisional Ruling Council (NPRC) and promised to expel the rebels from Sierra Leone. In pursuit of this promise the NPRC embarked on mass recruitment into the army and thousands of youths who had little or no formal education found themselves in the army.⁵²
33. The NPRC continued the diplomatic and military relations between Nigeria and Sierra Leone, and a "Status of Forces Agreement" (SOFA) was signed with the Nigerian government, which led to the deployment of the Nigerian Armed Forces Training Group (NATAG). NATAG had a specific mandate to provide training to the Sierra Leone military. In spite of such support the fortunes of the Sierra Leone army at the war front did not change for the better and by the end of 1993 the RUF had taken much of the Southern and Eastern parts of the country.

Phase II of the Conflict: 1994-1997

Government of Sierra Leone searches for solutions through diplomacy and non-state private armies

34. By the beginning of 1994 disciplinary problems, due to factional fighting in ULIMO's ranks, began to take their toll on the organisation's prosecution of the war in Sierra Leone. There was a dispute between Kapeh and Youlou, commanders of ULIMO. Colonel Tom Nyuma , NPRC secretary of state for the Eastern province, called a meeting to settle the dispute. Youlou took the opportunity to express his anger and dislike for Kapeh. Following that, he ordered Mandingo fighters of ULIMO to kill Kapeh. Kapeh tried to escape, but was killed. Following this incident, in June and July 1994, all ULIMO personnel operating in Sierra Leone were disarmed by the SLA contingent at Waterloo and taken to the Allen Town camp in Mayami.
35. By the end of the year, the RUF had brought the war to the outskirts of the capital city, Freetown, when it captured Newton. The NPRC chairman, Captain Valentine Strasser , promising amnesty, asked the RUF to cease hostilities. The RUF turned down the request and continued hostilities.

⁵¹ Brigadier-General R. A. Adeshina; *The Reversed Victory. The Story of Nigerian Military Intervention in Sierra Leone*, Heinemann Educational Books, Nigeria, 2002, at page 7.

⁵² More detail on the NPRC's mass recruitment drive of 1992 can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

The maiden intervention of the United Nations (UN)

36. In November 1994 the NPRC Chairman, Valentine Strasser, wrote a letter to the UN Secretary-General asking the UN to facilitate negotiations between his government and the RUF. The UN Security Council responded by sending an exploratory mission to Sierra Leone on 15 December 1994 and the team travelled across the country. Following the report of the Mission, Mr. Berhanu Dinka of Ethiopia was appointed Special Envoy to Sierra Leone two months later. The role of the UN Special Envoy included facilitating negotiations between the Government of Sierra Leone and the RUF and returning Sierra Leone to civilian rule. However, the presence of the UN Special Envoy in Sierra Leone did not stop the terror campaign of the RUF.
37. It was in these circumstances that Strasser's government hired the services of the Ghurkhas Security Group (GSG) in 1995.⁵³ The GSG was a privately owned British company formed in 1989 and specialised in recruiting former British army Ghurkhas officers and soldiers for security services. GSG was sub-contracted to the Sierra Leone mission by J&S Franklin Limited, a British manufacturer of non-lethal military equipment and a weapons sales agent.
38. The GSG was to train the presidential guards and the RSLMF in counter insurgency techniques and safeguard Camp Charlie - a military base at Mile 91. The GSG arrived in Sierra Leone in February 1995 with 58 Ghurkhas and three European managers. The NPRC had acquired two Russian Mi-24 helicopter gunships, manned by Belarusian mercenary pilots, and engaged in attacks on a number of RUF bases.⁵⁴ The GSG refused to conduct offensive operations against the RUF, arguing that it did not form part of their contract. On 24 February 1995 the GSG commander, Mackenzie, and other personnel were killed in an ambush by the RUF and two months later the GSG withdrew from Sierra Leone.⁵⁵ In their short stay, the Ghurkhas achieved nothing. The abrupt withdrawal of the GSG, at a time when the RUF had intensified its operations in areas close to the capital city, not only created a precarious security situation, but caused much embarrassment for the NPRC government which had promised to pursue the rebels by land, sea and air.
39. The NPRC government asked a former AFL soldier, Brigadier-General David Bropleh, to re-organise the disarmed ULIMO fighters so that they could fight on the side of government.⁵⁶ The NPRC government and ULIMO authorities agreed, among other things, to drop the name ULIMO and the fighters were to be constituted as part of the Sierra Leone Army as a new unit called the Special Task Force.⁵⁷ Members of the Special Task Force would serve under the laws and army rules of Sierra Leone. The recruited Liberians were issued with Sierra Leone military identity cards.⁵⁸

⁵³ See Captain (Retired) Valentine E. M. Strasser, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC); testimony before TRC Thematic Hearings held in Freetown, 30 July 2003. See also *Mercenaries, African Security Dilemma*, at page 87.

⁵⁴ For more discussion of the enlistment of private security and logistical support by the NPRC, see Vines, A.; "Ghurkhas and the private security business in Africa" and "Fighting for Diamonds - Private military companies in Sierra Leone" in Cilliers, *Peace, Profit and Plunder?*.

⁵⁵ See President Kabbah, testimony before TRC Thematic Hearings in Freetown, 05 August 2003; see also the secondary sources listed in the previous footnote.

⁵⁶ Colonel M. S. Koroma, officer in the Sierra Leone Army (SLA), formerly of the Armed Forces of Liberia (AFL) and later ULIMO; TRC interview conducted in Freetown, September 2003.

⁵⁷ Colonel M. S. Koroma; TRC interview conducted in Freetown, September 2003.

⁵⁸ Colonel M. S. Koroma; TRC interview conducted in Freetown, September 2003.

40. On 5 May 1995 the first batch of Special Task Force personnel was re-armed and sent with Sierra Leone Army personnel to fight at the Waterloo front against the RUF.⁵⁹ On 10 June 1995 a second batch was re-armed and also sent to the war front in the Bo District area. The Special Task Force went on to score significant successes at its various war front deployments.⁶⁰ In spite of the successes, there were many areas that remained under the control RUF.

The enlistment of Executive Outcomes

41. The NPRC government secured the services of Executive Outcomes, a South African private security firm. Executive Outcomes was introduced to Strasser by Michael Grunberg and Anthony Buckingham of the mining company, Branch Energy.⁶¹ The contract required Executive Outcomes to provide between 150 and 200 soldiers, fully equipped with helicopter support. Executive Outcomes was to help repel the RUF from the Freetown area, secure government control of the diamond areas in Kono, help stabilise the whole country and retrain the army and the Kamajor militia.⁶² The company was to provide logistical support, sophisticated communications equipment and transportation for the army.⁶³
42. Executive Outcomes was set up in 1989 and was run by Luther Eben Barlow, previously a Lieutenant Colonel in the South African military intelligence unit and a senior member of the Civilian Cooperation Bureau (CCB).⁶⁴ Executive Outcomes, in its early days, developed a flourishing business relationship with the diamond-mining sector. In 1993 Executive Outcomes carried out its first significant military operation in Angola for the Angolan government against UNITA.
43. Between 1993 and 1995, Executive Outcomes changed its strategy and its company profile. It expanded and became a fully-fledged private army. British operations were established under Executive Outcomes (UK) Limited and registered in London in September 1993. Barlow registered Executive Outcomes as a private company in South Africa in 1994. Its men were mostly ex-commandos who had worked for the former apartheid government of South Africa.

⁵⁹ Colonel M. S. Koroma, officer in the Sierra Leone Army (SLA), formerly of the Armed Forces of Liberia (AFL) and later ULIMO; TRC interview conducted in Freetown, September 2003.

⁶⁰ More detail on the successes of pro-Government forces during this period can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

⁶¹ More background detail on the entry of Executive Outcomes into the conflict can be found in the chapter on Mineral Resources earlier in Volume Three B.

⁶² See Akinrinade, B.; "International Humanitarian Law and Conflict in Sierra Leone", in *Notre Dame Journal of Law, Ethics and Public Policy*, 2001. See also Francis, D.; *Mercenary Intervention in Sierra Leone: Providing National Security or International Exploitation?*, Third World Quarterly, No. 2, 1999.

⁶³ Contractual Agreement between the Government of Sierra Leone and Executive Outcomes, latest renewal of the contract signed on 1 July 1997, information provided to the Commission by President Kabbah in his supplementary written testimony, Freetown, 12 August 2003.

⁶⁴ The CCB was a covert unit of the South African military that conducted assassinations and dirty tricks operations against anti-apartheid activists.

44. Executive Outcomes was to be paid two million US dollars (\$2,000,000) a month by the Sierra Leone government.⁶⁵ Executive Outcomes financed its own activities at the beginning, hoping to be reimbursed by the government of Sierra Leone when control over the diamond mining areas was regained. Executive Outcomes encountered financial problems between 1996 and 1997 because of non-payment for its activities in Sierra Leone. In all, the company was only paid about a third of its total fees for the eighteen months it was in Sierra Leone. Part of these funds allegedly came from an IMF loan to the government.⁶⁶ Executive Outcomes was also partly paid in the form of diamond concessions offered to Branch Energy, a diamond mining company with close links to Executive Outcomes.⁶⁷
45. Executive Outcomes, with its reconnaissance capabilities, air power, and guerrilla warfare experience was able to beat back the RUF to Kailahun and the Liberian border. It retook Kono and destroyed Camp Zogoda, the RUF jungle base that acted as its headquarters. All of these military and strategic gains were accomplished in only a few months.

RUF seeks foreign assistance in the face of defeat

46. The RUF was thrown into disarray but it was not annihilated. In order to continue its campaign in Sierra Leone, the RUF fell back on external support. Libya, which had provided training for Sankoh and other Sierra Leoneans, continued to give support to the RUF. In a letter to Brother Mohamed Talibi, the Ambassador of the Libyan Arab Peoples Jamahiriya in Accra, Ghana, dated 26 June 1996, Sankoh wrote:

“I want to thank you and the other brothers at home again for the half million United States Dollars (500,000USD) which I received through you for the purchase of needed materials to pursue the military mission”.⁶⁸
47. In the same letter, Sankoh went on to make a further request for \$(US) 1 million to “purchase twice the listed materials for effective and smooth operation”.
48. By the end of 1995 the NPRC clearly had the upper hand in the war as the RUF had been pushed through Kailahun District into Liberia. At this time, the people of Sierra Leone were anxious for a return to democratic rule.

⁶⁵ Pech, K.; “Executive Outcomes - a Corporate Conquest”, in Cilliers, *Peace, Profit and Plunder?*.

⁶⁶ Jan Joubert, Sierra Leone Country Manager, Branch Energy Ltd.; TRC Interview conducted in Freetown, 11 June 2003.

⁶⁷ See Captain (Retired) Valentine E. M. Strasser, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from 1992 to 1996; testimony before TRC Thematic Hearings held in Freetown, 30 July 2003. More detail on the payment of private security firms in diamond concessions can be found in the chapter on Mineral Resources earlier in Volume Three B.

⁶⁸ Letter from Foday Sankoh to Mohamed Talibi of the Libyan Peoples’ Revolutionary Council, Accra; dated 26 June 1996; Criminal Investigations Department (CID) of the Sierra Leone Police; letter included in the dossier pertaining to the ‘Foday Sankoh / 8 May 2000’ case; dossier provided to the TRC in July 2003.

Elections and diplomatic initiatives to end the war

49. In February and March 1996, multi-party elections brought the Ahmad Tejan Kabbah-led Sierra Leone Peoples' Party (SLPP) to power. External involvement in Sierra Leone's war remained insignificant, mainly taking the form of international diplomacy and the occasional condemnation of human rights violations and abuses taking place in the country.

Britain and the West: strategic contributions towards stability

50. Britain provided financial support for the elections of February and March 1996 with a contribution of some £17 million. The EU, the Commonwealth, the US and the UN also provided funds and technical support. The emerging opportunity for stability in Sierra Leone saw other countries bolstering diplomatic initiatives to end the war.

Libya: bridging the gap to Peace Talks in 1996

51. The Commission heard that Colonel Ghaddafi admitted supporting the RUF when he was confronted on the issue by Julius Maada Bio, the second Chairman of the NPRC, in 1996. Moreover Ghaddafi provided Bio with vital information and direction as to how to get the RUF to the table for peace talks.⁶⁹ Ghaddafi's counsel led – directly or indirectly – to the first peace talks between the Government of Sierra Leone and the RUF, which took place in Abidjan in 1996. Libya, which sent delegates to the peace talks, promised the withdrawal of its support to the RUF.⁷⁰ The opening of those discussions was partly facilitated by the Special Representative of the Secretary-General of the UN to Sierra Leone, Mr. Berhanu Dinka. Following the general elections of February and March 1996, the talks that had begun between the RUF and the NPRC Government of Sierra Leone under Bio were taken up by the newly elected SLPP Government of President Kabbah.

Côte d'Ivoire: a host and a catalyst for Peace Talks

52. Konan Bedie, the President of Côte d'Ivoire and his foreign minister, Amara Essé, were also instrumental in bringing the SLPP government and Foday Sankoh together in Abidjan. Essé went to the bush to persuade Sankoh to attend the peace talks. The Abidjan talks resulted in the signing of a Peace Accord on 30 November 1996. The main elements of the agreement included the total and immediate end of hostilities, disarmament, demobilisation and reintegration of all combatants, the withdrawal from the country of all mercenaries and amnesty for RUF fighters.

⁶⁹ Brigadier (Retired) Julius Maada Bio, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from January to March 1996; TRC Interview conducted at private residence, Freetown; 30 September 2003.

⁷⁰ Brigadier (Retired) Julius Maada Bio, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from January to March 1996; TRC Interview conducted at private residence, Freetown; 30 September 2003.

53. Sierra Leoneans were generally uncomfortable with the Abidjan Accord. They were displeased, for example, with the fact that Côte d'Ivoire had allowed the RUF to establish an office in Abidjan. This gesture was not without precedent, however. Côte d'Ivoire also permitted UNITA, which was waging war against the Angolan government, to set up an office in Abidjan.

The RUF regroupes and poses a renewed threat

54. According to Kabbah, the RUF's signing of the Abidjan Accord was a deception. A few days after the signing of the Accord, the government intercepted a message sent by Sankoh to his field commander, Sam Bockarie (alias Mosquito), in which Sankoh told Sam Bockarie that he signed the Accord to relieve international pressure on the RUF. In the same message, Sankoh was said to have ordered his men to resume hostilities on an even bigger scale. A month before the Abidjan Accord, Sankoh wrote a letter to Talibi indicating that he had earlier received US \$29,000 through a certain Daniel Kallon. Sankoh said in the letter that he would use the period after the signing of the Abidjan Peace Agreement to "transact (my) business in getting (our) fighting materials freely and easily". He further requested US \$700,000 to help purchase fighting materials.⁷¹
55. Kabbah, demonstrating commitment to the negotiated settlement of the war, terminated the contract of Executive Outcomes in accordance with the Abidjan Accord. The RUF had insisted on the early implementation of the clause that provided for the withdrawal of all mercenaries. This was to dramatically weaken the government's military position. Sankoh had refused to sign the document authorising the deployment of UN monitors. Although the Executive Outcomes contract was terminated several of the company's personnel stayed on in Sierra Leone and took up other security-related assignments.
56. After his election, Kabbah made requests to the international community for assistance in the areas of intelligence-gathering and training.⁷² The response of the international community was negligible. Kabbah's request to the US government to assist his government with weapons, when it became clear that the Abidjan Accord was not holding,⁷³ was turned down. Another request for assistance in training soldiers at Benguema to the US and British governments, resulted in these countries sending five soldiers, two Americans and three British. The highest-ranking soldier was a sergeant.⁷⁴ After a brief spell, the five trainers left without informing the Commander-in-Chief of the RSLMF.⁷⁵

⁷¹ Letter from Foday Sankoh to Mohamed Talibi of the Libyan Peoples' Revolutionary Council, Accra; dated 4 October 1996; Criminal Investigations Department (CID) of the Sierra Leone Police; letter included in the dossier pertaining to the 'Foday Sankoh / 8 May 2000' case; dossier provided to the TRC in July 2003.

⁷² See President Kabbah, testimony before TRC Thematic Hearings in Freetown, 05 August 2003.

⁷³ See President Kabbah, testimony before TRC Thematic Hearings in Freetown, 05 August 2003.

⁷⁴ See President Kabbah, testimony before TRC Thematic Hearings in Freetown, 05 August 2003.

⁷⁵ See President Kabbah, testimony before TRC Thematic Hearings in Freetown, 05 August 2003.

Phase III of the Conflict: 1997 – 2002

The coup of 25 May 1997

57. In the early months of 1997 there was an alleged coup plot against the Government of Kabbah. The government requested Nigerian assistance to investigate the coup plot, which resulted in Johnny Paul Koroma and other junior military officers being charged with treason. The trials were taking place when soldiers of the Sierra Leone Army and a handful of civilians staged a coup on 25 May 1997. Following the coup, Kabbah and his cabinet fled to Guinea and the plotters established themselves as the Armed Forces Revolutionary Council (AFRC).

Greater international community involvement to end the coup

58. The coup took place in an optimistic post-Cold War decade that had seen the collapse of undemocratic one-party and military regimes across the world. The coup was received with shock by world leaders as a setback for the growth of democracy in Africa. It was swiftly condemned.

ECOWAS, OAU and the Commonwealth enter the fray

59. On 4 June 1997, the Organisation of African Unity (OAU) at its annual meeting in Harare, only one week after the coup, called on Africa and the world not to recognise the military junta in Sierra Leone. At the same meeting the OAU appealed to ECOWAS to assist the people of Sierra Leone to restore constitutional order.⁷⁶ The OAU stressed the “imperative need to implement the Abidjan Peace Agreement” which, “continued to serve as a viable framework for peace, stability and reconciliation in Sierra Leone”.⁷⁷
60. Consequently, in June 1997, ECOWAS heads of governments put forward three objectives on the Sierra Leone conflict.⁷⁸ The objectives were: 1) *to ensure the early restoration of the legitimate government of Kabbah*; 2) *the return of peace and security to Sierra Leone*; and 3) *the resolution of the issues of refugees and displaced persons*. The OAU aimed to establish dialogue and negotiations with the AFRC junta. Failing persuasion it aimed to impose economic sanctions AFRC. The use of force to remove the junta from power was also considered. A committee of four was established to implement the action plan. The committee comprised the foreign ministers of Côte d'Ivoire, Guinea, Ghana and Nigeria. The foreign minister of Liberia was later added to the committee, making it a Committee of Five.
61. The Committee first sought and received the support of the UN Security Council for its initiatives in Sierra Leone. From 17 to 18 July 1997 the Committee met with representatives of the AFRC in Abidjan. The Committee and junta representatives agreed that the issues relating to the crisis in Sierra Leone should be peacefully resolved and a cease-fire was agreed upon. It was also agreed that the junta would be allowed to prepare to return the country to constitutional order. From 29 to 30 July 1997 the parties met again in Abidjan.

⁷⁶ OAU Heads of Government resolved in June 1997 that the military coup establishing the AFRC in Sierra Leone was unlawful and should be reversed by ECOWAS.

⁷⁷ See Resolutions of the OAU Heads of Government, agreed in Harare, Zimbabwe, June 1997.

⁷⁸ See Resolutions of the ECOWAS Heads of Government, published in June 1997.

While the meeting was in progress, the AFRC announced in Freetown that they would remain in power until 2001. This brought the renewed Abidjan negotiations to an abrupt end.

62. ECOWAS heads of government at the twentieth ordinary summit, in Abuja from 28 to 29 August 1997, proposed the imposition of economic and other sanctions on the junta. These sanctions covered weapons, petroleum and petroleum products, a travel ban on members of the AFRC and members of their families and an embargo on humanitarian aid. Recognising Article 53 of the UN Charter, which provides that “no enforcement action shall be taken under regional arrangement or by regional agencies without the authorisation of the Security Council”, the proposals were tabled before the UN Security Council for approval. The UN Security Council Resolution 1132 of 8 October 1997 endorsed the sanctions but declined to endorse the use of force to remove the junta from power or an embargo on humanitarian aid.⁷⁹ Under Article 7 of the ECOWAS decision, ECOMOG was mandated to “employ all necessary means to enforce the implementation of this decision”. Prior to the endorsement of sanctions and embargo, but after the coup of 25 May 1997, the UN Secretary-General appointed Mr. Francis Okelo of Uganda as the new Special Envoy to Sierra Leone.
63. The sanctions imposed by ECOWAS and the UN were broadly welcomed by Sierra Leoneans opposed to the AFRC. However, the measures took a heavy toll on the civilian population. The fact that ECOMOG targeted humanitarian aid in enforcing the sanctions partly contributed to the suffering of civilians. On 7 November 1997 the World Food Programme, warned that the health of thousands was at stake because humanitarian assistance had not been allowed to cross into Sierra Leone from Guinea.⁸⁰ On 11 November 1997 the ECOMOG Field Commander, General Victor Malu , announced that clearance would be given for food aid to be brought into Sierra Leone “within days”, but such clearance was not given until the end of the year. ECOMOG was also accused of sinking boats carrying food shipments as they entered the port of Freetown.
64. In spite of the worsening humanitarian situation, ECOMOG and the international community believed that the sanctions were vital to the success of the intervention. This was also the view held by most Sierra Leoneans. Peter Penfold , the former UK High Commissioner to Sierra Leone, remarked that “the people of Sierra Leone were resolved to undergo anything in exchange for democracy.”⁸¹
65. Testimonies to the Commission suggest that the sanctions and embargo greatly contributed to the junta's willingness to meet with the ECOWAS Committee of Five on 23 October 1997, in Conakry, Guinea for a fresh round of Peace Talks.

⁷⁹ See UN Security Council Resolution 1132 of October 1997.

⁸⁰ See the Integrated Regional Information Network (IRIN) of the UN-DHA; IRIN West Africa, *Background on The Conakry Peace Accord*, available at the website: www.reliefweb.org.

⁸¹ Peter Penfold, former High Commissioner of the United Kingdom to Sierra Leone; TRC Interview conducted at TRC Headquarters, Freetown; 31 July 2003.

66. At the Conakry meeting of October 1997, the representatives of the junta and the ECOWAS Committee of Five agreed that the junta would hand over power to President Kabbah on 22 May 1998, but that the sanctions and embargo provided for in UN Security Council Resolution 1132 were to be maintained. Provisions were made for the immediate cessation of hostilities and the disarmament, demobilisation and reintegration of all combatants. Disarmament and demobilisation of combatants was to commence on 1 December and end on 31 December 1997. Humanitarian assistance, which would be monitored by ECOMOG and UN military observer operations, would recommence on 14 November 1997. All those involved in the coup were granted immunity from prosecution. This agreement came to be known as the Conakry Peace Plan. In a communiqué issued by the Committee, it was recognised that Sankoh was expected to return to Sierra Leone in order to support the peace process.
67. In November 1997, the British Prime Minister, Tony Blair, invited President Kabbah to attend the Commonwealth summit in Edinburgh as his personal guest. President Kabbah was given the opportunity to put across the problem of Sierra Leone to the summit. The summit condemned the military dictatorship in Nigeria and its abysmal human rights credentials, but noted "the positive contribution the country was making through ECOWAS in support of democratic government in the region". The summit also condemned the military junta in Sierra Leone and called for the reinstatement of Kabbah's government. It suspended Sierra Leone from participating in the councils of the Commonwealth and Peter Penfold, British High Commissioner to Sierra Leone, went with Kabbah and his cabinet to Guinea to demonstrate the determination of the British government to support democracy in Sierra Leone. The British government also provided £250,000 to Kabbah and his cabinet while they were in exile in Guinea. These funds were used to run the government-in-exile. The British government also funded the setting up of Radio 98.1 FM. The radio station was an effective propaganda machine used by the government against the military junta.
68. The Conakry Peace Plan seemed like a viable framework for peace in Sierra Leone. In a press release issued on 5 November 1997, Kabbah stated that he found the peace plan acceptable and that the Conakry Peace Plan contained a number of positive elements, which would lead to the resolution of the crisis in Sierra Leone. Kabbah pledged that his government would do everything possible to co-operate with ECOWAS and its monitoring group, ECOMOG.
69. In spite of the acceptance of the Conakry Peace Plan by all the parties to the conflict, each gave it a different interpretation. Questions in relation to disarmament, the Army, the release of Sankoh, and Nigeria's dominance in ECOMOG became the subject of several unproductive meetings between the junta and ECOMOG.
70. At its seventh meeting in Abuja on December 1997 the ECOWAS Committee of Five maintained that the Conakry Peace Plan remained the best framework for the restoration of peace and constitutional order in Sierra Leone. The reality was that the Conakry Peace Plan was rapidly collapsing.
71. The international community was not enamoured with the Nigerian ruler, Sani Abacha, who while leading a dictatorship back home presented himself internationally as a fighter for democracy in Sierra Leone. In its desire to distance itself from Sani Abacha, the international community declined to provide much-needed support for the Nigerian-led ECOMOG.

Sandline International: Kabbah brings in a non-state private army

72. The period following the 1997 coup saw the biggest diplomatic engagement on Sierra Leone since the start of the conflict in 1991. However, it became clear that force would be needed to remove the junta. Kabbah and his government sought the services of a non-state, profit-making military outfit. Kabbah contracted the British private military company, Sandline International. It has been alleged that it was the British High Commissioner to Sierra Leone, Peter Penfold, who introduced Sandline to the President. In an interview with the Commission, Penfold denied this version of events but acknowledged that Kabbah did consult him on the terms of the Sandline contract. Kabbah's contact with Sandline was actually initiated in mid-1997 by Rupert Bowen, a former diplomat and intelligence operative. Bowen was Sandline's representative in the West African Region and a friend of Penfold. By the middle of July 1997, Tim Spicer, the head of Sandline International, had flown to West Africa to meet with Kabbah and ECOMOG.
73. Sandline was contracted in the sum of US\$1.5 million a month to provide training, arms and equipment support to the pro-government forces.⁸² Sandline International was also allegedly asked to plan, execute and co-ordinate an assault on Freetown.⁸³ Sandline's operations in Sierra Leone were reportedly financed by a Vancouver-based Indian national, Rakesh Saxena.
74. Sandline was registered in the Bahamas and had its headquarters in Chelsea, sharing its premises with Branch Energy and Heritage Oil. It also had offices in the USA headed by Bernie McCabe, a former officer in the US Army Special Forces.
75. The operations of Sandline International in Sierra Leone had no independent structure. Sandline depended on ECOMOG, which co-ordinated the activities of the pro-Kabbah forces within and outside of Sierra Leone.⁸⁴ Sandline may have been forced to operate covertly because of a UN arms embargo on the Government of Sierra Leone and the AFRC junta at the time.
76. By the end of 1997, the Conakry Peace Plan was in tatters. The Kamajors, a pro-government civil defence militia, had launched "Operation Black December", attacking several junta positions. The Kamajors succeeded in taking most of the major roads in the east and south of the country. By the beginning of 1998, skirmishes between the junta and ECOMOG personnel on the ground in Sierra Leone increased. As the security situation deteriorated, humanitarian assistance ceased. Rhetoric from the exiled Government, ECOMOG and the junta moved increasingly away from peace and back to war.
77. On 5 February 1998, the AFRC launched an attack on an ECOMOG patrol team. ECOMOG forces launched a full-scale attack and forcefully removed the military junta from power. On 10 March 1998, President Ahmad Tejan Kabbah was reinstated.

⁸² Peter Penfold, former High Commissioner of the United Kingdom to Sierra Leone; TRC Interview conducted at TRC Headquarters, Freetown; 31 July 2003.

⁸³ Background information on Sandline International has been drawn from the secondary source: *Mercenaries: African Security Dilemma*, at page 98.

⁸⁴ See Fred Marrafono, former Executive Outcomes officer, TRC interview conducted in Freetown, 4 June 2003.

78. ECOWAS deserves credit for its role in the Sierra Leone. Nigeria's role should be highlighted. It provided the bulk of the military resources deployed in Sierra Leone in the name of ECOWAS / ECOMOG. Many ECOWAS Member States, like Guinea Bissau, Cape Verde, Niger and Benin, lacked the resources to do much beyond voting on resolutions at ECOWAS meetings. While there has been no suggestion that Ghana did anything to fuel the war, Ghana's contribution to the search for peace was not significant. Countries such as Burkina Faso and Liberia were covert backers of the rebels.

Liberia, Libya and Burkina Faso: the network of RUF backers coalesces around the AFRC

79. Although the ECOMOG military intervention succeeded in removing the RUF/AFRC coalition from power and reinstating Kabbah's government, it did not have the endorsement of the UN Security Council. On 16 March 1998, the UN Security Council, issued Resolution 1156 welcoming the return of Kabbah to power, followed by Resolution 1171 in June, prohibiting the sale of arms and related material to non-governmental forces in Sierra Leone. The Resolution included a travel ban on all members of the overthrown junta and their families.
80. When ECOMOG attacked Freetown, the junta forces and their RUF allies did not put up any resistance. They escaped through the Freetown peninsula to the northern part of the country and to the RUF stronghold in Kailahun in the east. This meant that the RUF and the AFRC did not lose significant manpower or equipment. Some nine months later the alliance was able to capture half of the country and occupy most areas of the capital for two weeks.
81. The war in Sierra Leone persisted during the third phase largely because the RUF controlled the diamond-producing areas. Taylor became the conduit for the sale of the diamonds on the international market. In return the RUF received arms and ammunitions through Taylor.
82. Liberia's involvement in the conflict was part of a wider network of outside support for the RUF, which also involved Burkina Faso and Libya. However, there is no evidence before the Commission that Libya and Burkina Faso shared Liberia's interest in the diamond resources of Sierra Leone. Although Libya had promised to withdraw its support for the RUF there are suggestions that following the coup of 1997, Libyan support for the RUF and its allies continued. Arms and ammunitions were flown from Libya via Burkina Faso and Liberia to the RUF.⁸⁵ In a statement given to the Sierra Leone Police, Yair Gal (aka Yair Galklein), an Israeli "businessman", testified that while travelling from Burkina Faso to Monrovia in December 1998, he witnessed the loading of rifles into an Air Burkina plane. The plane flew into Monrovia. Upon arrival the rifles were loaded into a Jeep, and driven to the border with Sierra Leone.⁸⁶

⁸⁵ Yair Gal (alias "Yair Galklein") Israeli businessman involved in diamond mining companies and dealerships in both Liberia and Sierra Leone during the conflict period; statement given to the Sierra Leone Police Force at RSLMF Headquarters, Cockrill, Freetown; 28 January 1999

⁸⁶ Yair Gal (alias "Yair Galklein") Israeli businessman involved in diamond mining companies and dealerships in both Liberia and Sierra Leone during the conflict period; statement given to the Sierra Leone Police Force at RSLMF Headquarters, Cockrill, Freetown; 28 January 1999

83. In December 1998 two Ukrainian planes loaded with arms and ammunition from Libya flew into Monrovia at midnight. The arms and ammunitions were then loaded into four trailer trucks belonging to Simon Rosenbloom, another Israeli. Three of the trucks went to Lofa country from where the arms and ammunitions were transported to the RUF base in Kono.⁸⁷ In his testimony to the Commission at the public hearings held in Makeni, Bombali District on 29 May 2003, Reverend Father Mario Guerra testified that, while he was in captivity, two hundred rebel soldiers – albeit mostly affiliated to the AFRC – received a large number of rifles of identical make.⁸⁸ This was in contravention of UN Security Council Resolution 1171, which prohibited the sale of arms and other related materials to non-government forces in Sierra Leone.⁸⁹
84. Although Liberia, Burkina Faso and Libya constituted a network of support for the RUF, they did not share the same motivations. Ideology accounted for Libya's involvement in the Sierra Leone conflict. Libya wanted a revolutionary regime in Sierra Leone but the RUF lacked the necessary organisational cohesion and revolutionary discipline. Many commentators have described Sierra Leone's civil war as one of the most brutish and deadliest wars in recent times. The RUF has been credited as one of the primary violators of human rights in Sierra Leone.⁹⁰ As the civil war unfolded these facts could not have been unknown to Libya. The regime in Burkina Faso claimed to be revolutionary. It would seem that the strong relations between Burkina Faso and Libya resulted in Burkina Faso's involvement in the Sierra Leone conflict as an 'errand boy' for Libya. Individual Burkinabes also benefited from the arms and diamonds trade.

Misuse of the Red Cross emblem

85. Humanitarian aid was another dimension of the involvement of external actors in the conflict. International organisations were pivotal in meeting the medical, food and shelter needs of people directly affected by the war.
86. The International Committee of the Red Cross (ICRC) was a leading agency in humanitarian intervention in the country. Under the Geneva Conventions and the Additional Protocols, the ICRC is mandated to bring neutral and impartial assistance and protection to victims of war, regardless of their race, religion, origin or sex. In carrying out its work the ICRC maintains contact with all parties to a conflict. The Red Cross emblem, depicting neutrality and impartiality, is relied upon for the protection and safety of ICRC staff, facilities and equipment. Sierra Leone is a party to the Geneva Conventions and the Additional Protocols.

⁸⁷ Yair Gal (alias "Yair Galklein") Israeli businessman involved in diamond mining companies and dealerships in both Liberia and Sierra Leone during the conflict period; statement given to the Sierra Leone Police Force at RSLMF Headquarters, Cockerill, Freetown; 28 January 1999

⁸⁸ Reverend Father Mario Guerra, Catholic priest and long-time resident of Sierra Leone who was abducted and held captive by the AFRC in late 1998, testimony before TRC public hearings in Makeni, Bombali District, 29 May 2003.

⁸⁹ See United Nations Security Council Resolution 1171.

⁹⁰ See the multiple reports produced by international NGOs documenting the human rights abuses carried out by the RUF; for example, both Amnesty International (www.amnesty.org) and Human Rights Watch (www.hrw.org) maintain web archives of their reports on Sierra Leone.

87. In 1992 the ICRC established a permanent structure in Freetown as a sub-delegation managed from Abidjan. In 1995 the Government of Sierra Leone authorised delegates of the ICRC to assess the humanitarian situation in Kailahun District, which was under RUF control at the time. In February 1996 the ICRC established an assistance programme for civilians in RUF territories in Kailahun District and in the course of the conflict, the ICRC extended its assistance to victims of the war all over the country.
88. In the events leading up to the 6 January 1999 invasion of Freetown, there were reports of a helicopter bearing ICRC insignia flying above Sierra Leone for non-humanitarian purposes. The helicopter with the Red Cross emblem was reported to be delivering arms, ammunition and other supplies to the RUF:
- “A helicopter was coming from Liberia to supply arms in Sierra Leone. I saw one of those helicopters. The helicopter was covered with ICRC flag so that people will not know....”⁹¹
- [and]
- “There were helicopters operating out of Liberia coming in to the rebels. We have fairly solid proof that the Red Cross helicopter was supplying weapons to the rebels. Now, if it was on behalf of the Red Cross or whether it was being used by individuals for Red Cross, or they chartered it, I am not too sure...”⁹³
89. Neil Ellis, a government helicopter pilot, informed the Commission that the government had received repeated warnings about the use of ICRC-marked helicopters to fly arms supplies to the RUF. On one occasion, he was instructed to tail the ICRC helicopter and to shoot it down if it deviated from its flight path. In that instance, the helicopter kept to its flight path to Mabang in the Moyamba District.⁹⁴
90. In an interview with Radio Democracy 98.1 FM on 9 December 1998, the Minister of Information, Dr. Julius Spencer, noted that the government was investigating allegations that the ICRC helicopter had been delivering materials to the RUF. On 13 January 1999, the government asked the ICRC to leave the country. The ICRC was allowed to return in May 1999 and resumed operations but was restricted to government-controlled areas.
91. The ICRC supplied the Commission with a detailed letter in which it pointed out that its helicopters had flown over Sierra Leone for several years during the conflict period. The organisation provided model names and even code numbers for each of its helicopters, as well as specific years in which they operated. Based on this assessment, the ICRC contended that the specific allegations about its involvement in arms trafficking during late 1998 could not have been true.

⁹¹ Reverend Father Mario Guerra, Catholic priest and long-time resident of Sierra Leone who was abducted and held captive by the AFRC in late 1998, testimony before TRC public hearings in Makeni, Bombali District, 29 May 2003.

⁹² Neall Ellis, former Executive Outcomes helicopter pilot who later transferred to the employment of the Government, TRC interview conducted in Freetown, 27 May 2003.

⁹³ See Neall Ellis, former Executive Outcomes helicopter pilot who later transferred to the employment of the Government, TRC interview conducted in Freetown, 27 May 2003.

⁹⁴ See Neall Ellis, former Executive Outcomes helicopter pilot who later transferred to the employment of the Government, TRC interview conducted in Freetown, 27 May 2003.

92. After this initial response from the ICRC, the Commission was obliged to invite ICRC officials for an interview because they had mixed up certain dates in their submission. The officials furnished the Commission with further explanations, which satisfied the Commission that the helicopter in question was not an official ICRC helicopter. Moreover, the ICRC had logbooks and pilot verification procedures that prevented helicopters chartered by the ICRC and bearing its emblem being used without its knowledge and approval.
92. The balance of probabilities, supported by perpetrator testimony, indicates that ICRC emblems were misappropriated and used on “alien” helicopters by one or more of the fighting factions. The misuse of humanitarian emblems can seriously compromise the activities of humanitarian organisations. Such misconduct is strictly prohibited under International Humanitarian Law by virtue of an express provision in the Additional Protocols to the Geneva Conventions. The Commission calls upon peacekeeping forces and law enforcement authorities in conflict zones to be aware that those trafficking in arms may deploy vehicles or planes marked with the emblems of humanitarian organisations such as the ICRC. Extra vigilance and spot checks are required to stop this pernicious practice.

Charles Taylor’s personal influence on the RUF

93. In the aftermath of the invasion of Freetown, on Thursday 25 February 1999, former ECOMOG Field Commander, General Timothy Shelpidi accused Charles Taylor of Liberia and Blaise Campaore of Burkina Faso of planning to destabilise the entire sub-region. As long as Taylor was in power in neighbouring Liberia, he said, the crisis in Sierra Leone was never going to come to an end.⁹⁵
94. The Liberian Government repeatedly denied accusations that it was supporting the RUF. It did admit, somewhat reluctantly, that there were Liberians fighting on the side of the RUF, but claimed that they were doing so without the support or backing of the Liberian Government.⁹⁶ In a letter to the Secretary-General of the UN, dated 23 February 1999, President Charles Taylor wrote:

“Liberians have been used as mercenaries in Sierra Leone for a long time by all governments of Sierra Leone. They have always been there, about 3,000 of them. But they are there on their own.”⁹⁷

⁹⁵ See Sierra Leone Broadcasting Service (SLBS), 25 February 1999, included in the BBC Summary of World Broadcasts, 26 February 1999.

⁹⁶ See Pratt, D. (MP for Nepean-Carleton, Canada), Special Envoy to Sierra Leone; *Sierra Leone: the forgotten crisis*, Report to the Canadian Minister of Foreign Affairs, Honourable Lloyd Axworthy MP, 23 April 1999, at page 18. Also available on the web: www.sierra-Leone.org/pratt042399.htm.

⁹⁷ Letter from Liberian President Charles Taylor to the Secretary-General of the United Nations, dated 23 February 1999; available at the UN website: www.un.org.

95. Charles Taylor's and his Government's denials of support for the RUF appear nonsensical in the face of overwhelming testimonies and evidence given to the Commission, not least by the Criminal Investigation Department (CID) of the Sierra Leone Police. In a letter from the Office of the President of Liberia addressed to the Leader of the RUF on 3 November 1998, Taylor expressed continued support for the RUF organisation and its aim of taking over the Government of the Republic of Sierra Leone.⁹⁸

96. Taylor's influence over the RUF was demonstrated on a number of occasions. Taylor personally intervened to persuade the RUF to accept the terms of the Lomé Peace Agreement. In May 2000, when the RUF took over 500 UN peacekeepers hostage, Taylor was instrumental in negotiating their release. An ECOWAS delegation met Taylor on 19 June 2000 and asked him to help secure the hostages' release. The Secretary-General of the UN, Kofi Annan, the Indian prime minister, Atal Bihari Vajpayee and the Nigerian president, Olusegun Obasanjo made a request on 21 June 2000 for Taylor to intervene in the hostage crisis in Sierra Leone.⁹⁹ He responded:

"I have said to them that I will do everything within my own strength to help release the hostages in whatever way I can."¹⁰⁰

97. The Liberian Minister of Information, Joe Mulbah, told the BBC on 29 June 2000 that the hostages would be released "over the weekend". Before Mulbah's announcement, 139 Zambian peacekeepers held hostage by the RUF, were moved to Foya across the Liberian border and handed over to the Liberian authorities by Issa Sesay on 15 June 2000.¹⁰¹ On the day the announcement was made by the Liberian Minister of Information, 21 Indians were transported to Foya by Issa Sesay, who again handed the hostages over to the Liberian authorities.¹⁰²

98. It was not until November 2002, that Taylor openly admitted his involvement in the Sierra Leone conflict. Taylor maintained that:

"In the Sierra Leone crisis, for example, Liberia was not the only country involved. The other countries got off the hook because other major countries protected them. We had good reason for our association with the RUF (Revolutionary United Front of Sierra Leone) at that particular period, purely for national security concerns."¹⁰³

⁹⁸ Letter from the Office of the President of Liberia to the RUF Leader, Foday Sankoh, dated 3 November 1999; Criminal Investigations Department (CID) of the Sierra Leone Police; letter included in the dossier pertaining to the 'Foday Sankoh / 8 May 2000' case; dossier provided to the TRC in July 2003.

⁹⁹ See the report on NewsMax.com; "UN Hostages May Be Free by Weekend", 22 June 2000.

¹⁰⁰ See the report on NewsMax.com; "UN Hostages May Be Free by Weekend", 22 June 2000.

¹⁰¹ See Sierra Leone web; news archives, June and July 2000, available at www.sierra-leone.org.

See also the Eighth Report of Secretary-General on the United Nations Assistance Mission in Sierra Leone, UN Doc. S/2000/751, 2000.

¹⁰² See Sierra Leone web; news archives, June and July 2000, available at www.sierra-leone.org.

¹⁰³ See *Washington Post* newspaper, 12 November 2002; at page A16, column 6.

An enhanced role for the United Nations

99. In July 1998, the UN Security Council established the UN Observer Mission to Sierra Leone (UNOMSIL). UNOMSIL had an initial strength of seventy military observers, fifteen medical staff and five civilians. Mr. Francis Okelo, the Special Envoy to Sierra Leone, was named the Special Representative of the Secretary-General (SRSG) and Chief of Mission. Brigadier Subhash C. Joshi, from India, was the Chief Military observer. UNOMSIL's mandate under Security Council Resolution 1181 was to monitor the security situation and to advise on the disarmament and demobilisation of combatants. UNOMSIL never achieved full strength and is mostly remembered for its lack of impact.
100. It was no surprise that hostilities continued in spite of UNOMSIL's presence. By December 1998, the RUF/AFRC controlled a large portion of the country's territory. In January 1999, the mobs of thugs associated with the AFRC invaded Freetown inflicting widespread destruction and casualties. In the wake of these attacks, SRSG Okelo helped to initiate negotiations between the Government and the RUF/AFRC. On 18 May 1999, Kabbah and Sankoh entered into talks in the Togolese capital, Lomé. The United States, through its Embassy in Freetown, also assisted to bring the parties together in Lomé. On 7 July 1999, the Government of Sierra Leone and the RUF signed the Lomé Peace Agreement. The Lomé Agreement, among other things, made provision for a blanket amnesty for members of the warring factions; the establishment of a neutral United Nations group to monitor a cease-fire; and the creation of a Truth and Reconciliation Commission.
101. While recognising that the amnesty provisions in Lomé were "difficult to reconcile with the goal of ending the culture of impunity", the UN Secretary-General, Kofi Annan, hailed the Lomé Agreement as "a great step forward for Sierra Leone".¹⁰⁴ Annan further intimated that amnesty may not apply to international crimes and instructed the UN SRSG to enter a handwritten reservation explicitly stating that the UN did not regard the amnesty provisions as applying to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.¹⁰⁵
102. Although Lomé was heralded as the beginning of the end to the conflict in Sierra Leone, attacks on civilians recommenced almost as soon as Sankoh returned to Freetown. On 23 March 1999, the UN Secretary-General had recommended to the Security Council that it should authorise the deployment of a substantially larger peacekeeping force in Sierra Leone. On 22 October 1999, the UN Security Council authorised the establishment of the United Nations Mission in Sierra Leone (UNAMSIL). The military and civilian components of UNOMSIL were transferred directly to UNAMSIL and the UNOMSIL mandate was terminated. The Secretary-General appointed Mr. Oluyemi Adeniji, a Nigerian diplomat at the UN, as his new Special Representative and Chief of Mission. UNAMSIL's brief included overseeing the implementation of the Lomé Agreement, establishing a security presence at key locations throughout the country and monitoring adherence to the cease-fire. In February 2000 the number of peacekeepers was increased to 11,100.

¹⁰⁴ Seventh Report of Secretary-General on the United Nations Observer Mission in Sierra Leone, UN Doc. S/1999/836, 1999.

¹⁰⁵ Eighth Report of Secretary-General on the United Nations Assistance Mission in Sierra Leone, UN Doc. S/2000/751, 2000.

103. The hostage-taking incident seriously tainted the image of the peacekeepers and undermined the confidence of the people of Sierra Leone in the UN. However the UN did not give up on Sierra Leone.¹⁰⁶ Annan declared that ‘the situation in Sierra Leone remained tense and volatile under conditions that resemble civil war’.¹⁰⁷ On 19 May 2000, two days after the arrest of Sankoh, the UN Security Council authorised an increase in the strength of the peacekeeping force to 13,000 military personnel.
104. In June 2000 the Sierra Leone Government requested the UN Security Council to establish a tribunal in Sierra Leone to prosecute those in the RUF who had breached the cease-fire “in order to bring and maintain peace and security in Sierra Leone and the West African sub-region.”¹⁰⁸ In July 2000, the Sierra Leone Government approved and sent a draft resolution to the UN formally requesting the Secretary-General to set up a criminal tribunal. The Security Council unanimously adopted a resolution on 14 August 2000 and endorsed the Government’s request with the understanding that ‘the amnesty provisions of the Lomé Agreement did not apply to international crimes’.¹⁰⁹
105. One crucial element that aided the consolidation of the peace was the intervention of the British military. In the aftermath of the UN hostage crisis, Britain raised its security profile in Sierra Leone considerably. It sent more soldiers to the country and seconded a military adviser to the government. When the RUF threatened the Freetown International Airport at Lungi, British soldiers halted their offensive. British forces also dislodged a band of former AFRC soldiers known as the West Side Boys, who were threatening the security of the city. These combat actions and Britain’s military presence around the country may have convinced the RUF to opt for peace.
106. The Government and the RUF agreed to a renewed cease-fire on 10 November 2000. The cease-fire hardly held. The RUF continued sporadic attacks around the country. On 30 March 2001, the UN Security Council authorised the expansion of UNAMSIL to 17,500 military personnel. UNAMSIL became the world’s largest peacekeeping mission and peacekeepers were located all over the country. This helped to facilitate the return of refugees and internally displaced persons to their communities of origin.
107. In June 2001 the Disarmament, Demobilisation and Re-integration (DDR) programme was established. The peacekeepers provided security at the disarmament centres and for officials of the DDR programme.¹¹⁰
108. On 18 January 2002, President Kabbah declared that the war was over at a symbolic ceremony at Lungi Airport. Among those in attendance were numerous external actors, preparing themselves for participation in Sierra Leone’s fresh efforts to achieve sustainable peace and development.

¹⁰⁶ UNAMSIL, Submission to TRC Thematic Hearings on Governance, 1 March 2003.

¹⁰⁷ Eighth Report of Secretary-General on the United Nations Assistance Mission in Sierra Leone, UN Doc. S/2000/751, 2000.

¹⁰⁸ Letter dated 9 August 2000, from the permanent representative of Sierra Leone to the UN, addressed to the President of the Security Council: UN Doc. S/2000/786.

¹⁰⁹ UN Security Council Resolution 1315, 5, 14 August 2000.

¹¹⁰ UNAMSIL, Submission to TRC Thematic Hearings on Governance, 1 March 2003.

CHAPTER THREE

Women and the Armed Conflict in Sierra Leone

TRC

**Truth
hurts but
war
hurts more**

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

CHAPTER THREE

Women and the Armed Conflict in Sierra Leone

Introduction

1. Sierra Leone sits on the beautiful west coast of Africa, facing out onto the Atlantic Ocean. It is bordered by Guinea to the north and Liberia to the southeast. Sierra Leone consists of a hilly western peninsula and a hinterland abundant in diverse natural riches, including agricultural and mineral resources. Mountains rise to over 6,000 feet in the northeast, while the territory is blessed with plentiful rainfall that yields dense forest vegetation interspersed with swamps. It is a land of staggering natural scenery and personality.
2. Sierra Leone is made up of seventeen different ethnic groups, the largest of which is the Mende of the southern and eastern regions. The second largest is the Temne, followed by the Limba, both of which are dominant in the north. Other groups include the Kono in the east, the northern Koranko, the Mandingo, Loko, Susu, Fullah and Yalunka. Smaller groups include the Bullom, Sherbro, Vai, Gola and Krim, with the Kissi in the eastern hinterland.
3. In the eighteenth century, the abolitionist campaign led to the decision in Britain to relocate freed slaves to Sierra Leone. The British government purchased land from a Temne King in order to settle freed slaves on and around the western peninsula. This new community took on the name "Freetown" and its population became known as Krios. In 1808, the British created the Crown Colony, centred on Freetown and its environs, and in 1896 made the outlying areas into a Protectorate. For over 150 years the British dominated all spheres of life in the country. It was during this period that the Freetown-based Krios advanced educationally and economically at the expense of the people in the hinterland. The Krios developed into a highly educated group of colonial subjects compared to their counterparts in the Provinces.
4. Sierra Leone celebrated its independence on 27 April 1961. However, stability and development were steadily undermined by a series of military coups and attacks on multi-party democracy. Siaka Stevens, who became Prime Minister in 1968, engaged in a systematic campaign to centralise power around his executive. Within ten years he had made himself the President of a One-Party Republic. During Stevens' rule, corruption and nepotism became entrenched. Rampant unemployment and poverty, coupled with violent suppression of all dissent and opposition, led the population to despise and distrust its ruling elite. Persistent bad governance created the conditions for the outbreak of conflict.
5. The conflict in Sierra Leone, which lasted from 1991 to 2002, was particularly horrific because of the scope and severity of atrocities targeted at civilians. Its other defining feature was its chameleonic character, whereby many of the role players changed sides and allegiances against a background of complex military and political dynamics. The conflict was essentially self-destructive in nature: towns and villages were ravaged; crops and economic installations were destroyed; and a whole generation of Sierra Leoneans was displaced, brutalised and traumatised.

6. Women and girls became particular targets of malice and violence during the conflict. They suffered abduction and exploitation at the hands of the various perpetrator factions. Their vulnerability was deliberately exploited in order to dehumanise them and perpetrate against them the most gross of violations. They were raped, forced into sexual slavery and endured acts of great sexual violence. They suffered mutilations, torture and a host of cruel and inhuman acts. They were taken from their homes and villages by force. Refusal to comply with the demands of their captors often met with death. For those fortunate enough to escape, there followed displacement and separation from families. While some went into exile, many were housed in camps in Sierra Leone and in neighbouring countries. Shockingly, women and girls were not safe even in these camps. Humanitarian workers – meant to offer them respite and protection – also violated their rights. Women and girls were compelled to barter their bodies in order to survive and access aid to which they were rightfully entitled. Girls as young as 12 were forced to pay for aid with sex to secure assistance for their families.
7. Statistics pertaining to the numbers of women affected by the conflict in Sierra Leone remain a huge concern. In 2003, Human Rights Watch published a report in which they stated that as many as 275,000 women and girls may have been sexually violated during the war.¹
8. While peace has returned to Sierra Leone, many of the wounds still remain open. Women and girls still bear the scars, both physically and psychologically. Many have borne children from their horrific experiences. These children are a daily reminder of their pain and suffering. Many women and girls are shunned and punished by members of a society who refuse to acknowledge that it is their failures that led to this conflict and their failure to protect women and girls that has led to the plight they find themselves in today. Women and girls who were violated throughout the conflict are ostracised from society for giving birth to children of “rebels”. It is the price they continue to pay, even today.
9. The UN Secretary-General, in his Twenty-first Report to the Security Council on the UN Mission in Sierra Leone, has stated that “violence against women, including sexual exploitation, as well as discrimination against women in law and in practice and the low rate of participation of women and youth in the political and administrative affairs of the country needs to be addressed.”²

Mandate of the Truth and Reconciliation Commission

10. The Truth and Reconciliation Commission (“TRC” or “the Commission”) was founded by an Act of Parliament in February 2000 and its Commissioners were inaugurated in July 2002. Section 6(2)(b) of the TRC Act mandated the Commission to restore the dignity of victims. In this context, there was a duty to afford “special attention to the subject of sexual abuse”. While women are not explicitly mentioned in the TRC Act, given that they were the overwhelming victims of sexual abuse, the Commission interpreted this provision to mean that it should pay special attention to the experiences of women and girls.

¹ See Human Rights Watch, “*We’ll Kill You if you Cry*”, a report on gender-based violence during the conflict in Sierra Leone, Vol. 95, No. 1(a), New York, January 2003 (hereinafter “Human Rights Watch, *We’ll Kill You if you Cry*”). The full report is available at the website: www.hrw.org.

² See the Twenty-first Report of Secretary-General on the United Nations Assistance Mission in Sierra Leone (UNAMSIL), UN Doc. S/2004/228, 2004, at paragraph 45.

11. The Commission intends in this chapter to capture the experiences of both women and girls in respect of sexual violence, as well as their complete gendered experiences at a political, legal, health and social welfare level. While the majority of the women in Sierra Leone were victims, the Commission recognises that many women took on the role of perpetrators and / or collaborators, out of personal conviction or simply in order to survive.
12. While the National Commission for Disarmament, Demobilisation and Reintegration (NCDDR) recorded that 4,751 girls entered the DDR process, actual estimates of female combatants are said to be much higher. Dyan Mazurana and Kristopher Carlson, for example, estimate that 12,056 of 48,216 child soldiers were girls. In their report they note that 44% of the girls they interviewed claimed to have received basic military and weapons training. The UN Secretary-General has also acknowledged that “women combatants did not adequately benefit from the disarmament, demobilisation and reintegration programme, particularly because the fast-tracking of the cantonment period resulted in a loss of focus on special programmes intended for women”. He reported that “no provision was made for female camp followers, most of whom had been abducted by the combatants.”³
13. While women played a strong role in peacemaking, only two women attended the negotiations that led to the signing of the Lomé Peace Agreement in 1999. Nonetheless women are increasingly playing a more prominent role in the public life of Sierra Leone.
14. The Commission, primarily through the testimonies it received from women and girls, seeks to find answers as to why such extraordinary violence was perpetrated against women. Did the origins lie in the cultural and traditional history of Sierra Leone, where women were afforded a subservient status to men? Did the low status of women in socio-political life make them easy targets? Or is it because men still perceive women to be chattels, possessions belonging to them, symbols of their honour, making them the deliberate targets of an enemy determined to destroy the honour of the other? The answers probably lie somewhere in a combination between all of these factors.
15. The Commission believes that it is only when the legal, social and political system treats women equally that they will realise their full potential. Women must be given full access to economic opportunities, which allow for their complete, holistic development. They must be able to participate freely in both public and private life. Developing robust accountability mechanisms for those who perpetrate gender-based crimes is a necessary part of this evolution, in order to ensure that women are never again dehumanised the moment the rules of society break down.

³ See the Twenty-first Report of Secretary-General on the United Nations Assistance Mission in Sierra Leone (UNAMSIL), UN Doc. S/2004/228, 2004, at paragraph 45.

TRC POLICY AND METHODOLOGY

16. The TRC in Sierra Leone boldly confronted the task of dealing with its special mandate in respect of sexual violence by formulating policy and determining a methodology to reach as many women and girls as possible in order that their experiences could be documented. In formulating policy, the Commission was driven by several imperative needs: to protect the victims; to engender an atmosphere of trust in the Commission; to observe issues of confidentiality; to create a safe environment for women; and to ensure that women and girls would not be “retraumatised” or “revictimised” in the process.
17. The Commission decided, at the outset, that women, particularly those who had suffered rape and sexual violence, should make their statements to women statement-takers who would be trained specifically to deal with accounts involving rape and sexual violence. The Commission also decided that women themselves should have the option of deciding whether their statements should be regarded as confidential in terms of the provisions of the Act.
18. Once policy was formulated in respect of women and girls, the Commission had to consider how to implement this policy in the various aspects of its operations: raising awareness of the Commission’s mandate; statement-taking; hearings; report writing; findings; reparations; and recommendations.
19. In the “barray phase” – when Commissioners and staff held public meetings in local “barrays”, which are equivalent to town halls – the TRC reached out especially to women, women’s groups and agencies dealing with women, sensitising them to the aims and objectives of the Commission’s work. The Commission made it clear that it intended to “mainstream” gender in all its activities, that it would deliberately recruit women to be trained as statement takers and that it would welcome suggestions and assistance from agencies dealing with women and girls. At the outset, the Commission made an effort to recruit women into senior staff positions. In addition, it ensured that more than 40% of the statement-takers were women.
20. The Commission arranged for the training of all statement-takers on issues of rape and sexual violence, as well as helping them to cope with trauma. Two training sessions dedicated to this purpose took place in Bo and Kenema. In order to prepare the statement-takers as comprehensively as possible, the Commission also provided guidelines on how to deal with women who had suffered sexual abuse. In summary, these guidelines directed statement-takers to ensure the following conditions:
 - i. That statement-taking should always be on a one-to-one basis;
 - ii. That the presence of husbands and fathers should be discouraged during statement taking, unless insisted upon by the statement-giver; and
 - iii. That as a rule of thumb, when dealing issues of rape and sexual violence, female statement takers should take the statements. This policy did not preclude a preference being expressed by statement-giver that she was willing to make her statement to a male statement-taker.

21. The Commission trained its statement-takers to explain to women who were victims of sexual violence that they should be asked whether or not they would be willing to appear at a TRC hearing. The Commission also made it clear that if a woman preferred, she could appear at a closed hearing to give her testimony. The Commission advised that women should at all times be at liberty to choose for themselves the circumstances in which they testified.
22. Once training had taken place, the TRC embarked upon a pilot phase in December 2002, which saw statement-takers deployed to the various regions. The Commission was pleasantly surprised to discover that women and girls had come out in large numbers to participate in the statement-taking process during the pilot phase. At that early stage, however, women ex-combatants did not turn out in large numbers.
23. While the Commission held public hearings for all witnesses who chose to participate, including women who had suffered violations that were not sexual in nature, it was also decided that there should be special hearings for women and girls who had been sexually violated. These special hearings were "closed", which meant that members of the public were not allowed into the hearings venue. Accordingly, the Commission adopted a special hearings procedure.
24. The Commission decided that these hearings would be held *in camera* and would be presided over and attended only by female Commissioners and staff. The Commission through its reconciliation unit provided trained counsellors who would brief and debrief the women and girls who appeared at these special hearings. These counsellors also met with witnesses before their appearances at other hearings. The counsellors and staff members responsible for the hearings would go through the statements previously given by the witness to refresh the memory and ensure consistency.
25. Counsellors would also sit beside witnesses while they were giving testimony and provide assistance to them if they needed it. Immediately after each hearing, the counsellors would debrief and counsel each witness. Women Commissioners would explain to the women and girls who were to testify about what the process entailed and why their testimony was needed. They would then attempt to draw out the totality of each witness' experiences. If witnesses lost their composure or broke down completely, the Commissioners would assess the situation and would either adjourn the hearing to allow the witness to regain composure or counsel them until they indicated that they were ready to resume their testimony.
26. The Commission was intent on ensuring that victims would be treated with respect and dignity during hearings. Witnesses who appeared during the closed hearings were provided with food, drink and medical assistance whenever they needed it. They were also provided with transport to and from the hearings venues and, where necessary, overnight accommodation.

27. The Commission had expected that most women who were willing to testify would choose to do so *in camera*. Surprisingly this was not the case, particularly in the rural areas, where women wanted the community to hear their stories. Many women volunteered to testify in public. As far as girls under 18 years of age were concerned, the Commission employed a policy that all testimony would be given in camera and that mechanisms would be found to have this testimony heard without making identities public. Of course there were also many women who were content to make written statements only to the Commission and who chose not to appear before any hearings. Their statements were also of immense value to the Commission.
28. The TRC Legal and Reconciliation Unit worked quite intensively with witnesses and a number of counselling agencies in Sierra Leone. The unit provided witnesses with referrals to counselling agencies where appropriate. The reconciliation unit also ensured that follow-up sessions were provided by trained counsellors after the hearings. Counsellors visited the witnesses later in their homes and completed questionnaires that dealt with the impact and consequences of appearing before the Commission.
29. An event of great significance for the Commission was the session of Special Thematic Hearings on Women, which took place in Freetown from 22 to 24 May 2003. This session started with a march through some of the main streets in the city centre of Freetown, culminating at the hearings venue. The march was led by the Deputy Minister of the Ministry of Social Welfare, Gender and Children's Affairs, accompanied by staff of the Ministry, women activists, Commission staff, many women's organisations and hundreds of supporters. The Minister of Social Welfare, Gender and Children's Affairs, Dr. Shirley Gbujama, then formally opened the Special Hearings session.
30. During the TRC Special Thematic Hearings on Women, the Commission received submissions from a number of women's groups, UNIFEM and other donor agencies. Testimony was heard from women who had suffered sexual violations. The Commission was careful to protect the identities of the women who gave testimony. While both male and female Commissioners were present, it was only the women Commissioners who asked questions.

Partnership with UNIFEM

31. The Commission entered into an important partnership with the United Nations Development Fund for Women (UNIFEM), which led to the launch of the "Initiative for the Truth and Reconciliation Commission" under UNIFEM'S Peace and Security Programme. The initiative made available training for Commissioners, staff and UNIFEM's NGO partners. UNIFEM also assisted the NGO community to make submissions on issues affecting women.
32. UNIFEM became involved in mobilising women's groups in Sierra Leone to participate in the Commission's activities by making submissions to the Commission, assisting with the hearings, providing witnesses to the Commission and attending the hearings. UNIFEM also spearheaded the organisation of the march through Freetown and provided funding for some of the items used in the Special Hearings, including refreshments. UNIFEM provided two international gender consultants to assist the Commission and women's organisations both with writing the report and formulating the recommendations.

TRC



A large audience gathers at the YWCA Hall in Freetown for the session of TRC Special Thematic Hearings on Women from 22 to 24 May 2003.

Partnerships with women's organisations

33. The Commission was keen to establish a working relationship with all of the women's groups in Sierra Leone when it began its work. A number of consultations took place where issues affecting women were discussed, providing valuable input for the Commission's work. Women's organisations also made an important contribution to the work of the Commission by calling upon the women of Sierra Leone to support its work.
34. The Commission is deeply grateful to UNIFEM, the Ministry of Social Welfare, Gender and Children's Affairs and to all the agencies and women's groups for their assistance in realising its mandate as set out in the founding Act.

THE STATUS OF WOMEN BEFORE THE CONFLICT

WOMEN AND EDUCATION

35. Culture and tradition in Sierra Leone have in the past prevented women, particularly women in the rural Provinces, from accessing education. The practice in rural societies within Sierra Leone, where most people live below the poverty line, is usually to favour the education of men and boys at the expense of women and girls. Such traditional favouritism of males led to a great disparity existing between men and women in education prior to the war.
36. The Analytical Report on the 1985 Census confirmed that in 1985, 91.5% of all females in Sierra Leone aged five years and older were regarded as illiterate. While the average illiteracy level for the whole country for females exceeded 90% in all the districts, Kambia and Koinadugu were the worst at 97.7%. The illiteracy level for females in the Western Area was the lowest, at 68.7%. The 1985 report also confirmed that out of a total of 1.32 million of females aged five years and older, 1.02 million and 0.01 million had completed primary and secondary school respectively.⁴
37. The National Action Plan for Development made an analysis of the 1984 GCE 'O' level results and found that out of 641 entrants, 25% were females.⁵ It also noted with dismay the high rate of female school dropouts. Reasons advanced for this state of affairs included the general lack of access to schools, as 80% of people lived in rural areas whilst most schools were concentrated in the urban areas. The Western Area, including Freetown, housed the majority of schools despite its relatively small area of territory and its residents therefore fared somewhat better than those in the rest of the country.

⁴ See Kandeh, H. B. S. and Ramachandran, K. V. (eds.); *The Analytical Report, 1985 Population and Housing Census for Sierra Leone, Freetown, Central Statistics Office, 1985*, at pages 7 – 14.

⁵ See *Partners in Adult Education Women's Commission (PWC); Female Self-Perceptions and Attitudes, Report on a Survey of Sierra Leonean Women aged 15 years and above; Freetown; Adult Education House; 1998*, at page 6.

38. The Government of Sierra Leone had not “mapped” its schools in the Provinces efficiently or appropriately, which resulted in the location and establishment of many schools far away from the most needy rural communities. The great distance that children had to travel from their homes to get to school discouraged many parents and guardians from sending their children and wards to school. Such reluctance appears to have affected the enrolment and attendance of girls more so than boys, which has contributed to the particularly low level of education of women in the regions.⁶
39. According to the Analytical Report on the 1985 Census, of the four major administrative regions, the North showed the lowest levels of school attendance, attainment and literacy in English. The statistics were accompanied by an observation that perhaps school education was relatively unattractive in the Northern Province, due in part to the perceived influence of Islam in the region.⁷
40. Cultural and economic factors are also cited as contributing factors to the low levels of educated women. The economic crisis that Sierra Leone experienced in the 1980s meant that as resources became scarce and priorities were set, most families chose to educate their males rather than their women and girls. This preference is common in many African societies, where families believe that by educating their men they will support their own kin, whereas by educating their women they will benefit the families those women marry into. Women and girls are usually kept at home to attend to household chores, which, for a large number of them, is also preparation for early marriage.
41. The historical prevalence of early and forced marriages in Sierra Leone has also played a role in the decisions of parents on whether to educate their girl children or withdraw them from school, further compounding the illiteracy level of women. The high levels of illiteracy among women in Sierra Leone before the war have greatly disadvantaged them, particularly in the public arena. Women have been unable to participate fully in many sectors of public life and therefore have never mustered enough power to change the lives or social status of women for themselves.
42. High levels of illiteracy have also had implications at a political level, where women and women’s issues have generally been relegated to the back burner. There has always been a great lack of awareness of the need for women to participate in issues affecting their lives, even among women themselves. It was therefore relatively easy for successive governments before the war to ignore issues affecting women and girls. The low level of female participation in formal education has had negative consequences in terms of economic viability, politics, health and social welfare level for women.

⁶ See Kandeh, H. B. S. and Ramachandran, K. V. (eds.); *The Analytical Report, 1985 Population and Housing Census for Sierra Leone*, Freetown, Central Statistics Office, 1985, at pages 7 – 14.

⁷ See Kandeh, H. B. S. and Ramachandran, K. V. (eds.); *The Analytical Report, 1985 Population and Housing Census for Sierra Leone*, Freetown, Central Statistics Office, 1985, at pages 7 – 14.

WOMEN AND POLITICS

43. A paradox exists in Sierra Leone in the realms of women and politics: some women have been political pioneers, whilst the vast majority have languished on the sidelines. This paradox has its origins in the history of how women in Sierra Leone became involved in politics. At the end of World War I, women of Krio origin, born in the Colony,⁸ made their voices heard in the political arena. At the same time, in the Protectorate, a few women wielded political power by becoming Paramount Chiefs or Section chiefs. In Freetown, women of Protectorate extraction, e.g. Mende and Temne, served and still serve as both Section and Tribal Headmen.⁹
44. The activities of those first, feisty women politicians in the Colony resulted in some landmark events. In 1938, Constance A. Cummings-John became the first woman to stand for office in Freetown in the municipal elections, which she went on to win.¹⁰ In 1951, the Sierra Leone Women's Movement (SLWM), a non-political representative organisation, was established. Its goals were "to improve the status of all Sierra Leonean women, whether born in the Colony or in the Protectorate, and to seek female representation on government bodies concerned with education, social welfare and the economy."¹¹ Due to the formation of this group, in 1954, one of the founding members, Mabel Dove, became the first woman in West Africa to be elected to the legislature.¹² The SLWM had a broad base of membership, with about 2,000 members from the Colony and about 3,000 from the Protectorate.¹³ The movement has been described as the only mass-based organisation in the 1950s that actively worked to unite all ethnic groups within its structure and to inculcate a common national identity among Sierra Leoneans.¹⁴
45. Women made real progress in the political arena, which resulted in some of them holding political office in the 1950s in Sierra Leone. In the process certain politicians made history that impacted on a world beyond Sierra Leone. In 1958, three women – Constance Cummings-John, Lena Weber and Stella Ralph-James – became members of the municipal council while, in 1960, one woman was elected Deputy Mayor of Freetown and another, Nancy Koroma, was elected Mende Headman in Freetown.¹⁵
46. Women personalities continued to make their voices heard on political issues in Freetown right through to the time of independence, despite the fact that the vast majority of women were excluded. In the 1957 election, despite the apathy shown by most women, four women did contest for election under the auspices of the SLPP and the two contesting seats in the Colony won.¹⁶ It is instructive to note that neither of these two women ultimately took up their seats in Parliament, due to election petitions filed against them.

⁸ The "Colony", or the "Crown Colony", was the name given to Freetown during colonial rule. The remainder of the territory of Sierra Leone was known as the "Protectorate".

⁹ See Denzer, LaRay, "Women in Freetown Politics 1914 – 1961, A Preliminary Study", in Last, M., Richards, P. and Fyfe, C. (eds.); *Sierra Leone 1787 -1987: Two Centuries of Intellectual Life*, Journal of the International African Institute, Volume 57, No. 4, 1987 (hereinafter "Denzer, *Women in Freetown Politics 1914 – 1961*", at page 451.

¹⁰ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 444.

¹¹ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 447.

¹² See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 447.

¹³ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 448.

¹⁴ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 448.

¹⁵ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 451.

¹⁶ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 450.

Nevertheless, the same election of 1957 saw the first and, eventually, the only woman to become a Member of Parliament in that term, Madam Ella Kblo Gulama, a Paramount Chief. She also became the first female Minister in Sierra Leone, although she was never in charge of any specific Ministry.¹⁷ Two women (Constance-Cummings-John and Etta Harris) were also made delegates to the constitutional talks that resulted in Sierra Leone's independence, having petitioned the then government against their exclusion from the talks. The petition, which was organised by the SLWM, resulted directly in the inclusion of women at the constitutional talks.¹⁸

47. Upon achieving independence, women were shocked when the men failed to share positions of power equitably. According to the historian LaRay Denzer:

“Naturally, [women] expected to reap the reward of their loyalty and service [by] obtaining party support for election and campaigning, appointments to decision making bodies and government committees, and reforms in discriminatory laws. Instead, they were shunted aside as male leaders monopolised the spoils of office. By and large, male leaders defaulted in their commitments to their female colleagues.”¹⁹

48. In spite of this kind of resistance, Cummings-John became the first black African woman to govern a capital city on the continent in 1961.²⁰ Alongside Cummings-John, notable women political leaders of this era included Adelaide Casely Hayford, Stella Thomas Marke, Edna S. Elliot-Horton, Lorine E. Miller, Lottie Black, Mabel Dove, Nancy Koroma and many others.
49. After independence and undeterred by the fractious political climate that ensued over the years, some women continued to forge on in politics, with interesting results. During the reign of the APC Government of Siaka Stevens, another women's organisation, the National Congress of Sierra Leone Women (NCSLW), headed by Nancy Steele, was formed based on a Marxist approach.²¹ This organisation enjoyed some measure of success but lost relevance as the APC became more and more distanced from the population and was eventually ousted from power.
50. Among its other accomplishments, the NCSLW raised the level of women's political consciousness and encouraged the appointment of women to high office. This continued momentum resulted in five women gaining office in Freetown City Council in 1975. In 1977, a woman again became the Mayor of Freetown.²² Also, from the Provinces, a woman Paramount Chief named Madam Honoria Bailor-Caulker represented Moyamba District in Parliament.²³

¹⁷ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 450.

¹⁸ See Denzer, La Ray; *Constance Cummings-John: Memoirs of a Krio Leader*, Sam Bookman, Ibadan, Nigeria, 1995 (hereinafter “*Cummings-John: Memoirs of a Krio Leader*”), at page 2.

¹⁹ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 450.

²⁰ See *Cummings-John: Memoirs of a Krio Leader*, at page 3.

²¹ See Denzer, *Women in Freetown Politics 1914 – 1961*, at page 451.

²² See *Cummings-John: Memoirs of a Krio Leader*, at page 66.

²³ See *Cummings-John: Memoirs of a Krio Leader*, at page 66.

51. Another women's organisation, the Women's Association for National Development (WAND), was established in 1987. A non-political movement, the stated main aim of WAND was:

"To ensure the participation of women in all aspects of the life of the nation."²⁴

52. During APC rule under Siaka Stevens, no woman held a Ministerial position, although women were members of the party's central committee. This situation improved slightly during President J. S. Momoh's tenure, with three women holding positions as Deputy Ministers.²⁵
53. While some women in Sierra Leone, especially the Krios, became deeply involved in politics quite early on in the post-independence period, it was much later that women from the Provinces were able to join the bandwagon. The Krios, on the whole, were better educated than those in the outlying areas and that disparity applied to Krio women as well. Their exposure to education led to their clear understanding of the need for women to be involved in the political process. Their links internationally meant that they were also exposed to the growing debates in the world on issues such as the suffrage of women, the abolition of slavery, the rise in African nationalism and the struggle for independence.
54. Women in Freetown had enjoyed access to various levels of education from as early as 1787. Their counterparts in the Provinces had access to only one secondary school, which was established in the 1940s. Women in the Provinces, mostly uneducated and affected by poverty, lacked awareness of their political rights and did not participate in any political activities. In short, women in the Colony enjoyed a head start on women in the Provinces in terms of both education and politics.
55. Tradition and culture also played its own role in inhibiting women in the Provinces from playing a role in politics. While it is true that women could be made Paramount Chiefs in some of the Provinces, their accession only took place on a hereditary basis. The prevailing system did not create any awareness of the need for women to participate in the political affairs of the day. Women in the Provinces have traditionally had a lower status than men and have not occupied any positions of genuine power other than those exceptions mentioned above. It was therefore much more difficult for women in the Provinces to break down traditional barriers and access political power as it would impact on the existing power structures in society.

²⁴ See *Cummings-John: Memoirs of a Krio Leader*, at page 67.

²⁵ Momoh Taziff Koroma, respected Sierra Leonean historian, anthropologist and linguistics lecturer, TRC interview conducted at TRC Headquarters, Freetown, 8 May 2003.

56. The Krios, descended from an “immigrant culture,” did not have any such entrenched traditional belief systems that barred women from political participation. The Krios had come to Freetown to express their desire for freedom in all spheres of life. The culture of independence that they brought with them facilitated the participation of Krio women in modern politics.
57. Ironically of course, the voices of Krio women did not translate into more power for women more generally, or a greater awareness of the needs of women. While women had some token representation in government from the time of the nationalist era to the outbreak of the war, women politicians constantly struggled against the indifference or the outright opposition of their male colleagues.²⁶ Even in the final deliberations for self-government, male leaders would have ignored them had the women not raised a public outcry. According to one of the foremost female political activists of the time:
- “This pattern of unthinking oversight [from men] occurred repeatedly. Many savvy women abandoned active political work once they realised the paucity of rewards.”²⁷
58. Such was the prevailing situation before the conflict. While politics all over the world is a male-dominated field at the best of times, undoubtedly the inherently patriarchal nature of politics has exacerbated the exclusion of women. Sierra Leone is of course no exception. The participation of women in politics on a mass scale in Sierra Leone was largely limited to the provision of moral support, the raising and collection of party funds, voluntary labour and the organisation of catering or entertainment in their various political parties. Women leaders were often lent the somewhat patronising sobriquet “Mammy Queen”, indicating their aptitude in stereotypically “maternal” roles.
59. Needless to say such activities did not improve the position of women. They were still relegated to background positions after elections and as such could neither wield power nor benefit from the government when eventually it was constituted. Given the low numbers of women in positions of power, the much-needed “critical mass” of women leaders who could have made a difference was non-existent.
60. In the Provinces a strong cultural belief existed that “women should be seen and not heard”. Of course, economics played a part in marginalising women. More importantly, though, attempts by women to agitate for political positions or to improve the quality of their lives were often thwarted because they were largely seen by the male members of society and by political parties as being in contradiction to the traditional role that women were expected to play.

²⁶ See *Cummings-John: Memoirs of a Krio Leader*, at pages 51 – 56.

²⁷ See *Cummings-John: Memoirs of a Krio Leader*, at pages 52 – 53.

THE LEGAL STATUS OF WOMEN

61. Throughout the history of Sierra Leone, including the post-independence period before the war, women have not enjoyed equal status with men. To a large extent, the laws of Sierra Leone are discriminatory against women. While Sierra Leone is governed by a constitution²⁸ that prohibits the promulgation of discriminatory laws, women are not protected in the areas that affect them most, such as marriage, divorce and inheritance.
62. Examples abound of discriminatory laws: for example, the Matrimonial Causes Act 1960, which covers divorce and maintenance for married women; the Administration of Estates Act, which governs inheritance and the distribution of a deceased's estates; or the Citizenship Act 1973, which allows a Sierra Leonean husband to confer Sierra Leonean citizenship on his foreign wife, children and grandchildren but does not permit a Sierra Leonean wife to do likewise. The laws cited here were all originally adopted from English law. The cruel injustice is that they have long since been repealed in England and persist only in the Sierra Leonean legal system, to the great detriment of the country's women.
63. The absence of progressive legal reform in Sierra Leone has resulted in the continued application of discriminatory laws and leaves women largely unprotected. Rape continues to go largely unpunished. Legislation is necessary to protect women adequately from all forms of violence, particularly domestic and sexual violence.
64. Customary law, which is largely unwritten and applies to the majority of the population, also discriminates against women, precluding them from enjoying equal status or rights with men. In the area of inheritance, traditional customary law regards women as "chattels" to be inherited. In other areas, women are regarded as minors in need of guardianship from a male family member. While the law provides that the application of customary law should not offend the principles of equity, natural justice or fairness, its application and impact on women is usually unfair.
65. In the sphere of marriage, women have been denied equal rights with their spouses. Their subordination does not change on termination of marriage. Historically, laws did not provide a minimum age for marriage that was universally applied throughout the country and did not preclude the common practice of early marriage. Unequal power relations between spouses characterised marital relationships to the detriment of women. The contributions women made towards the family were scarcely taken into account during the marriage or at its termination.
66. Although women have provided the bulk of the agricultural labour force, they have never owned land and whatever user rights they had under the land tenure system were lost upon the death of their husbands. Such user rights are vulnerable during war and even more so when reconstruction begins in the post-conflict period. Land ownership is a necessary means of generating wealth for women, since land can act as collateral when seeking loans from commercial banks. Women's lack of economic power contributes to their vulnerability and to the "feminisation" of poverty.

²⁸ See the *Constitution of Sierra Leone 1991*.

TRC



Commission staff join civil society groups to march through the streets of Freetown before the TRC Special Thematic Hearings on Women.

THE ECONOMIC STATUS OF WOMEN

67. Economic opportunities for women in general were at best limited prior to the war, given that the persistent economic decline from the 1960s affected every Sierra Leonean irrespective of gender. According to a report from the Ministry of Social Welfare, Gender and Children's Affairs in 1996, the country's performance had been one of long-term decline. Between 1965 and 1973 Sierra Leone registered an annual average real growth rate of over 4%, which declined gradually to 1.8% between 1974 and 1984. From 1984 onwards, the growth rate became negative until 1994, when it registered at 2%. Only in 1995 did growth briefly leap up to 10%.²⁹
68. Contemporary studies indicate that women bear the impact of an economic crisis more than men do.³⁰ The inevitable rise in unemployment generally puts already marginalised women at a great disadvantage. Austerity measures result in fewer resources and usually translate into increased workload for women so as to garner more resources. Such a situation does not allow room for gender equality or improved conditions, as women are primarily engaged in the struggle for survival. Hence the phenomenon known as the "feminisation" of poverty. It has an especially stark impact on women in the rural areas.
69. Women before the war constituted the majority of the rural labour force. They made vital contributions to the economy. They have always played a substantial role in the sustenance of the family. Women provided more than 60% of farm labour for food production, processing and distribution.³¹ It is indeed telling that while women were engaged in subsistence farming and provided the labour force for cash crop production, men had greater access to ownership and control of cash crop production.
70. Women have traditionally engaged in low-income activities such as petty trading. A Labour Force Survey conducted in 1988 and 1989 revealed that 69% of petty traders were women, whereas 86% and 67% of men were service personnel and professional / technical workers respectively.³² While many worked as traders, women did not record substantial growth in their economic activities as a result of inadequate skills, low educational status, low economic power and lack of access to substantial credit facilities and property. The disparity between the economic status of women and men has often resulted in economic dependency by women. Women become overly reliant on men for the provision of their needs. In many instances, men exploit this dependency to consolidate control over women, thus further perpetuating their poverty.

²⁹ See Ministry of Gender and Children's Affairs, *Country Report on Sierra Leone*, submitted to the "World Congress on Commercial Sex Exploitation of Children", 22 August 1996, at page 1.

³⁰ Partners in Adult Education Women's Commission; *Female Self-Perception and Attitudes, Report of a Survey of Sierra Leonean Women 15 years and above*; Freetown; 1998, at page 7.

³¹ See Women's Forum, Sierra Leone, Submission to the Truth and Reconciliation, May 2003 (hereinafter "Women's Forum submission to TRC"), at page 2.

³² See Women's Forum submission to TRC, at page 2.

WOMEN AND HEALTH

71. Before the onset of the war, less than half of the population had access to basic health services.³³ This travesty was attributed mainly to the unfavourable economic climate that Sierra Leone was experiencing. The cuts in spending in areas such as health and education invariably affected women disproportionately. According to a submission to the TRC from a group of women's NGOs,³⁴ decreases in public health spending and, in some cases, structural adjustment contributed to the deterioration of public health systems. The submission further stated that privatisation of health-care systems without appropriate guarantees of universal access to affordable health care, further reduced health-care availability. Women have long experienced unequal access to basic health services as well as different and unequal opportunities for the protection, promotion and maintenance of their health.
72. In the face of this plight, the Pan African Women's Association (PAWA) Sierra Leone used the platform of International Women's Day in 1992 to complain about the hardships women were enduring under the Structural Adjustment Programme.³⁵ They cited limited access to health-care facilities, especially in the rural areas, as well as the exorbitant costs attached to what little health care was available.
73. Due to early and forced marriages in Sierra Leone, early sexual activity was commonplace. Many young girls therefore started child bearing early and were exposed to risks and complications arising out of early pregnancy and childbirth.³⁶ Coupled with high illiteracy levels and a lack of awareness, these women and girls could not access adequate healthcare for themselves in such circumstances.
74. Traditional practices also impacted on the health of women in the period before the war. Practices such as venerating women because of their child-bearing capacities and encouraging them to increase the number of children they bear have put their health at risk so as to satisfy societal standards. The status of a woman is enhanced by motherhood, which pressurises many women into frequent child bearing, complete with its attendant health problems. Tradition and culture have also prohibited women from enjoying reproductive and sexual rights often through a lack of awareness of these rights. In those instances where they do know of them, they are not able to exercise them. Women do not have the power or the choice to refuse sex. They have no control, in most instances, over their bodies.
75. Escalating poverty, coupled with cultural practices such as giving the most nutritious part of the food to the man,³⁷ resulted in poor intake of nutrients for women, jeopardising their health and their ability to bear healthy children.

³³ See Women's NGO Coalition; Submission to the TRC Special Thematic Hearings on Women; Freetown, May 2003 (hereinafter "Women's NGO Coalition submission to TRC"), at page 10.

³⁴ See Women's NGO Coalition submission to TRC, at page 4.

³⁵ See Partners in Adult Education Women's Commission; *Female Self-Perceptions and Attitudes Report of a Survey of Sierra Leonean Women 15 years and above*, Freetown, 1998; at page 8.

³⁶ See Planned Parenthood Association of Sierra Leone, Submission to the Truth and Reconciliation Commission, June 2003 (hereinafter "Planned Parenthood Association submission to TRC"), at page 1.

³⁷ Momoh Taziff Koroma, respected Sierra Leonean historian, anthropologist and linguistics lecturer, TRC interview conducted at TRC Headquarters, Freetown, 8 May 2003.

76. The dismal economic situation, poor medical facilities and lack of access to the few existing health facilities put women at risk even before the war started. This situation was only to be compounded during the war years.

THE SOCIO-CULTURAL STATUS OF WOMEN

77. Cultural practices and traditional beliefs relating to women have “socialised” some Sierra Leoneans into stereotyping the role of women. The effects of “socialisation” on perceptions of gender identity and roles are of great significance because they continue to impact on behaviour throughout one’s life, including in the way that one interacts with the opposite sex. The outcomes of the socialisation process are exhibited in the attitudes and behaviour of members of society in all aspects of life including gender identity and roles.
78. In this regard, the social and cultural factors that have determined societal perceptions and attitudes towards women in Sierra Leone can be examined against the background of the violations they have suffered.

Socio-cultural mores

79. Sierra Leone society is made up of seventeen different tribes or ethnic groups, who mainly follow the Islamic faith and indigenous belief systems. The country also has a significant Christian population.³⁸ Given the predominance of Islam, the Islamic way of life generally colours people’s social or cultural mores. This is particularly true for the ethnic groups located in the northern part of the country, where the adherents of indigenous religions equally bring their own belief systems, which before the advent of Islam and Christianity were the dominant belief systems of the people.
80. Sierra Leone’s social and cultural mores are a blend of Traditional or Indigenous, Islamic and Christian belief systems, all being buffeted by a Western value system. Many of these cultural beliefs are examined in order to understand how women are treated in Sierra Leone in certain circumstances and to determine whether any such treatment had correlation to the conflict.

Considerations of women’s sexuality

81. Virginity is revered across ethnic lines³⁹ and is of considerable importance for a woman and her family. Virginity was used to determine the status of not only a mother and her daughter but also that of the family. If a girl was found not to be a virgin, the shame fell on her mother and ultimately her family as her behaviour was thought to be a measure of the extent to which the prevailing social mores had been instilled in her.⁴⁰ Thus the virginity of a woman “belonged” to the family and constituted the honour of the family.

³⁸ Statistics provided by the US State Department indicate that up to 30% of Sierra Leoneans are Christians. According to State Department reports, the rough breakdown of the population according to religion is as follows: Muslim 60%, Christian 30% and Animist 10%. More detail can be found at the following website: <http://www.state.gov/rpa/ei/bqa/5475.htm>.

³⁹ See TRC interviews with local social and anthropological commentators, including Alie Kamara, Abdul Sesay and Radcliffe Williams, Freetown, 2 May to 8 June 2003. See also Momoh Taziff Koroma, TRC interview conducted at TRC Headquarters, Freetown, 8 May 2003.

⁴⁰ Bondu Manyeh, psychosocial counsellor and member of several women’s groups in Sierra Leone, TRC interview conducted at TRC Headquarters, Freetown, 16 June 2003.

Consequently, a woman's sexuality rested on her being a virgin until marriage. In many of the ethnic groups in Sierra Leone, the honour of the family "name" rested on the issue of virginity.⁴¹

82. In some cultures in Sierra Leone, a woman's sexuality was linked to her association to a man. In the Mende worldview, for example, every woman must be affiliated to a man if she is to find acceptance in the community. This insistence is rooted in the belief that a woman's prayer goes to God through a man. Consequently, a woman without a man is not considered to be "complete" by other members of the community.⁴²
83. Today, the values around virginity have changed somewhat and no longer carry as much significance as they did in the past. It can be argued that a new value system has emerged. Women are no longer beholden to their communities and families to uphold their chastity. Ironically, virginity has become a casualty of war due to the atrocities women suffered in the conflict.

Appropriate ages for marriage and sex

84. For women and girls, there is no official age for marriage in Sierra Leone. Traditionally among some ethnic groups, a girl is considered of marriageable age when she has attained puberty (i.e. she has developed breasts and started menstruating) and has been initiated into the women's secret society. Therefore girls as young as twelve, providing they met these conditions, were eligible for marriage. The entrenched nature of tradition helps to explain why early marriages were and still are practised routinely by some ethnic groups in the country.⁴³ Today though, some women and girls make their own decisions concerning marriage and sex independently.
85. The abductions and use of young girls and women as bush wives and sex slaves by armed groups during the war could be attributed to the traditional beliefs that governed this issue prior to the war. Some of the armed groups did not consider it an aberration to rape young women or use them as sex slaves. A testimony to the Commission from a girl child who went fishing with other children and was captured during the conflict illustrates this point:

"I was a small girl and could hardly recall or have the experience of what was going on around me at that time... Unfortunately I and my sister were captured. At Mende Boima, I remained to be under the guardianship of Morrie Sellu who later sponsored my initiation into the Bondo society. He turned me into his wife afterwards..."⁴⁴
86. It is useful for several reasons to examine how Sierra Leonean society has traditionally dealt with sexual offences.

⁴¹ Ibrahim Bah, Sierra Leonean social commentator, TRC interview in Freetown, 11 June 2003.

⁴² Momoh Taziff Koroma, respected Sierra Leonean historian, anthropologist and linguistics lecturer, TRC interview conducted at TRC Headquarters, Freetown, 8 May 2003.

⁴³ Alie Kamara, Sierra Leonean social commentator, TRC interview in Freetown, 2 May 2003.

⁴⁴ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

Dealing with rape and other acts of sexual violence

87. Sexual offences in Sierra Leone are usually dealt with by recourse to traditional means of resolution, or occasionally legal channels. Certain figures in the affected community, such as chiefs, community elders, relatives and family members, typically come together to form a dispute resolution group.
88. One mechanism available is the use of fines. Among the Mende, Temne, Limba, Kono, Mandingo, Kissi, Loko, Sherbro and Koranko ethnic groups, the levying of fines on male culprits is one of the primary means of addressing sexual offences.⁴⁵ If the woman victim is married, the fine imposed on the male culprit is known as “woman damage” among the Temne and Loko.⁴⁶
89. Another means of resolution is the resort to physical punishment, whereby a culprit is beaten in retribution. The Fullah, Mandingo and Susu ethnic groups practice such punishments.⁴⁷ In the case of the Mandingos, the culprit is tied up even as adjudication is in progress.⁴⁸
90. Marriage between the man and the woman is another means through which some ethnic groups deal with sexual offences, especially if the offence is rape. The Fullah and Mandingo groups are known to conduct such marriages.⁴⁹ It is important to reiterate that the marriage in question is imposed or forced.
91. Another method of addressing sexual offences is by performing purification rites. The Kono and Yalunka are among the tribes that perform purification rites, which are seen as an act of “cleansing” the sexual offence committed.⁵⁰
92. Legal channels require that the perpetrator of a sexual offence is reported to the police for investigation and possible prosecution. In many instances, the matter is “settled” by the police without referred to court.
93. Aside from traditional or legal means, religious leaders are also known to adjudicate in such matters. The Creoles and Sherbros sometimes call upon their religious figureheads to intervene in dealing with sexual offences.⁵¹
94. All of these solutions depend on the acts of sexual violence having been “publicly” declared. In a society where silence around sexual violence holds sway, the notion of a “public declaration” is problematic. In addition, fear of shame, ostracisation, stigma, bureaucracy the disappearance of witnesses and a lack of financial capacity to take a case forward all militate against the victim making the violation known publicly. Hence out-of-court settlements are common. A pervasive “culture of silence” around rape and other acts of sexual violence tends to discourage women and girls from coming forward.

⁴⁵ See Manifesto '99; “*Traditional Methods of Conflict Management / Resolution of Possible Complementary Value to the Proposed Sierra Leone Truth and Reconciliation Commission*”; report presented to the TRC, Freetown, July 2002 (hereinafter “Manifesto '99, *Traditional Methods of Conflict Management / Resolution*”), at pages 33 and 34.

⁴⁶ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at pages 33 – 34.

⁴⁷ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at page 35.

⁴⁸ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at page 34.

⁴⁹ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at pages 33 – 34.

⁵⁰ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at pages 33 – 34.

⁵¹ See Manifesto '99, *Traditional Methods of Conflict Management / Resolution*, at page 34.

95. Despite the existence of a number of mechanisms to address sexual violations, most of them continue to go unreported or undeclared. In addition to the culture of silence there has emerged a culture of impunity, which enabled the armed groups to sexually violate women during the conflict with no thought or fear of accountability. Society's reaction to sexual violations is generally lukewarm and rather passive. It remains to be seen whether there will be successful prosecutions of those who have committed rape and other acts of sexual violence during the conflict.

Dealing with violence at the level of the family

96. Violent behaviour within the family in Sierra Leone is usually also surrounded by a "culture of silence". Displays of violence in the family are considered "normal", at least up to a particular "point". The determination of that "point" is interpreted idiosyncratically – only if and when the "point" is passed can intervention be expected. Most interventions still emanate from within the community, employing mediation most of the time to address the offending behaviour and its implications.
97. It is generally considered an aberration by the wider society to involve "outside parties", such as the police or social welfare services, in mediation sessions. Violence in the family is considered a private problem and more often than not people are encouraged to settle the dispute in-house, or with adjudicating bodies, even when these matters are taken to "official" establishments.⁵² Acts of assault are rarely dealt with by courts and are usually resolved by the agencies or persons involved.

The chastisement of wives and / or members of their families

98. Amongst all ethnic groups in Sierra Leone, it is accepted practice for husbands to chastise or beat their wives or female relatives. Under customary law, a husband has the right to "reasonably chastise his wife by physical force".⁵³ Tellingly, significant numbers of women believe that it is appropriate for men to beat their wives. During a study of gender-based violence by the NGO Physicians for Human Rights, more than half of the women interviewed agreed with the view that a man has the right to beat his wife.⁵⁴

⁵² The term "official" here is intended to denote the police or social welfare authorities. At the time of writing, the newly created Family Support Unit of the Police is the body with the primary brief to adjudicate over cases of domestic violence.

⁵³ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 152.

⁵⁴ See Physicians for Human Rights; *War-Related Sexual Violence in Sierra Leone: A population-based survey*; report produced by an NGO based in Washington, DC, January 2002 (hereinafter "Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*"), at page 9. The report sampled 1,048 households in three IDP camps and one community with a large number of IDPs. A total of 991 female heads of household participated in the study.

How has Sierra Leonean society responded to domestic violence in the past?

99. While it is customary for a man to be able to beat his wife or daughter, it is not acceptable for such an act to become habitual. It is generally agreed among ethnic groups that an overtly violent man is abhorrent.⁵⁵ In the past, different ethnic groups had developed ways and means of dealing with such a person. Responses could range from moral persuasion, the levying of a fine, or a warning, which could be both public and private, to the offender being asked to leave the community.⁵⁶ Amongst the Krios, pressure could be put on the person, through such institutions as “lodge societies” (fraternal societies) of which the person was a member, or the church. Peer pressure also played its role in reining in such a person.⁵⁷ As noted above, it has been common for a culture of silence to prevail in respect of domestic violence in Sierra Leone, as it is considered undue interference when “outsiders” attempt to intervene. It is only when such behaviour becomes “uncontrollable” that an intervention is seen as unavoidable and some remedying action takes place.
100. According to Rehn and Sirleaf⁵⁸, the extreme violence that women suffer during conflict does not arise solely out of the conditions of war, but is directly linked to the violence that exists in women’s lives during peacetime in the society in question. The authors state that “throughout the world, women experience violence because they are women.”⁵⁹ They mostly attribute this situation to women’s lack of political rights and authority. They conclude by stating that:
- “Because so much of this persecution goes largely unpunished, violence against women comes to be an accepted norm, one which escalates during conflict as violence in general increases.”⁶⁰
101. Domestic violence as well as sexual violence is usually condoned or tolerated particularly in traditional societies. This is usually because of unequal power relations. In addition, conditioned by culture and status to be subservient to men, some African women especially the rural and poor ones have less safety mechanisms to combat violence leading to an acceptance of violence in the society.
102. A contributory factor is the ingrained perception held by many African women that complaining to persons or authorities may lead to the exposure of “family secrets”. This perpetuates the culture of silence around domestic and sexual violence. During conflict periods the usual safety mechanisms no longer function and violence spirals out of control. It has a direct effect on women and girls who bear the brunt of it.

⁵⁵ See TRC interviews with local social and anthropological commentators, including Alie Kamara, Sheku Kanu, Memunatu Turay and Radcliffe Williams, Freetown, 2 May to 8 June 2003. See also Bondu Manyeh, psychosocial counsellor and member of several women’s groups in Sierra Leone, TRC interview conducted at TRC Headquarters, Freetown, 16 June 2003.

⁵⁶ See TRC interviews with local social and anthropological commentators, *Ibid.*, May to June 2003.

⁵⁷ See TRC interviews with Emily King and Alfred Thompson, Freetown, 17 and 18 June 2003.

⁵⁸ See Rehn, E. and Johnson Sirleaf, E.; “*Progress of the World’s Women, 2003*”, *Volume 1: Women, War and Peace – The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building*”, United Nations Development Fund for Women; New York; 2002 (hereinafter “Rehn and Sirleaf, *Women, War and Peace*”), at page 13.

⁵⁹ See Rehn and Sirleaf, *Women, War and Peace*, at page 13.

⁶⁰ See Rehn and Sirleaf, *Women, War and Peace*, at page 13.

TRC



Dr. Shirley Gbujama, Minister for Social Welfare, Gender and Children's Affairs, leaves the podium after testifying at the TRC public hearings on women in Freetown.

103. The prevalence of an existing culture of violence in Sierra Leonean society and the silence that surrounds it may explain in part the brutality experienced by women during the conflict period. If violence existed against women at a time when there were some, albeit insufficient safeguards for women in place, the moment they were removed, the level of violence escalated. The contempt in which women were held prior to the conflict also exacerbated the way they were treated during the war. A report concluded in Freetown in 1998 found a correlation between the culture of condoning domestic violence in Sierra Leone and the prevalence of violence in general. In one of its conclusions the report stated that:

“It is perhaps not surprising that a culture that has spawned such apparently high rates of war-related sexual violence also suffers from high rates of domestic partner abuse.”⁶¹

104. It is clear that women did not enjoy a high status in Sierra Leonean society before the war. Regrettably, the subordination of women has not changed up to the present day. It is a prognosis corroborated by Dr. Shirley Gbujama, the Minister of Social Welfare, Gender and Children Affairs, speaking in Freetown in October 2003:

“The low status of women is steeped in deep cultural tradition. In traditional Sierra Leonean society, the wife and children are at the mercy of the family. Women have little control or influence over decision-making. Certain socio-cultural practices provide the leading cause of gender disparity and the inferior status of women as evidenced by [such factors as]: high fertility rates; high infant and child mortality rates; high adult female illiteracy rates; exclusion of women from receiving certain services and instruments in rural areas such as land, extension services, credit and farm inputs; and the disproportionate amount of the workload in agriculture (estimated at 60-80%) allocated to women.”⁶²

⁶¹ Coker A. and Richter D.; “*Violence Against Women in Sierra Leone: Frequency and Correlates of Intimate Partner Violence and Forced Sexual Intercourse*”, in *Africa Journal of Reproductive Health*, Vol. 2, No.1, 1998, at page 65.

⁶² Gbujama, Honourable S. Y., Minister of Social Welfare, Gender and Children’s Affairs; “*Gender Mainstreaming: Sierra Leone Poverty Reduction Strategy 2004-2006*”; 9 October 2003, at page 2.

NATIONAL AND INTERNATIONAL LAW PERTAINING TO WOMEN IN SIERRA LEONE

WOMEN AND NATIONAL LAW IN SIERRA LEONE

105. The following section explores the national laws in Sierra Leone that impact on the rights of women, as well as the relevant international law. The Commission sets out to review whether the existing legal regime has a positive or negative effect on the rights and lives of women and girls.

The 1991 Constitution

106. The laws of Sierra Leone, as defined in Section 170 of the 1991 Constitution, comprise the Constitution itself, along with laws made by or under the authority of Parliament, statutory instruments, the existing law and the common law. The common law includes the English common law and customary law. Customary law, which is largely unwritten, means those rules and regulations that are applicable by custom to particular communities in Sierra Leone.⁶³ Customary law is also defined as any rule, other than a rule of general law, having the force of law in any chieftom of the Provinces.⁶⁴ The application of customary law must not be repugnant to equity, natural justice and good conscience.⁶⁵
107. Chapter II of the 1991 Constitution details the fundamental principles of State Policy one of which is safeguarding the rights of vulnerable groups such as women.⁶⁶ The fundamental principles however do not confer any legal rights and are not enforceable in any court of law.⁶⁷ Notwithstanding the fact that they lack the force of law, they are fundamental in the governance of the State and Parliament is under a duty to apply them when making laws.⁶⁸
108. Section 15 of the Constitution provides for a bill of rights guaranteeing fundamental human rights and freedoms of the individual irrespective of sex.⁶⁹ This provision represents an important guarantee and should, appropriately understood, be a basis for challenging laws that discriminate against women.

⁶³ See the *Constitution of Sierra Leone 1991*, at Section 170.

⁶⁴ See the *Local Courts Act 1963*, Act No. 20 of 1963, in the Laws of Sierra Leone, at Section 2.

⁶⁵ See the *Courts Act 1965*, in the Laws of Sierra Leone, at Section 75.

⁶⁶ See the *Constitution of Sierra Leone 1991*, at Section 9(1)(a) and (b).

⁶⁷ See the *Constitution of Sierra Leone 1991*, at Section 14.

⁶⁸ See the *Constitution of Sierra Leone 1991*, at Section 14.

⁶⁹ The *Constitution of Sierra Leone 1991*, at Section 15, provides as follows: "Whereas every person in Sierra Leone is entitled to the fundamental human rights and freedom of the individual, that is to say has the rights, whatever his race, tribe, place of origin, political opinion, colour, creed, or sex, but subject to respect for the rights and freedom of others and for the public interest, to each and all of the following:

- (a) life, liberty, security of person, the enjoyment of property, and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association;
- (c) respect for private and family life; and
- (d) protection from deprivation of property without compensation;

the subsequent provision of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others, or the public interest."

Furthermore, Section 27 of the Constitution provides that no law shall contain any provision that is discriminatory, either of itself or by its effect, and prohibits discriminatory treatment by any person acting by virtue of any law or in the performance of the functions of any public authority. Section 171(15) of the Constitution provides that the Constitution shall be the supreme law and that any other law found to be inconsistent with any provision of the Constitution shall, to the extent of the inconsistency, be void and of no effect.

109. The Constitution however nullifies much of the promise of the equality provisions in Section 27(4)(d) by making an exception to the prohibition of discriminatory laws with respect to laws dealing with marriage, divorce, inheritance, or other interests of personal law.⁷⁰ The effect of these exceptions is to shield the laws that apply throughout Sierra Leone that most discriminate either of themselves, or in their effects, or both, against women. Consequently, all of the most significant laws that are discriminatory against women still apply, rendering the equality provision in Section 15 seriously flawed and ineffective.
110. In addition, by prohibiting discrimination by persons in the public sector only, the Constitution appears to permit persons in the private sector to pursue discriminatory policies against women in important areas of their lives, including employment and promotion. With regard to the area of protection from violence, Section 15(a) of the Constitution provides for the right to life, liberty and security of person, while Section 20 provides that no person shall be subject to any form of torture or punishment or other inhuman or degrading treatment. These express constitutional provisions ought to provide a basis for the Government to protect and promote the rights of women to be free from violence and ensure that its laws, policies and programmes reflect these provisions in practical terms.

⁷⁰ The *Constitution of Sierra Leone 1991*, at Section 27, provides as follows:

(1) Subject to the provision of sub-section (4), (5) and (7), no law shall make provision which is discriminatory either of itself or in its effect.

(2) Subject to the provision of sub-sections (6),(7) and (8) no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the function of any public office or any public authority.

(3) In this section the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) shall not apply to any law so far as the law makes provision:

... (c) with respect to persons who are not citizens of Sierra Leone; or

(d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other interest of personal law; or

(e) for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or

...(g) whereby persons of any such description as mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society

(h) for the limitation of citizenship or relating to national registration or to the collection of demographic statistics

111. While the Constitution prohibits specific discrimination based on sex, there are certain exceptions or “claw back” clauses that particularly affect women. Section 27(3) defines discrimination as follows:

“In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.”

112. The definition of discrimination includes “according privileges or advantages, which are not accorded to persons of another description”. This definition poses a serious challenge to women: on the one hand, they may challenge laws that discriminate against them because their male counterparts are not subject to the same laws; on the other, they do not appear to have the means to redress the historical legacies of gender imbalance on the same basis.
113. Paradoxically, the Constitution outlaws positive discrimination or affirmative action that may sometimes be necessary for the achievement of equality for all individuals, especially women. Section 27(4)(g),⁷¹ which appears to include affirmative action, is vague and remains to be tested or brought for interpretation in the Supreme Court. Constitutional provisions that readily allow laws, measures or policies temporary or otherwise are very necessary as a basis to redress the historical imbalance that exists in the society. Examples of such provisions can be found in other African constitutions.⁷²
114. Notwithstanding the equality provision in the 1991 Constitution, the majority of women in Sierra Leone do not enjoy equal status with their male counterparts. Aspects of statutory laws grounded primarily in English law adopted in Sierra Leone and influenced to a great extent by customary and Mohamedan law are still discriminatory against women.
115. Customary law, as practiced in certain communities, clearly discriminates against the interests of women in areas such as marriage, inheritance, property rights and political participation. These laws and practices are a challenge for the enjoyment of women's rights, their advancement in the family and contribution to the political, economic and social development in Sierra Leone. Women are the victims of many forms of violence, yet the legal system does not provide adequate remedies to protect women and punish their violators. Traditional and cultural mores perpetuate gender stereotyping and greatly impact on the legal framework and practice relating to women.

⁷¹ See the *Constitution of Sierra Leone 1991*, at Section 27(4)(g).

⁷² See the *Constitution of the Republic of Ghana*, Ghana Publishing Corporation, 1992, as follows: “Section 17(4)(a): Nothing in this article shall prevent Parliament from enacting laws that are reasonably necessary to provide... [for] the implementation of policies and programmes aimed at redressing social, economic or educational imbalance in the Ghanaian society.” Furthermore, see the *Constitution of the Republic of South Africa, 1996*, Act 108 of 1996, which provides as follows: “Section 9(2): Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.”

Different marriage systems applicable in Sierra Leone

116. There are four types of marriage systems in Sierra Leone: Christian marriage,⁷³ Civil Marriage,⁷⁴ Mohamedan Marriage,⁷⁵ and Customary Law marriage. The Christian civil marriage and the Mohamedan marriage are required to be recorded by the Registrar-General in Freetown. Elsewhere, local courts sometimes register customary marriages. Currently, no minimum age of marriage is applicable throughout Sierra Leone. Under Mohamedan and Customary laws, even girls below the age of ten may be given in marriage. Early marriage impacts negatively on a young woman's life by affecting her full development, particularly in terms of education, economic autonomy and physical and psychological health.

Women's reproductive health rights

117. The inferior status of most women, along with prevailing customs and traditions, makes it difficult for a woman freely to exercise her reproductive rights. There is barely any recognition for the right to plan one's family, the right to freedom from interference in reproductive decision-making, or the right to be free from all forms of violence, discrimination and coercion that affect a woman's sexual or reproductive life.
118. International treaties define the right to plan one's family as the right to determine freely and responsibly the number and spacing of one's children and to have the information and means necessary to do so. Governments are obliged to ensure that men and women have access to a full range of contraceptive choices and reproductive health services and that they have adequate information about sexual and reproductive health. These principles are linked to the right to life, liberty and security of the person and the right to privacy.⁷⁶
119. Maternal mortality is a deprivation of the right to life and Government has a responsibility to improve its health-care system so that women can enjoy safe motherhood. There is also a need for the enactment of laws relating to marital rape, which must include an offence of knowingly infecting a partner with HIV / AIDS. Presently in Sierra Leone, marital rape is not classified as a crime.

⁷³ See the *Christian Marriage Act Cap 96, Laws of Sierra Leone 1960*.

⁷⁴ See the *Civil Marriage Act Cap 97, Laws of Sierra Leone 1960*.

⁷⁵ See the *Mohamedan Marriage Act Cap 96, Laws of Sierra Leone 1960*.

⁷⁶ See the Centre for Reproductive Rights and University of Toronto, International Programme on Reproductive and Sexual Health Law; *"Bringing Rights to Bear An Analysis of the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights"*, Toronto, 2002, at page 16.

Women's rights to property and land ownership

120. Land ownership in the Western Area is based on English property laws from prior to 1925 and allows for individual ownership. In the Provinces, land ownership is governed by Chiefdom Councils and allows only for group ownership. Equal land ownership and inheritance laws and practices are necessary to achieve sustained development in any country. In post-war Sierra Leone, they are also essential for women's economic, social and political survival.⁷⁷ The argument for land ownership for women is not only one based on personal need, family security or national development; it is also a question of basic human rights.⁷⁸ Women can acquire land through purchase, but often lack resources to do so. Most landowners acquire land through inheritance, and because of discrimination in the laws of inheritance that apply throughout the country, far fewer women than men own land in Sierra Leone.

Inheritance rights

121. Inheritance rights become problematic where intestacy arises. While individuals can make a will under the different systems of personal law, in reality only a small fraction of the population make a will.⁷⁹ The individual's "personal law" governs inheritance in Sierra Leone. This is determined by a person's ethnic origins, as a "native" from the Provinces, or as a "non-native" from the Western Area, or as a Muslim and not by his place of current residence.⁸⁰ Inheritance is governed by three different sets of laws: customary law; Mohamedan law; and one set of statutes, which applies to persons who are not Mohammedans or whose personal law is not customary law. The inheritance rules of distribution discriminate against women under each of the three different laws.

The Administration Of Estate Act (Chapter 45 of the Laws Of Sierra Leone 1960)

122. The Second Schedule in the Administration of Estates Act provides for rules of distribution for the property of deceased persons, where customary law or Mohamedan laws do not apply. The Rules provide that, on the death of a wife, the husband is entitled to all of her property.⁸¹ On the death of a husband, the wife is entitled to one-third of the estate and the children are entitled to the remaining two-thirds of the estate.⁸² If the husband has no children, the wife will be entitled to half and the other half shall be divided among the husband's nearest relatives or next of kin.⁸³ The Act does not provide for unmarried couples living together to benefit from the estate of their respective partners.

⁷⁷ See King, Jamesina; "Women's Land Ownership and Property Rights in Sierra Leone", unpublished manuscript, Freetown, 2002 (hereinafter "King, *Women's Land Ownership and Property Rights*"), at pages 20 – 23.

⁷⁸ See King, *Women's Land Ownership and Property Rights*.

⁷⁹ See the *Wills Act 1837* and the *Mohammedan Amendment Act 1998*, at Section 2.

⁸⁰ See Lisk, I. E. P. and Williams, B. L.; "Marriage and Divorce Regulation and Recognition in Sierra Leone", 29 *Family Law Quarterly* 665 (1995).

⁸¹ See *Second Schedule of the Administration of Estates Act, Laws of Sierra Leone 1960*, Rule 1.

⁸² See *Second Schedule of the Administration of Estates Act, Laws of Sierra Leone 1960*, Rule 2.

⁸³ See *Second Schedule of the Administration of Estates Act, Laws of Sierra Leone 1960*, Rule 4.

Inheritance under customary law

123. The rules of inheritance under customary law vary from one ethnic group to another. Widows do not have inheritance rights in some ethnic groups; indeed some groups regard a widow as a chattel and part of the estate to be inherited by the deceased's elder brother, or in his absence his eldest son.⁸⁴ In Mende customary law a widow cannot inherit the husband's estate. In the case of *P. C. Bongay v Macaulay* (1920-26),⁸⁵ the court supported the position that a woman cannot have any interest in land as of right, or acquire land through her husband. This discrimination is quite anomalous, as the Mende women are allowed to become Chiefs and hold other leadership positions in society.
124. Similarly in Temne customary law, the widow is not entitled to any interest in the house where the married couple lived, although the husband's family may compensate a wife who has contributed towards the building of the house.⁸⁶ Under traditional customary law the husband inherited the deceased wife's entire property whether or not the deceased wife had any children. In modern times, the inheritance practice appears to be evolving to allow the wife to have a share of her husband's estate. Nonetheless, a son receives a larger share than the wife. Daughters also receive a lesser share than sons.⁸⁷

Inheritance under Islamic law

125. The property of a Muslim who dies without leaving a will is distributed according to the Holy Quran. Section 9(2) of the Muslim Marriage Act of the Laws of Sierra Leone 1960, provides that only the eldest son or eldest brother of the Official Administrator can take out letters of administration to administer the deceased estate. Wives, sisters and daughters i.e. the female members of the family are thereby deprived of a similar right to take out letters of administration to administer the deceased property. This is still the case even when the deceased is a woman and she is the sole owner of property.
126. While the Act makes no provision for the distribution of the estate of a deceased person, it does allow the Official Administrator who holds the letters of administration to consult the tribal headman of the deceased, to ascertain the law governing the distribution of the estate. The Act gives the deceased sons and eldest brother the right to administer the estate of the deceased without providing the rules they should follow in distributing the estate, thus there are instances where wives and daughters have been deprived of any share in their deceased husband or father's estate. There are rules of distribution in the fourth chapter of the Quaran-Sura-tul Nisa applied by some Muslim communities, but its application give men more inheritance rights than women. This Act has the widest application in the country but because it does not contain any provisions guiding distribution it is seriously flawed. It is not surprising that the distribution of a deceased's estate usually impacts negatively on women and are hardly challenged.

⁸⁴ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at pages 190-196.

⁸⁵ See *P. C. Bongay v Macaulay* (1920 – 26), in *African Law Reports* (Sierra Leone), at 171.

⁸⁶ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at pages 190-196.

⁸⁷ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 197.

127. The different rules of distribution under each of these legal systems allowing men better inheritance rights than women are a clear discrimination on the basis of sex. The application of these rules sometimes exposes widows to forceful eviction without consideration to their contribution to the assets acquired during marriage. They also contravene a cardinal right of equality in marriage and at its dissolution. They also affect the children of the deceased who may be deprived of care and education as a result of these inheritance rules.
128. In instances under customary law where the deceased brother inherits the wife and then forces her to marry him. This practice deprives women of their right to freely choose who and when they wish to marry, and is repugnant to “equity, natural justice and good conscience.”⁸⁸ As in the case with other African societies, the daily struggle, contribution and effort of women in Sierra Leone is often overlooked and not given any monetary value. Ghana is one very positive example of a country in the same sub-region as Sierra Leone that has made several attempts to amend its laws on inheritance.⁸⁹

The importance of land ownership for women

129. The war in Sierra Leone created many female-headed households. However, women still experience great difficulty in accessing housing. While many women have the resources to rent a house, landlords refuse to rent their houses to women unless a man carries out the negotiations. Many war widows complain of being forced out of farmlands that belonged to their husbands. Law reform law particularly in the area of property and inheritance rights is important to redress the grievances of these widows. This problem is even more prevalent in the rural areas where land held by the Chiefdom Council in trust for their community is allocated mainly to male family heads.
130. The Commission notes that most land allocation projects carried out by government or traditional authorities in Sierra Leone still tend to benefit men more than women.

⁸⁸ See the *Courts Act 1965*, in the Laws of Sierra Leone, at Section 76.

⁸⁹ In Ghana, which shares a similar background to Sierra Leone, multiple inheritance laws applied, including customary inheritance laws, Mohamedan inheritance laws and inheritance laws under statutory law, most of which were similar to the laws that apply in Sierra Leone presently. The Government of Ghana recognised that the nuclear family, which was gaining importance, was not reflected in the laws on inheritance, nor was the wife’s involvement in the husband’s economic activities. Customary law did not provide any protection for the surviving spouse and there was tension between the surviving spouse and the traditional family unit that encompassed the extended family. In 1985 a new succession or inheritance law was enacted, aimed at removing anomalies in estate succession and to provide uniform estate succession laws throughout the country. The law applied to all those who died after 14 June 1995 and covered persons from all religious and ethnic background who did not leave a will at the time of their death. The law used the words “surviving spouse”, a gender-neutral term that helped eliminate distinctions on the ground of sex, thereby maintaining equality. The Government of Ghana also enacted the Customary Marriage and Divorce (Registration) Act 1985, Administration of Estate (Amendment) Act 1985, Head of Family (Accountability) Act 1985 and the Estate Succession (Amendment) Act 1991.

131. Land ownership is needed to enable women to achieve economic empowerment. Land is needed not only for agriculture, a sector in which women make up the majority of the workforce, but also to be used as collateral for loans. In the Western Area, if the names of the couple are on the title deeds of the property acquired during marriage, they are regarded as joint owners. Neither party can convey or transfer the property to the detriment of the other. However in cases where the property is only in the name of the husband, the wife is disadvantaged, as she cannot challenge a sale or gift of that property to a third party.⁹⁰
132. Given the present increase of single mothers and female-headed households because of the war, land is desperately needed to enable women to achieve economic empowerment and provide for their families. Women can have the same access to credit as men if they are landowners, because land can be used as collateral for a loan.⁹¹ The courts in Freetown regularly impose presentation of title deeds as a condition when granting bail to accused persons for certain offences, thus making it difficult for any woman to secure bail for her relatives or herself because she does not own property. Securing greater access to land for women through legal reform in the areas of inheritance and land allocation, particularly after the war, is a pressing priority.

Divorce

133. The Matrimonial Causes Act of 1960 provides for divorce, judicial separation and restitution of conjugal rights for persons married under the Civil or Christian Marriage Act. The grounds for divorce are cruelty, adultery or desertion, which are matrimonial offences requiring a higher standard of proof and based on the guilt or innocence of either party to the marriage. Divorce proceedings are very expensive and time-consuming. Most women do not apply for divorce because they lack the means to do so and the rules themselves are discriminatory against women.⁹² Thus men – who may not necessarily be the innocent party in the marriage – institute most divorces.
134. Divorce under customary law is very difficult to obtain because of the multiple variations in the laws of the different ethnic groups and the diverse grounds on which divorce can be obtained. The husband may terminate the marriage unilaterally, driving the wife from the matrimonial home or returning her to her parents. Either party to the marriage may also initiate divorce proceedings in the local court or an arbitration tribunal.⁹³

⁹⁰ If a woman decides to challenge the transfer of land to a third party when her name is not on the title deed, she faces an uphill task to gain redress. She will be obliged to prove that it was the intention of the parties that the property should be owned by both of them, or that she had contributed to or provided the money for the purchase of the property and that the husband held the property in trust for her. See King, *Women's Land Ownership and Property Rights*.

⁹¹ See King, *Women's Land Ownership and Property Rights*, at page 23.

⁹² Section 22(1) allows the Court to order a settlement of a wife's separate property for the benefit of the "innocent party", i.e. the husband or children or both, if she is found to have committed any one of the matrimonial offences. No similar provisions apply in favour of a wife when her husband is found to have committed adultery, cruelty or desertion.

⁹³ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 147.

135. Under Mohamedan law, Muslim religious leaders usually grant divorces. However, a husband can also divorce his wife simply by saying "I divorce you" three times in Arabic; a wife in contrast cannot end a marriage nearly so easily. A wife under customary and Mohamedan law encounters additional barriers if she initiates divorce proceedings and must satisfy the religious leader or arbitration tribunal due to issue her with a divorce certificate that her application is approved by her spouse. The division of property upon separation and divorce creates unequal rights between the spouses. The division of property during dissolution of any of the three forms of marriage is not mandatory and the non-financial contribution of the wife is never taken into account.

Domestic violence

136. Under Sierra Leonean Law, there is no specific legislation to prosecute domestic violence. However domestic violence may be prosecuted under the common law, for example as murder or manslaughter if it leads to death, or under the Offences Against the Person Act 1861 if it results in assault or wounding. In the past prosecutors have demonstrated reluctance to prosecute such offences where they take place in the home and are committed by a partner or acquaintance, incorrectly interpreting them to be matters of a private nature. While the police or family members can sometimes mediate on such matters, a resolution in favour of the victim is seldom arrived at. Indeed, the odds are stacked against the victims because so few of them have alternative accommodation or support mechanisms to turn to in the event of crisis; temporary shelters for victims are non-existent.
137. Where a woman is physically abused by her partner and makes a report, the perpetrator is rarely called to account and the woman is encouraged to return home to where the crime was committed. At best the perpetrator may be invited to the police station and warned not to repeat the crime, after which both parties then return to the same violent situation. Such dismissive treatment of domestic violence perpetuates a culture of impunity, where violators go completely unpunished.
138. There are frequent reports in Sierra Leone of violence that has resulted in death, permanent disability or serious injuries to women. In each such case, the woman's right to health, liberty and security of person, as well as her right to physical integrity, are severely undermined. In a case where a woman dies as a result of physical injury inflicted by her partner, despite having made multiple reports to the police, the Government should be held accountable for having breached its duty of care to protect its citizens' human rights.
139. Once a violation is proved, the Government has an obligation to provide a legal remedy to stop the violation, punish the violators or compensate the victim or both. If the violation occurs as a result of a discriminatory law or customary practice, or as a result of the absence of a protective law,⁹⁴ then one part of the remedy should be to seek legal reform or the passage of a new law to improve the observance and protection of the right in question.

⁹⁴ In addition to the absence of laws specifically addressing domestic violence, Sierra Leone also lacks laws on sexual harassment (albeit that if an assault occurs it can be prosecuted under different statutes). The laws of Sierra Leone do not adequately deal with the various forms of sexual harassment women face at work, in school, during their use of recreational facilities, or in any other public or private places.

Sexual and gender-based violence

140. The horrific and brutal experiences of women during the war make it necessary to examine whether the laws of Sierra Leone offer adequate protection in relation to sexual and gender-based violence. In 2001, Physicians for Human Rights (PHR) conducted a population-based assessment of the prevalence and impact of sexual violence and other human rights abuses among internally displaced persons in Sierra Leone. PHR found that internally displaced women and girls in Sierra Leone suffered an extraordinary level of rape, sexual violence and other gross human rights violations during the country's civil war, with half of them indicating that their contact had been with the Revolutionary United Front (RUF) forces.⁹⁵

Rape

141. Rape is an offence under the common law in Sierra Leone, defined as having sexual intercourse with a woman without her consent, by force, fear or fraud.⁹⁶ While rape is in theory punishable as an offence throughout Sierra Leone, it has always been under-reported and relatively few prosecutions of rape or crimes of sexual violence have taken place. Victims have been reluctant to report sexual crimes for fear of stigma. Many victims are suffer intimidation and are thus prevented from reporting crimes or insisting on the prosecution of their perpetrators. In addition, there is often little incentive to pursue an onerous prosecution in a judicial system that is not conducive to "just" outcomes.
142. The rules of procedure in Sierra Leone's courts, which require corroboration and cross-examination by formidable defence lawyers, discourage women from instigating legal proceedings. Such a perceptibly hostile environment in the courts has often had the consequence of making victims, most of them without legal representation, feel that they are responsible for the crime they have suffered. Even where cases are reported, most of them end up not being prosecuted, as those responsible for prosecution prevail upon the victim to settle the matter out of court. The approach of the police and judicial officers suggests that they regard rape and other gender-based crimes as lesser crimes not worth prosecuting.

⁹⁵ See Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*.

⁹⁶ See Archibald, *Pleading Evidence and Practice in Criminal Cases*, 35th edition, at page 1146.

*Protection Of Women And Girls Act
(Chapter 30 Of The Laws Of Sierra Leone 1960)⁹⁷
Procuring Girls and Women for Prostitution within and without
Sierra Leone*

143. Under the Protection of Women and Girls Act, any person who procures or attempts to procure a girl or woman under 21 years who is not a common prostitute or of known immoral character to have sex with another person within or without Sierra Leone commits a crime and shall be imprisoned for a period not exceeding two years. Any person who uses threats or intimidation to do such an act commits a crime and shall be imprisoned for the same period. The Act does not define a “common prostitute” or a “person of known immoral character”, which means the provision is too open to abuse and denies adequate protection to women and girls.
144. Sexual offences that are linked with the “moral character” of the victim are not gender sensitive and are a violation of the right to be free from sexual violence and the right to physical integrity. Perpetrators can escape punishment by alleging that the victim is a prostitute or a woman of immoral character. The punishment of two years’ imprisonment under this Act is inappropriate and unlikely to deter offenders from committing such crimes. In particular, in view of the widespread rape and sexual slavery that characterised the conflict in Sierra Leone, there is a high risk that victims of the conflict who attempt to prosecute rape or crimes of sexual violence in peacetime may be challenged and dismissed because of their experiences during the war.
145. The complex provisions of the general law have been misinterpreted to the detriment of minors who have been raped or sexually assaulted, resulting in perpetrators being charged with unlawful carnal knowledge of a child, for which the sentence is lighter than rape.⁹⁸ Another area of concern is the need for corroborating evidence relating to these offences, which is extremely unlikely considering their nature and the circumstances in which they are typically committed. Until recently there was only one police doctor in Freetown who was competent to provide medical services to victims and furnish the courts with the requisite medical reports. The police and judicial officers remain outwardly reluctant to prosecute sexual offences and the legal system that is supposed to serve women remains unfriendly to them.

⁹⁷ See the *Protection of Women and Girls Act (Chapter 30 of the Laws of Sierra Leone 1960)*, as amended by *Protection of Women and Girls Amendment Act 1972*.

⁹⁸ See Coalition on Women’s Human Rights in Conflict Situations; Submission to the TRC Special Thematic Hearings on Women; Freetown, June 2003 (hereinafter “Coalition on Women’s Human Rights submission to TRC”), at page 7.

Sexual offences under customary law

146. During the conflict, women were targeted by the different perpetrator groups and systematically raped and sexually violated. Rape was used as a weapon of war to dominate and humiliate women to undermine traditional cultural values and community relationships. Women and girls were raped and sexually attacked in front of their families, mothers, fathers, husbands and children, as a means of heightening the crime against them, torturing their loved ones and terrorising the community.⁹⁹
147. Under traditional customary law, the consent of the woman or girl for the purposes of sex is immaterial. If a girl is raped or indecently sexually assaulted, her parents can bring an action under customary law for compensation.¹⁰⁰ If the girl is a virgin the amount of compensation includes “virgin money”. The same situation applies where the offender is a prospective husband of the victim. If the girl is married her husband can bring an action for compensation commonly referred to as “woman damage”.¹⁰¹ The fact that communities were in no position to demand compensation for these crimes when they were committed against women and girls during the war has further degraded the status of women. There is no doubt that the reduction of a sexual offence from a heinous crime to a mere action for damage money has contributed to the low status that women occupy in traditional society.

Access to justice for women facing sexual violence under general law and under customary law

148. Women victims of sexual violence in Sierra Leone face considerable challenges in seeking to achieve justice. Some of the problems they face are as follows:
- i. The prevailing culture of silence;
 - ii. Reduced sentencing for offenders;
 - iii. Difficulty in getting a conviction as a result of the strict evidentiary requirements of proof;
 - iv. Short staff and institutional inefficiency in the law officer's department;
 - v. Absence of legal aid for women;
 - vi. Absence of laws on marital rape;
 - vii. A woman's consent to sex is not considered to be an issue of legal relevance under customary law;
 - viii. Laws on evidence and procedure on crimes of sexual violence are not gender sensitive; and
 - ix. Absence of temporary shelters for victims of sexual or domestic violence.

⁹⁹ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*, Freetown, 1983, at page 5.

¹⁰⁰ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*, Freetown, 1983, at page 182.

¹⁰¹ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*, Freetown, 1983, at page 5.

Application of National Law to Violations during the Conflict

149. Women suffered a multiplicity of violations during the war, including abduction, forced recruitment, detention, forced displacement, forced labour, assault, torture, forced drugging, amputation, forced cannibalism, forced cannibalism, rapes, sexual slavery, sexual abuse, extortion, looting, destruction of property and killing.¹⁰² Many of these violations constitute crimes under Sierra Leone's criminal law. Torture, forced drugging and amputation may be prosecuted as assaults under the Offences Against the Persons Act 1861. The killing of women may be prosecuted as murder or manslaughter. Detention may be prosecuted as false imprisonment. The acts of extortion, looting and destruction of property may be prosecuted under the Larceny Act 1916 or the Malicious Damage Act. The national laws of rape under the common law, indecent assault and procuring for prostitution could be applied to crimes of sexual violence committed during the war.
150. While it is reassuring to know that such crimes can technically be prosecuted under national law, it will not happen because of the amnesty provisions in the Lomé Peace Agreement of 1999. Notwithstanding this amnesty, the existing criminal justice system would in any case be totally inadequate to handle cases of this nature. It is further highly unlikely that a criminal justice system that fails to deal properly with crimes of this nature during peacetime could be in a position to prosecute crimes against humanity and war crimes. A major problem for victims is the fact that the evidentiary burden is high and the onus is on the victim to offer corroborating evidence.
151. In addition, the crimes of rape, unlawful carnal knowledge, indecent assault, abduction for immoral purposes and procurement for the purposes of prostitution as provided for in the national law are primarily based on a notion of crimes against the honour, dignity and chastity of the victim, her family or the community. The existing criminal laws are totally inadequate when dealing with crimes of this nature that occur during a conflict situation, as they focus on a narrow definition of morality that would further stigmatise and traumatise the victim.
152. On 23 February 2003 the Sierra Leone Parliament established a Standing Committee for Human Rights and related issues to promote respect for human rights in Sierra Leone. If this Committee is to succeed in its mandate, it will have to pioneer and lobby for legal reform to promote and protect women's rights. A relevant consideration in its work must be the application of national law to sexual violations that may occur in a future conflict situation.

¹⁰² More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

WOMEN AND INTERNATIONAL LAW IN SIERRA LEONE

A brief overview of the international instruments on women and the level of their incorporation in Sierra Leone national law

153. The ratification and incorporation of international human rights instruments into national law is crucial to the advancement of women's rights as it imposes on states an obligation to interpret national law in a manner consistent with the state's international or legal obligations. International human rights standards can be regarded as the minimum standards of protection, which all systems of national laws should strive to attain.
154. Sierra Leone became a member of the United Nations in 1961 and ratified most of the major human rights instruments. Sierra Leone is a signatory to the International Covenant on Civil and Political Rights (ICCPR),¹⁰³ the International Covenant on Economic Cultural and Social Rights (ICECSR),¹⁰⁴ the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW),¹⁰⁵ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),¹⁰⁶ the Convention of the Rights of the Child (CRC),¹⁰⁷ the African Charter on Human and People's Rights¹⁰⁸ and the African Charter on the Rights and Welfare of the Child.¹⁰⁹

¹⁰³ See International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force on 23 March 1976; Sierra Leone acceded on 23 August 1996.

¹⁰⁴ See International Covenant on Economic Cultural and Social Rights (ICECSR), adopted 16 December 1966, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force on 3 January 1976; Sierra Leone acceded on 23 August 1996.

¹⁰⁵ See the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), adopted 18 December 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. U.N. Doc. A/34/46, entered into force on 3 September 1981; Sierra Leone signed on 21 September 1988 and ratified on 11 November 1988.

¹⁰⁶ See the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984, G.A. Res. 39/46 U.N. Doc. A/39/51 (1984), entered into force on 26 June 1987.

¹⁰⁷ See the Convention of the Rights of the Child (CRC), adopted 20 November 1989, G.A. Res. 44/25, UN Doc. A/44/49 (1989), entered into force on 2 September 1990.

¹⁰⁸ See the African Charter on Human and People's Rights, adopted 27 June 1981, O.A.U. Doc. CAB/LEG/67/3 Rev.5, entered into force on 21 October 1986; Sierra Leone signed on 27 August 1981 and ratified on 21 September 1983.

¹⁰⁹ See the African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force on 29 November 1999. Sierra Leone signed the Charter on 14 April 1992 but has not yet ratified it.

A general overview of the major international instruments

155. The Universal Declaration of Human Rights recognises the right to life liberty and security¹¹⁰; the right to be free from sex discrimination;¹¹¹ the right to marry and found a family; equal rights for women as to marriage, during marriage and at its dissolution;¹¹² the right to be free from torture and cruel, inhuman or degrading treatment or punishment¹¹³; and provide that marriage shall be entered with the free and full consent of the intending spouses.¹¹⁴
156. The International Covenant on Civil and Political Rights, also guarantees the right to life;¹¹⁵ to liberty and security of the person,¹¹⁶ to privacy;¹¹⁷ to be free from sex discrimination;¹¹⁸ to marry and found a family¹¹⁹; to not be forced to enter marriage without the free and full consent of the intended spouses;¹²⁰ to equality of rights and responsibilities of spouses as to marriage during marriage and at its dissolution¹²¹; to be free from torture and cruel, inhuman or degrading treatment or punishment¹²²; to be free from medical or scientific experimentation without free consent¹²³ and to public health, medical care, social security and social services.¹²⁴ It also provides that governments must establish a minimum age for marriage and make the registration of marriages in an official registry compulsory.¹²⁵
157. The ICECSR, the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) are also instruments that recognise: the right to life;¹²⁶ to privacy;¹²⁷ to be free from sex discrimination;¹²⁸ to the highest attainable standard of physical health;¹²⁹ to health care services;¹³⁰ to decide on the number and spacing of their children and to have access to the information and means to do so,¹³¹ to the elimination of discrimination against women in all matters relating to marriage and family relations;¹³² and to be free from sexual violence, abuse, exploitation, prostitution and trafficking.¹³³

¹¹⁰ See the Universal Declaration Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948) (hereinafter "UDHR"), at Article 3.

¹¹¹ See UDHR, at Article 2.

¹¹² See UDHR, at Article 16(1).

¹¹³ See UDHR, at Article 5.

¹¹⁴ See UDHR, at Article 16(1).

¹¹⁵ See the International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966) (hereinafter "ICCPR"), at Article 6(1).

¹¹⁶ See ICCPR, at Article 9(1).

¹¹⁷ See ICCPR, at Article 17(1).

¹¹⁸ See ICCPR, at Article 2(1).

¹¹⁹ See ICCPR, at Article 23(2).

¹²⁰ See ICCPR, at Article 23(3).

¹²¹ See ICCPR, at Article 23(4).

¹²² See ICCPR, at Article 7.

¹²³ See ICCPR, at Article 7.

¹²⁴ See ICCPR, at Article 7.

¹²⁵ See also the Convention on Consent to Marriage, Minimum Age of Marriage and Registration of Marriage 1964.

¹²⁶ See CRC, at Article 6(1).

¹²⁷ See CRC, at Article 16(1).

¹²⁸ See CEDAW, at Articles 1 and 3. See also ICECSR, at Article 2(2).

¹²⁹ See ICECSR, at Article 12(1). See also CRC, at Article 24(1).

¹³⁰ See CRC, at Article 24(1).

¹³¹ See CEDAW, at Article 16(1).

¹³² See CEDAW, at Article 16(1).

¹³³ See CEDAW, at Articles 5(a) and 6. See also CRC, at Articles 19(1) and 19(3).

158. These instruments require Government to commit itself to develop preventive health care, guidance for parents and family planning education and services; prenatal and postnatal and to ensure access to information, counselling and services concerning family planning;¹³⁴ to appropriate services to ensure safe pregnancy;¹³⁵ Government undertakes to eliminate traditional practices prejudicial to the health of children.¹³⁶

The African Charter on Human And People's Rights

159. The African Charter on Human and People's Rights entered into force in October 1986. Article 18 (3) of the charter states that "the state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions". By this Article, the African Charter has incorporated all of the international declarations and conventions that relate to women. There is a protocol on the Rights of African Women approved in July 2003 that offers wide protection for the rights of women. Sierra Leone needs to ratify this protocol, which will allow the rights provided in it to be enjoyed in Sierra Leone.

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

160. Article 1 of CEDAW defines "discrimination against women " to "mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".
161. Article 2 of CEDAW requires Governments to pursue all appropriate means and without delay a policy of eliminating discrimination against women and to embody the principle of equality of men and women in their constitutions or other appropriate legislation and to ensure that this principle is practically realised. Governments are further called upon to adopt appropriate legislation and other measures including sanctions prohibiting discrimination against women by any person organisation or enterprise and to repeal all laws that constitute discrimination against women.

¹³⁴ See CEDAW, at Articles 10(h), 12(1) and 14(2).

¹³⁵ See CEDAW, at Article 12(2).

¹³⁶ See CRC, at Article 24(1).

162. Article 5(a) of CEDAW provides that State parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or superiority of either of the sexes or on stereotyped roles for men and women. CEDAW also prohibits dismissal on the grounds of pregnancy, maternity leave or marital status.¹³⁷
163. Article 4 of CEDAW requires states to adopt temporary special measures aimed at accelerating equality on a practical basis between men and women, which shall not be considered as discrimination under the Convention and which shall be discontinued when the objectives of equality of opportunity and treatment have been achieved. Other provisions of CEDAW are focussed on education, employment, health care, equality before the law, same legal capacity in contracts, administration of property and choice of residence.

General Recommendations by CEDAW committee on marriage and violence against women

164. General Recommendation 21 of the CEDAW Committee on Marriage recognises that common law principle and religious and customary laws contribute to the persistence of gender stereotypes and women's inequality. The Committee calls for governments to bring traditional practice in line with existing law. It recognises 18 as the appropriate age for marriage and rejects arguments of an earlier age for girls because of the associated health risks.
165. General Recommendation 19 dealing with violence against women advocates for the enactment and enforcement of legislation to prevent and punish acts of domestic violence. The Committee has also criticised State parties who place undue emphasis on marital reconciliation, particularly in cases involving violence. It calls on governments to suppress all forms of trafficking in women and exploitation of the prostitution of women. It further recognises that economic factors such as poverty adversely contribute to prostitution and the trafficking of women. The Committee has also identified sexual harassment as a form of violence against women, particularly in school or work environments, and has recommended that state parties enact sexual harassment laws.
166. General Recommendation 14 specifically addresses female genital mutilation. It recognises the cultural, traditional and economic factors that perpetuate the practice of FGM. It also identifies the health related consequences and makes recommendations to State on how to eliminate it. FGM is also specifically mentioned in General Recommendation 19 equating the practice as a form of violence against women committed by private or state actors. General Recommendation 24 recommends the enactment and effective enforcement of laws that prohibit genital mutilation.
167. Under the optional Protocol of CEDAW, which entered into force in 2000, the Committee is empowered to receive communication from individuals or groups about violation of rights protected in the Convention. It also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights.

¹³⁷ See CEDAW, at Article 11(2).

International instruments prohibiting violence

168. There are several international instruments that seek to protect the rights of women and prohibit violence particularly during armed conflicts.¹³⁸ The use of national, regional and international human rights mechanisms in responding to the egregious crimes and horrific events that occurred in Sierra Leone during the war has significantly developed international human rights law and continues to do so. Sierra Leone is a party to the four Geneva Conventions of 1949 and to their Additional Protocols. Common Article 3, which applies to all parties in internal conflicts such as Sierra Leone's, prohibits violence against life and the person, in particular murders of all kinds, mutilation, cruel treatment and torture and outrages upon personal dignity such as humiliating and degrading treatment.¹³⁹ Additional Protocol I, which regulates international armed conflict, specifies: "women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault".¹⁴⁰ Additional Protocol II, which applies in certain internal armed conflicts, expands upon the previous provision and explicitly forbids "violence to the life, health and physical well being of persons, in particular murder as well as cruel treatment such as torture, mutilation"¹⁴¹ and "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault".¹⁴²
169. The jurisprudence of the two ad-hoc tribunals, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), has reinforced the principle that grave violations of these provisions constitute war crimes. Accordingly, the violations committed against women in Sierra Leone constitute war crimes and are likely to be prosecuted as such by the Special Court for Sierra Leone.

¹³⁸ See, *inter alia*, the following instruments and declarations prohibiting violence and promoting justice for victims of crime: Women and Armed Conflict 1995, Beijing +5 (2000); Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1976); Declaration of Basic Principles of Justice for Victims of crime and Abuse of Power G.A.40/34 (1985); Fourth World Conference on Women: Women and conflict (1985); Security Council Resolution 1325 (2000); and the Commission on Human Rights, *Basic Principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law*, published as an Annex to E/CN.4/2000/62.

¹³⁹ See Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*, at page 84.

¹⁴⁰ See Additional Protocol I to the Geneva Conventions, at Article 76(1). More detail can be found in Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*.

¹⁴¹ See Additional Protocol II to the Geneva Conventions, at Article 4(2)(a).

¹⁴² See Additional Protocol II to the Geneva Conventions, at Article 4(2)(e) More detail can be found in Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*.

*Rape and sexual violence*¹⁴³

170. Rape remains the silent war crime in Sierra Leone and in the world: throughout history, the rape of hundreds of thousands of women and children in all regions of the world has been a bitter reality.¹⁴⁴ Reversing this legacy remains the obligation of every transitional justice institution charged with examining or prosecuting crimes committed during conflict. It is critical to ensuring inclusive and non-discriminatory justice as well as to combating the stigma and blame that are at the core of the shame, isolation and abandonment suffered by women in post-conflict situations. Whilst international humanitarian law has long prohibited rape, it was characterised as an offence against honour and dignity¹⁴⁵. The Fourth Geneva Convention continued the practice of characterising rape as an attack on women's honour. The list of grave breaches of Common Article 3 does not refer explicitly to rape. Again in 1977, in Protocol II while offences of sexual violence were explicitly included, they were characterised as offences against dignity and honour or humiliating and degrading treatment as listed as rape, forced prostitution and any other form of indecent assault. As a consequence, women whether combatants or civilians, have been consistently targeted for sexual violence such as rape, sexual mutilation and sexual slavery, while for the most part their attackers go unpunished.
171. The 1993 World Conference on Human Rights in Vienna recognised violence against women as an issue of priority and noted the need to end impunity for sexual violence in war and conflict. The ad hoc Tribunals have contributed substantially to the development of jurisprudence on rape and sexual violence culminating in the codification of sexual and gender based crimes in the Rome Statute of the International Criminal Court providing the basis for examining and prosecuting these crimes as international crimes today.

¹⁴³ Most of this section has been taken from the Coalition on Women's Human Rights submission to the TRC, which to a large extent is based on the findings of the report by Human Rights Watch, *We'll Kill You if you Cry*, from page 35 onwards.

¹⁴⁴ Preliminary Report submitted by the U.N. Special Rapporteur on *Violence Against Women, Its Causes and Consequences*, *Commission on Human Rights*, Fiftieth Session, November 1994, U.N. Document E/CN.4/1995/42.p.64

¹⁴⁵ This characterisation is based, however, on the notion of women as property and sexual violence as a moral affront described in largely moralistic terms. The word honour thus alludes to chastity, sexual virtue and good name and refers equally to the honour of the male – the husband or father – with whom the woman is related. Thus, the traditional view of rape as an offence against honour has failed to treat rape and sexual violence as a crime of violence, an attack on women's physical and mental integrity. The notion of honour has also obscured the atrocious nature of the crime and further contributed to the widespread misperception of rape as an "incidental" or "lesser" crime by comparison to killing, torture or enslavement.

172. The Statutes of ICTY and the ICTR explicitly listed rape as a crime against humanity under their jurisdictions and have convicted defendants of these crimes.¹⁴⁶ Both tribunals have also prosecuted rape and sexual violence as war crimes and treated rape as torture and sexual violence, such as forced nakedness, as inhuman treatment.¹⁴⁷ The ICTR prosecuted and adjudged rape as a crime of genocide in the case against Jean-Paul Akayesu, the former mayor of Taba commune in Rwanda. This verdict marked the first time an international court found rape to be an act of genocide.
173. In 2001 in the Kunarac case involving the Foca prison, the ICTY convicted the Bosnian-Serb defendants of rape as a crime against humanity and treated rape as also torture, along with enslavement committed in Foca. The severity of rape and other forms of sexual violence has been emphasised by the fact that in several instances, the ICTY has devoted entire cases exclusively to sexual violence.¹⁴⁸ Barriers in the prosecution of sexual offences, as experienced in national jurisdictions including Sierra Leone,¹⁴⁹ because of the strict rules of procedure and evidence have been overcome by the adoption of rules that are gender sensitive and effective. Rule 98 of the ICTY provides:

“In cases of sexual assault: (i) no corroboration of the victim’s testimony shall be required; (ii) consent shall not be allowed as a defence if the victim (a) has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression, or (b) reasonably believed that if the victim did not submit, another might be so subjected, threatened or put in fear; (iii) before evidence of the victim’s consent is admitted, the accused shall satisfy the Trial Chamber in camera that the evidence is relevant and credible: (iv) prior sexual conduct of the victim shall not be admitted in evidence.”¹⁵⁰

174. Sierra Leone is a signatory to the permanent International Criminal Court (ICC). The Rome Statute of the ICC¹⁵¹ does not apply to the events occurring in Sierra Leone, as the treaty is not retroactive. The Rome Statute of the ICC lists a significant range of sexual crimes as both war crimes and acts constituting crimes against humanity. These acts include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence. In addition, the Rome Statute has recognised persecution based on gender as a crime against humanity. In addition to the explicit naming of these crimes of sexual and gender violence, the ICC encompasses the principle of gender integration implemented by the ad-hoc tribunals,

¹⁴⁶ The Prosecutors of the ICTY have issued indictments treating rape as a crime against humanity in several cases, for example: *Prosecutor v. Meakic and Others*, Indictment as amended 2 June 1998, Case No. IT-95-4; *Prosecutor v Jankovic and Others*, Indictment Case No. IT-96-23, as amended 7 Oct 1999; for the ICTR, see *Prosecutor v. Emanza*, Indictment, Case No ICTR-97-20.

¹⁴⁷ *Furundzija and Celibici Judgements* of the ICTY, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, IT-96-23 & IT-96-23/1-A, Appeal Chambers, 12 June 2002; on rape as torture and forced nakedness as inhuman treatment see *Prosecutor v. Jean Paul Akayesu*, Trial Judgement, case ICTR-96-4-T, Ch.1,2 Sept 1998, at paragraphs 687 and 697.

¹⁴⁸ *Furundzija and Celibici Judgements*, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, IT-96-23 & IT-96-23/1-A, Appeal Chambers, 12 June 2002.

¹⁴⁹ In Sierra Leone almost all alleged sexual offences require corroboration.

¹⁵⁰ See the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law committed in the Territory of the Former Yugoslavia Since 1991, Rules of Procedure and Evidence U.N.Doc. IT/32/Rev.17, Rule 96 (1994).

¹⁵¹ See the Rome Statute of the International Criminal Court, 17 July 1998, UN DOC. No. A/CONF.183/9,37 I.L.M 999, entered into force on 1 July 2002.

meaning that to avoid discrimination, these crimes may also be prosecuted as non-sex specific crimes of violence; for example rape is clearly recognised and prosecuted as the crime of torture.

175. The Elements of Crime document annexed to the Rome Statute designed as a non-binding guide to the Court, which details the suggested elements for each crime, makes it clear that crimes of sexual violence can also be prosecuted as other crimes of violence, such as torture or mutilation, thus adopting the approach of the ad-hoc Tribunals.
176. The Statute of the Special Court in Sierra Leone gives the Court jurisdiction to try cases occurring since 30 November 1996. Crimes the Court will prosecute are crimes against humanity, which includes gender-based crimes of rape, sexual slavery, enforced prostitution, forced pregnancy any other form of sexual violence when committed as part of a widespread or systematic attack against civilian population.¹⁵² Rape, enforced prostitution and any other form of indecent assault can be prosecuted as violations of humanitarian law in Common Article 3 and Additional Protocol II. The Special Court Statute ignores the more forward-looking provisions of the Rome Statute, instead utilising the wording of Article 4(2)(e) of the Additional Protocol II.

Applying international law to the Sierra Leone conflict

177. It is necessary to reiterate that the Truth and Reconciliation Commission is not tasked with establishing criminal guilt for the violations committed during the conflict. This task forms the core mandate of the Special Court of Sierra Leone, whose aim is “prosecute those who bear the greatest responsibility” for the above categories of crimes. However, upon reviewing the acts of sexual violence committed in Sierra Leone, the TRC assesses that in all probability these acts meet the elements of war crimes and crimes against humanity.
178. There is no doubt that sexual violence against women was closely associated with war in that it occurred as part of the rewards of war and as a weapon of war – it was committed to achieve the humiliation and degradation of women, and of the enemy, men and of the community. The war provided the opportunity for the most grotesque and brutal forms of violence against women.

Crimes of sexual and gender-based violence

179. The Rome Statute and the Statute of the Special Court of Sierra Leone list the sexual crimes of rape, sexual slavery, forced pregnancy, enforced prostitution, enforced sterilisation and other sexual violence. While the Rome Statute includes these crimes as both crimes against humanity and war crimes, the Statute of the Special Court does not explicitly recognise any of these sexual violence crimes, except for the crimes of rape and enforced prostitution, as war crimes. The Commission has dealt with sexual violence on the basis of internationally recognisable crimes.

¹⁵² See the Statute of the Special Court for Sierra Leone, at Article 2. A copy of the statute and further detail on the tribunal can be found on the website: www.sc-sl.org.

Definitions of crimes of sexual violence

Rape¹⁵³

180. The ICTR and the Celibici Trial Chamber of the ICTY have defined rape as a physical invasion of a sexual nature.¹⁵⁴ The ICC Elements and other ICTY jurisprudence have added more detailed descriptions of the invasion.¹⁵⁵ Under the more detailed definition, rape involves penetration however slight of the vagina or anus by a penis, object or other body part or of any other body part by a penis.
181. The definition of rape (as well as of forced prostitution and other sexual violence) includes a broad concept of force including threat thereof and coercion, “such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.”¹⁵⁶ Coercion can result from threats to harm the victim or to harm a third party, including but not limited to a family member, with the knowledge that it will operate as coercion for the victim. The force/ coercion element is intended to be broad and the jurisprudence indicates that in certain circumstances, for example, armed conflict, or in the case of the military presence of militiamen or combatants exercising, coercion may be inherent.¹⁵⁷ Thus, the presence of armed combatants in a village exerting temporary power and control will be sufficient to meet the coercive element. The Kunarac Trial and Appeal Judgements added that it is sufficient if shown that the invasion was against the woman’s will.¹⁵⁸ Examples of rape in the Sierra Leone conflict abound.
182. In terms of the element of force or coercion, the examples of rape in Sierra Leone reflect both situations of both force and coercion. The Rome Statute, echoing the jurisprudence of the ad hoc tribunals, provides in its Rules relating to the evidence of sexual violence and applicable to rape and to other crimes of sexual violence, that even if the victim agrees or fails to object, rape is committed so long as the coercion undermines the victim’s capacity to give genuine consent.¹⁵⁹ Sexual invasion of minors, so prevalent in Sierra Leone, is *per se* rape.¹⁶⁰

¹⁵³ See the Rome Statute of the International Criminal Court, at Articles 7(1)(g) (crimes against humanity) and 8(2)(e) (non international war crimes). See also the ICC Elements, Article 7(1)(g)-1 and 8(2)(e)(vi)-1. See also the Statute of the Special Court for Sierra Leone, at Article 2(g).

¹⁵⁴ See the *Celibici Judgement* of the ICTY.

¹⁵⁵ See the ICC Elements, at Articles 7(1)(g)(i) and 8(2)(b)(xxii) and 8(2)(e)(vi). See also the *Furundzija Judgement* of the ICTY.

¹⁵⁶ The concept of “invasion” is intended to be broad enough to be gender-neutral. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity. See the ICC Elements of Crime and Procedure, UN Doc.Off ICC-ASP/1/3, at Article 7(1)(g)(i).

¹⁵⁷ See *Prosecutor v. Jean Paul Akayesu*, Trial Judgement, case ICTR-96-4-T, Ch.1, 2 Sept 1998, at paragraph 688.

¹⁵⁸ See *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, IT-96-23 & IT-96-23/1-A, Appeal Chambers, 12 June 2002.

¹⁵⁹ See the ICC Rules of Procedure and Evidence, ICC-ASP/1/3, Rule 70 (a),(b),(c).

¹⁶⁰ As a final point on the question of rape, it should be noted the ICC Rules contain very strict provisions against the admission of prior sexual conduct of the victim in considering the crime.

Sexual slavery¹⁶¹

183. The two essential elements unique to the crime of sexual slavery are the “exercise of any of all of the powers attaching to the right of ownership over one or more persons...” and the forced participation in one or more acts of sexual violence.¹⁶² The ICC adds the requirement that this be accomplished by such acts as “purchasing selling, lending or bartering such a person or [persons, or by imposing on them a similar deprivation of liberty” which can include reducing a person to a servile status under the international law or forced labour. Sexual slavery is a form of enslavement identified by the fact that the perpetrator must cause the victim(s) to engage in one or more acts of a sexual nature.
184. Forced “marriage” is a form of sexual slavery as is the detention of women in “rape camps” or any circumstances under which women are subjected repeatedly to rape or the threat of rape or any other sexual violence. In Sierra Leone, as well as in many other conflicts, women and girls were given as “wives” to commanders and combatants. These sexual slaves are widely referred to as “bush wives”. When “forced marriage” involves forced sex or the inability to control sexual access or exercise sexual autonomy, which, by definition, forced marriage almost always does, it constitutes sexual slavery, as recognised by the Special Rapporteur for Systematic Rape, Sexual Slavery and Slavery-Like Practices during Armed Conflict.¹⁶³

Forced pregnancy¹⁶⁴

185. As a result of the highly contentious negotiations, both the Rome Statute and the ICC Elements provide an excessively narrow definition of forced pregnancy: “The perpetrator confined one or more women, forcibly making them pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.”¹⁶⁵ In the case of Sierra Leone, there are reported examples of women who became pregnant and were not permitted by their rapist or another to obtain abortion. The concept of “forced pregnancy,” first articulated officially in the Vienna Declaration and Programme of Action¹⁶⁶ referred however to the confinement or other means of preventing pregnant women from obtaining abortion.

¹⁶¹ See Enslavement (crimes against humanity) in the Rome Statute of the International Criminal Court, at Articles 7(1)(g) and 7(2)(c). See also the ICC Elements, at Articles 7(1)(g)-2 and 8(2)(e)(vi)-2. See also the Statute of the Special Court for Sierra Leone, at Article 2(g)-2.

¹⁶² See the Rome Statute of the International Criminal Court, at Article 7(2)(c). See also the ICC Elements, at Articles 7(1)(g)-2 and 8(2)(e)(vi)-2.

¹⁶³ See McDougall, G., Special Rapporteur for Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict, final report produced as UN Document E/CN.4/sub.2/1998/13, 12 June 1998, at paragraph 45.

¹⁶⁴ See the Rome Statute of the International Criminal Court, at Article 7(1)(g). See also the ICC Elements, at Articles 8(2)(e) and 8(2)(e)(vi)-3.

¹⁶⁵ See the ICC Elements, at Article 7(1)(g)-4f.

¹⁶⁶ See the Declaration and Programme of Action, U.N World Conference on Human Rights, adopted in Vienna on 25 June 1993, A/Conf.157/23.

Enforced sterilisation¹⁶⁷

186. The ICC Elements define enforced sterilisation as follows: “The perpetrator deprived one or more persons of biological reproductive capacity” and “the conduct was neither justified by the medicine or hospital treatment of the person or persons concerned nor carried out with their genuine consent.”¹⁶⁸ It includes acts committed upon women including during the war in Sierra Leone, such as the removal of foetus, uterus, castration, destruction of reproductive organs, as well as medical sterilisation without consent. Although this crime is not listed in the Sierra Leone Special Court Statute, the mutilation of Sierra Leonean women by disembowelling them, the cutting open of the uterus which leads to the removal of the foetus results in sterilisation should be recognised as enforced sterilisation at the same time as these acts also qualify as “other sexual violence.” The numerous acts of violence on pregnant women that were reported include the cutting open of a pregnant woman’s uterus and the removal of the foetus, the mutilation of her organs thus constitute enforced sterilisation as well as mutilation and cruel and inhuman treatment.

Other forms of sexual violence¹⁶⁹

187. Sexual violence as a war crime must be “serious” in dimension or, as a crime against humanity, of “comparable gravity” to the other crimes against humanity.¹⁷⁰ The ICC Elements define sexual violence to encompass both involuntary sexual assaults and sexual performance. The definition thus applies to coercion resulting in sexual entertainment or nakedness.
188. The scope of sexual violence is broad. The Akayesu Trial Chamber of the ICTR stated that, “sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.”¹⁷¹ It relates to the lack of sexual autonomy, which is violated wherever the person subjected to the act has not freely agreed to it or is otherwise not a voluntary participant.”¹⁷² It could include biological and medical experimentation of sexual nature or experimentation on reproductive capacities, sexual mutilations, harassment and threats of rape or other sexual violence. Forcing a woman to lick a penis (which might also constitute rape) or to perform sexual acts that are not rape, such as cutting or sexual touching of the body or breasts, are forms of sexual violence.

¹⁶⁷ See the Rome Statute of the International Criminal Court, at Articles 7(1)(g) (crimes against humanity) and 8(2)(e) (non international war crimes). See also the ICC Elements, Article 7(1)(g)-5 and 8(2)(e)(vi)-5. See also the Statute of the Special Court for Sierra Leone, which does not list this act as a crime.

¹⁶⁸ See the ICC Elements, at Article 7(1)(g)-5. The deprivation is not intended to include birth control measures ,which have a non-permanent effect in practice. It is understood that “genuine consent” does not include consent obtained through deception.

¹⁶⁹ See the Rome Statute of the International Criminal Court, at Articles Article 7(1)(g) and 8(2)(e)(vi); ICC Elements supra Article 7(1)(g)-6 and 8(2)(e)(vi)-6; and SC-SL statute Article 2(g)-5

¹⁷⁰ The ICC Elements require that the sexual violence be of comparable gravity to the other sexual and reproductive crimes. To the extent that might result in a lower standard for inhuman treatment than for sexual violence, this addition in the ICC Elements would either be discriminatory or the lesser form of sexual violence, would have to be prosecuted as inhuman treatment.

¹⁷¹ See *Prosecutor v. Jean Paul Akayesu*, Trial Judgement, case ICTR-96-4-T, Ch.1, 2 Sept 1998, at paragraphs 687 to 697.

¹⁷² See *Prosecutor v. Dragoljub Kunarac, et al* before the ICTY Trial Chamber, at paragraph 457.

189. Most acts which constitute sexual violence today were historically incorporated in the concept of offences against honour and humiliating and degrading treatment, now independently codified as a war crime in the Rome Statute, Article 8(2)(c)(iii).¹⁷³ The adoption of the clause describing the crime of sexual violence in the war crimes articles – “also constituting a grave breach of [or for non-international armed conflict, a “serious violation of article 3 common to the four”] Geneva Conventions”¹⁷⁴ – was specifically intended to declare the status of the sexual violence crimes as comparable to grave breaches, which are the most serious violations recognised under humanitarian law.¹⁷⁵ While sexual violence can be charged under both rubrics, it is important not to utilise the rubric of humiliating or degrading treatment to diminish the understanding that all forms of sexual violence, whether or not they involve touching, constitute physical and/or mental violence against the person rather than offences based on morality and honour. The Rome Statute rightly recognised the historic failure to treat sexual offences as crimes of the most severe violence and has now named them explicitly as crimes of violence.
190. Sexual and gender based crimes constitute crimes against humanity through gender neutral qualifications when they meet all the elements of crimes or torture, enslavement, persecution, other inhuman act in crimes against humanity (widespread or systematic attack, against civilians with the knowledge that the crimes constitute a part of the attack). This “gender integrated’ understanding of gender-based violence has been accepted by the ICTR and ICTY and is a critical protection against gender-based discrimination.

Torture (crime against humanity and war crime)

191. In the international criminal instruments, the crime of torture is codified as both crimes against humanity (Article 7 (1)(f) of the Rome Statute) and war crimes (Article 8 of the Rome Statute). In the Rome Statute, the *actus reus* of torture as a crime against humanity requires only “the infliction of severe physical or mental pain or suffering on one or more persons.... [who] were in the custody or under the control of the perpetrator.” Torture as a war crime requires in addition that the severe pain or suffering be “for such purposes as: obtaining information or a confession, punishment, intimidation or coercion for any reason based on discrimination of any kind.” In this sense the latter definition is more similar to the purpose requirement contained in the UN Convention Against Torture.¹⁷⁶ It should be noted that the purpose requirement is not a specific intent requirement, but is to be objectively determined as was originally intended to broaden beyond interrogation the recognised goals of torture. It should also be noted as well that the right not to be tortured is one of the fundamental rights of a non-derogable nature, i.e. it is a *jus cogens* norm.¹⁷⁷

¹⁷³ For definition of this crime, see the ICC elements, at Article 8(2)(c)(ii). The ICTY has also defined the crime in similar terms; “An outrage upon personal dignity is “any act or omission which would be generally considered to cause serious humiliation or otherwise be a serious attack on human dignity. The statute does not require that the perpetrator must intend to humiliate the victim, that he perpetuated the act for that very reason. It is sufficient that he knew that his act or omission could have that effect: See *Prosecutor v. Dragoljub Kunarac, et al* before the ICTY Trial Chamber, at paragraphs 507 and 773-774.

¹⁷⁴ See the Rome Statute of the International Criminal Court, at Article 7(1)(h).

¹⁷⁵ See Steains, C.; “Gender Issues / Gender Crimes” in Lee, R. (ed.), *The International Criminal Court: the Making of the Rome Statute – Issues, Negotiations, Results*, Kluwer, The Hague, 1999.

¹⁷⁶ See the Convention Against Torture and Other Cruel Treatment or Punishment, 23 ILM 1027, entered into force on 26 June 1987.

¹⁷⁷ See the *Furundzija Judgement* of the ICTY, at paragraphs 153 and 154.

192. Rape and other forms of sexual violence also constitute torture under international human rights and humanitarian law. This is not only clear from other horrific examples provided heretofore, but it has been recognised explicitly in the ICTY and ICTR decisions as well as the Rome Statute, as discussed above. Most recently the Kunarac Appeal Chambers made clear that the severity of pain and suffering inflicted by rape constitutes torture. It should be noted that, despite error in an early ICTY opinion, there is no longer any requirement [as is required in human rights law] that the person committing the torture have official status when the torture is committed in the framework of war crimes or crimes against humanity.
193. It must also be underscored that torture may be inflicted against a person through the infliction or threat of infliction of sexual or other violence on a third person. When children or spouses or parents are sexually threatened or assaulted in front of another family member that is recognised as a form of torture. Thus in Sierra Leone, it is torture when daughters, including virgin daughters, are raped in front of their fathers or mothers, or when a breastfeeding woman is raped in front of her son. It has also been judged that forced observance of sexual violence inflicted on a woman engaged with a man caused him severe physical and mental suffering.¹⁷⁸ Torture is also committed when family members are killed while others are forced to observe. The seizing of a child from its mother and killing it in front of her is also a particularly gendered form of torture, targeted as it is at her role as mother.

Enslavement (crime against humanity)

194. Enslavement is named as a crime against humanity (Art. 7(1)(c) Rome Statute and Art. 2(c) Special Court Statute). It is also prohibited by numerous international human rights and humanitarian law instruments and is one of the original universally condemned crimes under customary international law. Enslavement is also a jus cogens violation.¹⁷⁹ The sexual form of enslavement is now codified as “sexual slavery”. Beyond that enslavement takes many forms, some of them gendered. Young girls and boys, men and women can be enslaved in one of many ways: in domestic labour, mining, arms factory, demining and medical experiments. It becomes a gender crime when an individual is enslaved because of his or her particular function in the society: women used for domestic labour (cooking, washing, cleaning, and serving, educating children), men for transport or fighting, young girls for spying, girls and women for sex and reproduction.

¹⁷⁸ See the *Furundzija Judgement* of the ICTY, at paragraph 267.

¹⁷⁹ See Bassiouni, C., “Sources and Theory of International Criminal Law” in *International Criminal Law*, Vol. I, Crimes, 2nd edition, Transnational, New York; at pages 79 - 80 and 663. See also ICJ, *Barcelona Traction Light and Power Company Ltd*, 1970 Report 3, 32, at paragraphs 32 – 34.

195. In the Kunarac Judgement, the ICTY recognised that both forced domestic labour and sexual services of women and girls constituted enslavement¹⁸⁰. The essential element of enslavement as discussed above the exercise of any or all of the powers attaching to the right of ownership. This has been elaborated by the Kunarac Appeals Chamber to include restriction or control of an individual's autonomy, restriction of freedom or choice or freedom of movement, extraction of forced or compulsory labour or service, often without remuneration though not necessarily, involving physical hardship: sex: and human trafficking. Enslavement may be accompanied by a claim of exclusivity; torture, cruel treatment and abuse including sexual; and other means of psychological as well as physical control. Enslavement does not require a showing to non-consent since the exercise of free will by the victim may be irrelevant or impossible because of the coercive environment. It does not require detention or the absence of any avenues of escape. It may also be the product of a commercial exchange, but this condition is clearly not required.¹⁸¹

Other inhuman acts (crimes against humanity)

196. Other inhuman acts are also categorised as crimes against humanity (Art.7 (1)(k) Rome Statute and Art.2 (i) Special Court Statute) and encompass acts that are of similar gravity and seriousness by comparison to the enumerated crimes. These will be acts or omissions deliberately causing serious mental and physical suffering or injury or constitute a serious attack on human dignity.¹⁸² Such acts need not amount to the severity of torture although the distinction is not a clear one and needs to be examined in context. To the extent there are serious sexual and gender crimes that are not mentioned in the Special Court Statute (e.g. enforced sterilisation and gender based persecution), they will clearly qualify as other inhuman acts.

Mutilation (war crime)

197. The crime of mutilation has been listed as a war crime by Art 8(2)(c)(i) of the Rome Statute and the ICC Elements explain mutilation as permanent disfigurement or permanently disabling or removing an organ or appendage under circumstances that are not medically justified. ICC Elements, Article 8(2) (c) (i)-2. Consequently, sexual mutilation includes disfiguring or removing a woman's breasts, face or other part of the body; removing the uterus or foetus of a woman; burning and cutting sexual organs and breasts, burning and cutting the vagina. It is clear that the reported cases of cutting open women to remove the foetus constitute mutilation as well as torture and enforced sterilisation.

¹⁸⁰ The elements have been developed in *Prosecutor v. Dragoljub Kunarac, et al* before the ICTY Trial Chamber, at paragraphs 542 and 543.

¹⁸¹ See *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, IT-96-23 & IT-96-23/1-A, Appeal Chambers, 12 June 2002.

¹⁸² See *Kayishema Trial Judgement*, Case ICTR 95-1-T., Ch.II, 21 May 1999, at paragraph 151.

Cruel treatment (war crime)

198. Cruel treatment involves an act or omission that knowingly causes serious mental or physical suffering or injury, or constitutes a serious attack on human dignity.¹⁸³ Treatment that does not meet the purpose requirements of torture may constitute cruel treatment.¹⁸⁴ For example, the following acts constitute “cruel treatment”: forced nakedness and terrorising and threatening physical and sexual violence.
199. While the Commission is not charged with establishing criminal responsibility, nevertheless it has summarised the key elements of crimes of sexual violence as well as the threshold requirements for crimes amounting to war crimes and crimes against humanity.

EXPERIENCES OF WOMEN AND GIRLS DURING THE CONFLICT IN SIERRA LEONE

200. Women and girls in Sierra Leone were deliberately targeted by all of the armed groups involved in the conflict in Sierra Leone. They suffered a multiplicity of violations at the hands of their abusers. The violations included a range of sexual crimes such as rape, sexual slavery, forced pregnancy, and other crimes of sexual violence. Women and girls also suffered abductions, enslavement, torture and forced labour. Many women and girls were also killed in the most brutal circumstances. Many women and girls became displaced, many were forced to flee and become refugees. They also suffered extortion and looting. Despite their experiences, brutal though they were, many have managed to survive and have offered their testimonies to the Commission.
201. Of the 40,684 violations with gender recorded in the Commission’s database, 13318, or 32.7%, have female victims. The most common violation in the Commission’s database is forced displacement, which accounts for 23.5% of the violations against women but only 19.3% of the violations against men. Other common violations against women in the Commission’s database are abduction (15.7%) and arbitrary detention (12.0%).¹⁸⁵
202. In the main, women and girls experienced the conflict as victims. However, many women and girls were compelled to become perpetrators in order to survive. Many others chose to be willing collaborators and perpetrators. The Commission’s analysis of how women made choices is that, in the main, they rose to the challenge of staying alive, looking after loved ones, protecting and assisting others, often at great risk to themselves, and still display the courage to tell of their experiences. The Commission explores the whole array of different experiences effecting women and girls in the sections that follow.

¹⁸³ See the *Celebici Trial Judgement* of the ICTY, at paragraph 552. See also ICC Elements, at Article 8(2)(c)(i)-3.

¹⁸⁴ See the *Celebici Trial Judgement* of the ICTY, at paragraph 552.

¹⁸⁵ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

VIOLATIONS AND ABUSES AGAINST WOMEN

203. Women and girls in Sierra Leone suffered specific offences on account of their gender. In terms of the Commission's statistics, more than 32% of the violations recorded by the Commission were perpetrated against women.¹⁸⁶ The testimonies given to the Commission by women and girls clearly demonstrate that there was a deliberate strategy to target them because of their gender for violations of a gender-based nature.

204. The violations that women and girls experienced were characterised by the most extraordinary, inexplicable acts of violence, leaving many of them permanently scarred. Many witnesses told the Commission of how they still relive the horror of it all in their minds. One of the victims who came before the Commission told of what she witnessed:

“At Christmas time, I decided to spend it in the village of Konima since that was my husband's home. About morning time, the RUF attacked the village; I escaped, but they killed several people... An old blind woman was given cassava to eat; they (RUF rebels) caught her and beat her to death... Mariama Kalilu was a pregnant woman... When they met her in the room, they split her stomach open and abandoned her until she completely decomposed. They also caught one of my daughters who was a scholar and sexed her to death as she kept screaming until she was dead... Another suckling mother was shot dead and her baby kept playing with her remains for four days and by the time elders could decide to come back for the baby, she too was now dead. They were not buried but left for birds to help themselves...”¹⁸⁷.

205. Another victim recounted the experience that led to the death of her son:

“We hid and left the town and reached a village called Fabu where we rested. We took the route to Senehun, a town on Bo highway, to get transport for Bo town. Upon reaching the town, we saw a crowd of people standing in a line: everyone was asked to dance. Sons-in-law were to dance with their mothers-in-law and sons with their mothers, so my son and I started dancing. The instruction was we should hold each other's private parts and ask it how it was doing. There was a song for this exercise. My son, being shocked and filled with shame, couldn't follow the instructions properly. I danced properly so that the rebels won't take notice of my son's stubbornness and kill him. However, after the dancing exercise my son was slaughtered right in front of me. They gave me his head, which I refused to hold. At this point I fled with other people and the rebels started shooting behind us, but as God could have it we managed to cross the river.”¹⁸⁸

¹⁸⁶ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

¹⁸⁷ Theresa Blackie, TRC statement, Bo Kakua, 16 December 2002.

¹⁸⁸ TRC confidential statement recorded in Bo District, 24 March 2003.

206. Women and girls constituted a particularly vulnerable group who could be exploited and brutalised. While they were themselves the victims of multiple violations and abuses, they were also forced to witness family members, neighbours, friends and relatives being killed, raped and tortured.¹⁸⁹ Torture in international law may be inflicted against a person through the infliction or the threat of infliction of violence on a third person. Age was not respected; neither did it offer any immunity from being violated. Both young and old were abused in the most egregious fashion, as is shown by this testimony of a 70-year-old woman who made a statement to the Commission:

“During the 1998 attack on Baybema, I was captured together with my grand children and my daughter-in-law... One day, to my surprise as an old woman, my two hands were tied together, my braid on my head was scrapped, pepper rubbed in my eyes and I was gang-raped... If I can recall well, about four men used me forcefully.”¹⁹⁰

207. Testimonies before the Commission confirmed that all the major armed groups in the conflict perpetrated violations against women. Government security forces, civil militia and opposing armed factions were all at different times in the conflict responsible for violations against women.¹⁹¹ A female health worker shared this experience of the conflict with the Commission:

“It was in 1991 in Golahun Tunkia, Tunkia Chiefdom, Kenema district... when RUF rebels attacked the town in the morning. The RUF rebels went purposely for me; they came to take me as a commander’s wife, because the boy I was working with had told them I was a beautiful woman for their commando... The inhabitants of that town escaped with me through the bush to a town called Baoma Koya... On hearing about me, my husband hired a vehicle to bring me to Kenema with my three children... On my way to Kenema, there was a checkpoint called Teoma between Kenema and Gofor... I was stripped naked with my husband... Then in 1993, I was posted to Nongowa chiefdom, Kenema district. I was there for a year when combat uniformed men again attacked the village... In 1997 during the junta rule, we were threatened that we were informants. And on 8 February 1998 during “Operation Pay Yourself” the Kamajors entered the house and took our belongings, money and everything and they went away. Three sets of factions wearing combats came to our house the very day. They took off the door from the house and the house was left opened... we lost everything. Kamajors also threatened to kill us. They stole a generator from the Merlin hospital and put it in front of my house. We begged them to return it but they refused, so my husband reported them to the ECOMOG. This made the Kamajors threaten us for several nights. There was no one to be trusted.”¹⁹²

¹⁸⁹ See, for example, Sayo Koroma, TRC statement, Freetown, 1 March 2003.

¹⁹⁰ TRC confidential statement recorded in Kono District, 4 March 2003.

¹⁹¹ See, for example, Tity Koroma, TRC statement, Bonthe Town, 13 December, 2002; TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003; and Mariama Sam, TRC statement, Ngordohun Gbameh, Kono, 27 February 2003.

¹⁹² TRC confidential statement recorded in Kenema District, 7 December 2002.

ABDUCTION

208. Abductions have become a major characteristic of the recent conflicts in Africa, with armed perpetrator groupings kidnapping young girls and boys with the express purpose of compelling them to become combatants and / or to use them for a number of different purposes. Most of the armed perpetrator groupings in Sierra Leone were responsible for the crime of abduction, with the RUF being the major violator. A characteristic of abduction in Sierra Leone was that you were likely to have suffered this violation if you were a young boy or young girl.
209. The violation of abduction placed the abductees under the absolute control of their perpetrator grouping, which then gave the perpetrators a licence to commit a range of further violations against the abductees. These violations included being coerced into becoming a combatant, being compelled to perform forced labour, or forced into sexual slavery and forced marriage. In terms of testimony collected by the Commission, a total of 6,054 abductions were recorded in the Commission's database. Women account for 2,096 of recorded violations.¹⁹³ While all the armed groups stand accused of perpetrating this violation, the Commission has found that the RUF was responsible for the highest number of abductions.¹⁹⁴ The RUF is responsible for 1,368 (65,3%) of the Commission's recorded violations against women and 2,337 (59,3%) of the Commission's recorded violations against men.¹⁹⁵
210. The act of abduction placed the victim under the total control of the perpetrator grouping. Women were particularly vulnerable, as they were deliberately abducted in order to be exploited for the purposes of sexual violence, forced labour and sexual slavery.¹⁹⁶ Young girls were deeply traumatised by the experience as they were snatched from the bosom of their families, forced to endure separation from family members and the society they belonged to, raped and sexually brutalised and forced to endure a brutally savage life to which they were unaccustomed. Many died in captivity.
211. A former abductee of the RUF testified to the Commission of her experiences:

"I was forcefully conscripted into the rebel army to become a sex instrument for the rebel commanders, though I was a virgin... during our stay in the camp, we were visited by Corporal Foday Sankoh, whom we referred to, as "Popay"... My duties were to prepare food and to satisfy my "bush husband" anytime he needs me. After six months my "bush husband" Captain Kemokai left me to fight... he got missing in action. At that time I was four months pregnant... Later I became wife to another Commander named Mohammed. As usual, my duties were to prepare food and to satisfy him sexually, any time he needs me."¹⁹⁷

¹⁹³ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

¹⁹⁴ More detail on the violations rates of the particular perpetrator factions can be found in the Statistical Report produced as an Appendix to this report.

¹⁹⁵ See the Statistical Report produced as an Appendix to this report.

¹⁹⁶ See the Statistical Report produced as an Appendix to this report.

¹⁹⁷ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

Another former abductee described her ordeal to the Commission in the following terms:

“In Bongeh, I was repeatedly raped by groups of rebels coming from different localities. I was nursing mother of a two-month-old baby at that time and I was abducted for two months and two weeks. During my period of abduction I was also beaten on several occasions and whenever I resisted their sexual harassment, I was threatened with their guns. At one time, one of the rebels fired his gun through my legs... I later got forcefully married to “DU-DU Boy” as my “bush husband”. I was then assigned to the responsibilities of doing all the laundry, cooking their food, ironing their clothes and many other household duties. Most of their clothes had blood stains on them. Some of the female abductees who refused to have sex with them were killed. That gave me the cause to yield to their sexual demands in order to save my life. My child had died during my abduction.”¹⁹⁸

212. Women were abducted in a myriad of places, including their homes in villages or towns, from the bush or while they were walking along the road,¹⁹⁹ or during ambushes. Abductions kept the numbers high in the armed groupings and became a mechanism for armed groups like the RUF to service various needs besides swelling the ranks, as abductees served as porters, advance troops, sexual slaves and forced labour. Abductees were also required to carry items that had been looted.²⁰⁰ As a result of the war, a large number of women were separated from children and spouses and also suffered years of horrendous abuse in the hands of their abductors even as some died in the process and never made it back to their families. Young girls were separated for many years from their families and many did not make it back.
213. The Commission finds that all of the armed groups pursued a deliberate strategy of targeting women and young girls between the ages of 13 and 22, abducting them for the sole purpose of keeping them under their control, exercising rights of ownership over them and exploiting their vulnerability, coercing them into becoming combatants, using them as sexual slaves, sexually violating them and using them for the purposes of forced labour and servicing the needs of the armed group. The RUF, of all the armed groups, is found to have been the major perpetrator of abduction and related violations.

¹⁹⁸ TRC confidential statement recorded in Upper Banta Chiefdom, 15 February 2003.

¹⁹⁹ See, for example, Mariama Sam, TRC statement, Ngodorhun Gbaneh, Kono, 27 February 2003.

²⁰⁰ See, for example, TRC confidential statement recorded in Port Loko District, 30 April 2003.

FORCED RECRUITMENT

214. Flowing from the violation of abduction, a number of other violations occurred including forced recruitment. The Commission was not able to compile accurate statistics on the number of women ex-combatants involved in the conflict.²⁰¹ However according to the NCDDR, 513 girl ex-combatants below the age of 18 years went through the Disarmament, Demobilisation and Reintegration Process.²⁰² This represents 5% of the total number of ex-combatants who participated in the DDR process.²⁰³ The NCDDR recorded a total of 5,058 adult female ex-combatants.²⁰⁴ It further broke down the figure amongst the major fighting forces for women (adult female) as follows: RUF – 3,922; AFRC – 400; CDF – 296; and SLA – 107.²⁰⁵
215. The NCDDR statistics also do not accurately reflect the number of women who joined voluntarily or those who were forcibly recruited into becoming combatants. There are a number of reasons for this omission. At the end of the conflict, many women were reluctant to be identified as ex-combatants, as they were fearful of the reaction that it might evoke from the civilian population. Another reason was the failure of those in charge of the demobilisation process to make appropriate arrangements to include women and girl ex-combatants in their programmes. Many women and girls ex-combatants were therefore excluded, as well as not being properly identified and correctly registered in the DDR programmes.
216. Women were routinely abducted during attacks and during routine patrols. Once abducted women and girls were coerced into handling arms and taught to fight. The following victim gave a typical account of what happened next:

“They took away everything we had including me. My mother begged them in vain to release me but “Sergeant Small Soldier” – for that was the name of the rebel that abducted me – refused... he took me to Walihun... which by then was their headquarters... then the Kamajors attacked us, so we moved to Jimmi Bagbo and Koribundo area... That was the camp where the girls and women were separated from the boys and men. We were left to the command of women rebels who maltreated us greatly... we were all trained to fight as rebels. We were only given a handful of gari (empty and dry) per day. We were sent to raid neighbouring villages to loot food and bring it back. If anybody disobeyed, you were cruelly beaten.”²⁰⁶

²⁰¹ See the Statistical Report produced as an Appendix to this report for a discussion of areas on which the Commission’s database cannot provide definitive figures and projections.

²⁰² See Executive Secretariat of National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), Monitoring and Evaluation Unit; *Report on numbers of Children and Women that went through Disarmament, Demobilisation and Reintegration Process*; 9 September, 2003 (hereinafter “NCDDR, *Numbers of Women and Children that went through DDR*”).

²⁰³ See NCDDR, *Numbers of Women and Children that went through DDR*, at page 3.

²⁰⁴ See NCDDR, *Numbers of Women and Children that went through DDR*, at page 4.

²⁰⁵ See NCDDR, *Numbers of Women and Children that went through DDR*, at page 4.

²⁰⁶ TRC confidential statement recorded in Bo District, 9 December 2002.

217. In April 1998 this woman was forcefully recruited by the RUF. She recounted her story in her statement to the Commission:

“I was about to go to town, when suddenly four men appeared before us holding guns and knives in their hands. They said they were RUF from Kailahun... after a month we were taken to Kailahun to be trained. Now I am a victim, a witness and a perpetrator... Superman forced me to go with others to attack Kono. We went but later we retreated.”²⁰⁷

MUTILATION

218. Women and girls abducted were compelled to remain with the fighting forces throughout the conflict. It was only with disarmament that they were able to leave. A number of women and girls told the Commission how they tried to escape. Punishment was harsh if they were recaptured. They suffered even further when the fighting force to which they belonged deliberately marked them on their chests by carving the initials of the particular fighting force on it. This was a deliberate strategy on the part of the RUF and the AFRC.²⁰⁸ Marking abductees in this way prevented their escape, as to run the risk of being identified as a member of the RUF or AFRC would be to risk death. A girl who was 13 years old at the time she was abducted by the RUF told the Commission her story:

“I was captured together with five other girls and taken to their base at Matru Jong. I was captured by a man called “Delawey” (a Sierra Leonean), who also had been captured and sent to Liberia for training... When we attempted to escape, we were caught by another set of RUF members, who beat us and brought us back to base. At the base we were trained to become fighters for six months... if any one becomes tired they shot the person dead... After the training, they forced people to take up guns and attack villages... All those who attempted to run were caught and labelled RUF with knife, blade or a very sharp stick. Also in the bush, I got a man whom I gave birth for. He is still my husband.”²⁰⁹

219. The Commission’s statistics confirm that there was a deliberate policy on the part of the RUF and AFRC to target girls and women between the ages of 13 and 24 and forcibly “brand” them with the acronyms of the fighting forces.²¹⁰ Mutilation has been listed as a war crime under Art 8(2)(c)(i) of the Rome Statute. The ICC elements define mutilation as a permanent disfigurement or permanent disabling or removing an organ or appendage under circumstances that are not medically justified. The Commission finds that the RUF and the AFRC were responsible for the mutilation of women and young girls in that they carved the initials of their particular armed faction on the chests of women and girls with the intention of permanently disfiguring them, holding them hostage and discouraging them from escaping.

²⁰⁷ TRC confidential statement recorded in Kailahun District, 14 December 2002.

²⁰⁸ See, for example, TRC interviews with two former RUF junior commandos who stayed in the movement from 1991 until the end of the conflict, interviews conducted in Kailahun, July 2003.

²⁰⁹ TRC confidential statement recorded in Cline Town, Freetown, 13 January 2003.

²¹⁰ See the Statistical Report produced as an Appendix to this report.

DETENTION

220. In terms of statements made by women and girls to the Commission, more than 1,061 violations of detention during the conflict were recorded in the Commission's database.²¹¹ Detainees were forced to move with the fighting forces and were held in many locations under the most terrible conditions.²¹² One victim described to the Commission the conditions in which she and others found themselves:

"...They instructed other rebels to escort us to Bumpeh, then they took us there. They packed all of us in a very small house, and held us where we could not even sit down, so we all stood up with all our children..."²¹³

221. A victim detained with her husband in 1994 also told of her experience:

"In 1994, we experienced the first attack on our village by the rebels. We fled for our lives to escape death; unfortunately when another attack was made, we could not escape into the bush and all of us were captured... I and my husband were invited by the rebels to their residence where they locked both of us in a big box and poured dirty water on us ..." ²¹⁴

222. Women reported to the Commission that they were often beaten and tortured while detained for the flimsiest of reasons:

"One evening, the rebels SK and AB came to me... A small boy who held the gun hit my buttocks and he said I talked about the war they were fighting... They had soldiers and they took me away. I told them that I was not the one who said those words but they said I was the one and as a result, they were going to kill me...I was beaten and later he put me in their cell..."²¹⁵

223. One of the most common reasons for being detained was if a spouse or a relative belonged to the opposing forces. Women in these situations were often accused of being collaborators and were detained, beaten and tortured. A 70-year-old victim who was detained at Bayama in Ngorama Chiefdom by the CDF told of her ordeal:

"I was captured together with my children, stripped naked, detained unlawfully and beaten. While in captivity one of the CDF by the name of Tamba Johnny killed my son on sight and the man is in town here while I am talking to you. After killing my son another CDF man went and cut his ears, by then I was still under torture and detention... my mind was not with me"²¹⁶

²¹¹ See the Statistical Report produced as an Appendix to this report.

²¹² TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

²¹³ Confidential testimony received before TRC Closed Hearings, Pujehun District, 25 June 2003.

²¹⁴ TRC confidential statement from a female victim, recorded in Bonthe, 17 April 2003.

²¹⁵ TRC confidential statement recorded in Tonkolili District, 13 January 2003.

²¹⁶ TRC confidential statement recorded in Tankoro Chiefdom, Kono District, 17 December 2002.

224. A victim whose father had tended to injured members of the CDF Kamajors testified to the Commission:

“...The same year 1998, when they attacked Segbwema town, all my family were scattered. I was caught by the SLA / RUF rebels. They told me that they would kill me because my father gave medical treatment to the CDF Kamajors when they were wounded in the conflict. I was stripped naked, all my belongings taken away and almost killed except when a Jet plane came around to kill them, then they ran away.”²¹⁷

225. The Commission finds that all of the armed perpetrator groupings pursued a strategy of deliberately targeting those whom they believed to be relatives and supporters of the opposing forces with the intention of detaining them and violating them because members of their families belonged to the other side or because they had some dealings with the opposing forces.

FORCED DISPLACEMENT

Internal displacement

226. Internally Displaced Persons (IDPs) are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of, armed conflict, situations of generalised violence, violations of human rights, or natural or human made disasters, and who have not crossed an internationally recognised State border.²¹⁸ Issues raised by internal displacement are the duty of the state to protect those displaced. Armed groups also have the legal and moral responsibility not to assault civilians or subject them to human rights abuses and to protect the rights of displaced persons living in areas under their control.
227. A major consequence of the war in Sierra Leone was the forced displacement of hundreds of thousands of civilians from their homes and villages. The Commission recorded 8,397 violations of this nature, with women accounting for 3,128 (or 37,3%) of the victims.²¹⁹ One female victim recounted her story of forced displacement to the Commission:

“When the RUF rebels from Liberia attacked and occupied Jojoima town in 1991, we were harassed to the point that I could no longer bear. Every day they asked us for food such as rice, meat and other items. Whosoever could not produce what they requested for would be beaten. I decided to escape. On our way, I and others came across government soldiers at Madina. They told us to wait for them at Gbogeima village while they went in search of other displaced people. A soldier came back in the evening; he came with people from the bush. The people were so many that he alone could not protect all of us. In the early morning two senior imams were in the mosque, Alhaji Fei-Kamo Kanneh and Alhaji Maldieu Kanneh.

²¹⁷ Nabeli, Musu; Kenema, Nongowa Chiefdom; 16 December 2002.

²¹⁸ See Kofi Annan, UN Secretary-General, “Guiding Principles on Internally Displaced Persons”, policy note, A/56/168; 21 August 2002.

²¹⁹ See the Statistical Report produced as an Appendix to this report.

They saw the rebels passing clandestinely and they returned and told us... we were all assembled in the centre of Gbogeima village... the rebels told the crowd that as from that moment nobody will live any longer. They opened fire on the crowd. A lot of people died. I lay on the ground flat with my children who had been shot. The firing on the crowd continued until there was a voice from the bush shouting about the arrival of the soldiers. When they heard that, the rebels ran into the bush. I then took my children with other relatives to Nyeyama."²²⁰

228. One strategy that the RUF employed was the indiscriminate burning of houses and villages. Many victims were burnt to death in their homes, while others were forced to flee from their residences, thereby forcibly displacing them.²²¹
229. Many villagers abandoned their homes when they heard of an impending attack and fled to the bushes or into the mountains. Some fled to other villages and in some cases "Bondo houses" for fear of what the armed forces would do.²²² The war in Sierra Leone was particularly devastating for those in the rural areas, as people became part of a moving population always on the run from the various armed forces. People were forced to leave the safety of their homes, the fruit of their crops and their possessions. In most instances, they left in a hurry to avoid the impending attacks and were forced to live and forage in the bush.
230. The Commission finds that all of the armed perpetrator groupings and in particular the RUF violated the rights of civilians in that they were forced to flee from their homes, leaving everything that they possessed behind, causing them not only economic loss but also the loss of security and enormous trauma. The Commission also finds that each of the armed groups failed to protect the displaced persons in the areas under its control, thus sanctioning the violations of their rights.

Refugees

231. In international law as applied by the Commission, a refugee is described as a "person who, as a result of a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his or her nationality and is unable, or owing to such fear is unwilling, to avail himself or herself of the protection of that country."²²³

²²⁰ Madiana Kanneh, TRC statement, Jojoima, Kailahun District; 25 January 2003.

²²¹ See, for example, Mamie Mambu, TRC statement, Kpanda-Kemo Chiefdom, 16 February 2003.

²²² TRC confidential statement recorded in Fullah Town, Gbangbatoke, 4 March 2003.

²²³ See the Geneva Convention on the Status of Refugees 1951, at Article I-A-(2).

232. Women and young girls constituted a large number of the refugees that fled to neighbouring countries during the conflict. A victim who was forced to flee to Liberia after the death of her two sons recounted her experience to the Commission:

“I was in my village in 1991 when one morning a group of armed men dressed in rags attacked the village. They were shooting at random. These men told us that they have not come to kill us neither destroy us. But this was the opposite of it because they started killing and unfortunately for me my two sons Bockarie and Saffa Koroma were shot one morning and killed. The whole village could not withstand this so we finally went into hiding as far as in Liberia. After going through a lot of constraints for over four years we came back to settle in our village in 1996.”²²⁴

233. There is a growing recognition of the vast numbers of people who are internally displaced and who are forced to become refugees. In 1992, the Secretary-General appointed a Special Representative on Internally Displaced Persons to develop a framework to protect their rights. Dr. Francis Deng, the expert, developed guiding principles on internal displacement. A positive development for women has been the fact that the Guiding Principles call for the specific recognition of the needs of women. They acknowledge the situation of female heads of households; emphasise women’s physical and psychological needs; reaffirm their need for access to basic services; and call for their participation in education and training programmes.²²⁵
234. The Commission has made several recommendations in respect of improving the plight of internally displaced persons and refugees. These measures can be found under the relevant heading in the recommendations chapter²²⁶

Violence against women in camps

235. The Commission found that many Sierra Leonean women had their rights violated in the refugee camps. It is regrettable that those meant to protect the vulnerable were often responsible for further victimising them. In April 2002, the UNHCR and Save the Children-UK issued a report on Sierra Leonean Refugees in Guinea detailing the violations which women and girls amongst others suffered while refugees in Guinea.²²⁷ Young girls and women were forced to have sex in return for food and assistance. Many of them were forced to become prostitutes in brothels established in the camps. More than 1,500 people were interviewed and told similar stories. Men complained of how they were not given access to food because they had no wife or daughter to barter for food or supplies.

²²⁴ Fodei Saffa Koroma, TRC statement, Gbahama Kengo Section, 23 January 2003.

²²⁵ See Kofi Annan, UN Secretary-General, “Guiding Principles on Internally Displaced Persons”, policy note, A/56/168; 21 August 2002.

²²⁶ See the chapter entitled Recommendations in Volume Two of this report.

²²⁷ See Save the Children – UK and UNHCR, “*Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone*”, April 2002.

236. Women and girls told of how their names would be taken off lists for food and aid if they refused to have sex with peacekeepers and humanitarian workers. The Commission finds it absolutely reprehensible that those who are meant to assist and render humanitarian aid to the most vulnerable women and girls used the very fact of their vulnerability to exploit them and violate their rights. In this regard, the Commission finds that those responsible should be prosecuted. Also in this regard, the Commission intends to make recommendations in order to prevent this kind of abuse taking place in the future.

FORCED LABOUR

237. Abductions in modern warfare provide armed forces with a new source of labour that does not have to be paid for, which can be fed on scraps and is completely at the mercy of the group that assembles it. The armed perpetrator groupings in Sierra Leone, particularly the RUF, relied to a great extent on those who had been abducted to perform slave labour. Forced labour was used for both military and civilian tasks. Arms and ammunition had to be carried to the front. Looted items had to be carried back to the camp. Wood was needed and ordinary tasks of a domestic nature required free labour of which abductees constituted the main source.²²⁸ Captives were forced to take drugs to ensure that they endured the pain and the hardship of the labour they were assigned to do. A female victim, who was a mother of one when she was abducted in 1992 by fighters she suspects were ULIMO, told the Commission:

“When they captured my son and me, they gave me a heavy load to carry on my head. I was with them for a very long time, say about seven months. During my stay with these men we travelled from place to place, carrying loads for them. Before then when they captured me, they gave me seed rice to pound; afterwards I was given drugs, marijuana to smoke. I smoked it to the end then my head became heavy; I could not feel any pain. Then they placed the bundle of things on my head which they ordered me to carry from one distant place to another.”²²⁹

238. Another woman who was captured in 1999 at Kambia Town recounted her ordeal:

“In 1999 again, the town of Kambia was attacked. It was around 10.00 p.m. ... the voice of a male ordered me to stand up... they came and surrounded me... then they took me to their base near the hospital towards the school compound in Kambia Town. At their base, I met several other older women, whom they had captured. I and these women were given orders to collect and pack mud and cement block, which they used as a checkpoint...”²³⁰

²²⁸ See, for example, Aminata Marrah, TRC statement, Fadugu Town, 17 January 2003.

²²⁹ TRC confidential statement recorded in Kambia District, 14 December 2002.

²³⁰ Isatu Kaula Kamara, TRC statement, Magbema Chiefdom, Kambia, 5 December 2002.

239. Women were coerced into forced labour by all of the armed forces. They were subjected to even further violations as they carried out their duties.²³¹ A victim who suffered in the hands of some “sobels” in her village and later was abducted by them described her experiences:

“On our arrival at the court barray in the centre of the town, they told the town elders to appoint the town commander and the town mother. Mr. Osman Kortor and I were “appointed” by the town elders... One day, they forcefully tasked us to prepare food for them and at that time there was a shortage of salt, but I managed to cook the food. When they found out that there was no salt in the soup, they commanded me and some other women to eat the food. After eating the food, they gave us the dirty water that we used to wash the basin to drink – if not they will kill us. Three weeks later, they took us to Gbangbanlia in the Lugbu chiefdom and we stayed there for four months carrying their loads and pounding rice for them. They also took us to Jimmi Bagbo and we were later sent to the bush around the village to process gari for them.”²³²

240. Abducted women civilians were compelled to live with the armed groupings and were forced to carry out traditional domestic functions such as fetching firewood, preparing food and doing laundry.²³³ A female victim testified as to what took place in her village when it was occupied by soldiers:

“The soldiers we met in Bumpeh were ULIMO soldiers. We lived with them in the town for about seven months, during which they harassed us a lot. In fact we used to pick rice for them and even wood, we were fetching it for them. Our husbands were providing palm oil for them and also hunting animals for them. Such was the condition we were undergoing...”²³⁴

241. In effect, women constituted the largest category of victims compelled to do forced labour. Many victims who made statements to the Commission conveyed a traditional acceptance of what constitutes the tasks of women, in most instances accepting this role and not seeing fit to report it as a violation. Women accounted for 497 violations of forced labour from a total of 1,878 reported to the Commission. However a reading of the statements submitted to the Commission reveals that almost all of the women and girls abducted were compelled to perform forced labour, usually continuously throughout their period in the captivity of an armed group.²³⁵

242. The Commission finds that all of the armed perpetrator groupings coerced women and girls under their control into doing forced labour and notes that, in terms of the Rome Statute for the ICC, such abuse becomes a gender crime when an individual is enslaved because of her particular function in society.

²³¹ Lucia Kamara, TRC statement, Fairo, Soro Gbema, Pujehun District, 16 December 2003.

²³² Gbessay Santigie, TRC statement, Mokeleh Chiefdom, 10 February 2003.

²³³ Abie Walters, TRC statement, Mosenesie, Gbangbatoke Chiefdom, 4 February, 2003.

²³⁴ Confidential testimony received before TRC Closed Hearings, Pujehun District, 25 June 2003.

²³⁵ The Commission's database was unable to record every instance of forced labour as a violation, particularly as most statement givers passed over the nature of the chores that women and girls were made to perform and instead placed emphasis on different violations, such as killings, rapes and acts of torture. Nonetheless, the Commission regards the fact that people are “conditioned” to take such treatment of women and girls for granted as testament to the widespread practice of the violation of forced labour.

ASSAULT

243. Life for women with the armed groups was brutal. They were treated savagely and were constantly humiliated. Assaults and beatings were commonplace and were doled out for the slightest infraction. The frequent assaults and beatings were meant to sow terror, fear and complete insecurity of person. Women were cowed into submission. One of the victims indicated her sense of vulnerability in her statement to the Commission:

“They (RUF) gave me a very serious beating... then I was stripped naked. I only had a pant on.”²³⁶

244. Women were beaten with sticks, guns and sometimes with bayonets, which resulted in severe injuries to their bodies. No regard or consideration was given to those who were ill or expecting a baby. A victim who was pregnant at the time of her ordeal recounted her story to the Commission:

“On our arrival at Fonima, one of the rebels said ‘send them all to hell, send them all to hell’... they stripped us naked again and it was during the rainy season. The place where they told us to lie down and roll was muddy and they took the cane stick from the table that they made, then they gave us a merciless beating and some parts of my skin peeled off... even the foetus in my womb shifted from its position and came up towards my chest and I was also wounded.”²³⁷

245. Beatings were arbitrary with the deliberate intention of inflicting cruelty, humiliating and degrading the person concerned.²³⁸ An abducted girl-child who lived with an RUF combatant couple testified to the Commission:

“The rebel wife I was staying with used to flog me everyday and even requested for her husband to kill me as she did not want to see me. At that time they had already killed my mother and my father.”²³⁹

246. Of the 3,281 cases of assault recorded by the Commission, where the gender of the victims is known, 914 cases recorded women victims.²⁴⁰

247. The Commission finds that women and girls were subjected to cruel and inhuman treatment by all of the armed perpetrator groups, with the deliberate intention of inflicting serious mental and physical suffering or injury.

²³⁶ Amie Kallon, TRC statement, Yoni, Kpanga Kabondeh Chiefdom, 26 February 2003.

²³⁷ Confidential testimony received before TRC Closed Hearings, Kenema District, May 2003.

²³⁸ See, for example, Mariama Sam, TRC statement, Ngordohun Gbameh, Kono, 27 February 2003.

²³⁹ Confidential testimony received before TRC Closed Hearings, Tonkolili District, 9 July 2003.

²⁴⁰ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

TORTURE

248. Acts of torture, carried out on a systematic scale, are regarded as both a crime against humanity and a war crime. The requirements though are different. The right not to be tortured is one of the fundamental rights of a non-derogable nature, in other words it a *jus cogens* norm. Rape and other forms of sexual violence are recognised both under international human rights law and humanitarian law as torture. Women experienced intense mental and physical torture in the hands of the armed forces, particularly the RUF. The intention was to strip them of any sense of identity or self worth. They were treated like animals with the clear purpose of dehumanising them. Cruel and degrading treatment was extensively practiced on women and girls. A girl-child who lived with the RUF described some sordid acts she witnessed:

“...They used to cook a lot of food and at the end of the day after they had eaten their own food, whatever remains, they will mix it with toilet and give it to the civilians in the villages... if you refuse to eat, they will in turn kill you. Those who will eat the toilet food they will ask them to carry their loads...”²⁴¹

249. When she was asked whether she had been forced to do this, she replied as follows:

“Yes, the wife of the Colonel wanted for me to eat her faeces but fortunately the Colonel was there who stopped her from giving me the toilet to eat.”²⁴²

250. Women because of their nurturing instincts were singled out for a particular kind of torture. They were forced to watch their children and spouses being violated and ultimately killed. An elderly woman at Bonthe recounted to the Commission how her only son was killed. His head had been cut off and she was then forced to hold his head and breastfeed it.²⁴³ Women were in many instances compelled to exhibit mock high spirits by laughing and clapping at the torture or death of family members. Torture was often accompanied by acts that were intensely degrading and cruel. A female victim testified to the Commission about the attack at Bumpeh Gao:

“...The rebels then started the massacre of civilians. For example, my grandmother Martha was tortured to death... I was compelled to sit on the tarred road and forced to drink my own urine... I was undressed by the rebels naked and forced to drag on the tarred road.”²⁴⁴

²⁴¹ Confidential testimony received before TRC Closed Hearings, Tonkolili District, 9 July 2003.

²⁴² Confidential testimony received before TRC Closed Hearings, Tonkolili District, 9 July 2003.

²⁴³ Cecilia Caulker, TRC statement, Bonthe District, 8 December 2002.

²⁴⁴ TRC confidential statement recorded at Tikonko, Bo District, 14 January 2003.

251. Torture took a number of different forms. Women were put into a hole in the ground, which was filled with water that covered a greater portion of their bodies. They were made to stay like that for a number of days. Some women were forced into cages smaller than their bodies.²⁴⁵ Others had hot oil poured over them, burning the skin away. Others had their bodies and faces mutilated. A female witness described this disturbing incident:

“I witnessed where a rebel named David captured two women and said their buttocks were not equal. He took a cutlass and sliced the fat woman’s buttock and stuck the flesh to the other woman’s buttock. The fat one was bleeding seriously. I don’t think she made it.”²⁴⁶

252. Of the 2,086 torture violations recorded in the Commission’s database, women accounted for 538 violations where the gender of the victim is known.²⁴⁷
253. The Commission finds that all of the armed perpetrator groupings pursued a deliberate strategy of inflicting torture on women and girls, by inflicting or threatening to inflict sexual violence, other acts of violence and cruel and inhuman acts upon them or on a third person or persons close to them.

FORCED DRUGGING

254. Statistics in terms of the violation of forced drugging, like forced labour, remain inadequate because it was generally under-reported by women. A major reason for the failure to report the abuse is that drugging became part of many women’s daily experiences and assumed a semblance of normality. However, a close reading of statements made by women and girls, as well as almost of all of the hearings testimony, confirms that forced drugging became the norm.
255. At the Special Hearings on Women held in Freetown, many women testified to the fact that in the course of their abduction and whilst living with the rebels they were given drugs every day. They also confirmed that drugs were on a daily basis added into their food.²⁴⁸ Their abductors would add marijuana into some of the sauces normally eaten with rice, such as cassava or potato leaves. Marijuana and other drugs such as cocaine, heroin and “brown-brown” were administered to women in a number of different ways, including forced inhalation, or making incisions on their bodies and rubbing the drugs into the wounds. Gunpowder was also administered to women, presumably as a stimulant. A woman abducted during the January 1999 invasion of Freetown told her story to the Commission:

“...I was forced to make sex with several rebels. The rebels did not only abuse me sexually but they also introduced me to drugs like cocaine and marijuana. In fact what they usually did was to have me properly drugged before they will have sex with me. The rebels also used me and some other ladies whom they abducted as human shields each time the ECOMOG soldiers attacked them.”²⁴⁹

²⁴⁵ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

²⁴⁶ Kaiyada, Sai Tefaya Town, Sandor Chiefdom, 4 March 2003.

²⁴⁷ See the Statistical Report produced as an Appendix to this report.

²⁴⁸ “First Witness” and “Second Witness” – confidential testimonies received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

²⁴⁹ TRC confidential statement from a female victim, recorded in Freetown, 29 January 2003.

256. Another women abductee who lived with the rebels for almost a year described how various substances were administered to her and other abductees:

“As a captive I was taken to Gbangbatoke town along with other captives... the next morning we were assembled in the open air and were informed that we would be leaving for Moyamba town. Before we left, I was given some black thing similar to powder to swallow, which I later learnt was gunpowder... some of us were called to assemble by Commander Murray. In the assembly I was injected with cocaine and was given one set of military uniform and a knife. After the injection and distribution of uniform, we were the informed that we will be going to fight alongside the rebels.”²⁵⁰

257. Medical practitioners in Sierra Leone confirm that in the aftermath of the war, a major problem facing Sierra Leone is how to deal with the long-term consequences of prolonged drug abuse. Many women who appeared before the Commission complained of mood swings, unexplained anger and feelings of intense hopelessness. In most instances, these symptoms are not addressed properly and contribute to an already violent and disturbed society showing signs of even greater dysfunctionality.
258. In this regard, the Commission finds that the armed forces and particularly the RUF were responsible for coercing victims and those over whom they had control into using a number of dependence-inducing substances with the deliberate intention of causing them to lose control both mentally and physically and with the intention of exploiting their vulnerability. The Commission is of the view that if the legacies of drug abuse and forced drugging are not addressed, they have the capacity to impact negatively on the rehabilitation and reintegration of ex-combatants, their partners and their victims into society and thereby threaten the prospects for continued and sustained peace.

KILLING

259. Scores of thousands of Sierra Leoneans, including thousands of women, lost their lives in the conflict. There was a deliberate policy by certain of the armed forces, particularly the RUF and the AFRC, to target civilians in campaigns of killings. Many families and communities were massacred. One example is this mass killing of a family at Kono Kangana, Gorama Chiefdom in 1994:

“...The soldiers started asking my sisters, uncle and mother’s mate under threat to give them all that they had or they should buy them marijuana to smoke. My sisters in turn refused giving them anything. So the soldiers killed my mother’s mate and my sisters; in all seven people were killed. Only two of us narrowly escaped the massive killing.”²⁵¹

²⁵⁰ Isatu Turay, TRC statement, Fullah Town, Gbangbatoke, 4 February 2003.

²⁵¹ TRC confidential statement recorded in Kenema District, 7 December 2002.

260. The RUF devised several special “operations” in which the primary objective was mass killing. A notorious example was “Operation No Living Thing”, which was intended to leave nobody alive who crossed the path of the RUF. A woman in Mokonde town told of the private pain she experienced after witnessing the killing of her sister:

“While she was going back to search for her thing, I decided to wait under a tree until she returned... I heard men’s voices questioning somebody along the footpath. I recognised the voice of my sister and immediately, I raised my head to see more. I saw my sister and two armed men in military uniform standing opposite a big tree. After some questioning by these men, I saw one of them raise his gun and hit her on her head. She immediately fell down and one pulled out a long knife, which was hidden in a long packet, and used it to split open her head into two. At this point, I saw blood flowing down her body and she was crying and calling our family name in Mende. I bowed my head crying silently...late in the evening, I came out to bid her farewell; I saw her lying in a pool of blood and I wept bitterly at her side as I was alone...I managed to drag her corpse from the road to the bush where I can identify her...”²⁵²

261. A distraught mother described the death of her daughter, who was a nursing mother at the time:

“It was on a Monday during the time when rebels took over the city in January 1999. The incident took place in my house. We were all in the house on that day hiding in different positions when we noticed that it was prayer time. So I called on my daughter who was also a suckling mother to join me in prayer. We were now kneeling down for the first part of the prayer when her head was shot and she fell down dead. She was bleeding from the head and nose up to the time of her burial.”²⁵³

262. The Commission finds that all of the armed perpetrator forces pursued a deliberate policy of killing civilians, often in an indiscriminate fashion. In the course of pursuing this policy, the factions took the lives of many women and girls. The Commission finds that the RUF in particular pursued a strategy of mass killings under campaigns such as “Operation No Living Thing”. In terms of both international human rights law and humanitarian law, the killing of civilians is strictly prohibited.

²⁵² Mariama Kebbie, TRC statement, Koni Chiefdom, Moyamba District, 23 January 2003.

²⁵³ Marie Kamara, TRC statement, Freetown West I. 7 December 2003.

DISEMBOWELMENT OF PREGNANT WOMEN

263. Disembowelment was a gruesome violation perpetrated on women during the conflict expressly because of their gender. What is particularly repugnant is that many pregnant women had their stomachs disembowelled because members of the armed forces wanted to place bets as to the gender of the unborn baby.²⁵⁴ Some witnesses gave these testimonies to the TRC:

“...The captain of the RUF placed a bet with his colleague that the woman was having a baby girl whilst the colleague insisted that it was a boy. The pregnant woman’s stomach was then dissected to prove who was right. After opening the pregnant woman’s stomach, they saw a baby girl who was later left to die and the pregnant woman had already died from the act. This is one of the worst violations I have ever witnessed in life and when ever I think about it, I become more traumatised.”²⁵⁵

[and]

“...The rebels captured a pregnant woman and they argued among themselves whether she was carrying a boy or girl. To prove who was right they decided to kill the woman. They opened up her stomach and realised she was carrying a girl. They removed the baby from her womb and killed the baby and divided it among them.”²⁵⁶

264. The Commission recorded only a few incidents of disembowelment,²⁵⁷ but strongly suspects that the figure is not indicative of the actual number of women who suffered the violation or those that witnessed it during the conflict. Specialist consultants to the Commission on gender-based crimes spoke of the tendency of victims and witnesses of such crimes to “suppress” memories of the event, which may explain why more people did not come forward to the TRC to speak about it. Interviews conducted by the Commission also unearthed the story of a woman who nearly suffered disembowelment but was saved because the induced trauma of the fear of disembowelment forced her into immediate labour where she gave birth to the child in the bush where the disembowelment would have taken place.²⁵⁸ Some disembowelments of pregnant women took place in front of family members, leaving behind deep scars in the minds of the living. One witness described, among other violations, the gruesome manner in which her pregnant sister was killed with her child:

“...My sister Nancy was pregnant. Her stomach was first split open with a cutlass and the baby removed from her. The foetus was cut into two. The two dead bodies were taken into the house before setting the house on fire.”²⁵⁹

²⁵⁴ Theresa Blackia, TRC statement, Bo Kakua, 16 December 2002.

²⁵⁵ Nbalu Turay, TRC statement, Massabendu, Nimgbema Chiefdom, 25 February 2003.

²⁵⁶ Menie Boima, TRC statement, Waterloo, 12 February 2003.

²⁵⁷ See the Statistical Report produced as an Appendix to this report.

²⁵⁸ See TRC Interview with Agnes Sesay; Internal Displaced Persons’ Camp, Lunsar, July 2003.

²⁵⁹ Aminata Momoh, TRC statement, Pejebongre Chiefdom, 11 May 2003.

265. The Commission has found that most violations in this category are attributable to the RUF. Given that the RUF was responsible for the highest number of abductions, they are also found to be responsible for the highest number of gender-based violations perpetrated against women.²⁶⁰ One young victim-turned-perpetrator of the RUF explained a situation in which he took part in a disembowelment violation:

“...I was captured in 1997 as a teenager and a primary school pupil of class two in Mattru Jong, Bonthe District. I was forced to carry their loads to unknown destinations... After some time, one of their bosses came... and asked that we be trained and get enrolled in the RUF... a few days after, they gave me my own gun. One day, they brought a pregnant lady and asked us to kill her and remove the foetus from her womb. We did so under duress as little boys and that was my first experience with the RUF.”²⁶¹

266. Another former combatant from the RUF testified to having seen a similar act:

“...My mother was a business woman... she took me to a village to sell some goods... in the night it was attacked by RUF rebels. I was captured and abducted by Komba Gbondema... at the age of six. Commander Gbondema took me to Camp Zogoda for training. Due to my braveness and technique of fighting, CO Gbondema promoted me to Corporal Highway... At one time we attacked Mile 91 and CO Gbondema ordered a rebel to butcher the belly of a pregnant woman. To know whether she is carrying a boy or a girl.”²⁶²

267. The violation of disembowelment invariably led to a horrific death for both mother and child. According to one testimony to the TRC:

“...They were snatching babies and infants from their mother’s arms and tossing them in the air. The babies would free fall to their deaths. At other times, they would also chop them from the back of their heads to kill them, you know like you do when you slaughter chickens... One time, we came across two pregnant women. They tied the women with their legs spread eagled and took a sharpened stick and jabbed them inside their wombs until the babies came out on the stick.”²⁶³

268. The Commission notes that the ICC elements define “enforced sterilisation” as “depriving one of more persons of biological reproductive capacity, neither justified by medicine or hospital treatment nor carried out with their genuine consent”. This definition includes acts committed upon women during war such as the removal of the foetus, castration, destruction of reproductive organs as well as medical sterilisation without consent.

²⁶⁰ More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

²⁶¹ TRC confidential statement recorded in Bo Kakua, 4 March 2003.

²⁶² Saidu Kargbo, TRC statement, Lakka, Western Area, 28 March 2003.

²⁶³ TRC confidential statement recorded in Kailahun District, January 2003.

269. The Commission finds that all of the armed groups were responsible for the enforced sterilisation, torture and mutilation of women and girls. In particular, the Commission finds the RUF – through its practice of disembowelling pregnant women – responsible for the violations of “enforced sterilisation”, torture and mutilation of women and young girls for no reason other than to torture and inflict cruel and inhuman treatment on them.

AMPUTATION

270. The conflict in Sierra Leone is most visibly associated with amputations. Pictures of amputees have been shown on television screens and newspapers all across the world. Amputation is also the violation that has had the most devastating effect on the morale of the population. Due to a variety of factors, the Commission has found that it has not been able to establish absolutely reliable statistics on how many people suffered amputations or died from their injuries. In terms of alternative sets of figures, the United Nations Mission in Sierra Leone (UNAMSIL) has relied in its reports on the statistics of the Norwegian Refugee Council, which estimates that there are currently 1,600 surviving amputees in Sierra Leone, with more than 40% of them being women.²⁶⁴ Figures available for 2002, estimate that 19% of the 225 registered amputees in the Southern region were women.²⁶⁵

271. Amputation was a deliberate strategy on the part of the RUF, designed to sow terror in the hearts and minds of civilians.²⁶⁶ The Commission has found that this deliberate strategy was on occasion aimed at preventing civilians from voting. Many amputees testified that the RUF ordered them, after amputating their hands, to take the amputated hand to the elected President of Sierra Leone, Ahmad Tejan Kabbah. The RUF had adopted the strategy of “Peace before Elections” and the call of the President-in-waiting for “Elections before Peace” had infuriated the RUF leadership. Thus the RUF resorted to targeting civilians and amputating their limbs. During the campaign of amputations known as “Operation Stop Elections” in 1996, the right hand of victims, being the hand symbolic of voting, was cut off and handed back to the victim with the direction that it should be delivered to Tejan Kabbah. One of the female amputees recalls the incident:

“I begged them, calling the name of God... because I called God before them, they said they are going to cut off my hands. They immediately held my hands and placed them on a cement block and cut off my hands. They asked me to go to Tejan Kabbah to give me hands, because we voted for him.”²⁶⁷

272. After amputating a woman victim’s finger, the RUF rebels gave the amputated finger to the daughter of the amputated woman saying:

“Go and give it to Tejan Kabbah who is your god to replace it.”²⁶⁸

²⁶⁴ See United Nations Assistance Mission in Sierra Leone (UNAMSIL); “*Amputee Report 2000*”, produced using data from surveys conducted by the Norwegian Refugee Council.

²⁶⁵ See United Nations Assistance Mission in Sierra Leone (UNAMSIL); “*Amputee Report 2000*”, produced using data from surveys conducted by the Norwegian Refugee Council.

²⁶⁶ See TRC testimonies from multiple former RUF operatives, including: Moigboi Moigande Kosia, RUF ‘G-1’ officer; testimony before TRC Public Hearings held in Freetown; 17 April 2003.

²⁶⁷ Tenneh Conteh, TRC statement, Aberdeen Amputee Camp, Freetown, 22 March 2003.

²⁶⁸ Kumba Komba, TRC statement, Tombodu Town, Kono District, 11 January 2003.

273. As the conflict progressed, the nature of amputations changed and took on a number of different forms, including single or double amputations of the arms or lower legs.²⁶⁹ It was also carried out in varying ways ranging from being amputated at the wrist or the upper arm, to being amputated at the ankle, or the knee or above the knee for those whose legs were amputated. A female victim described her ordeal:

“I was captured alone in the village by many rebels. They asked me to choose between death and amputation and I was unable to reply. They began to decide among themselves what to do to me. They finally agreed to cut off one of my feet. They brought a bulky stick and placed my foot on it; they first used a cutlass but it was blunt. They finally used an axe to amputate my right foot and went away.”²⁷⁰

274. The vast majority of amputations resulted in the loss of the victim's hands.²⁷¹ No category of victims was spared this gruesome and inhuman act. Children and pregnant women were also affected. A witness described to the Commission the amputation of a pregnant woman:

“One of the gunmen said Hawa should go to bed with him. Hawa refused and she pleaded not to be tampered with, as she had a pregnancy, which was three months old. Hawa persistently refused to have intercourse with him; the gunman removed a shiny cutlass and chopped off both her hands.”²⁷²

275. The Commission finds the act of amputation to be a particular inhuman act amounting to the mutilation and physical and psychological torture of those upon whom it was inflicted. The Commission finds the RUF and the AFRC to have pursued a deliberate strategy of amputations with the intention of torturing them and sowing terror throughout the civilian population.

FORCED CANNIBALISM

276. Cannibalism was another gruesome feature of the conflict in Sierra Leone. Cannibalism was forced on many of the women captured by the various armed groups. Women were given the dismembered body parts of family members and forced at gunpoint to eat them. Many women who were abducted told the Commission how, under threat of death, they were compelled to cook human parts for members of the armed groups to eat. In Bonthe in September 1997, an 83-year-old woman suffered this violation at the hands of AFRC soldiers:

“...They came back to me saying I should go and see what they were doing to my son... and they brought him to the field... and they cut my son to pieces alive. I was under gunpoint and all the soldiers were in uniforms... They cut my son to pieces with a knife and when they opened his chest, they took out his heart and cut a piece of it and pushed it into my mouth saying you must eat it... Then they cut off his head. They laid it in my hands saying ‘go and breast feed your son’ and they started dancing.”²⁷³

²⁶⁹ Kadiatu Koroma, TRC statement, Aberdeen Amputee Camp, Freetown, 21 March 2003.

²⁷⁰ Aminata Turay, TRC statement, Aberdeen Amputee Camp, Freetown, 24 March 2003.

²⁷¹ More detail on the types of amputation violations recorded by the Commission can be found in the Amputations Report produced as an Appendix to this report.

²⁷² TRC confidential statement recorded in Bombali District, 17 March 2003.

²⁷³ Cecilia Caulker, TRC statement, Bonthe District, 8 December 2002.

Meanwhile another witness recounted an act of forced cannibalism by the Kamajors in Kenema:

“...Apart from my friend, this same Sylvester has been a party to many killings including that of one Zachariah, who was disembowelled. His guts were removed right in front of his wife and handed over to her. Later Zachariah was used as a meal and his wife coerced to eat.”²⁷⁴

277. A young girl recounted her traumatic experiences in Freetown to the TRC:

“...They shot at my sister on the top of my head and all her blood spilled over my body. I had wanted to cry but they told me that if I do, they would kill me also. The rebels gave me human flesh to eat... I am suffering from mental injury... the human flesh that I ate made me become mentally tortured. With regards to the human flesh that I ate, I was introduced to cannibalism.”²⁷⁵

278. The Commission finds that all of the armed forces pursued a deliberate strategy of forced cannibalism with the intention of torturing victims by inflicting on them severe mental and physical pain with the sole purpose of intimidating and punishing them.

SEXUAL VIOLATIONS

279. A victim of sexual violence testified to the TRC about her experiences:

“After the attacks on Bandajuma Sinneh, around 12.00 noon, the RUF rebels entered my village. On my way to my house I was captured by an RUF rebel called Allieu. He then told me to go with him, but I refused to go. He said if I didn’t go with him, he will kill me. My mother was afraid of the rebel, so for him not to kill me, she then persuaded me to go with him. When we arrived in Bandajuma Sinneh, two RUF rebels joined us... In Bandajuma, I was taken into a house, laid on the bare ground under gunpoint. All three of these rebels had sexual intercourse with me. They did it one after the other – it was gang rape.... They were doing it with impunity, telling me they will rape me to death. After that I became unconscious...”²⁷⁶

280. During the conflict in Sierra Leone, women were systematically raped and sexually violated. The Commission received more than 800 statements from women and girls reporting and describing acts of rape. Girls in the age group from ten to 18 years were most likely to be the victims of rape. Women were gang raped and suffered multiple rapes as well as being kept in sexual slavery. In instances where women and girls were abducted, their capture was often the prelude to being handed over to and assigned to one of the fighters with the sole purpose of being his sexual slave.

²⁷⁴ Mohamed Jalloh, TRC statement, Kingtom Police Barracks, Kingtom, 14 January 2003.

²⁷⁵ TRC confidential statement recorded in Kissy, Freetown; 14 February 2003.

²⁷⁶ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

281. In a large number of cases, women were handed over to combatants and became their “bush wives” for the purpose of satisfying not only their sexual needs but also to perform a host of different duties including domestic chores.²⁷⁷ Having analysed the systematic and widespread use of rape during the conflict period, the Commission came to the conclusion that all of the armed forces systematically raped and sexually violated women.
282. While rape was the major violation perpetrated against women, other acts of sexual violence were additionally carried out indiscriminately on women of all ages, of every ethnic group and from all social classes. In the views of many Sierra Leoneans who testified to the TRC, just being a woman in Sierra Leone during the conflict period was enough to create the likelihood that you would be raped and sexually violated in the most horrible ways, regardless of whether you were a pre-pubescent girl, an elderly woman or pregnant.²⁷⁸

RAPE

283. The conflict in Sierra Leone is characterised by the vast number of rape violations that were perpetrated. The Commission received more than 800 statements reporting and describing rape.²⁷⁹ A review of all the statements dealing with rape suggests that at least 58% of all rape victims suffered multiple rapes.²⁸⁰ An analysis of the rape statistics in the Commission’s database confirms that where the gender and age of the victims is known, 50% of them were 18 or younger, with 25% of them being younger than 13 years.²⁸¹ The youngest victim in the Commission’s statements was just four years old while the oldest was 69 years of age at the time of rape.²⁸²
284. While many of the women who made statements to the Commission did report that they had been victims of rape, rape as a violation still remains largely under-reported. Cultural taboos associated with rape and the societal stigma that attaches to women who disclose that they have been raped have constrained women from being completely open in their statements to the Commission. Women have been even more reticent about disclosing that they have been gang-raped, as they have not wanted family members or the society they live in to know the traumatic details. In a number of instances, spouses of women raped have not wanted their wives to disclose these details, fearing that it would bring shame on them and the family. A common feature of victims’ reactions to rape violations has been husbands and wives entering into a conspiracy of silence about what has happened.

²⁷⁷ See Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*. See also Human Rights Watch, *We’ll Kill You if you Cry*. See also Mansaray, Binta; “The Invisible Human Rights Abuses in Sierra Leone”; Freetown, June 2002. See also Federation of African Media Women; “The Girl Child during the Civil War in Sierra Leone”; Freetown, October, 2002.

²⁷⁸ Theresa Blackie, TRC statement, Bo Kakua, 16 December 2002.

²⁷⁹ See the Statistical Report produced as an Appendix to this report.

²⁸⁰ More detail on the manner and circumstances in which women suffered sexual violations can be found in the results of the Commission’s special coding exercises on sexual violations included in the Statistical Report produced as an Appendix to this report.

²⁸¹ See the Statistical Report produced as an Appendix to this report.

²⁸² See the Statistical Report produced as an Appendix to this report.

285. Rape in international law, as developed through the jurisprudence of the ad-hoc tribunals, is defined as “penetration however slight of the vagina or anus by a penis, object or other body part, or of any other body part by a penis”. The definition of rape, as well as forced prostitution and other sexual violations, includes a broad concept of force including threat thereof and coercion, such as “that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent”.²⁸³
286. International jurisprudence is clear that in the circumstances of an armed conflict or in the military presence of militiamen or combatants, coercion may be inherent. As such, the presence of armed combatants exerting temporary power and control over a community will be sufficient to satisfy the coercive element.²⁸⁴
287. The Commission conducted a “special coding exercise” using statements in its database, during which a random sample of statements involving rape was coded in greater detail in order to develop a more accurate picture of the kind of suffering women endured. Since the sample of statements was random, the results of this exercise can be considered to be representative of the TRC data.
288. The special coding exercise reflected a whole range of rape violations against women, including: women who suffered a single rape; women who suffered gang rape; women who were abducted and kept as a sexual slave or as a “bush wife”; and women who suffered rape or gang rape on more than one separate occasion.
289. In terms of the Commission’s special coding sample, more than 58% of all women raped by all of the armed groups suffered rape violations on multiple occasions.²⁸⁵ Some rape victims recounted their experiences to the TRC in the following testimonies:

“He grabbed my hand and announced: ‘this is my capture’... he asked if I am a suckling mother as he saw my young child...then he told me to leave my child and follow him...then finally they took me to a house where they put me under gunpoint and four of them raped me, one after the other. They went with me to another house where three different rebels raped me on the same day. They continued to move with me until we met a lone rebel, who stopped us and took me out, laid me on the floor in front of the other rebels and raped me... then he took me from among them and put me in a house where three other rebels raped me.”²⁸⁶

²⁸³ The concept of “invasion” used in this definition is intended to be broad enough to be gender neutral. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity. See the ICC Elements of Crime and Procedure, UN, Doc.Off ICC-ASP/1/3, at Article 7(1)(g)-1.

²⁸⁴ See *Prosecutor v. Jean Paul Akayesu*, Trial Judgement, case ICTR-96-4-T, Ch.1, 2 Sept 1998, at paragraph 688.

²⁸⁵ More detail on the manner and circumstances in which women suffered sexual violations can be found in the results of the Commission’s special coding exercises on sexual violations included in the Statistical Report produced as an Appendix to this report.

²⁸⁶ TRC confidential statement recorded at Grafton Camp for Displaced Persons, 25 February 2003.

“One morning, the juntas attacked the village. We fled into the bush to hide for our lives. The juntas met us in our hiding place and caught me. My mother begged them to free me but they did not. Instead, two of them held me tightly and threw me to the ground. They undressed me and raped me one after the other. One person held me to restrict my movement whilst the other raped me. I was then thirteen years old and a virgin. They deflowered me. The first one was called Mohammed and my mother tried to stop them from raping me but they shot her. She fell to the ground and bled to death. When they had finished what they were doing to me, they abandoned me there in a pool of blood for I was bleeding.”²⁸⁷

290. Women and girls were not safe from any of the armed groups, even those meant to protect them. Individual victims were raped in a multiplicity of different incidents over different periods of time, often by more than one different armed group, depending on whose hands they fell into.²⁸⁸ One rape victim testified to the Commission of her experiences of multiple rapes by different persons from different armed groups throughout the conflict and in the period beyond.²⁸⁹
291. The Commission was also told that a deliberate strategy of the various armed groups was to carry out rapes of the women on the “other side” of the conflict. As such, rape and counter rape of each other’s abducted women or “bush wives” during raids was said to have happened quite frequently.²⁹⁰ In addition to the “bush wife” phenomenon, where women were assigned to a combatant for the purposes of both sex and to perform domestic duties, another category of violation carried out on women was to keep them isolated for the purpose of being available to satisfy the sexual needs of several combatants. Whenever combatants had the urge, there was a ready-made harem of women to rape. A witness to the Commission revealed the following details of her experiences in the hands of her captors:

“The rebel soldiers took us to Ka Tamiyah and I was there with them for two weeks. The place was not suitable for us, the young girls. We were about a hundred in number, we who had been captured... They beat and raped us as often as they wanted to. When they want to rape you, you cannot resist, if you do, you are beaten.”²⁹¹

292. Testimony to the Commission has revealed that all of the armed groups, particularly the RUF and the AFRC, perpetrated a deliberate policy of abducting pre-pubescent young girls and raping them, breaking all cultural taboos. This tactic had a devastating effect on the young victims, particularly as they were not only raped but also subjected to harrowing and horrific experiences during the course of the rape. Often these young victims have been subjected to enduring, perhaps permanent ill-effects on their reproductive health because of their treatment during the conflict.

²⁸⁷ TRC confidential statement recorded in Bo Kakua, 16 December 2002.

²⁸⁸ TRC confidential statement recorded in Sanda Chiefdom, 4 March 2003.

²⁸⁹ Confidential testimony received before TRC Closed Hearings, Koinadugu District, May 2003.

²⁹⁰ “Second Witness” – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

²⁹¹ Confidential testimony received before TRC Closed Hearings, Koinadugu District, May 2003.

293. A victim, ten years old at the time, told of her capture and rape along with her seven sisters by rebels with whom they were forced to stay for two years:
- “It was after I had left the rebels that I began to have my period. When I left the rebels, I received medical treatment at a hospital and it was after that, that I began to have my periods.”²⁹²
294. The Commission cannot but draw the conclusion that the RUF and the AFRC deliberately set out to violate every norm and custom of the society to which they belonged.
295. Women were not only raped in the presence of their families but were forced on many occasions into committing incest. Brothers were forced to rape their sisters and mothers; fathers were forced to rape their daughters. In some communities, mass incestuous rape imposed on the residents. A witness testified to the Commission of an event that occurred in her village Bumpeh:
- “There was a young girl called Anni who was caught by the soldiers. She refused to go with them to be their bush wife, so they forced her brother to rape her and then the rebels killed them both.”²⁹³
296. Another victim told the Commission the following story:
- “In the morning, we saw many rebels coming towards us... we were about to run but they said if you move, we will fire on you and they started firing all about... they came back to us and surrounded us. They stripped us naked... we were over twenty that were stripped naked. They instructed us to lie down on the ground. Then the civilian men who were amongst us were divided out, one man to a woman, until it came to a time that there was no other man for the remaining women who were lying on the ground. So after the distribution, they instructed the men to rape us. The women who were left without civilian men, they dug sticks into their vagina.”²⁹⁴
297. Women were also made to endure the forced insertion of objects such as sticks, pestles, hot coal and oil into their genitalia.²⁹⁵ An ex-combatant with the RUF gave this account to the Commission:
- “...We moved and attacked Tefeya where several creatures were looted and food was found in abundance. We were led by CO Bai Bureh... an old lady was met, she was beaten with sticks and then asked to lie down flat... a stick was pushed into her genitals...”²⁹⁶
298. Having considered the testimonies given by women, which include the most horrific details of rape, the Commission finds that all of the armed factions, in particular the RUF and the AFRC, embarked on a systematic and deliberate strategy to rape women and girls, especially those between the ages of ten and 18 years of age, with the intention of sowing terror amongst the population, violating women and girls and breaking down every norm and custom of traditional society.²⁹⁷

²⁹² Confidential testimony received before TRC Closed Hearings, Koinadugu District, May 2003.

²⁹³ Confidential testimony received before TRC Closed Hearings, Pujehun District, 25 June 2003.

²⁹⁴ Confidential testimony received before TRC Closed Hearings, Pujehun District, 25 June 2003.

²⁹⁵ Multiple incidents of each of these forms of rape were recorded in the TRC database.

²⁹⁶ Sesay, Sarah; Gbawuria 2, W/W/Yagala Chiefdom, Koinadugu District; 11 December 2002.

²⁹⁷ More detail on the manner in which various factions deliberately attacked cultural and traditional norms can be found in the chapter on the Nature of the Conflict in Volume Three A of this report.

SEXUAL SLAVERY

299. In terms of international law, the two essential elements unique to the crime of sexual slavery are the “exercise of any or all of the powers attaching to the right of ownership over one or more person” and the “forced participation in one or more acts of sexual violence”.²⁹⁸ In Sierra Leone, hundreds of abducted women and girls were compelled to endure the violation of “sexual slavery”. The Commission identified the act of “forced marriage” as synonymous with “sexual slavery”. This violation is colloquially referred to by Sierra Leoneans as being forced to become a “bush wife”. In describing the experiences of what the Commission has termed “sexual slavery”, the pattern that emerged was as follows: women were captured and abducted; they became part of the entourage of the armed group to which their captors belonged; and they were continuously sexually violated as their captors moved along with them. Again this violation was particularly prevalent for the RUF and the AFRC, who kept women as sexual slaves under what could only be termed “roaming detention”, which could last for time periods ranging from one or two days to several months and years.
300. Another pattern identified as part of this violation was for women to be detained and kept locked up in a specific place, in order that their captors could violate them at any time they had the urge to do so. This pattern of violation was particularly characteristic of the SLA and the CDF factions, who were not as mobile as the RUF and the AFRC. CDF units were typically attached to specific towns and villages, while the SLA would normally be stationed in barracks or assigned to specific locations. The RUF and the AFRC on the other hand were highly mobile and as offensive forces were constantly on the move. A former abductee of the RUF, who was seven years old at the time of her first encounter, recounted her second encounter with the faction, which led to her abduction in 1994 at Pendembu:

“In March 1994, on a Sunday at about 10 o'clock in the morning, I was at the house waiting to see my mother return. Immediately I saw so many RUF rebels that I cannot state their number... five of them ran after me and held me... later I was taken away and I was kept in a locked room always ready for me to be sexed by the commander. Sometimes when he was away, his junior boys will come and open the door sometimes three, sometimes four men. They will force me, telling me if I refuse them they will kill me.”²⁹⁹

²⁹⁸ See the Rome Statute of the International Criminal Court, at Article 7(2)(c).

²⁹⁹ TRC confidential statement recorded in Upper Bambara Chiefdom, 24 January 2003.

301. In the course of the violation of “forced marriage”, or the “bush wife” phenomenon, abducted women and girls abducted were also given out to combatants, commanders or superiors for the purposes of sex and domestic duties.³⁰⁰ Women assumed the traditional role of “wives” to the combatants who captured them. In many instances, these abducted women lived with their captors until the cessation of hostilities in Sierra Leone.³⁰¹ In terms of international law, “forced marriage” is as much a form of sexual slavery as is the detention of women in “rape camps” or any other circumstances under which women are subjected repeatedly to rape or the threat of rape or other sexual violence. “Forced marriage” involves forced sex or the inability to say no or control sexual access or exercise sexual autonomy. The Special Rapporteur for Systematic Rape, Sexual Slavery, and Slavery-Like Practices during Armed Conflicts recognised “forced marriage” as a form of “sexual slavery”.³⁰²
302. The manner in which “bush wives” were treated varied. While in the majority of instances they were protected by their “bush husbands” from being raped by other combatants, there were many instances where they were not. The absence of a “bush husband” left a woman vulnerable and easy prey for combatants who were predators.³⁰³ In other instances, women’s so-called “husbands” would offer them to fellow combatants for sexual purposes. One witness and victim told the Commission of this practice:
- “Every woman was supposed to be picked by someone – a rebel – and we were supposed to sleep with them. So in actual fact, I believed it could be one man today and a different one tomorrow. So if there is a bachelor amongst them, those that didn’t have women were free to go and pick any woman to make them happy for the night.”³⁰⁴
303. Another victim told of her particular experience with the rebels:
- “On 6 January 1999, rebels (RUF, SLA, AFRC) captured me on my way from Brima Lane market. When the rebels saw me they told me ‘Madam just join us if you want to save your life.’ We went to Lunsar... Every night I was made to sleep with more than three rebels. In fact, when the rebels are ready to have sex with me, they tie my hands and they open my legs wide. After they have opened my legs wide, they usually invite one or two of their colleague rebels to have a glance at us whilst having sex with me. I was forced to make sex with several rebels. The rebels did not only abuse me sexually but introduced me to drugs like cocaine and marijuana. In fact what they usually did was to have me properly drugged before they will have sex with me... The rebels really harassed me sexually. The rebels did not even allow me to wear pants on the basis that if I do wear pants, I will interfere with their sexual operations.”³⁰⁵

³⁰⁰ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

³⁰¹ See TRC confidential statements from multiple female victims, January to April 2003.

³⁰² See McDougall, G., Special Rapporteur for Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict, final report produced as UN Document E/CN.4/sub.2/1998/13, 12 June 1998, at paragraph 45.

³⁰³ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

³⁰⁴ TRC confidential testimony given at hearings in Kono District, June 2003.

³⁰⁵ TRC confidential statement from a female victim, recorded in Freetown, 29 January 2003.

304. The RUF adopted a guerrilla mode of conflict during the period 1993 to 1996. Their fighters moved between bases in the bush. The AFRC was also a highly mobile force, initially fleeing Freetown towards Koinadugu in 1998 and then returning to invade Freetown in January 1999. It is this roaming character, common to both these perpetrator groups, which explains their tendency to abduct women and use women as “sexual slaves” and “domestic slaves”.

305. Tragically for many of the women, one of the consequences of this violation has been an upsurge in unwanted pregnancies and babies born to “rebel” fathers.³⁰⁶ A woman victim testified to the Commission of her plight:

“...We were at Sogboleh when the rebels attacked us. Four of us went into one house... they met us in that house, then they told us that they were going to have sexual intercourse with us. We refused and they wounded me on my right hand with a knife. Eight of them came and stripped me naked and all of them raped me. Immediately, my vagina was swollen up and they said they were going to carry us to their base. We were now with them; then I started getting serious abdominal pain. Then one of their big men asked that if he makes people to treat me [better], would I marry him? ... When I was with him, I became pregnant and gave birth to a child.”³⁰⁷

306. Many women, horrified at the prospect of giving birth to the babies of “rebel” fathers, tried to terminate pregnancies and abort their babies.³⁰⁸ A victim who fell into the hands of a second bush husband explained:

“... I was later made to be a wife (illegally) by one RUF called Saidu after Ray was nowhere to be seen. Saidu also impregnated me and I tried to abort the pregnancy. When Saidu heard about it, he said he will kill me if I dare to abort.”³⁰⁹

307. Abducted women and girls who lived with the armed groups for long periods of time were subjected not only to the trauma of living in captivity, forced to endure sexual slavery and daily humiliation, but were also compelled to live under the constant fear of attack from opposing armed groups. Moreover, even if they managed to escape the combatant group, they experienced hostility from civilians and were ostracised from society.³¹⁰ One victim began recounting her ordeal to the Commission in the following terms:

“Immediately the Kamajors caught me, they wanted to kill me because I was married to a rebel commander.”

³⁰⁶ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

³⁰⁷ Confidential testimony received before TRC Closed Hearings, Mattru Jong, Bonthe, July 2003.

³⁰⁸ “First Witness” – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

³⁰⁹ TRC confidential statement from a female victim, Koinadugu District, 11 December 2002.

³¹⁰ Various submissions to the Commission listed some of these factors as the consequences of sexual slavery violations that women suffered during the conflict. Among the noteworthy submissions in this regard were from the Ministry of Social Welfare, Gender and Children’s Affairs, the Women’s Forum and the Forum for African Women Educationalists (FAWE), as well as those received during the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

308. The same victim went on to tell the Commission that:

“From the time I came back home, people used to provoke me, humiliate me, whatever boyfriend that comes my way will be discouraged about me. That is why I decided to leave the town.”³¹¹

309. Another victim had this to say after escaping from the rebels:

“... My aunt advised me that I should not disclose to anyone that I had once been captured by rebels... I stayed there but again I was afraid that someone else would come who knew that I was staying with the rebels and they would identify me. So I decided to leave Moyowa for Mattru Jong... When I returned, my former husband left me. He said it was because I had been taken away by rebels. I was now here with no husband...”³¹²

310. Pressure from society, anxiety about being identified and fear of being ostracised has led to women being extremely reticent about reporting this category of violation.

311. Given the testimony of the women who came to the Commission, the Commission finds that all of the armed perpetrator groupings were responsible for the sexual slavery of women and girls. The Commission finds that the RUF and the AFRC were the major perpetrators of sexual slavery and forced marriage of women and young girls.

SEXUAL ABUSE

312. The Commission interpreted all sexual violations other than rape as ‘sexual violence or sexual abuse’. Sexual abuse took many different forms and accounted for 486 violations recorded in the Commission’s database, nearly half of which were perpetrated against women.³¹³ The ICC elements define sexual violence as “encompassing both involuntary sexual assaults and sexual performance”, which also applies to “coercion resulting in sexual entertainment or nakedness”.

313. The scope of sexual violence is very broad and “is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.”³¹⁴ Sexual abuse could include biological or medical experimentation of a sexual nature or experimentation on reproductive capacities, sexual mutilations, harassment and threats of rape or other sexual violence. Forcing a women to lick a penis or to perform sexual acts that are not rape, such as cutting or sexual touching of the body or breasts, are forms of sexual violence. The Rome Statute has recognised acts of sexual abuse or sexual violence as belonging to the category of the most severe violence.

³¹¹ Confidential testimony received before TRC Closed Hearings, Mattru Jong, Bonthe, July 2003.

³¹² Confidential testimony received before TRC Closed Hearings, Mattru Jong, Bonthe, July 2003.

³¹³ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

³¹⁴ See *Prosecutor v. Jean Paul Akayesu*, Trial Judgement, case ICTR-96-4-T, Ch.1, 2 Sept 1998, at paragraphs 687 to 697.

314. During the conflict in Sierra Leone, acts of sexual violence or abuse took many forms and included forcing women to go naked in public or in private in front of their family members.³¹⁵ A woman in Freetown recounted her story to the Commission:

“On 6 January 1999 rebels attacked my house in Freetown. The rebels vandalised my house and demanded that I should give them money. They demanded pounds sterling and dollars. They said if we did not give them money they would kill me... On 7 January 1999, the rebels came again to my house. They stripped me naked and tortured me with their guns all over my body. On 8 January, they came to my house and took away all that I had and they lit the house.”³¹⁶

315. Another victim from Talia town, Yawbeko Chiefdom told a part of her story:

“... They took the rice from me. Instead of leaving me alone, they got hold of me, undressed me naked, tied both of my hands together one on top of the other and said I should follow them.”³¹⁷

316. Sexual abuse violations also included acts of indecent touching or groping of women’s bodies and genitalia, putting sharp objects into their genitalia as well as forcing their genitalia into the mouths of other victims. Often these cruel acts led to the death of women victims as is testified to by a witness who saw her sister-in-law being killed:

“In March 1991, there was an attack by RUF rebels in Kuiva village in the morning hours. I managed to escape, narrowly, into the bush where I hid for safety. One of the junior workers for the women’s secret society (Bondo) was captured by the rebels. She was the wife of my elder brother, the town chief of Kuiva. She was stripped naked, hair shaved with cutlass and then beaten seriously. They then took her to the secret society bush for men, where the rebels finally shot her.”³¹⁸

317. Incidence of sexual abuse was widespread and has led to many women and girls suffering long-term gynaecological problems.³¹⁹

³¹⁵ More detail on the manner and circumstances in which both men and women suffered sexual abuse violations can be found in the results of the Commission’s special coding exercises and accompanying commentaries in the Statistical Report produced as an Appendix to this report.

³¹⁶ Marie Jalloh, TRC statement, Freetown, 13 December 2003.

³¹⁷ Isata Vao, TRC statement, Talia, Yawbeko Chiefdom, 21 February 2003.

³¹⁸ Yatta Demby, TRC statement, Mandu Chiefdom, Kailahun District, 15 January 2003.

³¹⁹ More detail on the long-term effects that women have suffered as a result of sexual abuse violations can be found in the results of the Commission’s special coding exercises and accompanying commentaries in the Statistical Report produced as an Appendix to this report, as well as in the chapter on Reparations in Volume Two of this report.

COMMENTARY ON THE CONTEXT OF VIOLATIONS AGAINST WOMEN AND GIRLS AND THEIR EFFECTS

318. Women and girls suffered immensely during the conflict. They were humiliated and dehumanised based on their gender. The trauma of their experiences has left many women and girls psychologically and physically scarred. The impact of the conflict has been unfathomable, the damage immeasurable; and it is the women and girls who are bearing the brunt of it. From a wider societal perspective, the Commission has identified a total breakdown of all morality and norms, along with levels of cruelty that are quite frightening in terms of their long-term effects. A woman who had just given birth to a baby during the January 1999 attack on Freetown told this chilling story:

“They (AFRC and RUF attackers) commanded me afterwards to cover my newborn baby with an empty bowl, which I did after much threat and intimidations. I begged them to spare the life of my kid... I left my baby in the same position and fled. My husband tried to rescue the baby but was unable... The baby died.”³²⁰

319. Women were forced to watch helplessly as their children and husbands, suffered human rights violations, which in many instances led to their death.³²¹ Many women became victims of violations while trying to protect their children. An example was given by this woman, who became an amputee through trying to protect her child:

“When we reached a forest-like area, I suspected from their action that they wanted to kill me or my child. So I kept my gaze on them. Not long after, one of the rebels forcefully took my child, held her on one of her arms and cut her open on her spinal cord. Before he could do this, I rushed to hold his hand and when he turned around with his cutlass, he also cut me open on my head. He threw my then dead child in one corner whilst I laid in the other...”

Despite my condition that time, I stood up to collect my dead child. Again he turned around and saw me, he said to me that I was stubborn; he came back and told me to put my hand on a stump or else he would kill me there and then.

I put out my hand, which he amputated with just one hit of his sharp cutlass. All the wrist bones were cut except the two sides of the wrist skin, which connected the amputated wrist with the rest of my hand.”³²²

³²⁰ Balu Janneh, TRC statement, Freetown, 21 January 2003.

³²¹ See, for example, Marie Kamara, TRC statement, Makoba, 26 February 2003.

³²² Adamsay Bangura, TRC statement, Masiaka Amputee Camp, Port Loko, 1 May 2003.

320. Rape and sexual violence in the conflict have left many women and girls in Sierra Leone suffering from gender-specific medical problems such as Vesico Vaginal Fistula (VVF), Recto Vaginal Fistula (RVF), incontinence and prolapsed uterus, among others. The Forum for African Women Educationalists (FAWE), an NGO working with women after the conflict, reported the following anecdotes in its submission to the Commission:

“55.4% of the abductees [in FAWE assistance programmes] were raped and some of the girls were raped by one, two, three or even ten men. Two women particularly were raped by 15 and 30 rebels respectively. The former had only given to a baby two weeks before being raped. Both patients suffered from prolapses of the uterus (the womb descending out of the vagina). The former woman had a repair to replace the uterus in its proper position. The latter woman had a major degree of prolapse and therefore the uterus had to be taken out (a total hysterectomy was done).”³²³

321. Women and girls have had their lives broken and shattered by the loss of family members, the breakdown of family structures and the total loss of dignity. Emotionally and psychologically, they suffered to an incomprehensible degree. The social fabric of society in Sierra Leone was torn apart and the rules of civilised society meant to protect women and girls were discarded. In analysing the conflict, its aftermath and its impact on women, the Commission has had to confront the question of why women became such a specific target of the war. The answers to this question are complex and difficult to pinpoint.

322. Binta Mansaray, who appeared as a witness before the Commission, has made the following comment about the cruel irony of Sierra Leone’s “revolutionary” war:

“The ‘Revolution’ of the RUF was not at all redemption for women. On the contrary, the RUF committed unspeakable crimes.”³²⁴

323. The war from inception was a self-destructive conflict that consumed its own. Attacks on unarmed civilians by the RUF and its accomplices started from the very beginning of the war and continued unabated until its conclusion, with violation rates escalating and the nature of violations becoming ever more grotesque. In terms of the violations recorded in the TRC database, the Commission estimates that women make up 34% of victims of all violations throughout the conflict and that the average female victim suffered approximately three violations.³²⁵ This percentage testifies to the startlingly unconventional nature of the war, whereby civilians were the prime targets of all factions. Had the conflict in Sierra Leone assumed a more “conventional” character of battles between armies, then fewer civilians, especially women and children, would have met face-to-face with the various factions and suffered such levels of atrocities.

³²³ Forum for African Women Educationalists (FAWE), Submission to the TRC Special Thematic Hearings on Women, Freetown, 22 May 2003 (hereinafter “FAWE submission to TRC”), at page 14.

³²⁴ See Mansaray, Binta; “*Women against Weapons: A Leading Role for Women in Disarmament*”, in Ayissi, A. and Poulton, R-E.; *Bound to Co-operate: Conflict, Peace and People in Sierra Leone*, United Nations Publications; Geneva, Switzerland, 2000 (hereinafter “Mansaray, *Women Against Weapons*”), at page 142.

³²⁵ More detail on violations rates and the levels of different violations experienced by women can be found in the Statistical Report produced as an Appendix to this report.

324. It is also important to note that the major armed groups in the conflict, fighting both for and against the government, all committed gross human rights violations against women. In essence, the conflict did not offer any respite for the women from any of the armed groups, including those who were fighting for the government and who were supposed to protect civilians. On the side of government, the fluctuating nature and loyalties of the national Army that gave rise to the “sobel” phenomenon³²⁶ meant that the government lost any substantial control of the Army and as such forfeited a mechanism through which to protect all civilians, women included. Therefore, women were rendered vulnerable to attacks and abuses without any reliable institution of state to turn to for their protection.
325. During the conflict, no attempts were made by any of the major armed groups to address or tackle impunity among its members for violations against women.³²⁷ Consequently violations against women grew rife and violators rather revelled in them as they were not called to order. In fact, contrary to expected standards of accountability, it could be said that some of the major armed groups, at the level of their respective High Commands, saw women as “war booty” and actively ignored the violations that their members committed against women.
326. Prior to the war, the status of women in Sierra Leone at almost every level was low. Their low status meant that issues concerning women and women themselves were not of paramount importance in society. Consequently, it was easy for armed combatants to treat women with disdain and appropriate a sense of ownership of women’s bodies for themselves, as they probably were wont to do, albeit to a lesser extent, in peacetime. The patriarchal hegemony that had existed in Sierra Leone continued and worsened during the conflict, evolving in the most macabre manner. The cultural concept that a woman was “owned” by a man played itself out in many of the violations that women suffered during the conflict.
327. The use and abuse of drugs was widespread among the various armed factions. Many perpetrators lost all sense of reason and had no regard for human life, women’s included. In a drug-affected state, combatants committed atrocities without feeling and with total impunity. While drug use cannot excuse the conduct of perpetrators or the atrocities they committed, it is factor to consider, particularly in the case of child and youth perpetrators, as drugs have been proven to alter minds and affect reason.³²⁸
328. All of the above may not better explain the reasons for the atrocities committed against women and girls during the conflict, but they are some relevant considerations of the context in which so many women were violated and in which the survivors must now come to terms with the aftermath.

³²⁶ “Sobel” is a sobriquet derived from a combination of the words “soldier” and “rebel”. The term emerged among the civilian population as a name for government soldiers who were suspected of joining or collaborating with the RUF rebels during the course of the conflict.

³²⁷ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003. Mr. Kposowa stated that the RUF at its inception meted out death as punishment for rape. He said he saw only three persons punished in this manner throughout his time with the RUF during the conflict.

³²⁸ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003.

THE PERPETRATORS OF SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS

329. The main armed groups accused of perpetrating sexual violence against women and girls during the conflict were the Revolutionary United Front (RUF), the Civil Defence Forces (CDF), the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army (SLA) and the Westside Boys.
330. Given the widespread nature of rape and sexual violence by the armed groups mentioned above, it is clear that there were deliberate policies systematically to target women and girls and systematically to rape and sexually violate them. This section examines policies and parts played by each of the major factions.

REVOLUTIONARY UNITED FRONT (RUF)

331. The Commission's records reflect that the RUF was the major belligerent group in the conflict and dominates accounts of having committed the most savage acts against the civilian population. While it not only holds the record for the highest number of violations, the RUF is also responsible for most of the acts of rape and sexual violence recorded by the Commission.³²⁹ As reflected in the Commission's narrative of the conflict, the RUF by 1994 switched from conventional warfare to guerrilla warfare. With the change in tactics, there was a corresponding change in behaviour towards women and girls. The number of women abducted began to rise. The TRC estimates that the number of victims abducted and kept in sexual slavery in 1995 was double that in 1991.

NPFL / RUF in Pujehun District in 1991

332. During the early part of the conflict, the joint NPFL / RUF contingent moved into the Pujehun district. The following statement describes the harrowing experiences endured by a whole community in the Pujehun District in the first year of the war, 1991. The perpetrators were said to be "from Liberia", which in the context of the Commission's research indicates that they were probably comprised of a combination of NPFL and RUF members. They included both men and women; they were drawn from a variety of ethnic groups. The male statement giver describes sexual violations to which he was subjected both individually and as part of his community in his home village. The statement indicates a policy of using rape to terrorise the people and systematically to break down their sacred familial and cultural taboos:

"We were here when the rebels entered this country in 1991. They met me on the road with one girl... They captured us and they asked us to show them where we were going. We told them that they sent us for food for prayer..."

... When they asked me about my relationship with [the girl], I told them that she was my sister. They said I must have sex with her by force. After the sex they threw plenty of dirty water on us and they allowed us to go..."

³²⁹ More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

[...] We went for the rice and when we brought it they seized it from us and gave us a very serious beating. [The girl I was with] met her death as a result of the heavy beating we got from these rebels.

[...] It was at night that these rebels entered [the village] and they asked us all out of the various houses and homes. We were told to strip ourselves naked, both men and women; [we were also told] to dance, men on one side, women on one side.

[...] The rebels told the women to lie down on the ground. These rebels then asked the men to tell them their relationships with these women on the ground.

[...] When a man says or points to one lady or girl as his sister or mother, the rebels will ask him to have sex with her. We did this for over one hour. One man lost his life during this process because he refused to have sex with his mother. He was seriously beaten and the next day we only saw his dead body.³³⁰

333. On further occasions, victims reported to the Commission that RUF commanders had given orders to their troops to carry out acts of sexual violence. For example, in the following extract, a girl who was 19 years old when the conflict began described the ordeal she suffered at the hands of a group of approximately ten RUF combatants. This gang rape took place in the Jaiama Bongor Chiefdom in Bo District. It is also believed to have happened in 1991. The perpetrators were presumably Sierra Leoneans, since they were talking Krio:

“While I was at Telu Bongor, RUF rebels attacked the town. We ran into the bush for safety. While in the bush, a rebel group led by a rebel commander named ‘Mosquito’ came around. [...] ‘Mosquito’ was the first person that raped me. Then he ordered his men to continue the act. Nine other men continued to rape me. This made all the civilians run away and I was in the midst of rebels. [...] After misusing me to their satisfaction, the rebels left me alone in a very hopeless condition... Even now the pain is still in me, which is creating problems in my marital home, because my husband drives me from my home and says that I am barren.”³³¹

334. Another statement giver reported that RUF and NPFL attackers carried out rape and torture systematically in the first year of the war. She was in her home in the Moyamba District when “rebels” raided the village from the direction of the Soro Gbema Chiefdom in Pujehun District. She was abducted in 1991 at the age of eleven. The reference to an “operation” entitled “Ask No One” in the extract overleaf seems to indicate that the practice of rape was part of a deliberate policy of violations:

³³⁰ TRC confidential statement from a victim and witness of systematic sexual violence, recorded in Yonni Town, Pujehun District, 10 December 2003.

³³¹ TRC confidential statement from a victim of sexual violence, recorded in Soro Gbema Chiefdom, Pujehun District, 14 January 2003.

"I came across a group of men dressed in civilian attire, who commanded me to halt. When they came to me... they told me to accompany them to [a place] nearer to the border [with Liberia]. I told them that I am eleven years old; how can they take me from my parents? As soon as I told them these words, two of them started torturing me, forcing me to go with them. They gave me some of the loads to carry.

[...] The following day, they took me to a house where two of them raped me. They told me to come outside, as they listed all names of those that had been taken as captives... After the registration, they chose eight persons and killed them with gun. At night, they took a 'makabo' lamp and went to the round house that I was in. When they entered the house, they told us to strip ourselves naked, both old and young, telling us that they were going to do their operation called 'Ask No One'. After saying these words, they raped all of us that were in that round house."³³²

335. In terms of statements recorded by the Commission, the RUF and AFRC were the groups most likely to coerce women and girls into sexual slavery and forced marriages. A possible reason for this was that from 1993 to 1994, the RUF adopted a guerrilla mode of warfare and so its units were constantly on the move between bases in the bush. The fighters demanded women to perform domestic chores and to perform sexual services for them. Women and girls were vulnerable in their communities, so it was quite easy for a fighter to abduct them, force them under his immediate control and compel them into sexual slavery and forced labour.
336. While victims experienced some degree of protection as the exclusive property of one perpetrator through a "forced marriage", the relationship in most instances was entirely abusive. Most victims who spoke to the Commission nevertheless suffered some manifestations of the so-called "Stockholm syndrome", i.e. they tended in their testimonies to identify with their perpetrators and would insist that they had been treated well even though many of the experiences they were describing tended to be abusive. The economy of war also required that women make themselves useful to their captors or "bush husbands" in order to survive.
337. It is also clear from many of the victims' testimonies that being a "bush wife" to a member of the RUF did not necessarily protect them from being handed over to another combatant or multiple perpetrators to be gang raped.
338. The role of "bush wife" in the RUF included domestic as well as sexual servitude.

³³² TRC confidential statement from a former abductee and victim of sexual violence, recorded in Dasse Chiefdom, Moyamba District; 27 January 2003.

Responses of the RUF to allegations of sexual violations

339. The Commission called for submissions by all political parties and groupings. The Commission had access to official statements and a number of submissions made to it by the RUF. The Commission has noted with considerable surprise the failure of the RUF in its submission to address issues of sexual violence, including rape and other sexual abuses. Testimony gathered by the Commission reveals that the RUF commanders were not only aware of what was going on, but that the majority of them participated in the violations.³³³ Many victims named their perpetrators, including high-level commanders, in their statements.³³⁴
340. The NGO Physicians for Human Rights has reported that, during their survey of a sample population of survivors of sexual violence, 34 out of 94 survivors believed that the commander of the person who attacked them had knowledge that they were to be attacked.³³⁵
341. In terms of the testimony provided to the Commission, it is clear that the RUF had a policy deliberately to target women and girls with the clear intention of abducting them and holding them for various purposes described in this report. One of the main reasons for abduction was to violate women and girls by raping them and holding them as sexual slaves. The RUF cannot deny this *modus operandi* in the face of overwhelming evidence that, immediately after an attack, women seized in a raid were assigned to either commanders or combatants for the purposes of using them as “bush wives”. The TRC did not receive any report of an RUF commander who attempted to return abducted women and girls to their families, nor was any effort made by the RUF High Command to condemn this practice or to stop it. The RUF leadership must therefore accept that they are responsible for the violations that took place.
342. Immediately after the Abidjan Peace Accord in November 1996, there was a call for the cessation of hostilities from Foday Sankoh to RUF members. While there was a brief lull in the conflict in terms of RUF armed attacks, frankly there was no cessation in respect of the violence perpetrated against women. The ceasefire offered an opportunity to the RUF movement to deal honestly and conclusively with the issue of sexual violence and yet it did nothing.
343. Human Rights Watch in its report notes that the RUF made occasional efforts to declare rape a crime in certain areas under its control and in a few incidents even endeavoured to punish “ordinary combatants” who had contravened orders to this effect.³³⁶ The Commission has also gathered testimony from witnesses who indicated that some commanders prohibited rape and sexual violence against women, particular where the abductee was very young.³³⁷

³³³ In this regard, numerous entries in the Commission’s database are corroborated by the following testimony: TRC Confidential Individual Interviews with members of the RUF ‘vanguards’ contingent; interviews conducted variously in Freetown, Makeni, Magburaka, Kailahun and Kono; June to December 2003, and Captain (Retired) Moigboi Moigande Kosia, former officer in the Republic of Sierra Leone Military Forces (RSLMF) and later recruited into the RUF by Foday Sankoh as his first ‘G-1’ officer; testimony before TRC Public Hearings held in Freetown; 17 April 2003.

³³⁴ The Commission’s database allowed for the entry of perpetrator and commander names along with the description of the violations committed. Far more names were recorded for the RUF than for any of the other combatant factions.

³³⁵ See Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone*, at page 54.

³³⁶ See Human Rights Watch, *We’ll Kill You if you Cry*, at page 46.

³³⁷ Confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

However this kind of attitude to rape was not the typical one held by most RUF commanders, so perpetrators of violations against women and girls were not too concerned about possible punishment or repercussions.

344. In his submission to the Commission, a former high-ranking RUF official stated that rape was considered a punishable offence by the RUF and that he witnessed an RUF member being punished for it. In spite of these claims, the Commission has not been able to establish many cases of punishment or any signs of remorse for what happened.
345. The Revolutionary United Front Party (RUF)³³⁸ in its submission to the TRC stated that the RUF High Command was not aware of the high prevalence of rape and sexual violence during the conflict and had a practice of executing those found guilty of rape through its “People’s Court”. The RUF apologised to the country for these and other violations committed by the RUF.³³⁹
346. The Commission finds the Revolutionary United Front (RUF) responsible for pursuing a deliberate strategy of abducting women and girls with the express intention of keeping them under their control, exploiting their vulnerability and sexually violating them either by raping them and causing them to be harmed by acts of sexual violence, using them as sexual and domestic slaves, torturing them and practicing a range of cruel and inhuman acts upon them.

CIVIL DEFENCE FORCES (CDF)

347. The Civil Defence Forces (CDF) was a network of civil militiamen created in 1996 from several different units, including Kamajors, Gbethes, Donsos, Tamaboros and Kapras, organised according to ethnicity and District of origin. Many CDF combatants laid claim to being traditional hunters with origins in their secret societies that predated the conflict. However, the overwhelming bulk of the fighters, particularly Kamajors, were in fact disaffected youths who were crudely enlisted into combat through illusory ceremonies of “initiation”.
348. In terms of the evidence before the Commission, it is clear that the predecessors of the CDF, most of whom were vigilantes and hunters, did not commit sexual violations or rape systematically. The Commission’s records reflect scarcely any sexual violations attributed to “CDF” in the years before 1996. A major reason that at the beginning of the conflict, the traditional initiates of the hunters’ secret societies tended to respect and uphold the rules and regulations that governed their society membership. Breaking any of the rules was taboo.
349. Secret society rules prohibited men from having sexual intercourse with women while performing their society duties, as they believed that sex or sexual contact with women before a battle would diminish their powers of immunity to withstand attacks or wounds.

³³⁸ The RUF was created in the wake of the Lomé Peace Agreement in 1999 as a political party designed to replace the RUF military movement. In reality it spent several years as a “political wing” of the RUF movement, while a combatant cadre continued to carry out military operations. More detail on the evolution of the RUF after Lomé can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

³³⁹ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

350. In terms of the CDF code of practice after 1996, many witnesses claimed that a similar set of rules and taboos applied and that, additionally, all CDF members were obliged to protect civilians, particularly women and children.³⁴⁰
351. As the conflict escalated, the CDF was compelled to increase the number of men in its fighting forces. The rapidity with which this expansion happened meant that recruitment standards lapsed, numbers became unmanageably large and the purported code of ethics and practices was overlooked. The effect of this was that newer “initiates” into the CDF did not feel bound by age-old traditions and practices. Indeed, the new generation of CDF, especially Kamajors from the south and east, adopted a different ethos that was entirely geared towards war and perceived benefits it could yield. Ethnic differences also came into play, particularly as many of the CDF forces were deployed in areas not belonging to their immediate communities.
352. In the latter period of the conflict, from 1997 onwards, the Commission has noted a massive increase in the number of violations attributed to the CDF. From anecdotal testimony received by the Commission, it appears that CDF forces acted with almost the same amount of savagery as the RUF towards women and girls.³⁴¹ According to the Commission’s database, the CDF was responsible for 6% of the total violations recorded.³⁴² It is worthy of mention that for sexual violations recorded in the Commission’s database, the percentage of allegations against the CDF is as follows: rape 12%; sexual slavery 0.8%; and sexual abuse 7.3%.³⁴³ These figures indicate that the CDF perpetrators whose violations were recorded in the Commission’s database demonstrated twice as high a propensity to commit rape than their propensity to commit violations overall. The figures support the theory that, at least as far as the Commission’s database can indicate, elements of the CDF made a point of committing rapes in the latter period of the conflict.³⁴⁴
353. As CDF units were usually attached to a specific town or village for a specific period of time, they were not as mobile as the RUF or the AFRC. Thus in contrast to the “roaming detentions” of the RUF and the AFRC, the preferred *modus operandi* of the CDF in terms of sexual violations was to abduct women and girls and take them prisoner. They would then be confined to a single secure location, usually in a village or town where they were freely available to be used as sexual slaves. They would be held under the custody and complete control of the CDF and would be raped, either singly or gang raped, in a multiple number of ways. They would often be held naked and had to be freely available for sex.³⁴⁵

³⁴⁰ See, for example, Hassan Jalloh, former CDF commander of the Kamajors on the eastern border, TRC interview conducted in Freetown, 8 August 2003.

³⁴¹ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

³⁴² More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

³⁴³ See the Statistical Report produced as an Appendix to this report.

³⁴⁴ More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

³⁴⁵ See TRC confidential statements from multiple female victims, January to April 2003.

Responses of the CDF to allegations of sexual violations

354. The Commission has recorded many statements in its database and has heard testimony that women and their families reported CDF members for both rape and sexual violence to their commanders. The response was telling. Nothing happened and in many instances it became clear that rape and sexual violence was condoned, particularly where the women were thought to have spent time with or rendered assistance to the RUF or AFRC. No consideration seems to have been given to the possibility that women had been forced into these roles in order to survive. No evidence exists that the CDF took any action against its members who were accused of rape or sexual violence. On the contrary, such acts appear to have been condoned, particularly if the women were labelled “rebel collaborators” or “rebels”, or if they had family members who were associated with the RUF, the SLA or the AFRC.
355. The Commission finds that the CDF, particularly in the latter period of the conflict, pursued the deliberate strategy of abducting civilian women and girls believed to be in any way connected to the RUF or who had collaborated with them, and detained them in a cruel and inhuman way, with the intention of deliberately violating them, either by raping them or using them as sexual slaves. The Commission finds it particularly reprehensible that the CDF behaved in this manner when it was duty-bound to protect the civilian population and prevent violations being perpetrated against them.

ARMED FORCES REVOLUTIONARY COUNCIL (AFRC)

356. The Armed Forces Revolutionary Council (AFRC) led by Johnny Paul Koroma came into being after the overthrow of the government of President Ahmad Tejan Kabbah on 25 May 1997. Following the coup, the leadership of AFRC called upon the RUF to join them in government. The two factions referred to their alliance as “The People’s Army”.
357. Together the alliance of the RUF and the AFRC were incredibly brutal and savage in their conduct. They were responsible for the many atrocities and violations women and many others suffered during the infamous invasion of Freetown on 6 January 1999. It is worthy of mention that, in the Commission’s database, the percentage of sexual violations recorded against the AFRC is as follows: rape 12,6%; sexual slavery 3,5%; and sexual abuse 31,8%. Overall, the AFRC is accountable for 11,1% of the sexual violations recorded in the Commission’s database. The fact that the AFRC is responsible for three times as many sexual abuse violations recorded in the Commission’s database as overall violations recorded in the Commission’s database supports the theory of a deliberate plan to commit sexual abuses.³⁴⁶ While the Commission has not been able to obtain the precise statistics of the numbers of women that were tortured and sexually violated during this period, the NGO group FAWE (Forum for African Women Educationalists) in partnership with Médecins Sans Frontières (MSF) provided medical treatment and counselling to 1,862 female survivors of sexual violence.³⁴⁷ According to the TRC database, the AFRC alone is responsible for 7% of all violations recorded by the Commission.³⁴⁸

³⁴⁶ More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

³⁴⁷ See FAWE submission to TRC.

³⁴⁸ See the Statistical Report produced as an Appendix to this report.

Responses of the AFRC to allegations of sexual violations

358. The AFRC experienced the same kind of complexities and challenges with commandship as the RUF did, with many different combatant groups declaring allegiance only to a particular commander. During the conflict, some commanders acquired the reputation of being especially vicious in their targeting of women and girls. They became known by name and reputation among victims and Sierra Leonean society in general. In many statements and testimonies given to the Commission, women responded to the question of perpetrator identity by identifying the name of an individual perpetrator. A prominent example of an individual name that appeared frequently was "SAJ Musa", also recorded as "SAJ Musa's group".³⁴⁹ Many statements and testimony confirm the presence of the commander known as SAJ Musa at the scene of AFRC violations, particularly during the prolonged assault on the north of the country that culminated in the invasion of Freetown on 6 January 1999. Multiple violations, including sexual violations, were attributed to SAJ Musa personally and to other senior AFRC commanders in his unit.³⁵⁰
359. The AFRC did not institute any measures to address complaints in respect of rape and sexual violence. Its remaining members, whose factional allegiance is in any case difficult to ascertain, have never addressed this issue despite the numerous accusations.
360. The Commission finds the AFRC to have pursued a deliberate strategy of targeting girls and women with the specific intention of violating them by abducting them, raping them, perpetrating sexual violence upon them, torturing them as well as perpetrating cruel and inhuman acts against them. The Commission also finds that the AFRC together with the RUF were responsible for the rape and sexual violations perpetrated upon civilian women and girls during the January 1999 invasion of Freetown.

SIERRA LEONE ARMY (SLA)

361. The SLA³⁵¹ is reported to have committed violations including rape and sexual violence.³⁵² In terms of the Commission's database, the SLA was responsible for 5,2% of all rapes and sexual violations recorded by the Commission.³⁵³
362. SLA units, like their CDF counterparts, were typically attached to a specific town or village. SLA soldiers would be garrisoned in barracks or assigned to protect a location for several months. They were not mobile and thus tended to target women and girls by abducting them with the intention of detaining in a confined, secure location to be used at their whim and fancy as sex slaves. The Commission heard that women and girls detained in this way by the SLA were often kept naked to be available freely for sex or other abuses.

³⁴⁹ The Commission's database allowed for the entry of perpetrator and commander names along with the description of the violations committed. The name "SAJ Musa" (the popular name for the late AFRC commander Solomon A. J. Musa) appeared more times than any other combatant outside the ranks of the RUF. See the Statistical Report produced as an Appendix to this report.

³⁵⁰ See the commentary on perpetrator names in the Statistical Report produced as an Appendix to this report. Interviewees also testified about individual violators in the AFRC: see, for example, Agnes Sesay, TRC interview at Internal Displaced Persons Camp, Lunsar; 8 August, 2003.

³⁵¹ For the purposes of the TRC database, AFRC abuses are not included in the category of "SLA".

³⁵² See the Statistical Report produced as an Appendix to this report.

³⁵³ See the Statistical Report produced as an Appendix to this report.

363. Some deployments of the Sierra Leone Army were by 1994 engaging in the same patterns of behaviour that had characterised the earlier NPFL and RUF presence in towns and villages in the Eastern Districts. The SLA, understandably for a national Army, was present across a much broader geographical area than the RUF. In particular, the SLA tended to be stationed in more of the towns, whereas the RUF was establishing and consolidating its jungle bases in remote and heavily forested areas.

364. The maltreatment of civilians by SLA deployments included persistent acts of sexual abuse and general disregard for the dignity of the womenfolk. A farmer in the town of Yele, Gbonkolenken Chiefdom, Tonkolili District gave the following account of abuses by SLA soldiers under the command of one Captain Koroma:

“These soldiers were bullies. They used to take the wives of community people to sleep with them, cook for them as well as to launder their clothes. My wife was heavy with pregnancy and was asked to fill a forty-four gallon drum with water by the soldiers.”³⁵⁴

365. In the same manner as in other categories of abuse, sexual violence was often meted out randomly by the SLA. In Moyamba District in 1995, the Commission recorded violations by the SLA that were completely unconnected to the defence of communities against RUF attack. In the following statement, a whole community of forcibly displaced people was attacked in its new location in the bush:

“They captured our sisters and women and used them to their satisfaction. When using them, they sometimes inserted steel irons or the sharp edge of a stick into their vaginas and abandoned them. They also amputated some of their hands.”³⁵⁵

366. The tragedy of the impact of the conflict on the family was illustrated not only in the statements of victims, but also in the testimonies given by their family members and loved ones. The following statement was given by a man who testified solely as a witness to the rape of his wife at the hands of men dressed in SLA uniforms in January 1995:

“I saw people in SLA uniforms knocked my door. As I opened my door they pushed me. [These] uniformed men raped my dear wife. I saw two of these uniformed men raping my wife. She was not happy over that but she was forced to do so.”³⁵⁶

³⁵⁴ Santigie Koroma, farmer from Yele, Gbonkolenken Chiefdom, Tonkolili District, TRC statement recorded in Tonkolili District; 14 December 2002.

³⁵⁵ Joseph Smart, farmer from Bauya, Moyamba District, TRC statement recorded in Moyamba District, 4 March 2003.

³⁵⁶ Ibrahim Yayah, farmer from Kasama, Tikonko Chiefdom, Bo District, TRC statement recorded in Bo District; 15 January 2003.

Responses of the SLA to allegations of sexual violations

367. While the SLA had a clearly defined command structure, as well as reputedly operating structures to deal with allegations of rape and sexual violence, it does not appear that the Army dealt in any conclusive way with allegations of rape and sexual violence made against its soldiers, or with the alleged perpetrators themselves. The Army has not been able to show that any SLA soldier was punished for having committed this kind of offence.
368. When they appeared before the Commission, senior officers of the Army were asked questions pertaining to the numerous allegations of torture, rape and sexual violence made against them during the conflict. In addition to oral answers given at Commission hearings by officers including the erstwhile Chief of Defence Staff, Major-General Tom Carew, the RSLAF provided a set of written responses to TRC questions about violations. This document contained the following response to allegations of sexual violations:
- “[The acts of sexual violence committed by SLA soldiers during the conflict are] widely condemned by all members of RSLAF. Troops are however being sensitised on UN Conventions concerning these issues to prevent future occurrence.”³⁵⁷
369. Army officials were at great pains to assure the Commission that they have instituted new mechanisms to deal with rape and sexual violence:
- “The legal branch has been established to co-ordinate criminal prosecutions. There is also the Joint Provost Unit to investigate such cases. The COURT MARTIAL is also about to be established. The Army now has a qualified lawyer ready to carry out prosecutions. His Excellency the President has also signed the rules of Procedure for the Court Martial.”³⁵⁸
- [and]
- “In the absence of an established Court Martial, there is a good liaison between the Police and Provost Unit for the prosecution of these cases [of sexual violations].”³⁵⁹
370. The Commission finds that the SLA, which was primarily responsible for protecting the state and the civilian population, also pursued a strategy of abducting women and girls, particularly those believed to belong to the RUF or who had collaborated with the RUF / AFRC. The SLA deliberately detained women and girls in cruel and inhuman conditions with the intention of raping them and perpetrating other acts of sexual violence upon them.

³⁵⁷ See Republic of Sierra Leone Armed Forces (RSLAF), *Written responses to questions posed by the Truth and Reconciliation Commission (TRC)*, Freetown, August 2003 (hereinafter “RSLAF written responses to TRC questions”).

³⁵⁸ See RSLAF written responses to TRC questions.

³⁵⁹ See RSLAF written responses to TRC questions.

WEST SIDE BOYS

371. The Westside Boys, a perpetrator grouping that included serving Sierra Leonean Army officers, including AFRC Ministers such as Santigie Kanu, members of the Sierra Leonean Border Guards and civilians had their headquarters at Gberegama in Port Loko District. They emerged in the aftermath of the ECOMOG putsch of rebels from Freetown after the 6 January 1999 invasion of the city and its environs.³⁶⁰ The civilians included those abducted on the dissidents' retreat from Freetown in such areas as Wellington and Calaba Town, as well as some unemployed youth living in the ghettos and who had aligned themselves and fought with the invading rebel forces during the 6 January 1999 invasion. These youths became afraid of reprisals when the rebels were repelled and consequently fled with them.³⁶¹ The third category of civilians who became part of West Side Boys comprised the inhabitants of the communities where the West Side Boys had settled. They were abducted and forced to become part of them.³⁶²
372. The Commission received statements and testimony implicating the West Side Boys in rape and sexual violence against women. They have been described as a gang of bandits rather than credited as a politically motivated fighting force.³⁶³ Many of the statements the Commission received came from young girls who were forced to become "bush wives" to some of the members of this group.³⁶⁴ TRC statements also confirm that the Westside Boys continued to carry out abductions, rape and other violations against women right up to 10 September 2000, when they were wiped out by a dawn raid on their Okra Hills base involving Sierra Leone security services and British paratroopers.³⁶⁵

Responses of West Side Boys to allegations of sexual violations

373. The Commission did not receive any response to allegations of sexual violations made against this faction. Most of those who could claim to have been members of the West Side Boys are presently in detention, including three who are indicted by the Special Court for Sierra Leone and a significant number who are held in so-called "safe custody" in Pademba Road Prison in Freetown. With access to these persons severely restricted by the respective detaining authorities, the Commission was left to gather information on this faction from low-level members, police statements and victim testimonies.
374. The Commission finds the West Side Boys responsible for pursuing a policy of abducting women and girls, holding them against their will in forced marriages, raping them and using them as sexual slaves, perpetrating a range of cruel and inhuman acts upon them.

³⁶⁰ See Karimu, E.; investigator into the enlistment and abduction strategies of militias and armed groups in the Sierra Leone conflict; TRC interview conducted in Freetown, 6 October 2003.

³⁶¹ See Karimu, E.; investigator into the enlistment and abduction strategies of militias and armed groups in the Sierra Leone conflict; TRC interview conducted in Freetown, 6 October 2003.

³⁶² See Karimu, E.; investigator into the enlistment and abduction strategies of militias and armed groups in the Sierra Leone conflict; TRC interview conducted in Freetown, 6 October 2003.

³⁶³ See, *inter alia*, BBC News online, *Who are the West Side Boys?*, report of 31 August 2000, available at the following website: <http://news.bbc.co.uk/1/hi/world/africa/901209.stm>.

³⁶⁴ Confidential testimony received before TRC Closed Hearings, Freetown, May 2003.

³⁶⁵ See Karimu, E.; investigator into the enlistment and abduction strategies of militias and armed groups in the Sierra Leone conflict; TRC interview conducted in Freetown, 6 October 2003.

OTHER VIOLATIONS SUFFERED BY WOMEN

375. In addition to the specific categories of violations covered above, women suffered a multiplicity of different experiences and were subjected to a plethora of economic violations, which had an enormous impact on them during the conflict period and on their lives and livelihoods since.

EXTORTION

376. Women were frequent victims of extortion. In the TRC database, women account for 351 of the 1,314 counts of extortion where the gender of the victim is known to the Commission.³⁶⁶ The database records that all of the major armed groups perpetrated this violation against women. Extortion mostly took two forms. In the first instance, armed groups demanded money from persons illegally detained or from their family members. If family members failed to comply with such demands, the person held in custody was on occasion killed.³⁶⁷ In the second instance, armed groups imposed levies on communities for their upkeep. Beyond these two main types of extortion, there were numerous random acts in which combatants simply demanded money and took it by force.³⁶⁸ If individuals resisted such demands, they were subjected to further violations. Some of the victims told their stories to the TRC:

“Sometime in 1991, I was in the town of Blama when the RUF rebels attacked that community... we were forced to give them money and food as a sign of welcoming them; but I told them that times are rough and we gave them only five chickens. They came again with threatening remarks that if we do not give enough food that day, they will kill everybody in the town. We gave them all our food that day. As they left for the other community, I left the town with the rest of the people...because we could no longer stand the harassment.”³⁶⁹

“...I was sitting in my house when I saw people running. It was sometime in 1999 after the invasion of Makeni. It was getting to 4.00p.m, time for the afternoon prayers. I too ran towards the river, as it was the place that everybody was heading for... the place I went to hide was where I was captured... I was taken to a village called Rosos... they later took all my belongings from me. That same day, I returned to the town with other people thinking that all was over. On our return, another group of combatants came. They were rebels... They came to stay in the village but we were asked to feed them from contributions. We used to contribute 60 cups of rice, two gallons of palm oil, fish, pepper, groundnut and maggi daily for six months.”³⁷⁰

“On 6 January 1999, AFRC / RUF rebels attacked my house in Freetown and put me under gunpoint. They sprinkled petrol around the house and said they were going to burn the house... they focused their attention that I should give them money. They first demanded the sum of 20,000 Leones from me, which I gave in a hurry as a way of saving my life. After I had given them, they left.”³⁷¹

³⁶⁶ See the Statistical Report produced as an Appendix to this report.

³⁶⁷ TRC confidential statement from a female victim, recorded in Gbangbatoke, 5 February 2003.

³⁶⁸ See, for example, Adama John, TRC statement, Mbelleh, Yangtoke, 30 January 2003.

³⁶⁹ Massah Koroma, TRC statement, Blama Massaquoi, Pujehun District, 24 February 2003.

³⁷⁰ TRC confidential statement from a female victim, recorded in Batkanu, 4 December 2002.

³⁷¹ TRC confidential statement from a female victim, recorded in Freetown, 11 December 2002.

377. Women were often the main targets of extortion, as they were considered more vulnerable to this kind of demand than men. According to the TRC database, the CDF accounts for the most acts of extortion of all the armed factions perpetrated on the civil population under its areas of control. A victim told the Commission of what she and her husband experienced at the hands of the CDF Kamajors in Kabati village:

“Both my husband and I were residing in Kabati village... according to Mr. Gbessay (CDF commander) his purpose of visiting us was to arrest my husband to an isolated area in Kabati village known as “TONGO FIELD”. This Tongo Field was the field where these Kamajors normally killed people who refuses to pay fines levied on them... On the next day, a boy by the name of Musa came and told me that the Kamajors under the command of Mr. Fomba wanted to see me immediately and both of us went to these Kamajors. I was told by their boss...to pay a fine of fourteen thousand Leones, a bag of husk rice and seven chickens... I paid all these fines levied on me without reasons as I was under gunpoint. I had to pay all the fines levied on me after they had killed my husband for his properties... I want the Commission to know that all of these people are currently in Kabati village in Jong Chiefdom.”³⁷²

378. Another victim also told of her experience with the CDF:

“I was flogged by Kamajors at Bo. In 1999, I was captured by the Kamajors; we were twenty in number. In the first place when they captured me, I was having one hundred and fifteen thousand Leones in my bosom. I was stripped naked as I was born and they saw the money and they took it from my bosom. I felt stressed and uneasy, then I urinated on myself. They tied me up and I saw some of the civilians hands chopped off and others killed I was just waiting for my turn to be killed. Then the commander of the Kamajors told them not to kill me but to properly flog me.”³⁷³

379. Armed groups, particularly the CDF set up checkpoints and proceeded to extort money from passers-by, including women. Women traders were particularly targeted in this fashion.³⁷⁴ The setting up of checkpoints heightened tensions considerably in many communities. It became a major point of contention between communities in the south and the CDF forces stationed there.

380. A resolution only came when the Government of Sierra Leone, DFID (a British Development agency) and the European Union engaged the CDF and some interest groups in the various communities in dialogue on this issue. The outcome was the CDF / Community Reconciliation Workshop held on 17 and 18 June 1999 at the Bo town hall where some measures, such as the dismantling of some checkpoints, were agreed upon.³⁷⁵

³⁷² Kamah Joseph, TRC statement, Bonthe District, 3 March 2003.

³⁷³ Aminata Sesay, TRC statement, Bombali District, 17 December 2002.

³⁷⁴ See the Report from the Regional Reconciliation Committee Meeting – Southern Region, facilitated by DFID and European Union, including discussion of CDF violations, 8 August 1999.

³⁷⁵ See the Report from the Regional Reconciliation Committee Meeting – Southern Region, facilitated by DFID and European Union, including discussion of CDF violations, 8 August 1999.

LOOTING

381. The Commission recorded 931 counts of looting perpetrated against women, amounting to 30,1% of all acts of looting that were reported to the TRC.³⁷⁶ In this category the RUF accounts for most of the violations reported (59,7% for women and girls; 58,4% for men and boys).³⁷⁷ Individual RUF commanders sent combatants on missions to find food. These missions led to looting and pillaging of the targeted communities. RUF members have in their testimonies stated that children were included in these missions as they were very good at foraging out what they could get when they went out on looting sprees.³⁷⁸ The RUF had a deliberate strategy of targeting the property of civilians. In RUF parlance, looting was known as "jaja". A woman in Pujehun told the Commission of her experiences:

"I was in the town of Pujehun in April 1991... when the RUF rebels came to our community. They dressed like radicals with red bands and were telling us that they have come to free us from our poverty in Sierra Leone, but in the same gathering I saw one of them taking away my uncle's wrist watch and some other items were forcefully taken from people...

After their address, they started taking our properties and were loading them into a very big vehicle. Among their group were Pellejor and Eddie Kassay, whom we knew. When we asked them why they are taking our things, they told us that it was just the beginning and they would be doing worse than what they have started."³⁷⁹

382. At different times in the conflict, the RUF and other factions carried out specific military operations against civilians, which invariably resulted in widespread human rights violations. The objectives of these operations on occasion specifically included looting. In particular, the campaign of attacks known as "Operation Pay Yourself" resulted in large scale looting by RUF and AFRC combatants eager to gain a personal dividend from their participation in the war. A female health worker who was working with MSF at Kenema in 1997 described how her possessions were looted by members of the AFRC junta:

"In 1997, during junta rule, we were threatened by juntas that we were informants. It was on 8 February 1998 that they launched "Operation Pay Yourself" and there was heavy firing in the township... They came to my compound and started knocking on my door... they then entered the house, took our belongings, money and everything and they went away. Three groups wearing combat with their faces masked came to our house that very day... we lost everything."³⁸⁰

³⁷⁶ See the Statistical Report produced as an Appendix to this report.

³⁷⁷ More detail on violations rates and the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

³⁷⁸ See, for example, Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF, TRC interview at TRC Headquarters, Freetown; 23 June 2003.

³⁷⁹ Mariama Sheriff, TRC statement, Pujehun Old Town, 29 March 2003.

³⁸⁰ TRC confidential statement recorded in Kenema District, 7 December 2003.

383. Looting raids were often directed against entire villages. A woman reported to the Commission what happened in her village:

"I was having a store at Gissiwolo Makpele comprising of tape recorders, cement and a lot of necessary things. It was set up for me by my husband, who was in Liberia... The juntas at Zimmi got to us on a Thursday afternoon and all the town was turned upside down. We fled for months and came back later, meeting Gissiwolo a ghost town with all properties looted."³⁸¹

384. Allegations of looting in its various guises were made against each of the armed groups that participated in the conflict. Members of the Guinean Armed Forces were accused of looting.³⁸² Inhabitants of the border areas such as Kambia District complained of the looting of their properties, goods and money whenever there was an attack by the Guinean Armed Forces. Many witnesses told the Commission that in many areas, special markets existed in Guinea where these looted items were sold.³⁸³
385. Combatants also looted the property of women and gave them to wives and girlfriends. A common feature of the conflict was the fact that businesswomen and traders often fell into ambushes of the different armed forces and lost their goods. The Market Women's Association of Sierra Leone testified to this in their appearance before the Commission.³⁸⁴

DESTRUCTION OF PROPERTY

386. A major feature of the conflict in Sierra Leone was the wanton destruction of property by the various armed forces. All of the major armed groups were responsible for the destruction of property belonging to civilians, including women.³⁸⁵ Women accounted for 1,009 of the 3,469 violations with gender recorded in the Commission's database.³⁸⁶ This amounted to women suffering nearly 30% of all property violations.³⁸⁷ A woman told of the attack on Moselolo village by the RUF in 1995:

"...After the firing, I decided to come and check on the village. I saw flames of fire rising up from the thatch roofed houses and some of the zinc houses. I decided not to go further but to return to my people... We spent three days and three nights in the old farm. On the third day, in order to go and find out about the damage done, I and other villagers went without our families. On reaching our compound, I found out that all houses had been burnt down and our properties either looted or burnt; even our mosque was also burnt down."³⁸⁸

³⁸¹ Kula Kuyateh, TRC statement, Gissiwulo-Makpele, Pujehun District, 21 January 2003.

³⁸² Aside from looting, very few violations in the TRC database were attributed to the Guinean Armed Forces (GAF). More detail on the propensities of particular factions to commit certain violations can be found in the Statistical Report produced as an Appendix to this report.

³⁸³ See excerpt from security document entitled *Observations on Guinea Markets*, 2000: "There are gigantic warehouses where looted properties are sold in the Guinea markets and towns: Nongoa, Wau Jibba, Gueckedu Central Markets, Macenta, Kenema-Wonda and Koundo-Twi."

³⁸⁴ See Sierra Leone Market Women's Association, Submission to the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003 (hereinafter "Market Women's Association submission to TRC"), at page 3.

³⁸⁵ Adama Musu, TRC statement, Mateboi, Sanda Tendaren, 5 March 2003.

³⁸⁶ See the Statistical Report produced as an Appendix to this report.

³⁸⁷ See the Statistical Report produced as an Appendix to this report.

³⁸⁸ Thiam Kamara, TRC statement, Batkanu, Leibesayeahun, 4 December 2002.

387. In Gerihun, a woman who had already suffered a previous displacement told of the destruction of the new home in which she and her family had settled:

“One morning I went to the lorry park to go to Bo on a Sunday in 1995. Then I saw military uniformed men who I could not distinguish at all... There was heavy firing and a loud sound of guns. The whole town was confused, everybody trying to get away. I rushed to my camp, got my children and then fled the town. By the time I could get my children, most of my property had been taken away, but I did not mind at all. Some other things were even drowned in the River Bebeh.

In the distance, I saw dark smoke rising into the sky from the direction of our camp. Later, I learnt that there was a fierce fight between the loyal SLA / SSD and the RUF rebels. Soon enough they disappeared, but the camp was destroyed.”³⁸⁹

WOMEN AS PERPETRATORS AND COLLABORATORS

388. While women and girls bore the brunt of the violations as victims, they also played a multiplicity of roles including those of “perpetrator” and “collaborator”. While these experiences are not widely documented, it is not surprising that women also took sides in the conflict. Often their participation is driven by socio-economic needs, the need to protect themselves and their families or to improve the quality of their lives. They assumed varied roles, including becoming armed combatants, providing medical assistance, feeding armed groups and supplying opposing forces with intelligence information often at great risk to their lives. Taking on an active role in the conflict placed a woman in even greater danger than normal, as opposing forces treated women associated with enemy factions more brutally than their male counterparts.
389. Many women voluntarily joined the war for a variety of reasons including personal conviction and belief in the cause of the group or faction they belonged to. Others were enraged and angered by what they witnessed and chose to play an active role in an attempt to rectify perceived wrongs. Many women experienced personal losses, which hurt them a great deal and led them into enrolling in the Army to avenge their loved ones.³⁹⁰
390. Women who joined forces opposed to the legitimate government were regarded as perpetrators. Major Kula Samba, a soldier in the Sierra Leone Army who served under the AFRC, was charged and convicted of treason by the reinstated government of President Ahmad Tejan Kabbah. She was tried by Court Martial, sentenced to death with no right of appeal and executed in October 1998.³⁹¹ Other women accused of treason and put on trial were civilians among the large group charged to court in 1998, including Matilda King (third accused) Kaindeh Bangura (eleventh accused) and Mayilla Yansaneh (twelfth accused). They were all convicted of treason and sentenced to death

³⁸⁹ Manyeh, Alimatu, Walihun, Jaiama-Bongor Chiefdon, 27 February 2003

³⁹⁰ See, for example, Inter Press Services, article by Ruby Oforil, 18 December 1992. The article includes an excerpt from an interview in which a female soldier says that she joined the Army “because the rebels killed my dad at Benguema...about a year ago”.

³⁹¹ See Mansaray, *Women Against Weapons*, at page 144. Major Kula Samba served as the AFRC’s Secretary of State responsible for Social Welfare, Gender and Children Affairs.

but were lucky to escape being executed.³⁹² Nancy Steele, a veteran activist who was 75 years old at the time, was also convicted of treason in 1998 and died in the stampede from the detention cells when the rebels broke into Pademba Road Prison in January 1999.³⁹³

391. Another woman perpetrator of note was Tina Musa, the wife of the late SAJ Musa, an AFRC commander of fearsome repute. Tina Musa, perhaps inevitably given her husband's central role in the AFRC, herself became embroiled in the conflict. While her initial role was purely one of connection to her husband, upon his death she came to wield enormous influence over his renegade group. A similar scenario of power dynamics was reported of women who were originally abducted and forced to become members of the other fighting forces.
392. A major characteristic of the conflict in Sierra Leone was that in the vast majority of cases, women abductees were compelled to take on active perpetrator roles. Most of the major armed groups used these tactics in order to impose a sense of factional affiliation and identity on their civilian abductees.
393. Some of the armed groups established special units solely staffed by women and girls. The RUF, for example, had a unit consisting solely of women known as the Women Auxiliary Corps (WACS), which was also charged with running the Small Girls' Unit of the RUF.³⁹⁴
394. Women involved in the conflict as perpetrators also committed notable human rights violations. Female commanders were often given appellations that characterised the forms of behaviour for which they were notorious: Adama "Cut Hand"; Lieutenant "Cause Trouble"; Kumba "Blood"; Lady "Jungle Law"; and Hawa "Two Barrel", for example. Killing, maiming, looting, burning and amputations were among the violations attributed to females in the TRC database. One female perpetrator gave the following personal testimony:

"During the first attack in Masiaka... [a male commander] took me along with him. When we reached their base, around Bo, inside a forest, I was injected inside my mouth on my last tooth. That injection made me to become fearless. I was not afraid to do anything when we were in the front. I was the one who always led the group...

When others were afraid, I would go and offend government troops and later come and inform them and we would go and attack, that is why I was called Cause Trouble. I took part in many attacks in this country, including the one in Freetown. I harassed people for their goods and threatened to kill them if they don't give me what I am demanding for. One day we laid an ambush at Mange Bureh Bridge. I was leading... we attacked one truck which was carrying government soldiers and we succeeded...

³⁹² See Mansaray, *Women Against Weapons*, at page 44. Matilda King, Kaindeh Bangura and Mayilla Yansaneh were freed from detention when invading forces stormed the Pademba Road Prison during the 6 January 1999 attack on Freetown. They were later pardoned as part of the amnesty provisions in the Lomé Peace Agreement of 7 July 1999.

³⁹³ See Mansaray, *Women Against Weapons*, at page 44. Nancy Steele founded the National Congress of Sierra Leone Women (NCSLW), affiliated to the All Peoples' Congress (APC) party.

³⁹⁴ See Patrick Beinda, former RUF G-2 commander and prominent RUF representative in the Eastern Province, TRC interview at TRC Headquarters, Freetown, 18 June 2003.

During the attack on Freetown on 6 January 1999, I was among those sent to open Pademba Road Prison to free our colleagues... One day we attacked Pamalap and it was very tense, because our main aim was to capture Guinea because we have been paid for it... The fighting was very tense and I got afraid and was retreating back when I was caught by Guinean soldiers and I was taken to their prison where I stayed for one year with hard labour...³⁹⁵

395. Another female ex-combatant, from the RUF faction, testified as follows:

“One morning after our arrival in Camp Zogoda, some of us were called to assemble by Commander Murray. In the assembly, I was injected with cocaine and given one set of military uniform and a knife... We went out to fight from Saturday to Wednesday, every day except on Thursdays and Fridays.”³⁹⁶

396. Women perpetrators sometimes held positions of authority in the various factions. The late Major Kula Samba famously became the Secretary of State for Social Welfare, Gender and Children Affairs in the AFRC regime.

397. Other prominent women included Agnes Mani of the RUF, who was part of the RUF contingent to the Abuja Peace talks,³⁹⁷ and Memuna Sesay, who took charge of training for the RUF's Women Auxiliary Corps.³⁹⁸ The RUF was also said to have had as many as five women members on its War Council from 1992 to 1994.³⁹⁹

398. Many women struggle to understand why women took up arms and committed violations in the Sierra Leone conflict. However war and conflict force women into many different roles, which are not monochromatic in nature. Survival is paramount for women in times of conflict. Once involved, the nature of women's involvement is little different from that of men. Violence became glorified during the conflict in Sierra Leone. Male and female combatants alike were celebrated and revered by their peers the more brutal and violent the violations they committed. The Commission heard that, in a perverse way, a combatant could only receive adulation and respect from his or her comrades by attaining a certain level of sheer ruthlessness and notoriety.⁴⁰⁰

399. Many women combatants simply yearned to belong to the group and not to be perceived as weak or exhibit signs of femininity. These yearnings often led to women perpetrating even more cruel and violent behaviour than that carried out by men in their efforts to qualify for “inclusion” and “recognition”.

³⁹⁵ Marie Kargbo, TRC statement, Old Police Barracks, Kambia, 4 February 2003.

³⁹⁶ Isatu Sesay, TRC statement, Fullah town, Gbangbatoke, 4 February 2003.

³⁹⁷ Patrick Beinda, former RUF G-2 commander and prominent RUF representative in the Eastern Province, TRC interview at TRC Headquarters, Freetown, 18 June 2003.

³⁹⁸ See Mansaray, *Women Against Weapons*, at page 45.

³⁹⁹ See Mansaray, *Women Against Weapons*, at page 46. Two of the names given as female members of the RUF War Council are Mama Kombey and Mamei Abu.

⁴⁰⁰ See Patrick Beinda, former RUF G-2 commander and prominent RUF representative in the Eastern Province, TRC interview at TRC Headquarters, Freetown, 18 June 2003. See also Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

400. The question of “survival” also profoundly motivated and influenced women perpetrators in their involvement in gross human rights violations. Engaging in acts of violence provided women with a guarantee of security and survival from their own colleagues.⁴⁰¹ Women had to prove themselves to their peers, as well as their individual commanders, by carrying out violations without flinching or displaying any outward signs of weakness.
401. While most societies tend to ascribe to women a certain aversion to acts of violence, the conflicts taking place around the world suggest otherwise. According to Goldblatt and Meintjes, understanding that women are capable of perpetrating violence enables us to see that women are not monolithic in their outlook as a group and are not bearers of certain essential qualities such as kindness and compassion.⁴⁰² Gender stereotyping is certainly upset by the multiplicity of roles women take on in conflicts.
402. Some military psychologists subscribe to a theory of crowd psychology as another reason for women having committed violations.⁴⁰³ By this theory, people lose their individuality to the group and act according to the dictates of the collective. Individuals experience a feeling of “almost limitless power”, promoting a kind of automatism that allows people to carry out acts without conscious thought, all the time supported by the formidable presence of the group. In this state a person can commit the most vile and gruesome violations. Often those in the group are vulnerable to this kind of pressure because of their own peculiar physiological make-up, whereas without a crowd they might not have the guts to carry out such actions in normal circumstances.
403. Drugs also played a major role in altering the mindset of many perpetrators, including women, thus allowing for the most horrible violations to be carried out.
404. In addition, many women, while not serving as combatants, took on collaborative roles. In a number of instances, women allegedly performed as spies on behalf of armed factions on both sides of the spectrum, acting both for and against the government.⁴⁰⁴ Women reputedly established relationships with some ECOMOG soldiers, which allowed them to garner information about ECOMOG’s military strength. They also gained first-hand knowledge of garrisons as well as the deplorable conditions under which surrendered soldiers were kept and passed on this information to the AFRC.⁴⁰⁵

⁴⁰¹ See Women’s NGO Coalition submission to TRC, at page 10.

⁴⁰² See the citation in the Women’s NGO Coalition submission to TRC, at page 10.

⁴⁰³ The theory of crowd psychology has among its proponents Gustave Le Bon and Wilfred Trotter, both military psychologists. The theory states that humans are herd animals with strong gregarious impulses. Therefore in a crowd, the group mindset, supported by the formidableness of the group, takes over from the autonomy of the individual and precipitates uncharacteristic forms of behaviour.

⁴⁰⁴ See Sulaiman Momodu, “Women Spies”, article in the *Concord Times* newspaper, Freetown; 1 June 1998, at page 2. See also Hassan Jalloh, former CDF commander of the Kamajors on the eastern border, TRC interview conducted in Freetown, 8 August 2003.

⁴⁰⁵ See TRC confidential interviews with female participants in the conflict who performed “reconnaissance” roles on behalf of the AFRC and RUF, Freetown, September 2003.

405. Women were additionally accused of assisting with the war efforts of some of the armed groups by buying and selling looted goods. Some female traders were even captured and charged to court on allegations that they trafficked small arms under the guise of trading their goods.⁴⁰⁶
406. The market women were the group most affected by these allegations. The Sierra Leone Market Women's Association responded to the allegations during its appearance before the Commission and stated that its members had in fact risked their lives to go beyond rebel lines to buy goods in order to support their families.⁴⁰⁷
407. According to Binta Mansaray, another witness before the Commission, attempted to capture the many dimensions to women's involvement with the different factions in the conflict:

"Pro-rebel women collaborators also helped rebels to infiltrate communities... providing rebels with food and shelter... on the other hand, pro-government women identified rebel collaborators and this at times resulted in the lynching and extra-judicial killings of alleged collaborators... Some women acted as spies and encouraged pro-government forces... they [also] provided food and shelter for ECOMOG and the Civil Militia".⁴⁰⁸

408. Women also suffered because their family members belonged to various combatant groups and they were labelled "collaborators". Labelling women in this manner was a dangerous and sometime malicious ploy, more often than not making the women increasingly vulnerable to being violated. A woman whose son was an SLA soldier told the TRC of her ordeal of being arrested as a "collaborator" at Maboima in 1999:

"I was taken to the Commander of the Kamajors, Mr. Moses Sam, and he ordered his Kamajors to tie me up with twine rope. I was then asked to pay a fine of two thousand Leones. I was unable to remove the money from my clothes, not until when my daughter Aminata came to my rescue and removed the money to pay it to the ground commander. I was then asked by the chiefdom ground commander [to identify] who was taking care of me. I pointed at one Mr. Bangura... No sooner had I pointed to him, the ground commander imposed a fine on me of two million Leones. I pleaded until I paid forty thousand Leones, otherwise I would have been killed....

Later, the ground commander ordered his fellow Kamajors to come with one leaf of zinc so that they could lay me on it and slaughter me but one Mr. Dauda advised them not to kill me. I was again fined one hundred thousand Leones, which I paid to save my life before I was released."⁴⁰⁹

⁴⁰⁶ Dr. Julius Spencer, former Minister of Information and prominent commentator on the Sierra Leone conflict, TRC interview conducted at private residence, Freetown, 26 March 2003.

⁴⁰⁷ See Market Women's Association submission to TRC.

⁴⁰⁸ See Mansaray, *Women Against Weapons*, at page 149.

⁴⁰⁹ Adama Conteh, TRC statement, Bauya Kongbora Chiefdom, Moyamba District, 5 March 2003.

409. Collaboration in war is often a result of the fact that women actively work to improve their situation and thus effectively support the efforts of one or the other side. Many conflicts, including the Sierra Leonean conflict, have arisen as a result of socio-economic inequalities, so it is not surprising that women become collaborators in order to survive. Ethnic allegiances, personal affinities and private loyalties also contribute to why women take sides.
410. The Commission notes that it experienced great difficulties in accessing the testimonies of women ex-combatants and collaborators. The Commission has endeavoured to tell their story from the statements made by other witnesses and also submissions made to the Commission. However their story has not been told in its entirety. While the TRC has attempted to report faithfully on the impact and consequences the conflict has had on the lives of women, including those of women combatants, it is necessary to caution that the plight of women ex-combatants and their families is fairly precarious.
411. Women have been extremely guarded in their responses and have tried to avoid being identified as combatants or collaborators for fear of being targeted and stigmatised. Common wisdom has it that it is not easy to live in Sierra Leonean society as a woman who was part of one of the armed factions. Many women consider that being identified in such a capacity would lead to negative reactions from their communities, or even from their families and relatives. Women thus suffer a “double victimisation”: having been compelled by circumstances to join the armed forces, they are further victimised by the same society for having done so. Non-disclosure facilitates their assimilation into their society and is yet another survival mechanism. Living under the fear of being recognised and identified then becomes a perpetual nightmare, however.
412. Given that some women were not able to come forward to the TRC for fear of ostracism, society as a whole has lost a unique opportunity to understand fully the role played by women in the war. Sadly women are still constrained by societal norms from talking about what happened to them. Society “re-victimises” women and appears unwilling to accept that women, just like everybody else who suffered during the conflict, had little to no control over what happened to them.
413. Women who have come forward to the TRC have testified about their own anguish at being identified, ostracised and mocked, or at being made social outcasts at for having been associated with the armed factions. This plight stands to be compared to the relative ease with which many of their male counterparts have been accepted back in society. The Commission finds that women in Sierra Leone have had no option other than to bury their past so as to be accepted back into society.

TRC



Representatives of women's non-governmental organisations arrive at the YWCA Hall in Freetown for the TRC Special Thematic Hearings on Women.

WOMEN AS MEDIATORS AND PEACE MAKERS

414. Women played a major role in the peace process that led to the end of the conflict. After enduring years of destruction and chaos, women began to assume constructive roles as mediators and peacemakers.
415. At the beginning of 1994, rural and urban women of all classes and ethnic affiliations organised protest marches and peace rallies across the country. From 1994 onwards, pioneering women of the likes of Amy Smythe, Elizabeth Lavalie, Dr. Kadie Sesay and Zainab Bangura, along with women's groups such as the Mano River Women's Peace Network (MAWOPNET), Women's Movement for Peace, Forum for African Women Educationalists (FAWE), the Women's Forum, Sierra Leone Women's Movement for Peace and many others, took the lead in rallying society towards the cessation of hostilities.
416. Women activists organised seminars, embarked on public marches, held conferences and worked tirelessly towards the elections of 26 February 1996. They educated civilians on electoral proceedings, recruited and trained observers and pressured the military rulers to respect the results of elections. Women's groups also figured prominently in influencing Brigadier Maada Bio's National Provincial Ruling Council (NPRC) military government to hold democratic elections in the first place. These efforts were led by the group known as Women Organised for a Morally Enlightened Nation (WOMEN). The Women's Forum, an umbrella body for women's NGOs in Sierra Leone, organised a march on 9 February 1996 to petition the then Independent National Electoral Commission (INEC) concerning the upcoming elections. Eventually, women helped monitor the conduct of the polls on 26 February,⁴¹⁰ which led to the assumption of office by President Ahmad Tejan Kabbah.
417. The overthrow of President Ahmad Tejan Kabbah in 1997 caused many Sierra Leoneans to go into exile. Many of the women mentioned above who had worked to secure a democracy also fled from the country. While in exile, some women continued their efforts to fight for justice and peace in Sierra Leone. Based in Guinea, Mrs. Zainab Bangura set up a field office of the Campaign for Good Governance (CGG). This office would serve as a focal point for civil society working for the restoration of democracy in Sierra Leone.⁴¹¹
418. The late Mrs. Patricia Kabbah made trips to United States of America and Belgium, seeking support for the restoration of democracy. The First Lady also presented a radio programme on Radio Democracy 98.1 FM, which she used to counter AFRC propaganda.⁴¹²
419. After the invasion of Freetown in January 1999, women also participated in the National Consultative Conference convened by the National Commission for Democracy and Human Rights (NCDHR), headed by Dr. Kadie Sesay. The conference was charged with collating civil society's views on the peace talks due to take place in Lomé later that year.⁴¹³

⁴¹⁰ See the Women's Forum, Sierra Leone; informational brochure explaining the organisation's objectives and some of its past activities, produced in Freetown, at page 3.

⁴¹¹ See Mansaray, *Women Against Weapons*, at page 149.

⁴¹² See Mansaray, *Women Against Weapons*, at page 150.

⁴¹³ See Mansaray, *Women Against Weapons*, at page 155.

420. Interventions by women in the post-Lomé peace process invariably tipped the balance in favour of the restoration of peace in Sierra Leone. In May 2000, a group of women belonging to various churches and mosques in Freetown requested and were granted an audience with RUF leader Foday Sankoh. Sankoh was reported to have treated the women with disdain upon their arrival at his residence. The women, angered by Sankoh's attitude, vented their displeasure. Christiana Macfoy of the Women's Forum told the BBC that:

“We are tired; we are not only tired, we are fed up. We have reached the end of the road as far as taking all these atrocities that are being committed. And it is the women who are bearing the brunt of it.”⁴¹⁴

421. The women's meeting turned out to be a prelude to a much larger demonstration of opposition to the RUF on 8 May 2000, when a broad cross-section of the entire populace, including as many as 2,000 women, marched on Foday Sankoh's Spur Road Lodge in Freetown. A chaotic breakdown of public security ensued, with members of the RUF and other armed factions opening fire on civilians, leading to the deaths of up to 40 people.⁴¹⁵ Foday Sankoh was captured some ten days later and taken into custody until his death in 2003.

422. There is no doubt that in the midst of the conflict and in the face of limited resources and continuing threats, many women in Sierra Leone worked relentlessly for peace. While most of the women involved had experienced the horrors of the conflict at first hand and were traumatised, they nonetheless rose above their personal circumstances to help to bring peace to their nation. They fought long and hard for normality to return to their lives, families and nation. In the process, some of them lost their lives.

423. The conflict has shown that while women are predominantly victims, they also play the roles of perpetrators and collaborators to armed groups. As combatants, they commit violations in the same way that men do. Militarisation and the presence of weapons create a culture of violence that often forces combatants to commit violations, sometimes as a means of survival, especially for women who still remain vulnerable even as combatants. Women have collaborated with the armed groups, serving in various capacities.

424. Throughout the world, while women often play a major role in the cessation of hostilities, they are routinely ignored and under-represented at peace negotiations and in the peace-building institutions that come into existence thereafter. Such was the case in Sierra Leone. Although two women representatives were involved in the Lomé negotiations, the only woman whose signature was appended to the Lomé Peace Agreement was Miss Coleman, who was a representative of the Organisation for African Unity (OAU).⁴¹⁶ It is sad to note that no Sierra Leonean woman was a signatory to the agreement and, further, that none was included on any of the various Commissions established to oversee or build upon the peace, such as the Commission for the Consolidation of Peace (CCP), Commission for the Management of Minerals and Strategic Resources, National Reconstruction and Development (CMMRD) or the Council of Religious Leaders.

⁴¹⁴ For the context of this quote and more detail on women's role in the events of May 2000, see Mansaray, *Women Against Weapons*, at pages 150 – 159.

⁴¹⁵ More detail on the landmark events of 8 May 2000 can be found in the chapter on the Military and Political History of the Conflict, in Volume Three A of this report.

⁴¹⁶ See Mansaray, *Women Against Weapons*, at page 159.

425. Despite the efforts of the many women's groups that have asked for more women to be included in government, there are currently only three women cabinet Ministers out of twenty-two, three deputy Ministers out of thirteen and sixteen women parliamentarians out of 120. These figures are insignificant in terms of the numbers of women in the country.
426. According to Dr Theo-Ben Gurivals at the debate leading to the first UN Security Council Resolution on Women, Peace and Security in October 2000:
- "Women are half of every community... Are they therefore, not also half of every solution?"⁴¹⁷
427. President Anwarul Chowdury of Bangladesh, who chaired the First UN Security Council Meeting on Women, Peace and Security stated that:
- "Members of the Security Council... affirm that the equal access and full participation of women in power structures and their full involvement in all efforts for the prevention and resolution of conflicts are essential for the maintenance and promotion of peace and security."⁴¹⁸
428. Women played a major role in ensuring that the conflict in Sierra Leone came to an end. However, they were marginalised in the peace talks and even more so in the various Commissions established after the signing of the Lomé Peace Agreement. Such exclusion, whether direct or indirect, deliberate or inadvertent, is characteristic of most countries where women's voices are not heard or taken into account. It is a situation that must not be allowed to persist in Sierra Leone. In this regard, the Commission considers UN Security Council Resolution 1325 on Women, Peace and Security, passed on 21 October 2000, to be pertinent.⁴¹⁹ It is important to locate the struggle for a strong women's voice in Sierra Leone in the broader struggle for women's inclusion in peace initiatives around the world. The institutions and processes of peace, security and development, as well as societies at large, are made stronger and more effective by the full and equal participation of women.

⁴¹⁷ See Rehn and Sirleaf, *Women, War and Peace*, at page 78.

⁴¹⁸ See Rehn and Sirleaf, *Women, War and Peace*, at page 78.

⁴¹⁹ See United Nations Security Council Resolution 1325 on Women, Peace and Security, S/RES 1325/2000, 21 October 2000.

IMPACT OF THE CONFLICT ON WOMEN AND GIRLS

429. Elizabeth Rehn and Ellen Johnson Sirleaf argue in their report entitled “Women, War and Peace” that the extreme violence women suffer during conflict does not arise solely out of the conditions of war but is directly related to the violence that exists in women’s lives during peacetime. They go on to say that “women experience violence because they are women, and often because they do not have the same rights or autonomy that men do”.⁴²⁰ Women are subjected to gender-based persecution, discrimination, sexual violence and oppression. Since they lack political rights or authority, they generally have no recourse. Women also lack access to the same resources that men have and have little or no control over their environment. The militarisation of societies during conflicts and the proliferation of small weapons lead to greater violence against women and, because men escape largely unpunished, greater impunity. Impunity in turn leads to greater levels of instability, thereby escalating the levels of domestic violence and sexual violence. The escalating violence leads to a new norm, which according to Rehn and Johnson continues long into the post-conflict period.⁴²¹
430. In the State of the World’s Mothers Report of 2003, Sierra Leone had the ignominious distinction of standing alongside four other countries as one of the worst places on earth in which to be a woman.⁴²² The Commission explores in the sections that follow what the consequences of the conflict have been for women in Sierra Leone. The consequences have been divided into various categories of impact, including socio-cultural factors, health considerations and changes to the economic and legal status of women after the war. The consequences described are both short-term and long-term in nature. Many of them have had a knock-on effect for the society at large. Wherever possible, the Commission has attempted to discuss also the various interventions from government and other actors designed to address these consequences.

SOCIO-CULTURAL IMPACT

431. In most traditional societies, socio-cultural norms and values are regarded as sacred. Those who flout the rules are usually cast out of their societies. In Sierra Leone, many of the norms and customs have as their core value the protection of women and girls. In addition many norms and customs exclude women from performing certain tasks and functions. The conflict in Sierra Leone shattered most of the norms and customs sacred to Sierra Leoneans, thus desecrating the value system underpinning their society.
432. Traditional society in Sierra Leone demands that women be cherished and looked after. In addition, women are customarily forbidden from taking up arms and becoming involved in warfare. Thus, those armed groups who targeted women and children, abducted them and sexually violated them broke all taboos of society. Women who became combatants in the conflict found themselves flouting all the normal rules and negating the cultural value system.

⁴²⁰ See Rehn and Sirleaf, *Women, War and Peace*, at page 13.

⁴²¹ See Rehn and Sirleaf, *Women, War and Peace*, at page 13.

⁴²² See Save the Children, *The State of the World’s Mothers 2003*, annual report into the conditions for motherhood and the advancement of women in selected countries around the world. The full report can be found at the website: www.savethechildren.org/mothers/report_2003/index.asp.

The Kamajors did not initially allow its members to harm women, children and unarmed civilians.⁴²³ However as the conflict progressed and less attention was paid to initiating new recruits in an ethical manner, previous undertakings were disregarded and the Kamajors also committed human rights violations against women and children. The conflict has had the effect of eroding the traditional conception of hunters' societies, thus resulting in the denigration of the original Kamajor society. A much-venerated cultural institution has been tarnished by the malicious and manipulative acts of the CDF leadership, especially its initiating cadre, during the course of the conflict.

433. Sexual violence and the kind of sexual violations that women suffered are themselves acts regarded as taboo in Sierra Leone. Sexual acts involving children, violations against older women, rape and disembowelment of pregnant women, rape and sexual abuse of pre-pubescent girls and virgins were all widespread in the conflict. These acts were carried out everywhere, defiling places regarded as sacred such as mosques, churches and the secret society "bushes" of the Bondo society. To carry out such heinous acts in highly sacred places is to undermine cultural and religious values yet further. Incest is regarded as a major crime and the forced acts of incest by many of the armed groups broke one of the major taboos not only of Sierra Leone but also in the wider world.⁴²⁴ The Commission finds that the RUF and the AFRC, in particular, deliberately engaged in strategies designed to destroy all the norms and values of traditional Sierra Leonean society.
434. There is no doubt the violation of women has led to the erosion of the mainstream value system in Sierra Leone. The consequences of the conflict are thus being seen in the high numbers of women and girls who continue to be raped and violated even in peacetime. Domestic violence is also on the increase. The consequences of the conflict have therefore been life altering not only for the victim but also for the wider society.

STIGMATISATION, OSTRACISATION AND ISOLATION

435. Rape and sexual violence as well as acts of extreme violence carried out on women and girls carry with them a price which women inevitably pay. Perversely women in most traditional societies are regarded as the custodians of the honour of men and society. Raping and violating them have come to symbolically represent the violation of the man and the society he belongs to. The bodies of women become the battleground over which opposing forces fight.⁴²⁵ In Sierra Leone women were raped and sexually violated often in front of their loved ones, humiliating and denigrating them. Women were forced to bear children belonging to the enemy. They are doubly victimised, they bear the burden of being raped which itself carries with it a stigma 'that of family honour being desecrated'.

⁴²³ See Hassan Jalloh, former CDF commander of the Kamajors on the eastern border, TRC interview conducted in Freetown, 8 August 2003.

⁴²⁴ Confidential testimony received before TRC Closed Hearings, Kailahun District, April 2003.

⁴²⁵ Rehn and Johnson-Violence against women, page 12

436. Women who are identified as having been raped or who disclose that they have been raped are regarded in Sierra Leone as bringing shame to their families. In addition to the pain and anguish of the rape and sexual violence, they mostly carry with them the pain of not being able to disclose their status for fear of being ostracised. In cases where women have made the rape and sexual violence known to families, efforts are frantically made to hush up the “disgrace”. The anguish and perceived shame is understandably even worse where the victim has borne the child of her rapist or captor. Many young mothers have been forced to give their children up to adoption.
437. Despite the pressure to bury the issue and to lapse into silence, some women in Sierra Leone have been brave enough to disclose their experiences publicly. Again it is the large number of women who experienced sexual violations in Sierra Leone that brought the issue to the fore. Women have complained to the TRC of stigmatisation in their various communities because some people have labelled them “rebel wives”.⁴²⁶ Re-integrating into their societies is difficult for those who have been forced into sexual slavery and in reality they are being penalised by society for matters totally out of their control and which occurred as a result of the conflict. Negative reception by family or community tends to accentuate their feelings of dislocation and social exclusion. Many women have expressed to the TRC their extreme sense of “rejection” and their “fear that they may never be able to lead a normal life”. Many would like to get married and have children and yet feel that no one will want them.⁴²⁷
438. In those instances where women have borne children from abusive relationships, the children remain a living reminder of a past their mothers would rather forget. Women and girls in this position face severe trauma and psychosocial problems, which has not yet begun to address.⁴²⁸

DISRUPTION TO FAMILY LIFE

439. Women who were the victims of sexual violence throughout the conflict in Sierra Leone have also suffered further blows. In attempting to resume normal family life, they have found that their husbands and in-laws reject them, precisely because of the violations they have experienced. Marital relationships have broken down dramatically, with most spouses unable to deal with the fact that their wives have been sexually violated.⁴²⁹ Many of the women who were displaced and separated from their husbands lived in rebel-held areas and are now unable to return to their original relationships because they have been “other men’s wives”.⁴³⁰ A victim who was raped and subsequently made a sexual slave testified to the Commission as follows:

“When I returned, my former husband left me. He said it was because; I had been taken away by rebels. I was now with no husband.”⁴³¹

⁴²⁶ “First Witness” – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

⁴²⁷ “Second Witness” – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

⁴²⁸ See Women’s NGO Coalition submission to TRC, at page 12.

⁴²⁹ “Second Witness” – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

⁴³⁰ See Women’s NGO Coalition submission to TRC, at page 12.

⁴³¹ Confidential testimony received before TRC Closed Hearings, Matru Jong, Bonthe, July 2003.

440. The plight that many women emerging from the conflict experience was also highlighted in an address by a woman community leader during the closing ceremonies of TRC hearings in the Kono District:

“From the stories you have heard, I am sure that you know how much our women and our children have suffered... especially the women: some of the men do not want to have them again as wives or friends...”⁴³²

441. The war has led to many women being divorced by their husbands. The consequences of divorce do not only impact on the lives of those directly affected but also impact on children and the extended families. Families traditionally bound together experience strained relationships as marriages bind families and not only the immediate the parties in African society. Women experience again a “double victimisation”, as they now have to bear the economic and social consequences of divorce.
442. The war also led to the total breakdown of family structures and the social fabric. Displacement, social dislocation and the breakdown of normal family life that occurred because of the war has also created new social problems. The extended African family system which has traditionally been a bulwark in preserving social norms and rules and which has provided safety net for large number of persons has been stretched thin and in some instances does not exist at all. The lack of guidance for young people particularly young girls at family and community level caused by the death of parents and the removal of the safety net has exposed many young girls to risky sexual behaviour. Family disintegration has been highlighted as a phenomenon that has provided a pathway to commercial sex work in Sierra Leone.⁴³³

PROSTITUTION AND SEXUAL EXPLOITATION

443. The legacy of the conflict on the already beleaguered women of Sierra Leone is extreme poverty and limited opportunities to engage in economic activities. The absence of viable employment opportunities and the need to survive has compelled many women to become commercial sex workers. In this regard, the Commission notes that a clear link exists between economic impoverishment and the increase in prostitution and sexual exploitation in post-conflict Sierra Leone. According to a report on commercial sex workers produced from a study by the NGO Goal Ireland, poverty is the primary cause that leads to prostitution. This trend was observed not only internally in Sierra Leone but also among women and girls who had fled the country as refugees to neighbouring countries:⁴³⁴

“Poverty, in all its paradigms (meanings) and perspectives is the main culprit for the female entering into commercial sex work.”⁴³⁵

⁴³² See the closing statement by the Chairlady of KSMTC, Kono community organisation, made at the conclusion of TRC public hearings in Koidu Town, Kono District, April 2003.

⁴³³ See Lebbie, S. H.; “*Survival Strategies of the Girl-Child and Young Women: Commercial Sexual Exploitation in the streets of Freetown*”; Goal Ireland, Freetown, February 2000, at page 7.

⁴³⁴ See Save the Children – UK and UNHCR, “*Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone*”, April 2002, at page 25.

⁴³⁵ See Lebbie, S. H.; “*Survival Strategies of the Girl-Child and Young Women: Commercial Sexual Exploitation in the streets of Freetown*”; Goal Ireland, Freetown, February 2000, at page 37.

444. Prostitution and sexual exploitation have many devastating consequences, not least health problems, societal rejection, violent assaults and an increase in the risk of contracting disease. Prostitution and sexual exploitation have also become aligned with other criminal acts such as theft and drug addiction. A frighteningly high number of young girls have become sexually active at a young age and have fallen into prostitution in order to survive. They are exposed to the mercy of their “clients” and are powerless to negotiate safe sex or control the relationship. They are extraordinarily vulnerable to sexually transmitted infections, HIV/AIDS, early pregnancy and unsafe abortion.⁴³⁶ They live on the edge of society.

HEALTH

445. Armed conflicts always impact negatively on the health of civilians. In addition to fatalities and injuries experienced as a direct result of the conflict, there are also consequences attached to the complete breakdown of public health systems and the displacement and movement of the population. The outbreak of infectious diseases in refugee camps, stress and mental health disorders and the trauma of experiencing violence are all often overlooked.
446. While both men and women are affected by the breakdown of the health system, women are affected in ways directly attributable to their gendered experiences of the conflict. This is particularly true in the area of reproductive health, which includes life-threatening pregnancies, lack of access to birth control measures and injuries arising from sexual violence.

REPRODUCTIVE HEALTH

447. Pregnancy and delivery of normal healthy babies are difficult and dangerous at the best of times. During a conflict, they are life-threatening. It has been estimated that in poor countries, maternal mortality rates are nearly forty times those in the industrialised world.⁴³⁷ In Sierra Leone, the MICS Survey of 2000 reported a maternal death rate of 1,800 out of every 100,000 births. Over 60% of these maternal deaths were considered to be due to preventable causes.⁴³⁸
448. During the conflict, many pregnant women, finding themselves in the most repressive conditions, were not able to access medical help. In the case of those who were forced to live with the armed forces, being constantly on the move prevented them from accessing any health-care facilities. Many women and girls were also deprived of health services due to the fact that the armed forces had destroyed or looted them during the conflict.⁴³⁹ Many women also found themselves experiencing malnutrition, particularly in rural areas where they were unable to grow vegetables or engage in farming activities due to the war. In these circumstances, women died in inordinately high numbers.⁴⁴⁰

⁴³⁶ See World's Women, *Trends and Statistics 2000*, report on issues affecting female development globally. See also the website: <http://unstats.un.org/unsd/demographic/ww2000/health2000.htm>.

⁴³⁷ See World's Women, *Trends and Statistics 2000*, including the website in the above footnote.

⁴³⁸ Government of Sierra Leone; Report on the Status of Women and Children; November 2000.

⁴³⁹ See Women's NGO Coalition submission to TRC, at page 4. According to this submission, by 1997 only 70% of all health facilities in Sierra Leone were functioning. The rest had been looted, damaged, burnt down or abandoned as a result of the war.

⁴⁴⁰ See World's Women, *Trends and Statistics 2000*, including the website in the above footnote.

449. While access to proper medical care and proper nutrition are major factors in reproductive health, the constant exposure to violence and death during the conflict also took its toll on pregnant women. They suffered enormous mental trauma from the experiences and exigencies they were subjected to. Women's groups report that in many emergency situations, spontaneous abortions occurred as a result of the extreme mental and physical stress. As no immediate medical assistance was on hand in the bush many women died under these circumstances. While no accurate data exists, anecdotal evidence to the Commission suggests that many women died under these circumstances.
450. Access to information and a proper reproductive health system empowers women to take charge of their lives and makes it possible for them to have a safe sex life. They have the right to make choices as to whether they wish to reproduce and have the freedom to do so when they wish. All of this was taken away from them during the conflict. Chaos and mayhem reigned and as a result thereof, women were negatively impacted upon by the lack of access to proper health care, the lack of choice and the loss of freedom to make choices. This has severe negative implications for their continued development in both public and private spheres. Opportunities for education, economic and political empowerment have been lost.⁴⁴¹

SEXUAL VIOLENCE INJURIES

451. Women in Sierra Leone are severely affected by the injuries they have sustained as a result of the sexual violations they have experienced. Gynaecological problems that many suffer included a prolapsed uterus and Vesico-Vaginal Fistula (VVF) lesions.
452. According to a submission made by FAWE,⁴⁴² the gang rape and multiple rape of two women who were raped by 15 and 30 rebels respectively, where one of the victims had only given birth two weeks before being raped, led to both victims suffering from a prolapsed uterus. In the case of the first victim, repairs took place, which focused on the uterus assuming it proper position. For the second, the severity of the prolapse required the uterus to be taken out.⁴⁴³
453. These anecdotes testify to the continuing consequences for women. The loss of the uterus effectively renders a woman infertile and further leads to the destabilisation of her whole life, as Sierra Leonean society attaches a stigma to infertility. Some women are suffering from incontinence due to Vesico / Recto Vaginal Fistula (VVF / RVF), which has made life for them very unbearable.⁴⁴⁴
454. FAWE reports that in terms of the work it has done with women victims, injuries have ranged from small scars to big lower abdominal laparotomy wounds. The latter category results from women having their stomachs opened by the armed forces while pregnant.⁴⁴⁵

⁴⁴¹ See Women's NGO Coalition submission to TRC, at page 11.

⁴⁴² See FAWE submission to TRC, at page 14.

⁴⁴³ See FAWE submission to TRC, at page 14.

⁴⁴⁴ A TRC statement taker reported the case of a female VVF patient from whom she had endeavoured to take a statement, but was ultimately unable to do so due to the extreme discomfort and persistent medical problems experienced by the female in question.

⁴⁴⁵ See FAWE submission to TRC, at page 14.

UNPLANNED AND UNWANTED PREGNANCIES

455. Another consequence of the conflict in Sierra Leone has been the numerous unplanned and unwanted pregnancies that affected the vast majority of women abducted and forced into sexual slavery and who suffered sexual violence. Unwanted children are an aspect of this legacy.⁴⁴⁶ For many women already affected by the stigma of association with the RUF and the AFRC, the children born from these unions are a further burden on them. The circumstances around the conception of these children turn what should be a desirable human experience into an unbelievable and life-long nightmare. Women and girls who have borne children in this way face not only the humiliation and pain they suffered from rape and sexual violence, but also a living reminder of what happened. The stigma ensures further social dislocation, prohibits reintegration and causes further trauma. It poses severe economic and psychosocial problems for the mothers, their children and their families.
456. Many of women who testified to the TRC admitted that their feelings towards their children were ambivalent. While they associated the children with the brutality meted out to them by the perpetrator and resent having to look after them, the children are also part of them and need their care and attention. In some instances, the children have been accepted in their mother's families but there are a number of cases where mothers with children born under these circumstances have been forced to leave their family and immediate society altogether as they met with such reluctance to absorb them. The virtue of forgiveness, so deeply rooted in African culture, is at odds with the traditional society's feelings of repugnance towards children born in this way, particularly in Sierra Leone. However in many societies, the culture of silence about children born from acts of sexual violence has also silenced any rumblings over children born from "forced marriages".
457. In most conflicts, women raped face the possibility of children being born from such acts of violence. While abortion is one mechanism to deal with such unwanted pregnancies, it is not always an option open to every woman. In Sierra Leone abortion is considered illegal. While it is possible to have a "back street" abortion, for most women this course is undesirable as it is expensive and the risks associated with it are enormous.
458. Another prohibiting factor has been the destruction of health services facilities, coupled with the flight of some health professionals, which has made abortion almost unavailable in Sierra Leone. Abortion has been driven underground and has thus been placed practically out of reach. The vast majority of women in Sierra Leone have thus had no choice but to carry their babies to full term.
459. Many of the women who testified to the Commission indicated that their children themselves were unaware of the circumstances of their birth. Society has not dealt with the issue in any honest or transparent fashion. What is clear is that education is needed to help society confront the problem openly and sensitively.

⁴⁴⁶ See FAWÉ submission to TRC, at page 3.

SEXUALLY TRANSMITTED INFECTIONS – STIs

460. It is a fact that in situations of armed conflict women are often extremely vulnerable to contracting sexually transmitted diseases or infections (STDs or STIs), given the indiscriminate sexual violations to which they are subjected. High rates of STDs and STIs are likely to occur among internally displaced populations and refugees, as studies have linked moving populations from conflict zones with their spread and the escalation of HIV/AIDS.⁴⁴⁷ The high prevalence rate of STIs among military populations around the world (estimated at between two and five times the rate for civilians), together with the extensive contact between civilians and combatants in times of conflict, lead to high levels of infection.⁴⁴⁸
461. Poor countries like Sierra Leone are even more liable to experience the spread of STIs upon the cessation of hostilities. The lack of access to medical care and assistance for women in the post-war environment makes them an even more vulnerable group. The breakdown of health facilities during the conflict and in its aftermath often means that women have no access to medicines, reproductive health care services, contraceptive services or counselling. Many women in their statements and testimonies to the Commission stated that they are presently suffering from vaginal discharges, which they attribute to the sexual violations they suffered in the conflict.⁴⁴⁹ Experts who have made submissions to the Commission attribute such complaints to the untreated STIs that women have contracted out of the sexual violations they have suffered. Often STIs go untreated as a result of ignorance, lack of adequate health care facilities, poverty and social instability, all of which are legacies of the conflict in Sierra Leone. The implications of STIs are profound, as a simple infection can easily develop into pelvic inflammatory disease and eventually cause infertility. In most African societies – and Sierra Leone is no exception – an enormous social stigma is attached to infertility.
462. Again, there is insufficient data on how many women suffer from STIs in Sierra Leone. Lack of access to information on safe sex and how to prevent the spread of STIs as well as poverty and powerlessness impact on the ability of women to take charge of their own lives. Several submissions to the Commission picked out women's enforced subordination in terms of sexual and reproductive health as a major issue that will need to be addressed in the near future.⁴⁵⁰

⁴⁴⁷ See Rehn and Sirleaf, *Women, War and Peace*, at page 41.

⁴⁴⁸ See Rehn and Sirleaf, *Women, War and Peace*, at page 52.

⁴⁴⁹ More detail on the long-term effects that women have suffered as a result of sexual abuse violations can be found in the results of the Commission's special coding exercises and accompanying commentaries in the Statistical Report produced as an Appendix to this report, as well as in the chapter on Reparations in Volume Two of this report.

⁴⁵⁰ See, for example, Planned Parenthood Association submission to TRC, at page 2.

HIV / AIDS

463. In general, gender inequality is a major force behind the HIV/AIDS epidemic. According to Lee Waldorf in a study on HIV/AIDS and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), commissioned by United Nations Development Fund for Women (UNIFEM), a wide range of power imbalances and inequalities between men and women – rooted in economic relations, in family structures, in differences in education and experience, in exposure to violence and in cultural expectations – have placed many women in the position of being unable to negotiate safer sexual practices with their partners. It is a fact that women and adolescent girls are more vulnerable to HIV/AIDS than men and boys.⁴⁵¹
464. While the conflict in Sierra Leone has been largely responsible for the increased numbers of women and girls who live with HIV/AIDS, cultural practices such as female genital mutilation and early marriages are also thought to have had a significant impact on the problem.⁴⁵² In the main, the total powerlessness of women to negotiate safe sex or avert abuses during conflict situations, coupled with the deliberate strategy of the armed forces to rape and sexually violate women, have contributed to the spread of HIV/AIDS amongst women.
465. Conflicts are a major factor in spreading HIV/AIDS. Women are denied control over the partners they have sex with. In Sierra Leone this problem has been exacerbated because of the nature of the conflict, especially the high levels of rape and gang rape to which women and girls were subjected. Systematic violations, along with low awareness of HIV/AIDS and the breakdown of vital services in health and education, contribute to the rapid growth in the number of people who contract HIV/AIDS. In the aftermath of the conflict, many women have turned to commercial sex work as a means of survival, because of the complete devastation of the economy and the needs of their impoverished families. Prostitution too has led to an increase of HIV/AIDS amongst the Sierra Leone population.
466. Transmission from mother to child and lack of access to proper health care are further major reasons for the increase of HIV/AIDS infection.
467. Finally but importantly, the abusive parts played by some peacekeepers in post-conflict Sierra Leone have accelerated the epidemic. Peacekeepers have contributed significantly to the increase in the commercial sex trade, as they have favourable economic resources, which make them an attractive option for the local sex workers. In many instances, a sex worker's earnings are relied upon as a source of income for her entire family, who thus encourage her to ply her trade. It is common knowledge in Sierra Leone that sex workers earn higher fees for sex without condoms and this perilous practice itself contributes to the spread of HIV/AIDS.

⁴⁵¹ See Waldorf, L., Study of the impact of the HIV/AIDS epidemic on women, using the analytical framework of CEDAW, study commissioned by UNIFEM. See also the UNFPA report available on the following website: <http://www.planetwire.org/files.fcgi/2137-women.pdf>.

⁴⁵² See the UNFPA report: <http://www.planetwire.org/files.fcgi/2137-women.pdf>, at page7.

468. There is no doubt that women have been placed in a precarious and vulnerable position in terms of HIV/AIDS epidemic in Sierra Leone because of the conflict. The 2002 report by the Joint United Nations Programme on HIV/AIDS (UNAIDS) on the global AIDS epidemic estimated that “by the end of 2001 there were 170,000 persons between the age 15 and 49 living with the virus in Sierra Leone”. UNAIDS estimates that more than 50% of this total, which is about 90,000 sufferers, are women and girls.⁴⁵³
469. The consequences of the HIV/AIDS epidemic on women are far reaching and have been referred to as the “triple jeopardy”, as HIV/AIDS affects the productive, reproductive and community roles that only women can play.⁴⁵⁴ Their positions as reproducers, mothers and caregivers are all affected.
470. Stigmatisation and ostracisation are another consequence of HIV/AIDS. Women living with the virus, experience high levels of stigma and discrimination on the basis of their HIV/AIDS status. This prevents any discussion on publicly discussing the causes of HIV/AIDS and from seeking appropriate responses to the disease. Those affected are often unable to seek treatment or assistance in case their status is discovered. In conflict situations, matters are further exacerbated by the general state of anarchy that is prevalent. Even in post-conflict situations, issues are prioritised and attentions are focused more on reconstruction than on other issues such as HIV/AIDS.
471. The depressed post-war economy has meant that Sierra Leone has not been able to prioritise either the reconstruction of the health system or the management of the HIV/AIDS epidemic. It does not possess the necessary purchasing power to buy anti-retroviral drugs, even where available. The lethal combination of poverty and a non-functional health sector means that the infected women do not have a chance at survival. The statistics speak for themselves. According to the NGO Save the Children, Sierra Leone is no different to other post-conflict countries where the response to dealing with HIV/AIDS in the aftermath of the conflict has been poor.⁴⁵⁵
472. HIV/AIDS devastates families and makes orphans of children. As mothers and caregivers, the death of women through HIV/AIDS has a devastating impact on the family, particularly on children. Children become adults overnight, engaging in economic activities for survival, thus perpetuating child labour and poverty. Some degenerate into drugging, commercial sex work, stealing and other acts that are inimical to their lives and progress in the short as well as long term.
473. An emerging problem is the new dependence on the aged to take care of those living. This is a reversal of a pattern in African societies such as Sierra Leone where children are the usual support structures for the aged. The death of women and children through HIV/AIDS has led to untold hardship for the aged as they have lost the comfort of being taken care of. They have also had to take on the role of providers and caregivers to their children living with HIV/AIDS and on their death to assume same role for their grandchildren. It is important to note that most caregivers or providers are women.

⁴⁵³ See Joint UN Programme on HIV/AIDS, *Global Report 2002*; also at: www.unaids.org.

⁴⁵⁴ See Bennett, O.; *Triple Jeopardy: Women and Aids*; Panos Institute; London. Also available at the website: <http://www.eldis.org/gender/dossiers/stigma.htm>.

⁴⁵⁵ See Save the Children, *HIV and Conflict: A Double Emergency*, report also on the website at: http://www.savethechildren.org.uk/temp.scuk/cache/unsattach/212_hivconflict.pdf.

474. At a national level the loss of person-power affects the economy. Given the role of women in subsistence farming in countries like Sierra Leone, the effect of HIV/AIDS on the economy is profound. Sierra Leone lacks accurate statistics of how many women contracted HIV/AIDS during the conflict and how many are living with the virus or have died as a consequence of contacting the virus.

THE IMPACT OF AMPUTATIONS ON WOMEN

475. Women were as much the victims of amputations as men. The effects of the amputations on their lives have been manifold, ranging from health, social to economic. After the war, Handicap International and MSF provided assistance to amputees and ran medical services at the Aberdeen Amputee camp. While MSF no longer provides any services, Handicap International has continued to provide some services to amputees. Women amputees told the Commission that they were not able to access the services presently provided by Handicap International.⁴⁵⁶
476. While amputations of all kinds have a devastating effect on women and girls, it is important to note that the degree of social and economic dependence of an amputee is determined by the type and level of loss of limb. In an agrarian economy like that in Sierra Leone, amputated women and girls lose the ability to actively engage in farming activities. This affects their ability to earn a living and also to provide food for the family. Many women and girls in Sierra Leone have been reduced to begging for their sustenance and that of their families.
477. The state in Sierra Leone does not have at present the capacity to rehabilitate amputees, particularly women and girls. In those instances where young girls have had their limbs amputated, their futures have been completely compromised. Coupled with poverty, they face a future without any opportunity or hope. The fate therefore of many girls who suffered amputations in the conflict presently hangs in the balance. Women who through amputations have lost their ability to earn have in many instances lost their husbands. In other instances, men who are unable or unwilling to care for their amputee wives have left them.
478. The social impact of amputations is equally far reaching. It ranges from lifestyle change, loss of social interaction and loss of self-esteem, to effect on family members. For women, the transformation of their bodies has had an effect on their self-esteem. Many amputee women expressed the view that they felt incomplete, ashamed and not worthy of being loved. Amputations have had a profound impact on relationships they have had before the amputation. Many women state that they have become social recluses, refusing to interact with other members of society. Many have become depressed and talk about taking their own lives. Amputations also impact on other family members as it puts an added strain on the resources of the family in trying to cope with the situation. Role changes occur in the family, which cause diverse sentiments of resentment among family members. For women amputees the inability to carry out their previous functions is a particularly bitter pill to swallow.

⁴⁵⁶ "First Witness" – confidential testimony received before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

479. Women amputees expressed to the Commission their anguish at their loss of privacy, particularly with regard to carrying out their bodily functions. Women who are double amputees, either of the legs or hands, are profoundly affected. Being dependent on others to assist them with intensely private functions, they consider themselves stripped of dignity and a burden to others.
480. Amputations affect not only the individual concerned but have knock-on effects on the entire society. Perfectly healthy normal individuals now need care and assistance. They impact on the economy for a whole generation.

THE WIDE-RANGING EFFECTS OF SEXUAL VIOLENCE

481. Sexual violence has had both physical and psycho-social consequences. The physical wounds seen in sexual violation cases range from genital trauma, bruising, lacerations, abrasions, mutilations and damages to surrounding pelvic structures. According to a medical practitioner attached to Connaught Government Hospital in Freetown, in treating the many victims of sexual violence after the war doctors have noticed the following:

“Sexual violence also led to unwanted pregnancies, risky abortions, STIs, HIV/AIDS, sexual dysfunctions, infertility, miscarriages, stomach pains, nausea, vaginal pains, irritable bowel syndrome, still births, itching, burning, traumatic stress disorder, death, urinary tract infections, and many other desperate health problems.”⁴⁵⁷

Psycho-social consequences

482. Some of the psycho-social consequences that victims of sexual violence exhibit are anxiety, depression, flashbacks, shame, anger, guilt/self-blame, fear, suicide, post traumatic stress disorders, inferiority complex and general hopelessness. In Sierra Leone as in most African societies, the psycho-social problems of victims are not properly discussed or dealt with. People have been largely unable to express their views or their personal thoughts in the aftermath of the conflict. A myth that prevails in African societies is that there is no need for counselling as traditional structures exist that allow those affected to deal with trauma. While such a statement may have been true in the past, the conflict has left society broken and fragmented. No mechanisms exist for women in particular to deal with their feelings of anger, humiliation and shame. In many of the hearings before the Commission, rape victims expressed shock, anger, resentment and a general sense of loss at their plight. Most of them were also given to weeping fits during their testimonies.⁴⁵⁸
483. At an emotional level, most sexual victims exhibit such symptoms as being prone to depression, anxious, fearful and resentful of other people. They also exhibit changes in behavioural patterns, for example generally peculiar behaviour, expressions of guilt, loss of self-worth, inability to function as before and signs of withdrawal symptoms. Victims and their families require urgent and full access to trauma counselling.

⁴⁵⁷ Kamara, R. (Dr.); Medical practitioner attached to Connaught Government Hospital, TRC interview conducted in Freetown, 27 June 2003.

⁴⁵⁸ See, for example, “First Witness” and “Second Witness” – confidential testimonies given before the TRC Special Thematic Hearings on Women, Freetown, 22 to 24 May 2003.

Mental health

484. The conflict in Sierra Leone has left a marked impact on its peoples. Many have been left deeply traumatised. The massive violence to which the population has been exposed will inevitably leave a lasting impression on the national psyche.
485. While both sexes have suffered terrible violations, women's experiences have been exacerbated by gender-based violations. Recent studies suggest that women and men respond differently to trauma. These studies suggest that women run twice the risk of developing post-traumatic stress disorders as certain types of trauma may have a deeper and longer-term psychological impact on women.⁴⁵⁹
486. Sierra Leonean women were exposed to traumatic events such as rape and sexual violence, the killing of close family members and the burning and looting of their properties, as described earlier in this chapter. Many women had to leave their homes to live as displaced persons or refugees in foreign countries, without any support systems. Such dislocation and emotional freefall again precipitate enormous trauma. A recent survey on mental health and substance abuse in post-conflict Sierra Leone showed that more than 90% of the sample population had a significant traumatic exposure. Between 50% and 75% of the sample demonstrated "moderate symptoms" of trauma, while between 15% and 25% showed "severe symptoms".⁴⁶⁰ The survey included both sexes.
487. Sierra Leone has only one psychiatric hospital with one trained and qualified psychiatrist to provide psycho-social counselling to trauma victims after the conflict.⁴⁶¹ Trauma counselling services have been provided through the services of non-state institutions and organisations, such City of Rest and Cooperazione Internazionale (COOPI), who were working on seventeen categories of traumatic experience including eating disorders associated with forced cannibalism. Other organisations such as MSF Holland, FAWE and IRC have also provided psycho-social counselling.
488. It is important to note that Sierra Leoneans do not ascribe as much importance to treating mental health conditions as they do to treating physical afflictions. The psychological effects of the conflict, especially the effects on women, are generally underplayed if not dismissed altogether.
489. Armed conflicts have a profoundly negative impact on the health of women. Factors such as the destruction of family and community networks and support systems, poverty and the loss of livelihood reduce the capacity of individual women to protect their own and their families' health for decades to come.

⁴⁵⁹ See Barreslau, N.; "Gender Differences in Trauma and Post-Traumatic Stress Disorder", in *Journal of Gender Specific Medicine*, Vol. 5, No. 1, January – February 2002, at pages 34 to 40.

⁴⁶⁰ See Jemsen, B. S.; "Mental Health and Substances Abuse in Post-Conflict Sierra Leone", published by the World Health Organisation, October 2002, at page 10.

⁴⁶¹ See Dr. Edward Nahim, Sierra Leone's only qualified psychiatrist, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003.

490. Women and girls have been hugely disadvantaged by the complete deterioration of existing health services and the lack of access to properly trained personnel. Of particular immediate concern is the non-existence of services to deal with physical problems, but the total lack of skilled counselling professionals is just as ominous because of its longer-term effects. Had it not been for the non-governmental sector, women and girls in Sierra Leone would have had no recourse to any assistance.

POST-CONFLICT MECHANISMS FOR INTERVENTION IN RESPECT OF WOMEN AND GIRLS

INTERVENTIONS IN RESPECT OF SEXUAL VIOLATIONS

491. A number of agencies took specific measures after the conflict to address problems generated by sexual violence. An intervention that had a major impact on women was the programme run by the Forum for African Women Educationalists (FAWE), with support from Médecins Sans Frontières (MSF). FAWE had discovered that a large number of girls had been sexually violated during the January 1999 invasion of Freetown.
492. The programme that FAWE devised was called Operation Freedom.⁴⁶² In collaboration with MSF and Sierra Leone Association of University Women (SLAUW), FAWE trained a team of specialist in counselling, case management and referrals. FAWE used partnerships with other agencies to raise awareness of the services they were providing to sexual violence victims, including the availability of free medical services. They also carried out sensitisation campaigns for the broader society in order to deal with the negative attitudes that victims of sexual violence were experiencing. The programme provided more than 2,000 victims of sexual violence with access to micro-credit schemes and educational assistance. In spite of the huge success of Operation Freedom, it stuttered to a halt due to lack of funding. After funding from MSF stopped, the UNHCR provided funding for an additional two months. This emergency contribution was insufficient to allow the programme to continue.
493. The Christian Children's Fund Sierra Leone, in collaboration with the Sierra Leone Association of University Women, embarked on a similar initiative, which took the form of a community-based initiative to train health care workers, teachers and community representatives in basic therapeutic skills to deal with victims of sexual violence. More than 600 people were trained. However, funding problems also forced this programme to be ended prematurely.
494. The Council of Churches of Sierra Leone and Campaign for Good Governance have established programmes to provide legal support to victims. At the same time, they embarked on campaigns to improve the prosecutorial process by providing the following services: case management to survivors and their families; sensitising lawyers and members of the judiciary about gender-based violence; and advocating for improved legislation.⁴⁶³

⁴⁶² Christiana Thorpe, Founding President, Forum for African Women Educationalists (FAWE), TRC interview conducted in Freetown, March 2003.

⁴⁶³ More detail can be found at the following website: www.womensCommission.org/pdf/ifnotaf.pdf.

495. Currently, the International Rescue Committee (IRC) maintains a gender-based violence (GBV) programme in the country, which it started in 1999 as a component of an emergency reproductive health programme. According to IRC, the need for this programme became necessary due to the realisation that:

“The health programme recognised that the specific health and psycho-social needs of the women and girls raped and sexually assaulted during the war were not being adequately addressed.”⁴⁶⁴

496. The IRC programme is holistic in nature and seeks to address not only preventative mechanisms but also to improve the quality of response from the health, psychosocial, legal/justice and security sectors. While initially the GBV programme was meant to provide emergency health and psychosocial service to survivors immediately after the conflict, it has developed to the point where it now deals with problems of the post conflict period. It currently operates in Kono, Kenema, Kailahun and Freetown.

497. According to the IRC, as at June 2003, it has assisted over 800 survivors of conflict and post-conflict related gender-based violence. In the Provinces, the programme works with communities to establish Women’s Action Groups (WAGs). The groups are provided with training on gender-based violence issues and according to IRC, serve as agents of change in their respective communities. A development of the IRC gender programme is the establishment of a Sexual Assault Referral Centre named the “Rainbo Centre” situated at Princess Christian Maternity Hospital in Freetown. They hope to start off two more Sexual Assault Referral Centres in Kenema and in another location to be yet determined.

498. A National Sexual Violence Committee was established and is currently chaired by the Ministry of Social Welfare, Gender and Children’s Affairs. It includes UNICEF and a number of other non-governmental organisations involved in the provision of services dealing with sexual violence.

Effectiveness of interventions in respect of sexual violence

499. While the efforts of these bodies are to be lauded, attitudes in the country have not changed greatly. Victims of sexual violence still experience the stigma of disclosing the violation. Sierra Leonean society has not really woken up to issues of sexual violence and a culture of silence still prevails. Structures meant to deal with issues of sexual violence do not take the crime seriously. As a consequence, victims of sexual violation under-report these crimes.

500. Police attitudes towards the victims of sexual violence are problematic. In many instances women do not report the crime, as they are aware of the fact that they will receive very little sympathy from the police. The government is aware of the problem and has tried to address it through the establishment of Family Support Units within the police force, designed to deal sensitively with women. The government has also begun to provide training for the police in the handling of domestic and sexual violence.

⁴⁶⁴ See International Rescue Committee (IRC); Submission to the Truth and Reconciliation Commission, 18 June 2003 (hereinafter “IRC submission to TRC”), at page 2.

501. Despite these initiatives, according to the IRC, police personnel in the Provinces receive inadequate training to conduct interviews with survivors of sexual violence who are mainly girl-children. They complain that interviewing techniques are harsh and judgemental of the victims. In addition, police investigations are often poorly conducted. This is due to insufficient training and insufficient resources.⁴⁶⁵ An example of this is the requirement that a police doctor or medical doctor identified by the Ministry of Health issue a medical certificate which allows a forensic examination to be carried out. Presently, only one doctor is available in each of the districts and only one of them is a female based in Freetown.⁴⁶⁶ According to IRC, it is not clear what the criteria for choosing the doctors are. In addition, the absence of a doctor from his location creates a problem, as the victim is unable to obtain the requisite "P-3" form.⁴⁶⁷
502. The financial resources required to prosecute rape cases are prohibitive for the victim and often serve to deter taking the matter further. The costs associated with the obtaining "P-3" form required by rape victims serves as a deterrent. In addition, the legal system is slow with adjournments being the order of the day..
503. The Justice system itself militates against victims of sexual violence taking their matters further. GBV cases are heard in open courts, with perpetrators being allowed to cross-examine victims. Justice officials have little or no understanding of the trauma associated with cases of sexual violence. The courts have too few officials who are trained to deal with these cases. Victims have no access to legal aid.
504. Reflecting on the inadequate judicial response to cases of gender-based violence, the Honourable Minister for Social Welfare, Gender and Children Affairs made the following remarks:
- "Prevailing attitudes towards gender-based violence against women and rape issues are not treated with the importance they deserve. Factors such as lack of protection of witnesses and victims, lack of forensic evidence and subjecting women to humiliation in court also hinder the course of justice in such cases."⁴⁶⁸
505. Current programmes targeting gender-based violence are directed at girls and not women. Women are generally disadvantaged by the complete focus on girls. The United Nations Rapporteur on Violence against Women, during her visit to Sierra Leone, lamented donor apathy towards the cause of women as well as the fact that that most programmes of sexual violence are tilted heavily in favour of children.

⁴⁶⁵ See IRC submission to TRC, at page 2.

⁴⁶⁶ See IRC submission to TRC, at page 2.

⁴⁶⁷ The "P-3" form is a document that victims of rape and sexual violence require to fill out as part of the reporting process. Only registered medical practitioners have the authority to distribute "P-3s".

⁴⁶⁸ Gbujama, Honourable S. Y., Minister of Social Welfare, Gender and Children's Affairs; "*Gender Mainstreaming: Sierra Leone Poverty Reduction Strategy 2004-2006*"; 9 October 2003, at page 2.

506. Statistics are a major problem for GBV service providers. It is extremely difficult to plan appropriate responses where no statistics exist to indicate the scale of the problem. Sadly, the government has no programme in place to generate these statistics and neither has it demonstrated any desire to generate one. For proper programmatic planning not just for government but also to assist donors and NGOs, the gathering of statistics is essential.
507. To date, the country lacks a mandatory national health policy that spells out standards of treatment for survivors of sexual violence. The establishment of a national policy framework would go a long way to addressing the problems that victims of sexual violence experience. It would also assist with eliminating many of the problems described above which lead to an under reporting of rape and incidents of sexual violence.
508. A further problem that exists is the differentiation between services available in Freetown and the Provinces to disadvantage of those that live in the Provinces. The paucity of services effectively prohibits women in the villages from accessing them. Even more debilitating is the fact that the vast majority of women are not even aware of the services that exist. There is an urgent need for massive sensitisation campaigns to make women aware of the existence of services that exist and how to access them.
509. Sierra Leone has a number of local and international agencies working on issues emanating from the conflict. There are also a significant number of local and international NGOs working on aspects affecting civil society. The impact of the conflict and the poverty it has engendered as well as the inability of government to take on all aspects of reconstructing society has meant that civil sector initiatives have become very pronounced in all areas.
510. A major factor that hinders significant progress in the field is the lack of effective co-ordination. Many NGOs work with limited resources. In order to avoid a duplication of services, it would be useful to establish a register listing local and international NGOs, local and international agencies, as well as government agencies working on programmes dealing with gender-based violence. Government itself should take the lead on this matter and also take responsibility for the co-ordination of such a service. A choice few strategic interventions would improve the quality of services to a significant degree and lead to greater use of limited financial resources.

CONSEQUENCES OF THE CONFLICT FOR WOMEN AND RELATED INTERVENTIONS

ECONOMIC CONSEQUENCES OF THE CONFLICT

511. The conflict in Sierra Leone has had devastating consequences not only on human life but also on the economy and the infrastructure of the country, both of which need to be rebuilt in its aftermath. Most war-torn countries undergo similar economic challenges and questions of priority. According to the World Disasters Report 2001, the poor have suffered disproportionately, with the economies of war-affected states being severely eroded, if not completely collapsed.⁴⁶⁹ War undermines development in complex and multi-dimensional ways as the economically active lose their lives, people are displaced and those who live by farming are unable to yield any produce. Natural resources are depleted, while business and industry are destroyed.
512. The worst-case scenario is true of Sierra Leone. The ravages of war have proved to be a major constraint on economic development. Sadly most of the developing world's poorest countries are locked in conflict. The World Bank states that eighty percent of the world's 20 poorest countries have suffered a major civil war in the past 15 years, Sierra Leone included.⁴⁷⁰ Describing the economic impact of the war, a group of Sierra Leonean women submitted:

“During the war, people were forcibly evicted from their houses, many houses and public buildings were burned down, looted, vandalised, furniture removed, savings forcibly taken from people and all livestock consumed. The livelihood system of people was severely disrupted, there was loss of source of income, economic activities ceased, thereby increasing the level of poverty. Women and children were hardest hit. They were totally dispossessed of their worldly possessions and meagre savings. Spouses and other male breadwinners were killed, made redundant or separated from their families.”⁴⁷¹

513. Madam Koloneh Jusu, leader of an association of women farmers at Peacock Farm in Wellington, near Freetown testified in the same submission as follows:

“Our house was burnt down during the war. We stayed in a displaced camp for six months. When we came back, we put up a temporary structure where we started rebuilding our lives again. It was the same story for most of the women in this association. We had no means of livelihood. Our husbands were either killed in the war or made redundant, because the industrial estate that employed them has closed down due to the wanton rebel destruction.”⁴⁷²

⁴⁶⁹ See USAID, *World Disasters Report 2001*, citing the International Federation of Red Cross and Red Crescent Societies; see the website: <http://www.usaid.gov/democracy/profs/conflict.pdf>.

⁴⁷⁰ See Women's NGO Coalition submission to TRC, at page 16.

⁴⁷¹ See Women's NGO Coalition submission to TRC, at page 16.

⁴⁷² See Women's NGO Coalition submission to TRC, at page 16.

514. The war denied women of any genuine prospect of economic advancement. The Sierra Leonean economy in the pre-conflict period was already survivalist in nature particularly in the rural parts of Sierra Leone. The majority of women live in the rural areas and are engaged in subsistence farming, which forms the bedrock of food production in Sierra Leone.⁴⁷³ The RUF began the war by first occupying the rural areas in the Provinces, which immediately affected food production in the country and resulted in food insecurity.⁴⁷⁴ In many of the rural areas, those who farmed were compelled to supply food to the RUF on pain of death. At the same time the occupying forces had a devastating effect on output. In some areas, rural infrastructure was damaged and agricultural production was reduced, with food processing, storage and distribution systems being destroyed.
515. Women were also affected by the fact that their men – sons, husbands and fathers – either took up arms voluntarily or were compelled to do so. As a result of subsequent male combat losses, many women have become household heads. The wanton killing and destruction that took place during the course of the conflict therefore had an enforced impact on the status of women.
516. Women began to take on additional roles and responsibility as heads of households, not only providing for their own needs, but those of the extended family and the wider community as well. The conflict also forced women to become decision makers and to determine how resources should be used. These strategic tasks had traditionally been the exclusive preserve of men.
517. Women in terms of custom and tradition had played a subservient role. The conflict eroded these traditional customs and practices that had placed constraints on women in the past and restricted their mobility. Given the lack of statistics, establishing the current number of female-headed households is now a priority.
518. As the conflict spread in Sierra Leone, families became displaced, with many women becoming internally displaced persons. Many others fled into exile, particularly those with the resources to do so. According to the UNHCR, there are approximately 50 million refugees in the world, with 75% to 80% of them women and children.⁴⁷⁵ For the most part, they are civilians. In recent decades, civilian refugees have accounted for more than 90% of all refugees. Educated Sierra Leoneans left the country in massive droves as the conflict escalated. This latest exodus has only worsened the massive brain drain from the country. While many took refuge in neighbouring countries, a large number settled in Europe and the USA. Many refuse to come back as their memories of the conflict are bitter. This loss of human power has translated into huge economic loss for Sierra Leone.

⁴⁷³ See Women's Forum submission to TRC, at pages 2 and 6.

⁴⁷⁴ See Women's NGO Coalition submission to TRC, at page 17.

⁴⁷⁵ More details on the global situation relating to refugees, including up-to-date statistics, can be found at the UNHCR website: www.unhcr.org.

SURVIVING POVERTY

519. Surviving poverty in post-conflict Sierra Leone has forced unpalatable choices on many families. In order to boost meagre family incomes, children, particularly older children, have been forced to join their parents in commercial enterprises belonging to the family at the expense of going to school. Aligned to this trend has been the increase in the cost of education in Sierra Leone. Even in the public education system, where the government bears some of the costs in terms of providing schoolbooks and paying examination fees, it has been difficult for some families to send their children or wards to school due to financial constraints. Where families have had to prioritise which of their children's schooling they pay for, it is usually the girl children who will be kept away from school and put to work elsewhere.
520. Many girls in post-conflict Sierra Leone have thus been deprived of the right to acquire education, in effect jeopardising their future prospects even further. Although the access and retention rates have increased for school-going children over the years,⁴⁷⁶ there are still acute weaknesses in the system, such as the poor availability of secondary school education for girls. By way of example, there are some districts in the northern and eastern Provinces of Sierra Leone where the percentage of girls accessing secondary school is as low as 4% and 3% respectively.⁴⁷⁷

LEARNING NEW SKILLS

521. In the post-conflict era, Sierra Leone women have opted to learn new skills in order to establish new means of livelihood. In addition to subsistence farming, which they still practice in the Provinces, women have learnt new skills such as brick making, hair dressing, soap making, tie-dyeing of fabrics and weaving. Such skills training programmes as well as micro credit schemes have in the main been provided by Government through its various agencies, bolstered by donors, local and international agencies and local and international NGOs.
522. The National Commission for Demobilisation, Disarmament and Rehabilitation (NCDDR) provided skills training for some of the demobilised women and girls with the fighting forces. This training was provided to women in the internally displaced persons' camps and it is still ongoing today in some parts of the country for other categories of women. Some of the government bodies involved in providing this assistance were the Ministry of Social Welfare, Gender and Children Affairs (MSWGCA),⁴⁷⁸ the now dissolved National Commission for Demobilisation, Disarmament and Reintegration (NCDDR) and the present day National Commission for Social Action (NaCSA), which was formerly National Commission for Reconstruction, Resettlement and Rehabilitation (NCRRR).

⁴⁷⁶ See the Ministry of Education, Science and Technology; Submission to the Truth and Reconciliation Commission, September 2003 (hereinafter "Ministry of Education, Science and Technology submission to TRC"), at page 7.

⁴⁷⁷ See Ministry of Education, Science and Technology submission to TRC, at page 7.

⁴⁷⁸ See the Permanent Secretary of the Ministry of Social Welfare, Gender and Children Affairs, TRC interview conducted at the Ministry building, Freetown, July 2003.

POVERTY REDUCTION STRATEGY PROGRAMME (PRSP)

523. The MSWGCA stated that in 1999 the government instituted a Poverty Reduction Strategy Programme, originally named the Social Action and Poverty Alleviation (SAPA) scheme.⁴⁷⁹ The main thrust of this programme has been a micro-credit scheme, which started with an initial sum of Le 150 million from the Sierra Leone government. The programme also provides training for women leaders, training of petty traders in management skills and adult literacy classes.⁴⁸⁰ The implementing body for this programme was the National Commission for Reconstruction, Resettlement and Rehabilitation, now renamed as the National Commission for Social Action (NaCSA).
524. NaCSA confirms that the scheme has benefited more than 6,500 poor persons as recipients, of which at least 95% are women.⁴⁸¹ The scheme has successfully progressed with a loan-recovery rate of over 90% and it has received additional funding to the tune of Le 159.25 million from the African Development Bank.⁴⁸² The SAPA scheme has so far disbursed over Le 1.5 billion.⁴⁸³
525. The major economic activities undertaken with the 4,390 loans obtained so far from the SAPA micro-credit scheme are the following:
- Gardening / sale of agricultural produce: resale of agricultural produce and backyard gardening.
 - Processed foodstuffs: cooked foods, rice, cakes, groundnuts, fish preservation and sale of products.
 - Commerce: petty trading in manufactured / household goods; clothing and textiles.
 - Small-scale industries: soap making; gara / batik.
 - Others: firewood.⁴⁸⁴
526. Another government body that ran a micro-credit scheme was the National Committee for Disarmament, Demobilisation, and Reintegration (NCDDR). This programme was targeted primarily at ex-combatants and their partners, as well as the handicapped. Micro-credit loans of Le 300,000 were given out to various categories of people. Regrettably a poor recovery rate and the tendency of many ex-combatants to collect the money forcibly from their wives led to the collapse of the programme.

⁴⁷⁹ See the Permanent Secretary of the Ministry of Social Welfare, Gender and Children Affairs, TRC interview conducted at the Ministry building, Freetown, July 2003.

⁴⁸⁰ See the Social Action and Poverty Alleviation (SAPA) programme, discussion of the SAPA Micro-Finance Scheme, 1999 to 2001 (hereinafter, "SAPA, *Micro-Finance Scheme*") at page 1.

⁴⁸¹ See SAPA, *Micro-Finance Scheme*, at page 1.

⁴⁸² See SAPA, *Micro-Finance Scheme*, at page 1.

⁴⁸³ See SAPA, *Micro-Finance Scheme*, at page 2.

⁴⁸⁴ See SAPA, *Micro-Finance Scheme*, at page 2.

527. Besides the government's micro-finance schemes, a number of local and international NGOs have also been involved in the provision of micro-credit for women. These agencies include GTZ, Action Aid, Agrisystems and FAWE. Such schemes are thought to have been generally successful, with few obvious shortcomings. In evaluating the government financed micro-credit program, the Permanent Secretary of the Ministry of Social Welfare, Gender and Children Affairs made the following observations:

“A lot of women groups benefited. Groups testified that the micro-credit scheme worked for them. It elevated them. An example is that one of the women groups in the Western area went into transportation and was quite successful.”⁴⁸⁵

528. Skills training has undoubtedly assisted and equipped many women with skills that they can use to earn money. In many instances women have been empowered not only to sustain themselves but also their families. In women-headed households, it is often this money that forms the only source of income.

529. While there is much to applaud about the skills training programmes that have been provided, it is also necessary to comment on some of the problems experienced. Hitches have included the non-availability of start-up kits after the training, bureaucracy surrounding the release of resources to the recipients and interference from corrupt officials, who illegally demanded that the recipients pay them money before they are issued with their start-up kits.⁴⁸⁶ An unavoidable consequence of the skills training has also been those recipients who sell their kits for much-needed cash as soon as the training is complete.

530. A more general structural problem has been the dearth of analysis done on the economy and its requisite skills and products needs beyond the short term. Since nobody really knows what level of capacity the economy needs in different sectors, a plethora of agencies might provide skills training for women in the same field of production, resulting in a glut of these products. The economy does not have a high purchasing power amongst the citizenry. Consequently, the market for the products of skills training is very limited. Besides having no market for some of the products produced, service skills acquired, such as hair dressing and tailoring, have also failed to attract enough patronage as a result of the poor economic situation.

531. There is a need for the government to create sustainable opportunities for women who have received training in these skills to sell their products and use their service skills appropriately. At present, many of the newly acquired skills are going to waste and many women told the Commission that they are deeply frustrated.

532. While women desperately need assistance in the form of micro credit, it is equally imperative to retain positive perceptions of micro-credit schemes among the public. Many women who partook in the most recent micro-credit scheme advised the Commission that they felt that they had been set up to fail and that long-term economic growth was not possible given the amounts of the loans and the time period they were given for repayment of the loans.

⁴⁸⁵ See the Permanent Secretary of the Ministry of Social Welfare, Gender and Children Affairs, TRC interview conducted at the Ministry building, Freetown, July 2003.

⁴⁸⁶ See, for example, Kadiatu Brima, TRC interview at IDP Camp Lunsar, 8 August 2003.

Women have cited the Social Action and Poverty Alleviation (SAPA) micro-finance scheme being run by the government as one of the starkest examples of insufficient loans. The initial amount of SAPA loans ranged from Le50, 000 to Le100, 000 (about US \$30). In disbursing the loans, Le100, 000 was given out on 3,185 occasions. Another batch of Le200, 000 was given out on 1,035 occasions. The third set of loans of Le300, 000 each were given out on 160 occasions while the last batches of Le400, 000 were given out on 10 occasions. The loan period ranged from three to six months. Subsequent disbursements were based on satisfactory performance after previous loan receipts. A report on this programme stated that more than 6,500 persons benefited from the scheme and that the scheme had recorded a 90% repayment rate.⁴⁸⁷ The low amount of the final loan payments suggests that the repayment rate may not accurately reflect the reality of the situation. It is unlikely that loans were repaid at the rate indicated by SAPA.

533. Many beneficiaries complained that the period of repayment was too short to really allow beneficiaries the maximum use of these loans. The issue of repayment is traditionally problematic, in that most beneficiaries have in past not repaid their loans. This has meant that loan benefits cannot devolve to other equally needy persons who would otherwise have accessed the facility. The non-repayment of loans has led to many donors being reluctant to invest in such schemes.
534. The kind of business ventures in which most women beneficiaries engage also affect their ability to repay their loans. In the case of the SAPA micro-finance scheme, women had taken out loans to engage in food-based businesses. The returns on these kinds of businesses have not been very profitable.
535. There have been many positive features to the micro-credit scheme. Many women emerging from a conflict situation have been able to step out from poverty. However given the negative aspects of the “practical mechanics” of the micro-credit schemes, there is also some disquiet that many women are falling into a “micro-credit finance ghetto”.⁴⁸⁸ According to Rehn and Sirleaf,⁴⁸⁹ small loans limit women to small purchases, which can generate immediate income but without larger loans, the business cannot grow.
536. A major problem associated with micro-credit schemes is that it feeds into the perception that women are supplementary wage-earners rather than entrepreneurs. Women are thus convinced to pitch their efforts at household and cottage industry levels. The widely held belief that micro-credit programmes represent the tool to address the root causes of women’s poverty locks women out of larger financial markets and leaves them in the domestic sector. At many levels, micro-credit can actually therefore reinforce women’s marginalisation. While micro-credit programmes address a particular need, there is a major need to find mechanisms to introduce women into the broader economy by helping them to access the larger financial markets and institutions.

⁴⁸⁷ See SAPA, *Micro-Finance Scheme*, at page 2.

⁴⁸⁸ See Rehn and Sirleaf, *Women, War and Peace*, at page 131.

⁴⁸⁹ See Rehn and Sirleaf, *Women, War and Peace*, at page 132.

OWNERSHIP OF LAND

537. Women also face legal and cultural barriers in acquiring ownership of land. Accessing land belonging to their spouses is a major problem that many women in Sierra Leone face where their husbands have died in the conflict. Once they have lost the male in their families, women- or girl-headed households are not able to retain and cultivate the land previously farmed by the family. Many Sierra Leonean women have raised this issue with the Commission:

“... The land tenure system and inheritance laws are crucial to returning displaced people, especially in the cases of women who might have lost their husbands.”⁴⁹⁰

538. The same is true of property left behind by the dead spouse. Under Sierra Leonean customary law,⁴⁹¹ women only own property through their husbands and children. If the husband is killed or dies and the wife does not have an older son who can claim the property, she often must yield to her husband's family who hold her fate in their hands by deciding effectively whether she can keep her own property.

539. Despite the various interventions towards economic reform since the end of the conflict, most women in Sierra Leone still live below the poverty line.⁴⁹² In submissions made by women, various reasons are cited for the heightened state of poverty that exists in Sierra Leone: bad governance and economic mismanagement, increased vulnerability from the civil war, unemployment and under-employment and lack of access to basic social services are but a few.

540. Women and girls suffer the impact of poverty most profoundly because they lack income-generating skills, land, family labour force and start-up capital for business. A significant problem is the inadequate access to financial resources that could provide for items such as seeds, tools and technical assistance for those involved in farming. Given that the majority of rural women in the country are involved in agricultural production, the shortfall of resources constitutes a crippling setback in their quest to become economically self-sufficient.

541. The Women's Coalition stated insightfully in their submission:

“...Without access to economic means, the poverty experienced may create grounds for renewed tension and conflict.”⁴⁹³

⁴⁹⁰ See Women's NGO Coalition submission to TRC, at page 22.

⁴⁹¹ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 152.

⁴⁹² See Women's NGO Coalition submission to TRC, at page 17.

⁴⁹³ See Women's NGO Coalition submission to TRC, at page 16.

EFFORTS AT REINTEGRATION AND REHABILITATION

542. The NCDDR defined “reintegration” as “assistance measures provided to former combatants that would increase the potential for their economic and social reintegration into society.”⁴⁹⁴ While the NCDDR confined its programme to former combatants, the Commission considers the issue of “reintegration” to apply to the context of women and girls generally, not only to the former combatants among them.
543. The NCDDR was tasked by its mandate with the disarmament, demobilisation and reintegration of ex-combatants. While its chosen approach mostly impacted on male ex-combatants, the reintegration programmes contained some elements of economic and social reintegration for female ex-combatants and the wives of male ex-combatants. The NCDDR has done incredible work in this field and accomplished the goal of disarming and demobilising thousands of ex-combatants and increasing security in the country. However a major criticism of the programme has been that the plight of women and girls was not specifically addressed by the DDR programmes and that women and girls did not therefore benefit in a substantial way from these programmes in Sierra Leone. A question the Commission has yet to address is why this oversight happened.
544. The Commission came to the conclusion that the issues of gender and the specific needs of women were not taken into account when the programme was planned. In particular little or no attention was given to an issue which has primarily affected women, that of stigmatisation in communities once they have been identified as being ex-combatants.
545. The DDR programme also failed to carry out sensitisation programmes in communities in order to deal with the negative perceptions attached to women and girls identified as ex-combatants. A further problem was the fact that the eligibility rules for admission into the programme did not cater for the different roles played by women and girls during the war. The criteria established for access were quite restrictive and deterred many women from even trying to access the DDR programme.

⁴⁹⁴ See Kai-Kai, F.; “*Disarmament, Demobilisation and Reintegration in Post-war Sierra Leone*”, in Ayissi, A. and Poulton, R-E.; *Bound to Co-operate: Conflict, Peace and People in Sierra Leone*, United Nations Publications; Geneva, Switzerland, 2000 (hereinafter “Kai-Kai, *DDR in Post-war Sierra Leone*”), at page 127.

TRC



Recent graduates gather around their sewing machines at a skills training centre for war-affected women and girls in Bo District.

546. Another criticism of the programme has been the issue of relevance and appropriateness in preparing ex-combatants to participate once more in the social and economic life of Sierra Leone. The reintegration aspects of the DDR programme have been criticised as not being in sync with the economic and social recovery needs of the people. In many instances, the livelihood skills acquired through DDR were irrelevant to the recipients' realities, hindering family reunification and community acceptance.⁴⁹⁵ The DDR programme also failed to taken seriously the issues of reconciliation at a community level. The head of the NCDDR said the following:

"...Another very important strategic consideration that was not adequately planned for, namely, reconciliation at community level... there are many cases of ex-combatants encountering difficulties of acceptance. Even for former child-combatants, most child protection agencies have complained about parents refusing to accept their own children back during family tracing and reunion interventions."⁴⁹⁶

547. Resettlement in Sierra Leone followed the declaration of safety by two months and took place in three phases. The first phase for Internal Displaced Persons (IDPs) and returnee refugees was in April 2001 after the south, west and some parts of the east of the country were declared safe. As at September 2001, a third of the country was considered safe for resettlement. The safe areas were predominantly in the southern and eastern parts of the country. By December 2001, the last of the country's districts was opened up. The third phase started by April 2002 with the movement of people back to the eastern part of the country. By the end of 2002, the IDP resettlement programme was officially completed. In all close to 215,000 persons were given assistance with resettlement. The assistance provided for the resettled consisted of transportation costs, two months of food and household supplies.

548. While the official resettlement programme is over, there are many displaced persons in internal displacement camps. In many instances, those who had resettled chose to come back to the camps rather than to their new houses, as they preferred living in the camps.⁴⁹⁷ Many stated that their homes had been destroyed, they had lost family members and that they lacked the capacity to continue with their previous livelihoods in the resettled areas. Many displaced persons complained that they had not been able to benefit from resettlement due to not having been issued an IDP number prior to the start of the resettlement exercise.⁴⁹⁸ Many camp inmates have indicated a willingness to be resettled if such an opportunity should arise in the future.

⁴⁹⁵ More analysis of this issues can be found in the Women's NGO Coalition submission to TRC.

⁴⁹⁶ See Kai-Kai, *DDR in Post-war Sierra Leone*, at page 127.

⁴⁹⁶ See Zubaitu Browne, Executive Secretary of the 50 / 50 Group, TRC interview conducted in Freetown, 17 November 2003.

⁴⁹⁷ See, for example, Ramatu Conteh, TRC interview, IDP Camp Lunsar, 8 August 2003.

⁴⁹⁸ See, for example, Phina Dumbuya, TRC interview, IDP Camp Lunsar, 8 August 2003.

549. A large number of women did not benefit from the resettlement process. They argue that the workers charged with handling the registration process for resettlement exercises did not do their jobs competently. Another factor that prohibited registration was the cumbersome nature of the process, which took a longer time than many women could afford to spend when they were also concerned with providing food for their families. Many widowed women and women who head households found it especially difficult to register.

ACCESS TO HOUSING

550. While women did benefit from some of the programmes for reintegration, in most instances these programmes have benefited men and not women-headed households or widows. The Norwegian Refugee Council provided amputees and war wounded with housing. In this programme the NGO received support from the Catholic Mission in Sierra Leone. The houses for the amputees and war wounded have been designed around the needs of amputees and war wounded. They consist of a two-bedroom structure, with a big living room and veranda, outside toilet, bathroom and kitchen.⁴⁹⁹
551. As at December 2002, there were 239 primary beneficiaries together with an additional 1,800 family members and dependents who benefited from the Norwegian Refugee Council's housing project. Of the 239 primary beneficiaries, 82 fall into the war-wounded category, with 157 in the amputee category. Of the latter number only 55 women are primary beneficiaries.⁵⁰⁰ These houses have been built in every district in the country with the exception of Pujehun and Bonthe.
552. The beneficiaries to the houses have also received two beds and mattresses, one table and four chairs. In addition in order to facilitate the reintegration process for the beneficiaries and their families, NRC organised sensitisation seminars in the communities in which the amputees were to be resettled. The sensitisation seminars targeted the leadership in districts and chiefdoms, including community leaders, teachers, social and health workers, as well as possible neighbours. The aims and objectives of the seminars were to prevent stigmatisation and to inform the community of the needs of the amputees / war wounded at an early stage.⁵⁰¹
553. The NRC is hopeful that it will be able to provide housing to an additional 70 amputees / war wounded as well as their family members and dependents totalling in all 560 persons. Construction has started on 35 houses, 10 have been completed and handed over to NRC. The NRC through UNHCR has also been able to construct three water wells for the housing beneficiaries in Kono.
554. The NRC programme has been a major factor in the resettlement of both the amputee and war-wounded communities. The programme has not been without problems, however, not least in the area of core funding. The initial grant awarded by the Norwegian government was exhausted at the end of 2002. The NRC has been optimistic of raising further funding. The acquisition of land, particularly in places such as the Western Area, Bo and Kenema, is becoming ever more difficult. Finding suitable labour for the construction of these houses has also been also problematic in areas like Kono.

⁴⁹⁹ See Norwegian Refugee Council, Submission to the Truth and Reconciliation Commission, Freetown, 31 July 2003 (hereinafter "Norwegian Refugee Council submission to TRC"), at page 6.

⁵⁰⁰ See Norwegian Refugee Council submission to TRC, at page 6.

⁵⁰¹ See Norwegian Refugee Council submission to TRC, at page 5.

555. Cause Canada, another agency working in the field of reintegration since 2001, has provided assistance to resettled beneficiaries in the form of skills training, micro-credit schemes, physiotherapy and other services. Allied to the standard reintegration package given, Cause Canada has also provided beneficiaries with a resettlement package based on their individual needs. Cause Canada also ensured that there would be social workers available in resettlement areas so as to assist the beneficiaries and their families with becoming independent and self-sufficient.⁵⁰²
556. In many communities, a level of social reintegration has taken place following the organisation of ritual cleansing ceremonies by the communities, especially for the ex-combatants.⁵⁰³ On the back of these ceremonies, even several female ex-combatants have been accepted back into their various communities. In a number of cases, graduation ceremonies are organised at the end of the skills training course that the girls and women have undergone. With the help of some NGOs or agencies of government, the community is brought together at these graduation ceremonies and can join as one in accepting war-affected women and girls back into its midst.⁵⁰⁴
557. A number of NGOs and government agencies, working in conjunction with UN agencies, offer family reunification services for children, with an emphasis on the girl-child. Particular mention should be made in this regard of the work of UNICEF, along with such NGOs as Caritas Makeni, Christian Brothers and World Vision.
558. Despite these efforts, social reintegration in Sierra Leone has been fraught with problems. The stigmatisation of women and girls associated with the various armed factions remains a huge stumbling block to reintegration. The fragmented sensitisation programme being carried out by different organisations across the country has not had an ameliorating effect on the issue. Women and girls are wary of being identified with any of the belligerents. Yet at the heart of the recovery process is the need for acceptance of the wrongs of the past to make a more stable society in the future. It is a process that must necessarily involve ex-combatants, who should become constructive contributors to peaceful and progressive communities. The head of the NCDDR posed this pertinent question:

“How shall enemies become reconciled and accept to live together?”⁵⁰⁵

⁵⁰² See Norwegian Refugee Council submission to TRC, at page 7.

⁵⁰³ See Rosalind Shaw, anthropologist and author who has extensively studied the traditions of cleansing and reconciliation in Sierra Leone, TRC interview in Freetown, June 2003.

⁵⁰⁴ See Rosalind Shaw, anthropologist and author who has extensively studied the traditions of cleansing and reconciliation in Sierra Leone, TRC interview in Freetown, June 2003.

⁵⁰⁵ See Kai-Kai, *DDR in Post-war Sierra Leone*, at page 123.

559. Integration remains one of the most important aspects of post-conflict work. It is also a necessary component of the reconciliation process. The Truth and Reconciliation Commission has kick-started the reconciliation process in all the districts during its public hearings phase. In addition, the Commission, through its reconciliation unit, has galvanised civil society and religious leadership into taking up the reins of the process. The Commission assisted with training personnel and helped District Councils to take on aspects of its administration.

THE LEGAL STATUS OF WOMEN AFTER THE WAR

560. There is no doubt that the participation of women in the peace process as well as in civil and political affairs has contributed to the relative stability of the country in the aftermath of the conflict. The transition now provides women with an opportune moment to demand changes that will improve their status in all areas that affect them. While legal reform has been slow, the increased awareness by women of their rights has catalysed positive developments on a number of fronts affecting them. Some of these developments are listed below:
- The establishment of the Family Support Unit (FSU) within the police force, which includes trained personnel who deal with cases of alleged sexual offences and domestic violence.
 - The establishment of the “Rainbo Centre” (a sexual violence referral centre) by the International Rescue Committee (IRC),⁵⁰⁶ which provides free medical attention, counselling services and, to a limited extent, some forms of legal assistance where required to victims of rape or sexual assault.⁵⁰⁷
 - A marked increase in the number of awareness campaigns and workshops offered by civil society groups, non-governmental organisations and the government, which address the rights of women, the abuses women suffered not only during the war but also before the war, endeavouring to break the culture of silence and impunity in Sierra Leone that inhibits these crimes from being reported and or prosecuted.
 - A marked increase in the reporting, investigation and prosecution of sexual violence and related offences within the home.
 - The International Human Rights Law Group in its current “Access to Justice” programme in Kono, Koinadugu and Kailahun continues to inform the populace on the laws of Sierra Leone in an effort to bring justice close to the people.
 - The Law Reform Commission, working together with the Ministry of Social Welfare, Gender and Children’s Affairs and other partners, has included women’s rights in its reform agenda.

⁵⁰⁶ The International Rescue Committee (IRC) is an international non-governmental organisation that conducts a variety of development and humanitarian assistance projects across Sierra Leone. More detail about the IRC can be found at its website: www.theirc.org.

⁵⁰⁷ See International Rescue Committee (IRC), Sierra Leone; *A Handbook about the Rainbo Centre*, information booklet produced and distributed in Freetown, 2003.

- The Ministry of Social Welfare, Gender and Children's Affairs, in conjunction with UNIFEM, is embarking on a series of consultations with the aim of incorporating the Convention on the Elimination of Discrimination Against Women (CEDAW) into national law.
- Accountability mechanisms for crimes committed against women during the war have come into being, in the shape of the Truth and Reconciliation Commission (TRC) and the Special Court for Sierra Leone.

WOMEN IN POLITICS AND DECISION-MAKING

561. Women in Sierra Leone are starting, slowly but surely, to make an impact on the political landscape in the country. While not yet totally satisfactory, the most visible change has been the increased number of women contesting political office. In the May 2002 general elections more than 165 women contested in various capacities, with 46 women running for parliamentary seats.⁵⁰⁸ Seven of the eight political parties contesting the 2002 general elections and chieftaincy positions fielded women.
562. The last election also saw the emergence of the first woman Deputy Speaker of the House of Parliament, the first woman Presidential candidate and the first two women Presidential running mates. In total the election saw 18 women, two of whom are Paramount Chiefs, become Members of Parliament. The previous parliament had only eight women in total. The current government has, at the time of writing, three women cabinet Ministers and three deputy Ministers compared to only two cabinet Ministers and two deputy Ministers in the previous administration.⁵⁰⁹
563. There is little doubt that these changes would not have not come about without the combined efforts of women and NGOs involved in advocacy work for women's involvement in politics. One such NGO is the 50 / 50 Group, which was formed in November 2000 with the objective of empowering women and enabling them to participate effectively in politics. Its stated mission is to increase the level of female participation in government and to ensure gender parity in all walks of life.⁵¹⁰ It has been involved in the training of both old and budding new women politicians. The funding for its training has come from the National Democratic Institute and the Westminster Foundation for Democracy, administered locally through the British Council of Sierra Leone.⁵¹¹
564. The 50 / 50 group has been able to conduct training sessions all over the country on issues relating to gender and politics. Many beneficiaries of such training have gone on to run for political office. For the local government elections of 2004 – the first of their kind in several decades – the group stated its intent also to provide training for women who wished to stand as municipal council candidates.

⁵⁰⁸ Comprehensive information relating to the May 2002 elections in Sierra Leone can be found on the *Sierra Leone Web* website at: www.sierra-leone.org/documents-elections.html.

⁵⁰⁹ See Zubaitu Browne, Executive Secretary of the 50 / 50 Group, TRC interview conducted in Freetown, 17 November 2003.

⁵¹⁰ See the "50 / 50 Group", Submission to the TRC Special Thematic Hearings on Women; Freetown, 24 May 2003 (hereinafter "50 / 50 Group submission to TRC"), at page 2.

⁵¹¹ See 50 / 50 Group submission to TRC, at page 1.

565. The 50 / 50 group is also involved in lobbying government and political parties for the adoption of conditions that would encourage and enable women to participate in politics. To this effect, they advocated for the “zipper system”⁵¹² in the 2002 general election, which helped in getting some more women into office. At the time of writing, the group was lobbying the political parties for the reservation of a certain percentage of political seats for women during the 2004 local government elections.⁵¹³

566. In spite of the increase in the number of women participating in the political arena, there has been no dramatic “multiplier effect”. The 50 / 50 Group noted that although women are always the best campaigners, they are not the decision-makers in their parties and only a handful hold executive positions. The use of women as “Mammy Queens”⁵¹⁴ during election campaigns exemplifies the use to which politicians put women. Women leaders are used to co-ordinate the women during electioneering for party members. These women mostly serve as cooks, “cheerleaders” and general rabble-rousers. In its submission to the TRC, the Sierra Leone Market Women’s Association lamented the perceived manipulation behind their roles:

“Most governments only recognise us market women when it is time for elections, campaigning and using us as instruments to get political power. We will then be assembled like herds of sheep and masqueraded for the public and the international community as cooks and “ashobi dancers”. Elaborate promises will be made to us about the education of our children, [or] providing housing and health care for us – promises that have never been kept... Over the years we have become pawns in a game of politics that we do not understand... This behaviour over the years has humiliated and demeaned us as women.”⁵¹⁵

567. While women do feature in politics, it is important to note that significant obstacles prevent them from participating as they should. The 50 / 50 Group identifies domination of politics by men and under-representation of women as a major obstacle to change, since it prevents women’s views from being heard and considered.⁵¹⁶ Another obstacle stems from the cultural practices that discriminate against women in some parts of the country. In the north of Sierra Leone, women are not allowed to be Paramount Chiefs, which debars them from representing any seats in that are contested exclusively by Paramount Chiefs.⁵¹⁷

⁵¹² The so-called “zipper system” is a means of equalising the number of male and female candidates who stand for a political party. The names of men and women alternate equally in the list of top names in the party, thus resembling the alternating teeth of a “zipper”. More detail on this policy and other aspects of the work of the 50 / 50 group can be found in its Internet entry to the Sierra Leone Encyclopaedia for 2004: http://www.daco-sl.org/encyclopedia2004/4_part/4_5ffg.htm.

⁵¹³ See Zubaitu Browne, Executive Secretary of the 50 / 50 Group, TRC interview conducted in Freetown, 17 November 2003.

⁵¹⁴ The term “Mammy Queen” indicates a female leader of considerable seniority who is responsible for organising and taking care of a group, usually comprising other women and girls. The term has connotations of a “maternal” figure, or Chairwoman, and is considered by many women to be used in a quite patronising manner by men. See Market Women’s Association submission to TRC.

⁵¹⁵ See Market Women’s Association submission to TRC, at page 2.

⁵¹⁶ See 50 / 50 Group submission to TRC, at page 6.

⁵¹⁷ See 50 / 50 Group submission to TRC, at page 6.

568. However the biggest stumbling block to enhanced women's participation lies in the outlook of women themselves. Due to culture and tradition, women have been socialised into accepting that they should neither participate in politics nor seek to occupy positions of power, as these domains are "reserved" for men. It is an attitude that not only prevents women from attaining positions of political representation and leadership, but also in a perverse way discourages them from voting for and supporting the few women who do seek office.
569. Participation in politics of course also requires access to financial resources, which most women lack. Women have identified a lack of access to finance as a major impediment to their effective participation in politics. This phenomenon is not unique to Sierra Leone; it is rather a worldwide trend that requires to be addressed through sustained, concerted efforts.
570. Despite the various remaining obstacles, women in Sierra Leone are no longer willing to be passive onlookers in the political arena. Their determination to improve the participation of women in politics can be seen in the activities of NGOs such as the 50 / 50 Group and the Network of Women Ministers and Parliamentarians (NEWMAP). The latter is a caucus of women Ministers and parliamentarians who are working in league to put issues concerning women forward in every facet of the society. According to the 50 / 50 Group:
- "Sierra Leone women are not only asking for a slice of the pie, they are saying that they have learnt the lessons of the past and now want to make a difference to how the pie is shaped."⁵¹⁸

PRESENT INSTITUTIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN

571. The Ministry of Social Welfare, Gender and Children's Affairs supported by UNICEF provided two policies in 2000, the National Policy on the Advancement of Women and the National Policy on Gender Mainstreaming. The National Policy on the Advancement of Women is an all-encompassing policy seeking to improve the status of women and remove discrimination, as it is perceived to exist in various sectors.
572. The National Policy on Gender Mainstreaming acknowledges that the lower status of women in comparison to men is due to gender imbalances that arise from unequal opportunities and access to and control over productive resources and benefits. The policy sets out the Government's commitment to pursue a gender-sensitive approach in all its programmes and development activities in the country. The Government is yet to implement these policies and turn the promises they offer to the women and the nation into a reality.
573. These documents are, of course, only policies and have not been enacted to lend them any force of law. Even as policies the political will appears to be absent to implement them, but they are proof that the Government acknowledges the dire need to ensure that women enjoy equal rights and opportunities and that these rights must be protected. The Government must show its commitment by making reference to these policies in the Constitution. The policies are very significant to the Law Reform Commission,⁵¹⁹ as they present a strong case for women and provide a broad basis for legal reform.

⁵¹⁸ See 50 / 50 Group submission to TRC, at page 7.

⁵¹⁹ See *Law Reform Commission Decree No.17 of 1994*

CONCLUSION

574. Women and girls suffered terrible atrocities in the Sierra Leone conflict. Many died and their stories remain untold. And yet, many brave and courageous women and girls survived and were able to come forward to tell the Commission of the brutality they experienced and of how they were stripped of humanity and dignity. Others told of how they were afraid to reveal their stories because of the way in which they will be shamed by their loved ones, families, friends and communities. Many women have borne children and are outcasts because of it. They are doubly punished, because society has let them down and because of vile deeds perpetrated against them in the first place.
575. The Commission, while not a court of law, has made findings of responsibility against those who committed these atrocities. While these do not amount to findings of guilt, they are important as they represent in the Commission's view an account of those responsible for the violations. In the Commission's view, it was necessary to name organisations and individuals where the evidence presented itself. The full set of findings in respect of women and the armed conflict can be found in the dedicated Findings chapter in Volume Two of this report.
576. At the same time, many women have come together to help each other. Many agencies have provided succour and assistance to women and girls. Their efforts have been recorded and many women and girls continue to appreciate the efforts to help and assist them.
577. The Commission believes that an opportunity exists in this transitional period to address the plight of women and girls at the highest levels. For example, giving effect to the provisions of CEDAW and to other international human rights instruments, which provide inspiration and the impetus to improve the quality of life for women and children, would be a tremendously symbolic step.
578. The Commission has made recommendations on how the lives of women can be improved. They involve legal, political, social and economic reforms, which have the potential to offer women and girls an opportunity to have a better life. The recommendations are contained in the dedicated Recommendations chapter in Volume Two of this report. The Commission has set out in the Recommendations chapter those measures it regards as imperative and those the country should strive towards achieving. It also suggests who should be responsible for implementing these recommendations.
579. The Commission is of the view that this Government of Sierra Leone and successive governments are responsible for keeping faith with the Lomé Peace Agreement and for ensuring that the recommendations of the Truth and Reconciliation Commission are carried out, if the women and girls of Sierra Leone are indeed to enjoy a better life in the future.

CHAPTER FOUR

Children and the Armed Conflict in Sierra Leone

TRC

**Bush no de
fo trowe
bad pikin!**

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

CHAPTER FOUR

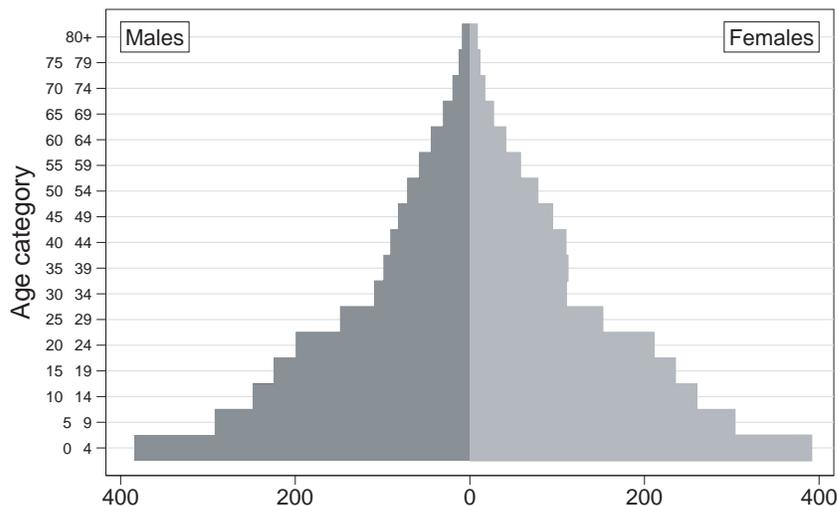
Children and the Armed Conflict in Sierra Leone

Introduction

1. Sierra Leone is one of the smallest countries on the African continent, but also one of the most richly endowed. Seasonal rainfalls make the terrain of its hinterland lush and green; its inland perimeter is characterised by rolling mountains and dense forests; and its coastline is dotted with idyllic beaches. Several parts of Sierra Leone boast rich seams of mineral resources, including gold, bauxite, titanium ore and, famously, diamonds in the east and southeast.
2. The abundant potential of Sierra Leone's natural landscape is mirrored in its population of just 4.5 million people. The inhabitants of the Provinces represent a culturally and demographically diverse heritage, with seventeen indigenous ethnic groups spread across 149 chiefdoms. The capital city, Freetown, originally a settlement for emancipated slaves, hosts the oldest university in the region and gained a reputation as the "Athens of West Africa". Most important of all, despite the trials and tribulations of history, Sierra Leoneans are resilient and resourceful, such that each new generation of children of Sierra Leone brings with it fresh hope, fresh direction and fresh human resources for the country.
3. British colonial rule in the nineteenth and twentieth centuries divided Sierra Leone into two entities: the Colony, which was the name assigned to Freetown and its environs; and the Protectorate, which encompassed all the Provinces in the interior. There was a degree of unease in relations between the inhabitants of these two entities, partly premised on the stark inequalities in access to education, social services and economic resources that British rule had created in favour of the Freetown-based Krios. As independence was attained on 27 April 1961, however, political disagreements soon became the main reason for rivalries. Within little more than a decade of self-rule, Sierra Leone had seen fiercely controversial elections, poisonous "personality politics" and various successful and unsuccessful military coups.
4. The country's longest-serving Head of State, Siaka Stevens of the All Peoples' Congress (APC) party, epitomised bad governance during his 17 years at the helm, from 1968 to 1985. Stevens entrenched his own executive power in a one-party state and suppressed opposition from any quarter. The entire political elite played a part in the desperate decline of Sierra Leone, seeking personal patronage and profit rather than advancement in the common national interest. It was during the 30 years immediately after independence that Sierra Leone sunk to being one of the least developed countries in the world.
5. After a handful of violent flashpoints in the 1970s and 1980s, arising out of elections, anti-government demonstrations and local uprisings, conflict finally broke out in Sierra Leone in March 1991. The eleven years of brutal war that followed saw this beautiful country and its people torn apart.

6. At the onset of the conflict in 1991, Sierra Leone was quite literally a nation of children. The graph at Figure 1, below, illustrates that approximately half of the estimated 4.5 million population was composed of children, i.e. males and females under 19 years of age. The graph shows a considerable “tapering off” in the size of the adult population between the ages of 29 and 79, which reflects the high adult mortality rate and results in astonishingly low average life expectancy. When war began in Sierra Leone, children formed the largest category of people in the population, while adults constituted a minority.¹

Figure 1: Population of Sierra Leone in 1991 (in thousands) divided according to age category and sex



Source for Figure 1: US Census Bureau, International Data Base, available at the following website: <http://www.census.gov/ipc/www/idbnew.html>.

7. The conflict in Sierra Leone impacted heavily on children, as their rights were systematically violated by all of the armed factions. Children suffered abduction, forced recruitment, sexual slavery and rape, amputation, mutilation, displacement and torture. They were also forced to become perpetrators and carry out aberrations violating the rights of other civilians. In assessing the experiences of children in the conflict in Sierra Leone, the United Nations Children’s Fund, UNICEF, submitted as follows:

“Particularly vulnerable to abuse were children, as they were violated in deep and lasting ways, some too awful to be adequately described... In some ways, it is as if a new level of cruelty has been attained in this war, setting the bar lower than ever imagined...”²

¹ The statistics used in Figure 1 emerge from population estimates maintained by the United States Bureau of the Census. The Bureau uses existing censuses along with health and other data collected by international NGOs. See the website: <http://www.census.gov/ipc/www/idbnew.html>.

² See the United Nations Children’s Fund (UNICEF), Submission to the Sierra Leone Truth and Reconciliation Commission on the occasion of TRC Thematic Hearings on Children, 17 June 2003 (hereinafter “UNICEF submission to TRC”), at page 2.

8. Children themselves made the following statement to the Commission:
- “... Concerns amongst us children in Sierra Leone are that the war was targeted at us. A brutal conflict which we did nothing to bring about but suffered and lost everything in it.”³
9. There are no accurate statistics to determine the number of children associated with the fighting forces, either as child soldiers or utilised in other capacities. According to a local NGO, Caritas Makeni, more than 5,000 children under the age of 18, of both sexes and with some as young as five years old, were combatants in the conflict.⁴ The United Nations Assistance Mission in Sierra Leone (UNAMSIL) puts the number at 10,000 who were associated with the fighting forces in one form or the other.⁵ The United Nations Children’s Fund (UNICEF) estimated that more than 6,000 children were conscripted into the fighting forces over the years.⁶ The discrepancies in these numbers are probably explained by the different criteria used by these organisations in arriving at their figures.⁷ The National Committee for Demobilisation, Disarmament and Reintegration (NCDDR) confirmed in its submission to the Commission that more than 6,774 children entered the DDR programme.⁸
10. While the total number of children associated with the fighting forces will in all probability never be completely accurate, the submissions of the various agencies to the Commission attest to the widespread use of children in this conflict, in total contravention of the rules applicable to conventional warfare.
11. The parties to the peace talks at Lomé in 1999 recognised that the children of Sierra Leone were vulnerable as a result of the armed conflict. Accordingly the Lomé Peace Agreement declared that children are entitled to special care and that their rights to life, survival and development are in need of protection in accordance with the provisions of the Convention on the Rights of the Child.⁹
12. The Lomé Peace Agreement laid the foundations for the Act establishing the Truth and Reconciliation Commission (“TRC” or “the Commission”). Article 30 of the Lomé Peace Agreement explicitly provides that the Government of Sierra Leone shall accord particular attention to the issue of child soldiers and that the special needs of children should be addressed in the disarmament, demobilisation and reintegration process. The TRC Act 2000 provided that the Commission would be required to give special attention to the experiences of children within the armed conflict.¹⁰ The Sierra Leone TRC is the first truth commission that has been required explicitly to do so.

³ See Children’s Forum Network (CFN) Sierra Leone; Submission to the Truth and Reconciliation Commission on the occasion of TRC Thematic Hearings on Children, 16 June 2003 (hereinafter “Children’s Forum Network submission to TRC”), at page 1.

⁴ See Caritas Makeni; Submission to the Truth and Reconciliation Commission on the occasion of TRC Thematic Hearings on Children, 16 June 2003, at page 3.

⁵ See the United Nations Assistance Mission in Sierra Leone (UNAMSIL), Submission to the Truth and Reconciliation Commission on the occasion of TRC Thematic Hearings on Children, 16 June 2003, at page 5.

⁶ See UNICEF; *Child Protection Programme Report*, February 2003, at page 2.

⁷ Some of these organisations estimated only on the basis of children who were actual combatants, while others added all the children associated with the fighting forces in various capacities such as cooks, porters, spies, sex slaves, manual labourers and others.

⁸ See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003, at page 3.

⁹ See the Preamble to the Lomé Peace Agreement of 7 July 1999.

¹⁰ See the Truth and Reconciliation Commission Act 2000, at Section 6(2)(b).

13. This chapter will examine the traditional place of children in Sierra Leone and explore their status before and since the war in all the major spheres that affect them, such as education and health, as well as economic, legal and socio-cultural issues. A brief overview of the national and international human rights instruments impacting on and protecting children's rights is included. More importantly, the chapter will also attempt to convey the impact of the armed conflict on children, as well as their diverse experiences within the various armed groups, in the terms that children testified about them to the TRC. The status of children since the conflict will also be described, together with interventional measures taken by both state and non-state actors in attempting to respond to their needs. The chapter will also highlight the Commission's main findings and recommendations on children.¹¹

Interpreting the Commission's mandate

14. In interpreting its mandate the Commission wanted to ensure that the voices of children would be heard and taken into account at every stage of its proceedings, in the various versions of the final report and in the recommendations it made in respect of the future well being of children. The Commission also wanted to ensure that the identity of children who testified would remain confidential. The Commission thus faced a delicate balancing act, which required the development of a number of policies guiding its work.
15. The Commission was fortunate enough to have recourse to a report prepared by UNICEF, reflecting the outcomes of a consultative process that UNICEF had organised in 2001 to consider the participation of children in the work of the Commission. The report confirmed the support within the children's sector for children's experiences to be fully accounted for in the work of the Commission. It also highlighted challenges and areas of concern and proposed a variety of measures designed to protect children. The Commission took these proposals into account when designing its operational policies.
16. The Commission resolved that it would reach out proactively to children so as to ensure their full participation in all aspects of the Commission's work. This approach would include sensitising children as to the role of the TRC, taking statements from them, having them participate in hearings and involving them in special hearings on children. The Commission's main objective in respect of children was to ensure that their voices should be heard, particularly in the final report and recommendations. The Commission also enacted policies to protect the security and well-being of children.
17. The Commission decided as a matter of policy that all children would be treated equally as witnesses whose experiences needed to be captured by the Commission, irrespective of whether they had perpetrated violations.

¹¹ The Commission's comprehensive findings and recommendations on children can be found under 'Children' in the chapters on Findings and Recommendations in Volume Two of this report.

Methodology

18. The Commission then had to devise a methodology to implement the policies it had agreed upon. It trained its statement-taking staff on how to take testimonies from children, with particular guidance on how to deal sensitively with those who had been sexually violated and those who had been combatants in the conflict.
19. The Commission also decided that it would hold special public hearings that would focus on the experiences of children, as well as *in camera* hearings for children under the age of 18 and victims of sexual violence.
20. The Commission then began a series of discussions with UNICEF and the Child Protection Agencies (CPAs), which culminated in an agreement that was signed in 2002. Under the terms of the agreement, UNICEF and the CPAs provided technical assistance to the Commission during statement taking as well as assisting with children during the hearings phase. A fundamental principle underpinning the agreement was that the physical and psychological security of the children should be paramount at all times. In this regard, counsellors from the CPAs assisted the Commission in all its activities.
21. The Commission decided quite early on that it would keep disaggregated data on children as well as on victims of sexual violence and that it would in its final report have a special section dealing with the experiences of children. The Commission also decided to publish a special “child friendly” report. Both reports would contain recommendations on how to improve the quality of life of children in the country.
22. In implementing these decisions, the Commission was assisted by the Special Assistant to the SRSG for Sierra Leone,¹² as well as UNICEF and the Child Protection Agencies in Sierra Leone.
23. In terms of the agreement between the Commission and the CPAs, the practice of the Commission was to hand over a list of child witnesses to the CPAs before a hearing was held. The CPAs conducted vulnerability and safety assessments and consulted with the children and their families. If approval was obtained from the families and the child was willing to testify, the children were prepared for the hearing. Social workers would also be present at hearings ready to offer emotional support if necessary. Once a hearing had taken place, the social workers would conduct further visits to the children in order to ensure that they had not suffered any adverse effects due to their participation in the Commission's processes.

¹² The Commission wishes to acknowledge the consistent support and guidance it received from Mr. Bert Theuermann, former Special Assistant to the SRSG for Sierra Leone on children's issues. Mr. Theuermann and his colleagues in the Child Protection Unit at UNAMSIL were instrumental in ensuring that children's issues were treated appropriately by all parties in the TRC process.

THE STATUS OF CHILDREN BEFORE THE CONFLICT

CHILDREN AND EDUCATION

24. The Commission received numerous submissions on the nature of the education system that prevailed in Sierra Leone before the conflict. The current Minister of Education commented in his submission that:

“At independence, Sierra Leone inherited a western type of education system aimed largely at the urban middle class. The system was biased... In essence the system was aimed at nurturing civil servants and government administrators in the colonial and independent government. Yet the majority of Sierra Leoneans, unable to afford formal education, were excluded from the education system... Given the exclusive nature of the country’s education system, it is not surprising that literacy levels remained as low as 8% at independence, or that in the 1970s fewer than 15% of children aged between 5 and 11 years attended school, or that only 5% of children between 12 and 16 years were in secondary school.”¹³

25. Historically, the colonial government had mainly concerned itself with educating the sons of Chiefs in the provinces and the sons of the elite and the Krios in the western areas, as these groups were intended to provide future civil servants for the colonial government. The majority of the population was largely left to remain illiterate. The unforeseen consequence of this kind of policy meant that the majority were not able to access education.
26. The decline in the economy during the 1970s and the imposition of the structural adjustment policy in the 1980s impacted on spending and led to a further deterioration in education levels. The corresponding rise in school fees had a negative effect on the accessibility of education. Primary school enrolment declined from an average annual increase of 6% between 1970 and 1985 to only 2% between 1985 and 1990.¹⁴ By 1990, of the total number of girls who qualified as the potential school going population, only 12% were enrolled at secondary schools. In the case of boys, only 22% of all boys of school going age were enrolled. In the case of tertiary education, according to figures for 1996, only 13% of both girls and boys made it through.¹⁵

¹³ See *Closing the Gap: Access, Inclusion, Achievements*; supplementary submission of the Ministry of Education, Science and Technology to the Truth and Reconciliation Commission, November 2003 (hereinafter “Ministry of Education, *Closing the Gap*”), at page 1.

¹⁴ See Ministry of Education, *Closing the Gap*, at page 2.

¹⁵ See UNESCO Statistical Yearbook 1996, at page 49.

27. A number of other factors including corruption and unsound governance, as well as political and cultural factors, also contributed to the decline in education. Education policy in Sierra Leone determined where schools were cited and built. Self-interested government officials and corrupt politicians routinely ignored the prevailing policy, however, resulting in schools being built with scant regard to issues of need or efficacy. Instead, schools were placed according to cynical political ploys to advance the individual interests of politicians who sought to gain votes from their constituencies.

Building of Schools

28. In order to encourage the building of schools, the Government provided development grants to private individuals or organisations that built schools. While in essence this was a good practice, it became rife with abuse. Many unscrupulous persons abused the practice and misappropriated the funds that had been allocated to them. The funds were regularly not used for the purposes for which they were intended. Many of those who had been allocated grants built schools in unsuitable locations, without the approval of the Ministry of Education, Science and Technology (MEST), only to foist these schools on government at a later stage without having regard to areas of need or the financial implications. Such recklessness caused increasing frustration on the part of the children and youths of school-going age. An official in the employ of the Ministry of Education, Science and Technology (MEST) made the following remark to the Commission:

“Some schools were built which were ultimately inhabited by cockroaches and rats.”¹⁶

The teaching profession

29. The teaching profession itself was in disarray. Teachers' strikes intensified due to several factors: first, the general economic malaise in the country; and second, as administrative blunders led to the elimination of their names from the teachers' payroll, thus leading to lengthy periods of delay or non-payment of salaries. All of these factors contributed to the growing rot in the system.
30. The standard of teaching varied between the urban capital and the provinces. The standard of education in Freetown was fairly high, while that in the provinces lagged behind. In part, the disparity was due to the fact that government was unable to attract and retain qualified teachers to schools in the rural districts.
31. The enrolment of girls in schools was affected by both economic and cultural pressures, which favoured the education of male children to the exclusion of girls. Many families, compelled by economics to choose which of their children they would educate, chose to educate boys, believing that education was wasted on girls as they would eventually get married into another family. In addition, educating boys improved the earning abilities of future breadwinners. This was certainly characteristic of the Northern and Eastern parts of the country where the education of boys over girls was preferred. Sadly this state of affairs in these two regions prevails even today.

¹⁶ See TRC interviews with officials of various ranks in the Ministry of Education, Science and Technology; interviews conducted in Freetown, 20 August 2003.

32. When the conflict broke out, illiteracy in Sierra Leone was at an all-time nadir of 88.75% for girls and 69.3% for males.¹⁷ Less than 45% of all children of school-going age entered primary schools, of which only 9% entered secondary schools and 1% made it through to tertiary institutions.¹⁸
33. The state of education in Sierra Leone before the conflict was unmistakably in decline. In the words of the Minister:
- “The period of the late 1970s, but more the 1980s, was characterised by a nosedive of the Sierra Leone economy, largely as a consequence of bad governance, corruption and the Breton Woods structural adjustment programmes... Living standards of the poor masses and poverty generally were ignored. Education, like other sectors, was not spared the general malaise, as the education budget shrank from an average 21% to 12% to 8% in the 1960s, 1970s and 1980s respectively.”¹⁹
34. A major factor that the RUF has cited as a reason for starting the conflict was the inability of the government to provide free education to all children in Sierra Leone. This accusation resonated in the hearts and minds of much of the population and partially accounts for the initial acceptance of the RUF by some communities. The irony, of course, is that it is the very conflict started by the RUF that led to the complete destruction of the education system, as the RUF destroyed schools and educational facilities all over the country.

THE SOCIO-CULTURAL STATUS OF CHILDREN

35. Socially and culturally Sierra Leone is typical of most African countries where children sit, at best, on the fringes of decision-making. Usually in African societies, hierarchy and authority determine how decisions are reached. In the case of children, adults make decisions for them. In the African context, which in this instance is certainly true of Sierra Leone, an explanation often offered is that it is borne of a desire to protect children and to guide them into adulthood rather than to injure them or take away their rights.
36. This practice has led to many children having their lives shaped for them by adults, who are well meaning and who honestly believe that they are acting in the best interests of the child. While this may be true in the majority of cases, it is also clear that decisions made on the basis of patriarchy and authoritarianism have affected many children's lives negatively.
37. One cultural practice in Sierra Leone perceived to be particularly abhorrent is the inclination not to educate girl children, a practice that is prevalent in the north and east of the country. Coupled with the practice of early marriages for girls and the practice of female genital mutilation, this denial of educational opportunities to girls has negatively impacted on their future prospects.

¹⁷ See Plan Ireland, “The Importance of Education in Disaster Rehabilitation – Rapid Education Programme in Sierra Leone”, found at the website: www.plan-ireland.org/pdfs/childrenindisasters.

¹⁸ See Plan Ireland, “The Importance of Education in Disaster Rehabilitation – Rapid Education Programme in Sierra Leone”, found at the website: www.plan-ireland.org/pdfs/childrenindisasters.

¹⁹ See the Ministry of Education, Science and Technology; Submission to the Truth and Reconciliation Commission, September 2003 (hereinafter “Ministry of Education submission to TRC”), at pages 4 and 5.

38. In Sierra Leone children are not allowed to speak for themselves before the elders and chiefs. In the course of its work, the TRC received testimony from many youths who had been sanctioned for contravening this rule. The offenders were not allowed to speak in their own defence and became embittered at the exceedingly onerous punishments often imposed on them by the Chiefs and elders for defying this custom. Punishment often included the levying of exorbitant fines and resulted in many offenders working as slave labour in order to defray the costs. Many discontented youth fled their villages in order to avoid such punishments and when the conflict broke out became easy converts to the cause of the RUF. Their embitterment also manifested itself in acts of revenge against elders and Chiefs during the conflict.

CHILDREN AND HEALTH

39. The state of health in Sierra Leone has been on a steady decline throughout the post-colonial period. In 1960, the infant mortality rate stood at 220 per 1,000 live births, while by 2000 the under-five mortality rate was 390 per 1,000 children.²⁰ The decline in economic growth in the 1980s affected the health sector negatively. The surge in 1983 of both the infant and under five mortality rates, as well as other negative indicators for the country, led the United Nations to classify Sierra Leone as the least developed country in the Human Development Index of that year²¹. Sierra Leone has had the dubious distinction of holding this title consecutively from 1983 to 2004. According to the World Bank:

“While the recent conflict exacerbated the situation by destroying health facilities and displacing (or worse) staff, the public health sector has not performed well for more than a decade; with inadequate financing. The Ministry of Health and Sanitation (MOHS) could not supervise and support technically the public health facilities country-wide.”²²

40. It is clear however that while the conflict in Sierra Leone impacted on the health sector, this was not the only reason for the decline in the public health system. Endemic mismanagement, corruption and inadequate strategies also contributed to the failure of the public health system in the country long before the conflict began.
41. A declining health system almost always affects children and women with devastating effect. This was certainly true of Sierra Leone before the conflict.

²⁰ See UNICEF, *The State of the World's Children 2000*, annual report into the conditions for the upbringing and advancement of children in selected countries around the world, available at the following website: <http://www.UNICEF.org/sowc/>, at page 86.

²¹ See Ministry of Gender and Children's Affairs, *Country Report on Sierra Leone*, submitted to the “World Congress on Commercial Sex Exploitation of Children”, 22 August 1996, at page 1.

²² See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone, for a Health Sector Reconstruction and Development Project; 22 January 2003, at page 5.

THE ECONOMIC STATUS OF CHILDREN

42. Sierra Leone had endured two decades of economic and social decline before the conflict. The net effect of corruption and mismanagement resulted in depleted national institutions with hardly any programmes to address the poverty the population was experiencing. Not surprisingly, women and children were the most vulnerable. In most traditional societies, children are expected to carry out certain domestic tasks such as cooking, shopping, cleaning, laundry duties, fetching water and caring for younger children. Helping out in the fields is also commonplace.²³ The use of children in this way should not be perceived as exploitative, but should rather be seen as doing one's bit to assist family and community, thus contributing to the total functioning of the family. In African societies, enhancing the family's social and economic status has a positive impact on the whole family. The roles and responsibilities of children in African societies help to entrench a sense of family and community rather than individualism. This outcome was certainly true for Sierra Leone as well.
43. Notwithstanding the above, the decline in the economy in the 1980's and the resulting poverty that most families found themselves in compelled many children to work out of necessity. The employment of children has had an adverse effect on them both educationally and socially.
44. The position of children in Sierra Leone at all levels – education, health and socio-cultural – was already in decline before the outbreak of the conflict. This backward trend gave rise to huge dissatisfaction amongst the youth, many of whom became disenchanted with successive governments and their poor delivery. Sierra Leone had become a place where many had lost hope long before the outbreak of a conflict. Marginalisation and exclusion from society led many youth to take up arms. In many TRC hearings, youth who took up arms testified to the Commission that their dissatisfaction with their social and economic conditions led them to join the RUF.

NATIONAL AND INTERNATIONAL LAW PERTAINING TO CHILDREN IN SIERRA LEONE

45. The eleven-year conflict in Sierra Leone involved the systematic violation of the rights of children in Sierra Leone. The violations that children suffered included abductions, forced conscription, rape, sexual violence and abuse, forced slavery, torture, slave labour, amputations, mutilations, killings, forced displacement and cruel and inhuman treatment. Having examined the violations committed against children, it is clear to the Commission that most of the armed factions pursued a deliberate policy to target children and violate them. The Commission in this section highlights national and international law that has specific application to children.

²³ See Government of Sierra Leone; "Survey Report on the Status of Women and Children in Sierra Leone at the end of the Decade – A Household Survey (MICS-2)", November 2000, at page 61.

46. Children in Sierra Leone did not fully enjoy their basic human rights even before the war broke out. The breakdown of democratic institutions, the collapse of the rule of law and the mismanagement of the country's resources impacted on the rights of the children of Sierra Leone. Laws relating to children were outdated, uninformed and grossly inadequate to guarantee the protection and promotion of their rights. Crimes against children including rape and sexual violence generally went unpunished, further contributing to the culture of silence and impunity that prevailed.
47. Given that the war has ended and with the systematic manner in which the rights of children were violated, there is an urgent need to review national law with a view to ensuring that the Government of Sierra Leone fulfils its obligations in terms of international law. National law must be brought into line with international law and custom and, in particular, the Convention on the Rights of the Child. There is a great need to ensure the effective implementation of appropriate laws and customs, procedures and policies in respect of children, which are necessary for the restoration of the dignity of children in post-war Sierra Leone.

CHILDREN AND INTERNATIONAL LAW IN SIERRA LEONE

A brief overview of the international instruments on children and the level of their incorporation in Sierra Leone national law

48. The use of regional and international human rights mechanisms in responding to the egregious crimes that occurred in Sierra Leone during the last decade is significant to the development of international human rights law. Sierra Leone became a member of the United Nations in 1961 and is a signatory to most of the major human rights instruments including the International Covenant on Civil and Political Rights (ICCPR),²⁴ the International Covenant on Economic Cultural and Social Rights (ICECSR),²⁵ the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW),²⁶ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),²⁷ the Convention of the Rights of the Child (CRC),²⁸ the African Charter on Human and People's Rights²⁹ and the African Charter on the Rights and Welfare of the Child.³⁰

²⁴ See International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force on 23 March 1976; Sierra Leone acceded on 23 August 1996.

²⁵ See International Covenant on Economic Cultural and Social Rights (ICECSR), adopted 16 December 1966, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force on 3 January 1976; Sierra Leone acceded on 23 August 1996.

²⁶ See the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), adopted 18 December 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. U.N. Doc. A/34/46, entered into force on 3 September 1981; Sierra Leone signed on 21 September 1988 and ratified on 11 November 1988.

²⁷ See the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984, U.N. Doc. A/39/51 (1984), entered force 26 June 1987.

²⁸ See the Convention of the Rights of the Child (CRC), adopted 20 November 1989, G.A. Res. 44/25, UN Doc. A/44/49 (1989), entered into force on 2 September 1990.

²⁹ See the African Charter on Human and People's Rights, adopted 27 June 1981, O.A.U. Doc. CAB/LEG/67/3 Rev.5, entered into force on 21 October 1986; Sierra Leone signed on 27 August 1981 and ratified on 21 September 1983.

³⁰ See the African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force on 29 November 1999. Sierra Leone signed the Charter on 14 April 1992 but has not yet ratified it.

49. The Government of Sierra Leone has ratified the Convention on the Rights of the Child and the optional protocol. The ICECSR, the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) are also instruments that recognise: the right to life;³¹ to privacy;³² to be free from sex discrimination;³³ to the highest attainable standard of physical health;³⁴ to health care services;³⁵ to decide on the number and spacing of their children and to have access to the information and means to do so;³⁶ to the elimination of discrimination against women in all matters relating to marriage and family relations;³⁷ and to be free from sexual violence, abuse, exploitation, prostitution and trafficking.³⁸ These instruments require Government to commit itself to develop preventive health care, guidance for parents and family planning education and services; prenatal and postnatal and to ensure access to information, counselling and services concerning family planning;³⁹ to appropriate services to ensure safe pregnancy;⁴⁰ Government undertakes to eliminate traditional practices prejudicial to the health of children.⁴¹

The African Charter on Human And People's Rights

50. The African Charter on Human and People's Rights entered into force in October 1986. Article 18 (3) of the charter states that "the state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions". By this Article, the African Charter has incorporated all of the international declarations and conventions that relate to women. There is a protocol on the Rights of African Women approved in July 2003 that offers wide protection for the rights of women. Sierra Leone needs to ratify this protocol, which will allow the rights provided in it to be enjoyed in Sierra Leone.

The Convention on the Rights of the Child (CRC)

51. The Government of Sierra Leone by ratifying the Convention of the Rights of the Child is obliged to ensure that the children of Sierra Leone enjoy the rights in the Convention, which include civil and political, economic, social and cultural rights. Four important principles in the Convention are: non-discrimination; the best interests of the child; the right to life, survival and development; and respect for the views of the child.⁴²

³¹ See CRC, at Article 6(1).

³² See CRC, at Article 16(1).

³³ See CEDAW, at Articles 1 and 3. See also ICECSR, at Article 2(2).

³⁴ See ICECSR, at Article 12(1). See also CRC, at Article 24(1).

³⁵ See CRC, at Article 24(1).

³⁶ See CEDAW, at Article 16(1).

³⁷ See CEDAW, at Article 16(1).

³⁸ See CEDAW, at Articles 5(a) and 6. See also CRC, at Articles 19(1) and 19(3).

³⁹ See CEDAW, at Articles 10(h), 12(1) and 14(2).

⁴⁰ See CEDAW, at Article 12(2).

⁴¹ See CRC, at Article 24(1).

⁴² See CRC, at Articles 2, 3, 6 and 12.

52. The government is also obliged to take all appropriate legislative, administrative and other measures in order to ensure implementation of the rights recognised in the Convention. In respect of the economic, social and cultural rights the government is obliged to undertake such measures to the maximum extent of the available resources and, where needed, within the framework of international co-operation.
53. The President of Sierra Leone is responsible for the execution of all treaties, agreements or conventions in the name of Sierra Leone but if they are within the legislative competence of Parliament or alter any existing law, they must be ratified by parliament by an enactment or a resolution.⁴³ International law is operative in Sierra Leone by two processes of ratification, one by the executive and the other by the legislature.⁴⁴
54. There is presently in existence a draft bill incorporating the provisions of the Convention on the Rights of the Child into national law. The draft was prepared and discussed nationally even before the end of the war. The Government of Sierra Leone should honour its obligations to the children of Sierra Leone by having this bill passed into law immediately.
55. There are two Optional Protocols to this Convention: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. There is a Committee on the Rights of the Child that monitors States' compliance with the Convention and considers the periodic report States are obliged to submit to the Committee on measures they have adopted to give effect to the provisions of the Convention and progress made in the enjoyment of these rights.⁴⁵

Children and the transitional justice institutions in Sierra Leone

56. Children were explicitly referred to in the Lomé Peace Agreement and have been explicitly referred to in the mandates of both transitional justice institutions created afterwards, namely the Truth and Reconciliation Commission and the Special Court for Sierra Leone. An earlier section of this chapter sets out how the Commission has resolved to include children in its work and how it interpreted its mandate.

The role of children in the Special Court for Sierra Leone

57. The Parliament of Sierra Leone, following an agreement on 16 January 2002 between the Government of Sierra Leone and the United Nations, enacted the Statute of the Special Court.⁴⁶ This court was established to try those that bear "the greatest responsibility" for the atrocities committed in Sierra Leone after 30 November 1996. The court deals with war crimes committed against children, as well as violations of international humanitarian law. The recruitment of child soldiers and crimes of rape and sexual violence will be among the crimes prosecuted. While children also perpetrated crimes against the people of Sierra Leone, the Special Court will not prosecute children under the age of 18. The major role for children in proceedings will be to testify to the atrocities they witnessed and experienced both as victims and perpetrators.

⁴³ See the *Constitution of Sierra Leone 1991*, at Section 40(1)(d).

⁴⁴ See the *Constitution of Sierra Leone 1991*, at Section 40(1)(d).

⁴⁵ See CRC, at Articles 43 and 44.

⁴⁶ See the Special Court Agreement (Ratification) Act 2002.

Other international instruments impacting on children during armed conflict

58. Both the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child contain provisions that apply to children seeking refugee status or who are considered a refugee or internally displaced.⁴⁷ Under Article 34 of the Convention on the Rights of the Child, as well as Article 27 of the African Charter on the Rights and Welfare of Child, all states have an obligation to protect children from sexual abuse or exploitation. They also have the right to be free from sexual exploitation and other hazardous forms of labour.
59. Sierra Leone is a party to the Geneva Conventions of 1949 and the Additional Protocols. The conduct of all combatants is governed under this international humanitarian law, also known as the laws of war: the 1949 Geneva Conventions and their two Protocols. A cardinal principle of humanitarian law is that civilian persons who are at the mercy of a party to the conflict are entitled to be treated humanely in all circumstances and to benefit from a series of fundamental guarantees without any discrimination. Under the laws of war the following acts in particular are prohibited: murder, torture, corporal punishment and mutilation, outrages upon personal dignity in particular humiliating and degrading treatment, enforced prostitution, rape and any form of indecent assault, the taking of hostages, collective punishment and threats to commit any such acts.
60. There are a number of other international instruments that seek to protect the rights of children, particularly during armed conflicts.⁴⁸ The jurisprudence of the ICTY and ICTR has reinforced the principle that serious violations of these provisions constitute war crimes. The violations committed against women and children in Sierra Leone have been documented by a number of agencies and NGOs. While a few of the major perpetrators are likely to be prosecuted by the Special Court, the vast number of them who committed these violations are likely to go unpunished.

The International Criminal Court (ICC)

61. Sierra Leone is also a signatory to the permanent International Criminal Court (ICC). The Rome Statute of the ICC⁴⁹ does not apply to the events occurring in Sierra Leone, as the treaty is not retroactive. The Rome Statute of the ICC lists a significant range of sexual crimes as both war crimes and acts constituting crimes against humanity. These acts include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence.

⁴⁷ See CRC, at Article 22, and African Charter on the Rights and Welfare of the Child, at Article 23.

⁴⁸ International Instruments, and or declarations prohibiting violence and promoting justice for victims of crime include: the *Declaration on the Protection of Women and Children in Emergency and Armed Conflict* (1976); the *Declaration of Basic Principles of Justice for Victims of crime and Abuse of Power* G.A.40/34 (1985); and the *Commission on Human Rights 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 E/CN.4/2000/62.

⁴⁹ See the Rome Statute of the International Criminal Court, 17 July 1998, UN DOC. No. A/CONF.183/9,37 I.L.M 999, entered into force on 1 July 2002.

62. The Elements of Crime document annexed to the Rome Statute designed as a non-binding guide to the Court, which details the suggested elements for each crime, makes it clear that crimes of sexual violence can also be prosecuted as other crimes of violence, such as torture or mutilation, thus adopting the approach of the ad hoc tribunals.

CHILDREN AND NATIONAL LAW IN SIERRA LEONE

63. The laws of Sierra Leone include the 1991 Constitution, the English common law and customary law.⁵⁰ Customary laws, largely unwritten, are the rules of law, which by custom are applicable to particular communities in Sierra Leone.⁵¹

Defining and understanding 'when one is considered a child'

64. The laws and customs relating to children are in urgent need of reform, as in many instances they are archaic and inconsistent. Both law and custom relating to children and are in conflict with international law on the rights of children, particular in their definition and understanding of when one is considered a child.

Age of Majority

65. The age of majority in Sierra Leone is 21 years old, based on the common law, which was adopted from English law under colonial rule and maintained after independence to present day.⁵² Under the 1991 Constitution a citizen who is 18 years old has voting rights.⁵³ Criminal responsibility starts at ten years of age. The Children and Young Persons Act Chapter 44 of the Laws of Sierra Leone, the main legislation on children and juvenile justice, defines a child as a person under the age of 14 years and a young person as a person who is above 14 years and under the age of 17 years.⁵⁴

⁵⁰ The laws of Sierra Leone, as defined in Section 170 of the 1991 Constitution, comprise the Constitution itself, along with laws made by or under the authority of Parliament, statutory instruments, the existing law and the common law. The common law includes the English common law and customary law. Customary law, which is largely unwritten, means those rules and regulations that are applicable by custom to particular communities in Sierra Leone.

⁵¹ See the *Constitution of Sierra Leone 1991*, at Section 170.

⁵² Section 74 of the *Courts Act 1965* (Act No.31 of 1965) provides that: "Subject to the provisions of the Constitution and any other enactment, the common law, the doctrines of equity and statutes of general application in force in England on the first day of January 1880 shall be in force in Sierra Leone". *The Interpretation Act* No.8 of 1967 of the Laws of Sierra Leone, at Section 4 defines an "infant" as "a person who has not attained the age of twenty-one years, and does not include a corporation".

⁵³ See the *Constitution of Sierra Leone 1991*, at Section 31.

⁵⁴ See the *Children and Young Persons Act*, Chapter 44 of the Laws of Sierra Leone, at Section 2.

66. Under customary law⁵⁵ the age of majority is not fixed. It varies depending on the purpose for which it is considered and from one ethnic group to another. A common practice and belief that exists in traditional society is to perform traditional initiation ceremonies on boys who have reached puberty, marking their entry into the male society and into full adulthood.⁵⁶ However a girl child who has reached puberty and has been initiated into the female society does not attain the status of full adulthood, as she is always under the guardianship of the male members of her family while unmarried, or of her husband when married.⁵⁷ Modern customary practice has seen some departure from the views of traditional customary law to a certain extent to adapt with current trends. Such departure of course depends on how progressive a family or community is and is therefore rather arbitrary.
67. Given the numerous definitions around what constitutes a “child”, a great deal of uncertainty exists in law as to whether a particular law is applicable to children or not. This uncertainty affects the legal capacity of children both at a civil and criminal level as it is not clear whether they are entitled to receive protection as children or be treated as adults.

State policy on the welfare of children

68. One of the fundamental principles of state policy set out in the 1991 Constitution is that the State should direct its policies towards ensuring that the care and welfare of the young are actively promoted and safeguarded.⁵⁸ The fundamental principles of State policy impose a duty on every citizen to ensure the proper upbringing of his children and wards.⁵⁹ Another fundamental principle is that the Government should strive to eradicate illiteracy and direct its educational policy to ensure that there are equal rights and adequate educational opportunity for all citizens at all levels by, among other things: safeguarding the rights of vulnerable groups such as children; securing educational facilities; and directing its educational policy towards achieving free compulsory basic education at primary and junior secondary school level.⁶⁰
69. While these provisions in the Constitution provide a basis for the Government to promote and advance the rights and welfare of children through its laws, policies and programmes, they have largely remained unused and ignored.
70. Since the 1991 Constitution came into effect, successive Governments in Sierra Leone have paid little or no attention to addressing the welfare and the interests of children in Sierra Leone. The Commission heard often that successive governments and political parties pay attention to the plight of children and, more especially, youths only during election periods when they are campaigning.

⁵⁵ Section 2 of the *Local Courts Act 1963*, Act No. 20 of 1963, defines customary law as: “any rule, other than a rule of general law, having force of law in any chiefdom of the Provinces”.

⁵⁶ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*, Freetown, 1983, at page 43.

⁵⁷ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*, Freetown, 1983, at page 98.

⁵⁸ See the *Constitution of Sierra Leone 1991* (Act No. 6 of 1991), at Chapter II.

⁵⁹ See the *Constitution of Sierra Leone 1991*, at Section 13(h).

⁶⁰ See the *Constitution of Sierra Leone 1991*, at Sections 9(1) (a) and (b).

Laws relating to the general welfare of children

71. Violence against children constitutes a crime under the general law which applies to all persons irrespective of age, and includes murder under the common law, assault, wounding and other crimes other the Offences Against the Persons Act 1861. There are also laws specifically prohibiting cruel treatment and violence against children.

Prevention of Cruelty to Children Act (Chapter 31 of The Laws Of Sierra Leone 1960)

Cruelty

72. This Act applies throughout Sierra Leone⁶¹ and defines a child as a person under the age of 16 years.⁶² The Act makes it a criminal offence to commit acts of cruelty to children, including sexual and other related offences against children. Under this Act it is a crime punishable by imprisonment or a fine if any person over the age of 16 years who has the custody, charge or care of any child, "wilfully assaults, ill-treats, neglects or abandons, or exposes such a child or causes or procures such a child to be assaulted, ill-treated, neglected abandoned or exposed, in a manner likely to cause such child unnecessary suffering or injury to health (including injury to or loss of sight, hearing, or limb or organ of the body and any mental derangement)..."⁶³
73. A parent or other person who is legally liable to maintain a child and who neglects the child in a manner likely to cause injury to the child's health can be punished under this statute. A guardian also commits an offence if he or she fails to provide adequate clothing, medical aid and lodging for the child.⁶⁴

Unlawful carnal knowledge and abuse of girls

74. It is a criminal offence punishable by imprisonment for a period not exceeding 15 years if anyone is found to be guilty of unlawful carnal knowledge or abuse of any girl under the age of 13 years, with or without her consent.⁶⁵ Anyone found guilty of committing this same crime in respect of a girl above 13 years but less than 14 years, with or without her consent, is liable to be punished with imprisonment for a period not exceeding two years.⁶⁶
75. Usually in Sierra Leone, perpetrators who rape children are prosecuted under this law. The distinction between the punishment of the offenders of girls under age 13 and the offenders of girls above 13 but under 14 is not clear and is not consistent with the objectives of justice. It has contributed to the trivialisation of sexual crimes committed against girls and is an example of the Government's breach of its obligation to prevent the sexual abuse of children. The two years' penalty for perpetrators found guilty of raping a girl who is above 13 but under 14 is inappropriate and insufficient to deter the commission of such crimes.

⁶¹ See Prevention of Cruelty to Children (Amendment) Act 1963 (Act No.29 of 1963), at Section 4.

⁶² See the *Prevention of Cruelty to Children Act 1960*, at Section 2.

⁶³ See the *Prevention of Cruelty to Children Act 1960*, at Section 4.

⁶⁴ See the *Prevention of Cruelty to Children Act 1960*, at Section 4.

⁶⁵ See the *Prevention of Cruelty to Children Act 1960*, at Section 6.

⁶⁶ See the *Prevention of Cruelty to Children Act 1960*, at Section 7.

Allowing children to be in brothels

76. It is a criminal offence punishable by a fine or imprisonment not exceeding six months if anyone allows a child above the age of four to reside in or frequent a brothel.⁶⁷

Indecent assault and attempt to have carnal knowledge

77. It is a criminal offence punishable by imprisonment for a period not exceeding two years if any person commits an indecent assault on or attempts to have carnal knowledge of any girl under 14 years.⁶⁸

Prostitution

78. It is a criminal offence punishable by imprisonment for a period not exceeding two years if anyone procures or attempts to procure any child, not being a common prostitute, or of known immoral character, to have unlawful carnal knowledge of any girl under 14 years.⁶⁹ The problem with this legal provision is that by exempting “common prostitutes” and “immoral” girls from the protection of the law it implies that those deemed to fall into these categories are not entitled to the protection of the law. Perpetrators have been able to use this loophole in the law to deny guilt, by imputing the character of the complainant.

Abduction of a girl for immoral purposes

79. It is a criminal offence punishable by a period not exceeding two years if anyone intentionally removes an unmarried girl under 16 years from the possession and against the will of her father or mother or any other person having the lawful care or charge of such a girl for immoral or carnal purposes.
80. Further provisions under this Act include an acknowledgment of the right of a parent, teacher or other person under the lawful control of the child to administer punishment to the child⁷⁰ and the arrest and protection of children.⁷¹ Other crimes provided for by the Act are the encouragement of seduction by guardian, procurement of a child for immoral purposes, owning or occupying or acting or assisting in the management or control of premises used for immoral purposes.
81. Before the war, abduction, while not a common occurrence, was under-reported. The under-reporting and limited prosecution of this crime may not have reflected its prevalence. The consent of the victim is not necessary to prosecute this crime. The aftermath of the war has left many girls and women who were abducted still living with their captors, which technically constitutes a crime under this Act.

⁶⁷ See the *Prevention of Cruelty to Children Act 1960*, at Section 8.

⁶⁸ See the *Prevention of Cruelty to Children Act 1960*, at Section 9.

⁶⁹ See the *Prevention of Cruelty to Children Act 1960*, at Section 10.

⁷⁰ See the *Prevention of Cruelty to Children Act 1960*, at Sections 3, 9, 11 and 13.

⁷¹ See the *Prevention of Cruelty to Children Act 1960*, at Part III.

Evidence required to prove the sexual offences in this Act

82. The evidentiary rules regarding the prosecution of sexual crimes under this Act, provides that the evidence of one witness is insufficient and requires corroboration⁷² In the context of rapes committed during the conflict it would be almost impossible to prosecute those who committed these crimes as the prevailing rules of evidence set thresholds which victims or complainants would be unable to satisfy.

Defences to crimes under this Act

83. The consent by a child under the age of 14 does not constitute a defence to a charge of indecent assault on a child under 14 years. However the Act was amended in 1963 to include the following provision:

“Section (9)(a): Where a marriage has been formally concluded either under customary law or otherwise, the invalidity of the marriage does not make the husband guilty of an offence under Section 6, 7, or 9 because he has or attempts to have sexual intercourse with a girl or indecently assaults her, if he believes her to be his wife and has reasonable cause for that belief.”⁷³

84. This provision legitimises the rape of a young girl by her husband in law or custom. It also legitimises early marriages involving girls who are under the age of 13 years. This provision is therefore a violation of the right of the girl child to be free from physical and sexual violence and is a clear violation of the provisions of CEDAW and the Convention on the Rights of the Child.

Rape

85. Rape is an offence under the common law in Sierra Leone. Rape consists in having unlawful sexual intercourse with a woman without her consent by force, fear or fraud.⁷⁴

Sexual offences under customary law

86. Under traditional customary law, the consent of the woman or girl for the purposes of sex is immaterial. Consequently if a girl is raped or indecently sexually assaulted, her parents can maintain an action under customary law for compensation.⁷⁵ If the girl is a virgin the amount of compensation includes “virgin money”. It is immaterial if the offender is a prospective husband of the victim. If the girl is married her husband can maintain an action for compensation commonly referred to as “woman damage”.⁷⁶

⁷² See the *Prevention of Cruelty to Children Act 1960*, at Section 14.

⁷³ See *Prevention of Cruelty to Children (Amendment) Act 1963 (Act No.29 of 1963)*, at Section 4.

⁷⁴ See Archibald, *Pleading Evidence and Practice in Criminal Cases*, 35th edition, at page 1146.

⁷⁵ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 182.

⁷⁶ See Joko Smart, H. M.; *Sierra Leone Customary Family Law*; Freetown, 1983, at page 5.

Protection Of Women And Girls Act

(Chapter 30 of The Laws Of Sierra Leone 1960)⁷⁷

Procuring Girls and Women for Prostitution within and without Sierra Leone

87. Under the Protection of Women and Girls Act, any person who procures or attempts to procure a girl or woman under 21 years who is not a common prostitute or of known immoral character to have sex with another person within or without Sierra Leone commits a crime and shall be imprisoned for a period not exceeding two years. Any person who uses threats or intimidation to do such an act commits a crime and shall be imprisoned for the same period.
88. The current provision both in the common law and under customary law in Sierra Leone reduce sexual crimes and the crime of rape to a civil action in which damages can be claimed without any regard to the victims/ complainant. Many of the laws also place a premium on the morality of a victims or a complainant and allow defences that impute honour. The laws relating to punishment are also contradictory and inconsistent as can be seen from the following example: the punishment for a violator of unlawful carnal knowledge of a girl under 13 years is liable to face imprisonment not exceeding 15 years but a perpetrator of the same offence committed against a girl above 13 years will only face imprisonment for a period not exceeding two years. Similarly an indecent assault committed on a girl or an attempt to do so is punishable only by a period not exceeding two years that in my humble opinion is inappropriate to cause a deterrence of these sexual offences.
89. The evidentiary rules relating to the prosecution of rape and sexual violence are also problematic. They are onerous and will lead to prosecutors making decisions not to prosecute, as they cannot meet the high evidentiary burden that is set. Corroboration of crimes of rape and sexual violence is impossible given the nature and the context in which the crime is carried out. In addition, until recently there was only one police doctor providing medical services to victims and the required report to the court. The reluctance of the police to prosecute these offences has perpetuated the culture of impunity and silence to the extent that most violations of this nature go unreported.
90. Sierra Leone also does not have a law that specifically makes incest a crime. In addition, the laws relating to sexual offences in most instances refer to girls. Sexual assaults against boys are not expressly provided for in the same way as sexual assaults against girls.
91. Custom and tradition in Sierra Leone have permitted the practice of female genital mutilation, which is performed on girls from the age of four onwards. This practice constitutes a violation of the rights of girls and young women and could conceivably be interpreted as constituting cruelty against children and prosecuted under the Prevention of Cruelty to Children Act as assault under the general law. If death results it could be prosecuted as murder or manslaughter under the general law.

⁷⁷ See the *Protection of Women and Girls Act (Chapter 30 of the Laws of Sierra Leone 1960)*, as amended by the *Protection of Women and Girls Amendment Act 1972*.

92. Girls have a right to be free from all forms of gender discrimination, the right to life and physical integrity and the right to health. Young girls are not able to make choices about gender discriminatory practices and cannot make informed decisions about this practice and that is why it becomes necessary for States to enact legislation to protect them. In terms of international law, signatories to the Convention on the Rights of a Child and the Convention on the Elimination of all Forms of Discrimination against women, oblige governments to enact laws which will protect children from all forms of violence including gender based violence.
93. Since 1995 several countries in Africa have passed legislation that criminalises the practice of female genital mutilation. In 1999, Senegal amended its penal code to provide that “any person who violates the integrity of the genital organs of a female person.... shall be punished by imprisonment from six months to five years”.⁷⁸ The Government of Sierra Leone needs to enact legislation to protect girls from this cruel practice.

JUVENILE JUSTICE

Children and Young Persons Act

(Chapter 44 of The Laws of Sierra Leone 1960)

94. Here again is an area of Sierra Leone law that requires urgent reform, as it is out of date with modern developments in law relating to children and juveniles. A further problem is that the justice system does not adequately cater for the rehabilitation of juvenile offenders in Sierra Leone. There is only one approved school and remand home to service the entire country. It is in a deplorable condition and does not cater for the needs of the juvenile accused or offender. Many of the juveniles accused of crimes have been abandoned by their parents or guardian and even when granted bail, they have nobody to give them the support and assistance they need during trial.

Adoption Law

95. In Sierra Leone adoptions take place under both law and custom. The Adoption Act does not recognise adoptions carried out under customary law. In effect, practices that have existed under customary law for a number of years do not have any effect in law. The effects of adoption under customary law are different to that under the common law system as they confer no rights and no protection to either adoptive parents or the children adopted.
96. A further problem is the practice of fostering which involves a child becoming the ward of a person regarded as a guardian. The guardian or foster parent has custody of the child but in the absence of a law specifically providing for this process, their rights are rather tenuous.
97. After the war thousands of children were orphaned, leading to the establishment of many orphanages and foster homes in the country. However most of these facilities are private enterprises not regulated by law. In order to avoid abuse and trafficking in children, it is important to regulate this new industry and to ensure that the rights and responsibilities of the proprietors are set out to protect the best interests of the child account properly for donor funds. Law reform in this area is needed desperately.

⁷⁸ See the *Criminal Code of Senegal (CRLP –R)*, as amended in 1999.

Marriage and family law

Early Marriages

98. Early marriages pose a major challenge to the government of Sierra Leone as early marriages are permitted under customary law systems in Sierra Leone and involve the marriages of girls under the age of 18. There are four types of marriage in Sierra Leone: Christian marriage⁷⁹, Civil Marriage⁸⁰, Mohammedan Marriage⁸¹ and Customary law marriage. There is no minimum age of marriage applicable throughout Sierra Leone. Under Mohammedan and customary law even prepubescent girls below the age of 10 may be given in marriage.
99. Studies confirm that early marriages impact negatively young girls by affecting her full development, particularly in terms of education, economic autonomy, and physical and psychological health. Most adolescents who marry young are pressured to begin child bearing prior to psychological maturity, which contributes to the high levels of maternal and infant mortality. Furthermore when a child or adolescent is compelled to marry at a young age and she refuses to consent to sexual relations or is too young to consent, such marriages may result in sexual violence.
100. In terms of customary law, girls as young as ten are permitted to marry and are capable of consenting to marriage, given their levels of maturity. Families usually coerce them into these marriages. There is often a significant difference in age between these young girls and the spouses chosen for them.
101. The Commission has found that the practice of early marriage has contributed to the high levels of sexual abuse of girls and has led to society's condoning of a practice that is detrimental to the development of young girls. It is also in clear contravention of international law to which the government of Sierra Leone is signatory to. The Commission finds that the different legal systems need to be harmonised and brought into line with international law. The Commission addresses the issue of early marriages and the age of consent in its recommendations.

Economic and social rights of children

Child Labour

102. The Employers and Employed Act Chapter 212 of the Laws of Sierra Leone 1960 determines a minimum age of employment for children. The Act prohibits the employment of children who appear to be under the age of 12 years, except where they have been employed by a family member and approved by a competent authority, in agriculture, horticultural or domestic work as a member of the family.⁸²

⁷⁹ See the *Christian Marriage Act* in the Laws of Sierra Leone, at Cap 96.

⁸⁰ See the *Civil Marriage Act* in the Laws of Sierra Leone, at Cap 97.

⁸¹ See the *Mohamedan Marriage Act* in the Laws of Sierra Leone, at Cap 96.

⁸² See the *Employers and Employed Act* (Chapter 212 of the Laws of Sierra Leone), at Section 51.

103. Even when children are legally permitted to work, the hours of work are restricted and the work must not be of a nature that will cause injury to the child. Children under 15 years are prohibited from working in any public or private industry or in a vessel unless it is one in which family members are employed. The Act prohibits the employment of a girl or woman or a boy under 16 in a mine.⁸³ The Act prohibits employment of children under 18 for employment at night in any public or private place. These laws are hardly enforced or implemented given the prevalence of children engaged in street trading and mining.
104. The Military Forces Act 1961 prohibits the recruitment of a child below the age of seventeen and a half unless the person's parents or guardian or other competent authority gives consent.⁸⁴ In terms of the Geneva Conventions, the conscription of persons who are below 15 is prohibited.
105. Both the pro government forces and the opposition forces forcibly recruited children as combatants in clear contravention of international law. The Commission urges that this practice be reviewed and that those violating international law be held accountable.
106. The Commission finds that the Government of Sierra Leone before the conflict broke out did not monitor the practice of employing children below the minimum age prescribed by the Act and in so doing has violated the rights of children. A further abuse is the failure to remunerate children appropriately. An exception is in the mining field where the government has taken some measures to regulate the employment of children.

Inheritance law

107. Under the general law children born within marriage are entitled to one third of their father's estate.⁸⁵ They are not entitled to anything from their mother's estate, as the husband is entitled to all of her property. This distribution operates on intestacy where neither parent has made a will. Children whose parents are unmarried are not entitled to property, as they are considered illegitimate. While there have been some challenges to this position, no law reform has taken place in this area. The President did make certain pronouncements about doing away with the concept of illegitimate children but has failed to take the matter further.
108. Under customary law and Mohammedan law, male children have more rights of inheritance than their female counterparts and in some customs female children do not have any right of inheritance. The Commission finds that the practice of discriminating against children on the basis of illegitimacy is in clear violation of international law and that urgent law reform in this area is desperately needed to ensure that the rights of children are not violated.

⁸³ See the *Employers and Employed Act* (Cap 212 Laws of Sierra Leone), at Sections 47(1) and 54.

⁸⁴ See the *Sierra Leone Military Forces Act* (Act No. 34 of 1961), at Section 16(2).

⁸⁵ See rules of distribution in the second schedule of the Administration of Estates Act Chapter 45 of the Laws of Sierra Leone 1960

Maintenance of children

109. A father of an illegitimate child does not have a legal obligation to maintain that child without a court order to this effect, unless he has adopted that child. The Bastardy Laws Amendment Act 1872 enables the mother of an illegitimate child to apply to a Magistrate court for an affiliation order against the man alleged to be the father of that child for weekly payment to be made to her to maintain the child. Presently the applications for an affiliation order are under the Bastardy Laws (Increase of Payment) Act 1988. This Act entitles the court to order the father to pay an amount not exceeding Le100.00 a week for the maintenance of that child until he is 16 years.
110. The Commission finds that the Bastardy laws are discriminatory and in clear violation of the Government's obligations to protect children and treat them with dignity. The Commission recommends that this law be abolished with immediate effect and that laws be enacted which do not discriminate against children on the basis of birth or marriage.

Application of National Law to Violations during the Conflict

111. Children suffered numerous violations during the war. These include abduction, forced recruitment, detention, forced displacement, forced labour, assault, torture, forced drugging, amputation, forced cannibalism, forced separation, rapes, sexual slavery, sexual abuse, and death. While most of these violations constitute crimes under Sierra Leone's criminal law, it is unlikely that national prosecutions will ever happen given the amnesty provision in the Lomé Peace Agreement and the capacity of the current judicial system to taken on perceived political crimes.
112. It is unlikely that accountability would be achieved even if prosecutions took place, though, as it would be extremely difficult to prosecute under such a high evidentiary burden. Sexual crimes would be even more difficult to prosecute under the current laws, especially as these crimes were committed in the context of a conflict. These crimes were committed in period of incredible violence by multiple groups of perpetrators making it very difficult for women to identify their perpetrators.
113. The national legal system shifts the evidentiary burden to the complainant for crimes of sexual violence and rape. In addition, the high evidentiary threshold renders conviction almost impossible. Under national law, the crimes of rape, unlawful carnal knowledge, indecent assault, abduction for immoral purposes, and procurement for prostitution are inherently crimes against the honour, dignity and chastity of the victim, her family or the community. They do not adequately present the violence involved in these crimes, particularly when committed during a conflict situation. They rather focus on the moral aspect, which could lead to a further stigmatisation of the victim. It is highly unlikely that prosecutions would take place given that the national legal system did not manage to prosecute these crimes even during peacetime.

CONCLUSION ON THE LEGAL STATUS OF CHILDREN

114. The Commission finds that the laws in force for the protection of the rights of a child are hardly enforced or implemented. In addition, the laws relating to the definition of child are confusing and contradictory. No uniform age of majority applies throughout the country.
115. The Commission finds that while legislation exists to cover adoptions, the practices of adopting under custom and tradition, as well as the practice of fostering, are not regulated by law. Lack of regulation gives rise to abuse and a lack of protection for children and the adoptive parents. During the conflict, these loopholes led to many children being taken out of the country without going through a proper legal process. The government needs to pass legislation to regulate the private institutions that have been established as orphanages and homes for children. Urgent law reform is required in this area.
116. The laws relating to the welfare of children do not adequately provide for their needs. Employment practices and law need to be brought in line with the provisions of the Convention on the Rights of the Child.
117. Regrettably the laws on sexual violence are not comprehensive and also place the evidentiary burden on the victim, or complainant. Customs and practice also contribute to the culture of silence and impunity that prevails in the country. Prosecutors of these crimes encounter great difficulty in prosecuting them because of the high evidentiary burden that needs to be satisfied.
118. The dual legal system existing in Sierra Leone since before the conflict has impacted negatively on the rights of children. In many instances, both law and custom are in clear contravention of international law, particularly the Convention on the Rights of the Child. Traditional customs and practices have also exacerbated the position of children, particularly girl children. The conflict and the cleavages in the society led to the complete debasement of children, the effects of which are being felt in Sierra Leone today. However the aftermath of the conflict presents civil society with an opportunity to lobby government for wholesale reforms, which are necessary at the level of both law and custom.
119. The Commission is of the view that the Child Rights Bill needs to be passed into law as a matter of urgency.

ROLES AND EXPERIENCES OF CHILDREN DURING THE CONFLICT IN SIERRA LEONE

VIOLATIONS AND ABUSES AGAINST CHILDREN

120. Children in Sierra Leone suffered immeasurably during the eleven-year conflict that engulfed the country. The conflict was characterised by wanton destruction, loss of life and massive violations of human rights. The violence was pervasive, with children of all ages throughout the country suffering horrible and unimaginable atrocities. The levels of violations endured throughout the conflict period. A 15-year-old girl testified to the Commission during closed hearings in Freetown of the following acts:

“When the rebels attacked Kingtom, we ran into hiding but unfortunately, someone told the rebels that we were in the mosque.... They located us, killed six people, chopped off my sister’s head, raped me, tied me up and amputated my foot... for four days I was there alone and maggots started coming from my foot... Later I was rescued by some ECOMOG soldiers who took me to the hospital where I learnt I had become pregnant and had to do an abortion.”⁸⁶

121. Submissions to the Commission confirm that the majority of human rights violations committed against children during the conflict took place under circumstances where the perpetrators had absolute control over their victims and had them totally at their mercy.⁸⁷ While these violations were mainly meted out against children by their adult captors, in many instances the violations were carried out by children themselves against friends and family members. The conflict was responsible for producing child perpetrators. One of the horrors of the conflict took place in Pujehun in 1991, when pupils of St. Paul’s Secondary School, who had been abducted and drugged, were forced to slaughter their own parents.⁸⁸

122. Describing the experiences of children in Sierra Leone, UNICEF stated:

“Children have been forcibly abducted from their families and held in abominable conditions, mistreated both physically and sexually, and denied basic human needs. They have been forcibly conscripted into military and paramilitary activities and forced to commit heinous acts against others, often drugged, all the while undergoing brutal treatment by their superiors. Girls have been captured as sex slaves to serve as “wives” to combatants who treated them with the utmost cruelty. Children of all ages have been separated from their families, in many cases never to be reunited. Many children have grown up in abominable conditions, both in Sierra Leone and in neighbouring countries.”⁸⁹

⁸⁶ Confidential testimony received during TRC Closed Hearings, Freetown, 23 April 2003.

⁸⁷ See, for example, the UNICEF submission to TRC.

⁸⁸ This event is recounted in secondary sources, including: *Africa Development*, “Lumpen Youth Culture and Political Violence: Sierra Leoneans Debate the RUF”, Vol. XXII, 1997.

⁸⁹ See UNICEF submission to TRC, at page 3.

123. During the conflict, all of the armed factions, including the pro-government forces, committed gross human rights violations against children. In its submission, UNICEF noted that:

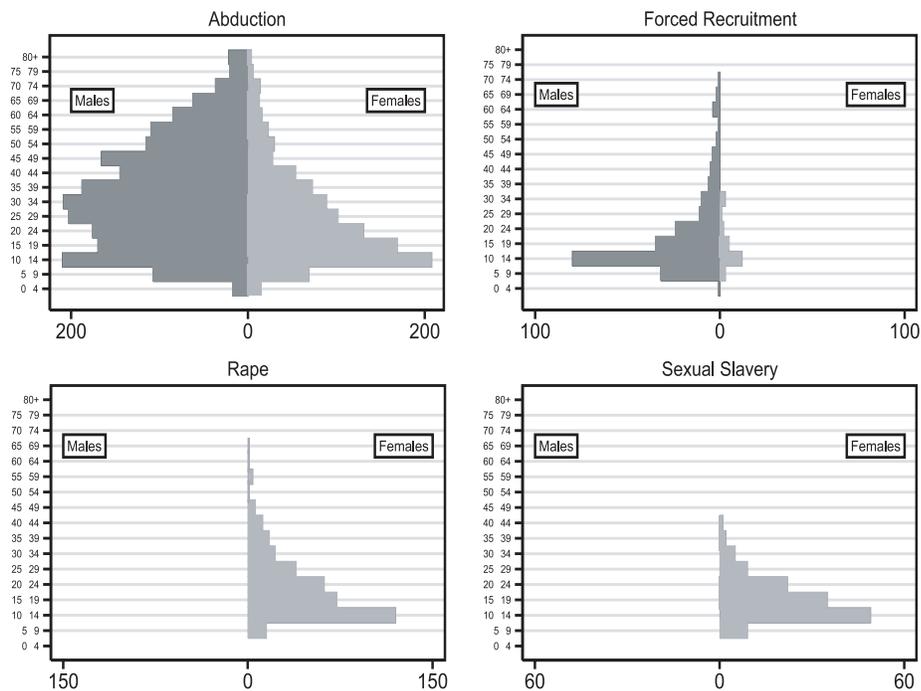
“The RUF and the AFRC were responsible for the bulk of violations committed against children. Nonetheless, systematic and horrific abuses were committed by the pro-government CDF and their powerful Kamajors, as well as by ECOMOG forces.”⁹⁰

124. In a submission made by a children’s group to the Truth and Reconciliation Commission, children themselves made this poignant statement:

“Every child in this country has got a story to tell: a heartbreaking one. Unfortunately, only a handful of these stories will be told and made known to the world. But the devastating impact lingers and endures all the time. It continues to linger in the minds and hearts of young people.”⁹¹

125. The TRC database recorded violations against children in every one of its violations categories. In certain categories, children suffered disproportionately high levels of violations, leading to the conclusion that children were deliberately targeted. These categories included abduction, forced recruitment, rape and sexual slavery, as illustrated by the graphs in Figure 2, below.

Figure 2: Selected violations categories in which children were targeted (violations reported to TRC, according to age / sex of victims)



⁹⁰ See UNICEF submission to TRC, at page 6.

⁹¹ See Children’s Forum Network submission to TRC, at page 2.

ABDUCTION AND FORCED RECRUITMENT

126. A unique feature of the conflict in Sierra Leone was the forcible enlistment and use of child soldiers by all of the armed factions, including the pro-government forces. Among the chief perpetrator factions were the Revolutionary United Front (RUF), the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army (SLA) and the Civil Defence Forces (CDF).
127. The RUF was the first to abduct and forcibly recruit child soldiers.⁹² With the passage of time, the RUF established a separate children's unit known as the Small Boys Unit (SBUs) and Small Girl's Unit (SGUs) under various commanding officers. The government soon followed suit during the NPRC regime of Captain Valentine Strasser (1992-1996), significantly expanding the Army in part by bringing in children as recruits.⁹³ Certain units of the Civil Defence Forces (CDF), the pro-government militia, also made use of children in their prosecution of the war.
128. Thousands of children were abducted in villages and towns during raids and attacks carried out by the RUF. In the month of January 1999, it has been estimated that more than 4,000 children were abducted during the AFRC-led incursion into Freetown.⁹⁴ Many children were also conscripted into the CDF on the basis of "patriotism". In the case of the CDF, parents volunteered and paid for the initiation of their children into the Kamajor militia. While in most instances parents volunteered their children, many were also forced into putting them forward out of fear of very powerful initiators.⁹⁵ They were told that initiation would confer upon their children mystical powers, which would make them impervious to bullets and would protect them from the enemy.
129. Abduction was often the first violation committed against a child and was usually followed by forced recruitment or another form of "adoption" into a faction. Children were abducted and removed from their families or communities to locations under the control of an armed group. A ten-year-old boy told the Commission of his experiences at the time of his abduction:

"During the NPRC period, one early morning, my mother and I were on the farm. Six armed men entered the farm and hid themselves in the hut. We entered... and saw them dressed in SLA uniforms. We were captured and detained with their guns against our heads... The commander of the group was Colonel Mohammed Sesay... he said to me that I should join them or they will kill my mother and myself. I choose to join them since I had no option... I joined them unwillingly at an early age of 10 years. On our way to Kailahun I was given a weapon called AK-47 and taught how to shoot on sight. We attacked so many villages I could not remember their names, until we reached Kailahun, which was the headquarter town of the RUF."⁹⁶

⁹² More detail on the emergence of the violation of forced recruitment in the RUF can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

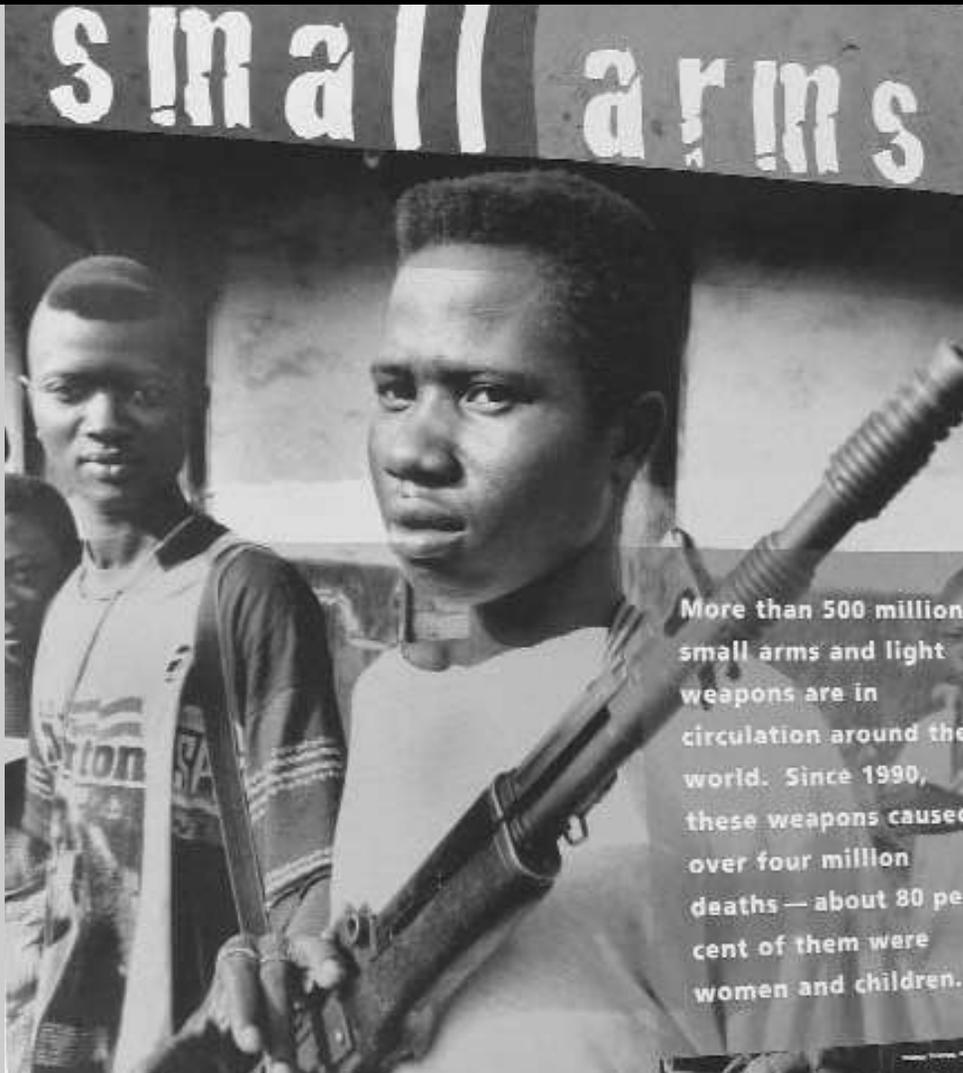
⁹³ See Zack-Williams, A. B.; "Child Soldiers in the Civil War in Sierra Leone", in *Review of African Political Economy*, No.87 73 82, 2001, at page 74.

⁹⁴ See the UN Special Report on Children in Armed Conflict, with its extensive mention of the Sierra Leone conflict, available at the website: <http://www.un.org/special-rep/children-armed-conflict/>.

⁹⁵ More detail on the roles and violations of initiators within the CDF can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

⁹⁶ TRC confidential statement recorded in Freetown, 12 January 2003.

TRC



A poster displayed at TRC Headquarters in Freetown describes the dangers of the trade in small arms and the increasing involvement of children in armed conflict.

130. Abduction and forced recruitment were also followed by other violations, as illustrated by the testimonies of these child witnesses:

"In 1993, I was abducted by rebels and taken to the bush... My sister and I were taken away from my grandmother... I cannot tell for now whether my grandmother and sister are alive... I went to stay with the rebels in a village... I used to carry loads on my head, such as looted properties, for long distances. I was taken with others to be trained in another rebel base, for about two months... we were then sent to different areas. They used to kill us SBUs, or small soldiers... we used to go out on food-finding trips to villages. When we brought the food, it was only for the commanders and we were given just cassava to eat. I and other abductees were not getting enough food to eat... they told us that if we attempt to escape they will kill us... they used to beat me and others if we failed to carry out their orders... I was with them till 1999..."⁹⁷

[and]

"...I was attending the St. Francis Primary School Makeni, I was in class three... During the 1998 intervention period, RUF Colonel Kole Boot came with five armed men to my house, they started beating all of us and raping my mother, sisters and aunts in front of me. When they finished, the Colonel turned to me and said I should choose between death and following them. I followed them to Kamakwe; there he injected me, cut my face with a blade and plastered the drug into the wound. I became unconscious and fell on the ground. When I regained my consciousness, he showed me how to fire, dismantle and couple up a gun... he took me to Colonel Alabama for training. I trained for two months and passed out... I later joined SLA Major Palmer, who led me in several battles..."⁹⁸

[and]

"...We were taken to another house where we were raped... they gave us their luggage to carry to Fadugu. On the way they flogged us. Upon our arrival we were distributed to different rebels to be married to. When we refused, they flogged us. We were raped by two or three men daily... we eventually got married to them. They gave us drugs like marijuana to smoke... they looted properties whilst we carried their ammunitions..."⁹⁹

131. Children soon found that gender and age did not matter to their perpetrators as they were used in various roles for the war effort. In addition to being used as fighters, girl-children were also used as sex slaves and domestic labour. A ten-year-old girl told her story of capture at the time of an attack:

"It was sometime in 1997 during the first attack in Fadugu... I was in the house when the door was broken open and three of us including a boy and a girl were abducted. I was taken by one Amadu Koroma, an RUF member, to be a helper to his wife, who was pregnant... in Kono..."

⁹⁷ TRC confidential statement recorded in Makeni, Bombali District, 12 December 2002.

⁹⁸ TRC confidential statement recorded in Freetown, 22 December 2002.

⁹⁹ Confidential testimony received during TRC Closed Hearings, Koinadugu District; 14 May 2003.

On the way going, the elder brother called Mohammed said he wants me to be his wife. Amadu then said the girl is small. When Amadu left for the usual patrol, his brother raped and virginated me... I was used as a domestic labourer for the wife of Amadu Koroma... we were then recalled to Makeni by Superman. I was then given an ammunition box to carry on my head..."¹⁰⁰

132. Younger children were not initially used to fight and instead were used as load carriers and domestic labour. Later on they graduated to becoming sex slaves and fighters in the case of girls, or fighters in the case of boys.

133. Some of the children abducted by the RUF, from Yambama (Bo), Ngegbema (Kailahun) and Njagbwema Faima (Kono) respectively, recounted their experiences in the following terms:

"Every morning there will be a roll call to share duties between different groups: one group to find food for them; another group to carry out fishing; others to cook; others were sex workers. Little children were responsible to carry loads, whether heavy or not. After all the day's work, we don't eat their food; we only live on cassava."¹⁰¹

[and]

"When I was sent on missions, I used to capture young boys and girls and train them as child soldiers... After all my successes; I was called Merciful Killer and later transferred to join the RUF high commander Colonel Issa Sesay."¹⁰²

[and]

"I was captured by the RUF at a very small age (seven years) in 1994. No sooner was I given my own weapon, I was forced to go to the war front with my colleagues to attack our enemies. Sometimes I was under drugs, because it is not easy for somebody to join the movement if you are not introduced to drugs."¹⁰³

134. Child soldiers lived in a hostile and extremely violent environment. They became conditioned to violence and committed heinous crimes, often under the influence of dependence-inducing substances.

135. Child soldiers were often forced by their captors to commit heinous atrocities in order to demonstrate loyalty to them and their cause. Atrocities often included carrying out the killings, amputations and rape of loved ones, community members, relatives and peers. Atrocities against family and community made it extremely difficult for child soldiers to escape and return home. Unsuccessful escapes met with swift and violent reprisals intended to ensure that no child combatant attempted escape in the future. Some of the child witnesses testified to the commission of their experiences:

"In the evening, they gathered all of us youngsters and we were put in chains. We were taken to the secondary school for training. Later, I escaped with a brother called Juana. He was caught and shot on sight..."¹⁰⁴

¹⁰⁰ TRC confidential statement recorded in Fadugu Kasunko Chiefdom, 14 January 2003.

¹⁰¹ TRC confidential statement recorded in Bo District, 28 January 2003.

¹⁰² TRC confidential statement recorded in Kailahun District, 21 January 2003.

¹⁰³ TRC confidential statement recorded in Kono District, 15 January 2003.

¹⁰⁴ TRC confidential statement recorded in Freetown, 7 December 2003.

"I was captured together with five other girls at Sierra Rutile and taken to a base at Mattru Jong... I was thirteen years old at the time... Later we tried to escape but we were caught, beaten and brought back to the base. We were then trained for about six months."¹⁰⁵

[and]

"I was captured by the RUF whilst my parents and I were trying to escape from Kailahun. I was taken to a base outside Kailahun for training and I decided to escape. When they caught me, I was stabbed on the head with a military knife, beaten and taken back to the training base."¹⁰⁶

136. Most of the armed factions used children at checkpoints. They set them up and manned them in conjunction with adults. This trait was one violation the RUF and the CDF had in common. Many civilians who came before the Commission told of their fear of the children at checkpoints.
137. Another aspect to the forced recruitment of children was "re-recruitment" after the disarmament process. During 1998 when the disarmament process commenced, many of the children disarmed were re-recruited back by the same armed groups. This was especially true of children who did not have a safe and secure home environment, even before the war. Children who fell into this category often had no safe place to go following demobilisation, particularly when their allotted times in the Interim Care Centres (ICCs) were up.¹⁰⁷ The failure to take this factor into account impacted negatively on the demobilisation and disarmament process.
138. Many of the abducted children often had siblings and relatives who had also been abducted. All family members learnt very quickly not to expose their relationships to their captors as the possibility existed that they might be held responsible for the actions of the other, especially if the other escaped. In such instances they would be severely punished. A child witness testified as follows:
- "The rebels attacked Serabu and we fled into the bush... I ran away with my brother and sister. Unfortunately for us, we were captured and taken to the town... the following morning, one of the rebels came into search for us but he did not see my brother and sister. They threatened to kill me because they thought I had incited them to escape. I understood later that my brother had escaped... I was singled out and asked to lie down under the sun... Whilst standing outside, I was shot on my left foot..."¹⁰⁸
139. Statistics in Sierra Leone are problematic to obtain. The exact number of children who were abducted and forcibly recruited is difficult to ascertain. According to the TRC database, 28,3% of the victims who suffered forced recruitment were 12 years or younger at the time of abduction; 52,5% were 15 years or younger; and 63,1% were 18 years or younger.¹⁰⁹ The number of children who made statements to the Commission is not, however, reflective of all the children whose rights were violated during the conflict period.

¹⁰⁵ TRC confidential statement recorded in Cline Town, 13 January 2003.

¹⁰⁶ TRC confidential statement recorded in Kailahun District, 19 February 2003.

¹⁰⁷ See UNICEF submission to TRC, at page 18.

¹⁰⁸ Confidential testimony received during TRC Closed Hearings, Kenema District, 28 May 2003.

¹⁰⁹ More detail on violations rates and the levels of different violations experienced by children can be found in the Statistical Report produced as an Appendix to this report.

140. The Children's Forum Network in its submission to the Commission expressed children's current plight in the following excerpt:

"Adults, who were disgruntled and acted through the senseless and indiscriminate atrocities, were unable to reach what was supposed to be their real targets and decided to take advantage of our vulnerability to exploit and destroy the future base of this nation, which they claimed to have been fighting for... It goes without saying that we the children bore the brunt of the conflict and witnessed the worst episode of man's ruthlessness probably ever in man's history."¹¹⁰

FORCED DISPLACEMENT

141. The fear of attack and subsequent violations, as well as widespread intimidation during the conflict, resulted in people fleeing their homes for more secure areas both in and out of the country. The mayhem and confusion that always accompanied attacks led to massive forced displacement within communities, towns and villages, as well as forced separation of families. Forced displacement in Sierra Leone during the conflict period was not a one-off occurrence, but rather became a way of life for many victims:

"I was living in a village at Jawi Chiefdom in Kailahun District when RUF rebels attacked us in 1991. At that time I was staying with my father, my mother and other relatives... we moved to Tongo and stayed there for one year. In 1992, RUF attacked Tongo Town, at that time my mother had an eight months pregnancy, and she was killed by a stray bullet. After that, I and my father ran to Kenema Town"¹¹¹

[and]

"...I was living in Kawoya village, Moyamba District with my parents. One day the RUF rebels attacked our village in 1995. I left our village with my parents and went to smaller villages to hide. We were also attacked in one of these smaller villages, my parents, sisters and brothers fled to the bush to hide. I was captured alone in the village by plenty of rebels..."¹¹²

142. The people worst affected by sudden and forced displacement were usually in the most vulnerable groups: children, women and the aged. As these testimonies illustrate, families were often broken up as they sought safety:

"It happened in the year 1997 when there was a series of factions attacking Koindu. Unfortunately... one afternoon the attack that happened by the group of SLA caused my separation from my family members, that is my father and my mother. It was very much sorrowful at the time I was separated from my mother. It was not easy at all and by then I was just 11 years old, very immature... I finally separated from my family members and went into the jungle..."¹¹³

¹¹⁰ See Children's Forum Network submission to TRC, at page 1.

¹¹¹ TRC confidential statement recorded in Freetown, 14 January 2003.

¹¹² TRC confidential statement recorded in Aberdeen Amputee Camp, 24 March 2003.

¹¹³ TRC confidential statement recorded in a refugee camp in Kissidougou, Guinea, 27 May 2003.

[and]

“Rebels attacked us in this town, Kunnandu, and I ran for my life with my mother and sister. On our way going to Guinea... we met another rebel group RUF at Kulumbaya town, which is located along the border of Sierra Leone and Guinea... After capturing us, they instructed my mother and sister to go and leave me because the C. O. was not going to release me. He attempted to kill my mother when she refused to go... the man then took me to Koidu and my mother was headed for Guinea...”¹¹⁴

143. The Ministry of Social Welfare, Gender and Children Affairs (MSWGCA) estimates that more than 15,000 children suffered separation from their families and communities during the eleven-year war.¹¹⁵ Separation resulted in children becoming refugees in countries such as Liberia, Guinea, Gambia, Ivory Coast, Nigeria and other West African states. Many became internally displaced persons within the country.¹¹⁶ The Women’s Commission for Refugee Women and Children estimated that by 1996, there were more than 700,000 internally displaced persons in IDP camps across Sierra Leone.¹¹⁷

“I was staying with my parents when the RUF attacked us here in Koidu Town. My father took us to Njagbema Fiama bush... we were again attacked in the bush by RUF rebels and captured... All of us were given loads to carry, including my dad. On our going my other sister was given load not equivalent to her strength... the sooner she announced it to them that she cannot continue, her hand was amputated... because of the nature of her profuse bleeding, we were given passage to cross to Guinea...”¹¹⁸

144. UNICEF has estimated that the war displaced 1.8 million Sierra Leoneans from their homes. This of course only refers to that category of displaced persons who could be counted in refugee or IDP camps. It did not count the remaining 2.4 million people who fled to parts of the “bush”. They were affected and displaced “in the bush”.
145. Many children found themselves alone without kith or kin in both refugee camps and camps for the internally displaced. Their experiences were very harrowing. The lack of a normal family structure amidst the difficult new environment was a bewildering experience for children. Sadly many suffered even further violations in these camps perpetrated by those meant to protect them. Many children did not survive these experiences. The sexual exploitation of Sierra Leone children in refugee camps has been well documented in the UNHCR and Save the Children UK report of February 2002.¹¹⁹ In addition, they also suffered other violations such as economic exploitation and slave labour. Children were forced into adulthood before their time.

¹¹⁴ TRC confidential statement recorded in Kunundu Town, Lei Chiefdom, 27 January 2003.

¹¹⁵ See the Ministry of Social Welfare, Gender and Children’s Affairs, Submission to the Truth and Reconciliation Commission on the occasion of TRC Special Thematic Hearings on Children; 16 June 2003 (hereinafter “Ministry of Gender and Children’s Affairs submission to TRC”).

¹¹⁶ Ministry of Gender and Children’s Affairs submission to TRC

¹¹⁷ Report by Women’s Commission for Refugee Women and Children

¹¹⁸ TRC confidential statement recorded in Samandu, Gbense Chiefdom, 4 February 2003.

¹¹⁹ See Save the Children – UK and UNHCR, “*Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone*”, April 2002, at page 25.

FORCED LABOUR

146. Children were also used as forced labour by the armed groups. They were used as porters in both military and civilian capacities. The role of porters, or “human caravans”, included moving the properties of the armed groups, carrying looted properties away after raids and carrying arms and ammunitions to and from the war front. This practice began with the RUF and, in the jargon of the RUF, these children were part of what was referred to as “manpower”:

“...Each time they went to go and fight, we were forced to go with them... we were forced to carry the ammunition boxes and cartridge boxes on our heads...”¹²⁰

147. Children were often made to carry heavy loads for long distances, making escape difficult, especially for younger children who could not trace their way back home. In many instances, children were abducted and immediately used as forced labour:

“I was in Kono when the RUF attacked Kono. It was the time when the South Africans were in Kono...I was among some thirty-seven girl-children who was captured by Superman’s boys...I was given load to carry on my head from Kono to Makeni. I used to carry loads every day from Kono to Makeni”¹²¹

[and]

“I was in Fadugu in November 1999 when rebels of the AFRC attacked the town... I was captured and abducted... During my stay with Savage and his troops, I was used as a porter for their looted items. They raided several villages and farms on looting missions... in the process, they captured creatures such as goats, cows, sheep, fowls and food stuffs like rice, groundnuts and others.”¹²²

148. Children were forced to carry out domestic chores and would be assigned to “wives” of Commanders and to work for them on a daily basis.

“... While we were at Lunsar; I used to work with the women in the kitchen. I used to go and fetch water...”¹²³

¹²⁰ TRC confidential statement recorded in Pendembu Town, Kailahun, 24 January 2003.

¹²¹ TRC confidential statement recorded at Check Point, Magbenma, 12 December 2002.

¹²² TRC confidential statement recorded in Kabala Town, Koinadugu District; 17 December 2002.

¹²³ TRC confidential statement recorded at Check Point, Magbenma, 12 December 2002.

149. Many children testified to the Commission of how hard they had to work, often on an empty stomach. They were punished for the slightest infraction and any perceived “misdemeanours”. They then suffered further violations. It was mostly girls and very young children who were used in this way. Some of the children testified of their experiences as load carriers and domestic slaves:

“Rebels got to Tarinahun Pesseh one afternoon in 1993, on a Wednesday... I was caught, tied and given a big bag of things to carry to Pujehun... As a small boy, I suffered under the load from Tarinahun to Pujehun... At Pujehun... they used to beat me every morning, I had barely enough food to eat... I used to launder for them and their girl friends. I was taken to almost all of the nearby villages to get food and fowls for them. I was punished if I failed... one day I was sent to find food together with a few others... on our way, I was bitten by a snake. Only God knew how I was cured...”¹²⁴

150. Children were later used by many of the armed factions to work in the diamond mines under the most appalling, back-breaking conditions.
151. Children generally worked in conditions that were extremely violent and where the slightest mistake was severely punished, often resulting in death.

SEXUAL VIOLATIONS AGAINST CHILDREN (RAPE, SEXUAL SLAVERY AND SEXUAL ABUSE)

152. The Commission has not been able to establish conclusively how many children were raped or suffered sexual violence and sexual slavery due to the difficulties with statistics in Sierra Leone. However the Commission’s database and the testimonies recorded during TRC hearings confirm that all of the armed forces perpetrated rape, sexual slavery and sexual violence. The Commission’s database points to the systematic nature of sexual violence during the conflict period and how it affected mostly girl children.
153. From the commission’s data, 25% of rape victims with ages documented were 13 years of age or younger and 25% of sexual slaves with ages documented were children aged 12 or under.¹²⁵ Also, 50% of sexual slaves with ages documented were children aged 15 or under at the time they were abducted.¹²⁶ The most targeted age range for this violation comprised girls and women aged between ten and 25 years.¹²⁷
154. While women who have been sexually violated usually bear a stigma all over the world, it is even worse in a country like Sierra Leone where the prevailing culture is a deeply traditional and secretive one. Victims tend not to disclose their experiences, as they fear stigmatisation from family members and their communities. Historically women in Sierra Leone did not disclose rape. This pattern has remained true even for the conflict period and its aftermath.

¹²⁴ TRC confidential statement recorded in Pujehun Town, 28 February 2003.

¹²⁵ More detail on violations rates and the levels of different violations experienced by children can be found in the Statistical Report produced as an Appendix to this report.

¹²⁶ See the Statistical Report produced as an Appendix to this report.

¹²⁷ See the Statistical Report produced as an Appendix to this report.

155. Had it not been for the efforts of FAWE and other women's NGOs, as well as the sheer number of girls and women who suffered sexual violations, particularly during the invasion of Freetown, there would not have been much exposure of this category of violations. Despite all efforts to date, full disclosure has still not been achieved. It is important to note that the Commission's data is only a small representation of the problem and does not do justice to the total number of women who have suffered sexual violence.

RAPE

156. During the conflict, girls were subjected to indiscriminate rape as a matter of course. They were raped whenever and wherever a member of an armed group encountered them, if the opportunity presented itself. Rape took place everywhere, both in and outside houses and in the bushes. The circumstances of rape depended on the whim or mood of the perpetrator and whatever pleased him. Girls suffered crushing dehumanisation in the course of even the most familiar daily routine situations:

"When the RUF rebels captured us, they took us to Kailahun... They beat us and sent us to fetch firewood and food... when we went to fetch fire wood, the rebels that went with us raped me... After the signing of the peace, the rebel Colonel Akim told his men to take all the children they have captured back to their people... on our way the man that captured me raped me again."¹²⁸

157. Girls were raped at times when they were highly vulnerable, left without proper protection and taken advantage of:

"...At one time, Mummy Peoples went on a journey and left me in care of another lady called Marion. While she was away, a rebel called Abdul virginated me. We were over 20 in number. All of us were virginated by different rebels. I became seriously ill and paralysed..."¹²⁹

158. Several girls testified that they had become lost in the forest after ambushes, captured and raped:

"In 1998, in the forest at Yardu Sandor, the rebels captured me and my sister...At midnight one of the rebels enter into the room and said "let us have sex". So we told him that we do not know what he is talking about. He went outside and brought his gun... he then entered to us again, with his gun and raped three of us. I was bleeding seriously..."¹³⁰

159. A man from Kailahun told the Commission of his role in rape violations:

"I was appointed to lead the civilians as town commander. Rebel soldiers of the RUF informed me that they needed girls to have sex and sleep with. With not much ado, I collected ten girls including a 14 year old."¹³¹

¹²⁸ TRC confidential statement recorded in Boroma Gbense, 7 December 2002.

¹²⁹ TRC confidential statement recorded in Kissy, Freetown, 12 February 2003.

¹³⁰ TRC confidential statement recorded in Gbense Chiefdom, 4 February 2003

¹³¹ TRC confidential statement recorded in Kailahun District, 20 February 2003.

160. A victim of rape testified of her ordeal as she was attacked in what ought to have been the safety of her own home:

“During the war when the rebels entered Madina a man met me sleeping. This man woke me up from sleep and told me he was going to rape me. This man asked me to choose whether he was to rape me or to kill me. Indeed, he raped me.”¹³²

161. Girls were subjected to individual or gang rapes by their captors. The Commission’s database also confirms that a significant number of these girls suffered multiple rapes.¹³³ Rape was not a violation suffered in isolation as it was often committed in the presence of others and perpetrated together with other violations.

“We were attacked on the road, on a vehicle and I was captured again... along with some other people, we were taken into the bush... afterwards they went to attack and we were left with some other rebels. These rebels forcefully had sex with us. All the women and girls were raped...”¹³⁴

162. Girls were also tortured and assaulted before being raped. Many died of injuries sustained because of the rape.

“In 1992, my village Foindu Mawie was attacked by the RUF rebels... on their way going; they captured a young girl called Musu who was newly initiated into the women’s society. She was taken to a village called Juhun in the Upper Bambara chiefdom, where she was raped by the rebels. Her vagina became swollen and there was no medical treatment at that time. She later died of pains because she was newly initiated...”¹³⁵

163. Many of the girls raped were also forced into becoming fighters for the armed factions. Becoming part of the fighting forces did not protect them from being raped or from falling pregnant. A girl who suffered rape at Koinadugu at the hands of an RUF member testified thus:

“I was taken in 1998 by a boy called lieutenant Put Fire, who I later came to know as Edward Kamara. He raped me under threat. By then I was only 14 years old and I had just been involved in sexual intercourse, but was not used to it. I was with them for three months. We the captives were trained to fire guns and I also witnessed the attack on Fadugu the second time; several people were killed and houses burnt down. I became pregnant later on and got a baby boy.”

¹³² Confidential testimony received during TRC Closed Hearings in Bombali District; 28 May 2003

¹³³ More detail on the manner and circumstances in which girls suffered sexual violations can be found in the results of the Commission’s special coding exercises on sexual violations included in the Statistical Report produced as an Appendix to this report.

¹³⁴ TRC confidential statement recorded at Check Point, Magbenma, 12 December 2002.

¹³⁵ TRC confidential statement recorded at a secret society house, Peje Bongre, 11 March 2003.

164. Girls were not only viciously raped, but also suffered further violations and harm by having objects such as sticks, bayonets, pepper and burning coals inserted into their vaginas by depraved perpetrators. Many of the girls suffered even more horrible injuries because of the insertion of objects into their vaginas. In many instances this kind of rape led to their deaths or permanent vaginal and uterine injuries.
165. Displaced children in refugee camps and displaced camps were also vulnerable to rape and sexual violence. According to the UNHCR / Save the Children UK report on sexual violations and exploitation, children were most vulnerable and experienced attempted rapes in locations such as the toilet and bathroom areas in the camps. Bathing and toilet areas, while divided on gender lines, were usually communal and were often located in the same vicinity. Adult male predators usually lay in wait for the girls, followed them and raped them. Children hawking goods or running errands such as fetching firewood were also attacked and raped. Sadly many of the children were attacked and raped by their adult guardians. Humanitarian workers meant to protect the children carried out the most deplorable violations.¹³⁶
166. A major characteristic of sexual violence in Sierra Leone, including rape, has been the systematic breaking of all taboos by the perpetrators. They have respected neither age nor custom. Many of the children raped were pre-pubescent and had not begun menstruating. Yet they were still raped and taken as sexual slaves. Acts of rape and sexual violence were often carried out in the presence of helpless family members, who in turn were forced to watch. In other instances, family members were forced to commit such acts against one another.
167. A victim who attempted to oppose being raped invariably met with more violations. Perpetrators did not heed calls for mercy and often treated refusal with utter contempt, not only committing the rape but also following it with acts of greater violence. Family members who tried to stop such acts usually met with brutal reactions and often ended up being killed.
168. According to a girl who left Freetown with her family for safe haven in Tikonko:

"When the junta attacked our village, we fled to the bush for hiding and were caught. Two men took me aside and deflowered me. When my mother tried to stop them, she was shot dead."¹³⁷
169. The lowest age of a rape victim recorded by the Commission's database was four years old.

¹³⁶ More detail of the gross violations perpetrated against children in refugee camps, including rape by their adult guardians, can be found in the following report: Save the Children – UK and UNHCR, "Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone", April 2002.

¹³⁷ TRC confidential statement recorded in Sakiema Dea Chiefdom, 19 December 2002.

SEXUAL SLAVERY

170. Girls were captured, abducted, detained and used as sexual slaves throughout the course of the conflict in Sierra Leone. Many of the girls were detained for longer periods and were forced to move around with their captors. In many instances they were compelled against their will to become members of the armed groups. Most girls abducted by the RUF and the AFRC were forced by their captors to be "sexual slaves". Armed combatants would be assigned a woman who had been captured to use for the purposes of sex. These girls were compelled to be available to their captors for sex. This form of sexual slavery was peculiar to the RUF and AFRC and resulted in the "bush wife" phenomenon. Even girls who were detained for short periods of time by their captors were forced into sexual slavery. The Commission reveals testimony given to it by some of the girls who suffered this experience:

"On 6 March 1994, on a Sunday morning at about 10 am, I was in my house... Immediately, I saw so many rebels which I cannot state their number... at least, five of them ran after me and held me... one of their commander called C.O Koroma...said he the C.O was going to have me as his wife..."¹³⁸

[and]

"It happened during the January 1999 rebel invasion, on a Friday... I was a virgin little girl that time. We went and hid in a mosque. From there, I was captured by the juntas. When they went to our mosques, they took us away..."¹³⁹

171. While some of the girls were assigned and attached to one partner, such attachment did not prevent other perpetrators from using them, particularly if the combatant they were attached to was not a senior commander. As the following testimony indicates, sexual slaves had to be available to all:

"On our arrival we were assigned to the wives of commanders and later given to commanders or fighters to be their bush wives. As a bush wife, my duties were to provide for him anything he requested, including sex at any time of the day. I was used as a sex slave for each commander when they came to our camp, especially because my bush husband was not a senior commander. I was with them for six years."¹⁴⁰

¹³⁸ TRC confidential statement recorded in Pendembu Town, Upper Bambara; 24 January 2003.

¹³⁹ TRC confidential statement recorded in Freetown, 5 December 2002.

¹⁴⁰ TRC confidential statement recorded in Moyamba Town, Kaiyamba Chiefdom, 14 June 2003.

172. "Bush wives" suffered sexual abuse at the hands of third party perpetrators, particularly when their assigned "husbands" were away. In other instances abuse by others took place with the agreement of their captors. Girls soon lost their innocence and were robbed of their childhood. One young girl had this ordeal to report to the Commission:

"I lost my virginity to this C. O. Koroma, who was 45 years old. I was kept in a locked room always ready for him to sex me. Sometimes when he is away, his junior boys will come and open the door, sometimes three, sometimes four men. They will force me, telling me if I refuse them they will kill me. As a small girl I will allow them to satisfy themselves till they leave me hopelessly..."¹⁴¹

173. A girl often found herself being passed around to other fighters if her "partner" was killed in battle. Testimony given to the Commission by girls who were forced to become "bush wives" speaks of a desperate existence:

"When I was captured, we used to go on attacks and food raids... whenever my husband was not around, his colleagues would come and rape me... sometimes five, even up to ten of them would rape me for the day... They used to give me cocaine... we had to fight and kill people before we could get food from them... sometimes we ate mud and drank human blood."¹⁴²

[and]

"...On our way going, some of our companions died...its only God and sacrifices that saved my life... The boy that abducted me to Makeni impregnated me, but he was killed by another rebel..."¹⁴³

174. Many of the girls became pregnant and had children from their captors. Pregnancy did not protect them from suffering violations at the hands of their perpetrators, however. Many girls testified that their ill treatment at the hands of their captors if anything intensified during their pregnancies. A girl who was 12 years old at the time of her capture told the commission of her experiences:

"The second bush husband who took me was too jealous. He used to sex me all the time and the day I said I was unable or tired, he would beat me up mercilessly. I was denied food each time there was confusion between us. I stayed with Morray Kamara until the year 2000. While I was pregnant, he would beat me up and at one time when I tried to run away from him, he chased me, caught me and dragged me up. My left hand wrist got sprained, up till now. I finally escaped from him, leaving the two children behind."¹⁴⁴

¹⁴¹ TRC confidential statement recorded in Pendembu Town, Upper Bambara; 24 January 2003.

¹⁴² TRC confidential statement recorded in Moyamba District, 18 March 2003.

¹⁴³ TRC confidential statement recorded in Freetown, 5 December 2002.

¹⁴⁴ TRC confidential statement recorded in Limba, Bagbo Chiefdom, Bo, 10 February 2003.

AMPUTATION

175. Amputation is the violation that most of the world associates with the conflict in Sierra Leone. The Revolutionary United Front and the AFRC became notorious for carrying out amputations, which became their gruesome trademark. Neither of these perpetrator groups paid any heed to the age or gender of their victims, as even the hands and limbs of young children and babies were hacked off. The youngest baby amputee recorded on the Commission's database was only four months old.¹⁴⁵ Some were made single amputees, others double amputees of either hands or legs. Children testified to the Commission of their experiences of amputations as follows:

"At about 2.00 a.m. the rebels attacked our town Batkanu... We were asleep...as I woke up, I wanted to run away but unfortunately I met a rebel at the door ... they continued to capture other girls...they had to put us all in the same place... they sent one boy who was just a little taller than me... to go and bring a mortar... I was the third person they called... they said I should lay my hand on the mortar... I placed my right hand and they chopped off the hand... they asked me to lay my left hand and they chopped it three times; the fourth time I had to remove it by force. The machete was dull, otherwise the hand would have come off...I was twelve years old then."¹⁴⁶

[and]

"I was attending the Ahmadiyya Muslim Secondary School, I was in Form 1. I was 14 years old. On 8 January 1999, RUF and AFRC soldiers came to my house... they captured me and some boys... They used a fence stick and hung me up like a goat. The handicapped rebel among them used a blunt axe and struck it twice on my left hand and broke my bone... one of the rebels came with a dispenser who cut off my hand without anaesthetic. My hand was given to my mother and she threw it into the sea..."¹⁴⁷

[and]

"...I was captured alone... by plenty of rebels. They asked me to choose between death and amputation. I did not reply them. They began to decide among themselves what to do to me. They finally agreed to cut off one of my feet. They brought a bulky stick and placed my foot on it... they first used a cutlass but it was blunt, they finally used an axe to amputate my right foot and went away. I was left lying on the ground unconscious until when my parents came in the morning..."¹⁴⁸

176. As medical care during this period was generally unavailable anywhere in the country, many of the children who suffered amputations, particularly in the provinces, did not survive their injuries.

¹⁴⁵ More detail on the manner and circumstances in which amputations were carried out can be found in the Amputations Report produced as an Appendix to this report. See also the Statistical Report produced as an Appendix to this report for details of the scope of victims of each violation.

¹⁴⁶ Confidential testimony received during TRC closed hearings in Makeni, 28 May 2003.

¹⁴⁷ TRC confidential statement recorded in Aberdeen Amputee Camp, 19 March 2003.

¹⁴⁸ TRC confidential statement recorded in Aberdeen Amputee Camp, 24 March 2003.

177. Amputation has had a significant impact on its victims, affecting them physically, psychologically and economically. A common sight on the street corners of Freetown is the presence of limbless children begging as a means of obtaining daily sustenance. A boy who was 14 years old at the time of his amputation told the Commission of the effect on him today:

“...When I was discharged [from hospital], I was ashamed to go to my area, I always lock myself up in my house so that people could not notice me. I have also stopped attending school...”¹⁴⁹

178. In a country where poverty, unemployment and disaffection afflict even the able-bodied youth, the plight of amputees is compounded by severe physical discomfort, emotional turmoil and discrimination from others.

MUTILATION

179. Mutilation was another form of abuse inflicted by the fighting forces on the children of Sierra Leone. The acronyms of the armed factions, most commonly in forms such as “RUF”, “AFRC” and “Ex-SLA”, were branded or carved on children’s bodies, including on their chests, foreheads, arms and backs. A number of children testified to the Commission of their experiences:

“After we had been captured and trained, they forced us to take up guns and we attacked several villages... All those who tried to run away were caught and labelled “RUF” with knives, blades or sharp sticks”¹⁵⁰

[and]

“One Saturday night, I was sleeping when the rebels attacked Bafodia at about 6.30 am in the morning. They surrounded the village and they knocked on our doors... the rebels asked for the children... they forced the door open and captured eight of us... in the morning they took us to another house where they inscribed “RUF” on our bodies.”¹⁵¹

180. The Commission is of the view that the main purpose of mutilation in this fashion was to mark children in order to prevent them from escaping from their captors. The branding served as an identification mark, as armed groups used it to identify and recapture children who escaped. Moreover, children with such marks came to know that if they fell into the hands of the opposing forces, they would be identified as enemy combatants and often end up being killed. Many children also died as a result of the act of branding, when their scars became infected and did not heal.
181. A major problem for many children after the war was the stigma attached to their being marked in this way. Families and communities shunned them as having belonged to the “rebels”. They were stigmatised, causing them great long-term shame and fear.¹⁵² Even today, many children hide these scars by wearing clothes that cover them.¹⁵³

¹⁴⁹ TRC confidential statement recorded in Aberdeen Amputee Camp, 19 March 2003.

¹⁵⁰ TRC confidential statement recorded in Cline Town, Freetown, 13 January 2003.

¹⁵¹ Confidential testimony received during TRC closed hearings in Koinadugu District, 14 May 2003.

¹⁵² See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

¹⁵³ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

TORTURE

182. Children were subjected to both mental and physical torture during the conflict. Severe beatings and punishment were inflicted on them, resulting in physical injuries, bleeding and internal injuries, permanent disability and in some cases death. Mothers suffered the mental anguish of watching their children being tortured and killed. A mother told the Commission of her experiences:

“Rebels attacked us in Teblahun on 19 January 1995... from that point we became their captives... At Baoya, we met heavy fighting. During that fighting, my daughter Soffie's fingers from both hands were cut off. Three fingers from one hand and two from the other; by then she was only twelve years old... After that, they took us to a place called Lekono. On our arrival, we were all told to enter one house, which we did and they set it on fire... two of my children were burnt in it. Both of them were girls, one was three and the other was five years old... At another time, my grandchild, a boy of about seven years old called Mustapha, was stabbed in the stomach and his intestines came out...”¹⁵⁴

183. Children were tortured when caught and detained. In those instances when their parents were detained, they were detained with them. They also suffered torture whilst in detention. A child described his experiences in detention to the Commission:

“...We were all captured, by the RUF and were taken to Congo Bridge. I was stripped naked, tied up and put into their “detention container”. We were there for two days, naked and without food. I was beaten severely with the butts of guns by three men... I managed to escape...but I was again caught... I was then beaten even more severely...”¹⁵⁵

184. Children also testified to the Commission of the inhuman and degrading treatment to which they were subjected. They were forced to eat human excrement, drink human blood and participate in forced cannibalism. Some of the victims of these aberrations testified to the Commission:

“I was at Mordavies with my father... I was sitting in front of the house when I saw a lot of people coming led by my father's brother Usman Kamara... I was then tied together with my father... they took a stone and hit the face of my father and he was then killed and they removed his blood and put it in a cup and said “drink this blood or else we will kill you”; so I have no alternative but to drink the blood...”¹⁵⁶

[and]

“When I was captured, I was given toilet to eat and when they saw that I had developed a swollen stomach, one of them said they should bayonet me, which they did on my navel”¹⁵⁷

¹⁵⁴ Kangboi Nyallay, TRC statement, Sahn Bumpe, Bo District, 4 February 2003.

¹⁵⁵ TRC confidential statement recorded in Koidu Town, Kono; 12 December 2002.

¹⁵⁶ Confidential testimony received during TRC closed hearings in Moyamba District, 11 June 2003.

¹⁵⁷ Confidential testimony received during TRC closed hearings in Makeni Town, 28 May 2003.

185. Children testified of the horrors of being forced to participate in cannibalism:

“On 6 January 1999, RUF and SLA rebels attacked my house near Kissy Mental Hospital... they shot my sister at the top of her head and all her blood spilled over my body. I had wanted to cry, but they told me that if I do they would kill me also. The rebels also gave me human flesh to eat. After they have killed my sister, they cut off her head and they told me to dance and laugh; having done that, they released me.”¹⁵⁸

[and]

“On 17 June 1999, my friends and I went to Sittia to buy cassava. I was fourteen years old then. We were caught by the Kamajors on the way... while we were there they told us to sit under the sun... they questioned us, asking “why did our parents send us to buy cassava at a time of war?” We said it was because of hunger... While we were sitting a Kamajor by the name of Mboi came and took one of our brothers under a palm tree in a corner and killed him, cooked his body and served it as food. They gave it to us to eat, but we refused their food... they said they would kill us...”¹⁵⁹

186. Many children died while undergoing combat training in the hands of the armed factions. While the acts entailed in training were presumably meant to toughen children up as soldiers, they also doubled as forms of punishment for perceived wrongdoings. Children told the Commission of how they were forced to undergo various ordeals, including lying face up in the mid-day sun, crawling on the ground and having bullets whiz past one's head if it was raised even slightly, being made to go hungry for days on end and enduring sustained beatings and assaults.¹⁶⁰ One former child combatant told the Commission about his experiences with the RUF during training:

“I was captured in Kambia Town in 1999 and then taken to Madina and from there to Makeni. We the captives were held in Makeni for three months... we left for Madina-Wuke... we were to go for more training before proceeding further... We were not allowed to sleep in a house and had to wake up early in the morning as we also acted as their guards... Even during the course of the training, we were mercilessly flogged... all sorts of treatment were meted out to us. For instance, they hit us on our backs with sticks and kicked us all over our bodies...”¹⁶¹

187. Children also suffered psychological torture from the many atrocities they witnessed and were themselves forced to commit. They witnessed the killing of parents, siblings, peers, relations, community members and also strangers. Driven often into being the perpetrators, many of them have been damaged indelibly and will need long-term therapy to help them heal.

¹⁵⁸ TRC confidential statement recorded in Kissy, Freetown, 14 February 2003.

¹⁵⁹ TRC confidential statement recorded in Bonthe Town, 9 December 2002.

¹⁶⁰ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

¹⁶¹ TRC confidential statement recorded at Kambia Check Point, Magbema, 14 December 2002,

188. UNICEF, in its submission to the TRC, made the following comments about the legacies of torture against children:

“The wounds, both physical and psychological, inflicted upon children will leave permanent marks on them and their families, as well as on the entire Sierra Leonean community and indeed all of humanity. In some ways it is as if a new level of cruelty has been attained in this war, setting the bar lower than ever imagined...”¹⁶²

KILLING

189. Thousands of children were killed during the conflict in Sierra Leone. Given their physical weaknesses and their vulnerability, they were often the first to die. While children were deliberately targeted by the armed forces, hunted down and killed, many also died in the crossfire. Others died because of their injuries and the fact that they had no access to any health care. A witness who testified before the Commission said the following:

“It was during the January 1999 invasion of Freetown, in the evening of a Wednesday. There was a curfew and we were all sitting together as a family in our house. We were discussing on how to get a safer place to hide, when we heard the sound of gunshots coming from the Mabela end where the rebels and ECOMOG soldiers were fighting... We were about to dash down on the floor, when I noticed that [my sister] Adamsay had been shot. After we went to rescue her, she died a few minutes later.”¹⁶³

190. According to UNICEF, in its commentary on the killing of children:

“Children were routinely and relentlessly targets of summary killings by rebel forces and pro-government troops throughout the war, in flagrant violation of the international law... Children became victims of both deliberate and arbitrary killings, which often were the final steps in a barrage of other violations they suffered. Abducted children were tortured, sexually abused, forced to commit heinous violations against others, mutilated or amputated and finally killed.”¹⁶⁴

191. UNICEF cited the following examples of mass suffering on the part of children in its submission:

“Between 15 and 24 February 1998 alone, 111 children were killed in the Bo area during rebel RUF / AFRC attacks. 1 April and 20 June 1998, out of 265 war-wounded patients brought to Connaught Hospital in Freetown, one quarter were children.”¹⁶⁵

¹⁶² See UNICEF submission to TRC, at page 2.

¹⁶³ TRC confidential statement recorded in Freetown West I, 7 December 2002.

¹⁶⁴ See UNICEF submission to TRC, at page 7.

¹⁶⁵ See UNICEF submission to TRC, at page 7.

192. Many children died as a result of the chaos that ensued when the armed factions launched attacks, either on their villages or on the diamond fields. A family member who testified of her son's death had this to say:

"Since the start of the war, I never had any problem that directly affected me until when the Kamajors took over Tongo Field and killed my son Gibril, who was 17 years old, in 1998. This occurred as a result of an attack made by the Kamajors against Tongo diamond fields... we decided to run... my son suggested that he go to our house and collect my belongings and money... According to one old man, Pa Santigie, with whom we were all residing in the same house, my son succeeded in reaching and packing some of the properties... just on the height of leaving, the Kamajors came along and cutlashed him until he died."¹⁶⁶

193. When villages were attacked, most of the villagers would flee from the conflict as their houses were burnt. Many lost their lives in the midst of trying to escape. A witness who testified to the Commission had this to say:

"I was living in a village called Mamusa... On 2 December 1998, we heard that rebels had attacked a village called Kabata... by then my wife was pregnant and at that time she was with her grandmother and our first child... As I was about to sleep, I heard the first gunshot, which was my first time to hear of a rebel attack in that village... Because I was in a panic state, my first intention was to run to my wife in the next village... On the way I met my wife in the bush, I asked her for the baby and she told me that the baby was with her grandmother... At 9 am the following day, I was able to see the grandmother, and I asked her for the child... I went to the house and found out that the house had been burnt down. When I entered the house, I saw chaff and some tiny bones. The child was burnt in the house. The child was exactly 10 months old at that time. He was born on 3 February 1998 and killed on 3 December 1998."¹⁶⁷

194. Many families attempted to stop the killing of their children upon being attacked, often losing their own lives in the process. Children were also forced to witness the brutal killing of their own family members. A young girl, who was only eight years old at the time, described the brutal killing of her family members:

"One day in late 1991, we were hiding together with my step-mother, my brothers, my father and many other people. The rebels attacked us by surprise, selected people among us... together with my brothers, father and step mother, making a total of eight, took them away few yards from us... and fired them all... buried them in one place. Even today, I can remember where they were all buried..."¹⁶⁸

¹⁶⁶ TRC confidential statement recorded in Masongbala Chiefdom, 13 January 2003.

¹⁶⁷ Hassan G. Kanu, testimony during TRC public hearings in Port Loko District; 30 April 2003.

¹⁶⁸ TRC confidential statement recorded in Telikoro Refugee Camp, 4 April 2003.

FORCED DRUGGING

195. Most members of the armed factions have admitted that they took a variety of dependence-inducing substances by habit. The Commission also received testimony of how children were forced into taking drugs, particularly before the onset of a battle or an attack. Testimony confirms that almost all of the commanders in most of the armed factions ensured that children were continuously drugged in order to keep control of them:

“...At the age of six, Commander Gbondema took me to Camp Zogoda for training. After my passing out, I began to go to the front... Before I was sent on the front, C.O Gbondema used to inject me with cocaine on my forehead; he also gave me marijuana and alcohol to drink...”¹⁶⁹

196. The dependence-inducing substances prevalent in the conflict included cocaine, heroin, cannabis, hallucinogenic drugs, gunpowder, “brown-brown” and an assortment of others. Children who appeared before the Commission told of how they were introduced to drugs and constantly kept in a drug-affected state. Many of them also testified to the acts they committed while under the influence of drugs:

“One night in 1997 armed SLA soldiers entered our house in Makeni and took me away. I was aged 7 at the time. I was injected with cocaine on my right hand by my commander Col. Martin. I still have the scar on my hand”¹⁷⁰

[and]

“Sometimes in 1995, whilst in the bush fetching wood, the rebels captured me together with some other girls. I was drugged with cocaine and asked to murder some villagers. I was also raped several times.”¹⁷¹

197. Most of the testimonies made to the Commission confirmed that children carried out the most atrocious violations while under the influence of these drugs. The capacity of children to take responsibility for their acts remains an issue open for debate.
198. The Commission has deliberately chosen to treat children neutrally as witnesses, seeking to understand their experiences as both victims and perpetrators. Both roles are reflected in the following statement:

“In May 1996, I was captured by the RUF in Koya and taken to Masiaka; I was given a heavy load to carry, and later an AK-47 gun and was trained to shoot by my boss. In Warayma, he ordered me to kill people and I did... I was later given a tablet, which made me see people like birds. I then became perfect in using the gun and killed a lot of people in every attack.”¹⁷²

¹⁶⁹ Confidential Statement; No. 4/150/7130 ; St Michaels Lodge, Lakka; 28 March 2003

¹⁷⁰ Confidential Statement; No. 1/150/994; Saw pit, Long Step, Freetown; 7 December 2003.

¹⁷¹ Confidential Statement; No. 7/143/7436; Moyamba Town, Kayamba Chiefdom; 29 March 2003.

¹⁷² Confidential Statement; No. 3/78/4507; Caritas, Falaba Road, Mafarki, Port Loko ; February 26 2003.

199. It can be argued that many child combatants still committed violations without having to be drugged. The heat and tension of the conflict, the group violence already present in the conflict and peer pressure could also act as powerful narcotics. Nonetheless, the issue of diminished capacity remains a key factor to be considered.
200. In most countries, children under the age of 18 are not regarded as having the legal capacity to be responsible for their actions (*doli capax*). The Rome Statute of the ICC uses 18 as the age of legal capacity and children's rights advocates argue that most national jurisdictions should be adjusted accordingly. It is highly unlikely that children under the age of 18 fully comprehend the consequences of their actions.
201. There is no doubt that the drugs did have an impact on children who have a lower threshold to withstand the effects than adults. Coupled with the conflict situation, peer pressure and fear of death, drugs are powerful inducements to commit the most heinous crimes.
202. Describing the violations that children generally suffer in conflicts, the United Nations has given the following analysis:
- “...More and more of the world is being sucked into a desolate moral vacuum. This is a space devoid of the most basic human values; a space in which children are slaughtered, raped, and maimed; a space in which children are exploited as soldiers; a space in which children are starved and exposed to extreme brutality. Such unregulated terror and violence speak of deliberate victimisation. There are few further depths to which humanity can sink.”¹⁷³
203. In examining the violations of which children were the victims during the conflict, there can be little doubt that the children of Sierra Leone suffered the most cruel and inhuman experiences at the hands of the armed factions. They were robbed of their youth, their innocence and their hope for the future. Many of them will never return.
204. Rape and sexual violence have scarred many of the girls for life. Amputations have ensured that many of them will never be able to lead a normal life. The Commission and the country are faced with serious overarching questions: Why the children of Sierra Leone? What did they do to deserve such fate? Their only crime was being children.
205. Many of those who have helped the Commission in seeking answers to these questions have advanced as reasons the innate characteristics of children: their vulnerability; their malleability; their capacity to be manipulated through peer pressure; the easy availability of light weapons which they can carry and their extraordinary ability to imitate adult behaviour. Of course a major reason is the fact that their lives were cheap and expendable to the cynical breed of war profiteers who drove the conflict forward.

¹⁷³ See United Nations Special Report; “The Impact of Armed Conflict on Children”, available at the following web address: <http://www.un.org/special-rep/children-armed-conflict/>.

206. Children, by virtue of being in a developmental process at their age, are very malleable. The transition from childhood to adulthood is a learning process that happens through teaching and also observation. Humans are conditioned to learn through these processes, which comes with the expectation that one eventually fits into society. Thus children are guided and moulded until they attain this desired state of social conformity.
207. The malleability and vulnerability of children were exploited by the different fighting forces in the country during the conflict period. Thus armed groups deliberately engineered children into becoming perpetrators, forcing them to commit atrocities or themselves be killed. Once they committed the violations, there was almost no way of turning back. Children were compelled into flouting accepted social behaviour and practices.
208. Children make obedient soldiers who ask fewer questions, generally follow orders and do as they are instructed because they are easily intimidated. Older soldiers are more independent and often hold opinions that are contrary to those of the leadership of the armed groups. They may question superiors, disobey orders or even desert.
209. Children, however, rarely exercise such options and under most circumstances seek to please their elders, for a variety of reasons. These include issues of safety, as well as attracting affirmation and attention. Their desire to please has often been exploited by commanders, who force children into committing the most egregious violations. Children have been rewarded by being given the most bizarre names, a sign of the warped nature of many of their commanders. Most of the names given to children glorified their actions and goaded them into committing even more atrocities. Some of the names of child combatants reported to the Commission included: "Merciful Killer", "Small Pepper", "Burn House", "Cut Hand", "Kill Man No Blood", "Dirty Box" and "Dead Man No Count".
210. Young children have no real sense of danger. Their immaturity also encourages them to take on additional risks. Their oblivion to the danger in a situation coupled with drug abuse meant that children could easily be exploited by using them in the most hazardous situations during the conflict. Commanders testified that small children were routinely used as scouts and in the front lines. Many lost their lives in this way. Some of these children have testified that when under the influence of drugs they had no fear or inhibition and committed many atrocities.
211. Children were easier to manage and maintain, especially in that they made fewer demands of their captors. They were also less likely to escape. Since many children were separated at a young age from their parents and familiar surroundings, the only home for many of them was the base of their particular armed faction.

212. Many of the abducted children cannot recall where they come from. The only family they have are the members of their unit or armed group. Their commanders took the place of their parents. Thus between these children and their commanders, as well as the fighting force to which they were affiliated, this nucleus had become their only “family”:

“By drawing children into their military organisations, the RUF and the national army deprived them of the protection, sustenance and authority of their families, communities and social institutions... the institution thus became their surrogate parents... Once within military institutions, the children came under the heavy and despotic hand of older soldiers and combatants... The military institutions took over the role of “disciplining”, or more exactly, manipulating these young minds to serve a variety of purposes.”¹⁷⁴

213. The proliferation of light weapons such as the Soviet-made AK-47 or the American M-16 has been advanced as a further reason for why children are used as soldiers. Long gone are the heavy weapons of the past that weighed tonnes and were very cumbersome, needing adults to manipulate and handle them. UNICEF has described the new, lighter weapons in the following terms:

“These weapons are very easy to use. The AK-47 can be stripped and reassembled by a child of ten years old. The rifles have also become much cheaper and more widely available. Since they have fewer moving parts, they are extremely durable and have steadily accumulated in war zones.”¹⁷⁵

214. In the particular case of Sierra Leone, child soldiers displayed an amazing aptitude and dexterity in using these light weapons, as evidenced during the demobilisation and disarmament period. In addition, easily available, locally manufactured instruments were used by the different fighting groups in the conflict, such as cutlasses, axes and knives as well as inflammable liquids such as petrol and kerosene. These local instruments and some of the inflammable liquids were quite familiar to many children, as they used them in their daily activities prior to the war. These everyday objects were converted into instruments of terror by the fighting forces. The ability of children to handle these instruments explains why, with very little training, children could become effective combatants during the conflict period.

215. Adults usually have the maturity to think through survival mechanisms in difficult situations. It is therefore possible for adults to attempt to escape when captured. Escaping is usually considered difficult for certain children and nearly impossible for the younger ones to conceive or carry out. As the war dragged on and the adults witnessed the senseless violations committed by the armed groups, it then became an increasingly attractive option for adults to attempt to escape notwithstanding the repercussions when recaptured.

¹⁷⁴ See Abdullah, I and Rashid, I.; “*Smallest Victims; Youngest Killers: Juvenile Combatants in Sierra Leone’s Civil War*”, in Abdullah, I. (ed.), *Between Democracy and Terror: The Sierra Leone Civil War*, CODESRIA, Dakar, 2004 (hereinafter “Abdullah and Rashid, *Smallest Victims, Youngest Killers*”), at page 243.

¹⁷⁵ See UNICEF, *The State of the World’s Children 1996*, annual report into the conditions for the upbringing and advancement of children in selected countries around the world, with a special focus on war, available at the following website: www.UNICEF.org/sowc96/2csoldrs.htm (hereinafter “UNICEF, *State of the World’s C*”, at page 2.

216. The death of adult combatants required that the numbers in the armed factions be maintained. Children became a useful alternative source from which to replenish soldiers, so that the prosecution of the conflict could continue. Thus, children became a ready and easily accessible pool of potential soldiers for the different armed groups. Some academics have corroborated this view:

“Why did the RUF and the RSLMF (or the Sierra Leone Army) use children in support and combat roles? What were the reasons they gave to support the recruitment of children? The first reason was the shortage of able-bodied male to fight for the RUF and the RSLMF. The high death toll, the wretched conditions of service, the meagre salary that forced some soldiers to augment their pay through looting or mining, the summary executions, and above all, the senselessness of the war, discouraged responsible adults from enlisting on either side. Unable to tap the labour of the adult population, the two main fighting factions turned to children and the under-aged. As the war progressed, more children and under-age combatants were recruited to serve in various capacities, so that by 1998, close to about 25% of the fighting forces were children and the under-aged.”¹⁷⁶

217. Most of the armed factions were deeply criticised for their use of child soldiers. Many have complained of the high level of indiscipline exhibited by them and the scant regard they had for international rules regarding the conduct of war and the treatment of civilians in war situations. It is highly unlikely that any of the armed forces that deployed child soldiers would have taken the time to deal with the laws of war and how civilians should be treated:

“The RUF, the National Army (SLA) and the CDF share one thing in common: they were highly undisciplined. They lacked clear ideological focus, *esprit de corps* or guidelines on the conduct of war. For the RUF, its membership, long-marginalised and alienated from mainstream society, felt no compulsion to conform to internationally agreed standards of war which protect innocent civilians, especially women and children... as the rate of its attrition among its combatants increased with the prolongation of war, the RUF gradually lowered the age-range of its recruits... There were no child soldiers amongst its ranks when the RUF entered Bomaru in 1991. Yet by 1997 when they occupied Freetown in alliance with the AFRC, half of their combatants were under-aged. The National Army (SLA) which was supposed to be the professional standing army of the country, behaved no better than the RUF... Like the RUF, the SLA also recruited under-aged boys to create an auxiliary army of irregulars... In character and behaviour, these irregulars were no different from the combatants of the RUF. The morale and professionalism of the army declined... The irregulars prosecuted the war with the same brutality and disregard for the civilian population as the RUF combatants. They became “sobels”: soldiers by day and rebels by night.”¹⁷⁷

¹⁷⁶ See Abdullah and Rashid, *Smallest Victims, Youngest Killers*, at page 242.

¹⁷⁷ See Abdullah and Rashid, *Smallest Victims, Youngest Killers*, at page 241.

218. Many children, particularly those belonging to the pro-government forces, have indicated that they wanted to fight to preserve their communities and their cultural identities. Many of the children, not unlike the adults they modelled themselves on, saw themselves as fighting for social justice, for patriotism as well as their religious beliefs. Many others also fought in order to revenge the deaths of their parents, brothers or sisters.¹⁷⁸
219. Such analysis is particularly true for the CDF, the pro government forces who also recruited children to fight during the armed conflict. During recruitment by the CDF, quotas were given to various communities to fill, as they were perceived to be carrying out their mission in defence of their communities and the country.
220. Children were made to feel that they were obliged to assist in the defence of their communities. In some instances, parents volunteered their children to the CDF, not only on “patriotic” grounds but also as a means of ensuring protection for their children.¹⁷⁹ Nonetheless, according to the United Nations:
- “It is misleading to consider [such forms as enlistment] voluntary. While young people may appear to choose military service, the choice is not exercised freely. They may be driven by any one of several forces, including cultural, social, economic or political reasons.”¹⁸⁰
221. In long, drawn-out conflicts, joining an armed group is sometimes the only way to survive the conflict. The adage “if you can’t beat them, join them” becomes the reality for unprotected children in conflict situations. The irony of this course of action is that armed groups did not provide the expected solace for children, because even as members they continued to suffer violations.
222. The Commission points out that the notion of children “volunteering” their services as part of war effort, as some of them did in the case of the CDF and the SLA, cannot be condoned and constitutes a violation of international law.
223. It is important to reiterate that children, as the most vulnerable group in any conflict situation, are entitled to be protected from war. In particular, they are not meant to participate in the conflict themselves as child soldiers or in any other capacity.
224. Regrettably, the armed factions in Sierra Leone violated the rights of children by forcibly recruiting them as child soldiers and compelling them to carry out acts of incredible violence. In addition children’s rights were continuously violated in a myriad of ways.¹⁸¹

¹⁷⁸ See UNICEF, *State of the World’s C*.

¹⁷⁹ See Simon Arthy, former DFID and EEC Reintegration Officer in the Southern Region, TRC interview conducted in Freetown, 8 August 2003. Mr. Arthy, who worked as a consultant for the UK Government’s development agency in the Southern Province of Sierra Leone, talked about his project to normalise relations between civilians and the CDF in the Southern Province. He stated that some parents had their children, especially male children, initiated into the CDF (Kamajors) because they felt that the magical powers that initiates were said to acquire on initiation, such as the non-penetration of bullets into their bodies, would help secure their children’s lives.

¹⁸⁰ See UNICEF, *State of the World’s C*, “Impact of Armed Conflict on Children”.

¹⁸¹ See Abdullah and Rashid, *Smallest Victims, Youngest Killers*, at page 241.

CHILDREN AS “VICTIM-PERPETRATORS”

225. The conflict in Sierra Leone forced children into assuming “dual identities” of both victim and perpetrator. While the Commission chose to treat children who had been involved in the conflict as neutral witnesses, the Commission was also determined to explore the fullness of their experiences in order to understand the motivations for what they did and whether they had the capacity to understand all of it. Examining their role as perpetrators is an important step in this direction. The Commission is not seeking to explore guilt; on the contrary, it strives to understand how children came to carry out violations as part of an important learning curve in preventing future conflicts.
226. In their roles as perpetrators, children became direct participants in the conflict and were involved in all aspects of modern warfare, ranging from serving as human shields, spies, messengers and porters to wielding guns as soldiers on the front lines and commandos in the jungles of the countryside.
227. Children witnessed the perpetration of violations during the conflict and in turn perpetrated gross human rights violations against others. Initially, they had to be coerced into committing abuses but soon many of them began to initiate heinous atrocities without having to be compelled to do so. After being absorbed into an armed faction, children often behaved absolutely without inhibition. Living in the violent reality of conflict soon deadened their senses, which were already impaired by continued drug abuse.

NATURE OF VIOLATIONS PERPETRATED BY CHILDREN

228. Child perpetrators carried out many of the same human rights violations to which they themselves had been subjected. They committed violations including killing, abduction, amputation, mutilation, extortion, looting and destruction, rape and sexual violence, abduction and forced recruitment, forced displacement, forced detention, assault, torture, beating and forced labour.
229. The commission of these violations by children needs to be put in context against the turmoil of the conflict-ridden world they lived in. They were compelled to carry out such violations in order to survive. Refusal to carry out an order was simply not countenanced. Death or other violent reprisal for refusal to carry out the order was almost instantaneous. Thus most children were forced to carry out violations or become the victims of violations. Their physical size and their incredible vulnerability made them succumb quite easily.
230. One recurring pattern to emerge from testimonies is that children often had to become even more ruthless than their captors in order to survive. Given the violent nature of the members of the armed group, a ruthless streak usually guaranteed safety and “respect”. Children learnt very quickly that the more violently they behaved, the more they would be assured of protecting themselves within their group and surviving. This was particularly characteristic of the loosely bound, unconventional armed groups such as the RUF, AFRC and the West Side Boys.
231. Many of the adults within the armed groups were incredibly depraved and used the children to play out some of their sick fantasies which had the effect of forcing the children into committing these violations watched by the adults, who derived a macabre amusement from it.

TRC



TRC researcher Gavin Simpson interviews a former RUF child combatant known as “Base Marine” near the town of Magburaka in Tonkolili District. Having participated in the disarmament and demobilisation process in Sierra Leone, “Base Marine” now runs an agricultural project for ex-fighters.

232. Peer pressure also played a major part in the violations committed by children. The need for group acceptance and affirmation ensured that many of these children committed violations. Conformity gave them a sense of belonging and pride, as their peers and their superiors lauded them for proving that they were not afraid to confront violence.
233. In any heterogeneous society, there are always certain groups of persons who are more vulnerable than others. They are characterised as “vulnerable” because they are more likely than others, to suffer negative consequences in the event of severe emotional trauma.¹⁸² Children are usually a class regarded as vulnerable as they are usually subject to greater risks in any conflict irrespective of which side they belong to. There is no doubt that the new characteristics and patterns of contemporary armed conflicts have increased the risks for children. Again this is certainly true of the conflict in Sierra Leone which destroyed the lives of children.
234. The Commission has found that the abduction of children by the armed groups and in particular the RUF and the AFRC and their forcible recruitment as child soldiers constitutes a grave violation of international law for which the leadership must be held accountable. The Commission also finds that the notion of children ‘volunteering’ to join the armed groups such as occurred mainly with the CDF but also in the SLA completely unacceptable as children do not have the ability or the capacity to ‘volunteer’. Simply put ‘they have no choice’. The Commission finds that the recruitment of children within the armed factions as soldiers constitutes a violation of international law for which the leadership must be held accountable. In the course of recruiting children as child soldiers, the rights of children have been violated.
235. The Commission condemns in the strongest terms the forcible recruitment of children as combatants. According to the United Nations:

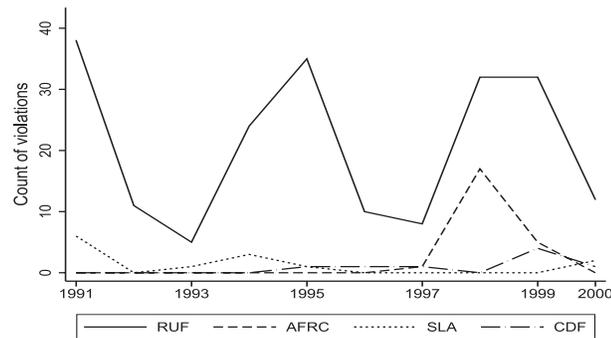
“War violates every right of a child – the right to be with family and community, the right to health, the right to development of the personality and the right to be nurtured and protected. Many of today’s conflicts last the length of a “childhood”, meaning that from birth to early adulthood, children will experience multiple and accumulative assaults. Disrupting the social networks and primary relationships that support children’s physical, emotional, moral, cognitive and social development in this way, and for this duration, can have profound physical and psychological implications.”¹⁸³

¹⁸² See World Bank, “Empowering Vulnerable Groups” Empowerment Community of Practice Newsletter, December 2003 to January 2004. More detail can be found at the following web address: <http://www.worldbank.org/empowerment>.

¹⁸³ See United Nations Special Report; “The Impact of Armed Conflict on Children”, available at the following web address: <http://www.un.org/special-rep/children-armed-conflict/>.

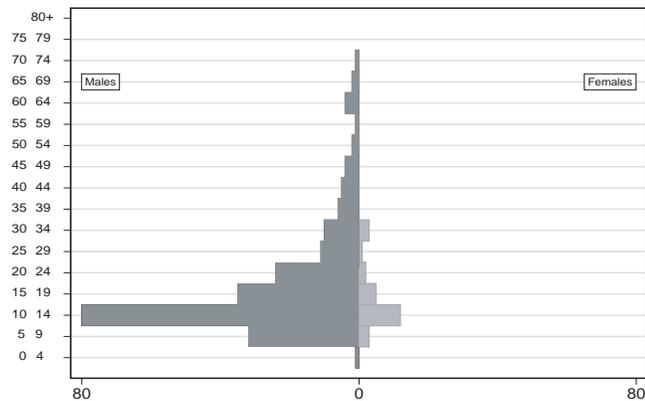
EXPERIENCES OF CHILDREN WITHIN ARMED GROUPS

Figure 3: Annual rates of forced recruitment violations reported to TRC (comparing the violations of the four main perpetrator factions)



236. It is widely acknowledged that each of the armed factions, to differing extents, forced their abductees, including children, to become combatants. The graph in Figure 3, above, illustrates that the RUF forcibly recruited the highest number of combatants throughout the ten years for which the TRC recorded statistics. In the latter years of the conflict, the amount of reported incidents of forced recruitment attributed to both the AFRC and the CDF showed small increases.

Figure 4: Numbers of forced recruitment violations reported to TRC (according to the age category and sex of the victims)



237. The most relevant point about forced recruitment is that its victims were predominantly children. This aspect of the violation becomes most vividly clear from the graph in Figure 4, above. Boys between the ages of 10 and 14 years were disproportionately targeted for forced recruitment. The disproportionate rate of victimisation among boys in this age category leads to the conclusion that the armed groups deliberately sought to enlist them as fighters.¹⁸⁴
238. This section aims to paint a broad picture of the kind of life that a child combatant endured during the conflict within the main armed groups.

¹⁸⁴ More detail on violations rates and the levels of different violations experienced by children can be found in the Statistical Report produced as an Appendix to this report.

REVOLUTIONARY UNITED FRONT (RUF)

Recruitment

239. The RUF was the first of the fighting forces to utilise child combatants in the conflict in Sierra Leone. In fact, there were even a few children among the RUF “vanguard” combatants who trained in Liberia in advance of the insurgency in March 1991.¹⁸⁵ Children had been abducted and enlisted by the NPFL faction to swell its own numbers as it fought the war in Liberia. The RUF copied many of the NPFL’s tactics and patterns of behaviour as its fighters were trained to enter Sierra Leone. Thus, from before the first shots were fired in 1991, Sierra Leonean children were drawn directly into the conflict. Having come into the country, the RUF deployed a strategy of “enlisting” civilians, including children, from the areas it entered.¹⁸⁶ However the RUF really stepped up this policy at the end of its ill-fated first phase of conventional warfare, when it transformed into a guerrilla force. From late 1993 until early 1996, the RUF conducted a massive campaign of abductions and the forced training of civilians and children to become armed combatants.
240. The Commission has encountered during its research some children who were so young at the time of their abduction that they could not recall how old they were. According to statements included in the TRC database, some of those abducted were as young as five at the time of their capture.¹⁸⁷
241. The RUF is responsible for the highest number of abductions of children reported to the Commission. It is also responsible for the largest number of children who were forcibly recruited into any armed faction.¹⁸⁸ The tally of 3,710 children who belonged to the RUF and who were disarmed and demobilised by the National Committee for Demobilisation, Disarmament and Rehabilitation (NCDDR) seems to validate the Commission’s figures. The RUF had the highest number of children amongst all the factions who participated in the programme.¹⁸⁹ Former high-ranking officials of the RUF have also confirmed the RUF’s policy of using children as soldiers.¹⁹⁰ M. M. Kosia, the RUF’s first senior General Staff Officer, gave the Commission an account of the RUF’s training that took place in Koindu and in various other areas of Kailahun District in 1991:

“When these areas were taken under control by these [RUF] people, a lot of civilians were captured or abducted and they were forced to undergo training... men, women – even old people and children”.¹⁹¹

¹⁸⁵ See TRC Confidential Interviews with former RUF “vanguard” commanders; Freetown, Bo and Kailahun Districts, June to September 2003. More detail on the involvement of “small boys” in the original RUF insurgency and in various other armed groups can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

¹⁸⁶ See S. Y. B. Rogers, late Secretary-General of the RUF, excerpts of an interview contained in the “Children and War Newsletter” in *Africa Confidential*, 26 May 2000.

¹⁸⁷ See the Statistical Report produced as an Appendix to this report.

¹⁸⁸ More detail on the violations rates of the particular perpetrator factions can be found in the Statistical Report produced as an Appendix to this report.

¹⁸⁹ See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003.

¹⁹⁰ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

¹⁹¹ Moigboi Moigande Kosia, former General Staff Officer-1 of the RUF, TRC interview conducted at TRC Headquarters, 30 May 2003.

242. The primary *modus operandi* of the RUF in gathering child recruits was to raid the civilian population and separate the children, who would then be taken to the various training bases of the RUF.¹⁹² The RUF also attacked and abducted children from schools, especially in the provinces. Another strategy employed by the RUF, when they attacked and looted towns and villages, was to take children along with them as porters to carry looted goods. These child porters would eventually become child soldiers.¹⁹³ According to a former RUF official:

“Every time a town is newly captured, we expect them to bring back captives. Most of these captives they bring back are people they use as porters, and when once they came to the rear... that is the liberated zone... they would not allow them to go back to their area.”¹⁹⁴

243. Former RUF members have claimed that, at the initial stages of the conflict, many young boys voluntarily joined the RUF because of their beliefs in the cause of the RUF’s “revolution”.¹⁹⁵ Another reason advanced by the RUF was that many of the enlisted children were attracted and enticed by the looted goods they saw their peers in the RUF taking and keeping.¹⁹⁶
244. However most of the interviews conducted by the Commission with ex-combatant children in fact confirmed that the majority of them were abducted and forcibly recruited into the RUF.¹⁹⁷
245. The former Adjutant General of the RUF, Mr. Jonathan Kposowa, reluctantly confirmed the realities of abduction when testified to the Commission:

“These RUF commanders were so many that they needed small boys to be behind them or to use them as you know... or shall I say ... doing their odd jobs and just to follow them... or either their wives or concubines will ask them that they should capture or abduct small girls... to assist them in their houses.”¹⁹⁸

Training

246. The RUF organised child soldiers by gender into units, which they then called “Small Boys Units” (SBUs) and “Small Girls Units” (SGUs). Training of child soldiers was sometimes carried out at officially designated training camps. While some jungle bases like Camp Zogoda lasted for the duration of the RUF’s guerrilla warfare campaign, from 1993 to 1996, many other camps were temporary or transient in nature, set up purely to train a new batch of recruits and then disbanded when the combatants were sent to the front.

¹⁹² See, for example, TRC confidential statement recorded in Gbonkowallie, 20 February 2003.

¹⁹³ TRC confidential statement recorded in Freetown, 18 February 2003.

¹⁹⁴ Moigboi Moigande Kosia, former General Staff Officer-1 of the RUF, TRC interview conducted at TRC Headquarters, 30 May 2003, at page 42 of the manuscript.

¹⁹⁵ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

¹⁹⁶ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

¹⁹⁷ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

¹⁹⁸ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

247. The RUF seemed not to possess a standard training course or module. While by all accounts the RUF was said to possess a training manual that included ideological training, little evidence exists of children being trained using this manual or given lessons in the ideology of the RUF, particularly among the recruits of the later years of the conflict. In most instances, former child combatants have stated that they were taught only the RUF's reasons for starting the conflict, while other children have indicated that they were completely in the dark about the motives for their collective actions.¹⁹⁹ Of all the child ex-combatants interviewed by the Commission, only a handful have mentioned being given "ideology" lessons in between training. Ideological input and direction was always fairly arbitrary within the ranks of the RUF.²⁰⁰
248. In contrast, all of the former child combatants interviewed have confirmed that they were given some form of military training.²⁰¹ Their courses consistently involved being taught how to dismantle and assemble guns, as well as how to use them. Some of the children described the training they received:
- "At Madina in the Tonko Limba Chiefdom, we were given tough training. I trained along with the others... we used to run with heavy sticks on our shoulders. I was personally trained by RUF Colonel Emmanuel to operate a G-3 weapon with the Third RUF Battalion. After the training, which was very short, we do the hard running..."²⁰²
- [and]
- "We were taught a few things that included how to make an ambush, how to dismantle and reassemble your weapons in case of any blockage and how to shoot your weapon. It was after this brief training session that we proceeded to attack Madina-Wula in neighbouring Guinea."²⁰³
249. Mock battle scenes were sometimes simulated for the recruits. Again this element was not as a matter of course but remained fairly arbitrary. A female ex-combatant described some aspects of the training she received as a child:
- "After taking us to their base in Matru Jong, we were trained to become fighters for six months... in the mornings and evenings, we jogged for about 45 minutes... we were also taught how to crawl and other war techniques... and if anyone made as if they were tired, he or she was killed".²⁰⁴
250. There have been some reports of child soldiers receiving little or no training whatsoever before being forced into battle. Such cruel abuse on the part of the perpetrator groups contributed to the death of many children, as they were thrust into the heat of battle without understanding how to protect themselves.²⁰⁵ This situation was quite rare among the former RUF fighters who testified to the Commission, but occurred in all the factions at certain points, particularly when an urgent need for manpower at the warfront outweighed all other considerations.

¹⁹⁹ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

²⁰⁰ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

²⁰¹ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

²⁰² TRC confidential statement recorded in Rokupr, Magbema Chiefdom; 22 January 2002.

²⁰³ TRC confidential statement recorded at Kambia Check Point, Magbema, 14 December 2002.

²⁰⁴ TRC confidential statement recorded in Wardu Town, 5 March 2003.

²⁰⁵ TRC confidential statement recorded in Freetown, 27 February 2003.

251. Training seems to have been ad hoc and arbitrary, particularly with regard to its duration. While some RUF functionaries have alluded to a training manual stating that training was to last for six months, evidence received by the Commission suggests this timeframe was a very loose guide. Training depended on the particular conditions the RUF found itself in and could last anywhere between one week and six months.²⁰⁶ For instance if the RUF was under attack, training would be cut short as everybody would be sent out to the front line.²⁰⁷
252. The lack of organisational structure within the RUF was also evidenced by the arbitrary manner in which some commanders brought children for training. According to a former RUF official, individual commanders who abducted children could bring them singly or in groups for training. At completion of training, the same commanders would come to fetch them.²⁰⁸ One peculiarity of the hierarchy within the RUF was that the larger the number of child combatants a commander had under his control, the greater the prestige the commander enjoyed among his peers.
253. The RUF made no distinction in its training practices as to age or gender, so young boys and girls as well as adults were trained in the same manner. The general conditions that existed during these trainings were fairly spartan and only children who were really tough survived. According to a former high-ranking RUF official, children slept on bare floors, went without bathing for weeks and wore torn and tattered clothes. Also, feeding during this period was reduced to scavenging, since part of the training required the children to demonstrate that they were able to fend for themselves. The RUF training regime restricted food intake even where they had the children locked up:
- “Most times, these people are being starved... I can definitely tell you that they have to find their own food, even when they are locked up, there is nothing like food to give them... So the boys were starved on the base, even the SBUs... and then somebody had a leaf or paper wherein you just put one spoon for the boys... so some of them died... some were so thin ...²⁰⁹
254. The training was harsh and brutal and accounted for the deaths of a large number of children.

Command structure

255. The two children's units were run on a similar basis with very slight variations. In the case of the SBUs, on becoming full-fledged combatants, they were put under the immediate command of a fellow child commander.²¹⁰ The child commander would in turn report to the Town or Ground Commander,²¹¹ who was the overall supervisor of all the fighters in the area in which the particular SBU existed.

²⁰⁶ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

²⁰⁷ Moigboi Moigande Kosia, former General Staff Officer-1 of the RUF, TRC interview conducted at TRC Headquarters, 30 May 2003, at page 42 of the manuscript.

²⁰⁸ Moigboi Moigande Kosia, former General Staff Officer of the RUF, TRC interview, 30 May 2003.

²⁰⁹ Moigboi Moigande Kosia, former General Staff Officer of the RUF, TRC interview, 30 May 2003.

²¹⁰ Moigboi Moigande Kosia, former General Staff Officer of the RUF, TRC interview, 30 May 2003.

²¹¹ Moigboi Moigande Kosia, former General Staff Officer of the RUF, TRC interview, 30 May 2003.

256. The Town or Ground Commander liaised with and passed on orders to the Commander of the SBUs. Needs and instructions were subsequently passed down the line. The overall responsibility for running the entire group including the SBUs was vested in the hands of the regional or field commander for that territory, who had overarching powers. All authorisations and orders to the SBU emanated from him with the exception of the authorisation for an attack, which would be in the domain of the central command.²¹²
257. By all accounts, elevation within the RUF from the rank of ordinary member to an SBU Commander was based mostly on account of being recognised as a “ruthless fighter”, or in the jargon of the RUF “a wild boy or hard boy.”²¹³ In reality this recognition signalled the ability to commit human rights violations with complete abandonment. When asked the conditions for appointing a child as an SBU Commander, an erstwhile member of the RUF delicately described it as depending on when the child became:
- “... more criminally minded, that is, able to take care of certain issues that are required of a group, he is made a commander”.²¹⁴
258. According to a former high-ranking official of the RUF²¹⁵ there were other requirements that had to be satisfied before an SBU could be elevated to commander status. First was long-standing membership of the RUF and a demonstrated ability to carry out the mandate of the RUF. It is entirely unclear what constituted “carrying out the mandate of the RUF”, however. Finally, obedience and loyalty to existing commanders could guarantee an elevation.
259. The Small Girls Units (SGUs) were structured along the same lines as the SBUs. Both units received the same training as adult combatants, with girls being treated in the same way without any regard for their gender. The only apparent structural difference between SBUs and SGUs was that the SGU Commanders were drawn from among the older women of the Women Auxiliary Corps (WACS), rather than from among the girls themselves.²¹⁶
260. According to the testimony of a female former child combatant:
- “After the Kamajors attacked us, we moved to Jimmy Bagbo and were left in the hands of older women commanders who greatly maltreated us.... we were all trained to fight and given only a handful of dry gari per day... we were also sent to raid neighbouring villages to loot food... If anyone disobeyed you were cruelly beaten up.”²¹⁷

²¹² Moigboi Moigande Kosia, former General Staff Officer-1 of the RUF, TRC interview conducted at TRC Headquarters, 30 May 2003.

²¹³ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

²¹⁴ Patrick Beinda, former RUF G-2 commander and prominent RUF representative in the Eastern Province, TRC interview at TRC Headquarters, Freetown, 18 June 2003.

²¹⁵ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

²¹⁶ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

²¹⁷ TRC confidential statement recorded in Bo District, 9 December 2003.

261. The WACS commanders also took orders from the ground or town commanders, who in turn took orders from the central command. Command responsibility for the violations and abuses carried out by child combatants lay with the adult commanders in the High Command of the RUF, given that almost every operation and military order, including those in which SBUs and SGUs participated, was directed by them.

Nature of discipline

262. "Discipline" within the RUF did not follow any all-encompassing rules and regulations. Former RUF officials have alluded to attempts to produce a manual for discipline, which failed due to a number of reasons connected to the general sense of indiscipline that pervaded the movement.²¹⁸ Thus, there were no clear-cut directives as to what constituted offences in terms of RUF rules and no evidence to suggest that there were regulations governing the conduct of child combatants, far less adult combatants.
263. The experience of child combatants was that they were punished arbitrarily for perceived transgressions. In their testimonies many children have indicated that punishments were arbitrarily applied in the guise of discipline.²¹⁹ Punishments took the form of beatings, torture, starvation, mutilation or branding and others. Killing was also a form of punishment, but it was supposedly reserved for grave offences such as desertion if apprehended.
264. The treatment of child combatants in the RUF was characterised by extreme cruelty. Living in an environment of total paranoia and oppression, where survival depended on being even more brutal than one's captors, led to the kinds of atrocities that Sierra Leone witnessed on such a terrifying scale. In the process, many children became hardened and immune to the savagery they were inflicting on others. They experienced a deep sense of dislocation and disjuncture from society. The scars that have been left lie deep and need urgent and concerted efforts to help them heal.

CIVIL DEFENCE FORCES (CDF)

265. The Civil Defence Forces (CDF) incorporated various ethnic groups of fighters into a national militia network supported by the SLPP Government of President Ahmad Tejan Kabbah. The Kamajors, a reinvented secret society that recruited thousands of fighters across the south and east of the country, comprised the bulk of the CDF membership. Other CDF units included the Tamaboros in Koinadugu District, the Gbethes and Kapras in the other northern Districts, the Donsos in Kono District and the Organised Body of Hunters' Societies in the Western Area. CDF militiamen were initially deployed in and around their own local communities, but as the conflict dragged on they increasingly operated in other areas, sometimes far from their origins.

²¹⁸ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

²¹⁹ See TRC interviews with former child combatants, Family Homes Movement, Lakka and Calaba Town, 7 and 8 August 2003. Most of the child combatants interviewed said that they were punished arbitrarily, perhaps when they did do something wrong but equally also when they did not. Thus an example could be for them to be punished for not carrying out an order (including an order to commit violations) or punished as a sort of vicarious entertainment for older combatants.

Recruitment

266. The presence of children as members of the CDF, particularly the Kamajors, has always attracted attention and has been a bone of contention for the Kamajors. The Kamajors have denied that they ever had child soldiers in their midst, although these denials have always been qualified.²²⁰ According to a high-ranking CDF official in the north, the Gbethes and the Tamaboros asserted that they too did not use children in their groups.²²¹
267. The Kamajors' claim that they did not train children as fighters was debunked during the post-conflict demobilisation and disarmament process. The NCDDR, which co-ordinated the registration of disarmed fighters, listed 2,026 children as having belonged to the Civil Defence Forces.²²² The overwhelming majority of this total was made up of child Kamajors. Indeed, the CDF put the second largest number of children of all the factions through the DDR process.²²³
268. Even before the DDR process began, efforts were made at leadership level to stop the CDF from using children as soldiers, further validating the presence of children in the armed group. In a public statement issued by the then Deputy Minister of Defence, Chief Hinga Norman, who was also a member of the National Co-ordinating Committee of the CDF, it was made clear that the initiation of children, which was a precursor to their becoming Kamajors, should cease altogether. Hinga Norman also demanded that children who had already been initiated as soldiers should no longer be used in battle.²²⁴ He further ordered that weapons should be taken away from children and the use of children by the CDF in undertaking security duties should be discontinued.²²⁵ All of these calls for remedial action put to rest the denial by the CDF that there were child soldiers in their ranks.
269. According to UNICEF, child recruitment within the CDF was often instigated at the behest of village elders, who were politically pressured to hand over a certain "quota" of children as soldiers or risk damage to their credibility within the community. The children themselves were often brainwashed into believing that fighting to defend their communities was their "civic duty".²²⁶

²²⁰ See Hassan Jalloh, former CDF commander of the Kamajors on the eastern border, TRC interview conducted in Freetown, 8 August 2003. See also Dr Albert Joe Demby, Former Vice-President of the Republic of Sierra Leone, submission to TRC Thematic Hearings on Militias and Armed Groups, August 2003.

²²¹ See M. S. Dumbuya, Northern Commander of the Civil Defence Forces, TRC interview conducted at TRC Headquarters in Freetown, 1 July 2003.

²²² See Executive Secretariat of National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), *Total Number of Children Disarmed*, 9 September 2003.

²²³ There is a high degree of scepticism around the numbers of combatants who disarmed under the auspices of having fought for the CDF. Many writers speculate that the Kamajors purposely swelled their ranks at the time of the DDR process in order to obtain maximum possible benefits.

²²⁴ See Simon Arthy, former Sierra Leone-based consultant with DFID, the UK Government's international development agency, TRC interview conducted in Freetown, 8 August 2003. Mr. Arthy provided the Commission with a variety of documents reflecting Hinga Norman's public statements on actions to be taken to eliminate the use of child soldiers in the CDF.

²²⁵ See Simon Arthy, former Sierra Leone-based consultant with DFID, the UK Government's international development agency, TRC interview conducted in Freetown, 8 August 2003.

²²⁶ See UNICEF submission to TRC, at page 20.

270. Many male children were initiated into the Kamajor faction of the CDF at the request of their parents.²²⁷ The Commission noted that parents were often compelled to provide their children to the CDF, as they feared the wrath of the initiators and their Chiefs. Some children have indicated in their testimonies to the TRC that they “willingly” joined so as to protect their villages and towns from attack by opposing forces, but authoritative witnesses have confirmed that in most cases great pressure from their elders was brought to bear on them.²²⁸
271. In order to join the CDF and its Kamajor Society, both children and adults had to pay the initiation fee. According to a Kamajor member, some of the children paid a sum of four or five thousand Leones (approximately \$2) to undergo the initiation rites. In some cases, the initiation fees were partly paid in kind with items such as palm oil, chickens and rice by the parents. On completion of the initiation rites, the children and others were given amulets, which were believed to bestow magical powers of protection upon their holders.²²⁹

Training

272. While CDF combatants carried out most of their “training” in their respective home communities, the CDF faction also established major training bases such as Base Zero and the Gendema base during the effort to restore the SLPP Government in 1997 and early 1998. A unique feature of the recruitment and training of the Kamajors was the initiation ritual, which all prospective members had to undergo. The components for this Kamajor initiation did not derive from the age-old spiritual and cultural beliefs of the traditional hunting societies, as many Kamajors claimed. On the contrary, the Kamajor society represented a cynical abuse of the good faith of its initiates, using techniques of physical and psychological manipulation for no other purpose than to assemble a fighting force. The leadership of the CDF, especially its initiators, created hysteria around the need for communities and their people to “protect themselves” by initiating their men folk into the Kamajors. People responded in their droves by putting themselves and their family members forward for initiation, sometimes even multiple initiations. Children in particular were coerced into joining the Kamajors, innocent of the fate that awaited them as combatants at the warfront.
273. While members of the CDF received rudimentary instruction in the handling and care of weapons such as machetes, knives and small arms, they often forfeited proper military training in favour of acquiring “protections”. Thus Kamajor initiates were tutored in the art of “magic” and herbs as part of their rituals, which promised various special powers when they went into battle.²³⁰ In reality these tactics were foolhardy and put many young lives in danger.
274. The phenomenon of initiation for the purposes of conflict was the creation of the Kamajors. None of the other CDF constituent groups had their own such ceremonies,²³¹ but some militiamen from non-Kamajor parts of the country, including the north, underwent initiations in their desire for “protections”

²²⁷ See Simon Arthy, former Sierra Leone-based consultant with DFID, the UK Government’s international development agency, TRC interview conducted in Freetown, 8 August 2003.

²²⁸ See Dr Albert Joe Demby, Former Vice-President of the Republic of Sierra Leone, submission to TRC Thematic Hearings on Militias and Armed Groups, August 2003.

²²⁹ See Simon Arthy, former Sierra Leone-based consultant with DFID, the UK Government’s international development agency, TRC interview conducted in Freetown, 8 August 2003.

²³⁰ Allieu Moseray, former combatant in the Kamajors, TRC interview at Telu, 13 September 2003.

²³¹ See M. S. Dumbuya, Northern Commander of the Civil Defence Forces, TRC interview conducted at TRC Headquarters in Freetown, 1 July 2003.

Command structure

275. Children in the CDF had no official command responsibilities within their units. They were usually placed under the command and supervision of older combatants who assigned various duties to them. A major complaint from civilians was that children were frequently deployed in general security duties, such as the manning of checkpoints.²³² Their adult supervisors in these roles would goad them into committing arbitrary abuses, particularly beatings, against civilians who tried to pass while going about their daily business.
276. Most Kamajors were loyal to the powerful initiators who brought them into the society, rather than to the commanders under whom they served. Inevitably a dual leadership structure emerged, which led to rivalries between initiators and commanders and eventually threatened the whole command structure. As the conflict progressed, some of the initiators became so powerful – at least in the eyes of those they initiated – that they began openly to flout the law and disregard the authority of the constituted chieftom authorities. They became involved in arresting people, holding kangaroo courts and arbitrarily punishing people. They used their Kamajor initiates, including children, as conduits or agents for these acts.²³³ Aside from the erratic orders of initiators, the children lived in an environment devoid of rules and directions. It proved difficult for the Commission to relate the violations and abuses of child Kamajors to any express strategies or policies from a coherent command structure.
277. Away from their duties in conflict, Kamajor children presented a whole range of challenges to the wider community, largely connected with their warped ideas of authority and their self-perceptions of power. Testimonies to the Commission told of school pupils who were Kamajor members refusing to take orders from their teachers to perform chores such as sweeping the classroom. The children would advance a reason connected to their society membership, for instance that it was taboo for a Kamajor to touch or come in contact with a broom. It is understandably problematic for communities to reintegrate such children into the normal structures and institutions of peacetime.

Nature of discipline

278. The Kamajors within the CDF had their own belief system, rules and regulations, which governed their conduct and to which they were usually bound by oath. Flouting these rules would incur a consequence or punishment, usually administered by initiators. Kamajors have testified that such punishment would extend to children as well. In serious cases such as killings, the cases were referred to higher quarters.²³⁴ Another Kamajor member stated that in his unit, unlawful killing of civilians led to arrests and jail for every member.²³⁵ Later in the conflict, however, initiates were not sanctioned for acts such as arbitrary killings, rape and looting, providing they paid to undergo a further initiation ceremony to “cleanse” them of their misdeeds. Such a response to abuses made a mockery of Kamajor claims to a disciplinary code.

²³² See Simon Arthy, former DFID and EEC Reintegration Officer in the Southern Region, TRC interview conducted in Freetown, 8 August 2003.

²³³ See Simon Arthy, former DFID and EEC Reintegration Officer in the Southern Region, TRC interview conducted in Freetown, 8 August 2003.

²³⁴ TRC confidential interview with a junior Kamajor commander, Pujehun District, 7 August 2003.

²³⁵ TRC confidential interview with a former Kamajor combatant, Bo District, 7 August 2003.

SIERRA LEONE ARMY (SLA)

Recruitment

279. The recruitment of children into the Sierra Leone Army started during the rule of President Joseph Saidu Momoh, who advocated for the use of vigilante groups in the prosecution of the war. President Momoh advised chiefs and other traditional leaders to organise the civilian population into vigilante groups to defend their localities, based on his prognosis that the Sierra Leone Army was not able to prosecute the war on its own.²³⁶ Communities were supplied with guns and ammunition accordingly. Vigilante fighters, including the so-called Sierra Leone Border Guards (SLBGs), were later integrated into the Army. The Commission heard the view that this method of recruitment was inappropriate and allowed unprofessional, unconventional soldiers to serve the SLA.²³⁷
280. However the major recruitment of child soldiers into the Sierra Leone Army took place during the reign of the NPRC government, whose military leaders felt that the “national emergency” at the warfront warranted it:
- “During the NPRC, the strength of the military was small and the strategy of the RUF was one that really wanted to allow it to spread its activities all over the country... and that definitely required the NPRC as a government to respond by heavily populating the Army...”²³⁸
281. A primary source for recruitment was those vigilante groups in existence from the time of President Momoh, most of whose members were no older than 15 years. The incorporation of teenage vigilantes into the Army was completely at odds with the standard policy of recruiting at the age of 18 years.²³⁹
282. Proper recruitment procedures were not followed given the urgency of the conflict situation and the need to bolster the numbers of soldiers dealing with the insurgency. The NPRC government responded with a massive recruitment drive, drawing mainly upon youths and children from the urban sprawl of Freetown.²⁴⁰ One of the main reasons for the recruitment of children was the failure of Army headquarters to prescribe a minimum age for recruitment.²⁴¹ The absence of proper screening procedures meant that children found their way into the service of the state, just as many RUF infiltrators and other unscrupulous characters also became soldiers.
283. Children joined the Army for a variety of reasons. For some, it was a means of finding some form of employment in a time of extreme hardship and poverty. Others were swept into service by the surge of youthful “patriotism” that accompanied the NPRC’s coming to power. By some estimates, up to 16,000 recruits, including children, joined the Army under the NPRC regime.²⁴²

²³⁶ See Honourable Mrs. Elizabeth Lavallie, Deputy Speaker of Parliament, submission to TRC Thematic Hearings on Militias and Armed Groups, Freetown, 19 June 2003.

²³⁷ See Honourable Mrs. Elizabeth Lavallie, Deputy Speaker of Parliament, submission to TRC Thematic Hearings on Militias and Armed Groups, Freetown, 19 June 2003.

²³⁸ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 12 September 2003.

²³⁹ Lieutenant Colonel Simeon Sheriff, SLA officer, TRC interview, Freetown, 12 September 2003.

²⁴⁰ More detail on the NPRC recruitment drive can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

²⁴¹ Lieutenant Colonel Simeon Sheriff, SLA officer, TRC interview, Freetown, 12 September 2003.

²⁴² Lieutenant Colonel Simeon Sheriff, SLA officer, TRC interview, Freetown, 12 September 2003.

284. During the conflict period, children continued to be recruited into the Army in the most bizarre circumstances. One method of identifying child recruits was through their participation in school sports or other physical exercise.²⁴³ Children would be subjected to activities such as long-distance running. Their ability to finish in an impressive time would see them awarded a place in the Army, as they were considered sufficiently energetic and fit for the job.
285. There were also reports of the Army capturing civilians, including children, and sending them into action against their will. Children were commonly deployed on logistics duty in warring zones.²⁴⁴
286. According to an Army officer who testified to the TRC, children were also recruited upon the death of existing soldiers and given the official roll numbers of the deceased without going through proper procedures of recruitment.²⁴⁵ Such “back-door” enlistment was one of the prime means through which senior military officials embezzled money during the war: the children were not paid for their illegal roles in the Army, so the salaries and benefits of the “ghost soldiers” whose places they filled were appropriated by the officers and top administrators who recruited them:

“By 1993, the war had become a profitable business for the senior military officials in the NPRC. Millions of dollars were requisitioned and allocated for the Army, which never found its way to its intended recipients. Some of them were “ghost soldiers, many of them irregulars who had never been formally registered as recruits into the Army... Apprenticed to an Army officer, these child soldiers never got paid or received any benefit. And the senior military officials rarely accounted for the allocations set aside for the irregulars who included the child soldiers, who were officially not on the Army pay roll.”²⁴⁶

Training

287. Most children who joined the SLA during the conflict period did not receive proper regimental training. The batch that entered under the NPRC received a three-month “crash course” instead of the nine months of training that was the standard minimum in the Army before the outbreak of the conflict.
288. The training regime was the same irrespective of age and included the handling and firing of weaponry. Training camps were situated in major centres such as Bo, Pujehun, Kenema, Zimmi, Daru, Kailahun, Baiwala and Freetown.²⁴⁷

Command structure

289. Child soldiers were absorbed into the normal Army hierarchy as private soldiers and as such did not have any responsibility for commanding other soldiers. On the contrary, as low ranking, vulnerable new recruits, many children were made to perform the dirty work of others and, if anything, suffered harsher application of the rules and procedures that applied to other SLA soldiers.

²⁴³ See, for example, the article in *The New Breed* newspaper entitled “Protests at Army Recruitment”, Freetown, 8 July 1992 (hereinafter “*New Breed*, Protests at Army Recruitment”).

²⁴⁴ See *New Breed*, Protests at Army Recruitment.

²⁴⁵ Lieutenant Colonel Simeon Sheriff, SLA officer, TRC interview, Freetown, 12 September 2003.

²⁴⁶ See Abdullah and Rashid, *Smallest Victims, Youngest Killers*, at page 233 and 234.

²⁴⁷ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 12 September 2003.

Nature of discipline

290. There is no doubt that the lax and inconsistent recruitment procedures of the Sierra Leone Army, particularly under the NPRC regime, allowed people of dubious character to enlist. The influx of unruly urban youths and the departure from the tenets of military professionalism inevitably had an impact on levels of discipline in the Army. SLA officers testified as to the context in which these shifts in the character of the Army took place:

“During the war years also, the cherished gate of the military was thrown open to good citizens, criminals and hooligans alike... in the hope of flooding the war front with enough manpower to prosecute the war. These undeserving individuals quickly exploited their uniforms and guns for personal, sectional and other selfish interests.”²⁴⁸

[and]

“Like I said, you really need to look at the age target of the recruits... and at the time we did not really have a mechanism in place to filter people, to screen people. We only looked at people who were willing... and those who came forward to say: “we can go”... Characters were not questioned at all...”²⁴⁹

291. This kind of recruitment brewed indiscipline throughout the Army. Military personnel complained that some of the recruits were very difficult to control and that the behaviour of the rebels against whom the Army was fighting also affected the conduct of soldiers at the warfront.²⁵⁰ A copy-cat syndrome developed in the conflict, whereby government soldiers started behaving in the same manner as their insurgent enemies.²⁵¹
292. Nevertheless military personnel up to the then Commander-in-Chief have claimed that despite all the problems of recruitment they were able to maintain combat discipline throughout the NPRC regime.²⁵² The Commission also received testimony that child soldiers were punished according to their physical size and that the punishments meted out were designed to be “corrective” in nature.²⁵³

²⁴⁸ Major-General Tom. Carew, Chief of Defence Staff, Republic of Sierra Leone Armed Forces, submission to TRC Thematic Hearings on Militias and Armed Groups, Freetown, 10 June 2003.

²⁴⁹ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 12 September 2003.

²⁵⁰ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 12 September 2003.

²⁵¹ Sergeant Jonathan Showers, officer in the SLA and formerly in the AFRC, TRC interview conducted at TRC Headquarters, Freetown, 31 July 2003.

²⁵² See, for example, Captain (Retired) Valentine E. M. Strasser, Former Head of State and Chairman of the National Provisional Ruling Council (NPRC) from 1992 to 1996; testimony before TRC Thematic Hearings held in Freetown, 30 July 2003.

²⁵³ See Sergeant Jonathan Showers, officer in the SLA and formerly in the AFRC, TRC interview conducted at TRC Headquarters, Freetown, 31 July 2003.

USE OF DRUGS AND OTHER SUBSTANCES

293. One prominent characteristic of the conflict that is often related to children was the apparent widespread use of drugs by each of the combatant groups. In particular, the Commission learned early in its operations of the wide scale on which drugs were administered to child soldiers, mostly against their will. In many quarters, the atrocities committed by child soldiers have to a significant extent been attributed to the influence of these drugs. The only specialist psychiatrist in the country, who witnessed the war and remained in the country throughout the conflict period, was responsible for treating many of the former combatants affected by drug abuse. He had this to say to the Commission:

“Drug abuse was used by all the warring factions and those controlling them as a sort of mind control [tactic]... wherein these young people... they give them drugs and tell them to commit the atrocities which they actually committed.”²⁵⁴

294. Numerous testimonies like these from ex-combatant children provide anecdotal evidence to corroborate the psychiatrist’s viewpoint:

“I was abducted in Makeni, injected with cocaine and sent for training at Kabala... After the training, I was sent on a mission to attack the Guinean troops in Kalia.”²⁵⁵

[and]

“... Before I was captured, the rebels shot my father and mother in front of me... and having killed them, one of the commandos grabbed me by the throat, tied both of my hands, cut parts of my body with blade and placed cocaine in it... I had no option but to join them because I no longer had parents”²⁵⁶

TYPES OF DRUGS AND OTHER SUBSTANCES

295. Some of the known drugs used include heroin or “brown brown”, cocaine, crack, cannabis sativa or marijuana or “jamba”. Cannabis was the drug most commonly used according to the Commission’s enquiries.²⁵⁷ The use of alcohol was also widespread during the conflict. Combatants commonly drank palm wine, beer, liquors such as whisky and brandy, locally manufactured “omole” and mixtures of these in great excess. A senior administrator confirmed that alcoholic drinks and drugs were staple fare in the RUF.²⁵⁸
296. Drugs were administered to child soldiers in various ways. Some were smoked, others added into food without the child’s knowledge. Various substances were snorted, interjected and drunk. Cocaine was administered by interfusion, which entails cutting open the skin and placing the drug into the flesh wound. Heroin was smoked and snorted. Other drugs such as pills were forced down children’s throats. Even gunpowder was administered to children, by mixing it into their food or through cuts made in their skin.

²⁵⁴ See Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003; at page 5.

²⁵⁵ TRC confidential statement recorded at Saw Pit, Freetown, 7 December 2002.

²⁵⁶ TRC confidential statement recorded at Lumpa Displaced Persons Camp, 6 February 2003.

²⁵⁷ See Dennis Luseni, *The Use of Drugs by Combatants in the Sierra Leone Conflict*, internal report prepared for the Truth and Reconciliation Commission, Freetown, 2004 (hereinafter “Luseni, *Use of Drugs by Combatants in the Sierra Leone Conflict*”), at page 4.

²⁵⁸ See Jonathan Kposowa, former RUF Adjutant General; TRC interview, Freetown, 23 June 2003.

AVAILABILITY OF DRUGS

297. The high levels of consumption during the conflict suggested that drugs were fairly readily accessible to the various armed groups. Dr Edward Nahim, the psychiatrist in charge of the government's mental hospital, attributed the quantities of drugs on the market to a total breakdown of regulatory institutions:

"These drugs were easily available... easily available in the sense that... because of the war, people smuggled a lot of drugs into the country... and then there was no control. The police couldn't function and the customs also couldn't function. So it was more or less like a free-for-all situation. Those who wanted drugs got them easily... sometimes even for free..."²⁵⁹

298. Drugs were brought into the country through the air and seaports, as well as through the overland border entry points from Guinea and Liberia. Sierra Leone became a transit point for drugs to be shipped onwards to Europe and America.²⁶⁰ Traffickers allegedly paid for shipping services with drugs, which was one of the means through which drugs came into the hands of members of the armed groups.²⁶¹ The primary alleged route through which drugs passed, though, was by land transport from neighbouring countries. A brisk barter trade was said to be in existence in places such as "Bo Waterside" and Kabala for drugs from Liberia and Guinea respectively.²⁶² Natural produce such as cocoa, as well as looted goods and diamonds, were exchanged from Sierra Leoneans for drugs, medicines, rice, livestock and other items from over the border.²⁶³ In addition, the Nigerian soldiers who arrived under ECOMOG were said to have brought various drugs, especially cocaine, with them into Sierra Leone.²⁶⁴

299. Describing the different scenarios, a confidential source told the Commission:

"I think some of the combatants brought in drugs, sold the drugs to the rebels in exchange for diamonds and money. So it was more or less an internal as well as an external trade. Internally, drugs were sold to the combatants and paid for with diamonds or money. Externally, the drugs were brought in and out as a transit point... to be sold overseas in Europe and America. So it was quite prevalent... and I think those engaged in the drugs trade made huge sums of money."²⁶⁵

300. Marijuana was grown and harvested on different farms all over the country by the different fighting forces. Cultivation of marijuana in some cases supplanted crops that could have provided a source of food for a largely starving population. It was easy to grow and became readily available and cheap throughout the conflict period.²⁶⁶

²⁵⁹ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003; at page 6.

²⁶⁰ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003; at page 7.

²⁶¹ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003; at page 2.

²⁶² See Luseni, *Use of Drugs by Combatants in the Sierra Leone Conflict*, at page 13.

²⁶³ See Luseni, *Use of Drugs by Combatants in the Sierra Leone Conflict*, at page 13.

²⁶⁴ See Luseni, *Use of Drugs by Combatants in the Sierra Leone Conflict*, at page 14.

²⁶⁵ TRC confidential interview with a state security official, conducted in Freetown, 22 August 2003.

²⁶⁶ See Luseni, *Use of Drugs by Combatants in the Sierra Leone Conflict*, at page 2.

USE AND EFFECTS OF DRUGS

301. The Commission documented many instances of the violation of forced drugging, where a captive or child combatant was made to ingest narcotics, alcohol or another substance that altered his or her state of body or mind. According to the Commission's database, 25% of victims of forced drugging whose ages were reported were 10 years or younger at the time of the violation; 50% of victims with age documented aged 13 or younger; and 75% of victims with age documented were 17 years or younger.²⁶⁷
302. The Commission received a number of statements and testimonies at hearings regarding drug usage. According to a 14-year-old ex-combatant girl she "used to take about thirty 'blue boats' (pills), ate 'jamba plasas' (marijuana mixed in a sauce with local vegetables) and drank 'jamba tea' (marijuana distilled as tea) every day, except if they ran out of supplies."²⁶⁸
303. The Sierra Leonean doctor who treated drug users during the conflict and in its aftermath recounted some of his experiences:
- "... I admitted many patients. There were ECOMOG soldiers, there were Sierra Leone soldiers... child soldiers, civilians and most of them had drugs problems... During the January invasion and before any operation... that was a special operation... all of the frontline combatants were given drugs, either to eat, drink, smoke... or through injection, so that it will enter the blood stream directly... those that came to Freetown had cuts on their foreheads, which they rubbed with heroine and cocaine..."²⁶⁹
304. While drugs were initially administered to children by force, it is quite likely that the scenario changed later on in the conflict. Many children began taking drugs voluntarily, as a matter of habit or dependency. They were guaranteed easy access and their commanders were likely only to encourage them. The former Adjutant General of the RUF testified that as the conflict continued, so the trend evolved, with commanders forcing children to keep taking drugs after introducing them to the habit.²⁷⁰
305. In all probability the intention of commanders who administered drugs to children was to keep control of them so as to ensure compliance with orders regarding combat and the commission of violations. Drugs made the children more malleable and, in some instances, more liable to carry out acts of horrendous violence. Of greatest importance appears to have been the altered state of reality in which children found themselves. Having been abducted and removed from familiar surroundings, subjected to brutality and denied the chance to express themselves as children, their experiences were already cruelly intoxicating. Drugs merely enhanced the sense of emotional isolation and oppression that most children felt in the captivity of the armed factions.

²⁶⁷ More detail can be found in the Statistical Report produced as an Appendix to this report.

²⁶⁸ See TRC interviews with former child combatants, Family Homes Movement, 7 August 2003.

²⁶⁹ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs, TRC interview conducted at Kissy Mental Hospital, Freetown, 30 July 2003; at pages 8 and 9.

²⁷⁰ Jonathan Kposowa, former Adjutant General of the RUF and present Secretary General of the RUF; TRC interview conducted at TRC Headquarters, Freetown; 23 June 2003.

306. The doctor at Sierra Leone's state mental hospital shared his diagnosis of the problems that drug use during the conflict has caused:

"Whenever you take drugs... it doesn't matter whether it is marijuana, alcohol, heroine or cocaine, the effect is the same. What happens is that you become confused... you cannot concentrate very well. Your attention is not sustained... orientation for place and time is disturbed. That means you cannot even understand where you are, you cannot tell the time of the day or even the month...

So as you can see many drug users are in a state of temporary insanity. They don't have any judgment at all... they just walk by instinct and during that time anything you tell them to do... they don't know that what they are going to do is wrong... They just blindly follow instructions. If you say go and shoot and kill... those under the influence of drugs wouldn't have censure in their mind and brains... so in such cases, those taking drugs suffer from what is known as drug-induced confusion or psychosis... Of all the patients admitted to the Kissy Mental Hospital during the last ten years, 88% of them have been admitted for drugs problems..."²⁷¹

307. The leadership of the armed factions, particularly the RUF, must take responsibility for the high rate of drug abuse in the country. Refusal to take drugs on the part of a child captive or combatant was often accompanied by brutal beatings and starvation.

308. Testimony from many child soldiers confirmed that they were given drugs and then told to commit the most horrendous atrocities. Drugs were administered with contempt for the safety of the users and the civilians around them:

"Gunpowder was cooked and put into their food and drinks were given to them... to make them feel high... Before any operation... most of these frontline fighters were young children... they are either injected with drugs like heroin or cocaine and given gunpowder to drink... and some of them carry drink, which they rub on wounds in their foreheads and so on. So in that state... the drug is affecting their brains and in a state of temporary mental insanity... their concentration is poor, they cannot think or reason properly. They committed atrocities like burning of houses, mutilating people, killing and raping."²⁷²

309. While drug abuse in the RUF was the result of compulsion, drug abuse was a more entrenched problem in the SLA. Many child soldiers had indulged in drug use of their own accord in the urban ghettos before joining the conflict and they simply continued upon entering the Army.²⁷³

²⁷¹ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview at Kissy Mental Hospital, Freetown, 30 July 2003; at pages 7 – 8.

²⁷² Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview at Kissy Mental Hospital, Freetown, 30 July 2003; at page 5.

²⁷³ Lieutenant Colonel Simeon N. Sheriff, officer in the Sierra Leone Army (SLA), TRC interview conducted at Defence Headquarters, Freetown, 12 September 2003.

310. The impact of drug abuse has been varied and destructive. The violations committed by child soldiers under the influence of drugs represent the worst of its manifestations. It must be remembered that drugs were administered to children, whose sense of reasoning is not fully developed and who are already fairly susceptible to manipulation, peer pressure and fear. No sanction existed for commanders who pursued the practice of drugging child combatants.
311. The Commission finds that all of the armed factions deliberately pursued a policy of forcibly administering drugs to children in order to loosen their inhibitions, spur them on to commit gross human rights violations and to participate in the conflict without fear. The Commission finds further that many of the children committed the most heinous violations while under the influence of drugs. The Commission finds that none of the armed factions has acknowledged the widespread use of drugs, nor expressed any remorse for the long-term consequences of prolonged drug abuse on individuals and on the future prospects of the country as a whole.

IMPACT OF THE CONFLICT ON CHILDREN

312. In analysing the diverse effects of the conflict, the Commission has found that wanton violence impacted profoundly on the lives of the entire population of Sierra Leone. However its impact was most detrimental on children.
313. Children were not able to escape the most devastating negative effects of conflict. They found themselves assuming centre stage as both victims and perpetrators. Children have been affected at all levels in the fields of education and health, socio-economic considerations and the political sphere. Children lost the opportunity to enjoy their childhood. At a time they should have been playing and having fun, they were handling guns and were forced to endure the most awful violence. The United Nations has offered this analysis:

“Many of today’s conflicts last the length of a “childhood”, meaning that from birth to early adulthood, children will experience multiple and accumulative assaults. Disrupting the social networks and primary relationships that support children’s physical, motional, moral, cognitive and social development in this way, and for this duration, can have profound physical and psychological implications.”²⁷⁴

314. According to UNICEF, which has worked with children in Sierra Leone for several years:

“The extent of the damage has yet to be assessed. When we speak of children and the impact of such violations upon them, we cannot talk only of statistics or of apparent physical consequences. We talk about attempts at destroying the very humanity that these children have been born with. We talk about not only violating their rights as enshrined in international law, but about denying them the very right to exist as what they are – children. We have an obligation to protect them against future brutality, to protect their basic human rights, and if at all possible, to bring back their hope in a better future.”²⁷⁵

²⁷⁴ See United Nations Special Report; “The Impact of Armed Conflict on Children”, available at the following web address: <http://www.un.org/special-rep/children-armed-conflict/>.

²⁷⁵ See UNICEF submission to TRC, at page 3.

DISPLACEMENT AND SEPARATION

315. One of the first consequences of any conflict is the massive migration of people that occurs as they try to flee from areas of violence to relative safety. In the course of this movement, enormous numbers of the population are uprooted. Those uprooted usually fall into two categories: internally displaced persons and refugees. Internally displaced persons, or IDPs, usually find temporary camps or safe havens within the country, while those who cross borders into neighbouring countries become refugees. Current figures estimate that more than fifty percent of all refugees are children.²⁷⁶
316. Displacement during conflict situations inevitably erodes and weakens many of the social and political structures designed to protect community members. When families are in flight, they can become separated easily. During the conflict in Sierra Leone, many children were separated from their parents in the chaos that followed attack or the threat of attack. A further cause of separation from family was the deliberate policy of abducting children practiced by all of the armed groups. Sadly many children have not been reunified with their families since the conflict ended. Many of them were taken away at such a young age that they do not remember who their family members are.²⁷⁷
317. UNICEF described the situation that many children found themselves in:
- “Particularly despondent were the children who had been recruited as young as seven and demobilised as teenagers. These children often were confused, disoriented, conveyed facts and information wrongly, and were frequently unable to tell the difference between fantasy and reality... one 10-year-old boy claimed he himself was twenty years old. Others gave conflicting and confused information about their places of origin or the last known location of their relatives.”²⁷⁸
318. Sadly many refugees find themselves fleeing from one situation of violence to another. It has been estimated that more than 75% of the refugees that have so far left their homes have fled from one developing country to another.²⁷⁹ Refugees have placed an enormous strain on countries that already have problems caring for their own populations. They frequently attract a hostile or violent backlash from host communities and governments.
319. Sierra Leonean refugees have experienced such a backlash in Guinea. In September 2000, President Lansana Conté of Guinea made a public announcement accusing all refugees in Guinea of being rebels and/or harbouring rebels.²⁸⁰ This speech resulted in attacks and violations against Sierra Leone refugees, including children, by Guinean authorities and civilians alike. Refugee camps were attacked and non-camp –based refugees were detained en masse. Many refugee children were raped and many were killed or died in detention due to the abominable conditions in which they were held. Many refugees fled back to Sierra Leone, only to suffer further violations such as abductions and sexual slavery at the hands of the armed factions.²⁸¹

²⁷⁶ See UNICEF, *State of the World's Uprooted children*, at page 1.

²⁷⁷ TRC confidential statement recorded in Kono District, 7 December 2003.

²⁷⁸ See UNICEF submission to TRC, at page 18.

²⁷⁹ See UNICEF, *State of the World's Uprooted children*, at page 1.

²⁸⁰ See UNICEF submission to TRC, at page 24.

²⁸¹ See UNICEF submission to TRC, at page 24.

320. Life in the refugee camps in Guinea was fraught with violations such as arbitrary arrest and detentions, police abuse and lack of freedom of movement. A major problem in the camps was the commission of sexual violations against refugee women and girls. According to UNICEF:

“Throughout their time in these camps, refugee girls as young as five became victims of rape and other forms of sexual violence at an astonishing rate considering the ostensible civilian nature of the camp.”²⁸²

321. Refugee camps are often squalid and inmates face severe deprivation. In this environment, children are most at risk to disease, hunger and human rights violations. In the camps children often suffer malnutrition and diseases such as scurvy, beriberi and pellagra. All of these factors contribute to high mortality rates.²⁸³ While no statistics are available as to how many children died during the conflict as a result of malnutrition, the UN Human Development Index has ranked Sierra Leone consistently in last place over recent years, particularly with regard to its infant and under-five mortality rates.

322. While displaced children are at greater risk than adults during conflict periods, unaccompanied minors face even greater risks. “Unaccompanied minors” are those who have been separated, lost or orphaned in the course of flight. UNICEF estimates that they probably account for more than 5% of the refugee population. While some children were taken in at the end of the war by extended family members, many others have found themselves languishing on the streets of Freetown.

323. Displacement is a harrowing experience for any human being. It is even more traumatic for children. In all cultures, one of the most important factors of societal existence is the cohesion of the family and community, and the degree of nurture and support that children are accorded. When support structures are threatened and subsequently destabilised, the foundation of the lives of children is put in serious jeopardy. According to UNICEF:

“Indeed, one of the most significant war traumas of all, particularly for younger children, is simply separation from parents... often more distressing than the war activities themselves.”²⁸⁴

324. Children in Sierra Leone not only experienced separation and displacement but also suffered related violations of an intensely harrowing nature, which compounded their trauma. These experiences have left scars both mental and physical. Regrettably many children do not have access to social and economic resources that could possibly assist them to deal with their lives and heal the scars of the past.

²⁸² See UNICEF submission to TRC, at page 24.

²⁸³ See UNICEF, *State of the World's CUprooted children*, at page 1.

²⁸⁴ See UNICEF, *State of the World's CUprooted children*, at page 1.

ECONOMIC CONSEQUENCES ON CHILDREN

325. Internal conflicts usually have even more harmful effects on the country than international conflicts. Factors affecting the level of damage to the country include the duration of the conflict, the magnitude and geographical spread of hostilities and the nature of the warfare that has taken place.²⁸⁵ The eleven—year war affected the infrastructure of the country dramatically: the agriculture industry was destroyed; the wealth of the mineral resources was diverted and did not benefit the population; and the workforce was torn apart and incapacitated. In sum the war devastated the economy of Sierra Leone.
326. The conflict seriously affected economic activity, severely damaged the export base of the country, destroyed physical infrastructure and drained resources both human and capital, which were used to support war efforts. As such, there was a collapse in the revenue base of the country. Due to the war, by 1997, there was an 18% contraction in GDP, virtual stagnation during 1998, and a further fall of 8% in GDP in 1999.²⁸⁶
327. The capacity of the population to cope with the dire economic situation in the aftermath of the conflict is significantly based on the characteristics of the economy before the war. In a sense, it is necessary to look at the situation of people before the conflict and whether they were above the poverty index.²⁸⁷ Unfortunately in the case of Sierra Leone, the economy was already precariously placed in the 1980s, a state of affairs that was not helped by the adoption of the structural adjustment programme, which destroyed most of the social services being provided by government. The conflict has only served to make the poor even more impoverished.
328. Most vulnerable groups in the face of severe economic pressure, devise “household survival strategies”,²⁸⁸ or coping strategies. These strategies often rely on what is known as “job diversification”, a shift onto the labour market of household members who were previously not necessarily needed to work. Such a process causes changes in traditional roles within households. Children of course are always affected, as their parents send them out to contribute to the family income. Almost as a matter of course, children find themselves doing paid labour during and after conflict periods.
329. Traditionally in Sierra Leone, children have been involved in domestic work, which includes household chores in towns and agricultural work in rural communities. The conflict has led to the loss of breadwinners through death, disability or sickness, so children have been forced to become economic contributors and in some cases providers for their families. The presence of so many children engaged in trading and other commercial activity on the streets of Freetown and other large towns is a clear indication that children have taken an active role in income generation for themselves and their families.

²⁸⁵ See the War-torn Societies Project (WSP-International), an initiative supported by the United Nations, for a more detailed analysis of conflict damage indicators. The website includes links to a Sierra Leone case study at the following address: www.wsp-international.org/.

²⁸⁶ See the Institute for Security Studies, South Africa; *Profile of the Sierra Leone Economy*, including essential data on GDP and other economic indicators for the conflict period and beyond. More detail can be found at the website: www.iss.co.za/AF/profiles/SieraLeone/Economy.html#top.

²⁸⁷ See the War-torn Societies Project (WSP-International): www.wsp-international.org/.

²⁸⁸ See the War-torn Societies Project (WSP-International): www.wsp-international.org/.

330. According to the “multi-indicator cluster survey” conducted in 2000 in Sierra Leone, 48% of children were found to be engaged in unpaid work for someone other than a household member and 10% of these children spent more than four hours a day on such tasks.²⁸⁹ It was also revealed that in the same year, 72% of Sierra Leonean children were working in some capacity: the figure includes those involved in domestic and agricultural work.²⁹⁰ Clearly the war has forced many children into joining the workforce of the nation.
331. Other survival strategies utilised by vulnerable groups involve the sale or pledge of their subsistence and production assets, such as land and livestock, or their personal assets, such as jewellery. In a post-conflict period, many families also resorting to pledging their children as labour.²⁹¹
332. The practice of using children for the purposes of labour is not new in Sierra Leone. A custom had developed long before the conflict of poor or illiterate parents sending their children away, to be brought up by relatives or friends whom they perceived as being better off, or better placed to care for the children. It is similar to fostering children to people the parents believe have more to offer than they have, largely for material reasons. Local jargon refers to this practice in Krio as “mehn pikin”.
333. This system has being criticised because of the huge potential for exploitation:
- “...Generally [fostered children] do receive more severe beatings than children living with their mothers, and they perform the most physically arduous work. They receive less medical care compared to children with their mothers and their complaints of illness are often dismissed as faking to avoid work. Many receive little animal protein from their caretakers and are given food of poorer quality, such as the crusty, burnt rice at the bottom of the cooking pot. They must share a basin of food with large groups and with older, more competitive eaters... they receive few snacks, whether intentionally or through oversight. Foster children are punished frequently by food deprivation... leading many to forage largely for themselves... picking wild fruits, stealing... rates of malnutrition and deaths are highest among younger ones.”²⁹²
334. This informal practice of fostering in Sierra Leone is not strictly regulated. Its incidence is on the increase because of the conflict. In particular, children from the provinces, which include the most impoverished areas, are fostered to families in Freetown. According to the Government’s survey of 2000, 10% of all children do not stay with their parents even though they are alive. This issue needs to be further investigated in order to ensure that the rights of children are not abused in the process of trying to find better care for them.²⁹³

²⁸⁹ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 60.

²⁹⁰ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 61.

²⁹¹ See the War-torn Societies Project (WSP-International): www.wsp-international.org/.

²⁹² See Zack-Williams, A. B.; “Child Soldiers in the Civil War in Sierra Leone”, paper presented at the conference of the Development Studies Association, University of Bath; September 1999; see also the website: www.devstud.org.uk/publications/papers/conf99/dsaconf99zackwilliams.pdf.

²⁹³ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 61.

335. While children were used as labour in the diamond-mining industry even before the war,²⁹⁴ there has been a noticeable growth in the use of children in the mines both during and after the conflict. Having tracked this worrying trend, the NGO World Vision made the following submissions to the Commission:

“The war aggravated the involvement of children in mining activities. In Kono District and elsewhere, many children were captured and conscripted into the RUF and AFRC fighting forces. Those children captured... were forced to engage in mining activities, where they were used to provide slave labour. These child combatants and other abducted children were ultimately seeking fortunes for their commandos. Many of the children and youth who escaped capture by the RUF were later recruited by the CDF, the Kamajors. The children who were with the Kamajors were later to become miners too.”²⁹⁵

336. As at June 2003, there were more than 1,300 children between the ages of 11 and 18 working in the mines. At least 8% of those registered as working in the mines by World Vision were aged eight or younger. World Vision also found that 91% of mining labourers were males, mostly engaged in the digging and washing of the gravel, while less than 10% of them were girls, who did the cooking and other chores.²⁹⁶
337. In its comprehensive survey produced in 2002,²⁹⁷ World Vision reported that 75% of the children stated that their main reason for working in the mining industry was to earn money. In terms of benefits that they had accrued, 43% said they were not realising much benefit from the mining activity, while 45% said they earned enough to meet their “basic needs”. When asked the type of problems they encountered at the mines: more than 40% of the children said they do not benefit much from the proceeds of the sale of the diamonds derived from their labour; 13% claimed that they did not get adequate food; 28% said they were overworked; 7% felt they were not being properly cared for; and 9% suffered frequent illnesses. When asked how long they planned to continue mining: 66% said they would continue until they found an alternative; 15% indicated that they would continue until they got enough money; 14% was unsure; whilst 5% wanted to continue until asked by their parents to discontinue. When asked other preferences they would pursue if given the opportunity: 44% were interested in schooling; 40% in skills training; and 8% in farming. Tellingly, only 3% were interested in mining.²⁹⁸

²⁹⁴ See World Vision; Submission to the Truth and Reconciliation Commission on the occasion of the TRC Special Thematic Hearings on Children, 16 June 2003 (hereinafter “World Vision submission to TRC”), at page 3.

²⁹⁵ See World Vision submission to TRC, at page 3.

²⁹⁶ See World Vision submission to TRC, at page 5.

²⁹⁷ See World Vision Sierra Leone and African International Mission Services SL, *Report on children in mining activities assessment survey, Kono District*, published in Freetown, August 2002

²⁹⁸ See World Vision submission to TRC, at pages 10, 11 and 12.

338. The World Vision survey revealed that children are not benefiting from their continued stay in the mines. Describing the problems associated with the use of children as miners, World Vision has stated that:

“[Children] are clearly not in the mines on their own volition. This is clearly an act of child abuse bordering on exploitation. Many of these children have abandoned all educational pursuits, including acquiring vocational skills. There are children who are being used by their parents, other relatives and greedy crew bosses purely for their own selfish gains. These children have limited access to health care and educational facilities... most of the benefits from their mining activities will only benefit the financiers, who are in places far away from the mine pits. Ultimately, these children will be abandoned at a time when it will be too late to acquire any skills or return to any formal educational institution... thereby making them social burdens putting much demands on society.”²⁹⁹

339. Another direct result of the dire economic circumstances in which children find themselves is the number of young girls who have been forced into the sex trade as a means of survival. These girls largely account for the marked growth all over the country in the sex trade, which is still rife with abuses.

340. A major area of concern is the phenomenon of the child-headed household in Sierra Leone, which results from children having lost parents or guardians in the war. The loss of a breadwinner has meant that many children have had to become involved in economic activities at the expense of their childhoods. The government is so convinced of a high number of orphans in the country that it declared the relatively low figure produced by its own survey in 2000 as unrepresentative.³⁰⁰ Some of the reasons given for the low figure included the many orphans living in care systems or on the street without adult caretakers. Since the survey was a house-hold survey, these children were not counted. There are no accurate statistics on child-headed households in Sierra Leone.

341. The involvement of children in aggressive economic activities such as street trading, mining, domestic servitude and commercial sex work is disconcerting and impacts negatively on their rights to enjoy their childhood and access education. Not being educated will affect them dramatically in the future, as it will determine their future livelihoods. It is important for society as a whole to grasp the many adverse consequences of putting its children to work, as the government noted in the report on its household survey:

“Children who are working are less likely to attend school and more likely to drop out. This pattern can trap children in a cycle of poverty and disadvantage... Working conditions for children are often unregulated with few safeguards against potential abuse. In addition, many types of work are intrinsically hazardous and others present less obvious hazards to children, such as exposure to pesticides in agricultural work, carrying heavy weights and scavenging in garbage dumps.”³⁰¹

²⁹⁹ See World Vision submission to TRC, at pages 3 and 4.

³⁰⁰ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 62.

³⁰¹ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 60.

SEXUAL EXPLOITATION OF CHILDREN

342. Another aspect of economic exploitation suffered by girl children in Sierra Leone has been sexual exploitation. Sexual exploitation has included the exchange of sex for food, money and medicine. Sex has also been bartered in order to access humanitarian assistance, to which children are supposed to be legally entitled through the free provision of donor agencies and many of the United Nations organs. Sexual abuse by humanitarian workers has affected both internally displaced persons and those in refugee camps. A second aspect of sexual exploitation identified by the Commission is the wretched position that many girls find themselves in due to the conflict, forced to sell themselves for sex in order to make a living.
343. The Commission has noted the contents of the report on sexual exploitation in refugee camps as experienced by Sierra Leone girl-children and women, which was the result of the survey on sexual exploitation carried out by UNHCR and Save the Children UK.³⁰² The report found that sex in exchange for money or gifts appeared to be widespread. The majority of the victims indicated that it was the only option they had in order to access money or receive food and other basic necessities. The majority of the children involved in this racket were girls between the ages of 13 and 18 years. Girls between the ages of four and 12 were also reported as being sexually harassed, either verbally or through the groping of their buttocks, breasts or genitals.
344. In describing the scenario, UNICEF provided the following insight:
- “Each refugee camp contains several “ghettos” or drug bars... and brothels where men go to exchange money or goods for sex, often with minor girls.”³⁰³
345. The survey found that those most vulnerable to sexual exploitation were unaccompanied children, children in child-headed households, orphaned children, children alone or in foster care, children living with extended family members and children living with single parents.³⁰⁴
346. Items and services such as oil, bulgur, wheat, tarpaulin or plastic sheeting, medicines, transport, ration cards, loans, education courses, skills training, jobs and other basic services were exchanged for sex with girls.
347. The report indicates that it was the relatively prosperous elite, including the UN staff, peacekeepers, aid and NGO workers, whose resources were considerably more than those of the refugees, who frequently exploited the extreme disparity surrounding the refugee population by using the very humanitarian aid and services intended to benefit them as a tool for exploitation.³⁰⁵ These workers used their positions to withhold services that were meant to benefit children and others. Such services were held back and excuses made until sex was proffered, or demanded and given. Another group of persons that sexually exploited girls was, surprisingly, fellow male refugees who were appointed into caretaker or leadership positions among the refugees.

³⁰² See Save the Children – UK and UNHCR, “*Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone*”, Geneva / London, April 2002.

³⁰³ See UNICEF submission to TRC, at page 24.

³⁰⁴ See Save the Children – UK and UNHCR, “*Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone*”, Geneva / London, April 2002.

³⁰⁵ Ibid.

348. Other factors that contributed to sexual exploitation of refugee children were lack of livelihood options and consequent inability to meet basic survival needs, insufficient food rations and supplies, and pressure from peers and parents.
349. Outside the refugee camps, the main group of persons that sexually exploit girls are men in positions of power or influence, or those with recourse to enough resources to buy sex. Included in this group are teachers, religious leaders, NGO workers, government officials and expatriates.³⁰⁶
350. Describing this scenario, UNICEF commented as follows:
- “Sexual exploitation in Sierra Leone is far more common than documented in the report [by UNHCR and Save the Children UK]... The inherent power differential between a man with access to resources, however minimal, and a young woman or girl with less or none renders any sexual relationship between the two non-consensual sexual exploitation. In particular in the context of the horrors of war, the desperate poverty and hunger, and the consequent enormity of the needs of civilians, men in positions of power, both Sierra Leoneans and expatriates, have systematically taken advantage of this situation for their own sexual gratification. Hiding behind the cloak of words such as “prostitution” and “commercial sex work” lurks the reality of young women who are survivors of a sickeningly widespread pattern of exchange of desperately-needed goods and services for sex.”³⁰⁷
351. Many of the girls abused in Sierra Leone have suffered teenage pregnancies and have contracted sexually transmitted diseases as well as HIV / AIDS.³⁰⁸

IMPACT ON CHILDREN’S HEALTH

352. The health sector in the country was already in straitened circumstances before the war. It was further devastated by the conflict, with health care and delivery being steadily undermined as the general humanitarian situation worsened. Mass violations, coupled with the massive displacement of civilians, overwhelmed an already beleaguered health-care system. During the conflict, the country is estimated to have lost more than 50% of its health facilities, with the remaining facilities needing extensive repair and support.³⁰⁹
353. Describing the general state of health in the country in 2001, UNICEF said:
- “The protracted conflict has had a dramatic effect on the health of the country... Population movements, overcrowding and poor sanitary living conditions have exacerbated already high morbidity and mortality, and infectious disease, such as malaria, pneumonia, tuberculosis, bloody diarrhoea and HIV/AIDS... Routine childhood immunisation has almost completely collapsed in some areas of the country due to lack of access.”³¹⁰

³⁰⁶ See UNICEF submission to TRC, at page 23.

³⁰⁷ See UNICEF submission to TRC, at page 24.

³⁰⁸ See UNICEF submission to TRC, at page 24.

³⁰⁹ See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone, for a Health Sector Reconstruction and Development Project; 22 January 2003, at page 5.

³¹⁰ See the UNICEF report on the conditions of public health and health care in Sierra Leone, 2001, available at the website: www.UNICEF.org/emerg/Emergencies_Sierra_Leone_CAP_2001.

354. The impact of the conflict on the health of children has been even greater than for adults due to children's innate vulnerability. Malnutrition was widespread because people were deprived of access to adequate food, clean water and health and sanitation facilities. Malnutrition continues to be a problem and is said to contribute significantly to the high infant mortality rates in the country.³¹¹ According to a report in 2001, 86% percent of pregnant women were anaemic, which has implications not only for safe motherhood, but also for immunity, growth and development of children. Due to lack of access to some parts of the country during the conflict, routine childhood immunisation almost completely collapsed leaving many children at the mercy of killer diseases.
355. Another impact of the war has been the massive destruction of the health infrastructure in the country, especially in the provinces, which have always been disadvantaged. Added to destruction is the lack of human resources due to the war. Some health providers left the unsafe provincial zones during the war for the relative safety of Freetown and to date have never returned.³¹² Their absence continues to impact on the welfare and survival of children, most of whom now lack access to health infrastructure and personnel.
356. Given the impact of the conflict on the economy, indigent families are finding it difficult to access basic health care for themselves and their children, even when it is available. The situation is most acute in the rural areas, where the greatest numbers of persons but also the poorest in the country reside. Thus health care has become one of the casualties of the conflict, placing the well-being of the country's children in constant jeopardy as its legacy.
357. All of these factors are responsible for the continuously high infant and under-five mortality rates, placed at 170 and 316 respectively per 1000 live births.³¹³ Furthermore, the country has an underweight, stunting and wasting prevalence of 27%, 34% and 10% respectively in children.³¹⁴ Finally low birth weights of below 2.5kg stand at 52.5% of children born in Sierra Leone.³¹⁵

Physical health

358. Another consequence of the war on the health of children has been on their physical and psychosocial health. Physically some children were wounded in the war with guns knives, axes and such like, which resulted in bodily injuries. Of particular importance in this category are those children who suffered amputations and mutilations in the hands of the armed groups. Some of these children presently experience pain and other general discomfort due to these injuries sustained, to the extent that some of them might need help for the rest of their lives. These children are the visible legacies of the impact of the war on the health of children.

³¹¹ See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone, for a Health Sector Reconstruction and Development Project; 22 January 2003, at page 5.

³¹² See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone, for a Health Sector Reconstruction and Development Project; 22 January 2003, at page 6.

³¹³ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 11.

³¹⁴ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 11.

³¹⁵ See Government of Sierra Leone; *Report on the Status of Women and Children in Sierra Leone at the end of the Decade*, November 2000, at page 12.

Psychosocial welfare

359. Children were subjected to many acts of violence and also witnessed horrific atrocities in the course of the conflict. Their experiences have impacted negatively on their psyche, leading to severe emotional and psychological suffering. Children's abilities to exhibit appropriate and acceptable social behaviour, rational thought, good memory, learning ability, clear perceptions and understanding will in many cases remain questionable.
360. According to the results of a survey carried out by a donor agency on a sample of children to assess the levels of violence and psychological trauma experienced as a result of the 6 January 1999 invasion of Freetown: 71% of the children saw pictures of their worst experience in their minds; 94% thought about their worst experience even when they did not want to; 72% were plagued by nightmares and bad dreams; and 76%, unsurprisingly, worried that they might not live to be adults.³¹⁶
361. According to UNICEF, some children in the Interim Care Centres were said to have exhibited intense fear, intrusive recollections, anxiety, sleep disturbances, nightmares, profuse sweating, hyper vigilance, lack of concentration and withdrawal from other persons because of their experiences. Other children displayed signs of aggression, were abusive, disruptive, troublesome, confrontational and found it difficult to form ties with people. There were also children who cared little for their appearance and personal hygiene.³¹⁷
362. In present day Sierra Leone, many children are suffering the social effects of altered relationships due to the death of family members, separation and estrangement from family. The breakdown in family and community structures and the loss of social values have affected children materially. Children have also felt the impact of destitution caused by economic loss and material devastation and the resultant loss of social status.
363. The psychosocial effects of the conflict have had a definitive impact on the children of Sierra Leone. The repercussions of their experiences are far reaching and long term and will require careful psychosocial support in order to help heal them. The overall development of the children of Sierra Leone has been affected and will need major intervention if they are to take their rightful place in the world. UNICEF indicated in its submission that:

"The long lasting repercussions on these children of the violations they suffered cannot yet be assessed."³¹⁸

³¹⁶ See Plan Ireland, Children in Disasters programme, "The Importance of Education in Disaster Rehabilitation – The Rapid Education Programme in Sierra Leone", 2000; available at the following website: www.plan-ireland.org/pdfs/childrenindisasters. In October 1999, Plan Ireland commissioned an assessment of the violence and psychological trauma experienced by 315 war-displaced children at four IDP camps in or near Freetown. In July 2000, it also carried out a "rapid" assessment of the psychosocial conditions of children in Moyamba District.

³¹⁷ See UNICEF submission to TRC, at page 19.

³¹⁸ See UNICEF submission to TRC, at page 17.

IMPACT OF SEXUAL VIOLATIONS ON CHILDREN

364. While many people knew of the war in the Sierra Leone and the amputations that had taken place, very few people knew that most of the affected women and girls had experienced sexual violations. The nature and extent of the sexual violations that women and girls suffered during the conflict remain as yet unknown. Most women and girls in Sierra Leone experienced sexual violations on account of their gender. UNICEF, in describing the impact of sexual violations on children, has stated:

“The precise number of child victims of sexual violence is extremely difficult to establish due to under-reporting and an absence of comprehensive medical statistics. Survivors may fear retaliation, stigmatisation or rejection, may experience guilt feelings, or may be psychologically unable to deal with the consequences of disclosure. What is clear however is that sexual violence during the Sierra Leone war was perpetrated on a horrifically wide scale, and in blatant violation of the precepts of international law.”³¹⁹

365. The consequences of the systematic sexual violations that girls suffered in Sierra Leone have ranged from trauma, unwanted pregnancies and abortions, the contraction of deadly diseases, physical and internal injuries, to miscarriages. Girls who fell pregnant not only gave birth to children, but also suffered the additional trauma of seeing their new-born babies dying. Many also lost their lives during child birth. A family member recounted the experience of a girl-child:

“On 6 January 1999... during that time, the rebels were on the run from ECOMOG troops who were clearing them out... the rebels took her away into the bush and she spent more than six months with them. On her return she was pregnant. She delivered the baby but the baby died...”³²⁰

366. Many of the girls were incredibly young when sexually violated. Many fell pregnant while not quite mature. One of the medical implications of pregnancy by persons whose bodies are not yet fully developed or matured are the injuries that can occur in the course of delivery. Examples of these injuries are Vesico or Recto-Vaginal Fistula (VVF or RVF), which entail a breakdown of the tissues between the bladder and the vagina, resulting in urinary incontinence. Unfortunately, this condition may become permanent if there is no access to surgical assistance. It is one of the greatest indignities that girl-children suffer as a result of the sexual violations in the conflict. Other injuries experienced include abrasions and tearing of internal tissues, which in turn increase the chance of infections.

367. According to a medical director who treated some of the girls who were raped and sexually violated during the conflict, many of the victims had contracted sexually transmitted infections or diseases (STIs or STDs), including gonorrhoea, syphilis, chlamydia and even HIV / AIDS.³²¹ For women and girls, all of these diseases, if left untreated, have grave repercussions.

³¹⁹ See UNICEF submission to TRC, at page 8.

³²⁰ TRC confidential statement recorded in Freetown; 16 December 2002.

³²¹ See Dr. Rashida Kamara, medical doctor based at Connaught Hospital, Freetown, TRC interview conducted in Freetown; 11 July 2003.

368. While there is an absence of statistical data to confirm the numbers of girls who contracted HIV / AIDS during the conflict, the existing information suggests that in all probability it is quite high. In addition, girls who have undergone female genital mutilation who have also been raped and sexually violated are at a greater risk of contracting HIV / AIDS due to the extensive genital damage done to them during the circumcision exercise.³²² The United Nations Development Fund for Women (UNIFEM) has said that scarification caused by female genital mutilation increases the incidence of trauma and tearing during sex, which in turn exacerbates the possibility of contracting HIV / AIDS.³²³
369. It is estimated that altogether more than 16,000 children are living with HIV / AIDS in Sierra Leone.³²⁴ It is also estimated that there were 42,000 HIV / AIDS orphans under the age of 15 at the end of 2001, which is about 5% of the population and indicates a rise of 2% since 1997.³²⁵ The increase is attributed to several aspects of the eleven-year conflict: the migration of people, rape, the influx of peacekeeping forces, poverty, ignorance, aversion to discussing sex in some communities, unsafe sexual practices and the prohibitive costs of AIDS medication.³²⁶
370. Most girls have experienced the complete shattering of their lives because of the conflict. In the case of those girls who became mothers, early childbirth has prevented them from developing themselves in any meaningful way. They have been forced to stop schooling on account of their caring duties, which means that they do not acquire an education for themselves. Many girls have also stopped school because of early "marriage". Girls have been forced to curtail their own ambitions and aspirations because they have become wives and mothers before their time. Their childhoods have been unceremoniously cut short, as they have assumed adult responsibilities towards their children.
371. Sexual violations have therefore increased the level of poverty in which many girls live, as they have no training or opportunities to improve their earning skills due to the incapacities described above. They have been forced by circumstances to join the country's workforce as low-income earners, if at all. It is highly unlikely that their situations will improve, impacting adversely on their own lives and those of their children. The major effect of the conflict has been to plunge the girls into a never-ending cycle of poverty, which will attach from generation to generation.
372. In addition to all of the above consequences of sexual violations, most girls also have to face stigmatisation in their own communities. Girls have been rejected by their own families and have experienced their children being called "rebel children". The sense of rejection and isolation that such reception engenders in the minds of the affected girls has resulted in the re-traumatisation of many of them. Considerable numbers of girls choose to remain with their abductors due to rejection from their families and communities.

³²² See Dr. Rashida Kamara, medical doctor based at Connaught Hospital, Freetown, TRC interview conducted in Freetown; 11 July 2003.

³²³ See the United Nations Development Fund for Women (UNIFEM), "Turning the Tide: CEDAW and the Gender dimensions of the HIV/AIDS Pandemic", New York, 2001, at page 7.

³²⁴ See the World Health Organisation (WHO), *Epidemiological Fact Sheet on HIV / AIDS and Sexually Transmitted Infections*, 2002 Update (hereinafter "WHO, *Fact Sheet on HIV / AIDS*").

³²⁵ See WHO, *Fact Sheet on HIV / AIDS*.

³²⁶ See WHO, *Fact Sheet on HIV / AIDS*.

373. UNICEF has attempted to put the impact of rape and sexual violations on children into context as follows:

“Gender-based violence committed against girls was more than an attack against the individual survivors; it was an attack against their families and communities. Indeed, it is an attack against their present and their future, destroying their ties with home, threatening if not destroying their hopes of normal family life and often taking away their possibility of having children. Gender-based violence is an attack against the survivors’ dignity, which they may never be able to regain. When committed on such a scale as was the case in Sierra Leone, it is indeed an attack against their very humanity.”³²⁷

IMPACT OF DRUG USAGE ON CHILDREN

374. According to the only psychiatrist in Sierra Leone, drug abuse in the country is out of control to the point that he considers it a medical emergency.³²⁸ Children between the ages of 17 and 18 are worst affected. The prevailing situation has been attributed to the failure of the police to clamp down on the trafficking of drugs in the country, particularly during the conflict period.

375. Particular mention has been made of the prevalence and widespread use of cannabis sativa or marijuana. According to Dr. Nahim:

“Cannabis sativa is so commonly used or abused in Sierra Leone... that I don’t think people consider it a crime any more to use it... It is so easily available that all you want to do, if you want to smoke cannabis, you can go to any place where they drink alcoholic drinks. Nearby you can get cannabis easily available no deal... nobody will say any word. For less than Le 500, you can get a wrap that can make you feel high. As you can see, it is grown nearly everywhere in Sierra Leone today. You can get it anytime, anywhere, either for free or for a low fee.”³²⁹

376. The impact of the use of drugs in the conflict is reflected in the psychological, social and physical problems exhibited by those children who have become addicts. According to the doctor, the psychological impact of the drug has led to many children suffering from schizophrenia.

377. Socially, many of these children are having problems getting by at school, resulting in a decline in their performances attributable to their drug habit. Of particular concern are the adolescents in tertiary institutions whose schooling has been affected. Also, some children have become outcast and vagrants who sleep in the street, without money, employment or family care and who are likely to fall foul of the law.

³²⁷ See UNICEF submission to TRC, at page 7.

³²⁸ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview at Kissy Mental Hospital, Freetown, 30 July 2003; at pages 2 to 19. The statistics and perspectives in this section are those of Dr. Nahim, unless otherwise stated.

³²⁹ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview at Kissy Mental Hospital, Freetown, 30 July 2003; at page 17.

378. Physically, these drugs have affected one system or the other in the young person's bodies. A common example is the effect that persistent alcohol abuse, coupled with the use of a cocktail of drugs, has had on some young ex-combatants. Many of them display complaints relating to the malfunction of vital organs, such as the brain, heart and the central nervous system.³³⁰
379. In short, drug abuse has affected most children in the country, whether directly or indirectly, in an entirely negative way during and since the conflict.

STIGMATISATION, OSTRACISATION AND ISOLATION

380. A number of ex-combatant children are still bearing the brunt of their forced participation in the war. Their families and communities have rejected them because of their former affiliations with some of the armed factions and those violations they had committed while in the group. They are punished by their societies and "re-victimised" for having been forced into becoming soldiers in the conflict. Girls particularly have experienced both derision and rejection because they were forced to become "bush wives" or sexual slaves. In the case of those who came back with babies, both mother and child have been rejected and taunted. Ironically the society that failed to protect them from the violence of the conflict has revictimised them through not fault of their own. Sadly the fear of rejection has resulted in many of these children refusing to go back to their communities in the first place.
381. Many of the children victimised during the conflict have lost hope and faith in their society and have become enmeshed in a self-destructive lifestyle due to their total despondency. Others have ended up living rough and are now mired in the vices that accompany life on the streets. During the conflict, many children's lives became a constant struggle. Now, the war may be over, but for most children the struggle continues. An example lies in the experiences of this ex-child combatant, who was rejected by his father on his attempted return to the family in Freetown:

"When I came to Freetown, I tried to stay with my father... he rejected me and now I am staying in the streets. He said that he is no longer my father because I was a rebel... I tried to explain to him that it was not my fault... but he could not listen to me. I am now a chain smoker... I smoke cigarettes, cannabis sativa and have sex with prostitutes' everyday... I even drink alcohol."³³¹

³³⁰ Dr. Edward Nahim, Sierra Leonean psychiatrist and commentator on use of drugs during the conflict, TRC interview at Kissy Mental Hospital, Freetown, 30 July 2003; at page 18.

³³¹ TRC confidential statement recorded in Freetown, 5 February 2003.

THE IMPACT ON CHILDREN'S EDUCATION

382. The conflict fuelled the decline and disarray of what was already a dysfunctional education system. Armed groups attacked and destroyed schools and colleges, decimating the already weak infrastructure of education. In 1997 and for an entire academic year, children stopped schooling altogether due to the levels of tension in the country. By the end of the conflict, a significant number of school-going children had outgrown school age, while others had lost two to three years of schooling.³³² Today, many children ascribe their inability to access education to the protracted conflict:

“... We were with them until we were taken away from them by the Kamajors in 1996. Up to today, I did not get any education. I am a drop out in the village.”³³³

383. Inexplicably, schools and other infrastructural facilities were targeted and destroyed by armed groups.³³⁴ An assessment carried out by the Ministry of Education, Science and Technology in 1996 revealed massive physical damage to schools. Plenty of school buildings were burnt down, while others were looted leaving nothing behind. Furniture and fittings such as windows, doors and even sheet roofing were stripped off the buildings. Some of the armed groups used looted furniture was used as firewood. Other equipment and teaching materials were destroyed. The few buildings that survived the carnage deteriorated due to abandonment and lack of maintenance.³³⁵
384. Subsequently, another survey in 2001, entitled the National School Survey Report or NSSR, identified 3,152 schools with a total number of 4,854 school buildings.³³⁶ Out of these figures, the survey found that as many as 35% of classrooms needed full reconstruction, while 52% needed to be repaired or reconstructed.³³⁷ Only 13% were judged to be usable in the present condition in which they were found.³³⁸
385. The destruction of the conflict, particularly across the provinces, has therefore resulted in an inability to provide adequate school premises and facilities for children. As a result of their lack of infrastructure, some schools were forced to relocate from the provinces to Freetown and were only able to move back at the end of 2002. Schools were forced to operate on a platoon basis so as to cope with the number of children who had re-started schooling. The resultant chaos meant that most children in the provinces could not begin school on time. The phased return of normality after the war contributed to the late re-opening of schools in the provinces.

³³² See Plan Ireland, Children in Disasters programme, “The Importance of Education in Disaster Rehabilitation – The Rapid Education Programme in Sierra Leone”, 2000; available at the following website: www.plan-ireland.org/pdfs/childrenindisasters.

³³³ TRC confidential statement recorded in Pujehun Town, 28 February 2003.

³³⁴ TRC confidential statement recorded in Pujehun Town, 28 February 2003.

³³⁵ See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone for a Rehabilitation of Basic Education; 2003.

³³⁶ See National School Survey Report (NSSR), 2001, as cited in World Bank, Project Appraisal Document for a Rehabilitation of Basic Education; 2003 (hereinafter “NSSR-SL report of 2001”).

³³⁷ See NSSR-SL report of 2001.

³³⁸ See NSSR-SL report of 2001.

386. The conflict also left in its wake extensive damage to teacher's accommodations, the free provision of which originally formed an incentive for teachers to go and teach in the provinces and the remote rural areas. Once again, children in these areas were short-changed, as it proved very difficult to attract trained and qualified teachers to live and teach in such areas without any accommodation or support structures. The area with the highest level of damage to staff houses was the Eastern district.³³⁹
387. The massive displacement that occurred during the conflict led to a situation where many people left the country, or migrated to areas of relative safety such as Freetown. Teachers were of course included among the exodus. In the NSSR report, the estimated number of displaced teachers accounted for 6% of the total teaching staff in the country.³⁴⁰ Therefore at the end of the conflict there was not only an imbalance in the concentration of teachers in certain areas but also complete loss of skills or "brain drain" due to forced migration.
388. Another negative feature in the aftermath of the war consists in the problems associated with the financial state of some parents and guardians. Many are unable to afford the cost of education for their children and wards. The devastation of the economy has virtually wiped out the earning and spending power of the average parents. As such children of school age were not able to attend school immediately after the conflict even where such areas were liberated. Currently there are thousands of children who are still unable to attend school for a variety of reasons.
389. It is impossible to measure the real impact of the conflict on children. In reality the consequences of the war are unimaginably diverse and widespread; they affect every facet of children's lives. While this section has attempted to examine the consequences on children, it is impossible to provide a complete picture of the effect on their lives. Nonetheless, anecdotal testimony and authoritative analysis can convey a sense of their experiences and provide us with an understanding of how best to shape our responses.
390. As expressed by the United Nations:
- "In countless cases, the impact of armed conflict on children's lives remains invisible. The origin of the problems of many children who have been affected by conflicts is obscured. The children themselves may be removed from the public, living in institutions or as is true of thousands of unaccompanied and orphaned children, exist as street children or become victims of prostitution. Children who have lost parents often experience humiliation, rejection and discrimination. For years, they suffer in silence as their self-esteem crumbles away. Their insecurity and fear cannot be measured."³⁴¹

³³⁹ See World Bank, Project Appraisal Document on a Proposed Grant in the amount of US\$20 Million Equivalent to the Republic of Sierra Leone for a Rehabilitation of Basic Education; 2003 (hereinafter "World Bank, *Project Appraisal on Rehabilitation of Basic Education*").

³⁴⁰ See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at page 8.

³⁴¹ See United Nations Special Report; "The Impact of Armed Conflict on Children", available at the following web address: <http://www.un.org/special-rep/children-armed-conflict/>.

TRC



School children make play during a break from classes in Makeni Town, Bombali District. Sierra Leone's education system was ravaged by the conflict and there are many daunting challenges to overcome if the educational needs of the nation's children are to be met.

CONSEQUENCES OF THE CONFLICT FOR CHILDREN AND RELATED INTERVENTIONS

391. This final section of the chapter examines the responses and interventionary mechanisms devised by various state and non-state actors in addressing children's needs after the conflict. It includes line ministries and agencies under the umbrella of the Government of Sierra Leone, as well as its national and international partners such as the United Nations and the Child Protection Agencies (CPAs). The present status of children after accessing these interventionary measures will be included in the analysis.

DISARMAMENT, DEMOBILISATION AND REINTEGRATION – THE DDR PROCESS

392. Following the restoration of the democratically elected government of Alhaji Ahmed Tejan Kabbah in March 1998, a number of important reform initiatives were introduced. There was widespread recognition at the end of such a tumultuous period of the conflict that a need existed to put structures in place to begin the transition to peace. One of these structures involved the process of demobilising, disarming and reintegrating former combatants, which was considered to be of the utmost importance.
393. The DDR process, as it was popularly known, began in July 1998 and involved ex-combatants from all of the armed factions including the RUF, the AFRC, elements of the SLA and the CDF. The overall objective of the DDR process was "to disarm and demobilise 45,000 combatants from the RUF, AFRC, CDF and SLA factions and support their reintegration into society".³⁴² The National Committee for Disarmament, Demobilisation and Reintegration (NCDDR) carried out this operation in three phases, as well as an additional interim phase that came after the second phase was unexpectedly disrupted:
- August 1998 to December 1998 First phase
 - October 1999 to May 2000 Second phase
 - May 2000 to May 2001 Interim phase
 - May 2001 to January 2002 Third phase.³⁴³
394. In total, 6,774 children were put through the DDR process. Of this number 6,261 were male and 513 were female. Along factional lines, the division was as follows: 3,710 RUF; 2,026 CDF; 471 SLA; 427 AFRC; 84 from other factions; and 60 non-affiliated child combatants.³⁴⁴

³⁴² See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003, at page 3.

³⁴³ See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003, at page 3.

³⁴⁴ See Executive Secretariat of National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), *Total Number of Children Disarmed*, 9 September 2003.

395. After disarmament and demobilisation, the reintegration process started in February 2000. Children were divided into two groups. First, those below the age of 15 were sent to interim care centres in the care of UNICEF and their Child Protection Agency partners. These children were provided with services such as family tracing, psychosocial counselling, basic health care and, where possible, fostering and / or reunification. After reunification with their families or fostering, they were integrated into formal educational projects under the UNICEF-assisted Community Education and Investment Programme (CEIP).
396. Second, those between the ages of 15 and 17 were put in “group homes” or allowed independent living. They were provided skills training under the NCDDR’s Training and Employment Programme, which could last for up to nine months. During training they were provided with a basic monthly allowance of Le 15,000.00 and were also given training materials. At the end of their training, start-up kits were distributed to them. Some children were also put to work in agriculture and community-based initiatives. Although the offerings under agriculture were designed to cover crop production (food as well as cash crops), animal husbandry and fisheries, children were said to have opted only for upland farming and animal husbandry.³⁴⁵ In addition, referral and counselling services were provided. According to the NCDDR, children preferred to opt for skills training, primarily because most of them had never been to school or had very little education prior to the war. Some were also influenced by their parents to opt for skills training, whilst for others there was no formal school system in their area of reunification.³⁴⁶
397. There is no doubt that the DDR programme succeeded in its main goal of disarming and demobilising thousands of ex-combatants from all of the different factions in the conflict, thereby promoting peace and security in the country. Nevertheless there were problems with the programme in certain areas. The most glaring of these problems was the absence of girls in significant numbers from the DDR process.
398. It was estimated that about 30% of the child soldiers in the Sierra Leone conflict were girls, but that only 8% of them benefited from the demobilisation and reintegration programmes of the NCDDR.³⁴⁷
399. While many reasons have been advanced to explain the absence of girls from the programme, the reality of the way in which the programme unfolded did not allow for girls to participate properly. Most of the ex-combatant girls were considered to be “camp followers” and were not recognised as combatants in their own right. Accordingly they were not permitted to enter the DDR programme. Many other girl combatants, fearful of public exposure during demobilisation, refused to participate for fear of stigmatisation.³⁴⁸

³⁴⁵ See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003, at page 13.

³⁴⁶ See Executive Secretariat of National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); Child Reintegration; 8 January 2004, at page 12.

³⁴⁷ See Legrand, J-C. Child Protection Senior Regional Advisor for UNICEF, West and Central Africa; “*Demobilisation and Reintegration of Child Soldiers: Why are we missing the girls?*”; paper presented to a conference on child protection, Bonn, Germany; March 2003 (hereinafter “Legrand, *Demobilisation and Reintegration of Child Soldiers*”).

³⁴⁸ See Dr. Kellah and Mr. Lansana, former officials of the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), TRC interviews in Freetown, 8 January 2004.

400. Many commanders to whom the girls were attached deliberately prevented the girls from accessing the programme.³⁴⁹ It is clear when examining the practical side of DDR that gender was given scant regard by those who planned the programme. Between 1999 and April 2002, only 8% of the total number of released and demobilised children were girls and this number sank to 3% during the last demobilisation phase in November and December 2001.³⁵⁰ Commanders deliberately removed the guns from many of the girls and handed them to others whom they preferred, thus preventing the girls from entering the programme. One part of the requirements for accessing the benefits of the DDR programme was that you had to hand in your weapon first. Once weapons were taken away from the girls, they were sidelined.³⁵¹ Many of the girls therefore remained with their captors, unable to leave because of the lack of alternative sources of support, especially in cases where they had children.
401. Girls were marginalised from the DDR process, as it did not take into account the gender-specific roles played by many of the girls in the conflict. It was premised on the concept of male combatants and their roles. The girls with the armed factions were not merely “camp followers”, since many of them had been with the armed groups for lengthy periods and had performed multiple roles during that time. If one were to accept the definition of a child soldier in the Cape Town Principles, it would include “any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members.”³⁵² Based on this definition, the majority of girls should have had full access to the DDR programme. While the girls had varying experiences, all of them had contributed in some way to the war. Many young girls started out as porters, later graduating to becoming fighters, as well as simultaneously acting as sex slaves, or “bush wives”, to their captors. Their very existence and the complexity of their situations were not considered in the conception of the DDR process and their needs were subsequently neglected.
402. Another contributing factor to the stereotyping that existed in the DDR process, leading to the exclusion of hundreds of females, was the nature of the images of war created and circulated by the media. It has been said, for example, that because young male children carrying weapons are visible, an immediate message about their plight can be conveyed, whereas young female victims of sexual violence are less immediately discernible and more difficult to relate to an existing image in one’s mind.³⁵³ The media has created a situation where we tend to associate the expression “child soldiers” with images of children carrying weapons and consequently to boys. Such one-track portrayals of the “child soldiers” issue in the media could also account for why girls in Sierra Leone were excluded from the DDR process.

³⁴⁹ See Dr. Kellah and Mr. Lansana, former officials of the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), TRC interviews in Freetown, 8 January 2004.

³⁵⁰ UNICEF, Child Protection Report, April 2002

³⁵¹ See Dr. Kellah and Mr. Lansana, former officials of the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), TRC interviews in Freetown, 8 January 2004.

³⁵² See Legrand, *Demobilisation and Reintegration of Child Soldiers*.

³⁵³ See Legrand, *Demobilisation and Reintegration of Child Soldiers*.

403. Logistics and geography also played a major role in the DDR process and contributed to the exclusion of many of the girls. In some parts of the country, children's camps were situated in close proximity to adult camps. One example of such a set-up was in Lungi in Port Loko District.³⁵⁴ Many girls had not been given permission from their commanders to demobilise, so they were understandably fearful of joining up in case their commanders should find out. Many commanders or "bush husbands" – deeply suspicious of the motives behind the NCDDR – declared their readiness to take up physical violence against these girls if they should disobey them and participate in the DDR process.³⁵⁵
404. Thus, while the DDR programme had a generally positive and rehabilitative effect on male ex-combatants, women and girls mostly lost out. While the DDR programme channelled assistance to selected combatants, it appeared to do so in a male-biased fashion. Meanwhile many of the girls who were designated "camp followers" found themselves in limbo between assistance programmes: they could not access DDR, yet they were also unable to access any services from the National Commission for Reconstruction, Resettlement and Rehabilitation (NCRRR), as they were not considered to be internally displaced persons. Unfortunately, girls in such a position were said to have outnumbered the "combatants" in the DDR process at a ratio of four persons to one.³⁵⁶
405. The absence of girls in such significant numbers from the DDR process contravened UNSC Resolution 1314 of August 2000, which demands that special attention be given to the needs of women and girls in the wake of armed conflict, including securing their rights, protection and welfare.³⁵⁷
406. A significant number of girls who were entitled to access education, skills training and other opportunities have sadly not acquired these skills or accessed potential educational opportunities. Their exclusion has compromised their reintegration into society. Their economic and social needs have not been addressed; their lives are especially difficult given the prevailing economic and cultural situation in the country. Socially, the girls would have stood a better chance of acceptance if they had acquired the necessary skills or education, as they would have been perceived as potential contributors to the development of their families and communities. Instead, they are often regarded as unwanted economic burdens on their families and society.
407. Based upon this analysis, there is a dire need on the part of the authorities to provide girl ex-combatants with fresh opportunities to acquire skills and education. While the Commission acknowledges that the NCDDR has now wound up its activities, it is essential that the government should take note of the omission of girls from its programmes and act swiftly to make amends. Other public sector offices, as well as international and local NGOs, should channel their activities to support the government in addressing the needs of these forgotten girls.

³⁵⁴ See UNICEF, Sierra Leone Country Office, *Child Protection in the Demobilisation and Reintegration of Children Associated with the Fighting Forces in Sierra Leone: Lessons Learned*, Freetown, 2003 (hereinafter "UNICEF, *Lessons Learned on Child Protection in DDR*"), at page 29.

³⁵⁵ See Dr. Kellah and Mr. Lansana, former officials of the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), TRC interviews in Freetown, 8 January 2004.

³⁵⁶ See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 30.

³⁵⁷ See United Nations Security Council Resolution 1314 on Women and Girls in Armed Conflict, S/RES 1314/2000, August 2000.

STREET CHILDREN

408. Another startling consequence of the war in Sierra Leone is the prevalence of orphaned, abandoned, unaccompanied and separated children, which has resulted in a dramatic rise in the number of street children in the country.³⁵⁸ Considering the widespread nature of violations such as displacement and killing in the conflict, one can only hazard a guess at the number of children whose families were destroyed by these violations. Thousands of children still do not have a home or family to go to and thus have found themselves in the streets. Unfortunately, there is no data on the number of children so affected.
409. Thousands more children live with their families but spend a large portion of their time in the streets. These children are mostly engaged in commercial activities and petty crime. Sometimes children are driven into the streets due to peer or family pressures, the latter often caused by disagreements with parents or guardians.³⁵⁹ A survey on street children and war-affected children found the following reasons for their presence on the street among its selected sample: 38% poverty; 24% displacement by the war; and 21% family pressure or disagreement.³⁶⁰
410. Two subtly different terms have emerged to capture the two principal categories of street children: children “in the street” and children “of the street”. The numbers of children “in the street” seems to increase steadily, especially in urban areas where children seek menial work, beg for cash and attempt to hawk their wares, ranging from cigarettes and face towels to fruit and drinking water. For children “of the street”, uncompleted buildings, markets, churches, mosques and other communal places have become their homes. They often compete with stray dogs for scraps of food. Street children are emerging as one of the major child protection issues in Sierra Leone, as their numbers appear to be remaining stable, if not growing, despite interventionary efforts.
411. In the survey sample of street children and war-affected children quoted above, about 80% of street children interviewed were male and 20% were female.³⁶¹ About 69% of street children and 8% of other war-affected children had at least one parent dead or missing, while 4.8% of the war-affected children were orphans with both parents dead.³⁶²
412. Life for children on the streets is unimaginably hard, continuously hazardous and prone to exploitation. The younger ones and the girls suffer from physical, sexual and psychological abuse. Children can be seen begging and hawking in the streets of Freetown and the provincial towns, which, in the case of girls especially, creates a pathway to involvement in other activities such as stealing and the sex trade. A study on commercial sexual exploitation reported that 60% of respondents to its survey of sex workers had been involved in street hawking or trading before they became involved in sex work.³⁶³

³⁵⁸ See Statistics Sierra Leone; *Rapid Assessment Survey for Street Children and other War-Affected Children*; report submitted to National Commission for War-Affected Children (NaCWAC), May 2003 (hereinafter “*Rapid Assessment Survey for War-Affected Children*”), at page vi.

³⁵⁹ See *Rapid Assessment Survey for War-Affected Children*, at page 47.

³⁶⁰ See *Rapid Assessment Survey for War-Affected Children*, at page ix.

³⁶¹ See *Rapid Assessment Survey for War-Affected Children*, at page vii.

³⁶² See *Rapid Assessment Survey for War-Affected Children*, at page vii.

³⁶³ See Lebbie, S. H.; “*Survival Strategies of the Girl-Child and Young Women: Commercial Sexual Exploitation in the streets of Freetown*”; Goal Ireland, Freetown, February 2000, at page 32.

413. Life on the streets can also lead children to engage in other forms of destructive behaviour, such as drug and substance abuse, criminal activity and confrontation with law enforcement officials. Many street children have been arrested during raids on urban hangouts. In addition, street children become prone to serious illness because of their exposure to infections in unsanitary living conditions and their limited access health-care facilities. Street life holds a certain irrational allure for some children, who believe that it guarantees independence from their often-troubled families and homes. Yet it is exactly this unbridled independence at such a formative stage of their lives that is the undoing of these children. The provision of guidance services to children and, of course, the concerted elimination of the factors that drive children onto the streets should be priority measures for the government and other stakeholders.
414. There is also a need for local councils, communities and faith-based organisations to be involved in the provision of support to these street children. Culturally, the African society has always been a communal society where children do not only belong to their parents but to the community at large. Such a sense of civic spirit was pre-eminent in Sierra Leone before the conflict. Individual Sierra Leoneans must endeavour to restore the communal ownership of children, so that street children can be nurtured into useful members of the communal instead of the perennial burden they are fast becoming.
415. The Ministry of Social Welfare, Gender and Children's Affairs (MSWGCA) told the Commission that it has established a taskforce for street children and a parallel programme on children in conflict with the law, to co-ordinate and monitor activities related to street children. However, there is no noticeable evidence of the impact or effect of these programmes at the time of writing.
416. A National Commission for War Affected Children (NaCWAC) has also been established under an Act of Parliament. It should be encouraged as it pursues its responsibility to facilitate the reintegration and rehabilitation of children affected by the war – especially street children – into normal community life.

THE NATIONAL COMMISSION FOR WAR-AFFECTED CHILDREN (NaCWAC)

417. The National Commission for War Affected Children (NaCWAC) was an initiative of the SRSG on Children, Mr. Olara Otunu, and was created in law in January 2001. It became operational upon the opening of its secretariat in March 2002. The major thrust of NaCWAC's work is centred on Advocacy and the Voice of Children, Policy and Institutional Links and Mechanisms for Children's Empowerment.³⁶⁴
418. To date NaCWAC has been involved in the provision of skills training and education for war-affected children identified by its implementing partners. It is also building what it has called "trauma healing centres" in different parts of the country. Laudable though these projects are, NaCWAC seems to have lost focus on the essence of its primary duties as enunciated in the Act that established it.

³⁶⁴ See the National Commission for War Affected Children (NaCWAC), Strategic Planning Workshop Report, Freetown, May 2003, at page 2.

419. NaCWAC has been duplicating the work that child protection agencies have been doing since the cessation of hostilities. The fact that NaCWAC announced only in 2004 that it was starting an advocacy project for street and amputee children is a clear indication that it had been preoccupied with issues unrelated to its primary duties before this time.³⁶⁵ NaCWAC needs to refocus on its primary objectives as they are spelt out in its empowering act and for which it was originally established.
420. An example of where NaCWAC, in collaboration with the MSWGCA and other stakeholders, can redirect its efforts is the issue of the urgent Child Rights Bill. The Bill presents a ideal platform for the streamlining and harmonisation of the nation's laws on children, in line with international standards. Advocacy towards the enactment of the Bill and sensitisation on other laws affecting children's rights in the country is presently lacking. It would be immensely helpful to the children and the country if NaCWAC were to fill the gap.
421. There is a need for both the MSWGCA and NaCWAC to define their respective roles vis-à-vis one another with a view to ensuring that no overlap exists. The two institutions must avoid any duplication of programmes and related wastage of funds, especially in the vital areas pertaining to war-affected children.

CHILDREN'S FORUM NETWORK

422. The Children's Forum Network (CFN) is an important tool for children's advocacy in Sierra Leone. Its members maintain a strong and influential voice on issues affecting children. The organisation ensures children's participation in national activities as is spelt out in the Convention on the Rights of a Child. Members of CFN were instrumental in producing the child-friendly TRC report.

UN ASSISTANCE MISSION IN SIERRA LEONE (UNAMSIL)

423. UNAMSIL is the first UN peacekeeping mission to have had staff deployed specifically in the fields of child protection and child rights issues directly in the office of its Special Representative of the Secretary General (SRSG). They comprise a department with a single, explicit mandate: the protection of children. The department became operational in January 2000 with a team headed by a Child Protection Adviser (CPA), joined later by a Child Protection Officer. The child protection office was placed within the SRSG's office specifically to ensure that children's issues would remain high on the mission's agenda throughout the different phases of peacekeeping and peace consolidation in Sierra Leone. Thus the CPA has direct access not only to the SRSG but also the Deputy SRSGs and senior UNAMSIL leadership.³⁶⁶
424. The CPA, through the medium of the SRSG's office, reports to the Department of Peacekeeping Operations (DPKO), UNICEF, and Office of the Special Representative of the Secretary-General for Children and Armed Conflict (SRSG/CAAC) at UN Headquarters.

³⁶⁵ TRC interviews with Executive Secretary and senior staff of the National Commission for War Affected Children (NaCWAC); interviews conducted in Freetown, 9 January 2004.

³⁶⁶ Bert Theuermann, Special Assistant to the SRSG and Child Protection Adviser, UNAMSIL; TRC interview conducted in Freetown, September 2003.

425. The activities of the UNAMSIL child protection office have included the “mainstreaming” of child protection issues throughout UNAMSIL by: identifying key child protection issues; developing advocacy strategies on these issues; advising the SRSG; supporting the monitoring of violations of children’s rights by participating in the development and work of UNAMSIL’s conduct committee; and reviewing disciplinary standards and procedures for responding to allegations of sexual abuse and exploitation of children and others. The office also provides training in child rights and child protection, monitoring and reporting for all UNAMSIL troops. The office participates in the work of UNAMSIL Trust Fund, which includes monitoring existing projects and identifying new projects, as well as advising force contingents on activities and programmes beneficial to children. It is significant to note that the CPA is a member of the overall UNAMSIL Project Approval Committee.
426. The CPA as a focal point and an interlocutor has assisted government agencies, line ministries and child protection agencies in developing close co-operation with UNAMSIL in addressing children’s issues. The office has contributed to the shaping of the national agenda on children, for instance by providing support in strengthening the National Child Protection Network and NaCWAC and by assisting the MSWGCA in increasing its capacity in child protection at all levels. The CPA is a member of the Child Protection Committee and the Core Management Group of major Child Protection Agencies.³⁶⁷ The CPA contributes as a member of the National Steering Committee on Child Protection to training for the Republic of Sierra Leone Armed Forces and Sierra Leone Police, with the main objective of ensuring that child rights and protection are incorporated into the regular training curricula of the RSLAF and the SLP.
427. UNAMSIL is involved through its outreach programmes in advocacy for the enhanced participation of children in the peace-building process. Thus the CPA is an ad-hoc member of the Advisory board for the Voice of Children. In conjunction with other stakeholders, UNAMSIL provides support and encouragement for children’s organisations like the Children’s Forum Network.
428. Finally, UNAMSIL has been providing technical advice and supporting the development of policies, procedures and activities for children’s involvement in the principal transitional justice mechanisms, the Truth and Reconciliation Commission (TRC) and the Special Court. UNAMSIL, with the help of the MSWGCA, UNICEF and other CPAs, was instrumental in providing logistics for children’s participation in the TRC Special Thematic Hearings on Children.

UNITED NATIONS CHILDREN’S FUND (UNICEF)

429. UNICEF has been the lead agency in Sierra Leone working with children in all circumstances and collaborating with other NGOs, CPAs and the Ministry of Gender, Social Welfare and Children Affairs. It has positioned itself as an advocate for the rights of children and as a conduit through which to deliver services for the fulfilment of these rights. UNICEF has always played a major and significant role in children’s development and has been supporting the government to plan, implement and monitor programmes relating to children.

³⁶⁷ See UNAMSIL, Office of the SRSG, Child Protection Programme Document, Freetown, 2000.

430. UNICEF runs child protection, education and health programmes for children throughout the country. In the course of the conflict, UNICEF ran various interventional programmes even in the face of grave danger and difficulties.
431. UNICEF's child protection interventions during and after the war have included: emergency care and reintegration of separated children; care, protection and reintegration of sexually exploited children; promotion of child rights; and monitoring and advocacy in the area of juvenile justice.³⁶⁸ In the midst of the hostilities, a child protection network partly co-ordinated by UNICEF and chaired by MSWGCA was formed. This network has been the focal point for co-ordination and collaboration in the area of child protection since 1996.³⁶⁹
432. Thus in 1998, UNICEF supported 54 agencies to form the Child Rights Violations Network to monitor, document and advocate against continuing human rights violations against Sierra Leone's children.³⁷⁰
433. UNICEF has been the key agency providing care for demobilised Sierra Leonean children involved in the conflict. It was also designated to serve as the major agency for children in the Disarmament, Demobilisation and Reintegration (DDR) programme by being a member of the Technical Coordinating Committee of NCDDR. Describing the functions it undertook in the DDR process, UNICEF submitted to the TRC as follows:
- “UNICEF and its child protection partners established structures for the demobilisation and reintegration of child soldiers... to identify, register, document and reunify unaccompanied children separated by war, poverty and abuse... and provide psychosocial support to children suffering psychologically and emotionally from their tragic experiences”³⁷¹
434. UNICEF has also been the key agency providing support in terms of funding and logistics for Family Tracing and Reunification of separated children with their families and communities under the office of the Child Welfare Secretariat of the MSWGCA. At the time of writing, the total recorded number of separated children is 7,311, of which 6,281 have been successfully reunified with their parents.³⁷² As for the remaining children, UNICEF has stated that it continues to provide care and support mechanisms for them.
435. Nonetheless, there have been times when a child cannot be reunified with his or her family, due either to the failure of the tracing mechanisms, to the ongoing insecurity in the child's region of origin, or to rejection of the child by his or her family. UNICEF and its partners have been doing their utmost to ensure proper and comprehensive long-term care for children in this tragic situation.³⁷³

³⁶⁸ See UNICEF submission to TRC, at page 1.

³⁶⁹ See UNICEF submission to TRC, at page 1.

³⁷⁰ See UNICEF submission to TRC, at page 1.

³⁷¹ See UNICEF submission to TRC, at page 1.

³⁷² See the Ministry of Social Welfare, Gender and Children's Affairs, Child Welfare Secretariat, *Documentation of Children*, project document provided to the TRC; 12 January 2004.

³⁷³ See UNICEF submission to TRC, at page 2.

436. UNICEF has also instigated vital interventions in the area of education in response to the desperate state of education in the country after the conflict. In 2000, UNICEF partnered with the government and the Norwegian Refugee Council to establish the Rapid Response Education Programme, composed of special classes on numeracy and literacy skills, with additional teaching in peace building, human rights, religion and moral ethics. The programme was designed to enable children to make the adjustment back into formal classes. It typically focussed on IDP settlements and communities that had just become accessible to human assistance, lasting for an intense period of six months.
437. Many school-going children experienced years of lost schooling during the conflict. It became clear that some children who had been in primary school before the outbreak of the conflict might not want to access education after the war because of the shame of going to school as relatively older children. Thus UNICEF sponsored the initiative known as Complementary Rapid Education for Primary Schools (CREPS). Allied to it was the Community Education Investment Programme (CEIP). This package of measures was designed to serve as an incentive for schools to take in ex-combatant children. It sought to help in facilitating the reintegration process for these children.
438. In a similar vein, UNICEF's Non-Formal Primary Education (NPFE) project reached out to children, particularly girls, without access to formal primary education with the simple goal of reducing illiteracy levels.³⁷⁴
439. In the area of health, UNICEF has also led several interventionary programmes. Due to the massive destruction inflicted on health infrastructure in the country, there was an immediate need to get substitute structures up and running. UNICEF has supported 352 Primary Health Units to become functional between 2000 and 2004.³⁷⁵ It has provided services in infant immunisation, measles vaccination and raising awareness on HIV / AIDS among adolescents and other vulnerable groups.
440. One of UNICEF's most significant post-war interventions in the health sector was its scar removal project, carried out in conjunction with the International Medical Corps (IMC) and USAID.³⁷⁶ UNICEF's implementing partner in the project was the Italian NGO Cooperazione Internazionale (COOPI). Some of the armed groups had branded their initials on abducted children. Acronyms like "RUF" and "AFRC" were carved into various parts of children's bodies, including their foreheads, chests, arms and backs. It was an act of mutilation performed essentially for the purpose of preventing the children from escaping. At the close of the conflict, these markings became a source of danger for the scarred children, as opposing groups or members of their communities tended to regard them as dangerous members of the factions that had branded them. These physical scars hampered reintegration efforts and affected the children psychologically, as it seemed that they had been branded for life.

³⁷⁴ See UNICEF, Country Briefing on Sierra Leone, 2004, full report available at the following website: www.UNICEF.org/countrybriefingkits/sierraleone/programmes.

³⁷⁵ See UNICEF, Country Briefing on Sierra Leone, 2004, full report available at the following website: www.UNICEF.org/countrybriefingkits/sierraleone/programmes.

³⁷⁶ See UNICEF submission to TRC, at page 22.

441. Thus an initiative to perform plastic surgery to remove or transform these scars was born. UNICEF's scar removal project was implemented over a period of six months, beginning in August 2000.³⁷⁷ All the children involved were counselled by social workers before, during and after their operations. With the help of Child Protection Agencies, over 120 children with scars were identified, while 93 were recommended for the surgery.³⁷⁸ Eventually, 82 children, comprising 37 girls and 45 boys, successfully underwent the surgery and their scars surgically removed or transformed.³⁷⁹

INTERVENTIONS IN EDUCATION AND SKILLS TRAINING

442. After the war, the need to rehabilitate the education system from the battering it suffered during the war became obvious. The government and other agencies have been at the forefront of the rehabilitation efforts in the education sector during and since the conflict.
443. After the reinstatement of the SLPP Government in 1998, the sum of 6.75 billion Leones was made available for the commencement of education reforms in the country.³⁸⁰ The government worked together with the UN, the World Bank and its NGO partners to conceive a variety of education projects.
444. One such programme is the World Bank project on the Rehabilitation of Basic Education, which is in progress throughout the country at the time of writing. The sectoral issues addressed by this programme in its rehabilitation of the school system include: monitoring the quality of education delivered; ensuring availability of infrastructure and furniture; lowering the level of teacher-to-pupil and classroom-to-pupil ratios to 40 and 30 respectively; providing trained teachers and teaching aids; and setting up school management committees at local level to monitor the schools.³⁸¹
445. The World Bank programme also seeks to provide support to private sector providers of education, as 85% of the schools in the country are administered by non-state bodies such as religious missions.³⁸² Additionally, over 90% of the schools renovated since the war have received support from NGOs.³⁸³ The World Bank seeks to support the non-formal and emergency education programmes that have come about as a result of the war. School-based peace education and peace-building initiatives are also foreseen. Due to the threat that HIV / AIDS poses to education, the project offers support on a demand-driven basis to prevent and mitigate the spread of the disease. The project co-operates with the Ministry of Education, Science and Technology in building capacity for its planning and management of education services.³⁸⁴

³⁷⁷ See UNICEF submission to TRC, at page 23.

³⁷⁸ See UNICEF submission to TRC, at page 23.

³⁷⁹ See UNICEF submission to TRC, at page 23.

³⁸⁰ See TRC interviews with officials of various ranks in the Ministry of Education, Science and Technology; interviews conducted in Freetown, 20 August 2003.

³⁸¹ See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at pages 12 and 13.

³⁸² See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at page 12.

³⁸³ See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at page 12.

³⁸⁴ See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at page 12.

446. The World Bank education project started in the middle of 2003 and is meant to run for four years. Resources will be allocated to the districts on the basis of a formula that takes into account the level of damage to the local schooling infrastructure and population. The allocation may be revised occasionally based on project progress or evidence of population movement.³⁸⁵
447. Although the Commission cannot assess this programme comprehensively because it had commenced only six months prior to the writing of this report, the project has enormous potential to help in rejuvenating the education sector.
448. To encourage more access to education and to increase literacy levels, the government has initiated a programme of free education for all children at primary level and subsidies towards examination fees.³⁸⁶ The government has also been paying the school fees of all girls in junior secondary Class One who passed exams in the Eastern and Northern regions since September 2003. Finally teaching and learning materials, including furniture and textbooks, are now being provided to all government and government-assisted schools.³⁸⁷
449. The Complimentary Rapid Education for Primary Schools (CREPS) project, which started in Lungi in 2000, was meant to cater for displaced children and ex-child combatants who had missed out on formal primary education for different periods on account of the conflict.³⁸⁸ It is a compressed three-year programme, designed to complement a six-year conventional primary school education. CREPS was supposed to enable the target group of 10 to 14 year-old children to advance more quickly towards educational levels consistent with their ages. At the time of conception, an estimated 500,000 children fell within this category, but the objective set at commencement was to enable 25,000 children in this age group to commence or recommence schooling. CREPS also committed to ensuring a gender gap less than 30%.³⁸⁹
450. Recognising that children might be traumatised due to their experiences during the war and would therefore be ill-prepared for immediate formal schooling, the CREPS programme included in its curriculum such topics as psychosocial and health issues, including trauma healing, peace education, human rights, gender issues and HIV / AIDS.³⁹⁰
451. By the end of 2001, 6,733 children, made up of 3,883 boys and 2,850 girls, were enrolled in the CREPS programme in three districts, with another 3,552 children enrolled in the complementary RREP programme.³⁹¹ By 2002, the CREPS programme had spread to seven districts in the North and East and had a total enrolment in that year of 22,778 children. By the end of July 2003, a total of 26,646 children were enrolled in CREPS in these seven districts.³⁹²

³⁸⁵ See World Bank, *Project Appraisal on Rehabilitation of Basic Education*, at page 13.

³⁸⁶ See Ministry of Education, *Closing the Gap*, at page 2.

³⁸⁷ See Ministry of Education, *Closing the Gap*, at page 2.

³⁸⁸ See Government of Sierra Leone / UNICEF, *Complementary Rapid Education for Primary Schools (CREPS)*, documents provided to the TRC by UNICEF, including the *Detailed Teaching Syllabus for Level One*, (hereinafter "GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*") Freetown, 2000.

³⁸⁹ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹⁰ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹¹ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹² See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

452. Additional support under the CREPS programme came in the form of training for 665 teachers and orientation for 113 head teachers in CREPS concepts and methodology.³⁹³ Provision was made for teaching materials and temporary shelter for 225 CREPS classes. Logistics such vehicles, motor cycles and more than 50 bicycles were provided to the Ministry and NGOs to facilitate their monitoring and supervision of CREPS by July 2003.³⁹⁴
453. The CREPS programme is still ongoing and a recent evaluation showed that demand remains very high. The quality of education is as good and in some cases better than in some of the formal schools.³⁹⁵ Nonetheless, the programme has had problems that have hampered its expansion and thus affected access for the many children who need its services.
454. These problems include the Ministry's reluctance to accept ownership and responsibility for the implementation of the CREPS project. The Ministry lacks commitment to recruiting teachers and paying their salaries, which are two major stumbling blocks to the expansion of the programme. The Ministry has also failed to deliver support in providing text materials and fee subsidies to host schools.³⁹⁶ In addition, weak supervision and delays in UNICEF funding have posed problems for the project.³⁹⁷
455. Apparently at the core of the Ministry's reluctance to show ownership of CREPS is its perceived notion it is a UNICEF programme.³⁹⁸ UNICEF and the MEST need to work out this issue speedily in the interests of all school-going children. Still, it is important to stress that the greatest responsibility for the education of the children of Sierra Leone lies with the Ministry of Education.
456. The expansion of CREPS will continue to help children in accessing education.³⁹⁹ The government's full and prompt payment of newly recruited teachers would be of immense help to the sustainability of the programme. Proper payment would in turn enhance the availability of teachers, as teachers are presently reluctant to join the programme due to non-payment of salaries.
457. Another key part of the reintegration process for children was the Community Education Investment Programme (CEIP). This programme was largely a response to growing demand from the children themselves, who stated that going back to school was their greatest desire.⁴⁰⁰ Initiated by UNICEF and run by some of its implementing partners such as Norwegian Refugee Council (NRC), International Rescue Committee (IRC), Cooperazione Internazionale (COOPI) and Caritas Makeni, the programme was designed to enable mainly ex-combatant children to return to school in a manner beneficial to the entire school. It was intended to facilitate reintegration and minimise stigmatisation for the ex-combatant children by assisting the communities as a whole.⁴⁰¹

³⁹³ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹⁴ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹⁵ TRC confidential interview with an official working in child protection, Freetown, October 2003.

³⁹⁶ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹⁷ See GoSL / UNICEF, *Information on Complementary Rapid Education for Primary Schools*.

³⁹⁸ TRC confidential interview with an official working in child protection, Freetown, October 2003.

³⁹⁹ TRC confidential interview with an official working in child protection, Freetown, October 2003.

⁴⁰⁰ See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 50.

⁴⁰¹ See Government of Sierra Leone / UNICEF, background document on Community-Based Reintegration Programmes, provided by UNICEF to the TRC, January 2004.

458. The CEIP programme provides a “standard package of material assistance to communities to support education efforts.”⁴⁰² It gives supply packages rather than just money to schools that have accepted former child combatants as students. Schools were to choose from one of three options: a kit of recreational supplies for the entire school; a kit of teaching materials for 20 teachers; or a kit of learning materials for 200 students. Although CEIP was originally intended only to serve children who had DDR numbers, a group of the implementing partners wished to expand the programme to include other reintegrating children. As a result, CEIP was altered to provide educational access to about 10% of other children who were not ex-combatants.⁴⁰³
459. The CEIP programme reached a substantial portion of children who had been demobilised and, although it was started as a pilot programme, it has quickly expanded and now represents a national model. CEIP has operated in all 13 districts and had more than 3,000 ex-combatants and separated children registered in over 500 primary and secondary schools at April 2003.⁴⁰⁴ The fear in some quarters is that communities might become dependent upon the programme, as many imagine that the assistance from CEIP will continue indefinitely.⁴⁰⁵ It should be remembered that CEIP was only intended to help children to recommence schooling. As such, government should be gearing itself up to take over the role that CEIP is presently filling.
460. Education has seen significant improvements all round since the cessation of hostilities. There has been a significant increase in the availability of primary schools throughout the country. From 2,336 primary schools in October 2001, the number of schools had increased to 5,177 by the end of July 2003. For secondary schools, the number of schools has increased from 185 in October 2001 to 237 in March 2003. There also has been a significant increase in access, which has led to increments in overall school enrolment.
461. In spite of the achievements, there are areas that require further improvement in the delivery of qualitative education to children across the country. With regard to enrolment, there still is significant under-representation of girls as compared to boys, a situation that the Ministry intends to address in a “phased and prioritised manner”.⁴⁰⁶ The need to attend to this gender imbalance cannot be emphasised enough if the female population is to be part of the growth and development of this country.
462. There are still problems too with the provision of adequate infrastructure for schools. Most schools, especially those outside Freetown, consist of either temporary structures, partly-damaged buildings, converted private homes or simply clearings of land under trees.⁴⁰⁷ Schools lack classroom furniture, teaching and learning materials and in many cases adequate sanitary provisions. There is also a shortage of qualified teachers in the provinces, as well as a severe shortfall of secondary schools throughout the country.

⁴⁰² See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 50.

⁴⁰³ See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 51.

⁴⁰⁴ Community Based Reintegration Programme; Document provided by UNICEF

⁴⁰⁵ See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 51.

⁴⁰⁶ See Ministry of Education, *Closing the Gap*, at page 2.

⁴⁰⁷ See United Nations Assistance Mission in Sierra Leone (UNAMSIL), “*Proxy Indicators: Restoration of State Authority and Recovery*”; progress report as of July 2003; Freetown; 18 August 2003, at pages 9 and 10.

463. The government and all other stakeholders must ensure that the above-listed problems are addressed so that many more children than at present can benefit from the opportunity to access education in Sierra Leone.
464. It is imperative that improved literacy levels together with the need for education remain priorities, as these are major factors in rehabilitating societies emerging from conflict. Handing people the opportunity to be human again starts with re-educating their minds. For children, who represent the future, it is important to learn to deal with the horrors of the past in order to prevent a recurrence of the traumas they experienced. Government must educate the children – supporting them, guiding them and teaching them life skills – in order to catalyse the recovery of a society riven by conflict and poverty.

SKILLS TRAINING PROGRAMMES

465. Children over the age of 15 mostly opted for skills training over education when they demobilised under the Training and Employment Programme (TEP) of the NCDDR. The skills training programmes included lessons in carpentry, masonry, welding, blacksmithery, hairdressing, tailoring, auto mechanic work, driving, soap making, weaving, tie dying and other crafts. TEP offered a nine-month skills training programme supplemented with the payment of an allowance to every participant. Upon completion, each trainee was supplied with a start-up kit.⁴⁰⁸ By the time the TEP programme came to its end in 2003, a total of 2,658 children had benefited from the skills training.⁴⁰⁹
466. Besides the TEP programme, many donor agencies and NGOs were also involved in the provision of skills training for children, including World Vision, Caritas Makeni, Christian Brothers, COOPI and the IRC. While they ran programmes of their own, many such agencies also served as implementing partners for projects led by NCDDR, UNICEF and others.
467. Not surprisingly the various skills training programmes have thrown up a host of contentious issues. A major issue was the fixed period of training and the failure to allow for the variances involved in teaching different skills. Soap making, for instance, required far less training time than acquiring auto mechanic skills. Critics are of the view that more flexibility in the duration of the various skills training programmes should have been accommodated from the outset. Another issue was whether the trainees were able to acquire sufficient knowledge of any of the skills they were being taught in such a short time.
468. Many ex-combatants, including children, were found to have sold their start-up kits issued to them upon completion of their training. While it is not uncommon for ex-combatants to sell what they are given in order to obtain quick funds, the possibility cannot be discounted that the skills training period was inadequate and resulted in many trainees being unable to practice their acquired skills with any degree of confidence or expertise.

⁴⁰⁸ See Dr. Kellah and Mr. Lansana, former officials of the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), TRC interviews in Freetown, 8 January 2004.

⁴⁰⁹ See Executive Secretariat of National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); Presentation at the State of the Nation Symposium; October 2003.

469. A major factor that impacted on trainees was the incapacity of the economy. There is hardly a market for most of their skills because the economy has not yet recovered sufficiently. In planning and undertaking skills training programmes, an issue that is commonly overlooked is market access, which ultimately allows the trainees to utilise their skills. The Commission found that a lack of access to capital also prevented trainees from successfully putting their training into practice. While the DDR skills training initiative was well intentioned, it did not make provisions for either the participants or the country to reap maximum dividends from the trained skills. The gift of a start-up kit was on its own certainly not sufficient to start up a sustainable business. A female former child combatant presented her viewpoint to the Commission:

“I am begging the government to have mercy on us. We the children have suffered in the war. We have learnt the skills but haven't got the capital to start to be self-reliant. We are appealing to the government to sympathise with our situation so that we cannot continue to suffer. We have learnt the skills but if we are not going to practice we will not benefit from it at all.”⁴¹⁰

470. Older children given skills training were not properly prepared to begin earning their own living. The programme was short-sighted and did not take into account the economic realities of post-conflict Sierra Leone.⁴¹¹

471. Skills training initiatives remain absolutely crucial to the development of youth affected by the conflict in Sierra Leone. However the sustainability of such initiatives must be given greater consideration. There is a need to locate skills training in the wider context of improving the economy. Skills training should be accompanied by carefully planned follow-up mechanisms, which would allow successfully trained to utilise their skills to their own economic advancement and the collective benefit of the nation.

CONCLUSION

472. Children deserve to be the single greatest priority for Sierra Leone. Notwithstanding the sterling efforts of UNICEF and the local and international agencies that form part of the Child Protection Network, a great deal still remains to be done to alleviate the problems children face and assist in their flourishing in the future. The Commission recommends that the Child Rights Bill be passed as a matter of urgency. This piece of legislation will go a long way to ensuring that a legislative framework exists to enhance and promote the rights of children. Moreover, government needs to give its own special attention to children's issues when it ensures that the recommendations of the Commission are carried out. Implementation of the TRC recommendations in respect of children would represent a formidable commitment to improving the quality of life for Sierra Leone's children, both today and in future generations.

⁴¹⁰ Confidential testimony received during TRC closed hearings in Bombali District; 28 May 2003.

⁴¹¹ See UNICEF, *Lessons Learned on Child Protection in DDR*, at page 52.

CHAPTER FIVE

Youth

TRC

Truth Today...

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Sierra Leone

Tomorrow

Produced by the TRC Steering Committee with support
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CHAPTER FIVE

Youth

Introduction

1. In Sierra Leone, the youth is the lifeblood of the nation. Every Sierra Leonean between the ages of 18 and 35 years old is considered to be a youth. According to a government paper of 2003, youths constitute forty-five percent of the country's estimated 4.5 million population.¹
2. In the conflict, youths were both victims and perpetrators of human rights violations on a massive scale. It was a dual role to which youths had become accustomed in post-independence Sierra Leone: on the one hand, they were abused; on the other hand they became the abusers. In the 1970s and 1980s, as the one-party system became increasingly tyrannical, youths formed the only viable opposition to the ruling All People's Congress (APC) because the other political parties had been co-opted and assimilated into the government.² When institutions and their leaders in so many sectors of society failed to speak out against the injustices of the APC regime, invariably it was the voice of youth that called for accountability. Conversely, though, youths were often the instruments of oppression, acting as vicious thugs to influence the outcomes of elections and put down anti-government demonstrations. In times of transition, Sierra Leone's youth has always struggled to find its rightful place in society.
3. Testimonies received by the Commission indicate that the majority of participants in the war were youths. Many of them were children at the time of their recruitment. Others joined voluntarily in protest against the social and political ills of the day, or in the name of defending their communities. They all lost their youth to a career of fighting and violence. Some are now exporting their combat "expertise" to neighbouring countries in conflict. The experiences and prospects of youth in Sierra Leone require careful consideration.
4. In the course of the war, youths committed brutal and malicious acts against their family members, communities and fellow Sierra Leoneans. Their experiences during the war have disrupted their lives and traumatised them. Many youths are currently drifting without direction, unable to access education or employment. Some are so disillusioned with their environment that they are desperately seeking a way out and would readily resort once more to violence.
5. Sierra Leone faces the daunting task of reclaiming a "lost generation" of youth. The "youth question" is therefore central to lasting peace and development in the country. This examination of youth participation in the war will enable the Commission to make detailed recommendations on how to respond to the challenges created by misguided youth in the past and how to restore youths as productive members of their communities.

¹ See Ministry of Youth and Sports, Government of Sierra Leone, *Sierra Leone National Youth Policy*, strategy paper published in July 2003, at page 5.

² More detail on the lack of credible opposition to the APC regime, as well as analysis of the failures of the wider society to hold the political elite to account, can be found in the chapters on Governance and the Historical Antecedents to the Conflict in Volume Three A of this report.

6. In his statement to the Commission, Brima Vandy, who was 30 years old at the start of the conflict in 1991, made this confession:

“When I was in the bush... I committed many violations and abuses. I killed innocent people, took away their property by force... asked them to leave their houses for me to sleep inside... and forced their women to make love to me.”³

7. In her testimony to a closed hearing of the Commission, a young woman in the Koinadugu District told of her experiences:

“Upon our arrival (at their base) we were distributed to different rebels to become their wives... when we refused, they flogged us. We were raped by two or three men daily... when we fought back, they threatened to kill us. We eventually got married to them. They gave us drugs like marijuana to smoke. When the roads were free, we pleaded for them to release us to go back to our relatives... but they refused. Commander Sofila pleaded with them to release us but they threatened to kill us if we tried to escape. Commander CO Ray inscribed RUF on our bodies. They looted properties whilst we carried their ammunitions.”⁴

8. Similar narratives by youths, both as victims and perpetrators, abound in the testimonies, statements and interviews gathered by the Commission. In addition, the youth question has stimulated considerable analysis and debate among academics and writers on the conflict. One Sierra Leonean historian, Ibrahim Abdullah, has described the war as the high point of a rebellious Freetown youth culture of “*rarray man dem*” that started in the 1940s.⁵ Another Sierra Leonean historian, Ishmael Rashid, has detected a strong impetus for the war in the convergence that took place in the 1970s and 1980s between these *rarray man dem* and groups of radical students influenced by leftist ideologies.⁶ British anthropologist Paul Richards has traced the cause of the war to a patrimonial crisis, sidelined intellectuals, violent films and a desire by youths to manage the resources of the rain forest more equitably.⁷ Finally Jimmy Kandeh, a Sierra Leonean political scientist, has noted that the atrocities committed by youths during the war stemmed from the “subaltern” appropriation of what was previously the violence of the elites.⁸

³ Brima Vandy, TRC statement recorded at 11 Battalion Headquarters, Kambia District, March 2003.

⁴ TRC confidential testimony received during closed hearings in Koinadugu District, 14 May 2003.

⁵ See Abdullah I.; “*Youth Culture and Rebellion: Understanding Sierra Leone’s Wasted Decade*”, in *Critical Arts* journal, Volume 16, Number 2, 2002 (hereinafter “Abdullah, *Youth Culture and Rebellion*”), at page 29. *Rarray man dem* are streetwise urban youths, subordinated by the system.

⁶ See Rashid, I.; “Subaltern Reactions: Lumpens, Students and the Left”, in Abdullah, I. and Bangura, Y. (eds.); *Lumpen Culture and Political Violence: The Sierra Leone Civil War*, Africa Development special edition on the Sierra Leone conflict, Volume XXII, Nos. 3 / 4, 1997 (hereinafter “Rashid, *Subaltern Reactions*”), at page 24.

⁷ See Richards, P.; *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone*, The International African Institute, Netherlands / UK, 1995.

⁸ See Kandeh, J.; “Ransoming the State: Elite Origins of Subaltern Terror in Sierra Leone”, in *Review of African Political Economy*, No. 81, Roape Publications, 1999 (hereinafter “Kandeh, *Elite Origins of Subaltern Terror*”).

9. Combining these perspectives, it is possible to build a picture of the origins of violent behaviour among youths. Members of the political elite deployed “subalterns”, or *rarray man dem*, to silence their opponents during the days of the APC one-party state. Youths learned violence from their masters and developed violent reactions to the injustices and frustrations they encountered in their daily lives. As the conflict arrived, youths used brutality not to prop up the political elites, but to accumulate resources and power that had been denied to them previously, attacking the very foundations of the elites’ society. The major difference between elite-orchestrated violence and subaltern violence, however, was that the latter made no distinction between public and private property. The violence of the youths was largely indiscriminate.
10. This chapter builds on these perspectives and makes use of submissions, testimonies and interviews gathered by the Commission to analyse and report on: the nature, causes and extent of the violations and abuses perpetrated and suffered by youths; the context of these violations; and the impact on of the conflict on youths. The chapter concludes by considering current interventions geared towards addressing the youth question in Sierra Leone.

Youth Categories and Violence

11. Youth in Sierra Leone can be roughly divided into two categories: mainstream and marginalised youths. These categories can be further sub-divided to take into account the geographical locations and associated characteristics of youths. Thus there are mainstream urban youths and mainstream rural youths. The same distinction can also be made for marginalised youths.
12. The defining characteristic of mainstream urban youths has always been their access to formal western-type education. They would typically be secondary school or university students, expected to take up white-collar jobs upon completion of their studies.⁹ They belong to the world of the law abiding – those who play by the rules. Rural mainstream youths equally abide by long-standing traditions. They respect their elders and work on the farms.
13. In Freetown before the conflict, there was a particular category of marginalised youths, referred to above as the *rarray man dem*. They constituted a predominantly male-specific, oppositional sub-culture, prone to violence and other anti-social behaviour such as drug dealing, petty theft and riotous conduct. Mostly illiterates, they were economically insecure. They survived by moving in and out of casual jobs as domestic hands, night watchmen and labourers. They lived on the margins and were alienated from mainstream society. The violence they committed was mainly within their *potes* (enclaves or ghettos for marginalised youth) and on festive occasions when they moved around the city with their “masquerades”, or processions, known as *odelay*. Their violence mainly involved *chuk* (stabbing with a knife) and was of a non-political nature.
14. The utilisation of the violence of marginalised youths for political purposes started with the 1969-1970 by-elections, when the APC rallied soldiers, the police and *rarray man dem* to intimidate members of the opposition SLPP. The *rarray man dem* were mobilised by the APC strongman S. I. Koroma,¹⁰ who later became Vice President after the promulgation of the Republican Constitution in 1971. Koroma’s cynical tactics transformed *rarray man dem* into “thugs”.

⁹ See Abdullah, *Youth Culture and Rebellion*, at page 21.

¹⁰ See Rashid, *Subaltern Reactions*, at page 24.

15. In the common parlance of Sierra Leone at the time, “thugs” came to mean youths who were utilised for political violence. The word “youth” itself became a synonym for the unemployed young person who was vulnerable to manipulation. Youths were considered to be auxiliary troops for political parties. During elections, or crises, they did the dirty work for the politicians. Payment was often made in the form of drug supplies or token cash handouts. The violence offered youths an outlet for acting out their machismo, which although loathed by society was encouraged by the political elites.
16. A few leaders of the *rarray man dem* were eventually rewarded with high positions (one was made a minister, another an ambassador¹¹), but most thugs were unceremoniously dumped after the completion of their violent assignments.¹² The majority of youths remained unskilled and impoverished.¹³
17. In the provinces, marginalised youths were known as “san san boys” and “*njiahungbia ngornga*”. San san boys were marginalised youths eking out a living in the “sandpits” of the diamond mines. Most of them never fulfilled their dreams of becoming wealthy through diamonds. Instead, they became part of a harsh, greedy and adventurous way of life. Later they became easy prey as recruits for the purveyors of state and counter-state violence.
18. “*Njiahungbia ngornga*” is a Mende phrase meaning unruly youth.¹⁴ This group included semi-literate youths in the provinces who loathed traditional structures and values. They saw “the rebellion as an opportunity to settle local scores and reverse the alienating rural social order in their favour.”¹⁵ Freetown youths referred to the marginalised youths of the provinces who had adopted Freetown lifestyles and world-views as *bonga rarray man dem* or *upline savis man dem*.

¹¹ The *rarray man dem* who achieved high positions were: Alfred Akibo-Betts, who became a Minister of State in the Ministry of Finance; and Kemoh Fadika, who became Ambassador to Egypt.

¹² See Ngolo Katta, Director of the Centre for the Co-ordination of Youth Activities (CCYA), Submission to the Truth and Reconciliation Commission, April 2003 (hereinafter “CCYA submission to TRC”), at page 4. See also Dr. Dennis Bright, Minister of Youth and Sports, Submission to the Truth and Reconciliation Commission, 8 July 2003. See also Victor Reider, Member of Parliament and former youth participant in a training programme in Libya, TRC interview conducted in Freetown, 23 October 2003. See also Abdullah I.; “Bush Path to Destruction: The Origin and Character of the Revolutionary United Front (RUF/SL)”, in *Lumpen Culture and Political Violence: The Sierra Leone Civil War*, Africa Development special edition on the Sierra Leone conflict, Volume XXII, Nos. 3 / 4, 1997 (hereinafter “Abdullah, *Bush Path to Destruction*”), at page 49.

¹³ See Dr. Dennis Bright, Minister of Youth and Sports, Submission to the Truth and Reconciliation Commission, 8 July 2003.

¹⁴ See Muana, P. K.; “The Kamajoi Militia: Civil War, Internal Displacement and the Politics of Counter-Insurgency”, in Abdullah, I. and Bangura, Y. (eds.); *Lumpen Culture and Political Violence: The Sierra Leone Civil War*, Africa Development special edition on the Sierra Leone conflict, Volume XXII, Nos. 3 / 4, 1997 (hereinafter “Muana, *The Kamajoi Militia*”), at page 80.

¹⁵ See Muana, *The Kamajoi Militia*, at page 126.

The Increasing Marginalisation of Youths and the Convergence of Educated and Uneducated Youths

19. The country's deteriorating economic and political situation from the 1970s onwards saw an increase in the number of school dropouts. Education was no longer a right for all, but a privilege for the few. Employment and the grant of government scholarships were dependent on APC party allegiance and what Sierra Leonean youths referred to as "connectocracy", meaning personal connections to a political patron or senior public servant. Most youths could never fulfil their ambitions because they were not "connected" to the political system. Only the wealthy could provide a reasonable education for their children. The children of politicians and government officials attended private schools, often travelling overseas, while the government schools were totally neglected. The number of school dropouts increased annually as the education system deteriorated, swelling the ranks of the marginalised youths in the *potes*.
20. In the provinces, traditional political and judicial authorities served the interests of the local elites. Political marginalisation and harsh judicial penalties for the breaching of traditional norms pushed many youths to the margins of their societies. Some youths in provincial urban settings like Bo and Kono also set up *potes* akin to those of their Freetown counterparts.
21. The stagnating economy increased the numbers of even well educated youths who could not find employment. Western-type education no longer guaranteed employment. Graduates found themselves exposed to the same harsh economic realities that had long been experienced by the uneducated marginalised urban youth.
22. This convergence of the material conditions of educated (mainstream) and uneducated (marginalised) youths provided a basis for the convergence of their lifestyles and world-views. Many of the educated but unemployed youths started frequenting the *potes*. Unemployment induced in them the habits of the marginalised youth. They were frowned upon by mainstream society, but their visits to the *potes* gradually elevated their social status amongst their uneducated peers. With the increase in the number of marginalised youths came a corresponding increase in the number of *potes*. The peddling of drugs became a form of full-time employment for many youths.¹⁶ University students also joined the drift to the *potes*. Student activists began establishing *potes* on their campuses and the drug culture started to gain a grudging acceptance in the society – it became a *sine qua non* for radicalism and non-conformity.¹⁷
23. The newcomers to the *potes* were au fait with unfolding world events and were more politically conscious than the original marginalised youths. Many had read revolutionary texts from which they had developed new political ideas. They took it upon themselves to "conscientise" their "less fortunate brothers" while in return they were themselves gradually absorbing and adopting the style and language of the "ghetto".¹⁸

¹⁶ See Abdullah, *Youth Culture and Rebellion*, at page 29.

¹⁷ See Abdullah, *Youth Culture and Rebellion*, at pages 31 and 32.

¹⁸ See Dr. Dennis Bright, Minister of Youth and Sports, Submission to the Truth and Reconciliation Commission, 8 July 2003.

24. This transformation was also influenced by contemporary music, particularly reggae music by Bob Marley, Peter Tosh and Bunny Wailer. The lyrics of their songs depicted realities of the day – hardship, degradation and oppression – in a style of social commentary known as “system dread”.
25. The new groups emerging out of the fusion of educated youths and their uneducated peers in the *potes* were not involved in petty theft or political thuggery, at least at first. The *potes* became rallying points for alienated, unemployed youths and an arena for political discussion centred on the corrupt practices of the dominant political class and the stifling political atmosphere under one-party dictatorship.

Repression of Student Demonstrations in the 1970s and 1980s and the Evolution of Revolutionary Thinking

26. Student leaders were conversant in theories of liberation and spiced up their discussions with quotes from revolutionaries like Kwame Nkrumah, Marcus Garvey, Wallace-Johnson, Fidel Castro, Malcolm X and Steve Biko. Students and school leavers read extensively and intensively outside their fields of study in order to contribute meaningfully to philosophical debates and discussions that lasted far into the night. Another significant influence was the presence of refugees from Zimbabwe, South Africa and Namibia on almost all campuses. Their experiences as freedom fighters made them influential in student circles and they occupied leadership positions in some student union executives.¹⁹
27. Student thinking and the campus climate were ripe for protest action. Hindolo Trye was elected president of the Fourah Bay College (FBC) student union in 1976. The student motto “The Self” implied the importance of self-esteem and dignity, the awareness of the right to liberate oneself and the right of the collective self to initiate liberation.²⁰ The students’ first direct confrontation with the APC came in 1977, when President Stevens was humiliated while delivering his speech at the annual university convocation ceremony.
28. The APC organised a counter-demonstration involving *rarray man dem* led by Kemoh Fadika. Supported by the armed Special Security Unit (SSD), these youths were brought in to flog, rape and brutalise students. The deployment of such a force foreshadowed events to come during the conflict, when youths were pitched against youths in an orgy of violence. The government’s backlash led to a nationwide demonstration by students in February 1977 following the arrest of their student leader Hindolo Trye. According to one participant:

“They sent thugs and members of the paramilitary to beat us up. They destroyed the campus, which led to a national uprising led by the students and sparked up by school children. It is what we called the “no college, no school” demonstration. It spread countrywide and became a national uprising, which lasted for several weeks.”²¹

¹⁹ See Dr. Dennis Bright, Minister of Youth and Sports, Submission to the Truth and Reconciliation Commission, 8 July 2003, at page 6. See also Victor Reider, Member of Parliament and former youth participant in training in Libya, TRC interview conducted in Freetown, 23 October 2003.

²⁰ See Currey, J.; *The Revolutionary United Front of Sierra Leone: African Guerrillas*, 1998, at page 175. See also Dr. Dennis Bright, Minister of Youth and Sports, Submission to the Truth and Reconciliation Commission, 8 July 2003, at page 7.

²¹ See Olu Gordon, former student of Fourah Bay College in the 1970s who later became a lecturer and prominent participant in PANAFU, TRC interview conducted in Freetown, 11 March 2003.

29. The student protests, planned and led by radical students, received popular support and forced President Stevens to make certain concessions. A general election was called three months later. Violence by APC-sponsored *rarray man dem* resulted in a massive electoral victory for the APC. The hopes of the educated youths for an opening up of the political system were dashed.
30. The 1980s saw the emergence of well-organised radical groups and study clubs on university and college campuses, including the Green Book study club (promoting Ghaddafi's ideas of revolutionary mass participation from Libya), the Pan African Union (PANAFU), which called for a popular movement,²² and the Socialist Club. Unlike other campus clubs, PANAFU brought both categories of youth together and was concerned with educating its members about apartheid in South Africa and neo-colonialism in Africa. PANAFU operated outside the campuses and had revolutionary "cells" in central and eastern Freetown.
31. Following a student demonstration in 1984, the Fourah Bay College campus was closed down for three months and upon resumption of classes, students had to sign an agreement for re-admission into the university. This repressive act helped "contain" students and brought relative calm to campus. Then, in 1985, Alie Kabba, a keen member of several radical clubs, was returned unopposed as president of FBC student union on a platform of collective self-advancement that he referred to as "we-ism". Kabba's student union executive made no secret of its intentions to put its radical leftist ideologies into practice once in power. The student leadership was constantly at loggerheads with the university authorities, who perceived Kabba as a subversive firebrand.
32. Events reached a climax at the end of the second term in 1985 when students refused to hand in their dormitory keys. The authorities accused them of planning to bring in Libyan mercenaries to oust the APC government. The paramilitary SSD, again called in to put the students in their place, used undue force in restraining the students and beating them into submission.
33. The SSD's actions gave rise to a Freetown-wide demonstration. When the college reopened for the third semester in April 1985, forty-one students were declared ineligible to register, among them Alie Kabba. The student union protested against this decision. The campus demonstration spread to the city centre, where shops were looted and vehicles burnt down,²³ apparently by unemployed youths who used the political demonstration of the students as a chance to wreak havoc and enrich themselves. Such opportunism, to many differing degrees, would become a constant feature of the conflict in the 1990s.
34. Alie Kabba and five other students were arrested and detained for two months, while three lecturers – Cleo Hancilles, Olu Gordon and Jimmy Kandeh, the original founders of PANAFU – were summarily dismissed from the university without a proper explanation or compensation up to the present day.²⁴

²² See Cleo Hancilles, former lecturer at Fourah Bay College (FBC) who later conducted ideological lessons for trainees in Libya, TRC interview in Freetown, 8 April 2003. See also Abdullah, *Youth Culture and Rebellion*, at page 32. PANAFU wanted to link people across diverse social sectors.

²³ See Rashid, *Subaltern Reactions*, at page 36.

²⁴ See Cleo Hancilles, former lecturer at Fourah Bay College (FBC) who later conducted ideological lessons for trainees in Libya, TRC interview in Freetown, 8 April 2003. See also Olu Gordon, former student of Fourah Bay College in the 1970s who later became a lecturer and prominent participant in PANAFU, TRC interview conducted in Freetown, 11 March 2003. See also Gibril Foday-Musa, former student of Fourah Bay College who attended a training programme in Libya in the 1980s; TRC interview conducted in Freetown, 26 September 2003.

35. Some of the expelled students eventually found their way to Ghana and gained admission into the University of Legon. From Ghana, Alie Kabba made frequent visits to Guinea and Libya and was also a regular visitor to the People's Bureau (as the Libyan embassy was called) in Accra. According to Olu Gordon:

“The idea of the RUF actually came from the expelled students from Fourah Bay College, especially Alie Kabba. And the specific reason why it was called a “united front” was because they had attempted to draw several organisations into their plan, including the organisations belonging to the Pan African Union (PANAFU).”²⁵

36. Other witnesses, who were part of PANAFU, as well as some members of the RUF, have challenged the veracity of this testimony. Indeed, Gordon's account is not entirely accurate, since Alie Kabba's umbrella idea went by a different name altogether – the Popular Democratic Front, with the acronym PDF – and had a non-violent agenda for change at its heart. RUF members further pointed out that at the time the students were in Libya, no name had been chosen for the movement they joined. The name RUF was coined by others in Libya and had no direct connection to PANAFU, which had by that time become detached from the revolutionary project.

Divergence of Youths and the Spiral into Violent Rebellion

37. The exiled students raised the idea with PANAFU in Freetown of sending members of their revolutionary “cells” in the city to undertake training programmes in Libya. Four trainees nominated by PANAFU left for Libya during the rainy season of 1987. By the time they returned in 1988, leading members of PANAFU were no longer committed to the revolutionary project, which led to a split in the movement. One group went underground and carried on planning for new batches of trainees, recruiting mainly marginalised youths from the city.

38. PANAFU's withdrawal from the revolutionary project starved it of ideologically educated youths and turned it into what one writer has described as:

“an individual enterprise... any man (no attempt was made to recruit women) who felt the urge to acquire insurgency training in the service of the “revolution” [could join up]... This inevitably opened the way for the recruitment of lumpens.”²⁶

39. Alie Kabba had assumed the position of co-ordinator of the “revolution” because of his pre-existing links with Libya. Many trainees were opposed to Kabba's leadership, though. They objected to his personal refusal to undergo military training. They also accused him and his friends in Ghana of “sitting on millions of dollars” and benefiting from their recruitment for training in Libya. By the time Kabba left Ghana for Libya, most of the trainees had revolted. The bulk of them had returned to Sierra Leone by 1989 or 1990 and never assumed roles in the RUF movement, or indeed in any of the factions that fought in the conflict.²⁷

²⁵ See Olu Gordon, former student of Fourah Bay College in the 1970s who later became a lecturer and prominent participant in PANAFU, TRC interview conducted in Freetown, 23 March 2003.

²⁶ See Abdullah, *Bush Path to Destruction*, at page 63.

²⁷ See Cleo Hancilles, former lecturer at Fourah Bay College (FBC) who later conducted ideological lessons for trainees in Libya, TRC interview in Freetown, 8 April 2003. See also Abdullah, *Bush Path to Destruction*, at page 65.

40. Divergence of paths and purposes occurred during the time of the training in Libya. Sierra Leone's original student revolutionaries realised they had little in common with some of their countrymen who trained on the camps near Tripoli. Alie Kabba and Cleo Hancilles, the two ideological driving forces, grew wary of the direction their project had assumed and decided to opt out. Into the resultant leadership vacuum stepped Foday Sankoh, an aggrieved former soldier of the Sierra Leone Army who was an anomalous, older presence among the mostly youthful trainees. In Libya, Sankoh met Charles Taylor, the leader of the Liberian trainees on the camp. The two men forged a joint plan for insurgencies in their respective countries, starting in Liberia and moving into Sierra Leone. From that moment on, the course of the "revolution" – and with it the destiny of the sub-region's youth – changed irreversibly. Sankoh and a handful of cohorts made their way to Liberia and joined an insurgency alongside Taylor's NPFL. Among the youths involved, only Abu Kanu, a graduate of Njala University College, had reached a level of higher education comparable to the original PANAFU-led group of the mid-1980s.
41. Foday Sankoh began to assemble more fighters for his RUF rebellion in 1990. He used Charles Taylor's NPFL bases and logistics to train Sierra Leoneans from diverse backgrounds who had been caught up in the turmoil in Liberia. Some were migrant workers whom Sankoh plucked from prisons in NPFL control areas; others were marginalised urban youths and common criminals. They became known as the RUF "vanguards". In March and April 1991, the vanguards entered Sierra Leone with a troop of NPFL commandos who outnumbered them by about four to one. The Sierra Leone conflict had begun, with youths from unlikely and unsettled circumstances very much to the fore.²⁸
42. After the launch of the armed rebellion, most of the youths who joined the RUF, or who were compelled to join the organisation, were marginalised rural youths. Thus different categories of youths were involved at distinct stages of the conflict history of Sierra Leone. Educated youths were involved in the formulation of ideas for revolution and regime change, instigating the training in Libya. Marginalised urban youths were involved in the bulk of the military training and the launch of the insurgency. Thereafter the bulk of the growing manpower of the RUF consisted of marginalised rural youths.
43. Youths who joined the RUF could be further distinguished according to those who joined voluntarily and those who were forced to join. Some of the youths who joined willingly were won over by the simplistic rhetoric of the movement and believed that their involvement would help to reform "the system" that had oppressed them for so long. They were fed up with the APC and wanted a change of government. According to a resident of Pujehun District:

"We assembled at the barray and they addressed us... "We have come to make Sierra Leone a better Sierra Leone... Sierra Leoneans are suffering... education is expensive... we have come to get rid of the APC rule"... After their address, we were happy and prepared food for them... They appointed a town commander... Some of them left after they had finished eating."²⁹

²⁸ For the Commission's comprehensive account of the pre-conflict phase and the assembly of the armed force that launched the insurgency in Sierra Leone in 1991, see the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

²⁹ Alusine Rogers, TRC statement recorded in Kpaka Chiefdom, Pujehun District, 22 March 2003.

44. However, whether by choice or against their will, practically all the recruits soon adopted forms of behaviour that characterised marginalised youths – drug addiction and violence. Involvement in the rebellion itself became an alienating and marginalising process. RUF and NPFL atrocities in Sierra Leone soon drew contempt and opposition from the communities they were attempting to win over. Youths who had joined the insurgency became completely alienated from their own people, either due to acts in which they participated personally or due to their association with the outrages perpetrated by the movement as a whole.
45. The involvement of youth in the conflict became infinitely more complicated in April 1992, when a band of youths in the Sierra Leone Army overthrew the APC in a coup and formed a military junta known as the NPRC. In an attempt to counter the insurgents at the warfront, the NPRC engaged in mass recruitment of marginalised urban youths into the Army. By 1992, therefore, almost the entire combatant population consisted of youths, on both sides of the battle.
46. It should be recalled that by the eve of the conflict most urban youth had lost all hope. They had sunk into an abyss of unemployment and disillusionment. In this state, fighting in the war seemed a viable alternative. It presented a means through which youths could possibly break out of their despair and transform their lives. Many youth aligned themselves with one or more of the factions and swiftly achieved what they considered progress: they were able to accrue “wealth” and “status” that otherwise would have been unattainable.
47. More youths joined the war when they saw how “profitable” the experience had proved for others. Instead of enduring long periods of unemployment, they looted money and goods. Rather than possessing no stake in society, no property and no hope for the future, they became “commandos” who could acquire guns, sex, food and drugs at their will. The opportunity cost of going to war was very low. War empowered them. Inevitably, such youths began to perceive personal benefits in the continuation of conflict. Across all factions they became the most vocal constituency resisting efforts to end the war.
48. Some youths joined the armed factions in order to carry out personal vendettas. Statements from Pujehun District indicate that some of the earliest recruits into the RUF on its Southern Front were militiamen who had participated in the so-called Ndorgboryosoi rebellion against the APC government in the early 1980s, but ultimately failed.³⁰ The Commission also heard testimonies from various parts of the country about youths who had been ostracised from their communities in the past, only to return during war to lead fighters into attacking their people, destroying their communities and humiliating their chiefs, elders and members of their traditional authorities.³¹

³⁰ More detail on the Ndorgboryosoi rebellion in Pujehun District in the 1980s can be found in the chapter on the Historical Antecedents to the Conflict in Volume Three A of this report. More detail on the incorporation of former Ndorgboryosoi militiamen into the RUF in 1991 can be found in the chapter on the Military and Political History of the Conflict, also in Volume Three A of this report.

³¹ See, for example, Ngolo Katta, Director of the Centre for the Co-ordination of Youth Activities (CCYA), TRC interview conducted in Freetown, 13 August 2003.

The Re-convergence of Youths

49. In the late 1970s and 1980s, there had been a convergence of the educated and the uneducated marginalised youths. This convergence initiated discourse on modes and means of resistance, or violence, that could be targeted at the perpetrator of their marginalisation – the APC government. Their discourse took place in the *potes*, against the background of a non-conflict environment.
50. In contrast, the re-convergence of youths in the 1990s took place in the course of the actual rebellion against the state. On this occasion the youths who converged were mainly uneducated and marginalised youths who had joined the RUF or the Army. Those in the Army were largely marginalised urban youths, whilst the RUF constituted mainly rural youths. It became a convergence of all the groups from the pre-conflict period described earlier in this chapter: *rarray man dem*; *upline savis man dem*; *san san boys*; and *njiahungbia ngornga*.
51. Youths in both the Army and the RUF shared common traits of marginalisation. Most were uneducated, heavy users of drugs and had been uprooted or alienated from their pre-war communities. The rebellion and counter-insurgency seemed to promise marginalised youths that they could continue to engage in their old habits while fulfilling the ambitions that were denied to them by society.
52. Towards this end youths were encouraged by the leadership of the various military and political factions. The elites were profiteering from war in different ways from the youths, but they had a similar interest in its perpetuation. Youths in turn utilised violence not only to please their masters, but also to fulfil their yearnings for material acquisitions. In other words, the youths appropriated elite-sanctioned violence for subaltern ends.
53. Thus the eventual re-convergence of marginalised youths in the midst of the brutality that characterised the conflict was perhaps inevitable. Some commentators believe that the neologism “sobel” captures this convergence, because soldiers behaved like rebels, and vice versa.³² The reality is subtly different, however, since the union of the RUF with the AFRC regime that seized power in May 1997 came about through a decision of their respective leaderships, rather than any organic merger of the two combatant cadres on the ground. Only upon their convergence did the two factions really appreciate that they were practically identical in their composition.
54. The leaders of the Armed Forces Revolutionary Council (AFRC) came from subaltern social types (*rarray man dem*) who had become accustomed to deploying violence on behalf of the civilian political elites. In seizing power in their coup of 1997, these soldiers and civilians were carrying out violence towards their own ends and in doing so they made no distinction between public and private targets.³³
55. When the AFRC regime was joined by the RUF, itself composed mainly of marginalised rural youths, many ordinary people suspected that it reflected years of collaboration between the two factions at the battlefield. It was very common to hear Sierra Leoneans saying that they knew that the RUF and the Army were secret lovers and that they were now publicly celebrating the marriage. It was not so much a question of formalising an existing relationship, though, as of wondering why the two of them had failed to get together earlier.

³² See, for example, Abdullah, *Bush Path to Destruction*.

³³ See Kandeh, *Elite Origins of Subaltern Terror*.

Community Self-Defence and the Utilisation of Youths

56. In the mid to late 1990s, civilian communities largely lost faith in the national army and sponsored their own youths to become members of the Civil Defence Forces, a militia network dominated by Kamajors from the south and east. For many youths, joining the Kamajors was a way to earn respectability and honour. Others simply heeded the call of their elders to be initiated:

“The chieftom elders called upon the youths of all the surrounding villages and explained to us that since the situation was getting out of hand, they want some of the youths to volunteer to be initiated into the Kamajor society as a means of self-defence. Eighty people were registered for initiation.”³⁴

57. In his statement to the Commission, another youth said he joined the Kamajors to defend his people from soldiers and the RUF:

“The government soldiers who were supposed to protect us were the very ones who were killing and harassing our people. The RUF were also killing our people and burning our houses.”³⁵

58. The CDF militias started as a reaction to the abuses of the RUF and government soldiers. As the war progressed, though, the CDF was transformed into much more than a community defence force. This was particularly the case after the 1997 AFRC coup, when the CDF became an armed force dedicated to the restoration of the SLPP government. According to one CDF fighter:

“In addition to the carnage and destruction caused by the rebels to our people and the land, for these kind of people to rule us was a mockery and a shame... My first deployment (as a Kamajor) was to go and fight the RUF at their base in Koribundo.”³⁶

59. As tensions flared, many Kamajor members learned to use the war for private gain. Although they were under oaths, taboos and a disciplined code of conduct that forbade them from engaging in certain acts, they nonetheless looted, raped, killed innocent civilians and conscripted children into their ranks.³⁷

60. A farmer from Pujehun recounted his ordeal at the hands of the Kamajors:

“Eight Kamajors attacked me on my farm. They invited me to their base, but I refused to accompany them. They maltreated me and while I sat on the ground they fired shots around me. As if that was not enough, they went on to harvest my pineapple and other fruits. Finally, they looted all my property and burnt down my farmhouse.”³⁸

61. Membership of the Kamajors was in some areas the only way of avoiding such abuses. Many youths joined the militia to seek this protective cover:

“These Kamajors intimidated us so much as civilians that I decided to join them in 1997. I did it to gain the freedom of entering and leaving our village.”³⁹

³⁴ Borbor Rambo Kallon, TRC statement recorded in Mano Dasse, Dasse Chieftom, March 2003.

³⁵ Augustine Musa, TRC statement recorded at an unspecified location, February 2003.

³⁶ Brima Nallo, TRC statement recorded in Ngiehun, Lugbu Chieftom, January 2003.

³⁷ See, for example, Rugiatu Kamara, testimony to TRC public hearings, Freetown, 14 April 2003.

³⁸ Mohamed Kebbie, TRC statement recorded in Pujehun Town, 25 February 2003.

³⁹ Desmond Hindowa Momoh, TRC statement recorded in Tokwama village, 11 December 2002.

Youths as Collaborators in the Conflict

62. In addition to their active combat roles, youths instigated horrific atrocities by collaborating with the factions in times of social tension or when control of a particular area changed hands. Youths were often the first residents to be sought out for information or local knowledge. By betraying the confidence of their communities and pointing fingers, sometimes without any rational basis, they caused many deaths and untold suffering:

“When the soldiers recaptured Potoru... an indigene of Potoru showed the soldiers all the houses the rebels had been dwelling in... The houses were then burnt down by an SLA corporal...”⁴⁰

63. When the war broke out in the east and the south, some young men who joined the RUF pointed out to rebel forces certain individuals they perceived as their antagonists or oppressors. Often these persons were tortured and killed. During the ousting of the junta in 1998 by the ECOMOG intervention force, irate youths not only formed “mobs” to beat up and summarily execute civilians, they also identified suspected AFRC sympathisers or disclosed their hideouts to ECOMOG personnel and Kamajors, who dealt mercilessly with their victims. Philip Sankoh described what happened to him:

“Around 16 February 1998, a neighbour named Modupeh came with a group of Nigerian soldiers serving under ECOMOG... The soldiers attacked my friend and I... and held us at gun point ... That same night they went over to the place where I had gone to seek refuge... and harassed the people, looted their property.”⁴¹

The Impact of the Conflict on Youth

64. Instead of alleviating the neglect and marginalisation believed to be the prime causes of the war, the eleven-year conflict has actually compounded the problems faced by youths and had entirely negative consequences on their development. Many youths have been left disillusioned and frustrated.

Youths and education

65. A whole generation of youths lost their opportunity to advance their levels of education, which is so vital to the improvement of their status. Desmond Massaquoi recounted the circumstances that have denied him his schooling:

“I was attending Christ The King College when the war broke out; I was in form three. I went for holidays to my village Kanguma, near Serabu in the Bumpeh Chiefdom. Rebels attacked my village, burnt our houses, looted our property and killed some people. Amongst those killed were my father, my sister and her husband. These people were the ones paying my school fees... I want to continue my education but there is no one to support me as my sister and her husband who supported me are dead.”⁴²

⁴⁰ Lahai Kamara, TRC statement recorded in Potoru, Pujehun District, 24 January 2003.

⁴¹ Philip Sankoh, resident of Brookfields community in Freetown, TRC interview, 16 July 2003.

⁴² Desmond Massaquoi, TRC statement, Bo District, 10 April 2003.

66. Displacement of the population resulted in high levels of illiteracy and a massive drop in the standard of education. As civilians sought refuge in the big towns, overcrowding meant that schools had to begin operating double shifts. Class sizes increased and the quality of interaction in the learning environment deteriorated. Even the few youths who were able to attend school received a lower quality of education. Many had their education halted abruptly by their enlistment into the fighting forces or abduction by the RUF.
67. In post-conflict Sierra Leone many youths who lost out on schooling believe they are now too old to return to school. They are destined to remain unskilled. Many are not just unemployed; they are unemployable. They can be seen all over the country, many of them begging and stealing in order to survive.

Psychosocial effects of the conflict

68. Many youths were brutalised and transformed into killing machines. They have been deprived of the positive aspects of their youth. Some young people were abducted as children and stayed with their captors throughout the eleven-year conflict. Many others lost parents and benefactors. In general youths remain bereft of the stabilising ties of affection, intimacy and emotional support. Denied these ties, they are vulnerable to emotional and psychological insecurity.

Drugs

69. Before the war, most youths consuming drugs used cannabis. During the war, they were introduced to more dangerous narcotics such as cocaine and heroin. There has been a dramatic increase in the numbers of young drug takers and the types of drugs they are addicted to.⁴³

Loss of civic and social skills

70. The breakdown of community norms and socialisation during the ten-year civil conflict created youths without civic or social skills. Those in the fighting forces were inducted into a life of burning, looting and killing. They do not possess peacetime skills and are finding it difficult to accept and accede to authority. Refugees also had their lives disrupted. Thus many among them lack the social, civic and economic skills necessary for a disciplined peacetime life.
71. Youths have become been used to violence as a means of resolving problems. Many still hold onto the belief that they should resort to violence to get what they need.⁴⁴ They have been used to committing violations with impunity.

⁴³ See Dr. Dennis Bright, Minister of Youth and Sports, TRC interview conducted in Freetown, 12 November 2003. See also Allan Quee, Director of PRIDE, a non-governmental organisation dedicated to the reintegration of ex-combatants, TRC interview in Freetown, 21 November 2003.

⁴⁴ See Dr. Dennis Bright, Minister of Youth and Sports, TRC interview conducted in Freetown, 12 November 2003.

TRC



Youth groups and other civil society organisations join the National Reconciliation Procession organised by the Commission on 6 August 2003.

Limited livelihood skills

72. Destruction of infrastructure has impacted negatively on the range and availability of economic opportunities. Displacement meant abandoning farms and other commercial activities. Always on the run or in the fight, youths could not generate productive skills that were relevant to sustaining livelihoods in rural or urban settings. Many of them are at a loss as to how to rebuild their shattered livelihoods after the conflict. Lahai Kamara told the Commission:

“I am discouraged because I do not know when I will be able to rebuild my life and be able to recover from my loss.”⁴⁵

Unemployment

73. Unemployment among the youth remains a major problem. The economy was destroyed during the ten-year conflict and as a result few jobs are available. Even where jobs are available, many youths do not have the required skills.
74. Every year hundreds of young people graduate from the university and have to scrounge and scramble for the very few jobs on offer. Ex-combatants who have learnt skills cannot find employment and are eking out a living as petty traders. Many youths sit around the streets and motor parks idling their time away.

Post-Conflict Efforts at addressing the Youth Question

Ministry of Youth and Sports

75. At the end of the conflict the government decided to give prominence to the youth question by creating a separate youth ministry. The government de-linked the responsibility for Youth and Sports from the former Ministry of Education, Youth and Sports because the youth and sports component was being dwarfed by the education component. A specific ministry with specific responsibilities for Youth and Sports was created in 2002.
76. One of the initiatives taken by the new ministry was the publishing of the Sierra Leone National Youth Policy, which was approved and launched by the government in July 2003. Through this policy the government hopes to empower youths not only to make them responsible citizens but also as an investment in Sierra Leone's future.
77. A programme of action for youth development has emerged from the National Youth Policy. It focuses to a large extent on the economic empowerment of youths. The ministry has recognised the fact that many young people have missed out on their youthful years. The action plan is an effort to do something to restore to them some of the benefits of youth.
78. The programme is faced with a number of constraints, however. The first is the lack of financial support to realise its objectives. Second, there are few well-trained people involved in youth work and the ministry finds it difficult to attract skilled administrators and organisers. The ministry is further faced with the challenge of convincing people that the youth question is now, more than ever, a national priority that demands national mobilisation.

⁴⁵ Lahai Kamara, TRC statement recorded in Poturu, Pujehun District, 24 January 2003.

79. Although the youth question has been declared as a priority in the policy and in the public speeches of government officials, it has been very difficult to translate such declarative emphasis into practical impact. This deficiency is symptomatic of the continued marginalisation of the youth. What obtains is a prioritisation of youth at the abstract level, with few tangible benefits for youths themselves.
80. Youths had wanted the policy enacted into law in an effort to make its provisions binding on the government. The policy was however launched without an effort to give effect to this demand. A golden opportunity was therefore missed.

The National Committee for Disarmament, Demobilisation and Reintegration (NCDDR)

81. The NCDDR was established in July 1998 to disarm and demobilise combatants of the RUF, CDF and SLA (AFRC) and support their reintegration into society.
82. Disarmament and demobilisation of ex-combatants was completed in 2002. As a way of providing an alternative to the fighting life, make up for the time lost in the bush and in order to reintegrate them into society, the programme supported more than 25,000 ex-combatants to learn various trades and skills. More than 7,000 ex-combatants were placed in the formal education system at secondary, tertiary and technical vocational levels. Some of these youths are already using their acquired skills to help rebuild their communities, thereby promoting the reconciliation and reintegration aspect of the programme.
83. As part of its reintegration work, the NCDDR worked closely with implementing partners – community-based organisations and local NGOs – to curb animosity against ex-combatants through the implementation of various reconciliation projects. Consequently, community members have minimised their open animosity towards ex-combatants.⁴⁶
84. Nonetheless, a major constraint that is faced by many youths who have gone through the demobilisation and skills-building programme of the NCDDR is the poor state of the country's economy, which hinders the translation of their skills into practices that can sustain their livelihoods. The "crash course" nature of the skills-building exercise can be questioned. Many ex-combatants left the training programmes inadequately trained or lacking the necessary discipline to apply what they had learned. Many public transport users regard ex-combatants who qualified as drivers, the so-called "DDR drivers", as highly undisciplined.

Non-governmental organisations (NGOs)

85. Many NGOs sprang up in response to the acute humanitarian crisis in the country. Through education, sensitisation and awareness-raising programmes, they have been able to reach out and propagate constructive messages to a wide constituency across the country. Ex-combatants and non-combatants alike have benefited from a wide range of assistance and empowerment programmes. Of particular interest with regard to this chapter, a whole new sector of the NGO community has evolved around the youth question.

⁴⁶ See the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR); submission to the Sierra Leone Truth and Reconciliation Commission, 4 August 2003.

86. Many NGOs working with youth have specific aims and objectives (such as human rights, skills training and empowerment), but they all share a common goal – to transform youths into capable members of society. NGOs serving youths, however, must overcome a variety of obstacles in carrying out their work, including the perennial issue of resource shortages. Most NGOs access funds for programme implementation from donors outside of Sierra Leone. They have not been able to generate funds locally. Donor support in turn is inherently erratic. Donor priorities may change before the programme goals for youth work are met, leading to the abrupt end of the programmes.
87. Most NGOs depend on the services of volunteers because they lack funds to pay their staff adequate remuneration. Many volunteers have other commitments that make them less effective on the job. The youth NGO sector requires considerable further investment if it is to become a viable contributor to the social, political and economic development of the country's youths.

Conclusion

88. Sierra Leone has witnessed what the lethal cocktail of youth marginalisation and political manipulation can produce. Youths who had learnt to do the violent bidding of their masters soon applied these skills to further their own ends.
89. Hitherto mainstream youths – university students and graduates – were increasingly marginalised amidst the deteriorating political and economic environment of the 1970s. These youths linked up with the marginalised uneducated and unemployed youth, bringing with them ideas of “revolution” as a means of ending their marginal existence. Once the armed struggle had commenced many youths exploited the conflict for private gain. The war provided a useful cover for them to enrich themselves. Their looting campaigns made no distinction between private and public property, nor did their violence distinguish between combatants and ordinary civilians. As a result massive human rights violations and abuses were perpetrated by youths during the war.
90. Youths became participants in a conflict that entrenched their marginalisation. Inducted into a life of violent but unsustainable accumulation, they undermined the very attributes – schools, state resources, skills of civic interaction – they needed to escape their marginalisation.
91. In order properly to address the youth question, the means to escape youth marginalisation must be rebuilt and sustained. This national effort must include providing the skills to youths to participate productively in the economy. It also means encouraging the right attitudes. Youths themselves must be integral to the planning and implementation of youth-orientated policies and programmes. The construction of sustainable youth programmes can only be done through authentic dialogue between youths and their elders. As these processes unfold, it will become incumbent on the youth to demonstrate responsibility, leadership and accountability. In so doing, Sierra Leone's youth will at last come closer to finding its rightful place in society.

CHAPTER SIX

The TRC and the Special Court for Sierra Leone

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 SIX

The TRC and the Special Court for Sierra Leone

Introduction

1. The Truth and Reconciliation Commission (“TRC” or “the Commission”) worked alongside an international criminal tribunal, the Special Court for Sierra Leone. In recent times, truth commissions have worked in tandem with national criminal justice processes and in one case a commission has functioned in parallel with a criminal tribunal established under UN regulations.¹ However the Sierra Leonean case has brought into sharp focus the different roles of these institutions and the potential pitfalls in their relationship.² There has been great interest in the issues that arise when two such institutions operate contemporaneously.
2. Most truth commissions have operated as an alternative to criminal justice systems, because criminal prosecution was either unlikely or inappropriate in the circumstances, or because an amnesty was provided for perpetrators. 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.
3. The transitional justice initiatives of the TRC and the Special Court have been viewed by some as a unique experiment, which advances reconciliation through justice combined with reconciliation through truth. In reality, the two institutions were not created as part of a grand design. When the Commission was agreed upon, the Special Court was not under contemplation. Steps to create the Court only occurred following disturbances in Sierra Leone in the year 2000.
4. This chapter will relate the experiences of the Commission in working alongside the Special Court. It examines the contexts that gave rise to both organisations and tracks the course of developments between the two bodies as they operated contemporaneously. It analyses the nature of the relationship that emerged between the TRC and the Special Court and assesses the impact of this relationship on the Commission’s operations and on the people of Sierra Leone. The chapter pays particular attention to the issue upon which the relationship ultimately faltered, namely the right of detainees held in the custody of the Special Court to appear before the Commission. It was around this issue that the differences in approach between the two post-conflict bodies crystallised. Finally, an attempt is made to evaluate the appropriateness of having two such bodies working simultaneously in the context of post-conflict Sierra Leone.

¹ The Commission for Reception, Truth and Reconciliation (CAVR) in Timor-Leste has functioned at the same time as the Serious Crimes Unit (SCU), which was mandated to prosecute perpetrators of the violence of the pre-independence referendum in 1999.

² See International Centre for Transitional Justice (ICTJ), *The Special Court for Sierra Leone: The First Eighteen Months*, March 2004, at page 11. Available at the website: www.ictj.org.

LOMÉ, AMNESTY AND THE TRC

5. The signatories to the 1999 Lomé Peace Agreement agreed to amnesty in order to secure the peace. It was accepted, at the time of the signing of the Lomé Peace Agreement, that the RUF would not have signed the agreement if there had been any prospect of legal action being taken against its members.³ A truth and reconciliation process was seen as an alternative mechanism for accountability. The Commission was viewed as a means to address impunity so that violations and abuses of human rights would not simply be forgotten. Through its creation of an “impartial historical record” and its holding of public hearings and ceremonies, the Commission would promote a sense of restorative justice in Sierra Leone.
6. Perpetrators would be identified and held accountable in the report of the TRC. The origins and causes of the conflict, together with the contextual story of the conflict in all its nuances, would be told in order that the full horror of the war might be acknowledged by the country as a whole. Recommendations would be made to prevent the repetition of conflict. Impetus would be given to the process of national healing and reconciliation. Violations suffered by victims would be redressed through reparations.⁴
7. When the Lomé Peace Agreement was adopted on 7 July 1999, the Special Representative of the Secretary-General of the United Nations (SRSG) appended a handwritten statement to his signature on the document. The statement read as follows:

“The United Nations holds the understanding that the amnesty provisions of the Agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.”⁵

This disclaimer may very well have had the effect of sending a message to combatants and leaders of the armed factions that the amnesty provided by the Lomé Peace Agreement was not a secure amnesty.

³ See Solomon Berewa (former Attorney General, now Vice President of Sierra Leone); “Addressing Impunity using Divergent Approaches: The Truth and Reconciliation Commission and the Special Court”, in *Truth and Reconciliation in Sierra Leone: A compilation of Articles on the Sierra Leone Truth and Reconciliation Commission*, UNAMSIL, Freetown, 2001 (hereinafter “Berewa, *Addressing Impunity using Divergent Approaches*”), at page 55. See also Alhaji Dr. Ahmad Tejan Kabbah, current President of the Republic of Sierra Leone; testimony before TRC Thematic Hearings held in Freetown, 5 August 2003, at paragraphs 34 and 35 of the transcript.

⁴ For a full account of the creation of the TRC see the relevant chapters of the present report: Volume One, Chapter One – “Historical Context”; and Chapter Two – “Setting up the Commission”.

⁵ The statement by the UN SRSG does not appear in the text of the Agreement as it was published by the United Nations (UN Doc. S/1999/777). The Commission was however given sight of a copy of the Lomé Peace Agreement to which the statement was appended in handwriting.

8. A little over two-and-a-half years earlier, when the Abidjan Agreement was signed, the United Nations did not make any similar declaration. Although it did not use the terminology of “amnesty” or “pardon”, Article 14 of the Abidjan Agreement of 30 November 1996 declared the following:

“To consolidate the peace and promote the cause of national reconciliation, the Government of Sierra Leone shall ensure that no official or judicial action is taken against any member of the RUF in respect of anything done by them in pursuit of their objectives as members of that organisation up to the time of the signing of this Agreement. In addition, legislative and other measures necessary to guarantee former RUF combatants, exiles and other persons currently outside the country for reasons related to the armed conflict shall be adopted ensuring the full exercise of their civil and political rights, with a view to their reintegration within a framework of full legality.”

9. The Special Envoy of the Secretary-General at the time, Berhanu Dinka, signed the Abidjan Agreement and acknowledged that the United Nations was a “moral guarantor” of the peace. The United Nations again assumed the status of a “moral guarantor” at Lomé in July 1999.

The Commission’s View on Amnesty

10. It is not clear why unconditional amnesty was accepted by the United Nations in November 1996, only to be condemned as unacceptable in July 1999. This inconsistency in United Nations practice seems to underscore the complexity of the problems at hand. The Commission is unable to condemn the resort to amnesty by those who negotiated the Lomé Peace Agreement. The explanations given by the Government negotiators, including in their testimonies before the Commission, are compelling in this respect. In all good faith, they believed that the RUF would not agree to end hostilities if the Agreement were not accompanied by a form of pardon or amnesty.
11. Accordingly, those who argue that peace cannot be bartered in exchange for justice, under any circumstances, must be prepared to justify the likely prolongation of an armed conflict. Amnesties may be undesirable in many cases. Indeed, there are examples of abusive amnesties proclaimed by dictators in the dying days of tyrannical regimes. The Commission also recognises the principle that it is generally desirable to prosecute perpetrators of serious human rights abuses, particularly when they ascend to the level of gravity of crimes against humanity. However, amnesties should not be excluded entirely from the mechanisms available to those attempting to negotiate a cessation of hostilities after periods of brutal armed conflict. Disallowing amnesty in all cases would be to deny the reality of violent conflict and the urgent need to bring such strife and suffering to an end.
12. The Commission is unable to declare that it considers amnesty too high a price to pay for the delivery of peace to Sierra Leone, under the circumstances that prevailed in July 1999. It is true that the Lomé Agreement did not immediately return the country to peacetime. Yet it provided the framework for a process that pacified the combatants and, five years later at the time of writing, has returned Sierra Leoneans to a context in which they need not fear daily violence and atrocity.

THE CREATION OF THE SPECIAL COURT

13. Following the taking hostage of some 500 UN peacekeepers by elements of the RUF and the outbreak of violence in May 2000,⁶ the political landscape in Sierra Leone changed dramatically when President Kabbah sent a letter of petition to the Secretary-General of the United Nations. Kabbah made the request that the United Nations Security Council establish a special court to bring prosecutions against members of the Revolutionary United Front (RUF).
14. President Kabbah's letter to the United Nations, dated 12 June 2000, envisaged a court that would benefit from the strong enforcement powers of the Security Council. It noted the limitations of the national justice system and specifically requested that members of the RUF be tried in the proposed tribunal:

“...[W]ith regard to the magnitude and extent of the crimes committed, Sierra Leone does not have the resources or expertise to conduct trials for such crimes... [A special court is required] 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.”⁷

One of the objectives of the Court was to break “the command structure of the criminal organisation responsible for the violence.”⁸

15. On 14 August 2000, the United Nations Security Council responded favourably to the request from President Kabbah. It mandated the Secretary-General of the United Nations to prepare a report on the subject within thirty days. The preamble to the resolution noted:

“also the steps taken by the Government of Sierra Leone in creating a national truth and reconciliation process, as required by Article XXVI of the Lomé Peace Agreement (S/1999/777) to contribute to the promotion of the rule of law...”⁹

16. The Secretary-General's report was issued on 4 October 2000.¹⁰ The report called for the establishment of a court not by Security Council resolution, as had been implied in President Kabbah's letter, but by agreement or treaty between the United Nations and the Government of Sierra Leone. The court was to be of mixed composition, with both Sierra Leonean and non-Sierra Leonean jurists making up its three organs: the Chambers (or Judges); the Office of the Prosecutor; and the Registry.

⁶ The violence included the demonstration on 8 May 2000 outside the residence of the RUF leader, Foday Sankoh, which resulted in the deaths of more than 20 persons, as well as subsequent battles between the RUF and pro-Government forces around Masiaka. More detail can be found in the chapter on the Military and Political History of the Conflict in Volume Three A of this report.

⁷ Letter dated 12 June 2000 from President Alhaji Dr. Ahmad Tejan Kabbah to the United Nations, addressed to the Secretary-General Kofi Annan.

⁸ Letter dated 9 August 2000 from the Permanent Representative of Sierra Leone to the United Nations, addressed to the President of the Security Council, Annex, UN Doc. S/2000/786.

⁹ See UN Doc. S/RES/1315 (2000).

¹⁰ See the “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915.

17. Various jurisdictional and administrative aspects of the proposed court were to be similar to those of the International Criminal Tribunal for Rwanda (ICTR). However, because the proposed court would not be created by Security Council resolution,¹¹ it would lack enforcement powers enabling it to compel other States to co-operate in the investigation of crimes and the apprehension of suspects.
18. The mission of the Special Court for Sierra Leone is essentially punitive, as set out in the Agreement that was eventually signed between the United Nations and the Government of Sierra Leone for its establishment:

“[To] prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996; including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone.”¹²

AMNESTY AND THE CREATION OF THE SPECIAL COURT

19. The Statute of the Special Court for Sierra Leone purports to withdraw the Lomé amnesty with respect to persons accused before it. Article 10 of the Statute says:

“An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in Articles 2 to 4 of the present Statute shall not be a bar to prosecution.”

20. In agreeing to the Statute, the Government of Sierra Leone had in effect declined to be bound by its undertaking in the Lomé Peace Agreement. Initially, it was not clear whether this was the intent of President Kabbah when he wrote to the United Nations in June 2000 seeking the establishment of an international tribunal. Nevertheless, the President made reference to the amnesty provision in the Lomé Agreement, describing it as “a prize” that was conceded by his government in exchange for peace. He said that the RUF had since “reneged” on the agreement.¹³ In a speech delivered a year later, the then Attorney General, Solomon Berewa, remarked that, in June 2000, the Government of Sierra Leone had “reassessed”¹⁴ its position with respect to the amnesty. Moreover, the October 2000 report of the Secretary-General of the United Nations on the establishment of the Special Court for Sierra Leone states:

“While recognising that amnesty is an accepted legal concept and a gesture of peace and reconciliation at the end of a civil war or an internal armed conflict, the United Nations has consistently maintained the position that amnesty cannot be granted in respect of international crimes, such as genocide, crimes against humanity or other serious violations of international humanitarian law...

¹¹ In this respect, the Special Court differs from both the Rwanda (ICTR) and Former Yugoslavia (ICTY) tribunals. See the report of the International Crisis Group (ICG), *The Special Court for Sierra Leone: Promises and Pitfalls of a ‘New Model’*, ICG Africa Briefing, 4 August 2003.

¹² See Article I (1), Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, Freetown, 16 January 2002.

¹³ See the letter dated 12 June 2000 from President Alhaji Dr. Ahmad Tejan Kabbah to the United Nations, addressed to the Secretary-General Kofi Annan.

¹⁴ See Berewa, *Addressing Impunity using Divergent Approaches*, at page 56.

With the denial of legal effect to the amnesty granted at Lomé, to the extent of its illegality under international law, the obstacle to the determination of a beginning date of the temporal jurisdiction of the Court within the pre-Lomé period has been removed.”¹⁵

21. At the time the Lomé Peace Agreement signed, the Special Representative of the Secretary-General for Sierra Leone was instructed to append a disclaimer to his signature on behalf of the United Nations, to the effect that the amnesty provision contained in Article IX of the Agreement (“absolute and free pardon”) shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law. This reservation is recalled by the UN Security Council in a preamble paragraph of Resolution 1315 (2000).
22. In the negotiations on the Statute of the Special Court, the Government of Sierra Leone concurred with the position of the United Nations and agreed to the inclusion of an amnesty clause, which would read as follows:

“An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in Articles 2 to 4 of the present Statute shall not be a bar to prosecution.”
23. In the view of the Commission, the argument whereby the amnesty provision in the Lomé Peace Agreement had lapsed because the RUF had not respected other terms of the treaty is not tenable. Article IX of the Lomé Agreement clearly applies to “all combatants and collaborators”, not just those of the RUF. More specifically, it refers to fighters from the RUF, ex-AFRC, ex-SLA and CDF. It is wrong in principle and legally unsound to suggest that one party to the agreement could, by its subsequent actions, deprive individuals belonging to a number of other groups, some of them not even parties to the Lomé Agreement, of the benefit of amnesty. The resort to the argument that the amnesty had been forfeited for all parties by the actions of the RUF seriously undermined the legitimacy of national and international initiatives following the alleged breaches of the Lomé Agreement in the year 2000. It is noteworthy that the UN Secretary-General did not rely on the grounds put forward by President Kabbah. Instead the Secretary-General pronounced the position that the amnesty provision of the Lomé Agreement was illegal under international law.
24. The Truth and Reconciliation Commission is concerned at the consequences of the withdrawal of the Lomé amnesty. In repudiating the amnesty clause in the Lomé Peace Agreement, both the United Nations and the Government of Sierra Leone have sent a message to combatants in future wars that peace agreements containing amnesty clauses ought not to be trusted.

¹⁵ See the “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915, at page 5.

25. Henceforth, combatant organisations will regard amnesty clauses with suspicion; they will hold them to be uncertain and unreliable. For those who consider that amnesty cannot be granted under any circumstances, this outcome is desirable. However the Commission has already stated that it cannot condemn the grant of amnesty in the Lomé Peace Agreement, taking into account all of the circumstances. Nor can the Commission rule out the more general proposition that there will be conflicts in future for whose resolution a trade of peace for amnesty represents the least bad of the available alternatives. By repudiating the amnesty in the Lomé Peace Agreement, the United Nations and the Government of Sierra Leone have inadvertently undermined future peace negotiations where amnesty is contemplated.
26. Nonetheless the Commission is mindful of the fact that parties to a peace agreement should not be permitted to breach its provisions with impunity. The Commission recommends that future peace agreements in which an amnesty is included should also contain an agreed “amnesty revocation” clause. Such a clause should, in the event of a breach of the agreement, specifically revoke the protection of amnesty in respect of the party or individuals responsible for that breach.

JURISDICTION OF THE SPECIAL COURT CONTRASTED WITH THE MANDATE OF THE TRC

Temporal Jurisdiction

27. The Special Court has a mandate that is defined as being “since 30 November 1996”. There is no end-point to its temporal jurisdiction, although the Statute can be amended by agreement between the two parties.¹⁶ The reference in Article 1 of the Statute of the Special Court to jurisdiction over those who have “threatened the establishment of and implementation of the peace process in Sierra Leone” is an indication that the Court may continue to exercise jurisdiction over events until the completion of the “peace process”.¹⁷
28. The date at which the temporal jurisdiction of the Special Court begins – 30 November 1996 – coincides with the signature of the Abidjan Peace Agreement, reached between the Government of Sierra Leone and the Revolutionary United Front (RUF).¹⁸ The Secretary-General had recommended that this date be chosen so as not to impose a “heavy burden” on the Court, although the conflict is generally agreed to have begun in March 1991. In mid-2001, the Government of Sierra Leone unsuccessfully requested the United Nations to extend the temporal jurisdiction to the beginning of the conflict in 1991.

¹⁶ See the Vienna Convention on the Law of Treaties, 1155 UNTS 331, 1979, at Article 39.

¹⁷ In a recent report, the Secretary-General listed a number of benchmarks that need to be accomplished as part of the “peace process”. See the “Fifteenth report of the Secretary-General on the United Nations Mission in Sierra Leone”, UN Doc. S/2002/987, at paragraph 13. The issue of the end-point for the mandate of the Special Court is also discussed by the Secretary-General in the “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915, at paragraph 28.

¹⁸ See the Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone, Abidjan, 30 November 1996.

29. In contrast the mandate of the Truth and Reconciliation Commission, set out in Section 6(1) of the Truth and Reconciliation Act 2000, is to prepare an impartial historical record of the conflict from 1991, when the war began, until the Lomé Peace Agreement of 7 July 1999. However, the Act also required the Commission to investigate and report on the “antecedents” of the conflict.¹⁹ Moreover, the Commission is also charged with addressing impunity, responding to the needs of victims, promoting healing and reconciliation and preventing a repetition of the violations and abuses suffered. This aspect of the mandate has no precise temporal framework. Accordingly, the Commission inquired into events both prior to 1991 and subsequent to 7 July 1999. The Commission took a broad view of its temporal framework, given the delay in its establishment and the clear relevance of events subsequent to signature of the Lomé Peace Agreement in the fulfilment of its mandate.

Territorial Jurisdiction

30. Article 1(1) of the *Statute of the Special Court* refers to violations “committed in the territory of Sierra Leone”. Article 6(1) of the Statute allows prosecution of any person who “planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime”. Such secondary participation or inchoate crime may well have taken place outside Sierra Leone. The ability of the Prosecutor or the Defence to gather evidence outside Sierra Leone depends upon the co-operation of foreign governments.
31. The mandate of the Commission refers to “violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone”. The Truth and Reconciliation Act of 2000 encouraged the Commission to look abroad. Section 6(2)(a) of the Act enjoined the Commission to investigate “the role of both internal and external factors in the conflict”. The Commission had to inquire into whether the conflict was “the result of deliberate planning, policy or authorisation by *any* government” (italics added).²⁰

Personal Jurisdiction

32. The Special Court's jurisdiction is defined in Article 1 of its Statute as encompassing “persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone”. The January 2002 Planning Mission for the Special Court speculated on prosecutorial strategy, but conceded that the selection of those bearing the greatest responsibility “necessarily entails a measure of discretion on the part of the Prosecutor, both as to the identification of individual indictments and to any priority that may be assigned to them”.²¹

¹⁹ See the Truth and Reconciliation Commission Act 2000, at Section 6(2)(a)(1).

²⁰ See the Truth and Reconciliation Commission Act 2000, at Section 6(2)(a)(1).

²¹ See the “Report of the Planning Mission on the Establishing of the Special Court for Sierra Leone”, UN Doc. S/2002/246 (2002).

33. The jurisdiction of the Special Court is not limited by the nationality of the perpetrator.²² Unlike the Commission, which can also examine the responsibility of “groups”, the Special Court’s jurisdiction is confined to “persons”.²³ The Special Court will make no determinations about the existence of “criminal organisations”.²⁴
34. The question of how to deal with child offenders has generated much debate. The Statute of the Special Court gives it jurisdiction over persons who were at least fifteen years old at the time of the crime.²⁵ The issue was one of considerable controversy during the drafting of the Statute of the Special Court.²⁶ Subsequently, Special Court Prosecutor David Crane indicated that he would not prosecute child offenders.²⁷ The UN Security Council, the Secretary-General and the SRSG frequently expressed the view that the TRC was a better venue for dealing with child or juvenile offenders. The Statute of the Special Court itself refers to “alternative truth and reconciliation mechanisms” for these purposes.²⁸
35. The Truth and Reconciliation Act 2000 refers in several places to “victims and perpetrators”, suggesting that these two groups make up the Commission’s principal constituency. Special attention is focussed on children, including child combatants, as well as victims of sexual abuse.²⁹ The Commission is also given a role in determining responsibilities, in identifying the “causes”³⁰ and the “parties responsible”,³¹ and in assessing the parts played by “any government, group or individual”.³² At the core of the Commission’s mandate is the concept of “violations and abuses of human rights and international humanitarian law”.

²² In the case of foreign peacekeeping troops there is a rule of “complementarity” corresponding to the concept set out in Article 17 of the Rome Statute of the International Criminal Court. Only when the “sending State”, which is presumably the state of nationality of the peacekeeper suspected of criminal acts, is “unwilling or unable genuinely” to prosecute may the Special Court exercise jurisdiction. See the Statute of the Special Court for Sierra Leone, at Article 1(3).

²³ The reference to “persons” in the Statute of the Special Court is not explicitly confined to physical persons, and the possibility of prosecution of corporate bodies cannot be ruled out.

²⁴ In this regard the Sierra Leone court differs from the situation at Nuremberg. On the usefulness of the concept of “criminal organisation” for contemporary prosecutions of violations of international humanitarian law, see Nina Jorgensen, “A Reappraisal of the Abandoned Nuremberg Concept of Criminal Organisations in the Context of Justice in Rwanda”, 12 *Criminal Law Forum* 371, 2001.

²⁵ See the Statute of the Special Court for Sierra Leone, at Article 7. This jurisdiction contrasts with that of the International Criminal Court, which sets a minimum age of eighteen. See the Rome Statute of the International Criminal Court, UN Doc. A/CONF/183/9, at Article 26.

²⁶ For the Secretary-General’s position, see “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915, paragraphs 32-38; and “Letter dated 12 January 2001 from the Secretary-General addressed to the President of the Security Council”, UN Doc. S/2001/40, paragraphs 7-9. The Security Council considered it “extremely unlikely” that juvenile offenders would come before the Special Court: “Letter dated 31 January 2001 from the President of the Security Council addressed to the Secretary-General”, UN Doc. S/2001/95. Also: “Letter dated 22 December 2000 from the President of the Security Council addressed to the Secretary-General”, UN Doc. S/2000/1234.

²⁷ See, for example: ‘*Sierra Leone: Special Court will not indict children – Prosecutor*’, UN Integrated Regional Information Network, Abidjan, 4 November 2002. The categorical undertaking by Prosecutor Crane not to indict persons of less than 18 years of age was based on his assertion that juveniles were not among those who bear the greatest responsibility.

²⁸ See the Statute of the Special Court for Sierra Leone, at Article 15(5). On this subject, see also: Amann, D.M.; “Calling Children to Account: The Proposal for a Juvenile Chamber in the Special Court”, 29 *Pepp. L. Rev.* 167, 2002; and Bald, S.; “Searching for a Lost Childhood: Will the Special Court for Sierra Leone Find Justice for its Children?”, 18 *Am. U. Int’l L. Rev.* 537, 2002.

²⁹ See the Truth and Reconciliation Commission Act 2000, at Section 7(4).

³⁰ See the Truth and Reconciliation Commission Act 2000, at Section 6(2)(a).

³¹ See the Truth and Reconciliation Commission Act 2000, at Section 7(1)(a).

³² See the Truth and Reconciliation Commission Act 2000, at Section 6.

Subject-matter jurisdiction

36. The reference to “international humanitarian law” is common to both the Truth and Reconciliation Commission Act and the Statute of the Special Court. The Commission is to examine “violations and abuses” of international humanitarian law, while the Special Court is to prosecute “serious violations” of international humanitarian law. The somewhat more limited subject-matter jurisdiction of the Special Court is further restrained by the specific enumeration of the crimes it may prosecute. Borrowing the wording used by the Security Council in Article 3 of the Statute of the International Criminal Tribunal for Rwanda,³³ the Statute of the Special Court contemplates “serious violations” of Common Article 3 to the Geneva Conventions and of Additional Protocol II. Furthermore, the Statute lists three additional “serious violations”: intentionally directing attacks against the civilian population; intentionally directing attacks against peacekeepers; and recruiting child soldiers. These three crimes are drawn from Article 8(2)(f) of the Rome Statute of the International Criminal Court.³⁴ Yet a comparison with the Rome Statute indicates clearly that the list of war crimes in the Statute of the Special Court is confined in its scope: it does not permit prosecution of all offences in non-international armed conflict that are punishable elsewhere under international law.
37. Moreover, it would appear that the Special Court has no jurisdiction over war crimes to the extent that these were committed in an international rather than a non-international armed conflict. The Sierra Leone conflict was essentially an internal armed conflict, so the issue may only be of theoretical interest. Nevertheless, there were significant international dimensions to the conflict.³⁵ For example, considerable attention has been paid to the role of mercenaries in the Sierra Leone conflict. The issue of mercenaries only arises in international humanitarian law with respect to international armed conflict.³⁶ Accordingly, such matters fell within the remit of the TRC but appeared to be outside the scope of the Special Court.
38. The Special Court also has jurisdiction over crimes against humanity and certain specified violations of the laws of Sierra Leone. The latter category encompasses specific crimes of sexual abuse of girls and destruction of property, which are not normally defined as serious violations of international humanitarian law.

³³ See the Statute of the International Criminal Tribunal for Rwanda (ICTR), UN Doc. S/RES/955, 1994, Annex, at Article 3.

³⁴ With some adjustment, due to what the Secretary-General describes as the “doubtful customary nature” of the provision in the Rome Statute that prohibits recruitment of child soldiers during non-international armed conflict. See the “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915, at paragraph 18.

³⁵ The international dimensions to the Sierra Leone conflict included the participation of diverse external actors and the occurrence of crucial military and political events outside Sierra Leone. More detail and analysis on these dimensions can be found in the chapter on the Military and Political History of the Conflict in Volume Three A and the chapter on External Actors in Volume Three B of this report. On the role of foreign forces in Sierra Leone see, for example: “Guinean Forces Kill, Wound Civilians in Sierra Leone”, Human Rights Watch Press release, 28 February 2001.

³⁶ See the Protocol Additional to the 1949 Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 1979, at Article 47.

39. The Commission was charged with examining “violations and abuses of human rights and international humanitarian law”. It was mandated to “create an impartial historical record” of such violations and abuses³⁷ and to “investigate and report on the causes, nature and extent” of the violations and abuses.³⁸ The Truth and Reconciliation Commission Act 2000 provides no further guidance on the scope of the terms “human rights” and “international humanitarian law”.

THE RELATIONSHIP BETWEEN THE TRC AND THE SPECIAL COURT

40. The Secretary-General's report of October 2000³⁹ noted that “relationship and cooperation arrangements would be required between the Prosecutor [of the Special Court] and the National Truth and Reconciliation Commission, including the use of the Commission as an alternative to prosecution, and the prosecution of juveniles, in particular.”⁴⁰ Special attention was thereby given to the question of whether or not to prosecute suspects aged between 15 and 18 years of age. The Secretary-General further noted that one of the options was to have “children between 15 and 18 years of age, both victims and perpetrators, recount their stor[ies] before the Truth and Reconciliation Commission or similar mechanisms, none of which is as yet functional.”⁴¹
41. The Security Council welcomed the Secretary-General's report, making a number of suggestions about the specific features of the proposed court. It insisted that the court should focus on those in leadership roles and sought to discourage the prospect of prosecution of offenders aged less than 18 when the crime took place. The Security Council said: “It is the view of the members of the Council that the [Truth and Reconciliation] Commission will have a major role to play in the case of juvenile offenders, and the members of the Security Council encourage the Government of Sierra Leone and the United Nations to develop suitable institutions, including specific provisions related to children, to this end.”⁴² The Secretary-General responded to the Council, noting:

“As pointed out by the Security Council, the Truth and Reconciliation Commission will have an important role to play in the case of juvenile offenders and I will endeavour, in co-operation with the Government of Sierra Leone and other relevant actors, to develop suitable institutions including specific provisions related to children to that end.

I am also of the view that care must be taken to ensure that the Special Court for Sierra Leone and the Truth and Reconciliation Commission will operate in a complementary and mutually supportive manner, fully respectful of their distinct but related functions.”⁴³

³⁷ See the Truth and Reconciliation Commission Act 2000, at Section 6(1).

³⁸ See the Truth and Reconciliation Commission Act 2000, at Section 6(2).

³⁹ See the “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone”, UN Doc. S/2000/915, issued on 4 October 2000.

⁴⁰ See UN Doc. S/2000/915, at paragraph 8.

⁴¹ See UN Doc. S/2000/915, at paragraph 33.

⁴² See UN Doc. S/2000/1234, at page 1. The Security Council went on to make a similar comment in UN Doc. S/2001/95.

⁴³ See UN Doc. S/2001/40, at paragraph 9.

42. The Planning Mission, sent by United Nations headquarters in early 2002 to make preparations for the work of the Special Court, recalled that the two institutions were to “perform complementary roles” that would be “mutually supportive” and “in full respect for each other’s mandates”.⁴⁴
43. In November 2000, an international workshop held in Freetown and organised by the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Assistance Mission in Sierra Leone (UNAMSIL) had proposed the establishment of a consultative process “to work out the relationship between the TRC and the Special Court”.⁴⁵ During 2001, the Secretary-General reported that UNAMSIL and the OHCHR would be preparing “general guidelines” for the relationship between the Commission and the Special Court.⁴⁶ In December 2001, as part of its activities to prepare for the establishment of the TRC, the OHCHR and the Office for Legal Affairs convened an expert meeting in New York. The meeting was described as follows in the report of the OHCHR:

“The expert meeting on the relationship between the TRC and the Special Court was organised by OHCHR and the Office for Legal Affairs (OLA) of the United Nations in New York on 20 and 21 December 2001. The participants discussed the important issue of an amicable relationship between the two institutions that would reflect their roles, and the difficult issue of whether information could and should be shared between them. The pros and cons of a wide range of possibilities regarding co-operation between the Commission and the Court were examined. Based on those discussions, the participants agreed on a number of basic principles that should guide the TRC and the Special Court in determining modalities of cooperation. These principles include the following:

- The TRC and the Special Court were established at different times, under different legal bases and with different mandates. Yet they perform complementary roles in ensuring accountability, deterrence, a story-telling mechanism for victims and perpetrators, national reconciliation, reparation and restorative justice for the people of Sierra Leone.
- While the Special Court has primacy over the national courts of Sierra Leone, the TRC does not fall within this mould. In any event, the relationship between the two bodies should not be discussed on the basis of primacy or lack of it. The ultimate operational goal of the TRC and the Court should be guided by the request of the Security Council and the Secretary-General to “operate in a complementary and mutually supportive manner fully respectful of their distinct but related functions” (S/2001/40, paragraph 9; see also S/2000/1234).
- The modalities of co-operation should be institutionalised in an agreement between the TRC and the Special Court and, where appropriate, also in their respective rules of procedure. They should respect fully the independence of the two institutions and their respective mandates.”⁴⁷

⁴⁴ See the “Report of the Planning Mission on the Establishing of the Special Court for Sierra Leone”, UN Doc. S/2002/246, Annex, at paragraphs 49 and 53.

⁴⁵ See UN Doc. E/CN.4/2001/35, at page 13, paragraph 41.

⁴⁶ See the “Eleventh Report of the Secretary-General on the United Nations Mission in Sierra Leone”, UN Doc. S/2001/857, at paragraph 47.

⁴⁷ See UN Doc. E/CN.4/2002/3, paragraph 70.

44. In addition to these United Nations-sponsored meetings, some international NGOs, including Human Rights Watch and the International Centre for Transitional Justice, developed proposals on the underlying principles and the type of provisions that might merit consideration in a relationship agreement.⁴⁸ While there was some rumination in these proposals over the possibilities of joint or common efforts in the areas of witness protection, translation and public awareness, most of the reflection on how the two bodies might co-operate tended to dwell on what was called “information sharing”. From the outset, information sharing was seen as a “difficult issue”. Interestingly, none of the expert meetings or discussion papers appears to have anticipated what would eventually become the main difficulty in the relationship between the two bodies, namely a request by a person accused and detained by the Special Court to testify before the Truth and Reconciliation Commission.

A Failure to Define the Relationship

45. Notwithstanding all the above-mentioned deliberations, the relationship between the two bodies was never actually set out or defined. Indeed, there is not a single reference⁴⁹ to the TRC in any of the enabling instruments⁵⁰ that established the Special Court. This omission was surprising given the UN Secretary General’s statement to the United Nations Security Council that:

“care must be taken to ensure that the Special Court for Sierra Leone and the Truth and Reconciliation Commission will operate in a complementary and mutually supportive manner, fully respectful of their distinct but related functions.”⁵¹

46. The Commission finds that it might have been helpful for the United Nations and the Government of Sierra Leone to lay down guidelines for the simultaneous conduct of the two organisations.⁵² The Commission finds further that the two institutions themselves, the TRC and the Special Court, might have given more consideration to an arrangement or memorandum of understanding to regulate their relationship.

⁴⁸ See Human Rights Watch, *Policy Paper on the Inter-relationship Between the Sierra Leone Special Court and the Truth and Reconciliation Commission*, 18 April 2002; at www.hrw.org. See also International Centre for Transitional Justice, *Exploring the Relationship Between the Special Court and the Truth and Reconciliation Commission*, 24 June 2002; available at www.ictj.org.

⁴⁹ There was only a passing reference in the Statute of the Special Court for Sierra Leone to the use of unnamed “truth and reconciliation mechanisms” to assist with cases of juvenile offenders; there was no specific mention of the TRC.

⁵⁰ See the following documents: Agreement between the United Nations and the Government of Sierra Leone for the establishment of a Special Court for Sierra Leone, 16 January 2002; Statute of the Special Court for Sierra Leone; and The Special Court Agreement (Ratification) Act 2002.

⁵¹ See UN Doc. S/2001/40, at paragraph 9.

⁵² The provisions governing the conduct of the post-conflict institutions in Timor-Leste, the Commission for Reception, Truth and Reconciliation (CAVR) and the Serious Crimes Unit (SCU), regulated the appearance of perpetrators before the two bodies. The two bodies operate simultaneously at the time of writing and were established under UN Regulations, which outlined certain aspects of the working relationship between the two bodies, including which perpetrators may appear in CAVR events and which are liable for prosecution by the SCU. The Timor-Leste Commission began operations in January 2002. See the International Centre for Transitional Justice, *The Special Court for Sierra Leone: The First Eighteen Months*, March 2004, at page 11.

THE COMMENCEMENT OF OPERATIONS

47. At the early stages of their operations, the two institutions approached one another with respect and deference. There was mutual recognition that the two bodies both had an important contribution to make in dealing with the truth, with accountability and with impunity. Senior officials from both organisations made public statements in support of the other's mandate and objectives. On 2 December 2002, The Prosecutor of the Special Court and Bishop Humper, the Chairperson of the TRC, made a joint public appearance in Freetown, where each expressed support for the role of the other institution. Nevertheless, neither institution demonstrated any particular interest in attempting to establish areas of co-operation nor anything resembling a "relationship", as had previously been proposed. Both seemed to feel, implicitly at least, that it was important that they should retain clear boundaries between the two institutions.
48. When the two bodies began to operate contemporaneously, in mid-2002, neither appeared particularly eager to establish a "relationship agreement" with the other. From the outset, suggestions of "information sharing" between the Commission and the Special Court threatened to have a chilling effect upon the willingness of perpetrators to testify before the Commission. It appeared that many perpetrators would only participate meaningfully in the activities of the Commission if they could be reassured that the information they provided would not be channelled to the Special Court.

"Information Sharing" and Public Perception

49. Section 7(3) of the Truth and Reconciliation Commission Act 2000 states that "[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". In addition to Section 7(3) of the Act, Section 7(4) suggests that the Commission has a positive duty to prevent disclosure of certain information, requiring it 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".
50. The TRC sought to reassure all its potential witnesses that if they were to provide evidence to the Commission pursuant to an undertaking by the Commission that they were doing so on a confidential basis, then their identities and other sensitive information would never be disclosed. The TRC considered that it had such a prerogative as a result of the applicable provisions of the Truth and Reconciliation Commission Act 2000. The Commission further believed it necessary to exercise its prerogative rather broadly, especially given the numerous indications that perpetrators were fearful that evidence they might give to the Commission would subsequently be communicated to the Special Court.

51. The Commission was ostensibly given some sense of security in this regard by the public undertakings of various members of the Special Court's Office of the Prosecutor (OTP). The Prosecutor, David Crane, was among those who asserted that the Court would not make use of any evidence presented to the Commission. In an interview in November 2002, OTP Chief Investigator Allan White made the following remarks:

"We strongly support the TRC. We are on record saying that we do not plan to use *any* information at all from the TRC. We do want to encourage people to come and tell their story so the nation can begin the healing process...

[...] We will not concern ourselves if you come before the TRC. Nor do we necessarily want to know who comes before the TRC. It is a separate and distinct operation, and it should be. We do not plan on asking the TRC for any information whatsoever..."⁵³

52. Notwithstanding the efforts of the Commission and the undertakings of the Prosecutor to distance themselves, a perception developed throughout the country that information provided to the Commission would make its way to the Special Court. A rumour even started circulating that there was an underground tunnel that ran between the two institutions. It did not help in elucidating public perception that both bodies were situated on Jomo Kenyatta Road in Freetown, in close proximity to one another. It is not surprising that many people in Sierra Leone were not able to distinguish between the roles of the two bodies: they both dealt with impunity; they addressed accountability for atrocities committed during the war; and they focussed on violations of international humanitarian law.
53. The fact that an investigator worked in both institutions served to fuel the perceptions of collaborative work. The example in question entailed the recruiting by the Special Court of a member of the Commission's investigations team. This recruitment was apparently done on the basis that the investigator would not be employed to work on any cases he had dealt with in the Commission. In particular he was not to be used to locate witnesses he had previously identified for the Commission.
54. A Commission research team working in the vicinity of Magburaka Township (Tonkolili District) during August 2003 came across the investigator in question while proceeding to a follow-up interview with a Commission witness. It turned out that the investigator had led a Special Court investigation team to the same witness, known as "Base Marine". Only a few weeks earlier he had been in the area under the auspices of the Commission, working with the local community to arrange witnesses for hearings and interviews. At this time, he was introduced to Base Marine and was known to the witness as a TRC investigator. The investigator's return to the Magburaka area to visit the witness on a second occasion, this time wearing a Special Court cap, served to deepen suspicion in the minds of residents.

⁵³ See All Africa News Service, www.allafrica.com; *Sierra Leone's Special Court: Will it Hinder or Help?* – Interview with Special Court Chief Investigator Allan White, 21 November 2002.

55. As a follow-up, the Commission Research Team counselled Base Marine. He was in the company of Mohamed Muxon Sesay, Director of the organisation “Peace, Reconciliation and Development” based in Mile 91 (Tonkolili District). Sesay had the following to say in relation to Base Marine’s predicament:
- “After making the statement with the TRC, then later the Special Court seems to have got some clip of that information. So to me, it is confusing; maybe it’s just a trick between the TRC and the Special Court. Even the idea of not sharing information between the TRC and Special Court – it is today a big doubt... Because it’s the TRC that we know... and we have confidence in the TRC operation. There are so many things, sensitisation [about the TRC] done before this time and we have seen their activities and we feel satisfied with the TRC... But the Special Court, we are yet in the line of process.”⁵⁴
56. It would have been desirable if staff, particularly those holding sensitive posts, had not moved from one organisation to the other. The Special Court, for its part, might have refrained from employing the investigator in question.
57. The Commission often detected a climate of deep-seated suspicion among people it interacted with in the course of sensitive research and investigations. Disturbing allegations were put to the Commission, often as a means of explaining why a particular community was tense or uncooperative. By way of example, it was alleged that there had been improper conduct by a policeman investigating on behalf of the Special Court in the Kenema District. The man in question, apparently connected to the Criminal Investigation Department (CID) of the Sierra Leone Police, had masqueraded as a TRC statement-taker in order to obtain evidence from witnesses for Special Court investigations.⁵⁵
58. TRC investigators and researchers were sometimes accorded somewhat frosty receptions in the course of their enquiries in the field. Staff members had to make continual assurances about personal independence and impartiality, as well as advocating the merits of the truth and reconciliation process in general.
59. The Commission finds that there is evidence to support the conclusion that some people were reluctant to participate in the truth-telling process out of fear of prosecution by the Special Court for Sierra Leone. This was one of the unfortunate costs of the parallel and simultaneous existence of the two bodies. There were certainly other reasons why some perpetrators did not come forward to tell their stories. Some presumably feared reprisal or simply saw no personal advantage to themselves in speaking publicly about their own actions. In the light of the two initiatives many perpetrators living in the bush, particularly the young combatants, felt much uncertainty and confusion surrounding their future. What can be said is that the threat of prosecution by the Special Court was one factor in the decision-making process of some of those who refused to testify. The Commission’s ability to create a forum of exchange between victims and perpetrators was unfortunately retarded by the presence of the Special Court.

⁵⁴ Mohamed Muxon Sesay, Director of Peace, Reconciliation and Development, Mile 91, TRC interview conducted at private residence near Magburaka, Tonkolili District, 13 August 2003.

⁵⁵ Formal complaints made to TRC research and investigation staff while on field missions in the Kenema District, July to August 2003.

The Question of Primacy

60. A view was expressed in some public settings that the confidentiality provisions in the Truth and Reconciliation Commission Act 2000 would not shelter the Commission from a request by the Special Court to provide it with information obtained in confidence. Several arguments were invoked to justify this position. Some relied on the Statute of the Special Court for Sierra Leone, which indicates that the Court has “primacy”.⁵⁶ Some mistakenly concluded that this clause subordinated the Commission to the Special Court.
61. The principle of “primacy” exists to govern conflicts between courts with concurrent jurisdiction. It pertains to the preferring of charges and the taking over of trials. “Primacy” was included in the Statute of the Special Court because the Special Court’s jurisdiction would at least partially overlap with that of the national courts of Sierra Leone. Any suggestion that there was a hierarchy between the Court and the TRC would have been alarming, given the prior statements from various United Nations sources to the effect that the two bodies were mutually supportive and complementary.
62. Nevertheless, a January 2002 discussion paper prepared by the Office of the Attorney General and Ministry of Justice of Sierra Leone, with the technical co-operation of the NGO ‘No Peace Without Justice’, erroneously concluded that the Commission was subordinate to the Special Court:
- “The legal relationship between the Special Court and the Truth and Reconciliation Commission is clear. The Special Court is an international judicial body whose requests and orders require no less than full compliance by the Truth and Reconciliation Commission, as by all Sierra Leonean national institutions, in accordance to [*sic*] the international obligations agreed to by Sierra Leone.”⁵⁷
63. The basis of these obligations, according to the discussion paper, was Article 17 of the Agreement between Sierra Leone and the United Nations with respect to establishment of the Special Court. Article 17 refers to obligations of the “Government”, requiring it to co-operate with the Court and to comply with its requests. It mentions nothing of the TRC, which is a body independent of the Government of Sierra Leone. In any event, the Agreement between Sierra Leone and the United Nations could in no case prevail over the legislation establishing the TRC. The Truth and Reconciliation Commission Act 2000 was adopted by Parliament and could only be overridden by the Constitution, or by another subsequent Act of Parliament.

⁵⁶ See the Statute of the Special Court for Sierra Leone, at Article 8(1).

⁵⁷ See the Office of the Attorney General and Ministry of Justice Special Court Task Force, ‘Briefing Paper on Relationship between the Special Court and the TRC, Legal Analysis and Policy Considerations of the Government of Sierra Leone for the Special Court Planning Mission’, available at: www.specialcourt.org/SLMission/PlanningMission/BriefingPapers/TRC_SpCt.html.

64. The only legislation enacted by Parliament with regard to the introduction of the Special Court came on 25 April 2002 in the form of the Special Court Agreement (Ratification) Act 2002.⁵⁸ This legislation did no more than give effect to certain provisions of the Agreement between Sierra Leone and the United Nations and the Statute of the Special Court in national law. The very enactment of this legislation proves the error in the Attorney General's discussion paper, for it demonstrates that potential areas of disagreement between international treaties and national statutes must be resolved by the passing of further national legislation. For the discussion paper to have had any basis for its claim that the international Agreement took precedence over the powers of the TRC, further legislation specifically on that point would have had to be enacted. No legislation was ever passed to require "full compliance" of the TRC with the "requests and orders" of the Special Court.
65. Some observers attempted to suggest that the Special Court for Sierra Leone was empowered to compel the Commission to handover confidential evidence. They relied upon a rather ambiguous provision in the Special Court Agreement (Ratification) Act 2002. Section 21(2) of the Act said: "Notwithstanding any other law, every natural person, corporation, or other body created by or under Sierra Leone law shall comply with any direction specified in an order of the Special Court." This provision was construed in some quarters to mean that the Court had been given an overriding power, to which all existing legislation in Sierra Leone would have to give way.
66. Such an interpretation of Section 21(2) would have had as its consequence the effective elimination of all forms of privilege and confidentiality governed by the laws of Sierra Leone. In effect, it would have cancelled all diplomatic immunities, as well as the privileges that exist in well-recognised relationships of confidence, such as those between doctor and patient, solicitor and client or priest and confessor. It would have rendered meaningless one of the most important prerogatives of the TRC, namely the power to withhold confidential evidence from any party. The annulment of all forms of confidentiality in Sierra Leone could not have been the intention of Parliament when it passed the Special Court Agreement (Ratification) Act.
67. The potential legal conflict surrounding a request by the Special Court for evidence taken by the Commission on a confidential basis never materialised in practice. The Prosecutor, David Crane, made public declarations during September 2002 indicating that he would not seek evidence from the Commission.⁵⁹

⁵⁸ See the Supplement to the Sierra Leone Gazette, Vol. CXXXIII, No. 22.

⁵⁹ See the International Centre for Transitional Justice, *The Special Court for Sierra Leone: The First Eighteen Months*, March 2004, at page 12. However, the Registrar of the Special Court, Robin Vincent, indicated to TRC staff in a meeting held on 4 September 2003 that the Prosecutor would contemplate a change in his public position depending on certain circumstances. The meeting was held to discuss possible TRC access to Special Court detainees. Mr. Vincent told the TRC delegates that he had been advised by the Prosecutor that "all bets are off" if one of the detainees should admit his guilt or implicate someone else in his testimony to the TRC. The Registrar again reminded TRC staff of this comment in a follow-up meeting held on 11 September 2003.

68. The Commission cannot rule out the possibility that, at some time in the future, the Special Court for Sierra Leone, or for that matter any other court, national or international, will seek to obtain information from its archives held under condition of confidentiality. The Commission is confident that, under the current state of the laws of Sierra Leone, the Truth and Reconciliation Commission Act 2000 fully prohibits any such disclosure. Any attempt to change the legislation so as to enable access to such confidential information would have disastrous consequences. In the case of vulnerable witnesses, it would seriously breach their right to privacy and possibly expose them to reprisal or persecution. In the case of perpetrators, it would set a dangerous precedent. The Commission recommends that Parliament should never authorise access by criminal justice mechanisms, either directly or indirectly, to information in the archives of the Commission that was provided on a confidential basis.

“Use Immunity” of Information Provided to the Commission

69. It was of course desirable that perpetrators who were considering providing information to the Commission should do so in public and, ideally, in the presence of their victims, where possible. The concern expressed by perpetrators – that evidence they gave in TRC public hearings might be used by the Special Court in subsequent prosecutions – could have been addressed by a rule establishing that such evidence would be inadmissible in a subsequent prosecution. The legislation establishing the South African Truth and Reconciliation Commission specified that self-incriminating evidence given before the Commission could not be used in criminal prosecutions before the courts of South Africa. There was a similar provision in Ghana’s truth commission statute.
70. Although the Commission had the power to compel perpetrators to testify under oath, subject to prosecution for perjury in the case of dishonest testimony and for contempt of court in the case of refusal to testify, it did not exercise these powers. To do so might have created an extremely unfair situation for a witness who might subsequently have been exposed to prosecution before the Special Court for Sierra Leone.
71. The Commission recommends that future international criminal tribunals make provision for the “use immunity” of testimony provided to a truth and reconciliation commission, even when the information is provided in a public hearing.

THE SOURING OF RELATIONS: ACCESS TO DETAINEES

72. Persons who played a central role in the conflict, including Government Ministers, faction leaders, high-level commanders and persons accused of grave criminal conduct, appeared in both public and in closed hearings of the TRC. These individuals either sought an appearance of their own accord or were requested by the Commission to make an appearance. The testimonies generated by the appearances of these key players contributed to a rich and multi-sided discourse in society. Viewpoints and versions of events were exchanged and debated.
73. Absent from the Commission's list of witnesses were the men indicted by the Special Court on charges that they "bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996". For most of the duration of the Commission's period of operations, there were nine indictees in the custody of the Court, each of them charged with multiple-count indictments alleging their responsibilities in the conflict.⁶⁰ The nine men were: Issa Hassan Sesay, Augustine Ato Bao and Morris Kallon (members of the RUF, formerly the RUF); Chief Samuel Hinga Norman JP, Allieu Kondewah and Moinina Fofana (members of the CDF); and Alex Tamba Brima, Ibrahim 'Bazzy' Kamara and Santigie Borbor Kanu (members of the former AFRC). Four of these men had been detained since 10 March 2003;⁶¹ the other five were arrested and detained on diverse dates between April and August 2003.⁶² It was only a matter of time before these role players in the custody of the Special Court would seek to tell their versions in the forum provided by the Commission.
74. The names of the indictees emerged in multiple testimonies of witnesses before the TRC. The investigative arm of the Commission had made approaches to the Special Court during the months of May and June 2003 in order to access some of the men among the first set of detainees and engage them in the TRC's information-gathering activities, including its public hearings. At that time, the Commission was advised by the Registrar of the Special Court, Robin Vincent, that the requests had been transmitted to the detainees, via their legal representatives, and that none of them wished to speak with the Commission while their trials before the Special Court were pending.⁶³ The Commission received correspondence directly from some of the legal representatives in which co-operation was welcomed; but the consensus was that any interview or hearing would have to be at the instigation of the defendants themselves.⁶⁴

⁶⁰ More detail on the various indictments, arrest warrants and transfer orders relevant to the nine indictees can be found on the website of the Special Court for Sierra Leone, at: www.sc-sl.org.

⁶¹ The four men indicted and taken in to the custody of the Special Court on 10 March 2003 were Sesay, Kallon, Tamba Brima and Hinga Norman.

⁶² Bao was formally indicted on 16 April 2003; Kamara on 24 May 2003; Kondewah and Fofana on 26 June 2003; and Kanu on 15 September 2003. Some of them were detained in the custody of the court for a period up to 30 days before being formally indicted.

⁶³ See for example the letter of 17 June 2003 from Mr. J. B. Jenkins-Johnston, legal representative of Chief Hinga Norman, to the Registrar, notifying the Special Court that he considers it inappropriate for his client to appear before TRC while he remains an indictee of the Special Court.

⁶⁴ See for example the letter of 11 June 2003 from William Hartzog, legal representative of Issa Hassan Sesay, notifying the Commission of his mandate to represent Sesay in negotiations with the Commission but cautioning that no appearance before the TRC would be possible without first being sure of his client's willingness to participate.

75. It was only in August 2003 that indicted defendants in the custody of the Special Court formally began to give notice of their desire to appear before the Commission. On 26 August 2003 Chief Samuel Hinga Norman, the former National Co-ordinator of the CDF, wrote a letter requesting his legal counsel to facilitate an appearance before the TRC:

“I have long been in receipt of copy of your letter referenced JBJJ/ZYS dated 17 June 2003, expressing the inappropriateness for me (your client) to appear before the Truth and Reconciliation Commission while I remain an indictee before the Special Court.

Well, I was arrested, charged and detained on the 10th March 2003, thinking that by now, 25th August 2003, my trial would have started long ago; but I thought wrongly. Since there is no news about the start of the trial and there are signs that the TRC may soon close its sittings, I would prefer to be heard by the people of Sierra Leone and also be recorded for posterity especially where my boss, The President of Sierra Leone, who appointed me and under whom I served as the Deputy Minister of Defence and National Coordinator of the Civil Defence Force (CDF/SL), has already testified before the Commission.

As my SOLICITOR, I am applying through you and requesting you as a matter of urgency to please inform the necessary parties of my willingness to appear and testify before the TRC without any further delay.”⁶⁵

76. Norman's application to testify to the TRC was followed by those of Augustine Bao⁶⁶ and Issa Sesay,⁶⁷ both members of the RUF, formerly the RUF.
77. Given that the defendants had regular contact with their own counsel and that they had been provided with mobile telephones enabling them to communicate with persons outside the Special Court prison, the defendants faced no difficulty in passing information to the TRC. There was certainly nothing to prevent them recording their full testimonies in writing and submitting them through their lawyers. What these detainees were seeking, however, was a hearing; an opportunity to present testimony in person to the Commission and to answer questions posed by staff of the TRC. They were asserting their rights to be heard in a manner like that accorded to all other Sierra Leoneans who had so requested and so desired.
78. The Commission considered it desirable to attempt to facilitate any request from a detainee of the Special Court to testify before it. The detainees in question had already been identified and indicted by the Prosecutor of the Special Court as individuals belonging to the category of “persons who bear the greatest responsibility” within the terms of the Court's jurisdiction.⁶⁸ Their indictments had been reviewed and approved by a judge of the Court, who had necessarily determined “that the allegations in the Prosecution's case summary would, if proven, amount to the crime or crimes as particularised in the indictment”.⁶⁹

⁶⁵ See the letter of 17 June 2003 from Chief Samuel Hinga Norman, detainee of the Special Court, to Mr. J. B. Jenkins-Johnston, legal representative of Chief Hinga Norman.

⁶⁶ See the letter of 16 September 2003 from Augustine Ato Bao, detainee of the Special Court, to the Truth and Reconciliation Commission.

⁶⁷ See the letter of 19 September 2003 from Issa Hassan Sesay, detainee of the Special Court, to the Truth and Reconciliation Commission.

⁶⁸ See the Statute of the Special Court, at Article 1 and the earlier section on issues of jurisdiction.

⁶⁹ See the Rules of Procedure and Evidence of the Special Court for Sierra Leone, Rule 47(E)(ii).

79. There is nothing unusual about a prisoner, either awaiting trial or convicted, testifying in proceedings in other cases and even in proceedings between other bodies. Such an occurrence happens regularly in national judicial systems and procedures exist in Sierra Leone and elsewhere to facilitate it. Indeed, the Special Court apparently gave its approval for certain detainees in its custody to give evidence in ongoing proceedings in the Sierra Leonean courts pertaining to charges of treason against other individuals.⁷⁰
80. More specifically, there is considerable precedent to be drawn from other truth and reconciliation commissions. In the South African Commission, both “awaiting-trial” and convicted prisoners appeared before hearings of the Human Rights Violations Committee in order to supply their versions of events. Prisoners and detainees also appeared before the Amnesty Committee of the South African Commission for purposes of having their amnesty applications heard. Indeed some prisoners and detainees appeared before both Committees. The Sierra Leone TRC was entrusted by the Parliament of Sierra Leone with the responsibility of hearing all relevant evidence and information concerning its mandate. Had Chief Hinga Norman or the other detainees been in prison in Sierra Leone awaiting trial before a national court, there can be no doubt that arrangements would have been made to have enabled them to be heard by the Commission. The TRC succeeded in gaining access to several persons held in Freetown Central Prison in exactly this situation.
81. As a first step towards realising Chief Hinga Norman’s request, the Commission addressed a letter to the Registrar of the Special Court (“the Registrar”), Mr. Robin Vincent, requesting him to facilitate an interview with Chief Hinga Norman on 4 September 2003. On that day, a delegation of Commission staff members attempted to interview Chief Hinga Norman but was denied access to him by the Registrar. The Registrar advised the Commission delegation that no mechanism was in place to facilitate interaction between detainees and the Commission.⁷¹ Such a mechanism was said to be under contemplation by the Special Court. According to the Registrar, once key members of the Special Court, including its President, its Judges and its Prosecutor, had agreed upon a mechanism to regulate such contact, the Special Court’s intention was to have the terms of the agreement set out by the Registrar in the form of a “Practice Direction”.⁷² The Commission was advised that the production of this Practice Direction was imminent.

⁷⁰ At the time of writing, there remained some ambiguity as to whether detainees in the custody of the Special Court would in fact be permitted to testify in ongoing proceedings before the national courts. Specifically, a request to the Special Court from the Director of Public Prosecutions (DPP), Mr. Brima Kebbie, asked for the release of two RUF indictees, Issa Hassan Sesay and Morris Kallon, to testify before the Freetown High Court No. 2 in the case of *The State v. Corporal Daniel Sandy and 16 Others*. According to the local press, the Court had “formally approved” the DPP’s request, but the “defence teams for both indictees [were] reluctant to give [their] consent for the release of [their] clients” to participate in this high-profile treason trial. See, for example: *The African Champion*, ‘Issa Sesay, Morris Kallon in Hot Waters’, Freetown, 21 January 2004, at page 1.

⁷¹ See the minutes of the meeting held in the Office of the Registrar between a TRC delegation and representatives of the Special Court, 4 September 2003.

⁷² Rule 33(D) of the Special Court’s Rules of Procedure and Evidence authorises the Registrar “in consultation with the President of the Special Court, [to] issue Practice Directions addressing particular aspects of the practice and procedure in the Registry of the Special Court and in respect of other matters within the powers of the Registrar”.

82. So began the efforts of the TRC to secure the appearance of the Special Court detainees. It was an episode that would draw to an end barely four weeks before the formal closure of the Commission's operations. On 28 November 2003 – three months after Hinga Norman's original request for a hearing was made known to the Special Court – the President of the Court, Judge Geoffrey Robertson, ruled that the detainees could only engage with the Commission by way of written statements.

THE SPECIAL COURT'S PRACTICE DIRECTION

83. The Practice Direction was adopted by the Special Court for Sierra Leone on 9 September 2003.⁷³ It was framed as a set of procedures to be followed by either the TRC or a "National Authority" who might request access to persons in the custody of the Special Court ("the Practice Direction"). No consultations or discussions were held with the TRC Commissioners or staff members in advance of the issuance of the Practice Direction. No effort was made to solicit the views of the Commission on what the Commission would consider to be acceptable and reasonable terms of access to the detainees.
84. Notwithstanding the provisions of the TRC Act of 2000, the Practice Direction required the Commission to make a substantive application before a Special Court Judge who would decide on the merits of the application.⁷⁴ Such an application had to include a list of all the specific questions the Commission wished to pose to the detainee.⁷⁵ The Practice Direction provided for any Commission interview to be "supervised" by a legal officer who had the power to intervene to stop questions and even to stop the interview.⁷⁶ All interviews were required to be recorded and transcribed.⁷⁷ The transcripts would be handed over to the Prosecutor for use at trial.⁷⁸
85. In requiring the Commission to make a substantive application to a Special Court Judge for permission to interview a detainee, the Practice Direction was inconsistent with the mandate and powers granted to the Commission under its founding statute. The Commission was granted the power to interview any individual within Sierra Leone at any place in the fulfilment of its mandate. There were no limitations, exceptions or qualifications on this power contained in the Truth and Reconciliation Commission Act 2000.
86. The Commission recognised the Special Court had the power to regulate access to accused persons in its custody. In particular, the Special Court had a legitimate interest in regulating contact in order to prevent the escape of the detainee, to prevent harm being done to the detainee and to maintain good and orderly conduct in the detention facility.

⁷³ See the "Practice Direction on the procedure following a request by a National Authority or Truth & Reconciliation Commission to take a statement from a person in the custody of the Special Court for Sierra Leone"; signed by the Registrar Robin Vincent, adopted 9 September 2003, (hereinafter "Practice Direction of 9 September 2003").

⁷⁴ See the Practice Direction of 9 September 2003, at paragraph 5.

⁷⁵ See the Practice Direction of 9 September 2003, at paragraph 2(g).

⁷⁶ See the Practice Direction of 9 September 2003, at paragraph 6.

⁷⁷ See the Practice Direction of 9 September 2003, at paragraph 8(b).

⁷⁸ See the Practice Direction of 9 September 2003, at paragraph 8(c).

THE RESPONSE OF THE TRC TO THE PRACTICE DIRECTION

87. The Commission responded to the issuance of the Practice Direction by way of a letter addressed to the Registrar, dated 9 September 2003.⁷⁹ Extracts from this letter are reproduced below:

“Witnesses who appear before the TRC are expected to contribute towards truth telling which in turn forms the basis of national healing and reconciliation. In this process a witness may incriminate himself. Where the interview is conducted on the basis of confidentiality (as provided by the Act) the TRC will naturally not disclose any information to another body for purposes of criminal prosecution. This principle has been established and respected in other jurisdictions and indeed it is established in this country.

The TRC routinely interviews awaiting trial prisoners before the criminal courts of Sierra Leone and there has been absolutely no question of monitoring our interviews or for that matter forwarding information to prosecutors. Indeed to do so would be regarded as an outrage. Our hope is that the Special Court, a body established through international co-operation and which subscribes to international human right standards, will not conduct itself in this way.

The Direction is in the circumstances a denial of the Accused’s right not to incriminate himself. This right is enshrined in your own Statute for the Special Court of Sierra Leone by virtue of Article 17, subparagraph (4)(g).

The burden of proof in a criminal trial rests with the prosecution. The Direction in our view constitutes an improper attempt to procure evidence from the Accused. In effect the Accused who wishes to appear before the TRC is penalised and his right to a fair trial undermined for no other reason than his desire to exercise his rights under the Act. The Practice Direction then has a “chilling effect” on those detainees who may wish to appear before the TRC. Many will in the circumstances decide not to exercise their rights in this regard and those that do are effectively punished for doing so...

We are of course respectful of the important role the Special Court plays in Sierra Leone in addressing impunity. The TRC would not engage in any activity that would undermine the objectives of the Special Court...

The Direction is dismissive of the spirit and purpose behind the Truth and Reconciliation Commission. It would be a highly regrettable development between our two important institutions.”

⁷⁹ See the letter of 9 September 2003 from the Truth and Reconciliation Commission to the Registrar of the Special Court, Robin Vincent.

88. TRC staff members met again with the Registrar on 11 September 2003.⁸⁰ The Registrar undertook to place the Commission's concerns and its suggestions for revisions to the Practice Direction before the President of the Court and the Prosecutor. One of the Special Court representatives present, Mr. Sylvain Roy, Acting Head of the Special Court's Defence Office, raised what he described as a "very practical concern". He stated that:

"Some of the detainees might want to avail themselves of the opportunity to testify before the TRC in order to take a public platform."⁸¹

Mr. Roy suggested that the detainees were "looking for publicity" and that the "TRC [was] a conduit to the population."

89. The Commission supplied its suggestions for a revised Practice Direction in a letter to the Registrar dated 12 September 2003.⁸² Among its detailed suggestions for revision, the Commission proposed that the following paragraphs be inserted into the preamble of the Practice Direction:

"ACKNOWLEDGING the unique role of the Truth and Reconciliation Commission (TRC) in promoting healing and reconciliation in Sierra Leone; and

NOTING that the Truth and Reconciliation Commission Act 2000 accords the TRC certain powers and functions to create an impartial historical record for Sierra Leone."

The Special Court declined to insert any such text in the preamble of its revised Practice Direction acknowledging the unique role of the TRC or its powers and functions under the Act.

90. The Registrar was advised that the Commission had to wind up its activities before the end of the year 2003. This meant that the Commission had to act expeditiously. In its letter of 12 September 2003, the Commission requested the Registrar to provide the Court's feedback by 16 September 2003. As it turned out the Commission would only receive the revised Practice Direction on 6 October 2003.⁸³

⁸⁰ See the minutes of the meeting held in the Office of the Registrar between a TRC delegation and representatives of the Special Court, 11 September 2003.

⁸¹ Sylvain Roy, Acting Head of Special Court Defence Office; meeting held in the Office of the Registrar between a TRC delegation and representatives of the Special Court, 11 September 2003.

⁸² See the letter of 12 September 2003 from the Truth and Reconciliation Commission to the Registrar of the Special Court, Robin Vincent.

⁸³ See the *Practice Direction on the procedure following a request by a State, the Truth and Reconciliation Commission, or other legitimate authority to take a statement from a person in the custody of the Special Court for Sierra Leone*; signed by the Registrar Robin Vincent, adopted 9 September 2003, amended 4 October 2003. While the revised Practice Direction was adopted on Saturday 4 October 2003, it was not received by the Commission until Monday 6 October 2003.

91. By the end of business on 16 September 2003, the Special Court had not responded as requested. The Commission was anxious to resolve the impasse and sought the intervention of the Acting Special Representative of the UN Secretary-General (SRSG), Mr. Alan Doss, to mediate between the Commission and the Court. Mr. Doss participated in a meeting with two Commissioners (including the TRC Chairman, Bishop Joseph Humper) and TRC staff members on 18 September 2003.⁸⁴ A detailed dossier was handed to the SRSG with the specific request that he should attempt to secure the participation of the Special Court in the mediation. Mr. Doss undertook to take the matter further and to revert back to the Commission.
92. The Commission never heard from the office of Mr. Doss again, notwithstanding telephone calls to his office. Informally, the Commission was advised that the request had been referred to the UN Office of Legal Affairs at its Secretariat in New York. This office apparently supplied an opinion in which two propositions were made: that the Special Court held “primacy” over the Commission; and that no mediation could take place without the involvement of the Special Court. The point on primacy represented a misreading of the Special Court statute. With regard to the second point the writer of the opinion appeared to overlook the fact that the Commission had requested the SRSG to secure the participation of the Special Court in the mediation. While the Commission was generally disappointed with the failure of the UN structure to act expeditiously, the Commission wishes to recognise the constructive support provided on this issue by individual staff members of the Human Rights Section at UNAMSIL.

REQUESTS TO THE TRC FROM AUGUSTINE BAO AND ISSA SESAY

93. Another Special Court detainee, Augustine Ato Bao of the RUF, wrote to the TRC on 16 September 2003 requesting a public appearance before the Commission.⁸⁵ Mr. Bao wrote:

“It has been my ardent desire to appear and testify before the TRC, which is the only legitimate body that the Lomé Accord, The Pivotal for the successful conclusion of the conflict, empowered to look into the cause or causes that warranted the conflict and its effect or effects.

My arrest and Detention by a body that never took part in the negotiation that brokered the peace impeded my efforts to appear before the TRC, and [I have] been held for six (6) months without seeing the shadow of a trial emerging.

The Lomé Accord and ECOWAS put into being the TRC for all Sierra Leoneans to speak nothing but the truth, as the truth is the only vehicle that can accommodate us as people of a nation.

[...] It is in this spirit that I write to request that I want to appear before the TRC as a Sierra Leonean and a member of the former RUF now RUF to contribute my own quota to this historic document for posterity.”

⁸⁴ See the record of the meeting held at UNAMSIL Headquarters between a TRC delegation and representatives of UNAMSIL, including the Acting Special Representative of the Secretary-General, Mr. Alan Doss; meeting held at UNAMSIL Headquarters, Freetown, 18 September 2003.

⁸⁵ See the letter of 16 September 2003 from Augustine Ato Bao, detainee of the Special Court, to the Truth and Reconciliation Commission.

94. Another RUF detainee, Issa Hassan Sesay, wrote a letter to the TRC dated 19 September 2003, although it was only received by the Commission on 16 October 2003.⁸⁶ Mr. Sesay wrote:

“... I have been in detention for six months now and trial is nowhere to be seen. I have therefore decided to renew my commitment for peace by fulfilling my obligation as a Sierra Leonean and as a RUF now RUF member to appear and testify before the TRC, which the absolute Lomé Accord set up to investigate the causes of the conflict and the effects of the conflict.

[...] The absolute Lomé Accord authorised the TRC to recommend solutions that will avert future conflict and solutions that will create a nation void of callousness and hatred; a nation where love will be discovered once again, where deceptions and other awful tactics for political power and wealth can no longer be part of our lives again; where respect for the Constitution and for one another is restored and where the truth will take us from the darkness to the light of God.

It is therefore my burning desire to appear and speak nothing but the truth as the truth is the hinge for permanent peace and reconciliation.”

95. Legal counsel for Mr. Sesay, Mr. William Hartzog, indicated to the Commission that his client was potentially interested in both a confidential interview and a public hearing before the Commission. Detailed questions for Mr. Sesay were prepared and passed on to Mr. Hartzog. Counsel and the Commission agreed to prepare a joint challenge to the provisions of the Practice Direction preventing confidential interviews. A legal opinion was prepared⁸⁷ and the Commission awaited instructions to emerge from Mr. Issa Sesay through his legal counsel. Sadly this joint challenge never materialised as the events to be described below overtook this initiative.

⁸⁶ See the letter of 19 September 2003 from Issa Hassan Sesay, detainee of the Special Court, to the Truth and Reconciliation Commission; letter entitled: “Request to Appear and Testify before the TRC”.

⁸⁷ A comprehensive legal opinion was prepared by Mr. Peter Rosenblum of Columbia Law School. The TRC wishes to express its appreciation to Mr. Rosenblum and his research team for the legal advice they supplied. Legal advice on other aspects was supplied by Neil Boister of Christchurch University, Jeremy Sarkin of Western Cape University, Clare da Silva, Anne-Marie Corominas, Megan Carpenter and Vivienne O'Connor.

DEVELOPMENTS IN SEPTEMBER AND OCTOBER 2003

96. The month of September passed without further word from the Special Court. Chief Hinga Norman was becoming increasingly impatient with the delays. He addressed a letter dated 2 October 2003 to the Commission entitled "Reminder to Testify before the TRC".⁸⁸ He wrote:

"While still looking forward to hearing from you on the issue of testifying before the TRC, I have come by a copy of an interesting document (PRACTICE DIRECTION) copy attached, compiled and signed by the Registrar–SCSL, with a series of illegal conditions, all intending to obstruct my appearing before the TRC. I am not sure who the Practice Direction is struggling to protect – the prosecution, Accused, or who?

I am sure the reason for the establishment of the TRC was to encourage the speaking of the TRUTH. In demonstration, but not limited to the attached document ("I HAVE A DREAM etc."), I intend to reveal a lot more so this Country and the entire World could know the truths that are being presently concealed. In the efforts to bring out the facts, I am not in the least afraid of any of the conditions indicated in the illegal document, which the Registrar has now produced as hindsight.

Since I do not know the reason for the obstruction and the long delay in testifying and also the denial of a speedy trial, I have by letter authorised my daughter to organise a Media conference and to release all relevant documents that have trans-crossed between the SCSL, TRC and myself, to the attention of the National and International public for justice and fair play."

Hinga Norman's letter was copied to several embassies, as well as to media institutions in Sierra Leone and abroad. The attachment to the letter revealed Hinga Norman's account of events leading up to the coup by renegade soldiers in May 1997. Hinga Norman claimed that he had presented evidence of the impending coup to President Kabbah, who chose to ignore the warning. This information was subsequently reported widely in the local press.⁸⁹

97. As the weeks slipped away without the production of the Special Court's revised Practice Direction, the Commission seriously considered its options. One option was an urgent application to the Supreme Court of Sierra Leone for a declaratory order.⁹⁰ The Commission commenced with the drafting of legal papers for such an application. These legal papers sought a declaration on two key issues: first, whether the TRC had the right, by virtue of the provisions of the Truth and Reconciliation Act 2000, to interview detainees held in the custody of the Special Court and, at its discretion, to conduct such interviews on a confidential basis; and second, whether awaiting trial prisoners held at the detention facility of the Special Court had the right, by virtue of the provisions of the Act, to appear before the TRC. Both of these rights would be sought subject only to reasonable security and administrative conditions as imposed by the Special Court.⁹¹

⁸⁸ See the letter of 2 October 2003 from Chief Samuel Hinga Norman, detainee of the Special Court, to the Truth and Reconciliation Commission; letter entitled: "Reminder to Testify before the TRC".

⁸⁹ See, for example: *New People*, "If permitted to testify... Hinga Norman to expose Kabbah at TRC", Friday 9 October 2003, at page 1; and *The Democrat*, "Uncomfortable Reality! Hinga Norman Speaks from Jail", Wednesday 7 October 2003, at page 1.

⁹⁰ A declaratory order (also known as a "declarator") is essentially a declaration of rights by a court.

⁹¹ See the draft Notice of Motion for a Declaratory Order and accompanying legal papers prepared internally by the TRC, 19 September 2003.

98. The Commission decided in principle to proceed with its application for a declaratory order. However, the Commission was also advised to exhaust all its remedies before the Special Court prior to approaching the Supreme Court.⁹² Accordingly, Commission staff began simultaneously to prepare legal papers to challenge the validity of the Practice Direction before the Special Court. While this process was underway, the revised Practice Direction was issued by the Special Court. Subsequent time constraints prevented the Commission from proceeding any further with its proposed application to the Supreme Court.

THE SPECIAL COURT'S REVISED PRACTICE DIRECTION

99. On 6 October 2003, the Registrar forwarded a copy of the Special Court's Revised Practice Direction, which had been adopted two days previously.⁹³ While the Revised Practice Direction altered the earlier Practice Direction in some respects, it did not take matters much further. The main change was that the record of the interview with a detainee would no longer automatically be transmitted to the Prosecutor. The transcript would instead be lodged with the Court Management Section (the Registrar) and could be made available to any party to the criminal proceedings, including the Prosecutor, upon order by the Presiding Judge.⁹⁴ Even in the event that the Commission were to exercise its prerogative to classify the interview as confidential, there was to be no genuine "use immunity" for the contents of such an interview. Instead, any party, again including the Prosecutor, could apply to the Court for an order that the "confidential" information be disclosed in the interests of justice.⁹⁵
100. The Revised Practice Direction provided something of a presumption in favour of granting permission for access:

"The Presiding Judge shall grant approval (conditional or otherwise) if the said Judge is satisfied that the detainee agrees to the questioning and has been fully advised...

[...] In such circumstances, the request for questioning will only be rejected if the Presiding Judge is satisfied that a refusal is necessary in the interests of justice or to maintain the integrity of the proceedings of the Special Court."⁹⁶

⁹² On the question of the jurisdiction of the Supreme Court of Sierra Leone to deal with the matter, the founding affidavit of the legal papers prepared by the TRC asserted that the TRC Act, which governed appearances by persons before the Commission, was of application to all Sierra Leoneans and all persons in Sierra Leone. The jurisdiction of the Supreme Court of Sierra Leone to determine these rights in relation to Chief Samuel Hinga Norman was not excluded by the fact that he was held in the physical custody of the Special Court, a quasi or hybrid national and international body.

⁹³ See the *Practice Direction on the procedure following a request by a State, the Truth and Reconciliation Commission, or other legitimate authority to take a statement from a person in the custody of the Special Court for Sierra Leone*; signed by the Registrar Robin Vincent, amended 4 October 2003. (hereinafter "Revised Practice Direction of 4 October 2003").

⁹⁴ See the Revised Practice Direction of 4 October 2003, at paragraphs 4(b) and 4(c).

⁹⁵ See the Revised Practice Direction of 4 October 2003, at paragraph 4(c).

⁹⁶ See the Revised Practice Direction of 4 October 2003, at paragraph 5.

101. The balance of the Revised Practice Direction remained largely the same as the original Practice Direction. The Commission recorded its objections in a letter to the Registrar dated 8 October 2003.⁹⁷ In this letter the Special Court was advised that it was impossible for the Commission to interview detainees on a confidential basis under the conditions set out in the Practice Direction:

“The Practice Direction constitutes an effective denial of the right of detainees under the Truth and Reconciliation Commission Act 2000 (“the Act”) to be interviewed on a confidential basis.

The TRC will not place in jeopardy the rights of the detainees under the Act, nor will it be party to the potential undermining of their rights to a fair trial by engaging in a process in which the Commission is not permitted to guarantee strict confidentiality. Accordingly, the TRC hereby gives notice that it will not make use of the Practice Direction, as it is presently formulated, for the purposes of conducting confidential interviews or closed hearings.”

102. The Commission notified the Court that it would make use of the Practice Direction only to apply for and arrange public hearings with the detainees. As it turned out the first of the detainees to write to the Commission had asked to give his testimony in the form of a public hearing. Hence the Practice Direction would be used to apply for a TRC public hearing with this detainee, namely Chief Samuel Hinga Norman.

103. The Registrar, corresponding from New York City, stated on 17 October 2003 that he was:

“... deeply disappointed at [the TRC’s] refusal to make use of the revised Practice Direction, in so far as it relates to the conduct of confidential or closed hearings...”;

and

“also disappointed that so much of the correspondence with the Commission on this issue has been couched in somewhat aggressive language which could be seen to be both inappropriate and counter productive, given that both institutions have difficult tasks to perform and expectations to meet.”⁹⁸

⁹⁷ See the letter of 8 October 2003 from the Truth and Reconciliation Commission to Robin Vincent, Registrar of the Special Court; letter entitled: ‘Objections of the TRC to the Revised Practice Direction’.

⁹⁸ See the letter of 17 October 2003 from Robin Vincent, Registrar of the Special Court, to the Truth and Reconciliation Commission; letter entitled: ‘Objections of the TRC to the Revised Practice Direction’.

REQUEST FOR CHIEF SAMUEL HINGA NORMAN JP TO APPEAR BEFORE THE COMMISSION IN A PUBLIC HEARING

104. On 7 October 2003, the Commission submitted its application to hold a public hearing with Chief Hinga Norman.⁹⁹ The Commission made the following statements in setting out the purpose for its request:

“The TRC perceives Chief Samuel Hinga Norman JP to have played a central role in the conflict in Sierra Leone. The Commission’s report – insofar as it purports to present an impartial historical record – would not be complete without hearing from Chief Hinga Norman the particular details of his role in the conflict and his insights and views into its causes, course and character.

On 26 August 2003 Chief Hinga Norman stated in a letter to the TRC that he wishes to appear before the Commission in order to give testimony pertaining to the conflict in Sierra Leone. Since Chief Hinga Norman’s letter, the TRC has sought to arrange such testimony under conditions satisfactory to all parties. The present request represents the Commission’s unerring effort to secure such testimony.”¹⁰⁰

105. With time running out, the Commission also put forward the strongest possible case for the matter to be treated with special urgency:

“The Commission is operating under considerable time pressures. Section 5(1) of the Act provides for the operation of the TRC for a period of one year. The period of one year expired on 4 October 2003, although agreement has been secured from the President of Sierra Leone to extend the period by virtue of the aforesaid section until the end of December 2003.

Funding for the TRC is provided only until the end of December 2003. In practice this means that the report of the Commission must be finalised and sent to the printers during November. This in turn means that the report itself should be completed towards the end of October or early November. All interviews and hearings should thus be concluded without delay.

Every day that passes without the commencement of interviews or hearings with the detainees held by the Special Court constitutes a potential denial of their rights under the Act. Moreover, any further delay in resolving this matter will severely undermine the ability of the TRC to complete its mandate under the Act...

In the circumstances the TRC has outlined a clear case to have this request expedited with the utmost urgency. The Commission requests respectfully that the Special Court make the necessary arrangements to hold a hearing of Chief Hinga Norman on Monday 13 October 2003 or as soon thereafter as is conveniently possible.”¹⁰¹

⁹⁹ See Request SHN 001 of 7 October 2003; *Request by the Truth and Reconciliation Commission for Sierra Leone to Conduct a Public Hearing with Chief Samuel Hinga Norman JP*, submitted on 7 October 2003 (hereinafter “Request SHN 001 of 7 October 2003”).

¹⁰⁰ See Request SHN 001 of 7 October 2003, at paragraphs 8 and 9.

¹⁰¹ See Request SHN 001 of 7 October 2003, at paragraphs 12 to 15.

106. The Special Court did not respond to the Commission's request for the hearing of Chief Hinga Norman to proceed on 13 October 2003. The Deputy Prosecutor, acting on behalf of the Prosecutor, only filed his objections to the application in an inter-office memorandum dated 21 October 2003,¹⁰² a copy of which was received by the TRC late on 22 October 2003.
107. Meanwhile, following consultations with a member¹⁰³ of the Bao legal defence team, the Commission submitted an application on 10 October 2003 to conduct a public hearing with Augustine Ato Bao.¹⁰⁴ The Bao legal defence team, surprisingly and without reference to the Commission, filed their own response to the Commission request on 17 October 2003 in which they stipulated a number of conditions to the proposed hearing.¹⁰⁵ This action on the part of the lawyers was to provide the Court with sufficient grounds to form the view that Mr. Bao "was uncertain as to whether to testify before the Commission".¹⁰⁶

Objections of the Prosecutor to a Public Hearing with Chief Samuel Hinga Norman

108. In his two-page memorandum of 21 October 2003,¹⁰⁷ the Prosecutor divided his objections to a public hearing with Chief Hinga Norman into three sub-headings, namely: the interests of justice; the integrity of the proceedings; and other concerns relating to possible civil unrest.
109. Under the heading of "The interests of justice", the Prosecutor submitted that a hearing before the Commission:
- a. could be considered "*sub judice*";¹⁰⁸
 - b. could be "contrary to public policy" in that it could defeat the interests of justice to allow an accused to litigate or plead his case in the public when he would be entitled to a fair and public trial in due course; and
 - c. could weaken the "institution of justice" as guaranteed by the Statute of the Special Court by "a defendant exploiting the occasion".¹⁰⁹

¹⁰² See the Inter-Office Memorandum of 21 October 2003 from Desmond de Silva QC, Deputy Prosecutor (on behalf of the Prosecutor), to Judge Bankole Thompson, Presiding Judge of the Trial Chamber; memorandum entitled: "Samuel Hinga Norman and the TRC".

¹⁰³ Professor Andreas O'Shea, assigned legal counsel to Augustine Ato Bao.

¹⁰⁴ See Request AAB 002 of 10 October 2003; *Request by the Truth and Reconciliation Commission for Sierra Leone to Conduct a Public Hearing with Augustine Ato Bao*, submitted on 10 October 2003 (hereinafter "Request AAB 002 of 10 October 2003").

¹⁰⁵ See the document entitled "*Defence Agreement and Response to the Request by the Truth and Reconciliation Commission for Sierra Leone to Conduct a Public Hearing with Augustine Ato Bao*", filed with the Registry on 17 October 2003.

¹⁰⁶ See the *Decision on the Request by the Truth and Reconciliation Commission of Sierra Leone to Conduct a Public Hearing with Augustine Ato Bao*; decision rendered by Judge Bankole Thompson, Presiding Judge of the Trial Chamber, dated 3 November 2003 (hereinafter "Thompson Decision on the Bao Request"), at paragraph 8.

¹⁰⁷ See the Inter-Office Memorandum of 21 October 2003 from Desmond de Silva QC, Deputy Prosecutor (on behalf of the Prosecutor), to Judge Bankole Thompson, Presiding Judge of the Trial Chamber; memorandum entitled: 'Samuel Hinga Norman and the TRC' (hereinafter "Objections of the Prosecutor").

¹⁰⁸ The *sub judice* rule is designed to prevent publication of matters that would directly affect the outcome of a pending trial.

¹⁰⁹ See the Objections of the Prosecutor, at paragraph (a).

110. The Prosecutor's "integrity of proceedings" objections can be summarised as follows:
- a. The mere act of Chief Hinga Norman testifying before the TRC could stir up public feelings and frighten victims and potential witnesses from the proceedings. Indeed the public nature of the hearing would enable Chief Hinga Norman to intimidate victims and potential witnesses, probably through subtle means, which would irreparably damage the integrity of the proceedings.
 - b. Such a forum would provide Chief Hinga Norman with the opportunity to incite violence or threaten the security of the Special Court.
 - c. As some of the evidence to be used in the prosecution has been formally disclosed, any intimidation may have a direct impact on victims and witnesses. The Presiding Judge had already ordered protective measures against Chief Hinga Norman to ensure that victims and witnesses were sufficiently protected.¹¹⁰
111. Finally, the Prosecutor submitted under his "Other concern" heading that peace in Sierra Leone rested upon a "fragile equilibrium", which could be put in peril by the holding of the hearing.¹¹¹

ARGUMENT BEFORE JUDGE BANKOLE THOMPSON

112. The Hinga Norman matter was set down for argument on 24 October 2003 before the Presiding Judge of the Trial Chamber, Judge Bankole Thompson.¹¹² The Commission in its submissions¹¹³ dealt with each of the Prosecutor's objections.¹¹⁴

The Interests of Justice

113. In relation to the *sub judice* objection, it was pointed out that, in law, any impugned public act or publication must create a real and substantial risk of prejudice to the administration of justice and it must be made with the specific intent of prejudicing a fair trial. The claim that the mere holding of a Commission hearing in advance of a trial would in itself violate the rule had no basis in law. The Prosecution did not supply any factual grounds to support a contention that there was any danger of the *sub judice* rule being violated.¹¹⁵

¹¹⁰ See the Objections of the Prosecutor, at paragraph (b).

¹¹¹ See the Objections of the Prosecutor, at paragraph (c).

¹¹² Judge Bankole Thompson is a Sierra Leonean who had served as a High Court Judge in the 1980s. Prior to his appointment at the Special Court he taught criminal justice at Eastern Kentucky University in the United States, where he also served as Dean of its Graduate School.

¹¹³ See the *Response By The Truth And Reconciliation Commission for Sierra Leone to the Objections from the Prosecution to the TRC's Request to hold a Public Hearing with Chief Samuel Hinga Norman JP*, before Judge Bankole Thompson, dated 24 October 2003. (hereinafter "TRC Submissions before Judge Thompson")

¹¹⁴ The TRC's submissions were presented by Mr. Howard Varney. The Prosecutor was represented by Mr. Desmond de Silva QC, Deputy Prosecutor.

¹¹⁵ Paragraph 4(d) of the Revised Practice Direction specifically prevented the Special Court from being influenced by any conclusion or comment that might be made by the Commission arising from a hearing with a detainee. The Prosecutor's *sub judice* assertion was in any event moot, as the Commission had already agreed with the defence team not to canvass Chief Hinga Norman on the specific elements of the charges against him.

114. The Prosecution's contention that it would be against public policy for an Accused to plead his case in public when he will be entitled to a fair and public trial was academic given the agreement reached between Defence Counsel and the TRC not to canvass issues forming part of the charges against Hinga Norman. Nonetheless, the Commission's representative pointed out that, in the absence of a specific allegation, it could not be assumed that a mere appearance before the Commission would jeopardise the "interests of justice".

115. The Commission noted that the Court was obliged when assessing the "interests of justice" to take into account a range of factors across a broad spectrum of interests. The Commission specifically pointed out that:

"The Special Court for Sierra Leone does not operate in a vacuum, but rather as one integral part of the post-conflict landscape in this country and as the standard bearer for wider principles of justice on a national and international level."¹¹⁶

The Commission submitted that the Court ought to be the guardian not only of the right to a fair trial, but also of other human rights, including freedom of expression. In the Sierra Leone context, there was an additional factor to consider, namely the right of Chief Hinga Norman, a prominent Sierra Leonean, to speak in a public forum before the TRC, to present his version of and perspectives on a critical period in the country's history. It was submitted that any objection to the TRC's request would have to strike a balance, weighing the effects of banning Chief Hinga Norman from speaking against the damage done to his freedom of expression and his right to appear publicly before the TRC. No such proportional assessment was undertaken by the Prosecution.

116. The Commission submitted that it was likely that Hinga Norman would feature in the TRC Report on account of testimony received from other sources. Fairness demanded that he be given an opportunity to provide his version of the conflict and to do so publicly.

117. Numerous other central role players in the conflict had been afforded their rights of testifying publicly before the Commission. Since there were examples of individuals¹¹⁷ in "comparable situations" to that of Chief Hinga Norman who had been granted the opportunity of a public hearing, the denial of an equal opportunity to Chief Hinga Norman in the absence of clear, substantial and reasonable grounds would constitute discrimination against him. It was contended that the harmful effects of a ban on Chief Hinga Norman from exercising his statutory and human rights far outweighed the speculative concerns raised by the Prosecution.

118. The Prosecution's final "interests of justice" objection was that the institution of justice could be weakened by a public hearing before the TRC if a defendant were to exploit the occasion. The Prosecution did not allege that Chief Hinga Norman himself would exploit the situation, but rather claimed in the abstract that "a defendant" might do so. The TRC pointed out that it had already conducted a high-profile public hearing with an Accused before the criminal courts of Sierra Leone, namely Colonel (RUF) Vandy Kosia. No party made a claim that Kosia's appearance at the TRC, on 24 May 2003, weakened the institution of justice.

¹¹⁶ See TRC Submissions before Judge Thompson, dated 24 October 2003, at paragraph 2.3.3.

¹¹⁷ Reference to TRC Public Hearing with Colonel (RUF) Vandy Kosia, Freetown, 24 May 2003. At the time of his public hearing, Kosia was an "awaiting-trial" prisoner at Pademba Road Prison.

Integrity of the Proceedings

119. Under this heading, the Prosecution inferred that Chief Hinga Norman's appearance before the Commission in an open manner may in itself stir up public feelings and pose a threat to the security of the Special Court. The Prosecution alleged that the security of its protected witnesses might be compromised by an appearance by Hinga Norman before the Commission. It was suggested that a public hearing would enable Chief Hinga Norman to intimidate victims "through more subtle means". The suggestion was made without indicating what such "subtle means" might be.
120. The Commission invited the Judge to dismiss these suggestions as conjecture. The Judge was reminded that witness protection was essentially about keeping the identities of protected persons and in particular their locations secret. No allegation was made against Hinga Norman that he had breached standard protective measures apparently imposed to safeguard the identity of witnesses, even though he was granted reasonably unrestrained access to the outside world through communications with visitors and the use of his mobile phone.

Threats to National Security

121. The Commission argued that the Prosecutor's assertion that a public hearing for Hinga Norman could threaten the "fragile" peace was without foundation. It was pointed out to the Judge that the Commission had conducted many public hearings with key faction leaders and the process had never precipitated an adverse reaction from any group among the Sierra Leonean population.

Emergent Norms in National and International Law

122. In an attempt to highlight the profound importance of the issue at hand, the Commission submitted that developments in national and international law created a presumption in favour of permitting Hinga Norman to appear before the Commission. Nationally, the established practice of the Truth and Reconciliation Commission had led to the recognition in national law of a *de facto* right to testify before the Commission. With regard to international practice, the Commission asserted the following:

"In the light of developments in post-conflict societies in the late 20th and early 21st centuries in dealing with past human rights violations, there exists on the part of victims a right to know the truth. Truth Commissions have been created in several countries around the world to meet that recognised obligation. There is considerable weight to the argument that establishing the "truth" is an essential component of the universally recognised "right to an effective remedy." The Special Court is duly bound to consider such a right in respect of the Sierra Leone population in its determination of the parameters of this request "in the interests of justice".¹¹⁸

¹¹⁸ See TRC Submissions before Judge Thompson, dated 24 October 2003, at paragraph 6.1.2.

123. The Commission concluded its representations by suggesting that the historic moment had arrived whereby a decision had to be made as to whether these two institutions were indeed going to work together on a complementary basis or not.

“Sierra Leone finds itself at a special moment in its history. Indeed Sierra Leone has the potential to offer the world a unique framework in the difficult process of moving from conflict to peace. We have two complementary institutions, namely the Special Court and the Commission, that are central to this process. Indeed the President and the Prosecutor of the Special Court are on record stating that the two institutions will work together to uncover the truth and provide the most comprehensive benefits to a post-conflict state.

The outcome of this proceeding will in large measure determine whether two such institutions can in fact be complementary. The consequences for the people of Sierra Leone – and indeed for the people in all conflict zones which envisage similar mechanisms of transitional justice – will be far reaching.”¹¹⁹

124. On 29 October 2003, representatives for the Commission, the Prosecutor and Augustine Bao argued before Judge Bankole Thompson on the question of Bao’s appearance before the Commission. The arguments of the Commission and the Prosecution were largely the same as those put forward in the Hinga Norman matter.¹²⁰ Mr. Girish Thanki, who spoke for the Bao defence team, submitted in his representations to the Court that while many international commentators talk about the Sierra Leone conflict as a “war over diamonds”, there is another view that prevails at ground level. It is a view, Mr. Thanki continued, which reveals the “friction between rural Sierra Leone and urban Freetown” and which says much about “how the RUF came into existence, how it operated and how the conflict impacted on this nation”. Stressing the importance of the public appearance of his client before the Commission, Mr. Thanki concluded that the real story of the conflict, including these alternative views, “belongs to the people of Sierra Leone”.¹²¹

¹¹⁹ TRC Submissions before Judge Thompson, dated 24 October 2003, at paragraph 6.1.3.

¹²⁰ The TRC’s submissions were again presented by Mr. Howard Varney. The Prosecutor was represented by Ms. Boi-Tia Stephens. The Bao Defence Counsel was Mr. Girish Thanki.

¹²¹ See the minutes of the Oral Representations regarding the Request by the Truth and Reconciliation Commission to conduct a Public Hearing with Mr. Augustine Ato Bao; before Judge Bankole Thompson, 29 October 2003.

THE DECISION OF JUDGE BANKOLE THOMPSON

125. On 29 October 2003, Judge Bankole Thompson denied the request by the Truth and Reconciliation Commission for a public hearing with Chief Hinga Norman.¹²² Judge Thompson reasoned that the Commission had prejudged the matter and was therefore violating Hinga Norman's presumption of innocence.¹²³ Judge Thompson's reasoning hinged upon the part of the request where the Commission had said that it was important for Chief Hinga Norman to testify because he had "played a central role" in the conflict. In short, Judge Thompson's reasoning was defective.
126. The Thompson Decision precipitated considerable disillusionment among members of local civil society.¹²⁴ Whilst it was not to be the final word on the question of whether Chief Hinga Norman would appear before the Commission, it represented the first public departure by the Special Court from the previously co-operative position it had adopted towards the Commission's work. Whatever potential remedial measures stood to be rendered subsequently on appeal, Judge Thompson's denial of the request heralded a significant turning point in the public appraisal of the relationship between the two institutions.
127. The Commission had been advised by the Registrar that the Special Court's Revised Practice Direction contained a presumption in favour of granting a request.¹²⁵ Judge Thompson's decision however afforded little regard to such a presumption. In fact the Judge limited himself to "two alternative judicial options", which he characterised as unconditional approval or flat refusal.¹²⁶ He failed to consider a third option, namely the approval of the request subject to conditions. This narrow interpretative approach, which was apparent throughout the Thompson Decision, reflected unwillingness on the part of the Trial Chamber to accept that the interests of justice in Sierra Leone in fact hinged upon the successful fulfilment of the mandates of both the TRC and the Special Court.
128. The fact that Chief Hinga Norman played a central role in the conflict should not have been contentious. After all, it was the Prosecutor who brought an indictment against Hinga Norman and a Judge of the Special Court who authorised that indictment. If there was no credible suggestion that Hinga Norman had played a central role, then he ought not to have been indicted in the first place. As it was, the indictment of Hinga Norman had been approved over six months earlier by the Special Court in the following terms:

¹²² See the *Decision on the Request by the Truth and Reconciliation Commission of Sierra Leone to Conduct a Public Hearing with Samuel Hinga Norman*; decision rendered by Judge Bankole Thompson, Presiding Judge of the Trial Chamber, dated 29 October 2003. (hereinafter "Thompson Decision on the Hinga Norman Request")

¹²³ See the Thompson Decision on the Hinga Norman Request, at paragraph 12.

¹²⁴ In the week following the issuance of the Thompson Decision, a number of local civil society groups made statements to the press expressing their dissatisfaction and calling upon the TRC to appeal the Decision. See, for example: Press Conference convened by John Caulker on behalf of the TR Working Group on 4 November 2003; and Press Conference convened by Ngolo Katta on behalf of the CCYA on 5 November 2003.

¹²⁵ See the letter of 17 October 2003 from Robin Vincent, Registrar of the Special Court, to the Truth and Reconciliation Commission; letter entitled: 'Objections of the TRC to the Revised Practice Direction'.

¹²⁶ See the Thompson Decision on the Hinga Norman Request, at paragraph 8.

“Samuel Hinga Norman was the National Co-ordinator of the CDF. As such he was the principal force in establishing, organising, supporting, providing logistical support [for] and promoting the CDF. The Accused was also the leader and commander of the Kamajors and as such had *de jure* and *de facto* command and control over the activities and operations of the Kamajors.”¹²⁷

Based on the terms of this indictment alone, it was entirely reasonable for the TRC to conclude that Hinga Norman’s testimony would be relevant to its mandate and appropriate for airing in a public session of the Commission.

129. The presumption of innocence is a right belonging to Chief Hinga Norman until proven guilty. Even if he should wish to give up this right, it would be done entirely within his own discretion. In refusing the request for a hearing, Judge Bankole Thompson violated Chief Hinga Norman’s freedom of expression, as well as his right, as a person presumed innocent, to continue to participate in the reconciliation process in his own country.
130. In the Commission’s view, the learned Judge strayed beyond the parameters of his decision-making prerogative. He concerned himself with what he perceived to be the interests of the Accused and appointed the Court as the guardian thereof. Indeed, he surmised, without any reference to rights or to the close engagement of Defence Counsel, that the Court was the “very forum to which he looks for the protection of his due process rights and ultimate vindication.”¹²⁸ He further saw fit to criticise what ought to have been the unfettered right of Chief Hinga Norman to exercise his fundamental and statutory rights to testify before the Commission, where he concluded that:

“I would be grossly remiss, if not derelict, in my judicial duty if I failed to place on record my strong judicial reservations about the proposed course of action, on the part of the Accused.”¹²⁹

131. The learned Judge adopted what he referred to as a “contextual reading” of the TRC Act 2000. He equated “perpetrators” with offenders who are “willing to confess their guilt.” Building on this platform, he averred that the word “perpetrator” had to be given a “restrictive connotation” and “therefore, cannot properly be applied to an ‘indictee’ who has pleaded not guilty.” Finally the Judge made a conclusion in which he stated his view of the application of the TRC Act 2000:

“[The TRC Act 2000] is predicated upon the notion of restorative justice which aims at the reconciliation of *self-confessed perpetrators, victims, and the state as a whole*. Once a person has been indicted, he does not fall within the statutory ambit of the Act.”¹³⁰

¹²⁷ See *Prosecutor v. Sam Hinga Norman* (Case No. SCSL-2003-08-I), Indictment before the Special Court for Sierra Leone, 7 March 2003, at paragraph 12.

¹²⁸ See the Thompson Decision on the Hinga Norman Request, at paragraph 14.

¹²⁹ See the Thompson Decision on the Hinga Norman Request, at paragraph 16.

¹³⁰ See the Thompson Decision on the Hinga Norman Request, at paragraph 12.

132. The Judge tendered such reasoning apparently as a means of excluding the detainees from the TRC process. Yet not even the most accommodating reading of the TRC Act 2000 would permit the novel interpretation constructed by Judge Thompson. To have confined the meaning of “perpetrator” to the definition suggested by the Judge would necessarily have excluded the vast majority of perpetrators in the Sierra Leone conflict from the ambit of the Commission.¹³¹ The reality of the Commission’s work was that most perpetrators were not willing to disclose their involvement in atrocities, at least not in advance of a hearing or interview; yet their participation in the TRC process was vital to developing understanding, to recording historical facts and to opening the accountability debate to the Sierra Leonean public.
133. Having legally excised the detainees from the purview of the Commission, Judge Thompson concluded that the institutional role of the Commission must yield to the other “societal interest” at stake, namely the Accused’s right to a fair and impartial trial.¹³² In support of this contention the Judge proposed that persons facing international crimes enjoyed what he called “super due process rights”:
- “In the overarching scheme of things, it is the duty of International Judges to safeguard the interest of the International Community that persons charged with international crimes are accorded what may be characterised as “super due process rights” in vindicating themselves regardless of national considerations, however compelling.”¹³³
134. Judge Thompson did not explain the meaning of “super due process rights”. He simply offered a single, un-sourced “perception” that international indictees are not afforded “adequate procedural justice” due to “the horrendous nature and enormity of the crimes” for which they have been indicted.
135. As far as the Commission has been able to determine, it seems that the notion of “super due process rights” in international criminal law was a novel construct of the Judge himself. The expression “super due process rights” was in fact an abstraction from the system of “strict review” applied at the sentencing phase of capital cases in the United States of America. Under that system, “super due process” is invoked in order to intensify the scrutiny lent by a court to the review of procedures undergone to reach a sentence of death. As such, even in the United States, “super due process” applies to the so-called “penalty phase” of a court’s adjudication, not to the trial phase and certainly not to the pre-trial phase. It was a wholly inappropriate notion for Judge Thompson to introduce into a decision of this nature.
136. Judge Thompson did not ascribe any significance to the arguments made by the Prosecution in its objection to the Commission’s request. The Judge in fact expressed his displeasure at the suggestion of the Prosecution’s representatives that they would “reserve their option to investigate further crimes if the Accused were to testify before the Commission”. He stated that this suggestion “was not necessary and does not accord with our profession’s respect for the doctrine of fundamental fairness.”¹³⁴

¹³¹ The same error was made by the President of the Special Court, Judge Geoffrey Robertson, at paragraph 42 of his Decision on appeal.

¹³² See the Thompson Decision on the Hinga Norman Request, at paragraphs 14, 15 and 16.

¹³³ See the Thompson Decision on the Hinga Norman Request, at paragraph 15.

¹³⁴ See the Thompson Decision on the Hinga Norman Request, at paragraph 15. In the appeal of this matter, Judge Robertson stated firmly that the Prosecution would have been well within its rights to adopt such a course.

137. The decision of Judge Bankole Thompson left the Commission with much discomfort. The rights of Hinga Norman and indeed the other detainees to appear before the Commission had been dismissed on the basis of a novel but untenable reading of the TRC Act. Judge Thompson apparently sought to disqualify all detainees who had pleaded not guilty from coverage by the TRC Act.
138. Judge Thompson's decision included another inventive but equally unsustainable contention: that due process rights – transformed into “super due process rights” – trumped the other rights of detainees and the wider society. The actual wishes of the detainee and the fact that he was represented by a team of highly qualified and experienced local and international lawyers were of little consequence to the learned Judge. In the wake of the Thompson decision, the Commission resolved to move the matter on to appeal before the President of the Special Court in its Appeals Chamber, Judge Geoffrey Robertson.

THE APPEAL BEFORE THE PRESIDENT OF THE SPECIAL COURT

139. On 4 November 2003 the Commission and Chief Hinga Norman filed their joint grounds of appeal against the decision of Judge Bankole Thompson.¹³⁵ The appellants noted some twenty-two (22) different grounds of appeal, setting out the individual questions of law and interpretation upon which the learned Judge had erred. The appeal was set down for the following day, 5 November 2003. Staff representing the Commission prepared written “short heads” of argument, which outlined the Commission's objections to the Thompson decision.¹³⁶
140. The Commission submitted that the institutions of the Special Court and the TRC both had important roles to play in reaching the truth and addressing impunity in the context of post-conflict Sierra Leone. The Special Court seeks to prove and establish beyond reasonable doubt the elements of specifically-framed charges against individuals who are alleged to bear the greatest responsibility. It endeavours to reach the truth in relation to the role of those individuals. In so doing it would hopefully provide a deterrent against future abuses.
141. The TRC, on the other hand, endeavours to establish the wider truth in relation to the roles of all key players and factions in the conflict. It was averred on behalf of the Commission that it was only when the full truth (or as close to the full truth as possible) was placed squarely before the public that society is able to examine itself honestly and robustly. It was this exercise that would permit society to take genuine measures to prevent repetition of the horrors of the past.

¹³⁵ See the *Grounds of Appeal by the Truth and Reconciliation Commission for Sierra Leone and Chief Samuel Hinga Norman JP against the Decision of His Lordship Judge Bankole Thompson delivered on 29 October 2003 to deny the TRC's Request to Conduct a Public Hearing with Chief Samuel Hinga Norman JP*; before Judge Geoffrey Robertson, The President of the Special Court, filed on 4 November 2003 (hereinafter “Grounds of Appeal against the Thompson Decision”).

¹³⁶ See the *Heads of Argument in the Appeal by the Truth and Reconciliation Commission for Sierra Leone and Chief Samuel Hinga Norman JP against the Decision of His Lordship Judge Bankole Thompson delivered on 29 October 2003*; presented on 5 November 2003 (hereinafter “TRC Heads of Argument in the Appeal against the Thompson Decision”). None of the other parties to the proceedings supplied written heads of argument.

142. The Commission submitted that the two institutions should do everything within their powers to ensure that the dual causes of truth and addressing impunity were served, both at the level of individuals who bear the greatest responsibility and at the level of society at large:

“We submit then that it cannot be a question of the role of one institution giving way to the role of the other. It can only be a question of how we arrive at a solution that permits Sierra Leone to reach the truth and address impunity at both essential levels.”¹³⁷

143. The Commission contended that Judge Thompson had failed to consider this critical question. He had failed to situate his decision in the appropriate context of Sierra Leone’s unique transitional justice arrangement. In particular it was submitted that the trial Judge had:

- a. misrepresented the institutional character of the TRC, particularly in his tendency to assign to the Commission the character of a court of law;
- b. failed to undertake any form of proportional assessment of the various rights and interests at stake in this matter; and
- c. erred in his characterisation of the Special Court as a guardian of so-called “super due process rights”.¹³⁸

The Bintumani Appeal

144. As it turned out, none of the matters raised by the Commission in its written heads of argument were canvassed in the appeal before Judge Robertson. The hearing was held in a conference room at the Bintumani Hotel in Western Freetown on the evening of 5 November 2003. The appeal turned out not to be an appeal at all but rather something of an unstructured discussion.¹³⁹
145. A few minutes prior to entering the appeal venue, the Commission’s team was surprised to learn from the Hinga Norman Defence lawyers that there would be no need to present any arguments, since Judge Robertson had advised them informally that he was inclined to let the hearing with Hinga Norman proceed. The Judge was simply interested in working out the “mechanics” of the hearing. There would accordingly be no appeal as such but simply a “discussion” to settle the details. The Defence¹⁴⁰ and Commission¹⁴¹ teams walked into the conference room with a modicum of relief. Their sense of security proved to be a false one.

¹³⁷ See TRC Heads of Argument in the Appeal against the Thompson Decision, dated 5 November 2003, at paragraph 1.5.

¹³⁸ See TRC Heads of Argument in the Appeal against the Thompson Decision, dated 5 November 2003, at paragraph 1.7.

¹³⁹ See the record of the Oral Discussion in the Appeal against the Thompson Decision; before Judge Geoffrey Robertson, President of the Special Court, held at the Bintumani Hotel, 5 November 2003 (hereinafter “Oral Discussion in the Bintumani Appeal”). All the excerpts contained herein, including quotes from Judge Robertson, are taken from the record of the Oral Discussion in the Bintumani Appeal.

¹⁴⁰ The two Defence lawyers present at the appeal on behalf of Chief Samuel Hinga Norman were Timothy Owen QC and Quincy Whitaker.

¹⁴¹ The TRC legal team comprised Howard Varney, Gavin Simpson and Sebastiaan Verelst. The Prosecution was represented by Jim Johnson and Mohamed Bangura.

146. While there was no appeal in the formal sense, the impression conveyed to the Commission by the Defence lawyers was not entirely correct. As the hearing progressed, it became clear that it was not simply a question of settling the mechanics for a hearing. Judge Robertson would instead swing from an apparently permissive position at the beginning of the hearing to a diametrically opposing position at the end of the hearing. At the close of the hearing the Judge, to the surprise of the Commission's representatives, proposed that the Commission ought to suspend its activities until the completion of the trials before the Special Court.
147. At the commencement of the appeal "hearing", Judge Robertson explained that he was "going to come at it from a different position". He explained that there would be no need for a formal appeal and that he intended to conduct the proceedings informally by way of a discussion. No objections were lodged at the time as the representatives for the Applicants had been primed to expect a positive outcome. Yet with hindsight there ought to have been no such striking departures from conventional procedure and from the Practice Direction, which referred to "an appeal".¹⁴²
148. Judge Robertson's novel approach did away with the rigours of standard appeal practice. The Judge confirmed his approach in his written decision. He conceded that he was not treating the appeal "strictly as an appeal" and went on to assert his choice to regard it as "a fresh hearing".¹⁴³
149. The substance of the Bintumani Appeal began with a lengthy overview of the background as seen through the eyes of Judge Robertson. Excerpts of the Judge's overview are set out below:

"... This problem is not really new. It's been discussed in the literature. We all thought it possible to avoid the problems that were predicted to arise. This problem was not foreseen but it has arisen... Lomé and the TRC Act did not make provision for the Special Court. Had it done so it would have made it clear what [the TRC] could and could not do. ... In respecting its missions [the TRC] must be placed in a position to establish a historical record. The Special Court would avoid, if it could at all, interfering with that first objective of the TRC.

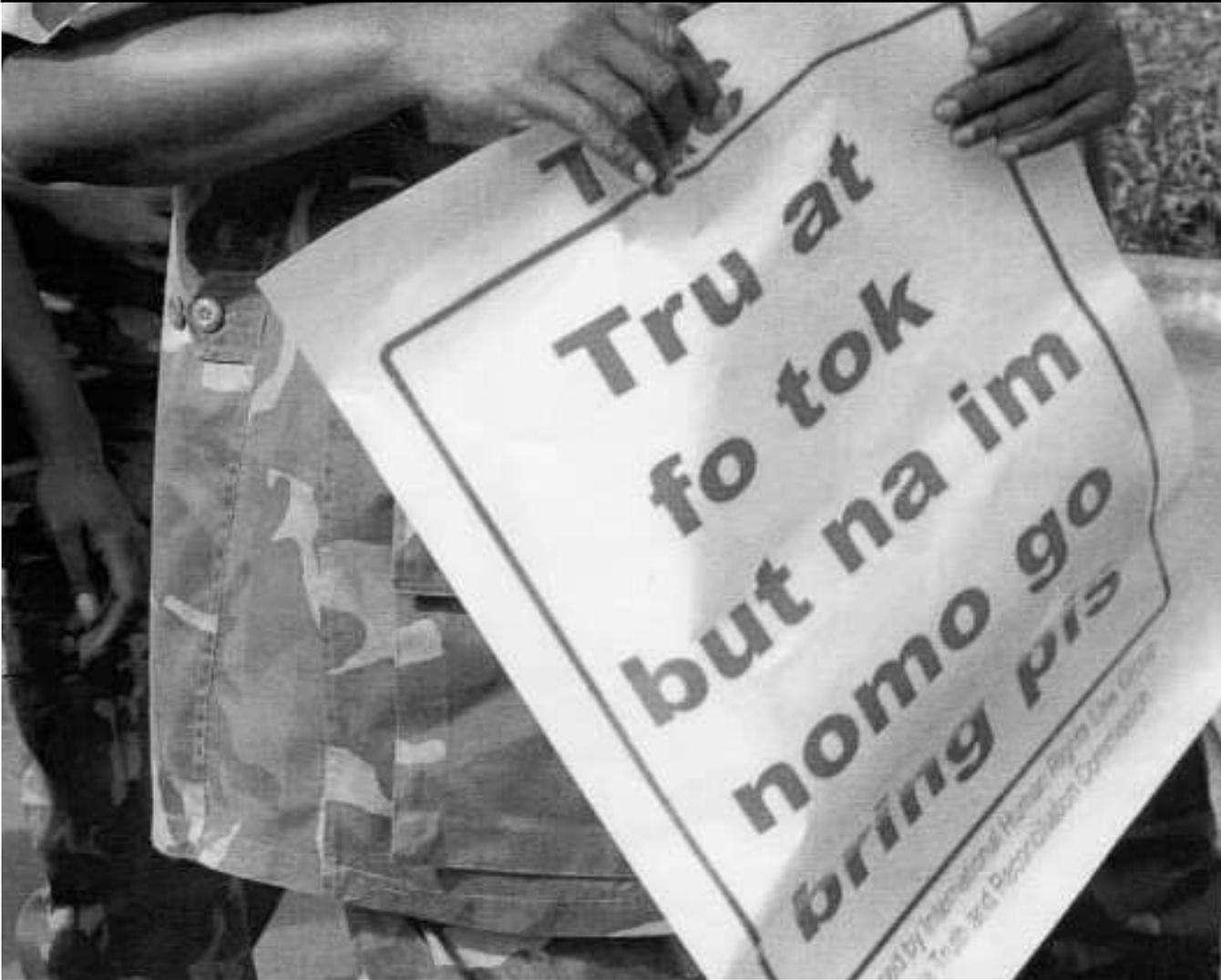
[...] Here we have an indictee who has pleaded "not guilty." The first perspective is to give Hinga Norman his stand. In general it does not seem to me to pose any problems at first blush. Defence Counsel gave the client expert advice.

As far as Hinga Norman is concerned ... in some quarters he is a hero, in others, a villain. ... When the matter first arose the first consideration was "freedom of speech". An indictee retains such as is compatible within the constraints of Court... My main concern is not to inhibit anyone from giving testimony in any form but to let them know what they are letting themselves in for; particularly if [it is] going on public record. ... It's wrong to bar the prosecution. But [the] client [must] be aware of the risks."

¹⁴² See the Revised Practice Direction of 4 October 2003, at paragraph 5.

¹⁴³ See the *Decision on Appeal by the Truth and Reconciliation Commission for Sierra Leone and Chief Samuel Hinga Norman JP against the Decision of His Lordship, Mr. Justice Bankole Thompson, delivered on 29 October 2003 to Deny the TRC's Request to Hold a Public Hearing with Chief Samuel Hinga Norman JP*; decision of Justice Geoffrey Robertson, President of the Special Court, 28 October 2003 (hereinafter "Decision of Justice Robertson on Appeal"), at paragraph 3.

TRC



A soldier in the Sierra Leone Army carries a TRC poster during the National Reconciliation Procession through Freetown on 6 August 2003. The poster emphasises that real peace comes only from telling the truth.

150. The Judge appeared to be setting the scene for the granting of the appeal. He asked whether all the parties were in general agreement with the overview he had provided. The representatives of all parties reacted in the affirmative, agreeing, as Mr. Varney stated for the Commission, “in large measure”. The Judge then sought from Jim Johnson, the Prosecutor’s representative, certain background details on Hinga Norman, including his role in the current Government. He further raised the question as to whether Hinga Norman had the “approval of Government” when he was conducting operations. Mr. Johnson replied that he did. The Judge then turned to Defence counsel, Tim Owen, and asked whether this would be part of Hinga Norman’s defence, to which counsel replied that it would be. This answer brought the role of President Kabbah into sharp focus and the Judge added:

“If you establish a *prima facie* against him [President Kabbah], he’ll have to appear in the witness box.”

The Judge suggested that Hinga Norman had “reached the point where [he] had decided to take the risk of testifying to the TRC”.

151. Judge Robertson then began to consider the modalities of a proposed hearing and turned to Howard Varney, the Commission’s representative:

“[So effectively] you want to take over the Special Court for a few days and install TV cameras, etc.”

The Judge wished to know which television and radio studios would be present during the hearing. He enquired into details as to how the hearing would be portrayed on television and whether the Sierra Leone Broadcasting Service would be content to broadcast digested proceedings in a format he described as “highlights of the day’s play”. He wished to know details such as: who the Commissioners were; who would lead the evidence on behalf of the Commission; whether the evidence was under oath; how long the hearing would last; whether counsel would take Hinga Norman through his statement; and whether there would be cross-examination. Mr. Varney dealt with each of these questions as far as was possible, but stressed that the procedure for the Hinga Norman hearing was yet to be determined because it would ultimately rely upon an agreement between the Commission and the Defence team.¹⁴⁴

¹⁴⁴ Notwithstanding Mr. Varney’s clarification on this point, Judge Robertson later remarked: “My concern is that there doesn’t seem to be any settled procedure, but rather a certain sense of making it up as you go along.”

152. The Commission laments the fact that the President of the Court chose to give deference to precedents from contexts that bore little relation to Sierra Leone. Judge Robertson made no reference to the available examples of TRCs in action, such as the South African precedent or even that of the detainees in Pademba Road Prison.¹⁴⁵ Judge Robertson instead preferred to highlight the experience of the Hutton Inquiry¹⁴⁶ and made comparative remarks on the case of John Stonehouse.¹⁴⁷

153. The Judge turned to the question of the TRC Report and revealed that he had resolved some of the temporal problems in his own mind based on assumption:

“I had always assumed that the report would be published before the trials started [to serve] as a useful tool of judicial notice.”

He enquired from Mr. Johnson when the Prosecution expected to commence the trials. Mr. Johnson replied that he was “foreseeing early next year [2004]; February or March.”

154. Judge Robertson then wished to know whether the Commission would “make a determination on the guilt or innocence of certain individuals”:

“Has the Commission addressed the issue of making judgements on people? Would the TRC make judgements?”

Mr. Varney explained the nature of findings that truth commissions make and reminded the Judge that “the TRC is not a court”. Judge Robertson indicated that it would be preferable if the Commission refrained from making pronouncements on the roles and responsibilities of the indictees held by the Special Court.

155. The Judge advised that the Court would have to “deal with the public expectations and the way those play out on witnesses.” He added that “finding the historical truth of what happened may overlap with the [Special Court’s] investigations.” Turning back to the question of media coverage Judge Robertson stated:

“Visions come to me of Goering at the German TRC of 1946 – giving radio and TV performances of his version of the war... It makes me feel uncomfortable.”

¹⁴⁵ Awaiting trial prisoners in South Africa appeared before the Human Rights Violations Committee of the South African TRC on a routine basis. The Sierra Leone TRC had extensive contact with awaiting trial prisoners at Pademba Road, including the holding of a public hearing.

¹⁴⁶ The Hutton Inquiry was set up by United Kingdom Government in 2003 to investigate the circumstances surrounding the death of the government scientist Dr. David Kelly. Geoffrey Robertson participated in a preliminary legal tussle over the right to screen the proceedings of the Hutton Inquiry on television.

¹⁴⁷ John Stonehouse (1926 - 1988) was a British politician and cabinet minister under Prime Minister Harold Wilson. Stonehouse achieved notoriety for faking his own death.

156. At this point Mr. Johnson on behalf of the Prosecution said that there were “ongoing efforts to intimidate and scare witnesses right now”. He added:
- “I would hate to see this being used in some effort to promulgate that. I can provide documents to you, but not other parties around the table. The concerns of July apply now, and in fact possibly apply more so.”
157. The Judge and the Prosecution then engaged in a discussion on Hinga Norman and the potential volatility of his supporters:
- Judge Robertson: He was the head of a military unit? An armed force that was fighting, perhaps too vigorously, in support of the Government?
- Mr. Johnson: Certainly fighting in support of the Government. His force [was] sometimes sanctioned by the Government.
- Judge Robertson: Have they laid down arms?
- Mr. Johnson: Some of them have done.
158. When the Commission and Defence lawyers attempted to direct Justice Robertson back towards the question of rights he responded:
- “I’ve made the Court’s view clear. Rights are amenable to dilution.”
159. Now firm in his view that a public hearing before the Commission would be tantamount to giving Hinga Norman a chance for a “party political broadcast”, Justice Robertson came up with his proposal:
- “The TRC has apparently never thought to take a statement from him... Hinga Norman is entitled to send his account of the conflict in the form of a book; a written version which could be carefully considered by his lawyers... There would be minimum risk to him; [it would be of] great help to you; [it] would not measurably damage the integrity of the Special Court.... What about a written submission with Commissioners invited to go and ask questions [on the written submission]?”
160. The Judge then commented on the wisdom of having two institutions such as the Special Court and the Commission in operation at the same time:
- “It may be that our hope of working together and at the same time may not be possible.”
- He suggested that the best resolution would be for the Commission to suspend the issuance of its report until all the trials at the Special Court were complete. This would deal with the concerns of the Prosecution; the Commission would be able to glean useful materials from the trials and more importantly the Commission could then arrange all the hearings it wished to hold with the detainees, who would by then be convicted prisoners, or perhaps acquitted.
161. Mr. Varney pointed out to Judge Robertson that there was no prospect of securing a suspension of the Commission’s proceedings. He also advised that it had always been open to the TRC to obtain Chief Norman’s testimony by way of a written submission. No approval or intervention by the Special Court was ever required to obtain written testimony.

162. Judge Robertson concluded the Bintumani Appeal with an invitation to all parties for further representations. When reminded by Mr. Varney of the Commission's time constraints he advised that his decision would be issued within one week. In fact, it took the President of the Court more than three weeks to issue his decision.
163. The appeal, in the manner conducted by Judge Robertson, served to limit and close down argument on the key issues of substance. The "discussion" approach could in theory have provided a forum for debate between members of collegial international institutions. However, continual interjections and changes in the topics under discussion prevented any meaningful debate from taking place. The parties were unable to present and develop legal argument.¹⁴⁸

AFTER THE BINTUMANI APPEAL

164. Following the appeal at the Bintumani Hotel, the Commission felt it necessary to write to Judge Robertson to caution him against pursuing the ideas he raised in the latter stages of the "discussion":

"It would be impractical and indeed unlawful for the TRC to suspend its operations and reconstitute itself in two years' time or whenever the trials were concluded. There will be no extension of the TRC's mandate beyond the statutory six months already granted by President Kabbah. We urge you to exclude this suggestion from your considerations."¹⁴⁹

165. On 12 November 2003, only two days before Judge Robertson's ruling was expected to be issued, the Commission received copies of written submissions from the Prosecutor¹⁵⁰ that had been transmitted to the President of the Court. The submissions endeavoured to back up the claim that the public hearing with Hinga Norman could be used as a forum by Kamajors and former CDF members to threaten the security of the Special Court and destabilise the entire country. The Commission responded as follows in a further letter to the President of the Court:

"We submit that it is highly improper for Mr. Crane to make such submissions some two days before a ruling is due on our appeal. The TRC can hardly be expected to investigate and assess claims made by the Prosecution at this late stage.

The vague statements based on hearsay as set out in paragraph 5 of Enclosure Two (dated 20 October 2003), such as those that portray Kamajors in Bo allegedly "boasting ...that they were still in control" – whatever that is supposed to mean – could have been investigated had they been raised prior to the hearing before Judge Thompson. A reading of the enclosures reveals that there is absolutely no reason why such information could not have been disclosed timeously.

¹⁴⁸ The approach taken was contrary to the information provided by the Court beforehand, namely that each party would have 15 minutes to present argument, as was the case in the trial chamber.

¹⁴⁹ See the Letter from the Honourable Justice Laura Marcus-Jones, Deputy Chairperson of the TRC, to the President of the Special Court, Judge Geoffrey Robertson, dated 7 November 2003.

¹⁵⁰ See the Supplementary Submissions from the Prosecutor of the Special Court in the Appeal before the President of the Court dated 11 November 2003.

The 7 November 2003 memorandum authored by Mr. Robert Parnell, Chief of Security for the Special Court, adds little to the UN FSCO Security update of 23 October 2003. This curious one-and-a-half page memorandum does not even disclose the identity of the former CDF leader apparently arrested in connection with so-called "Operation Free Hinga Norman." Nor does it disclose the nature of any charge or charges preferred against this individual, if indeed the matter was taken this far.

The memorandum contains claims with regard to the potentially "destabilising influence" of the former CDF in Bo, which we are led to believe arises from the Government's inability to improve economic conditions in the country. It ends in any case with the conclusion that the CDF is incapable of mounting insurrection, or for that matter of attacking the Special Court. In short, the memorandum does not appear to support Mr. Crane's view that the "fragile equilibrium which exists today in Sierra Leone" is at stake.

To underscore the baseless claims of the Prosecution, the UN FSCO security update for the very week in which the alleged "Free Hinga Norman" meeting took place concludes that the "security situation in the country continues to remain stable". Indeed "stable" has been the assessment for the last several months and continues to be the security assessment for the present week.¹⁵¹ Little or no weight can be attached to Mr. Parnell's memorandum.

While claiming merely to reiterate its "position as previously submitted before Judge Thompson", the Prosecution's submission impermissibly attempts to introduce matters of substance, which it could have introduced at the initial hearing, or indeed could have applied for leave to introduce at the appeal hearing."¹⁵²

166. An independent assessment carried out by the International Crisis Group in the second half of 2003 suggested that the Kamajors were in no position to destabilise the country:

"While one leader claimed that the CDF could mobilise if necessary within 24-48 hours, Kamajor ability to achieve mass destabilisation depends on two things: man-power and weaponry. It appears the Kamajors would have difficulty assembling enough of either. The rank and file are increasingly unhappy with their leadership, who they claim have kept most reintegration benefits to themselves. Many joined the CDF to defend the country and the government, not to avenge any specific leader, so there appears to be little willingness to mobilise because of Special Court indictments. Furthermore, there appear to be distinct groups within the Kamajors, each with their own leaders, financiers, and loyalties that may work against unified action. While the Kamajors could cause local disruptions, there is little evidence they could destabilise the country."¹⁵³

¹⁵¹ Confirmed in a telephone conversation between Mr. Varney and the Duty Officer at the Security Unit of UNFSCO at 4.15 p.m. on 13 November 2003.

¹⁵² See the Letter dated 13 November 2003 from Howard Varney, Head of Investigations, to the President of the Special Court.

¹⁵³ See International Crisis Group, *Sierra Leone: The State of Security and Governance*, ICG Africa Report No. 67, 2 September 2003 at page 13.

THE DECISION OF JUDGE GEOFFREY ROBERTSON

167. The decision of Judge Robertson was finally issued on 28 November 2003. It purported to overturn the decision of Judge Thompson. In reality, it offered little more to the detainees and to the Commission than what was possible in the wake of the Thompson decision. Judge Robertson refused to permit Hinga Norman to testify in person. The Judge ruled that Hinga Norman should transmit information to the Commission only “in writing” and stated:

“There shall be no public hearing of the kind requested or any other kind prior to the conclusion of the trial.”¹⁵⁴

168. The decision was made available barely four weeks before the Commission closed its doors on all formal activities. The late issuance of the decision was notwithstanding the Commission’s case for special urgency and the Judge’s own undertaking to return his ruling within one week. Indeed by 28 November 2003 the decision of Judge Robertson had become academic.

169. The reference in the decision that Hinga Norman might be allowed to meet with the Commissioners “if they apply for that purpose” or that he and the Commission may “meet for a confidential session if a joint application is made” was, in the view of the Commission, irrelevant. The Special Court’s own Practice Direction did not permit confidential interviews, even after its revision.¹⁵⁵ The Commission had already declined to apply to speak to detainees on a “confidential” basis because the Commission could never guarantee the confidentiality of the information supplied under the conditions imposed by the Court. The Commission’s position in this regard had been stated clearly and consistently throughout.¹⁵⁶

170. Moreover with the Commission winding up its formal activities on 31 December 2003, the procedures involved in applying afresh to the Special Court stood no chance of being completed.¹⁵⁷

171. Nonetheless, the Special Court’s media release¹⁵⁸ described the Robertson decision as having opened the way for Hinga Norman to “testify before the TRC”. Several newspapers carried stories that reported the decision in this light. The fact that the scope for Hinga Norman’s testimony had in fact been confined to a written submission was lost in the fine print.

¹⁵⁴ See the Decision of Justice Robertson on Appeal, 28 November 2003, at paragraph 41.

¹⁵⁵ See the Revised Practice Direction of 4 October 2003, at paragraphs 4(b), 4(c) and 7. As noted earlier in this chapter, the Revised Practice Direction specifically required each meeting between the TRC and a detainee to be monitored by a “legal officer” and tape recorded by the Registry. The Trial Judge had the power subsequently to order the transcript of any meeting to be disclosed at the trial of the detainee. There was accordingly no possibility of a confidential interview under the Revised Practice Direction.

¹⁵⁶ See the letter of 8 October 2003 from the Truth and Reconciliation Commission to Robin Vincent, Registrar of the Special Court; letter entitled: “Objections of the TRC to the Revised Practice Direction”.

¹⁵⁷ Reference to the exchange of correspondence between the Registrar of the Special Court and the Truth and Reconciliation Commission on 4 and 5 December 2003. In his letter of 4 December 2003, the Registrar stated that a meeting with Hinga Norman could be arranged by way of “written notification”. In its reply of 5 December 2003, the Commission pointed out that paragraph 41 of the Robertson Decision stated unambiguously that an “application” was required.

¹⁵⁸ See the Special Court for Sierra Leone Press and Public Affairs Office, Media Release entitled “Sam Hinga Norman May Testify before TRC”, dated 28 November 2003.

172. The Commission corrected this misconception in a press statement released on 1 December 2003. The Commission advised that there would be no hearings with Chief Hinga Norman or any of the other detainees. The rights of the detainees to participate in the truth and reconciliation process in an open and transparent manner had been effectively extinguished. Extracts from the Commission's media statement of 1 December 2003 read as follows:

*"PRESS RELEASE BY THE TRC
Freetown, Sierra Leone, 1 December 2003*

**SPECIAL COURT DENIES HINGA NORMAN'S RIGHT
(AND THAT OF THE OTHER DETAINEES) TO APPEAR
PUBLICLY BEFORE THE TRC**

... The Court's press statement has created expectations in the minds of the public both locally and internationally that a TRC hearing with Hinga Norman is imminent.

The press statement is however misleading. The President of the Special Court in fact ruled that Chief Hinga Norman may not appear in a public hearing before the Commission. The Judge decided that Chief Hinga Norman may provide only a sworn written statement to the Commission.

The ruling, in the view of the TRC, has dealt a serious blow to the cause of truth and reconciliation in Sierra Leone. As a citizen of Sierra Leone and as a key role-player in Sierra Leone's recent history, Chief Hinga Norman has a right to appear before the TRC to tell his story. All equivalent role-players have appeared before the TRC, including prisoners awaiting trial at Pademba Road Prison. ...

... The restriction of Chief Hinga Norman's testimony to a written statement has denied him the opportunity to speak with the TRC in an open and transparent manner.

There will be only one TRC in Sierra Leone and the Special Court has closed the door on any meaningful participation in that process by all the detainees in its custody. In effect the decision of the President of the Special Court has:

- o rejected the right of the detainees to testify before the TRC;
- o denied the freedom of expression of the detainees to appear openly and publicly before the TRC;
- o denied the right of the Sierra Leonean people to see the process of truth and reconciliation done in relation to the detainees; ...

Sierra Leone had the opportunity to offer the world a unique framework in moving from conflict to peace. Sadly, this opportunity was not seized. The causes of truth, reconciliation and transitional justice have not been served by the decision of the Special Court.

The Commission wishes to advise the public that there will be no hearings with Chief Hinga Norman or any of the other detainees as the ruling by the Special Court forecloses such a possibility."

173. In an effort to contain the growing tide of publicity that was adverse to the Special Court, the Court's Press and Public Affairs Office arranged a talk show on Radio UNAMSIL. The guests were Special Court Registrar, Robin Vincent, and TRC Executive Secretary, Franklyn Kargbo. On the basis of this talk show, the Court's Press and Public Affairs Office crafted another press release¹⁵⁹ in which it claimed that the Commission had corrected "certain inaccuracies" in its 1 December 2003 media statement. The wording of the Special Court release was highly misleading. It forced the Commission to issue a statement denying that it had made any such retraction:

*"PRESS RELEASE BY THE TRC
Freetown, Sierra Leone, 3 December 2003*

TRC STANDS BY ITS STATEMENT ON HINGA NORMAN

The Special Court issued a statement on 3 December 2003 claiming that the TRC had corrected "certain inaccuracies" in its 1 December 2003 press release on the Special Court's decision to deny the right of Chief Sam Hinga Norman to appear before the TRC.

The TRC has done no such thing. The TRC rejects the attempt by the Special Court's media office to mislead the public in this regard.

The TRC stands by its statement issued on 1 December 2003 in relation to Hinga Norman. Hinga Norman has been denied his freedom of expression and his statutory right to appear before the TRC to tell his story. The people of Sierra Leone have been denied the opportunity of hearing from Hinga Norman in an open and transparent manner. As a result the causes of truth, reconciliation and that of addressing impunity have been seriously undermined.

Mr. Franklyn Kargbo, the Executive Secretary of the TRC, did state in his interview with Radio UNAMSIL that, notwithstanding the setback of the Court's decision, the TRC will still issue a credible and impartial historical record of the conflict in its final report.

Mr. Kargbo's statement must not be interpreted to mean that the TRC is retracting or correcting its earlier press release...

One point is clear amidst the exchange of press statements. The TRC has been effectively blocked by the Special Court from holding any hearings or meetings with the detainees."

¹⁵⁹ See the Special Court for Sierra Leone Press and Public Affairs Office, Media Release entitled "The Special Court Responds to TRC Statement", dated 3 December 2003.

174. On 11 December 2003, J. B. Jenkins-Johnston and Sulaiman B. Tejan-Sie, legal representatives for Chief Hinga Norman, issued a press statement “for and on behalf of” Chief Hinga Norman:

“... So even though the Judge conceded that Chief Norman had a right to testify upon condition that he had been warned, and clearly stated that he was satisfied that Chief Norman had been “expertly” warned, he still refused to allow him to testify. It would seem to us on the Chief’s legal team that the position taken by both the Trial Chamber and the President of the Court is full of conflicts, inconsistencies and contradictions, all leading to one final result – to stop Chief Sam Hinga Norman from testifying before the TRC. That goal has been achieved, albeit for reasons which are not clear to us, and which certainly do not augur well for whatever the Special Court sees itself as having been mandated to do.

Chief Sam Hinga Norman entertains no doubt that he has been unfairly treated, unnecessarily targeted and unjustly deprived of his legal and constitutional rights, by reason of which he now seriously doubts whether he will get real Justice from this Special Court. He further believes that this unfortunate episode of a head-on clash between the TRC and the Special Court has done much to obstruct the course of peace and reconciliation in Sierra Leone, and has clearly demonstrated the short-sightedness and skewed thinking behind the policy of setting up both the Truth and Reconciliation Commission and the Special Court at the same time.

The President [of the Special Court]’s ruling is regarded by Chief Sam Hinga Norman not only as an unwarranted attempt to silence him but also as a challenge to the very Act creating the TRC, which was ratified by [the] Sierra Leone Parliament in 2000.

Finally, Chief Sam Hinga Norman wishes to say to the people of Sierra Leone that notwithstanding the treatment he has received at the hands of the Special Court, and the unduly belligerent, provocative and intimidatory utterances of the Prosecutor himself, he still believes in the rule of Law and to this end will continue to advise his people to remain law-abiding and be patient, as he knows that at the end of the day he will be vindicated and will walk free from this nightmare.

May God continue to bless our beloved Country Sierra Leone.”¹⁶⁰

175. The Commission did invite Chief Hinga Norman and the other detainees to make written representations in order to supply their versions of the conflict. Sadly, none of the detainees responded to the requests. The Commission finds this to be highly regrettable. The Commission, however, acknowledges that the preference of the detainees was for public hearings and, by the time this option was finally shut down in December 2003, there was little time left to prepare and finalise written submissions.

¹⁶⁰ See: Press Statement issued for and on behalf of Chief Sam Hinga Norman, on the Refusal of the Special Court to grant him a Public Hearing before the Truth and Reconciliation Commission; signed by J. B. Jenkins-Johnston and Sulaiman B. Tejan-Sie, Counsel for Chief Sam Hinga Norman, dated 11 December 2003.

THE ROBERTSON DECISION ANALYSED

176. Judge Robertson wrote that the question before him was one that was “novel and difficult”.¹⁶¹ However, the question was far from novel. The immediate and local precedents were part of the written records before Judge Robertson, namely the numerous instances in which the Commission had interviewed or held hearings in public with detainees facing multiple-count criminal indictments before the Sierra Leone courts.
177. Moreover, the most publicised Commission in the world, the South African TRC, worked side by side with a criminal process that saw awaiting-trial and convicted prisoners appearing publicly in the TRC hearings on a routine basis.¹⁶² It may be added that fair trial protections are just as jealously guarded by the South African judiciary as they are by the Special Court for Sierra Leone.
178. In the Sierra Leonean and South African precedents overlooked by Judge Robertson, the elaborate concerns and travesties of justice as postulated by the Special Court simply did not arise.
179. One of the distinguishing factors is that the justice bodies referred to in these examples were national bodies; whereas the Special Court is better described as a hybrid creature, an amalgam of both national and international legal systems. It is implied in the thinking of the Special Court – and in the decision of Judge Bankole Thompson it was stated explicitly – that the international character of the Court poses special problems that justify its stance. In reality, though, the practical considerations and legal issues entailed in the administration of justice are no different, whether the body in question is national, international or quasi-international.

Primacy over the TRC

180. In providing his “historical background,” Judge Robertson made the point that the Special Court possesses “primacy” over the Commission:
- “The Special Court was given, by Article 8 of its Statute, a primacy over national courts of Sierra Leone (and, by implication, over national bodies like the TRC).”¹⁶³
181. In fact, Article 8 of the Statute of the Special Court provides no support at all for the popular contention that the Special Court has primacy over the TRC. It reads:
- Article 8: Concurrent jurisdiction
- “The Special Court and the national courts of Sierra Leone shall have concurrent jurisdiction. The Special Court shall have primacy over the national courts of Sierra Leone. At any stage of the proceedings, the Special Court may formally require a national court to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence.”

¹⁶¹ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 2.

¹⁶² Particular reference is made here to the Human Rights Violations Committee of the South African TRC. The workings of this Committee, through its hearings and accompanying investigations, closely approximated the mode of operation of the Sierra Leone TRC.

¹⁶³ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 4.

182. It is clear from the title of Article 8 that the “primacy” bestowed on the Special Court is limited to cases of “concurrent jurisdiction” between courts. The Commission is not a court. It is equally trite to point out that the Commission does not have any criminal proceedings before it. The provision merely requires deference from the national courts in instances where both the Special Court and the national courts wish to lead prosecutions against the same individual, or on the same matter. This means that following a formal application by the Special Court, a national court is obliged to halt its own criminal proceedings in respect of an Accused that the Special Court wishes to act against.¹⁶⁴
183. Notwithstanding the clear meaning of Article 8, the provision was invoked by Court spokespersons and other commentators to assert “superiority” over the Commission.

The “Spectacle” of a TRC Hearing

184. The Commission has already expressed its consternation at Judge Bankole Thompson’s misconstruction of the institutional character of the TRC as a court of law. Such misconstruction led Judge Thompson to erroneous conclusions. Judge Robertson viewed the Commission in similar terms. Judge Robertson feared that the Commission would set itself up as a mock court performing the “special duty” assigned to the Special Court. He seemed particularly affronted that the proposed hearing would happen in a courtroom within the Special Court’s own precinct. Judge Robertson characterised the request of the Commission as an unwarranted straying onto Special Court territory:

“But the TRC has not, significantly, given any undertaking to suspend judgement on individuals awaiting trial in this court.”¹⁶⁵

“... I have been given no assurance that indictees awaiting or undergoing trial will not be “judged” guilty or innocent by the Commissioners (who are not qualified judges) ...”¹⁶⁶

“The spectacle of the TRC sitting in court may set up a public expectation that it will indeed pass judgement on indictees thus confronted and questioned, whose guilt or innocence it is the special duty of the Special Court to determine.”¹⁶⁷

“I cannot believe that the Nuremberg Tribunal would have allowed its prisoners to participate in such a spectacle, had there been a TRC in Germany after the war ...”¹⁶⁸

Underline added

¹⁶⁴ The most recent example was the case of Santigie Borbor Kanu (alias “Five Five”), who was one of the Accused in a treason trial before Freetown High Court No. 2 at the time of his indictment by the Special Court. The treason trial in question was *The State v. Corporal Daniel Sandy and 17 Others*. For a report on the irregularities in the transfer alleged by the Director of Public Prosecutions (DPP), Mr. Brima Kebbie, see the following news article: “Five Five Indicted... as Treason held up”; *Awoko* newspaper, Freetown, 18 September 2003. The article quotes the DPP as saying: “I was not informed about the arrest, which is why I am in court for the trial this morning. The treason trial will not continue in the absence of one of the accused persons. It is the responsibility of the Special Court to inform my office so I can enter a *nolle prosequi* (non prosecution) for Santigie Kanu. This could be done in a day provided the Special Court informs us on time.”

¹⁶⁵ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 7.

¹⁶⁶ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 15.

¹⁶⁷ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 30.

¹⁶⁸ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 31.

185. In building his argument that the Commission ought to have refrained from proceeding with its requests to hear the detainees publicly, Judge Robertson relied on an opinion that was no longer held by its authors:

“The initial expectation in this respect of informed persons well-disposed to both processes was expressed in an illuminating report by the International Centre for Transitional Justice (“ICTJ”):

*In the case of persons indicted by the Special Court, the TRC should decline to interview them altogether until the proceedings against them are concluded.*¹⁶⁹

This absolute position (which the ICTJ authors no longer maintain) at least gave full force to the universal value that nothing should be done to endanger fair trial. The TRC, by this application, wishes to go towards the other extreme: it seeks not only to interview indictees, but to do so in public, in a courtroom over several days, in a form that will permit them to broadcast live to the nation, and then face sustained questioning shortly before their trial¹⁷⁰

186. Not only did the ICTJ change its view on this matter; it said as much in the very submission that Judge Robertson himself invited the organisation to make. The Commission was later informed that “the ICTJ authors” had outlined their new position explicitly in a submission to Judge Robertson in November 2003:

“ICTJ, in communications to both the Court and the TRC, subsequently took the view that it would indeed be possible to hold a public hearing of the TRC without violating the fundamental rights of the Accused or the integrity of proceedings before the Special Court, provided certain conditions were met, namely:

(1) defence counsel would be present to advise the Accused (who would be participating on a voluntary basis) before and during the public hearing; and

(2) there would be a delayed transmission, to allow any threats to witnesses or to general security to be deleted from public broadcasts.

If these conditions were met, ICTJ was of the view that a public hearing would not hinder a fair trial for the Accused, nor would it pose an additional substantial risk to witnesses or security.

[...] ICTJ stressed the importance of distinguishing a public hearing by the TRC from a Court hearing; for instance, if the hearing were to be held in a courtroom, the Commissioners should not sit where the judges would sit...

¹⁶⁹ Marieke Wierda, Priscilla Hayner and Paul Van Zyl, “Exploring the Relationship between the Special Court and the TRC of Sierra Leone”, ICTJ, New York, 24 June 2002, at page 18.

¹⁷⁰ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 31.

[...] Furthermore, ICTJ took the position that such a hearing would assist the TRC in its truth-seeking function, enabling it to better fulfil its mandate of preparing a historical record and giving recommendations for future change. (At the time that ICTJ made its intervention, the possibility of a private hearing of the accused did not appear to be a viable option).

[...] Moreover, ICTJ was of the opinion that if the Special Court was seen to be responsive to the local context and the operations of the TRC by taking an innovative approach, that this could also benefit public confidence in the Special Court.¹⁷¹

The revised position of the International Centre for Transitional Justice, reflected in the above passages, was not conveyed in Judge Robertson's written decision.

187. The Judge's contention that the Commission wished to go to the "other extreme" reflects his rigid views of a post-conflict institution that falls outside of traditional legal process. There was nothing extremist about the request of the Commission. As has been pointed out, what was being requested by the Commission had already taken place in Sierra Leone. Similar hearings have taken place in South Africa.¹⁷² As far as the Commission is aware, nobody has levelled claims of "going to extremes" against the South African TRC or for that matter against the Sierra Leone TRC for its interactions with the Pademba Road prisoners. In this regard Judge Robertson is out of step with current notions of transitional justice.
188. The Judge makes much of the fact that the proposed hearing would take place in the Special Court courtroom. The implication is that this facet of the Commission's request was part of a design engineered by the Commission to imitate or take over the role of the Court. In fact, the courtroom at the Special Court precinct – where the detention facility is situated – was the only suitable venue available for the proposed hearing. The Commission would have been more than happy to relocate the hearing elsewhere if the Court had consented.

¹⁷¹ Marieke Wierda, on behalf of the International Centre for Transitional Justice; e-mail correspondence reflecting the ICTJ position with regard to the Appeal before Judge Robertson, dated 10 March 2004.

¹⁷² South African TRC hearings enjoyed extensive television coverage and at times live radio broadcasts. In some countries such as the United States and the Czech Republic even criminal courts are covered by live radio and TV broadcasts, which have not endangered their legal processes.

Encroaching on Special Court Functions

189. In assessing the functions of the Commission, Judge Robertson came to the conclusion that these could impinge on the Special Court's own functions:

"The TRC functions may broadly be divided, in accordance with its title, into those of providing an historical record ("truth") and those of assisting victims to come to terms with their perpetrators ("reconciliation"). The "truth" functions ... could be interpreted as permitting findings about individual responsibility- the prime function of the Special Court. The "reconciliation" functions ... are not so problematic, so long as they invite victims to reconcile with perpetrators who do not bear great responsibility and are not Special Court indictees."¹⁷³

Underline added

190. The learned Judge appeared to be concerned with what he referred to as the "truth" and the "reconciliation" aspects of the Commission's functions, namely the two core functions of the Commission. He seemed particularly troubled that the fact-finding elements of establishing the truth might lead to "findings about individual responsibility". The delivery of such findings, he declared, formed the "prime function" of the Special Court. Judge Robertson was less opposed to the "reconciliation" aspect of the Commission, so long as the Commission only invited victims to reconcile with lesser perpetrators, namely those who did "not bear great responsibility and are not Special Court indictees".
191. The Commission cannot imagine that such territorial concerns on the part of the Special Court could ever be taken seriously. Commissions, not to mention Truth Commissions, routinely make findings about individual responsibility. Indeed, that is what commissions are essentially established to do. Judge Robertson's suggestion that the Commission should confine its reconciliation activities to lesser perpetrators "who do not bear great responsibility" was equally unreasonable. If such a notion were to have been entertained, it would have required the Commission not to approach the "worst" of the perpetrators for fear that they may be on the Special Court's suspect list. The learned Judge was, in effect, suggesting that the Commission should suspend its operations pending the completion of the Special Court's tasks. The implication may sound outlandish, yet that is exactly what Judge Robertson suggested to the Commission's legal representatives at the end of the Bintumani appeal.
192. The Judge's choice of words to describe the Commission's original approach to the detainees was unfortunate:

"When the TRC first approached a number of indictees, earlier in the year, they all declined a chalice that they were doubtless advised was poisoned."¹⁷⁴

The publication of such a theatrical metaphor in a decision under the hand of the President of the Court inferred that there was something poisonous about the agenda of the TRC, supposedly a "complementary" organisation.

¹⁷³ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 13.

¹⁷⁴ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 13.

From a Confidential Interview to a “Full-scale Public Hearing Broadcast”

193. Judge Robertson holds much store in his claim that the Commission declined to pursue with its original request to conduct private or confidential interviews with Hinga Norman in favour of a public hearing:

“It is also surprising that it [the Commission] has shifted its request from a two-day private interview with investigators to a full-scale public hearing broadcast “live” to the nation.”¹⁷⁵

[and]

“It has never explained why it has shifted first from its initial request for a two-day private interview – a request which might well have been granted – to a request for permission for a confidential interview (which might also have been granted) to an application for the televised spectacle described above.”¹⁷⁶

The suggestion that the Judge is really making is that the TRC could have gone for the quiet option but chose instead the unseemly route of a “televised spectacle”. The Judge cast the TRC’s decision in this regard as being eminently unreasonable. Yet the Judge denied the reader of his Decision the full benefit of the preceding history of negotiations between the TRC and the Special Court.

194. Judge Robertson gave no prior indication to the Commission that he was surprised by its modified approach to the application. If non-explanation of the Commission’s changed approach was really such a startling omission, as Judge Robertson made it out to be in his Decision, then it is equally disturbing that the Judge neglected to raise it during the Bintumani appeal. Had the question been raised, Judge Robertson would have been referred to the extensive correspondence between the Commission and the Registrar, which amply illustrated the extent to which the Commission struggled to persuade the Court to permit confidential interviews with its detainees.¹⁷⁷ Indeed the Commission held back its applications for nearly a month (between 9 September and 4 October 2003) in the hope that the Court would permit confidential interviews. As it turned out, the Revised Practice Direction excluded confidentiality, let alone privacy, as a facet of interviews for which the Commission might apply.

¹⁷⁵ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 21.

¹⁷⁶ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 32.

¹⁷⁷ The Commission is satisfied that Judge Robertson had sight of all correspondence between the TRC and the Registrar, since it was confirmed by the Registrar that the TRC’s various submissions on the topic were forwarded to the President of the Court for his consideration. Indeed much of the original delay in the process was attributed to the difficulties in obtaining feedback from Judge Robertson due to the fact that he spent most of his time in London.

195. It was only after the Commission had exhausted all its avenues in this regard that it advised the Registrar that it would not jeopardise the rights of the detainees to a fair trial by engaging in interviews in which it could not guarantee confidentiality. It seems that the President of the Court was prepared to adopt a somewhat generous view of “confidentiality”. According to the Judge, the Revised Practice Direction provided “for a confidential process of receiving information.”¹⁷⁸ In fact it provided for an official from the Registrar’s office to monitor the interview within earshot.¹⁷⁹ In addition, the monitoring officer had authority to intervene should the questions stray off the approved subject areas. In effect it was envisaged that a Court representative would sit at the interview table. The entire interview would be tape recorded and lodged at the Registrar’s office. Parties to the proceedings could thereafter apply to the trial judge for the disclosure of the transcript “in the interests of justice”.¹⁸⁰ The view of Judge Robertson that these conditions made for a “confidential” interview was not shared by the Commission, nor by the detainees who had approached the TRC and their legal counsel.¹⁸¹
196. The Judge himself was not in fact wedded to his viewpoint – he conceded the lack of confidentiality some fourteen paragraphs later in his decision.¹⁸² The Judge was advised that perpetrators were more likely to make confessions in private sessions than public hearings. For this reason, in the Judge’s view, the content of private or confidential interviews between detainees and the Commission may very well have warranted attention from the prosecution:
- “... I am informed that it is rare for perpetrators, whether alleged or convicted, to use public hearings to make confessions: these are more likely to be forthcoming in private hearings. For that very reason, of course, private hearings cannot be fully immunised from prosecution scrutiny: the compromise adopted by this court is found in Practice Direction paragraph 4(c).”¹⁸³
197. Detainees were, on the face of it, offered the opportunity to talk freely and confidentially to the Commission. Indeed the Commission was urged to proceed with “confidential interviews”.¹⁸⁴ Judge Robertson, twice in his Decision, raised his consternation at the failure of the Commission to proceed down this road. What was not disclosed in advance was that any inkling of a frank conversation between the detainee and the Commission, especially one that entailed “confessing”, would result in “prosecution scrutiny”. If ever there was a “chalice” that was doubtlessly “poisoned”¹⁸⁵ it lay in the Special Court’s claim that it offered “confidential” interviews.

¹⁷⁸ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 23.

¹⁷⁹ See the Revised Practice Direction of 4 October 2003, at paragraph 7.

¹⁸⁰ See the Revised Practice Direction of 4 October 2003, at paragraphs 4(b) and 4(c). As noted above, the original version of the Practice Direction had provided for the immediate transmission of every interview transcript to the Prosecutor for use at trial.

¹⁸¹ Indeed legal counsel for Issa Sesay suggested a legal challenge on this very point.

¹⁸² See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 37.

¹⁸³ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 37.

¹⁸⁴ See the letter of the Registrar dated 17 October 2003 in which he expressed disappointment at the TRC’s decision not to make use of the Practice Direction for purposes of confidential hearings.

¹⁸⁵ See the reference to the ‘poisoned chalice’ by Judge Robertson at paragraph 17 of his Decision.

198. The Commission's undertaking, in consultation with legal counsel of the three detainees, not to employ the Practice Direction for the purposes of confidential interviews has been amply vindicated by the Robertson Decision.

Security Concerns

199. The learned Judge went to great lengths to highlight an apparent admission by the TRC legal team that a denial of Hinga Norman's right to testify before the Commission may "unleash powerful emotions" against the Special Court. Judge Robertson seized on this statement, suggesting that it "indicates that the prosecution concerns [on the security situation] may have some foundation".¹⁸⁶ Building on his extrapolation of the statement, Judge Robertson suggested that, in the circumstances, to allow "any accused to testify live-to-air, for several days in an uncontrolled environment, may be asking for unpredictable trouble".¹⁸⁷
200. Yet, the Judge proceeded in the very next paragraph of his Decision to contradict the alarmist conclusion he had just reached. Referring to written submissions he received from the Prosecutor after the Bintumani appeal, which dealt with the security situation and witness intimidation,¹⁸⁸ and which he "carefully considered", Judge Robertson stated:

"The prosecution again draws attention to the "fragile equilibrium" in the country and to the potential for destabilisation where the forces which the indictee commanded are still in active association and interested in securing his freedom, although there is no evidence that they intend doing so by unlawful means, much less that Chief Hinga Norman is likely to encourage such a course."¹⁸⁹

Underline added

The Bao Legal Team's Conditions

201. The Judge "had to remind" himself of the interests of the other detainees who were not represented at the hearing. Judge Robertson referred to several conditions put up by the legal representatives of Augustine Ato Bao, the other Special Court detainee whose application to appear before the Commission was heard by the Court:

"What strikes me is the extent and detail of the conditions upon which his [Mr. Bao's] testimony was offered to and apparently accepted by the TRC."¹⁹⁰

The conditions put up by the Bao legal team were prepared and submitted on a unilateral basis. The Bao legal team, in its appeal papers, attempted to limit the damage by averring that Judge Thompson had "erred in placing undue and misplaced emphasis" on the conditions in question.¹⁹¹ The Commission had at no point accepted, nor even "apparently accepted," the said conditions.

¹⁸⁶ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 26.

¹⁸⁷ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 26.

¹⁸⁸ See the Supplementary Submissions from the Prosecutor of the Special Court in the Appeal before the President of the Court; rendered in the form of a collection of memoranda, accompanied by a letter signed by the Prosecutor, David M. Crane, dated 11 November 2003.

¹⁸⁹ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 27.

¹⁹⁰ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 28.

¹⁹¹ *Grounds of Appeal by the Truth and Reconciliation Commission for Sierra Leone and Augustine Ato Bao against the Decision of His Lordship Judge Bankole Thompson delivered on 29 October 2003 to deny the TRC's Request to Conduct a Public Hearing with Augustine Ato Bao*; before Judge Geoffrey Robertson, The President of the Special Court, filed on 5 November 2003, at paragraph 5.

202. Judge Robertson made much of the conditions filed by the Bao legal team. He suggested that the prospects of litigation arising out of a TRC “hearing before the Bishop in the Special Court building” would be “endless.”¹⁹² He painted a picture of a litany of potentially damaging legal ramifications:

“This could lead to an application for an injunction in the Supreme Court of Sierra Leone, or an application before the Special Court for protective measures. Suppose counsel for Mr. Gbao takes exception to passages in the draft TRC report: will he apply on the basis of this agreement with the TRC to injunct it in the national courts, or seek a right to refute it, or apply for protective measures before the Trial Chamber? The prospects of litigation – and consequent diversions and delays to Special Court trial – are endless.”¹⁹³

203. Judge Robertson’s concerns were speculative and repetitive.¹⁹⁴ In South Africa and in Sierra Leone where detainees appeared before the Commission’s process on a voluntary basis there were no such legal consequences.¹⁹⁵

Judge Robertson’s “Discussion”

204. Under the “Discussion” section of his judgement, the Judge permitted himself a certain journalistic license in his characterisation of the proposed TRC hearing with Hinga Norman:

“A man in custody awaiting trial on very serious charges is to be paraded, in the very court where that trial will shortly be held, before a Bishop rather than a presiding judge... The event will have the appearance of a trial, at least the appearance of a sort of trial familiar with centuries past...”¹⁹⁶

Underline added

205. The Judge was hereby attempting to remind the reader that Bishops dispensed so-called “justice” in the most brutal manner in “centuries past”. By drawing the comparison, however, Judge Robertson contrives a highly inappropriate image that is diametrically opposed to the mode of proceedings before the Truth and Reconciliation Commission.
206. Other aspects of the Judge’s discussion lacked nuance and, in some instances, were simply wrong. For example, Judge Robertson suggested that unlike the South African TRC, the Commission:

“had to operate in a society where some major players in the war are indicted in the Special Court.”¹⁹⁷

¹⁹² See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 29.

¹⁹³ *Ibid.* Although Mr Bao is referred to as “Gbao” in Special Court papers, in his letter to the TRC dated 16 September 2003, signed under his hand, he reflected his name as “Augustine Ato Bao”.

¹⁹⁴ In respect of the injunction (before the national courts) and the protective measures (before Special Court) the Judge repeated himself on both points in the space of a paragraph.

¹⁹⁵ In South Africa the TRC experienced a great deal of litigation against it, but none of the kind imagined by Judge Robertson (in circumstances arising from the voluntary appearance of detainees before the TRC).

¹⁹⁶ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 30.

¹⁹⁷ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 35.

On the contrary, the South African TRC also operated in a society in which significant criminal trials were underway. Although these were trials conducted by national courts, certain of these trials involved players in the conflict who were more senior in rank and stature than those currently facing trial before Special Court.¹⁹⁸ These experiences ought to have provided a rich source of assistance for Judge Robertson.

The Thompson and Robertson Rulings Contrasted

207. The President of the Special Court described the ruling of Judge Bankole Thompson as a “carefully considered decision”, although he was at pains to point out that he was not “judicially reviewing” the reasoning of Judge Thompson. While paying due deference to the Trial Chamber Judge, it was clear from Judge Robertson’s brief assessment of the Thompson Decision that he saw himself as departing from it.¹⁹⁹ Nevertheless, Judge Robertson appeared to be at one with Judge Thompson’s central finding that the ambit of the Commission’s work could not extend to an indictee who has pleaded not guilty. Judge Thompson’s view was that the Commission was statutorily confined to dealing with perpetrators who were “willing to confess their guilt”. Upon this foundation, Judge Thompson ruled that since all the indictees had pleaded not guilty, they all fell outside of the ambit of the TRC Act.²⁰⁰
208. Judge Robertson view was slightly more nuanced. He maintained that the Thompson principle applied with particular reference to the Commission’s reconciliation activities.²⁰¹ Judge Robertson appeared to view reconciliation as little more than acts of confession and forgiveness between perpetrator and victim. His argument followed that an indictee who had pleaded not guilty could not confess; therefore the reconciliation process could not apply to the indictees – as all had pleaded not guilty. It appears that the learned Judge saw Commission hearings as having been devised largely in order to induce confessions, as opposed to being truth-telling exercises.²⁰² In justifying his sworn testimony “solution”, he stated:

“All that it [the Commission] is denied is a public hearing, an event more conducive to its reconciliation work (which cannot apply to indictees who plead not guilty) than its business of constructing an historical record.”²⁰³

There is some irony in the Judge’s assertion that “all that is denied is a public hearing”. That is all that the Commission asked for. The Commission does not share the learned Judge’s notions of reconciliation, nor his views on what TRC hearings are designed to achieve.

¹⁹⁸ In one trial, *S v Msane and 20 Others*, (Durban & Coastal Division, 1996) the former Minister of Defence, Magnus Malan, and the entire hierarchy of the South African military from the 1980s, including three Generals and a Vice-Admiral, faced charges of murder and conspiracy to murder arising from a massacre committed by a military-supported Inkatha Freedom Party hit squad.

¹⁹⁹ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraphs 9 to 11.

²⁰⁰ Thompson Decision on the Hinga Norman Request, at paragraph 12.

²⁰¹ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraphs 39 and 42.

²⁰² See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 37.

²⁰³ See the Decision of Judge Robertson on Appeal, 28 November 2003, at paragraph 42.

Judge Robertson's Justification for Refusing the Request

209. In the end, it was not the security risks;²⁰⁴ it was not the possibility that Hinga Norman would implicate himself or others;²⁰⁵ it was not the fact that Hinga Norman was an indictee; it was not the apparently unpredictable impact of a TRC hearing; nor was it the giving of evidence, which, in the view of Judge Robertson risked the integrity of the Court's process.²⁰⁶ It was rather the much-vaunted public character of the proposed hearing. To put it in Judge Robertson's words – it was the potential "spectacle" of the indictee being paraded before a Bishop. This spectacle would, according to Judge Robertson, appear as if it were convened to mete out justice. Moreover, it would look like it was administering that "justice" by reaching findings of fact: which was, according to Judge Robertson, the "special duty" of the Special Court.
210. It was upon little more than this misconstrued territorial concern that Justice Robertson denied Hinga Norman his right of self-expression and the right of the people of Sierra Leone to hear him in a public and transparent hearing.
211. The decisions handed down by Judge Bankole Thompson and Judge Geoffrey Robertson do not stand up to serious analysis. The Commission does not regard them as persuasive. The rulings constitute poor contributions to the development of transitional justice arrangements in post-conflict societies.

JUSTICE AND RECONCILIATION

212. Notwithstanding the ad-hoc manner in which the two institutions came into being they were expected to work side by side in order to unmask the truth. Judge Geoffrey Robertson, President of the Special Court, said as much when he presented his view of the task ahead in a Special Court publicity pamphlet. He also articulated his view that the Special Court has a primary role to play in achieving reconciliation, as it alone has the power to deliver justice, which is a prerequisite for reconciliation:

"Within the fallible parameters of human justice, with its fundamentals of due process, transparency and defence rights, we are charged to do our best to end the impunity that powerful perpetrators would otherwise enjoy. This much is owed to the memory of murdered victims, to maimed survivors and to those who grieve for them. It is a duty we share with another body, the Truth and Reconciliation Commission set up by the Sierra Leone government. We shall work together to uncover the truth, although the Court alone has the power to deliver the justice that is a prerequisite for reconciliation."²⁰⁷

²⁰⁴ The potential security risks were dismissed by Judge Robertson at paragraph 27 of his Decision.

²⁰⁵ If the possibility of a detainee incriminating himself had been a real concern, the Judge would not have permitted the detainees to give any testimony to the TRC, even in writing.

²⁰⁶ See Neil Boister; *Failing to get to the Heart of the Matter in Sierra Leone*; paper circulated in February 2004, publication pending at the time of writing.

²⁰⁷ See the Introduction to the brochure entitled *Special Court for Sierra Leone*, published by the Special Court in March 2003.

213. The achievement of “justice” may very well advance the cause of reconciliation. Whether it brings reconciliation in itself is debatable. Whether the kind of justice referred to by the Judge, namely the retributive justice pursued by the Special Court, is capable of producing national reconciliation is equally debatable. Confining the achievement of justice to retributive justice is a narrow interpretation of what justice has come to mean in recent times.
214. These debates aside, the Commission finds it somewhat incongruous that one complementary post-conflict body sets itself up as the primary body to achieve the stated aim of the other post-conflict body, namely the Truth and Reconciliation Commission. It is also incongruous to assert that the prerequisite for achieving reconciliation is to carry out a function that the other complementary body is not empowered to do; namely to prosecute offenders in a court of law.
215. If Justice Robertson’s proposition is correct then the achievement of reconciliation is presumably dependent on the “successful” outcome of the prosecutions before the Special Court.²⁰⁸ However, achieving justice and addressing impunity are difficult enough tasks. There are huge uncertainties inherent in criminal trials. Prosecutions fail as often as they succeed. To rest reconciliation on the successful outcome of a legal process is a risky endeavour. This point was made forcefully in a unanimous decision of the South African Constitutional Court in 1996. The applicants in the matter contested the denial of their rights to judicial redress under the amnesty provision of the truth and reconciliation process:

“Every decent human being must feel grave discomfort in living with a consequence which might allow the perpetrators of evil acts to walk the streets of this land with impunity, protected in their freedom by an amnesty immune from constitutional attack; but the circumstances in support of this course require carefully to be appreciated. Most of the acts of brutality and torture [that] have taken place have occurred during an era in which neither the laws which permitted the incarceration of persons or the investigation of crimes, nor the methods and the culture which informed such investigations, were easily open to public investigation, verification and correction. Much of what transpired in this shameful period is shrouded in secrecy and not easily capable of objective demonstration and proof. Loved ones have disappeared, sometimes mysteriously and most of them no longer survive to tell their tales. Others have had their freedom invaded, their dignity assaulted or their reputations tarnished by grossly unfair imputations hurled in the fire and the cross-fire of a deep and wounding conflict. The wicked and the innocent have often both been victims.

Secrecy and authoritarianism have concealed the truth in little crevices of obscurity in our history. Records are not easily accessible; witnesses are often unknown, dead, unavailable or unwilling. All that often effectively remains is the truth of wounded memories of loved ones sharing instinctive suspicions, deep and traumatising to the survivors but otherwise incapable of translating themselves into objective and corroborative evidence which could survive the rigours of the law.

²⁰⁸ It is unclear whether Judge Robertson’s proposition applies in respect of acquittals. Presumably it would apply so long as the outcome was “just”. Whether or not acquittals would lead to reconciliation is equally speculative.

The Act [that created the Truth and Reconciliation Commission] seeks to address this massive problem.

[...] The alternative to the grant of immunity from criminal prosecution of offenders is to keep intact the abstract right to such a prosecution for particular persons without the evidence to sustain the prosecution successfully, to continue to keep the dependants of such victims in many cases substantially ignorant about what precisely happened to their loved ones; to leave their yearning for the truth effectively unassuaged; to perpetuate their legitimate sense of resentment and grief...²⁰⁹

216. The difficulties in preparing successful criminal prosecutions in the circumstances described by the late Deputy President of the South African Constitutional Court are not that dissimilar to those prevailing in post-conflict Sierra Leone.
217. Judge Robertson's assertion of the power of the Court does not exclude other means of pursuing reconciliation, but his notion does not leave room for a lasting reconciliation to be built without resorting to criminal trials. Based on the practice of other countries, it does not appear to be accurate to say that criminal trials are a prerequisite for reconciliation. Mozambique, which experienced one of the bloodiest civil wars²¹⁰ in the second half of the twentieth century, enjoys a measure of reconciliation even though there were no criminal trials, or for that matter a truth and reconciliation commission. South Africa, which deprived many victims of judicial redress, through its "truth for amnesty" formula, also enjoys a measure of reconciliation notwithstanding its bitter and divided past.
218. Even assuming a 100% success rate in the Special Court's delivery of "justice", it remains an open question as to whether the Special Court's form of justice is capable of providing a basis for meaningful reconciliation. While the conviction and imprisonment of those ten odd individuals who are alleged to bear the greatest responsibility will go a long way in addressing impunity it is unclear whether it will be sufficient to give rise to national reconciliation.
219. The Commission, during the course of its mandate, deliberated extensively on the necessary ingredients for meaningful reconciliation. The Commission decided to place no preconditions for the realisation of reconciliation. The Commission did not even prescribe the telling of the truth as a prerequisite for reconciliation. Reconciliation is too precious a commodity for Sierra Leone. Reconciliation is an ongoing process that demands action and commitment on many different fronts.²¹¹

²⁰⁹ Judgement of Mahomed DP in *Azanian Peoples Organisation (AZAPO) and others v. President of the Republic of South Africa and others*; (CCT17/96) 1996 (8) BCLR 1015; 1996 (4) SA 672; [1996] ZACC 16 (25 July 1996), at paragraphs 17 and 18.

²¹⁰ In 1988, the US Deputy Secretary of State for African Affairs accused RENAMO of carrying out "one of the most brutal holocausts against human beings since World War II". (Reported in the *Natal Mercury*, 28 April 1988). A report published in 1988 by the US State Department's Bureau for Refugee Programmes held RENAMO responsible for the deaths of some 100, 000 civilians in Mozambique.

²¹¹ The Commission's understanding of reconciliation and the activities it has taken in pursuit thereof are presented in the chapter on Reconciliation later in Volume Three B of this report.

CONCLUSION

220. The TRC and the Special Court will undoubtedly make significant contributions towards peace and justice in Sierra Leone. Their contributions could have been immeasurably stronger had the two institutions shared something of a common vision of the basic goals of post-conflict transitional justice.
221. The two bodies were not created out of some concerted and coherent plan. Rather, they arose from two different initiatives that were themselves contradictory. The TRC grew out of the amnesty in the Lomé Peace Agreement, while the Special Court emerged subsequently out of the decision to withdraw the amnesty, at least with respect to a limited number of persons.
222. Prior to the commencement of operations of the two bodies, there were attempts to anticipate and address issues of co-operation and potential conflict, although the issue that ultimately led to major difficulties in the relationship between the two bodies, namely the appearance of detainees before the Commission, was never really anticipated.
223. The establishment of these transitional bodies working in parallel did not work optimally. The two institutions had little contact and when they intersected at the operational level, the relationship was a troubled one.²¹²

Harmonisation of Objectives

224. It is the view of the Commission that the practical problems that afflicted the “dual accountability” model stemmed from the creation of the two institutions separately from each another. These problems were compounded by the subsequent and mutual failure of the institutions to harmonise their objectives.
225. Having outlined the problems involved with the parallel operation of the two institutions the Commission does not hold that justice and truth bodies should never work simultaneously in the future. Indeed there may be good reason to have two such bodies working in tandem. However there is clearly a need for greater thinking and planning before such a strategy is adopted.
226. Much of the difficulty lies in the fact that the two mechanisms represent different approaches to addressing impunity. Operational difficulties are likely given that they also share many objectives: both seek truth about a conflict, although in different forms; both attempt to assign responsibilities for atrocities; both work with similar bodies of law; and both are aimed at establishing peace and preventing future conflict.
227. Ultimately where there is no harmonisation of objectives a criminal justice body will have largely punitive and retributive aims, whereas a truth and reconciliation body will have largely restorative and healing objectives. Where the two bodies operate simultaneously in an ad-hoc fashion, conflict between such objectives is likely. Confusion in the minds of the public is inevitable.

²¹² For the full findings of the Commission in relation to the different roles of the TRC and the Special Court see the Findings Chapter in Volume Two of this report.

228. Harmonisation of objectives means that neither body can operate in a manner that is oblivious of the other. It is highly incongruous for one body to engage in intensive truth seeking and reconciliation exercises involving former participants in the conflict, while another body is independently pursuing punitive actions against the same individuals. Harmonisation requires the developing of an operational model that permits the different objectives to be reached in a symbiotic manner.
229. Examples of where post-conflict societies have attempted to harmonise the objectives of post-conflict institutions include South Africa, East Timor and Peru. Different and nuanced operational models can be developed to suit particular circumstances.

Looking Ahead

230. It is likely that in the future there will be more truth commissions that work alongside international judicial bodies. This will particularly be the case as the International Criminal Court commences operations in different post-conflict countries. Future experiences of joint operations need not be troubled ones. Indeed the Commission is encouraged by the Rules of Procedure and Evidence of the International Criminal Court, which make provision for communications in the context of a class of "other confidential relationships" which are not subject to disclosure.²¹³ The confidential communications provided for in the TRC Act would most probably have been covered by this protection. Such a provision in the Sierra Leone context may very well have prevented much of the discord that emerged.
231. In future post-conflict societies there may be compelling reasons to justify the establishment of a body to bring truth and reconciliation. Alternatively there may be strong grounds to support the creation of a body to address impunity and bring retributive justice. There may even be good cause to have both such bodies working side by side.
232. The Commission makes no recommendation on which particular model ought to be adopted. This will naturally depend on the prevailing circumstances and a range of other factors. There ought however to be recognition from the outset that there is a primary objective shared by both organisations, namely that the processes of both institutions must ultimately lead to the goal of building lasting peace and stability. In the pursuit of this objective both bodies are equal partners. The Commission does make specific recommendations to apply in the event that the parallel option is employed and these are set out in the Recommendations chapter.²¹⁴

²¹³ See the International Criminal Court, Rules of Procedure and Evidence, U.N. Doc. PCNICC/2000/1/Add.1 (2000), at Rule 73(2), "Privileged communications and information".

²¹⁴ The Recommendations chapter can be found in Volume Two of this report.

A Right to Justice and a Right to Know the Truth

233. In the light of developments in post-conflict societies in the late twentieth and early twenty-first centuries in dealing with past human rights violations, there exists on the part of victims a right to know the truth. Truth Commissions have been established in several countries around the world to meet this recognised obligation. The Commission finds that there is considerable weight to the argument that establishing the “truth” is an essential component of the universally recognised “right to an effective remedy”.
234. The Commission also recognises that victims have a right to justice and to pursue this right through legal means. The reaching of justice is not always possible in societies devastated by years of civil strife. Most post-conflict societies do not have the capacity to deliver justice on war crimes or serious violations of human rights, let alone the capacity to attend to daily justice needs. In future post-conflict transitional justice arrangements the international community and national governments should seriously consider a major investment in the national justice systems of such societies. Such investment may take place in addition to or in the alternative to establishing international tribunals to investigate and prosecute violations of human rights. This option would be better suited to strengthening domestic skills and capacity. It would have a potentially lasting impact on local justice institutions.

Reaching the Truth and Addressing Impunity

235. Truth and Reconciliation Commissions represent one of the most viable means of securing a sustainable peace. Such commissions can strengthen the peace through the establishment of an impartial historical record of the conflict and the creation of a public understanding of the past that draws upon broad based participation.
233. It is only when the full truth (or as close to the full truth as possible) is placed squarely before the public that society can examine itself honestly and robustly. It is this cathartic exercise on the part of the nation that permits it to take genuine measures to prevent the repetition of the horrors of the past.

CHAPTER SEVEN

Reconciliation

TRC

**Truth for
Understanding.
Reconciliation
for our Future.**

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

CHAPTER SEVEN

Reconciliation

Introduction

1. The Truth and Reconciliation Commission (“TRC” or “the Commission”) was guided by various provisions of the Truth and Reconciliation Act 2000 (“the TRC Act”) in addressing the question of reconciliation.
2. Section 6 (1) of the TRC Act states that the Commission should strive, among its functions, “to respond to the needs of the victims... [and] to promote healing and reconciliation.”
3. Section 6 (2) of the TRC Act further states that the TRC must “work to help to 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”. The TRC should equally provide an opportunity “for perpetrators to relate their experiences”. In the same vein, it should try to create “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”.
4. Section 7 (2) of the TRC Act provides that “the Commission may seek assistance from traditional and religious leaders to facilitate its public sessions and in resolving local conflicts arising from past violations or abuses, in support of healing and reconciliation”.
5. This chapter will focus on the Commission’s activities to promote reconciliation and to create a space for dialogue between communities divided by the experiences of the war. The narrative will draw upon excerpts from hearings to illustrate how the different parties were encouraged to reconcile with one another in the course of the Commission’s work. These excerpts reflect the themes that underpin the TRC’s approach to reconciliation, which includes the acknowledgment of past wrongdoings and a programme of reparations.

Concepts

Reconciliation

6. The Commission began its work on the premise that there is no universal model of reconciliation that can apply to all countries. Reconciliation is not a concept that can be imported to a country from abroad. It has to emerge from within the society and be owned by that society. Bearing this in mind, the Commission recognises that the term “reconciliation” is a fluid concept which is not easily defined. In the paragraphs that follow, the Commission offers a conceptual framework of how it understood reconciliation and endeavoured to foster it through the processes it facilitated.

7. The Commission recognises that the notion of restorative justice offers the potential for reconciliation. Restorative justice is different from retributive justice in that a retributive system of justice seeks to punish perpetrators for the crimes they have committed, while it is accepted that restorative justice focuses on restoring relations, as far as possible, between victims and perpetrators and between perpetrators and the community to which they belong.¹
8. A restorative system of justice includes accountability, truth telling, acknowledgement, and reparations. Accountability requires that the perpetrator acknowledge the harm done to the victims and takes action to repair that harm.² Acknowledging harm may lead to an apology offered by the perpetrator. Apologies may be offered not only by the perpetrator, but by all those who bear command responsibility for such actions. Included in this category are those who pursued policies or actions that eventually led to a violation, those who failed to prevent the commission of a violation and those who knew about a violation and failed to take action against it. While the victim may voluntarily choose to forgive, the Commission is of the opinion that forgiveness by a victim is not a necessary element in this process and cannot be forced. The Commission also notes that an admission of remorse by the perpetrator cannot be forced. Remorse, while desirable, is not necessary for reconciliation to obtain.
9. The Commission focused on reparations as another element of restorative justice, which can be provided either in material or symbolic forms to redress the harm suffered by victims as a consequence of the violation and abuses they endured. The Commission took the view that the implementation of a reparations programme in Sierra Leone would be vital to the reconciliation process because it has the potential to assist those victims whose lives have been most devastated. The implementation of a reparations programme also helps to facilitate relations between victims and perpetrators.
10. Scores of victims voiced their concerns to the TRC at the fact that many perpetrators have been beneficiaries of government initiatives such as the Disarmament, Demobilisation, and Reintegration (DDR) programme, whereas there have been fewer programmes available to assist victims. A reparations programme has the potential to reduce the perception that the state has taken better care of perpetrators than of victims, which is important if victims and perpetrators are to reconcile with each other. The Commission feels strongly that a commitment by the government to the reparations programme will help to restore relations between the government and the victims of the conflict.
11. The fundamental aims of all of these measures must be, minimally: to give recognition to victims; to help create a culture of co-existence where victims and perpetrators reach a shared understanding of the future; and to promote relationships of civic trust between citizens themselves and between citizens and their institutions. Reconciliation furthers social solidarity and is essentially about finding the mechanisms and the space to live together peacefully and with tolerance of diversity.

¹ See Galaway, B. and Hudson, J.; "Restorative Justice: International Perspectives," at pages 2 - 3. See also Eisnaugle, C. J. N.; "*An International 'Truth Commission': Utilising Restorative Justice as an Alternative to Retribution*", in *Vanderbilt Journal of Transnational Law*, January 2003 (hereinafter "Eisnaugle, *Restorative Justice as an Alternative to Retribution*"), at page 2.

² See Eisnaugle, *Restorative Justice as an Alternative to Retribution*, at page 3.

12. The manner in which reconciliation should be facilitated has been the subject of much discourse throughout the TRC process. The Commission took the view that reconciliation has many components: national reconciliation; community reconciliation; and reconciliation between individuals, such as between victims and perpetrators at an inter-personal level. The Commission felt strongly that national reconciliation is a political process that begins with the negotiation of a cessation of hostilities and then leads to a peace process. A decisive move away from war is an important first step in the reconciliation process. Instituting measures that lead to democracy, establishing democratic institutions, building a culture of human rights and re-establishing the rule of law constitute steps that facilitate and deepen reconciliation at a political and national level. National reconciliation creates a context within which community reconciliation and individual reconciliation flourish.
13. The Commission felt strongly that it should support and pursue efforts to foster a climate of national reconciliation, as it creates potential conditions in which local actors can pursue reconciliation.³ At the same time, the Commission is of the opinion that, while the process should be launched at the national level, implementation needs to occur at the local level. Local actors should eventually take control of the process.⁴ If victims do not have any sense of what they can expect from the process or if they feel marginalised from the process, reconciliation will be difficult to foster.⁵ The Commission's mandate also required the assistance of local leaders to support the process of reconciliation. The Commission endorsed the view that national reconciliation must also be pursued in a complementary fashion at local level.
14. The Commission did not subscribe to any formula as to which level of reconciliation should first be pursued. The Commission believed strongly that for reconciliation to succeed at the national level, it is essential that the government and the President of the country own the process of reconciliation and create the structural conditions in which reconciliation is to occur. The government must play a key role in fostering and promoting dialogue among the various actors involved in the conflict as well as promoting a culture of tolerance. Efforts should be made for reconciliation processes to be inclusive of both victims and perpetrators, as both groups are integral parts of any long-term solution.

³ See the Institute for Democracy and Electoral Assistance (IDEA), "Reconciliation After Violent Conflict – A Hand Book", at page 25.

⁴ See Van der Merwe, H.; *"The Truth and Reconciliation Commission and Community Reconciliation: An Analysis of Competing Strategies and Conceptualisations"*, published by the Centre for the Study of Violence and Reconciliation, South Africa (hereinafter "Van der Merwe, *Competing Strategies and Conceptualisations*"), at page 9.

⁵ See Van der Merwe, *Competing Strategies and Conceptualisations*, at page 8.

National reconciliation

15. The cessation of hostilities and the return of the country to peace is the first step in the process of reconciliation. National reconciliation must be explored in this context. Truth Commissions in the last ten years have had to grapple with reconciliation in the context of negotiated transitions. In the past, there has usually been a victor who has been able to impose victor's justice. In recent conflicts, particularly those in modern times, there are no victors, as the case of Sierra Leone illustrates. Parties negotiate the end of a conflict, which usually involves a negotiated transfer of power, a government of national unity, and often an amnesty deal. Once the fighting stops, reconciliation entails a political compromise between former enemies who have to find ways of governing the country together and building a stable economy, which in turn facilitates political and socio-economic development.
16. Reconciliation in this national context must be translated meaningfully for the population. It requires that the leaders of the nation develop a common understanding of the diverse reasons for the conflict recognising that there is no single truth, but a many-sided truth. In most instances, particularly in recent times, truth commissions have been established to construct a historical truth of the conflict that all sides can live with.
17. National reconciliation also requires that the state and other stakeholders work towards ensuring the prevention of new conflict. Ensuring non-repetition of conflict requires eliminating those issues that have the potential to lead to conflict. It requires the restoration of the rule of law and democracy, the establishment of an independent judiciary, good governance, institutional reform and the opportunity to pursue the means to a decent livelihood. Political tolerance by the major political actors in Sierra Leone is another necessary ingredient. Political actors must learn to be aggressive about social and political change rather than towards each other. By doing so, they will help the country move one step forward along the path of national reconciliation.
18. National reconciliation is a long-term nation-building project, which the Commission facilitates but which ultimately must be owned by the nation. The TRC in Sierra Leone has acted as a catalyst in the process of national reconciliation by organising thematic hearings during which national stakeholders were invited to come to discuss the causes of the war and their particular roles. The Commission also organised workshops on national reconciliation and offered the opportunity to civil society, political parties, the legal sector and individuals to make recommendations that informed the content of the Commission's final report. The Commission is fully aware of fact that it may take many years to achieve fulfilment of all of its recommendations.
19. The Commission regrets that the leadership of Sierra Leone has not taken the opportunity to do more to promote reconciliation at the national level. Once the Commission completes its work, it dissolves and the baton passes on to the President who, as the leader of the nation, must take responsibility for this national project. It would be helpful if the President were to make a symbolic acknowledgement of the wrongs done to all the people of Sierra Leone and then commit himself as the father of the nation to ensuring the success of the reconciliation project. It is the Commission's view that the government will make a significant contribution towards fostering reconciliation at the national level as well as setting the stage for reconciliation to be carried out at community level if it ensures that the recommendations made by the Commission are carried out speedily and with integrity.

Community reconciliation

20. At the community level, reconciliation is fostered or facilitated by understanding and sharing experiences and by creating the conditions for community acceptance of wrongdoing. Return to the community by perpetrators involves accountability on the part of those perpetrators. The community, represented by the elders, religious leaders and Chiefs, acknowledge the wrongdoing symbolically on behalf of all in the community, thus allowing for the entry of the perpetrator back into the community. It is important to note that the community cannot forgive in the name of the individual wronged; it can only acknowledge the harm done to the community. The acknowledgement of wrongdoing helps pave the way for the victim and perpetrator to live together. The approval and support of the community in such a reconciliation process is necessary in order to make reconciliation sustainable.
21. Community reconciliation can occur on many levels, including individual-group level, intra-group level and inter-group level. At the individual-group level, individuals need to reconcile with the group they belong to or used to belong to or wish to belong to after the war. Reconciliation at this level can go beyond the immediate community to include family, the home community, the community where the individual has settled down after the conflict, the church community or peer groups. The Commission has actively encouraged this level of reconciliation, more specifically during the reconciliation ceremonies at the end of each of its district hearings. Many of these ceremonies focused on reconciliation between ex-combatants and the communities they currently live in. Others focussed on the reunification of abducted children with their families and communities, or on the reunification of a "bush wife" with her family, or that of a chief with the community that he or she had abandoned during the war. While reconciliation is about relationships between individuals, it must be emphasised that, in most instances, relationships are also defined and influenced by the communities to which individuals belong.
22. At the intra-group level, reconciliation is within a group and amongst the members of a group. While members of different fighting factions may try to reconcile with one another, there is also a need for combatants to reconcile with members of the same faction. For example, some members of a faction may feel betrayed by their commanders. Other examples of groups in which this level of reconciliation can take place are political parties, the military, the police, the judiciary and even ethnic groups.
23. Such intra-group reconciliation may also need to take place within groups where there are strong views that one or the other may have contributed indirectly to the war, or that not enough was done to prevent or stop the conflict. Different views on these roles may exist within the same group and need to be sorted out before reconciliation can take place. If reconciliation at this level fails, groups may split and even become sources of new conflict or a threat to the peace process. The Commission heard examples, both past and present, of such intra-group conflict during its thematic hearings. It is apparent that many groups, such as ex-combatants, have not dealt with their internal conflicts and have not begun to work on reconciliation. In this regard, a lot of important work remains to be done.

24. At the inter-group level, reconciliation is essentially between different, often opposing groups. An example is the integration of members of each of the various former armed factions into the reformed Sierra Leone Army. It may also involve reconciliation between specific groups of ex-combatants and victims, for instance, between amputees and the fighting faction that committed most of the amputations, or between the Army and civilians. It may also entail reconciliation between two neighbouring communities that collaborated with different factions during the war. This Commission has not completed its work in this area.
25. Community reconciliation, like national reconciliation, is a long-term nation-building project. The Commission was surprised by the number of complaints about the violations committed by many of the Chiefs during the conflict, for which they neither as a group nor individually expressed remorse or offered any explanation to their communities. In reality, while the Commission had to rely on the Chiefs as leaders of their communities and had to work closely with them, the Commission was cognisant of the fact that many chiefs have been discredited by their failure to explain the roles they played during the war. It is for this reason that the Commission has not felt entirely comfortable relying on traditional structures to help foster reconciliation. The reconciliation process must continue and traditional leadership will play an important role in this process. However, the Commission has recommended that the role of Chiefs and the manner in which they have been manipulated by successive governments must be placed on the national agenda for discussion, as it has huge potential for further conflict in the future.

Individual reconciliation

26. At the inter-personal level, reconciliation is between two individuals. The most obvious example is reconciliation between a victim and a perpetrator. The Commission has encouraged reconciliation efforts between victims and perpetrators both during and since its hearings. While war was fought between the various armed factions, civilians became the main casualties of the conflict. Many civilians were also compelled to turn perpetrators, unwillingly at first but later becoming complicit in the violence. The Commission also heard testimony that many civilians used the war to settle old conflicts with neighbours, business colleagues or other rivals.
27. At an individual level, victim and perpetrator meet. While some forgive, others don't. It is important to note that forgiveness cannot be forced upon anyone and that only the individual can forgive. No government or chief can forgive on behalf of the individual. Individual reconciliation is reflected on the inter-personal and intra-personal levels.
28. At the intra-personal level, reconciliation is deeply personal and involves coming to terms with the past and the consequences of the conflict. Reconciliation at this level is closely related to trauma healing. The Commission has defined trauma healing as a process that improves the psychological health of the individual following extensive violent conflict. The Commission is of the opinion that reconciling with oneself may help a victim or a perpetrator regain confidence and trust in other people again.

29. All of these levels of reconciliation are equally important and inter-related. Reconciliation at one level can facilitate reconciliation at another level. Conversely, the lack of reconciliation at one level can hamper reconciliation at another. The need for multi-layered reconciliation is a reality in Sierra Leone. In many instances, members of an armed faction do not agree amongst each other about acknowledgment of responsibility for violations and abuses committed by some of them. Such disagreement hampers reconciliation between the perpetrators of these violations and their victims. Many so-called “victim-perpetrators”, such as the children abducted to become child soldiers, block out the violations committed by them during the conflict period because they cannot deal with the trauma. Many remain in denial unless assisted by trained practitioners to deal with it. Inability to reconcile with oneself can make reconciliation with victims very difficult and, in some cases, almost impossible.
30. A huge problem for many victims is that their perpetrators remain nameless and faceless. Equally, many perpetrators do not know who their victims are. The mass-based nature of the conflict has the consequence that many violations remain “anonymous”. These situations make inter-personal healing very difficult and make the reconciliation processes that take place at the community level even more important. While many organisations and groups within Sierra Leone civil society have contributed to this process and continue to do so, achieving reconciliation will require a concerted effort from all.

TRC Policy on reconciliation

31. The Commission's policy on reconciliation is based on two central principles: first, the process of reconciliation should be based on the country's own culture, traditions and value system, which requires that traditional and religious leaders play a role in the process; second, existing structures need to be utilised as much as possible so as not to “reinvent the wheel”.

Traditional values and methods informing reconciliation

32. During the Interim phase of the Commission, the Office of the High Commissioner for Human Rights (OHCHR) contracted a local organisation, Manifesto 99, to conduct research on traditional methods of conflict resolution and reconciliation in Sierra Leone. While the report did not address all the issues the TRC had to deal with, it nonetheless provided a basis for the Commission's reconciliation policy. It covered the views of four ethnic groups on traditional practices on how to deal with conflict and reconciliation in relation to murder, burglary, arson, land, marital conflict, assault and injury.
33. The report confirmed that most Sierra Leoneans, irrespective of whether they follow the Muslim or Christian faith, still cling to traditional animist beliefs. It also confirmed that most of the ethnic groups have belief systems that promote truth telling and reconciliation. Truth telling, swearing or curse casting (or the threat of it) are essential elements of spiritual justice to encourage voluntary confession. The perpetrator can undergo cleansing or purification, or benefit directly from a pardon by society and thus be in peace with himself and with the community.
34. All of the various ethnic groups have their own traditional mechanisms of conflict resolution, which can be used to deal with many of the violations committed during the conflict. Of course, amputations and abductions were rarely heard of before the war. The nature and gravity of the conflict and the particular violations usually dictates the chosen method of conflict resolution.

However, in some instances, the mechanisms in place are in conflict with a culture of human rights and perpetuate a culture of violence. For instance, in the case of robbery, groups like the Mende, Kono, and Sherbro will dress the perpetrator in rags, molest him or her and compel the person to dance around the village. The perpetrator is often beaten up. However respectful of tradition the TRC wishes to be, the use of violence cannot be condoned or encouraged.

35. Where children are concerned, traditional mechanisms such as national cleansing ceremonies can be applied. Some traditions, however, are applied with less rigour.⁶ An example of how traditional methods could be used on the children was exhibited during the district workshop in Kabala. It was explained that children's bodies were covered with mud and ashes, after which they were taken to the river to be symbolically washed from their past.
36. Many aspects of traditional conflict resolution, such as mediation, purification, token appeasement and the willingness to show remorse, are in harmony with the objectives of the TRC policy and have been sustained by the Commission during its hearings and beyond.
37. Other violations, such as abductions, amputations, murder and arson, which are rare in the traditional context, are normally referred to the police, through the Paramount Chief or District Office. However, given the amnesty established by the Lomé Agreement, traditional methods can be adjusted and applied to those violations too, as a condition for the reintegration of ex-combatants.⁷ Reunification ceremonies all over the country testify that such methods are already being widely applied. Caritas Makeni used such methods during reunification ceremonies for abducted children, as recounted below:

“When Caritas Makeni reunified child ex-combatants with their families, the latter sought to “change the hearts” of their children through a combination of care, support and ritual action. Usually, the eldest member of the family prayed over a cup of water and rubbed it over the child's body (especially the head, feet, and chest), asking God and the ancestors to give the child a “cool heart,” a state of reconciliation and stability in which the child is settled in the home, has a proper relationship with family and community and is not troubled by nightmares and bad memories... Some parents then drank the consecrated water that had washed their child. The consecrated water now becomes the new physical bond between parent and child... some parents also offered kola nuts... Some parents, in addition, followed this up with liquid Quranic slate water... Others again made a “fol sara” to thank the ancestors and God, either dedicating a chicken and caring for it thereafter, or slaughtering and cooking it with rice as an offering to poor people, or to a Muslim ritual specialist to eat.”⁸

⁶ See Manifesto '99, *Traditional Methods of Conflict Management and Resolution*, study report submitted to the Office of the United Nations High Commissioner for Human Rights in support of the preparatory phase of the TRC, July 2002 (hereinafter “Manifesto '99, *Traditional Methods of Conflict Management and Resolution*”), at page 66. The research quoted here was taken from the following study: Shaw, R.; *Remembering to Forget* – “Report on local techniques of Healing and Reconciliation for Child Ex-combatants in Northern Sierra Leone”, Tufts University, USA, October 2002 (hereinafter “Shaw, *Remembering to Forget*”), at page 9.

⁷ See Manifesto '99, *Traditional Methods of Conflict Management and Resolution*, at page 62.

⁸ See Shaw, *Remembering to Forget*, at page 7.

38. Traditional methods of conflict resolution are not static. They are dynamic and are capable of being adapted to deal with the kinds of violations committed during the war in Sierra Leone.
39. Since reconciliation in Sierra Leone involves traditional values and beliefs, the reconciliation process cannot move forward without the participation of the religious and traditional leaders. Article 7(2) of the TRC Act explicitly refers to the assistance from traditional and religious leaders in facilitating reconciliation. The inter-faith community in Sierra Leone has played an important role in the negotiations for peace and is still one of the strongest support networks for people affected by the war. In view of the limited mandate of the TRC, partnerships with religious and traditional leaders have become all the more important. The dialogue that has started between various groups and the community can continue with the presence of these leaders. Traditional and religious leaders can help make reconciliation more sustainable.
40. Traditional and religious leaders were involved in all the activities of the Commission, including truth telling and conflict resolution sessions, sensitisation activities, statement taking, the hearings and the reconciliation initiatives. They were consulted as to where monuments and memorials should be established. Community members assisted in identifying the sites of mass graves and torture chambers. They will continue the follow-up exercise with witnesses and implement the reconciliation programme funded by the UNDP.

The Reliance on Existing Structures

41. The TRC Act envisaged a partnership between the Commission and other bodies in promoting reconciliation. The Commission relied on existing structures that were already involved in reconciliation activities. The TRC has been a catalyst in reconciliation by creating partnerships with key stakeholders within Sierra Leone civil society, including religious and traditional leaders, NGOs, victims, ex-combatants, official bodies such as the National Commission for Social Action (NaCSA), the Army and the police.
42. In many parts of the country, activities were undertaken by the Disarmament, Demobilisation and Reintegration (DDR) developed by NCDDR and NGOs helping communities come together and rebuild. UNICEF also played an instrumental role in reintegrating child combatants.
43. Many faith groups became entry points for the return of ex-combatants to their communities. While these efforts were not co-ordinated on a countrywide basis, it was necessary to build on the foundation they provided. The Commission sees itself as having opened a space for dialogue between divided groups and communities. It now behoves civil society, the government and other stakeholders to sustain the momentum created by the TRC process.
44. The Commission did not expect to reconcile the whole nation and has not been able to develop reconciliation activities in every village. To realise its mandate, it needed to ensure the sustainability as well as the national character of the reconciliation process. The Commission chose to develop joint reconciliation activities with various partners in order to allow civil society to continue the reconciliation process beyond the Commission's lifespan.

OVERVIEW OF TRC ACTIVITIES TOWARDS RECONCILIATION

45. The Commission's major efforts in respect of reconciliation centred on restoring relationships between various stakeholders. The Commission's efforts have mostly concentrated on facilitating the reconciliation process between:
a) victims and perpetrators, with each other and with the community; and
b) perpetrators with the community.
46. During the statement-taking phase, efforts were focussed on the sensitisation activities necessary to inform the public about the work of the Commission. TRC activities also targeted specific groups of victims and perpetrators for participation in the statement-taking process, as a prelude to reconciliation activities that might take place later on.
47. The district hearings provided the platform to address the issues affecting reconciliation in the each particular district. The hearings took place in the district headquarter towns and lasted for one week in each location. During the hearings, two kinds of reconciliation ceremonies were performed: those in which victims and perpetrators were brought together; and those in which only perpetrators begged the community for forgiveness. The ceremonies were the first step in the healing process rather than an achievement of reconciliation. Other activities during the hearings included the naming of victims who died during the conflict and the establishment of monuments and memorials in the town where the hearing was held, or at the site of a mass grave in the district.
48. The Commission organised a National Reconciliation Procession on 6 August 2003 to mark the end of its nationwide hearings. Participants included members from various political parties, the police, the Army, victim organisations, students and members of civil society. Representatives of the political parties and from the security services offered apologies for the roles their members played during the conflict. Other apologies were made during the thematic hearings held by the Commission.
48. Further work on reconciliation continued through workshops and consultations with civil society. These workshops and consultations brought together various stakeholders at both national and local levels to discuss the conditions necessary for reconciliation and the roles of the respective actors.
49. Lastly, careful provision was made for the continuation of reconciliation activities. District Reconciliation Committees were established in partnership with the Inter-Religious Council of Sierra Leone, in order to prolong and build upon the work of the Commission on reconciliation.

TRC



In an example of the first steps in the healing process at community level, former RUF Commander Abdulai Sesay appeals for forgiveness and reconciliation at a TRC public hearing in Tonkolili District.

PROCEDURAL GUIDELINES FOR RECONCILIATION ACTIVITIES

50. The TRC's reconciliation procedures began with the following step: the Commission encouraged chiefs, chiefdom committees and other local structures to hold community and other consultations before, during and after the public activities of the Commission. The Commission recommended that these consultations begin and that it did not necessarily require that people make statements before it. It was important that these consultations should identify the impediments to reconciliation in the community or district and the roles of various actors to move the process forward. The Commission was prepared to assist in furthering dialogue and to mediate in resolving whatever issues existed in the communities. The Commission recommended that the consultations at the local and other levels should culminate with perpetrators being encouraged, both by the chiefs and other community members, to acknowledge responsibility or guilt. It was the view of the Commission that the acknowledgment of past wrongdoing could foster reintegration. Finally, the Commission encouraged and organised reconciliation ceremonies with local and religious leaders officiating over the reintegration of perpetrators. The reconciliation ceremonies were the beginning of the journey to reconciliation. The dialogue that has started needs to be sustained until full reconciliation is achieved in the communities.

Support provided to TRC witnesses during the various reconciliation activities

51. The Commission established a set of guidelines for assisting witnesses who provided testimony before it. Assistance was provided to witnesses before, during and after the hearings, in the form of the following measures:

Witness support during the statement-taking phase:

- a. All statement-takers received training on gender-based violence, child development, human rights, trauma and the symptoms of trauma, as well as training on how to take statements from vulnerable groups such as victims of torture, victims of sexual violence and children. Statement-takers were also trained on how to interview ex-combatants and perpetrators without being judgmental.
- b. Statement takers were selected, among other criteria, for their ability to speak local languages, thus allowing the witnesses to speak in their own languages. The statement takers were all originally from the districts in which they worked.
- c. Witnesses were informed of the possibility of providing a confidential statement. The witness could ask that his or her name not be used in the report. In addition, each witness was asked whether he or she would wish to appear in a public or closed hearing.
- d. Female victims were interviewed by female statement-takers, in order for them to feel more comfortable and to speak more freely, especially if they were victims of sexual violence.

- e. Children were interviewed according to the Memorandum of Understanding worked out by the TRC with UNICEF and the Child Protection Agencies (CPAs). Measures included a vulnerability assessment of each child by a CPA representative before the interview took place.
- f. Interviews were conducted on a one-to-one basis. During sensitisation, people were informed where they could come and give a statement later, if they did not want to do so immediately after a sensitisation session.
- g. Regular review meetings were organised with the statement-takers, during which additional training was given. The statement-takers gave feedback on problems they had while interviewing particular categories of witnesses such as women, children and perpetrators.

Briefing of witnesses before the hearings:

- h. All witnesses received counselling by TRC staff prior to providing testimony before the Commission.
- i. Often the willingness of a perpetrator to confess was a result of one or more sessions with a counsellor. When a perpetrator refused to confess or gave erroneous information to the Commission, an additional session with counsellors and other staff, or a meeting with the community leaders, would sometimes lead to more genuine confessions as well as participation in the reconciliation ceremonies.
- j. Special attention was paid to the briefing of children and the victims of sexual violence.

Witness support during the hearings:

- k. Before the beginning of the hearings phase, Commissioners and staff received training on trauma and the symptoms of trauma and on interview techniques.
- l. A counsellor sat next to every witness during his or her testimony, to encourage or console the witness and to provide any other support needed.
- m. All witnesses were permitted to come with a family member or friend, albeit that only a few witnesses used this opportunity.
- n. All children were heard during closed hearings, according to a Memorandum of Understanding, as mentioned previously, with UNICEF and Child Protection Agencies. On some occasions, children were accompanied by a representative of a CPA, or by a parent.
- o. Victims of sexual violence were given the choice between a public hearing or a closed hearing with only female Commissioners and staff. They were properly briefed about the possible consequences of a public hearing. Depending on the district, most women preferred a closed hearing, but in some locations, women insisted on giving a public statement. Some were even accompanied by their husbands.

- p. All victims testifying during closed hearings were filmed in a way that concealed their identity. Some of these testimonies were used in a compilation of testimonies that was shown during the thematic hearings on women and children.
- q. All witnesses were allowed to talk in their language of preference and were provided with interpreters who spoke their language.
- r. During all of the hearings, Red Cross volunteers and a nurse from the government hospital were present to assist witnesses and members of the public, based on a Memorandum of Understanding agreed upon with the Red Cross and the Ministry of Health.
- s. All witnesses were debriefed immediately after the hearings and before going home.

Referral to NGOs:

- t. The Commission tried to create an atmosphere and conditions under which witnesses would not only be encouraged to speak freely, but also to feel liberated after the hearings. If a witness required urgent assistance to address their needs as a consequence of a violation committed during the war, the Commission established a referral system with a number of NGOs in Freetown and in the provinces.
- u. On many occasions, referrals were made for medical care, skills training, education, micro-credit, psychosocial counselling, provision of artificial limbs, etc. Witnesses received a referral letter and were, wherever possible, accompanied by a TRC staff member or volunteer for their first visit.
- v. For some victims of sexual violence who continued to suffer from serious physical consequences, transport to the nearest town or even to Freetown was organised so that they could seek medical treatment. Medication was purchased for some of the most needy victims.

Follow-up on witnesses after hearings:

- w. After the hearings, the Commission organised follow-up visits to the witnesses in order to evaluate the impact of their participation in reconciliation activities. The Commission ensured that, where possible, the visits were undertaken by the same counsellors who had assisted the witnesses during the hearings, in order to preserve the relationship of confidence that had already been developed.
- x. The TRC counsellors received important assistance from the traditional and religious leaders during their follow-up visits.
- y. A questionnaire was provided to check if the hearing had a positive or negative impact on the witness, his or her family, and the community, or if he or she received any threats. This exercise commenced on 17 June 2003 and continued for one month in the Western Area, and from 14 October to 2 December 2003 in the districts. Although 403 witnesses testified during the hearings, follow-up visits were conducted with 266 victims. Reasons for not reaching some witnesses included bad road conditions, the death of witnesses, time constraints and the inability to locate witnesses because they had moved.

TRC



TRC Commissioners Sylvanus Torto (left), Bishop J. C. Humper (centre) and Professor John Kamara (right) attend a ceremony at Freetown Central Mosque to pray for reconciliation and the success of the Commission after their inauguration on 5 July 2002.

Sensitisation activities

52. During the preparatory phase, the TRC promoted the idea of reconciliation and truth telling through sensitisation activities in Freetown and in the districts. The Commission made extensive use of media outlets such as the radio and television and conducted grassroots activities in order to explain the work of the Commission and to promote the concepts of truth-telling and reconciliation. All of these sensitisation activities continued during the statement-taking phase of the Commission. Every visit to a chiefdom started with a meeting with local and religious leaders as well as a sensitisation session with the local population.

Emphasising the participation of specific groups

53. The Commission recognised that the reconciliation process could not take place without the participation of important stakeholders such as perpetrators and victims. Therefore, special efforts were made by the Commission to reach out to those stakeholders who were initially reluctant to cooperate with the Commission. The Amputee and War Wounded Associations were amongst those stakeholders initially refusing to participate in the TRC process.
54. In a press statement issued by the Amputees and the War Wounded Associations, it was clear that the victims belonging to either one of these two groups would not provide statements to the Commission unless the government acknowledged their plight and took proactive steps to improve their well-being. As the press statement indicated:

“...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 law for better care for amputees. Otherwise, we are not prepared to talk to the TRC.”

Following a list of demands that included free housing, a monthly allowance, free education for their children and medical treatment, the statement ended:

“Finally, if these problems are not addressed, no amputee will appear before the Commission.”

55. To address the problem, several meetings were facilitated between the Amputee Association, senior staff members of the Commission, by Mr. John Caulker, the Coordinator of the Truth and Reconciliation Working Group. At the meetings, the Commission explained that it did not have a budget of its own to fulfil any of the demands made by the amputees but that the mandate calls upon it to make recommendations on reparations. It was also explained to the amputees that their participation in the TRC process would give them a forum to explain their plight, which would assist the Commission in formulating recommendations on reparations.
56. The meetings resulted in a full agreement between the Amputee Association and the Commission on 15 March 2003 to participate in all of the Commission's processes. Statement-taking took place at the amputee camp in Freetown on 19 March 2003 and a joint sensitisation campaign by the TRC and representatives of the Amputee Association took place from 3 to 6 April 2003 in Bo, Kenema, Kono, Makeni and Masiaka.

57. During the sensitisation campaign, many issues were raised by the amputees and war wounded. Aside from their requests for assistance in the area of social services, some participants expressed concerns about their safety. Many feared retaliation by perpetrators who lived in their community or by members of the Republic of Sierra Leone Army (SLA) if they accused them in their testimony to the Commission.
58. In the end, the Amputee and the War-Wounded Associations participated in the thematic hearings on reparations and reconciliation. Both sets of organisations actively participated in other TRC-organised activities such as the National Reconciliation Procession on 6 August 2003, the district workshops on reconciliation, and the workshop on National Reconciliation.
59. The Commission also recognised the important role that ex-combatants played in the reconciliation process and, therefore, made a concerted effort to involve them in the activities of the Commission. In the initial stages of the statement-taking phase, the Commission took notice of the fact that very few statements were being provided by perpetrators. To increase their participation, the Commission worked with the Post Conflict Reintegration Initiative for Development and Empowerment (PRIDE), an NGO that sensitises ex-combatants on the workings of the TRC and the Special Court. The initial reluctance of the ex-combatants to cooperate with the TRC stemmed from the fact that many of them were afraid that the TRC would pass on information to the Special Court. Following the sensitisation, many ex-combatants came to testify at several of the Commission hearings in the district. In addition, the RUF, the political party that is considered to be the successor of the RUF, actively participated in the thematic hearings as well as other reconciliation activities such as the National Reconciliation Procession and the workshop on National Reconciliation.
60. To address the low level of participation in the Commission process by members of the Republic of Sierra Leone Army, the Commission in collaboration with the Campaign for Good Governance (CGG) organised awareness raising campaigns in March 2003 in various military formations across the country. Various media outlets such as the radio were also used to reach those in the army in hopes that they would provide statements to the Commission. Although the Commission obtained the full cooperation of the RSL Army authorities, the number of statements by the military remained small. However, some members of the military testified during the hearings phase, either as victims or as perpetrators, and some were reconciled with their victims following their testimony. Additionally, the members of the military actively participated in the thematic hearings of the Commission as well as in the National Reconciliation Procession.

RECONCILIATION BETWEEN VICTIMS AND PERPETRATORS

61. The Commission made a concerted effort to bring together those victims and perpetrators who were willing to participate in the process of reconciliation. If a witness confessed during the hearing that he had committed a violation, or if a victim named the alleged perpetrator, efforts were made to find the other party. Based on the information provided by the victims, the Commission invited alleged perpetrators to respond to the allegations made against them. Where a perpetrator was named and he or she was present at the hearings, the Commission allowed them to present their own sides of the story during the same hearings. In other cases, victims and perpetrators were brought together at their own request. Based on a random sampling of 300 statements from the Commission's database, it was determined that 88% of victims were willing to meet with their perpetrators. With regard to perpetrators, approximately 81% were willing to meet with their victims.
62. If a perpetrator asked for forgiveness and the victim accepted, this was publicly confirmed by both of them and a traditional reconciliation ceremony organised by the Commission. Based on the same sampling of statements from the Commission's database, many perpetrators were willing to acknowledge the wrongs they had committed against their victims. Approximately 31% of the statement-givers responded that they would be willing to accept responsibility and offer an apology and 20% of the statement-givers responded that they would be willing to participate in rebuilding their communities. None of the statement-givers, however, was willing to pay reparations to his or her victims.

Reconciliation Ceremonies

63. Many reconciliation ceremonies were organised during the course of TRC hearings. The ceremonies took place with the consent of the victims and perpetrators and with the full participation of traditional and religious leaders, as well as their respective communities.

Hearing in Moyamba District – 13 June 2003

64. The following incident took place at a TRC public hearing in Moyamba District on 13 June 2003. Alpha Mohamed related to the Commission how his son, who was a member of the Kamajors, had been killed by the RUF rebels. Mr. Mohamed claimed that the death of his son was the result of a retaliatory act committed by M'Balu Boryawah (also referred to as Mamie M'Balu), a woman who claims she was mistreated by the Kamajors. Mr. Mohamed explained in his testimony that when his son was shot, Mamie M'Balu saw him and promised to inform his colleagues about his predicament. Instead, she led the RUF rebels to him and he was subsequently killed by the rebels. Mamie M'Balu initially denied the role she had played in the death of Mr. Mohamed's son. She then had a change of heart and begged Mr. Mohamed for his forgiveness and even offered him money as a sign of her remorse. The offer of money was refused by Mr. Mohamed. The Commission then inquired into Mr. Mohamed's willingness to reconcile with Mamie M'Balu. The Commission succeeded in finding Mamie M'Balu and bringing her to the hearing. An excerpt from the hearing is reproduced on the opposite page:

Leader of Evidence: I want to ask if you are willing to reconcile with the witness that is about to come.

Alpha Mohamed: I cannot say I will not agree because the Lord said that if you do not forgive, He - the Lord - will not forgive your deeds. If she gives me money, it would not be equivalent to my son's live. Therefore, I have no alternative but to accept reconciliation.

Comm. Marcus-Jones: During the war so many unforeseen things happened. People take up different causes and they believe in what they are doing. The Kamajors had one opinion and the other parties had a different opinion. That is war and innocent people like you suffer, but I am happy that you believe in God and for the progress of country you are ready to reconcile. We will not say more now until we come to the ceremony to make peace, we want you to wait. We would like to hear Mrs. M'Balu herself.

65. The previous day, the Commission had heard another witness, John Bullie, also accused Mamie M'Balu of collaborating with the RUF rebels and providing them with the plans of the Kamajors. Mr. Bullie was also asked by the Commission if he wanted to reconcile with Mamie M'Balu:

Commissioner Torto: This lady you mentioned, whom you said you saw with the rebels, if we should talk to her family will you be willing to reconcile with them?

John Bullie: Yes, I am willing to do so.

66. The Commission then invited Mamie M'Balu to testify. She explained that she suffered because of the Kamajors and that her husband had been killed. She also denied being responsible for the death of Mr. Mohamed's son and having asked him for forgiveness. Commissioner Marcus-Jones then responded:

Comm. Marcus-Jones: Each of you suffered during the war. There must have been some misunderstanding somewhere. The two witnesses that testified immediately before you are blaming you for their misfortunes. We have heard all your stories and one thing that is clear is that you all suffered. You lost close relatives; you are carrying scars on your body because of what you went through. The Commission is not ordering or commanding you, but having heard your testimonies, the Commission is saying that you - for the good of the country - reconcile and put the past behind you. The two other witnesses we listened to - Mohamed and Bullie - are ready to reconcile. We have to go through time and years. We want to know whether you are ready to reconcile.

Mamie M'Balu: I agree that the Commission facilitates reconciliation between and among us.

67. The Commission subsequently organised a reconciliation ceremony for all the parties involved in the Moyamba hearing, which consisted of several symbolic acts. The three participants were first asked to write down their grievances on a piece of paper. They then had to tear this piece of paper. The act of tearing symbolised the fact that they had put behind them whatever grievances they had towards each other and that they were willing to live together. Those pieces of paper were later burnt on the floor. Later a kola-nut was shared among them, as a symbol of unity and of peaceful co-existence. A paramount chief then gave them a glass of water that all three had to drink from. The rest of the water was poured onto the floor and later rubbed onto people's chests. In the end, there were handshakes and the ceremony was concluded with a big, collective hug. This ceremony was watched over by three hundred people. The family members of the three people, community youths, women groups, and elders all participated in the ceremony. The Commission was honoured all throughout Moyamba for this particular reconciliation ceremony.
68. During the witness follow-up visit to Mr. Alpha Mohamed on 24 October 2003, approximately four months after the original reconciliation ceremony, Mr. Mohamed expressed his gratitude that the Commission had convinced Mamie M'Balu to apologise to him. He mentioned that they now have a cordial friendship and that they have since become friends.
69. Upon a separate follow-up visit to John Bullie, he mentioned that his relationship with Mamie M'Balu had improved significantly and that she even pays him visits from time to time. He did, however, mention his disappointment at the fact that the Kamajors did not receive the acknowledgement they deserved for their contribution in helping to stop the war.
70. On a follow-up visit to Mamie M'Balu, she expressed her satisfaction with the results of the reconciliation ceremony. Nonetheless, she expressed a desire to receive financial assistance since her husband had been killed and she had no other means to support herself and her family.

Reconciliation meeting in Freetown – 4 November 2003

71. In many cases, victims expressed the desire to meet with their perpetrators. One such "reconciliation meeting" took place in Freetown on 4 November 2003.
72. Gibrill Sesay, Shekuba Kuyateh, Ibrahim Fofanah, Mohamed Bah III, Alpha Kanu and Mohamed S. Kamara all had one or more of their limbs amputated in 1998 in the Kono District. They accused a certain sergeant in the Sierra Leone Armed Forces by the name of Alhaji Baryoh, alias Staff Alhaji, of orchestrating the amputations. The paramount concern of the amputees was that the sergeant acknowledged the wrong that was done to them. The Commission's staff, with the co-operation of the Sierra Leone Army, organised several meetings with both the victims and the alleged perpetrator. At first the meetings were held separately, but then the victims and perpetrator met together. The meetings eventually led to a half-hearted apology by the perpetrator, followed by a reconciliation ceremony. An excerpt from the encounter is reproduced on the opposite page:

Sergeant Alhaji Baryoh: My name is Sgt. Alhaji, good day Sir, good day Madam. My brothers said my men during the war did this amputation to them, so they have been finding a way for us to sit and discuss. So today we are here and have asked them for forgiveness, so that's all Sir.

Gibril Sesay (victim): ... On behalf of the amputees, I want to express my thanks to the TRC for bringing our perpetrator, who is Sergeant Alhaji Baryoh, to make peace between him and ourselves, and we say thanks to God that he was brave to accept. On behalf of the amputees wronged by this man, we have reflected and concluded that he is our brother; we are unable to push him too far. For the sake of peace so that this will never occur again in Sierra Leone, we have forgiven him so that he will be able to get a freedom of movement, so that his conscience will be clear. The TRC has been able to bring us together for the sake of reconciliation between him and us. We thank the TRC for bringing him forward to reconcile with us, we cannot throw him away, he is our brother, as he has said he is sorry, that is what the TRC is here to do, to ensure that two brothers are brought back together. Let the man still continue to play a big role to ensure that our hearts continue to be pleased with him. Although now we are satisfied today, we say thanks to him for coming forward and answering for his wrongs, we say thanks to the Commission and the country entirely.

Comm. Marcus-Jones: We have heard about Staff Alhaji in the statements made to us and we are pleased about what he said just now. He said his men were supposed to have committed violations, I don't know what he is saying about himself, how much he is involved and whether the violations were done under his orders. Maybe he would want to say a little more about it, and I am going to give him the opportunity to say something.

Sergeant Alhaji Baryoh: I don't have anything to say more. I am still begging pardon to them.

Comm. Marcus-Jones: You have apologised to them.

Sergeant Alhaji Baryoh: Yes, Madam.

Comm. Marcus-Jones: From what he has said, you've accepted his apology? And are ready to go on?

Victims: If he accepts that he did it to some of us.

Sergeant Alhaji Baryoh: I gave the orders to my boys to do the amputation. Since we are here, I'm still begging for forgiveness.

Comm. Marcus-Jones: Ah! That is very clear; you have acknowledged your violation. Now that you are brought back and reintegrated, I am sure that you will turn a new page and be ready to work together in peace.

Sergeant Alhaji Baryoh: Yes, Madam.

Hearing in Freetown – 14 April 2003

73. In some cases, the Commission heard testimonies from victims who were willing to forgive their perpetrator without wanting to meet with their perpetrator. The following example is drawn from the testimony of Tamba Finnoh, who testified at a public hearing in Freetown on 14 April 2003.
74. In the testimony provided by Mr. Finnoh during the public hearing, he described his experiences in the Kono District. He recounted to the Commission how he and others were lined up and had their hands amputated one by one. According to Mr. Finnoh, his right hand was “chopped off” by a child combatant who was between the ages of fourteen and seventeen. He further described the difficulties he had encountered in trying to seek medical help. Mr. Finnoh finally reached an ECOMOG base where he was put on a helicopter flight to Freetown and, upon arrival, he was taken to Connaught Hospital for treatment. Unfortunately nothing could be done to save his right hand. Immediately after his testimony, the Chairman of the Commission, Bishop Humper, engaged in the following exchange with Tamba Finnoh:

Chairman: Do you know anything about the perpetrator and would you be ready to meet with him and reconcile?

Tamba Finnoh: the individual is in Kono and the last time I was in Kono, my nephew told me that they had wanted to attack him but I told him not to. I am a pastor and the word of God tells me that vengeance is the Lord's, not me, so I told them to leave him alone. He is still there.

Chairman: Would you want to invite him so that the two of you can meet together?

Tamba Finnoh: ...Actually, no... the cardinal principle of my religion is forgiveness, because I myself am a sinner, everyday, by thought, by words, and by actions... we forgive people who ask for forgiveness but that is for their own good, we also forgive those who have offended us even when they do not ask for forgiveness from us for our own good. With me, I have put that behind my back... But in terms of reconciling with that man, except that he is afraid of me, I don't have any problem with him.

Potential for Reparations to Foster Reconciliation between Victims and Perpetrators

75. Victims often expressed their discontent over the implementation of government-led initiatives, such as the DDR programme, for offering inordinate levels of reintegration assistance to perpetrators. As a result of human rights violations committed against victims, many are in urgent need of assistance. Reparations for these victims would serve as the catalyst to help restore the relationship between victims and perpetrators. It would contribute to the sustainability of reconciliation between victims and perpetrators.

Hearing in Freetown – 25 April 2003

76. The testimony of Kadiatu Fofanah at a TRC public hearing in Freetown on 25 April 2003 was pertinent to this point. Kadiatu Fofanah testified about the rebel attack on Freetown and how they amputated her legs. Her husband left her and her house was burnt down. She received help from several international organisations and now she lives as an amputee in the Murray Town Camp. She has engaged in petty trading as a means of generating a modest livelihood. An excerpt from her testimony is reproduced below:

Kadiatu Fofanah: I have now got my house, my toilet, some people are helping my children and that is why I say I am ready to forgive.

At the end of her testimony, Commissioner Kamara asked her whether she had any recommendations to make to the Commission:

Commissioner Kamara: We are happy about the successes you have made unlike some of your colleagues. I would like to ask you any questions or make recommendations to this Commission.

Kadiatu Fofanah: I want to ask a question on behalf of the amputees. What should we do to cater out hospital and medical needs? We would not like you to leave the entire burden to use for taking care of our children. Ibrahim (her youngest son) always said that he will retaliate in the future. We are appealing to the government not to neglect the children of the amputees. We, who are sitting on wheel chairs, must be supplied proper wheel chairs; we have seen wheel chairs in Europe which can take you to a long distance without being pushed. We have requested for a bus but they refused to give us... So you please help us, so that we can forgive with all our hearts.

Reconciling victims, perpetrators and their communities in Bonthe District – 9 July 2003

77. While the TRC supported reconciliation meetings between victims and perpetrators, it endeavoured to ensure that the reconciliation process was supported and accepted by the community. Since reconciliation is a process, participation in a ceremony is just a first step. The community's support is required to make it sustainable. The example below is drawn from the hearings that took place in the Bonthe District from 6 to 9 July 2003. The Commission facilitated reconciliation between an elderly victim, Alhaji Noah Abdul Wahab (known as Mr. Noah), who was accused of trying to imitate the amulets of the Kamajor fighters, and his perpetrator, Lamin Sadiki, a member of the Kamajors. During his testimony, Mr. Noah recounted the story of how he was beaten up by the Kamajors and had his ear nearly cut off by Mr. Sadiki. At the request of the TRC, Mr. Sadiki appeared at the hearing and told his side of the story.

78. Mr. Sadiki recalled how he was summoned by his Commander to a meeting at which they had invited Mr. Noah to come and explain his actions and why he was trying to imitate the amulets of the Kamajors:

Lamin Sidiki:

While I was there, Abdul Noah denied the thing, he said, "Well, I wouldn't do such a thing". He [the Commander] said, "well, I believe it is your doing, don't deny it." Then he started flogging Mr. Noah. While he was flogging the man... I had a knife in my hand and cut part of his ear... When he prayed that brief prayer in Allah, calling Allah's name... it made me feel bad and I left. It took me two days, I couldn't go back to Mosande because of that act that I did... I am begging that Pa Noah forgives me.

79. Mr. Sadiki begged Mr. Noah for his forgiveness by lying down on the floor. Mr. Noah stated that the accusations made against him were false but he accepted the apology by putting his hand on Mr. Sadiki's head. The Commissioners then invited the community elders to respond and Mr. Minnoh, a traditional leader, reacted on their behalf:

Mr. Minnoh:

This is what we have been looking out for. All the assembly of people here from different parts of the district, coming here to listen, this is what we have been seeking. God, who has created all of us, this is what He looks forward to. When you do wrong to anybody, don't go to any Juju man, don't go to any medicine man. The person whom you have wronged, go straight to him. This is what God requires of us. If you have wronged God, you go straight to God, God will accept you but if you wrong your fellow human being and you leave him and go to God, God will not accept you. What this man has done between him and Kamor, I believe God would answer him... because he has spoken the truth, God will set him free. I am thanking the Commissioners very, very much because you know how to investigate matters. Many God help you to continue. I thank you all.

TRC



In an example of its efforts to encourage healing on an inter-personal level, the Commission facilitated reconciliation between Kosseh Hindowa (right), a former CDF Administrator in Bo District, and one of the families who had suffered violations at the hands of the CDF in the district.

RECONCILIATION BETWEEN PERPETRATORS AND THEIR COMMUNITIES

80. When a perpetrator confessed to violations committed elsewhere or when the victim could not be found, the reconciliation ceremonies organised by the Commission focused on reconciliation between the perpetrator and his community. In many districts, the community had rejected perceived perpetrators because of their membership of armed factions, even though they had not committed any violations in that community. In these instances the perpetrators would ask the community to forgive them and to accept them back as full members of the community. Traditional and religious leaders would usually grant reintegration into the community. The participation of women representatives in some cases was particularly important when the perpetrator confessed to having committed acts of sexual violence.

Hearing in Moyamba District – 10 June 2003

81. The following example is drawn from the district hearings that took place in Moyamba District on 10 June 2003.
82. Samuel George, a teacher at Bauya, recounted his story of how he was abducted by the RUF rebels. While travelling with the rebels for almost three years, he confessed to having killed, attacked villages, looted from civilians, taken drugs and committed raped. He claimed that his actions were committed under duress. At the end of his testimony, Samuel George asked the Commission and his community for forgiveness:

Samuel George: All what I did was not my doing... all is the wish of God. I ask the Paramount Chief to forgive me and accept me into the community. I was not a bad man when I taught for twenty years. I ask the Commission to forgive me.

83. The Commission then proceeded to a reconciliation ceremony, which was attended by religious and traditional leaders, the principal and pupils of the schools in the township and local authorities, all of whom made a contribution. Excerpts of various contributions to the TRC reconciliation ceremony involving Samuel George are reproduced below:

Comm. Marcus-Jones: He is an educated man, and a teacher. He tried to be reintegrated. He is traumatised and he needs people to accept him back so that he'll be useful in the community. We appreciate the fact that you are here. Let them accept him again in the society.

[Interlude for communal prayers]

Paramount Chief: Thank you for what you have done. We have heard it... we'll tell our people. Nobody in his right mind will do such things... It was your life-saving matter. You went through a lot. God said we should forgive each other. For peace to be established we need things like this...

Chief of Police: You have been blessed and we empathised with you... It will be nice if you stand by your repentance. As from today you are free in conscience. I advise that you continue to be clean... if you would do it again, we would not tolerate it. The law would take its course. As from now on, I ask that you do nothing again.

Principal of School: I talk as a teacher and a woman. We suffered a lot. Some of you have gang-raped. We gave birth to you but when you did this you did not think of it. The day of reckoning will come and it's here. I am happy that you confess to rape even if you don't know the number... You are a man and have children. I pray that you don't do it again... This is a noble profession. Because of the war, teachers are not coming to teach in the provinces. I pray that with what has happened, the Sierra Leonean community will know that the war is over. On behalf of the teachers of Moyamba, I accept your apologies and we pray you will join us.

Samuel George: Paramount Chiefs, Commissioners, Religious Leaders, My People, School-Going Children, I have done wrong against my wish. I have burnt... I have killed. I have done so many wrong things that are against the nation through force, I didn't do it willingly. I did it against my wish. I raped, under duress. So, I am begging you for mercy. Accept me once again in your community as your son.

Representative of Elders: ... When war has come, it has come. There was no sense in us, no power in us. If you fell and you are captured, you will do things that they want you to do. He has done so many things that a human being cannot do under normal circumstances... It was the war; now the war has ended.

The traditional and religious leaders then placed their hands over Samuel George's head, symbolising his acceptance back into the community.

84. During a follow-up visit by a TRC counsellor on 23 October 2003, Samuel George expressed his satisfaction over the outcome of the hearing and declared that people have begun to accept him back into the community.

Hearing in Bonthe District – 10 July 2003

85. The following example is drawn from the hearings in the Bonthe District on 10 July 2003. Ansu Koroma testified before the Commission that he had been abducted by the RUF when he was a young boy and held for approximately eight years. He recounted in detail all the violations that he had committed:

Ansu Koroma:

Even when I joined, I did not do it out of my own free will... I was abducted. When they came here, they did a lot of destruction here. Even when they took me along, I did not know the amount of destruction they did here in my absence... but I have come to talk to you my father, my mother, brothers and sisters, all of you. I want you to forgive me please. I am a boy... I am just a child. Well, I was only working on instructions and if I had not taken those instructions, I was going to be killed. That was why I was behaving that way but I am begging and asking for forgiveness from all of you today, my fathers, my mothers, my brothers and my sisters and all of you gathered here, to forgive me to have mercy on me. I am pleading, please. I did not do it out of my own free will. It is because of war. When we were here, we never knew the rebels were going to reach here, so please as parents, forgive me. So please Paramount Chief. I thank you all... Please, that's my plea.

Ansu Koroma then knelt down before the traditional and religious leaders in a gesture of remorse. The Paramount Chief responded on behalf of the community:

Paramount Chief:

All of us have heard what Ansu Koroma has confessed. Today, Ansu has confessed publicly before all of us that in those days when the rebels came to this place, they abducted him forcefully. When they took him along, he had to join their course and then they have done a lot of destructions in the country but, as he has come before us this evening and he has confessed all what he did, I want to join him to plead to all of us my brothers and sisters and to show mercy and show forgiveness to Ansu. Let us accept him back into our community... let us not look at him the other way. What is passed is passed. Let us unite and fight the way forward and that's what I want to tell you my people.

The Paramount Chief went on to lay his hand on Ansu Koroma's head as a sign of forgiveness and acceptance. The following exchanges involved other community representatives as they responded to Ansu Koroma's statement:

Religious leader: Who would want forgiveness from God if you commit a sin here amongst all of us here? All of us need forgiveness from God is that not so? That was why God said we too also should forgive our brothers and sisters when they have wronged us. I feel very pleased when somebody confesses before me and I will become very happy to forgive that person. That is what that person wants. So my brothers and sisters, if we too are praying for forgiveness from God and we do confess and God forgave us, therefore, it is incumbent on all of us here to forgive Ansu Koroma. Let us become his advisers as from today let him too become an adviser to his colleagues so that we can develop this land. I believe all of us here will forgive him and that the only thing I will like to tell you Ansu, I want you to accept Christ as your Saviour. If you do that, I know you will receive the Kingdom of God. Are you prepared for that?

Ansu Koroma: Yes.

Women's representative: "Ansu Koroma, this evening you have shown that you have confessed all the bad things you did but what you have done now, it will be difficult for somebody to stand publicly and talk about what you did and as you have told us, me as a woman and we women do labour for people, we know the pains in child bearing, I am talking on behalf of the women in the town to say we have forgiven you and that we will remain to stay here as one for the development of Sierra Leone."

These statements were followed by prayers and the members of the community laid their hands on Ansu Koroma's head as a symbol of collective forgiveness.

Hearing in Pujehun District – July 2003

86. The next excerpt, taken from a hearing in the Pujehun District, illustrates the willingness of a perpetrator to reconcile with the community even though the perpetrator joined the fighting forces of his own free will to fight what he considered to be a “just cause”.
87. Lamin Koroma explained to the Commission that he had decided to join forces with the Kamajors to protect his community and to avenge the death of his father, who had been killed by the rebels. In his testimony, Lamin Koroma acknowledged that the Kamajors committed violations and wanted to offer an apology for any misdeeds on their behalf. The following excerpts reveal his exchanges with the Chairman, Bishop Humper, and the Leader of Evidence:

Lamin Koroma: We did not join in the war to do wrong... Whether we the Kamajors had wronged you, whether we had done the right thing, God has brought peace... We did not win the war, we were at the bottom when peace came, which means we, God and President Kabbah have saved you the civilians... Therefore today, I... as a Kamajor... I'm talking on behalf of my brothers, to let the Commission talk to our people to forgive us.

Chairman: I want you to know Lamin... that some civilians, a good number of civilians in this country are contending that the Kamajors are not doing any better than the rebels in terms of their treatment of civilians in the later stages of the conflict and if they should have any grudge against Kamajors, it was only because the Kamajors themselves became rebels in terms of dealing with people in this country. I want you to understand that.

Lamin Koroma: Yes. It may be like that. We only need to plead... but there were some civilians who were collaborators... but all I'm saying is that I'm still begging on behalf of my men.

Leader of Evidence: In the last while, since the war ended, have you seen any of your former victims?

Lamin Koroma: Many of them.

Leader of Evidence: What do you tell them when you see them?

Lamin Koroma: I met one Mr. Kallon and we have spoken over that.

Leader of Evidence: What was the outcome of your meeting?

Lamin Koroma: He said that I am one of his children. He did that because he wanted the soldiers to safeguard him and if so, let bygones be bygones.

Leader of Evidence: So if you see any of your former victims now what will you be telling them? If they appear before you now, what will you say to them?

Lamin Koroma: I will apologise to them.

Leader of Evidence: So even if they are not here, are you willing to apologise to them through the Commission?

Lamin Koroma: Yes.

Leader of Evidence: Would you like to do so now?

Lamin Koroma: Yes. My people, we were fighting the war to bring peace. Sometimes, you become frustrated or traumatised when you are in a new gathering, especially taking up arms. Sometimes, if you have never killed or wounded somebody, when you do so, it will go a long way, especially when you shoot at somebody... Having shot at somebody, definitely you will become a bit mad, the sound of the gun makes you go mad... especially when both of you are shooting at each other. If we have done so and our primary aim is to bring peace and peace has come, I'm appealing to you my people, forgive us... there were mistakes... let those mistakes be forgotten... we did not make them on purpose. I am begging you to forgive us. I am talking to the Commission to help me plead with these people. I am begging on behalf of the soldiers, the atrocities the soldiers might have committed, the Kamajors and the rebels. I'm talking to the Commission to talk to government so that there will be an assistance rendered to all victims. ... That is what I'm asking but I'm still talking to the Commission to talk to the government and I'm still talking to my people to forgive me and forgive us.

Perpetrators who refused to acknowledge responsibility

88. While the above examples clearly show the willingness of some perpetrators to acknowledge their actions during the conflict and to seek forgiveness from their communities, there were many others who were not so willing to acknowledge their wrongdoing. Perpetrators who were reluctant to acknowledge their actions simply blamed the war or even said: "God has wanted the war."

Hearing in Kailahun District – 14 May 2003

89. The next example is drawn from a closed hearing in Kailahun on 14 May 2003. Mustapha Sam Koroma was with the RUF vanguards in Kailahun District. He was a "security commander", although he claimed he did not make any decisions while in command. He also claimed he never went to the war front, which he subsequently contradicted. Due to the significance of the role he seemed to have played with the RUF in Kailahun, he was not welcome in the area. Excerpts from Mustapha Koroma's exchanges with the Commission are reproduced overleaf:

Mustapha Koroma: I am appealing to the Commission: the war was not made by human beings... it was made by God. God knows those who caused the atrocities. I am appealing to the Commission to plead to the people of Kailahun for them to have mercy on me.

Leader of Evidence: Are you ready to take any step to beg them for forgiveness? Begging for forgiveness is the beginning. But don't expect people to forgive you when you refuse to accept what you have done. What can also help is if you yourself say you are willing to reconcile.

Commissioner Kamara: If you say you were going to apologise, people will ask apologise for what?

Mustapha Koroma: I am apologising for what the war did.

Commissioner Kamara: What kind of crime do you accept to have caused?

Mustapha Koroma: I apologise for what the war has caused and, as a member of the RUF, I apologise for what the RUF did during the war. I am appealing to the government to assist us with education. As you can see there is no electricity in Kailahun. There is no good road to Kailahun and no health centres. I am appealing to the government to assist us with all of these in Kailahun.

90. During the reconciliation ceremony, Mustapha Koroma made the following statement, in which he admitted that he was involved in the commission of certain violations:

Mustapha Koroma: My name is Mustapha Koroma. I stand before all of you. That whatsoever that happened in this war... it was all of us that caused it. So please, you are my people. Forgive us. Be it burning of houses, be it beating of people, we are all involved. Please forgive us.

After his statement, Mustapha Koroma knelt down and the traditional leaders put their hands on his head as a sign of acceptance and forgiveness. The ceremony was followed by the pouring of libation and the breaking of kola nuts.

Hearing in Kono District – 26 June 2003

91. A man named Abdul Razak Kamara testified about the four years he spent with the RUF. He explained that his main purpose was to contribute to the peace process. Nevertheless, he insisted on apologising before the traditional leaders. He narrated that he was based at Mile 91 and Magburaka and that he had returned to Kono District during the peace process:

Abdul Razak Kamara: ... I also ask the Commissioners to allow me to bow before the Kono chiefs for me to beg them to forgive me for all what has happened. I ask if there was anybody I have offended during the conflict, so that the person can come forward before the Commission so that I could beg that person. I beg the Commissioners to please allow me to bow before the people of Kono to ask for forgiveness for anything I could have done.

The Commission then tried to determine what he was actually apologising for.

Commissioner Schabas: Did the RUF commit war crimes?

Abdul Razak Kamara: Yes.

Commissioner Schabas: Can you describe what they were? Describe them?

Abdul Razak Kamara: One by flogging people, by shooting people... but I never witnessed where they amputated somebody's hands. I have heard of an incident where they used to put people in a place called a container. They used to beat them severely before putting them there. So all that I believe are crimes against humanity.

Commissioner Schabas: Do you have any personal responsibility for those crimes?

Abdul Razak Kamara: As I have been saying, I was not a commander... I was assigned to help in implementing the peace process, which I did perfectly.

Commissioner Schabas: Mr. Kamara, I appreciate the detailed testimony you've given us. But why, if all you did was implementing the peace process, do you have to ask for forgiveness of anybody? What did you do to mean that you should ask for forgiveness?

Abdul Razak Kamara: During the course of my trying to implement the peace, there were many things that happened... so I don't know, maybe there are people that might feel I have wronged them. This is why I am begging the whole nation to forgive me if ever they feel I have wronged them in any way or the other.

Comm. Marcus-Jones: Well why should you be apologising if you were a peace ambassador?

Abdul Razak Kamara: Well, I want to believe that in talking to your people you have to apologise for the mere fact that I was at the side of the RUF... so I have to apologise.

Comm. Marcus-Jones: But you were four years with the RUF, were you not?

Abdul Razak Kamara: Yes.

Comm. Marcus-Jones: And during that period of four years, were you only trying to be a peace ambassador? Didn't you commit atrocities yourself?

Abdul Razak Kamara: I have never shot at somebody... I have never taken away anybody's property... I have never raped... I have never done bad to somebody.

Hearings in Tonkolili District – June 2003

92. The most striking examples of ambiguous half-hearted confessions were the hearings in the Tonkolili District in June 2003, when several ex-combatants came to testify but tried to minimise the role they played, notwithstanding extensive questioning by the Commission. Many in the community were unhappy with the events that played out during the hearings in the district. A meeting was held on the eve of the last day, before the reconciliation ceremony, in which community leaders announced that they would not participate in the closing ceremony and they would not accept the perpetrators back into the community if they did not apologise. This was of great importance given the fact that many ex-RUF combatants reside in the district, many of them being employed in an agricultural project led by Sheriff Parker, a former child combatant known as "Base Marine". TRC commissioners and staff had to mediate with and counsel the ex-combatants to secure their participation in a reconciliation ceremony. Several witnesses, along with the religious and traditional leaders of the community, made statements at the ceremony.
93. The local Chief began the reconciliation ceremony with a statement of encouragement to his fellow traditional leaders:

Chief Bai Yossor: I'm also appealing to the Section Chiefs, traditional rulers, the sound of people and all the people of Tonkolili to forgive these people because they are our children. We should accept them because we have nowhere to take them...

Excerpts from the individual statements made subsequently by several of the ex-combatants are reproduced on the following pages:

Sheriff Parker:

... It's me Sheriff Parker, talking to my people in this country today. I am here to apologise for what had been happening. We had done wrong to this country and now the war is over. We don't have anywhere to go and our only alternative is to stay with people in the community. We had been living in communities with our fathers and mothers before. Today, I am pleading with the people of Tonkolili District and the country as a whole to please forgive me. I am their son and I promise that nobody shall ever influence me to doing wrong any longer. My experiences in the war have revealed to me that war is not anything good. It's not good to offend people and go without apologising to them. Therefore, on behalf of all of us, I must take the responsibility to apologise to all those we have offended. Please forgive us... Chief, I'm your son please forgive me.

Morie Nabieu:

...I am Morie Nabieu. I was a very little boy when the war started in this country. We have fought this war and committed many atrocities. We have looted properties, we have taken people's women from them. I am standing here confessing these things and asking the people of this community through the Paramount Chief to please forgive me. I'm kindly requesting the Paramount Chief to join me in talking to Mr J.C. Kabbia so that he can forgive me. I'm proceeding to beg... Paramount Chief, I have wronged these people, please forgive me.

Ahmed One:

I'm kindly making an appeal to all of you to be forgiven for what had happened during the war. Crimes we had committed against humanity... using women for sexual slavery, looting properties, burning of houses and many others... we did not initially plan it. I am taking responsibility and I am taking the name of the Lord, asking for forgiveness. I am kindly asking you to forgive us; this is my plea to you in this community. I am pleading, please forgive me and talk to my people to forgive me.

Joseph S. Bangura:

We are convinced that what we did in this country was not good for humanity. Some of us didn't do it by any will... There is not a "bad bush to cast away a bad child". We are committed within ourselves that what we did was not good. If we have a reverse of what happened, if we were civilians and you were the combatant, we will never feel good of what you would do to us. However, we are kindly asking that you forgive us and receive us as your children and let's live as we used to live before. All of the evil that we have done in this country, I'm kindly asking that you pardon us. We are your children especially those of us who are natives of this district... Please Chief, please forgive us for all we have done to you, your people and the country as a whole. We will never do it any more.

Victor John:

...When some of us are speaking, a good number of you are surprised at us. When we had the guns in our possession, we never knew there will be an opportunity for us to come back to apologise to people. It is a clear indication from the Lord trying to manifest that He lives. When God raises you, you will think you will never come down again. As far as we are concerned, the Lord has humbled us. When we had the guns, we controlled you and today the Lord has turned the baton. Instead of us controlling you, we are under your control... I'm standing here in the presence of you all. I've done so many evils and atrocities in this country... It was not of my own will. Today, I'm standing here to apologise to all of you sitting here. Even those who are not present here, I want to assume that my voice will reach them wherever they are. If there is anyone in this hall that I had offended or even if not here, I am pleading to be forgiven.

94. During the hearings, only those witnesses who publicly acknowledged their actions and wished to reconcile with their communities or with their victims participated in the reconciliation ceremonies. Many of the apologies were half-hearted, however. Some of the perpetrators did not make a full admission of their roles.
95. The reconciliation ceremonies were meant to support and encourage the difficult dialogues that would ensue in the communities in which they took place. Without the return and acceptance of the ex-combatants into the communities, the dialogues would have had no chance of success. The reconciliation ceremonies were envisaged to confer a form of social acceptance on the ex-combatants, which would hopefully lead to peace in the community and create a platform for joint action in rebuilding the community.
96. All the witnesses, both victims and perpetrators, acknowledged that the journey to reconciliation is long and arduous. The chiefs, along with community and religious leaders, will have to continue to facilitate the dialogues between victims and perpetrators and between perpetrators and their communities well into the future. Full reconciliation and forgiveness might come later on, depending on how well the perpetrators work towards a positive relationship with their victims and with their communities.

TRC



A former RUF Commander kneels before the people of Magburaka to appeal for forgiveness at a TRC public hearing in Tonkolili District. Participation of ex-combatants in such symbolic reconciliation ceremonies is seen by the Commission as an important step in encouraging community reintegration.

OUTCOMES OF FOLLOW-UP MEETINGS WITH WITNESSES AFTER THE HEARINGS PROCESS

97. TRC counsellors paid follow-up visits to 266 of the witnesses who appeared before the Commission's public or closed hearings. Upon visiting these witnesses, the counsellors made an assessment of the impact on people's lives that had resulted from their testifying at the hearings. Excerpts of the questionnaire used by the counsellors for this purpose, along with a selection of responses gathered from witnesses, are reproduced over the following pages:

A) How did the witnesses perceive their testimony during the hearing?

One hundred percent (266) of the witnesses perceived their testimonies as having been good in some way – a positive move, necessary, timely or satisfying.

B) What was considered positive during the hearings?

All of the witnesses saw the hearings as an open forum to speak about the past atrocities that still haunt their lives. They saw it as an opportunity for the public and the international community to become fully aware of what happened to them during the war.

The ex-combatants saw the hearing as an opportunity to apologise and ask for forgiveness. Some even admitted that apologising before the Commission's hearings would have been difficult since they were uncertain as to how their victims would react. They mentioned that the Commission created an enabling atmosphere for them to discuss the past, to explain what they did against their people and why. They felt that asking for forgiveness and partaking in a reconciliation ceremony gave them the confidence to move freely within their communities.

Many of the witnesses expressed great satisfaction over the counselling provided to them, the patience on the part of the Commissioners to listen to them, and the efforts made by the Commission to invite people who were implicated in testimonies so that they could offer their own side of the story in hopes of reconciling differences.

C) What was considered negative during the hearings?

Out of the 266 witnesses visited, only three people found the experience a negative one. One amputee who testified in Makeni mentioned that amputees and the war wounded were not targeted enough by the Commission to provide testimony. Another witness who testified in Makeni expressed discontent over the fact that he had not been told that his testimony would be broadcasted live nationwide. One witness who testified in Kailahun said he felt like he was interrogated as if he were in a court of law.

D) What were the feelings of witnesses after they had testified?

Approximately 20% of the witnesses felt very bad or sad after they testified. They felt that their testimony brought them fresh and unwanted memories of the past. The remaining 80% either felt good, happy, or relieved or satisfied. To some of them, especially those victims who were sexually abused, it was the first time they had relayed their experiences to anyone, breaking the culture of silence.

E) What expectations did the witnesses have prior to giving testimony and were those expectations met?

About 99% expected immediate assistance and support from the TRC varying from micro-credit financing, educational support and assistance, rebuilding of homes and medical care. Virtually all respondents expected immediate benefits from the TRC.

About 30% feared that providing testimony to the TRC would result in them being prosecuted by the Special Court. In Magburaka, for example, Sheriff Parker (alias "Base Marine") was very concerned about the TRC and Special Court personnel visiting him on the same day and at the same time. The counselor told him that it was a coincidence, that the two institutions are not exchanging information in anyway, and that the Special Court has its own method of gathering information.

A few respondents had hoped that the TRC would punish the perpetrators for all that they did.

F) What was the reaction of the families and communities after the witnesses had provided testimony to the Commission?

On the whole, both community and family members reacted positively towards the witnesses. They were happy to receive them back home after their testimonies. Some were commended, and some sympathised with them, and some even had given assistance to the witness.

About 90% of the witnesses did not experience any change in their relationship with their families and or their communities. For 10% of the witnesses, there was a positive change after their testimony.

In some cases, the community came together and offered sacrifices to their ancestors and asked for forgiveness on behalf of their sons who were perpetrators, such as the case of CO Lamin of Nyandehun village in Malen Chiefdom, Pujehun district.

For some of the witnesses, especially those who came to a closed hearing, the families and communities were unaware of the fact that they testified before the Commission.

G) Did providing testimony affect the lives of witnesses in any way?

About 120 of the 266 witnesses have not been affected in any way. However, 146 of them have experienced positive changes in their lives. After provided their testimony, many felt much more relaxed and satisfied with a peace of mind. They are now hopeful something good will happen as a result of their encounter with the TRC.

H) Did the witnesses suffer any security threat, any provocation, or mockery since the hearing?

Five of the witnesses suffered security threats. The chiefs of their village were informed on time and the matters were resolved.

Eight witnesses noted that they were the subject of provocative remarks such as: "What will the TRC do after all?"; or "you can go again to the TRC and explain if you feel like it"; or "the TRC only used you to get information and at the end they will submit your name to the Special Court"; or "you will not be given any reparation or benefits".

I) Do the witnesses show any signs of trauma and did these symptoms increase or decrease since the hearing? Did they receive any trauma counselling since the hearing?

Approximately 90% of the witnesses are showing signs of symptoms such as nightmares, flashbacks, psychosomatic symptoms, sleeplessness, bad appetite, nervousness, and depression. Where possible, these witnesses have been referred to the appropriate NGOs. There has been no formal counselling for any of the witnesses, other than what was given at the TRC by the counsellors.

A good number of respondents were happy with the counselling that they had received by the Commission's staff but are in need of more counselling.

J) In cases where the TRC organised a meeting between the victim and the perpetrator, has the relationship between the two of them improved?

The Commission had performed general reconciliation ceremonies where the perpetrators accepted their wrongdoings and asked for forgiveness, and the victims were also encouraged to accept and to gradually work towards forgiveness and reconciliation. Some witnesses say it is no longer necessary to organise another reconciliation session, since their victimisers have acknowledged their actions and have tried to reconcile with them. However, four people said they would like to have another meeting with their perpetrators, involving the religious and traditional leaders.

The counsellors were also able to visit some of those involved in reconciliation ceremonies after TRC hearings. Examples of their experiences are as follows:

- The RUF ex-combatants in Magburaka, located in Tonkolili district, had been key actors in the conflict. They were notorious for their activities and for the atrocities they committed. They testified at the TRC hearings, after which they pleaded for forgiveness. During the follow-up visit they confirmed that their relationship with the community had improved since the TRC hearings and the reconciliation process and that there is no cause to complain. They are living happily, without any disturbances, and have free movement within their community. Among this group of ex-combatants were Sheriff Parker (alias “Base Marine”), Joseph Sallu Bangura, Sheku Konteh (alias “Kolo”), Martyn Weah Wolo (alias “Tactical”) and Peter John Kamanda.
- In Pujehun district, a visit was made to the Kamajor ex-combatants who had apologised to the victims and the community during the hearing. The Kamajor ex-combatants testified at the hearings after which they pleaded to the people for forgiveness. Among them were Lamin Koroma (alias C.O. Lamin), Sunny Tucker, Hassan Jalloh, etc. The counsellor met with some of them during the follow-up meeting. Lamin Koroma informed the counsellor that after the reconciliation ceremony with the TRC, his people offered sacrifices on behalf of all their sons and daughters who were involved in the fighting, after which a cleansing ceremony was performed to cleanse them. Sunny Tucker, who had been reconciled with Hassan Jalloh, whose father he had killed during the war, said that his relationship with the Jalloh’s and the entire community was very good now.
- In Bo district, Mr. James Legg had implicated Mr. Kosseh Hindowa, a former CDF (Kamajor) authority for the death of his sister during the war. The Commission had invited Mr. Hindowa to the hearing and the two were reconciled. Mr. Hindowa stated that after the reconciliation session organised by the TRC, Mr. Legg’s family decided to observe a formal funeral-rite for his late sister, and Mr. Hindowa gave the family some amount of money for that purpose and it was accepted and appreciated by Mr. Legg.
- The reconciliation process in Kailahun was mainly between the community and the RUF ex-combatants, who also happen to be natives of Kailahun. The counselor contacted some of the ex-combatants like Mustapha Sam Koroma, Joe Fatorma, Morie Feika, Alex Jusu Allieu, Eric Koi Senesi, Jemba N’gobeh, Saffa Kpulon N’gobeh, and the child ex-combatants. These people have been fully re-integrated into their community, and even take part in various activities to run the affairs of the community. Susan Kulagbanda, who during the hearings complained of being harassed by some perpetrators, said during the follow-up visit that her relationship with them had greatly improved after the intervention of TRC, and that they now live together as one.

The counsellors finally met some ex-combatants in Kambia who testified before the TRC, including “Boulah”, Kennie Massaquoi, “Kaitibie”, Anthony Thollo and Brima Vandi. “Boulah”, an ex-RUF commander, told the counsellors that before the hearings, he was well known for being a commander but very few people were aware of the fact that he had made attempts to disarm ex-combatants. He mentioned during his follow-up visit that he has now won more sympathy and respect from the community after testifying. The other ex-combatants were recipients of skills training programmes and were waiting for their tools so that they could go back to their home communities.

Most of the victims in the districts requested that the TRC should continue its hearings so that they could come and expose all that had happened to them during the war.

SYMBOLIC ACTS OF RESPECT TO THE DEAD

98. At the end of each day of hearings, a list of the names of all the deceased persons mentioned by witnesses on that day was read out aloud and a minute of silence was observed as a mark of respect to the dead.
99. The excerpt reproduced below is an example of such a “Mark of Respect to the Dead” after the hearing on Thursday 10 July 2003 in the Bonthe District.

“The Sierra Leone Truth and Reconciliation Commission has today heard testimony as to the tragic loss of many human lives in the conflict that ravaged our country.

As a mark of respect to the deceased and their families, and as a symbol of our compassion and our solidarity, we ask that you please be upstanding in observance of a minute’s silence for the following victims:

-
- *Joe Kai*
 - *Joe Boisy and 9 other men in Gbaniga village*
 - *Yamusa Jobai*
 - *Maada Demby Sandi*
 - *Tommy Sandi*
 - *Pa Yokie*
 - *A man called ‘government’*
 - *600 people killed in Tihun town*
 - *Maaheh,*
 - *Nabie*
 - *Tiangay*
 - *Junisa*
 - *Amie*
 - *Muna*
 - *Mukah*
 - *Morie Yauguber*
 - *Maria Fatu Yauguber*
 - *700 people killed at Bawohah junction*
 - *Philip Musa, and his wife and sun*
 - *Pa Sallu*
 - *Maimat Sata Momoh*

- *Many people in Senehun village*
- *Tommy Brewa*
- *Momoh Lugbu*
- *Abu Memo*
- *Abu Memu*
- *Pa Sallu*
- *The father of Alusine Foday*
- *Abu Musa*
- *Tommy Konneh*
- *Moiwo Musa*

FOLLOWED BY ONE MINUTE OF SILENCE

which the Presiding Chairperson closes with the words:

“May the souls of the departed rest in perfect peace.”

100. The minute of silence was observed after each hearing because many of the dead were never identified by their families or loved ones, as many victims were killed outside of their communities. It was an act of healing for the families – a symbol that their loved ones did not die in vain and that their deaths are formally acknowledged by an official institution, operating with the support of the government.

MONUMENTS AND MEMORIALS

101. In several districts, the Commission, in consultation with the communities, established monuments or memorials in the town where the hearing was held or at the site of a mass gravesite in the district. Traditional reconciliation ceremonies were organised, such as the pouring of libation and cleansing, together with religious ceremonies such as common prayers at locals where massacres took place during the conflict. These activities are extremely important for the communities because they serve as recognition of the suffering of victims as well as the collective memory of the past.
102. The following examples of TRC activities relate to monuments and memorials:
- a. Bo Town: A road intersection where, during the war, RUF fighters and government forces had engaged in combat was known as “Soja Kill Rebel Junction” on account of the acts that had taken place there. The Commission held a ceremony at the junction on the closing day of its hearings in Bo and renamed the intersection “Peace Junction.” A signboard was erected commemorating the TRC ceremony and indicating the new name of the junction.
 - b. Port Loko District: The Commission visited Manarma village, where 73 people had been locked together in a house and burnt alive. A mass grave was located in the middle of the village. The Commission held prayers and asked the community to bury the bones properly and to preserve the site by putting a fence around it.

- c. Kailahun District: The closing ceremony took place near the notorious “Slaughter House” where people were brutally murdered during the war. Libation was poured in commemoration of all those killed in the slaughter house and in the Kailahun District during the conflict. There is likely to be a bigger reconciliation programme in due course organised by the Kailahun community. The Commission also visited the site of a mass grave behind the Kailahun police station where prayers were offered in memory of the dead.
- d. Kenema Town: The Commission identified a roundabout in Kenema town where a lot of civilians had been killed during the war and inaugurated a memorial sign in their honour.
- e. Kambia Town: For the closing ceremony, everyone converged around a roundabout near the Town Council Hall. During the war, a man had been shot in the full view of the township. That roundabout was renamed “Peace Square.” Traditional leaders and other chiefdom elders poured libation for reconciliation and peace to prevail in Sierra Leone.
- f. Pujehun District: The Commission visited several mass grave sites. In Sahn Malen, which is about fourteen miles from Pujehun town, there was a grave where thirty-five men had been buried. In Bendu Malen, which is about seventeen miles from Pujehun town, the RUF/AFRC forces killed over two hundred and seventy five people. The Commission visited two graves, where bones and skulls were found. A five-year-old boy who survived the attack had been made the Chief of the village by the RUF. Candles were lit at the graves and prayers were offered in the memory of the dead.
- g. Bonthe Island: The Commission visited the town of Tihun where several hundred civilians had been killed by the RUF. The community still suffers a great deal from the trauma caused by this massacre. At the closing ceremony, there was pouring of libation. At the site of one of the mass graves, prayers were offered and candles were lit. This visit of the Commission was important to the community. It signified recognition of the suffering and the mourning the community had gone through and the beginning of their healing. Tihun was the hometown of Julius Maada Bio, former NPRC Head of State, and was attacked by the RUF as a sign of their repugnance to his leadership.
- h. Freetown: A National Reconciliation Procession was organised in Freetown on 6 August 2003, after which local and national stakeholders were involved in the unveiling of a memorial at the Congo Cross Bridge, which was renamed “Peace Bridge”. Congo Cross Bridge was the point at which the combined forces of ECOMOG and the CDF had stopped the RUF advance on Freetown during the January 1999 attack on the capital city.

TRC



A monument to peace and reconciliation, constructed by the Pakistani contingent of UNAMSIL, stands in the centre of Koidu Town, Kono District. The TRC attempted to mark its reconciliation activities across Sierra Leone by erecting similar monuments and memorials at significant sites.

IDENTIFICATION OF MASS GRAVES

103. The Commission also made a concerted effort to identify the sites of mass graves. Mass graves were identified at different locations all over the country. The Commission has not developed an exhaustive inventory of all the mass graves since it didn't have the time or the resources to do so. The Commission hopes that other efforts will assist in identifying the remaining mass graves in the country.⁹
104. For the purposes of reconciliation, the Commission sought the opinion of the communities on what should be done with the mass graves. The outcome of these consultations include the following:
- a. Bonthe District: Different suggestions were made for the commemoration of the sites. All villages asked for the creation of "monuments" that serve the community. In Tihun town, people expressed their desire for a park. In Bauya village, the erection of a market building was proposed. In Talia and Matru, people requested a barray, a place where people can gather and discuss local issues.
 - b. Moyamba District: Recommendations made by the different communities include the building of a hospital (Magbenka), a community centre or barray (Yoyema, Mosongo, Mokanji, and Jaihun), a town hall (Kwellu), a monument (Moyolo), and a tomb/memorial (Mosenessie).
 - c. Kenema District: Many respondents were concerned over the preservation of mass gravesites and many felt that relocation was necessary due to the construction of houses in the vicinity of these sites. Various communities also suggested symbolic reparations as a way to respect the dead. The erection of monuments in remembrance of these sites was considered vital.
 - d. Kailahun District: As in the Kenema district, respondents requested symbolic reparations and the erection of monuments to honour the dead.
 - e. Koinadugu District: The different villages made recommendations as to how their friends and family can best be remembered. The residents of Falaba requested the construction of a market place in remembrance of their relatives that were killed by the rebels. The residents of Lengekoro recommended the construction of a barray. In Koinadugu, people requested the construction of a school. In Katombo 11, the respondents requested the construction of a store to keep their agricultural produce.
 - f. Bombali District: The community representatives recommended the construction of a monument.

⁹ More detail on the Commission's efforts with regard to identifying and documenting mass graves can be found in the Mass Graves Report produced as an Appendix to this report.

- g. Bo District: The communities suggested the erection of shrines in the form of shrines on the mass graves sites. Tikonko requested a monument in the form of a tomb with a tablet containing the names of the victims.
 - h. Pujehun District: The communities suggested the erection of shrines on the mass gravesites. Sahn Malen requested that a bridge be built before a shrine is erected because the site where mass graves are located is near a stream.
 - i. Western Area and Port Loko: The residents attached a lot of importance to the preservation of mass gravesites. They requested the erection of monuments on the various sites. Their suggestions included a hospital to care for the relatives left behind by the victims and a mosque for prayers that can be said on a daily basis in remembrance of the departed ones.
 - j. Kono and Tonkolili Districts: In both districts, the chiefs planned on conducting a meeting at the chiefdom level in order to make a unanimous decision.
105. The outcomes of this exercise have confirmed that most people in Sierra Leone want to remember the dead, not by emphasising all the harm and sorrow caused during the war, but by looking forward and turning it into something positive through the establishment of a useful facility at the site of a massacre.
106. Memorials and commemoration activities are not only important for the victims who want to remember the people they lost, but also for the perpetrators and for the community as a whole. Memorials can create a public space where people can come together in hopes of establishing open and lasting dialogue. Such symbolic acts of coming together can contribute significantly towards the process of reconciliation.

THE TRC NATIONAL RECONCILIATION PROCESSION AND OFFERS OF APOLOGIES BY NATIONAL BODIES

107. The final theme on which witnesses were heard during TRC Thematic Hearings was "Reconciliation, National Reintegration and Reparations." The Commission chose this theme in order to draw attention to the challenges ahead in the hope that all Sierra Leoneans could be mobilised for this project. A TRC National Reconciliation Procession was conceived to mark the end of hearings, to send a message to all Sierra Leoneans that rebuilding the community and learning to live together again is important for common survival. The procession wound its way through the streets of central Freetown on 6 August 2003, culminating in a large gathering at the National Stadium.
108. Those who participated in the procession included civil society organisations, schools, the police, the Army, political parties and victims' associations. The procession set out from Victoria Park in the heart of the city. For several hours, all the main streets of Freetown were awash with marchers, dancers, drummers, musicians and other revellers making their way towards the National Stadium. Residents hung out of their windows to observe the procession and join in the spirit of the occasion. Imaginative banners bearing slogans of reconciliation were carried by many groups and draped along the roadside. In the afternoon, having reached the stadium, representatives of several groups and institutions, including the Army, the police, the main political parties, victims' associations and civic organisations made statements to the crowd. This historic day of activities was concluded with the unveiling of a memorial in honour of the victims of the war at the Congo Cross Bridge, which was symbolically renamed "Peace Bridge".
109. Several national bodies offered their apologies for the violations they committed during the war, or for the role they played in the period leading to it. These apologies are seen as valuable contributions to the reconciliation process.
110. Apologies can be made by those responsible for violations and abuses, but also by those who bear a moral responsibility for what happened, that is, those individuals who displayed indifference and passivity at times when intervention and positive action could have made a difference.
111. Apologies offered by officials or national bodies, such as security services and political parties, can serve as an incentive for ordinary citizens who committed violations to show remorse and apologise. Apologies also serve as an important recognition of the suffering of the victims.
112. Excerpts from statements by the following persons, including several noteworthy apologies, are reproduced over the following pages:
 - a) Representative of the Sierra Leone Army, Brigadier Nelson Williams;
 - b) Representative of the Inspector General of Police;
 - c) Representative of the RUF, Jonathan Kposowa;
 - d) Representative of the SLPP, Dr. Sama Banya;
 - e) Leader of the Opposition / APC, Ernest Bai Koroma; and
 - f) President of Sierra Leone, H.E. Alhaji Dr. Ahmad Tejan Kabbah.

TRC



A large crowd listens to apologies offered by national bodies after the TRC National Reconciliation Procession on 6 August 2003. Participants included youth, interfaith leaders and women's groups. At the front (right) is Alhaji Lamin Jusu Jakka, Chairman of the War Affected Amputees' Association.

A) Representative of the Sierra Leone Army – Brigadier Nelson-Williams

“Today, as we gathered here to rededicate our land’s future we are not only looking at this ceremony as a first leg in the process towards our land’s future... We see this ceremony as the pathway on the military land map to reconciling Sierra Leoneans. Sierra Leoneans including the Sierra Leone armed forces must come out here to accept the God Almighty’s message in the Lord’s Prayer, which says “and forgive us our trespasses or debts, as we forgive our trespassers or debtors.

As the Republic of Sierra Leone Armed Forces went out to fight, a lot of atrocities and crimes against humanity were committed against Sierra Leoneans... does this make sense? The answer confronts us, beleaguering our hearts, besieging our minds... Let us try to transform cruelty with kindness, insult with forbearance and patience... injustice with magnanimity and hatred with love. It is only with the presence of God that one can reconcile with such a situation that does not appear on one’s wish list.

Let me reiterate in aid of emphasis... that we beseech you to forgive the RSLAF. Forgive your fallen and living children. Forgiveness starts with reconciling with God yourself, before reconciling with your fellow human beings. It is only the Prince of Peace who can give us true peace, forgiveness and reconciliation: Jesus Christ our Lord and Saviour who died on the cross for the propitiation of our sins and forgiveness, when he said: “Father forgive them for they know not what they do”.

Therefore let us all ask God Almighty for lasting forgiveness, which is the first instrument in the preservation of the national reconciliation that Sierra Leoneans need. Let us march forward with determination, commitment, fortitude and indomitable courage with no turning back and the mindset for this fellowship of purpose.

The RSLAF owes this nation a large debt. Let us resolve to pay up with interest, not only by giving democracy a chance, but also by standing in the vanguard of peace protection. The consolidation of democracy will continue to be our major preoccupation... this is our sacred duty and we cannot afford to fail again...

Finally, I want to conclude on this note: we cannot make peace, or reconcile our pains without recourse to adopting the practice of forgiveness forever and ever. As Sierra Leoneans, there is so much more in us that unites us than divides us. We must recognise this fact, and learn to live with each other. I stand here today on behalf of the RSLAF to promise that the Army has taken a human face. You labelled the police as a force for good; now we want you to label the Army as a force for good. Peace and peace to all, I thank you all.”

B) Representative of the Inspector General of Police – Francis Munu

“We on our part... we as police officers who are involved in the process of delivering justice... served both as perpetrators and victims of the decade-long civil conflict... I’m here again this afternoon to reiterate the point and to emphasise the point that we are also prepared to reconcile with all sectors of society to ensure that lasting peace remains in Sierra Leone. During the TRC’s work, you were able to carry out an environmental scanning looking at the political, economic, social, cultural and legal considerations so that the firm foundation for lasting peace could be laid in our country Sierra Leone.

I also wish on behalf of the members of the Sierra Leone Police Force, whom we have accepted *inter alia* to have been both perpetrators and victims, to express remorse for all the wrongdoings, which we and our personnel did both before and during the war... and to genuinely apologise for all such wrongdoing with a promise that such will never be repeated in the course of our history. As we strive to be a force for good, we do hope that all people within Sierra Leone and beyond who have paid so dearly a price for our past mistakes will continue to help us... so we will forge ahead and be part of the framework to establish a new Sierra Leone, a Sierra Leone which all of us will be proud of, a Sierra Leone which our children will be proud of, a Sierra Leone to which people from all over the world can come and feel safe, can come and work and can come and enjoy themselves...”

C) Representative of the RUF – Jonathan Kposowa

“Ladies and gentlemen, with all the destruction and atrocities committed by the RUF and whosoever fought the war... those attitudes were all mankind, man-made ventures... and therefore at this time in the name of the Lord Almighty God, I raise my hands to say to Sierra Leoneans that all of us are the same... whatsoever might have been injected into us to have caused atrocities, to have formed whatsoever, to have raped, to have done whatsoever chaos activities that the war might have done... I am saying that you should have pardon on us. We are your children! We are sorry! We are sorry that the episode that we have formed was not really from the brains of some us. So at this time, we are all creatively captured and we have come at this stage to say pardon, we are therefore pleading for mercy and reconciliation. May God bless us all, may God bless the continent, may God bless Africa. I thank you.

D) Representative of the SLPP – Dr. Sama Banyo

“I represent a party that ruled this country in the years immediately after independence; we may have made our own mistakes. Perhaps we should have stood up to be counted, instead of acquiescing or capitulating. We thank God for the inspiration he has given us to acknowledge and confess our wrongdoings. More importantly, for giving us the grace to forgive those who wronged us. We thank those who have counselled us, that is the members of the TRC and those who enabled us to forgive each other publicly. It may be difficult to forget, but time, the healer of pain and suffering, will help to soften our hearts as we continue to embrace each other in brotherly love.”

**E) Leader of the Opposition / Chairman of the APC – Ernest Bai Koroma
TRC Thematic Hearing on Reconciliation, 5 August 2003**

“No doubts we made mistakes as a Government, as a party in Government, I have accepted that. We have to confront our past. We should not be ashamed of that. I have accepted the responsibilities for the mistakes made by the APC, for which I have asked for forgiveness from all of you. To members of the public and everybody, mistakes were made by the APC and we are sorry for these mistakes.”

**F) President of Sierra Leone, H.E. Alhaji Dr. Ahmad Tejan Kabbah
TRC Thematic Hearing on Reconciliation, 5 August 2003**

The last witness to testify to the Truth and Reconciliation Commission during the Thematic Hearings on “Reconciliation, National Reintegration and Reparations” was the current President of Sierra Leone, H.E. Alhaji Dr. Ahmad Tejan Kabbah. After his statement, some specific questions were addressed to the President on the issue of reconciliation. An excerpt from the exchanges between the President and the Commission is reproduced below:

Leader of Evidence:

...Your Excellency my final point would be to maybe rephrase my colleague's point on reconciliation. Today is the final day of hearings by the Commission and it was deliberately chosen so that while all issues have been interrogated, in the context of other issues, today should mark the day we begin to look at the way forward... Is Your Excellency prepared to use the platform that is provided today by the Commission, thinking about reconciliation and national reintegration... thinking about tomorrow... a National Day of Reconciliation... Would Your Excellency want to use this platform to make a whole unifying statement of intent that brings all the parties together and acknowledges that some violations may have been committed by different factors in the war, but by the fact that there is a government which is a succession... that government then owes a responsibility to acknowledge the wrongs that may have been done by each predecessor or who acted in its name and perhaps some apology to the people? It takes someone willing to acknowledge that both those who acted to support the government and previous governments committed gross violations of rights and so this is the government of this country, an acknowledgment by this government and Your Excellency about this point... so that people can feel that they need to have closure and begin to think about tomorrow.

H.E. Dr. Tejan Kabbah: Now, I think what you are asking me to do is this: to apologise to people for wrongdoing... Of what use is that? I have mentioned this again in the record [of my testimony]... I don't know, maybe it's a bit long and you haven't read it all... but I said this: that I went round this country telling people, please I beg you, wrongs that have been done one way or the other, accept what it is, just forget about the past... Let's live together; let's work together and rebuild our country. I said that many, many times before this TRC was set up. It's there in that report; but I made sure that I did that. Like the former Vice President, I asked him, I said please, this is your role, go around the country, telling people these problems. Not only that but there were some of the Ministries here, who I put together with the RUF to go to these communities and explain to these people. Now I just cannot understand what more I'm expected to do...

Leader of Evidence: Your Excellency, the Leader of APC this morning, before the Commission, apologised for all the mistakes his party had made. He had done that before, he did that again today and he used the platform of the Commission in fulfilment of all the efforts of Your Excellency in this regard. Would Your Excellency want to send a direct message to the people of Sierra Leone on reconciling the differences that did exist, and possibly do exist? That was my question Sir.

H.E. Dr. Tejan Kabbah: If you want to say... I will give you ok... I want peace. I want reconciliation. I would repeat it as many times as ever you want! Please all Sierra Leoneans, all of us, let's work together, let's forget about the past... those that have to face the court, let them face the fact that they have to face the court and go on... if they have justification, it depends, let them go ahead and do it. Now, those who have done something wrong to others, please go and apologise to them; and if they don't listen to you, go to the Vice President, come to me, we will go to your communities to get things organised.

113. The recognition and symbolic acknowledgement of the Head of State regarding the violations committed by all sides during the conflict in Sierra Leone and the recognition of the suffering of all victims at this TRC hearing would have been a huge step forward in the pursuit of national reconciliation. It would have set a positive example, which individual citizens could have followed. By offering an apology, the Head of State could have taken a symbolic lead role in pursuit of reconciliation. The Commission regrets that the President, as the Father of the Nation, missed a prime opportunity to fulfil this role.

WORKSHOPS AND CONSULTATIONS WITH CIVIL SOCIETY

Consultations with civil society organisations

114. The Commission organised consultative workshops with a broad group of civil society organisations in order to gather their opinions and views on the issue of reconciliation. These workshops took place on 3 July 2003 and 24 July 2003. In addition, the Commission also sent out more than 150 questionnaires to local organisations and other stakeholders.
115. The organisations consulted included: women's and youth groups; religious bodies; NGOs working in the fields of humanitarian assistance, peace building, and conflict resolution; and NGOs working with victims and ex-combatants.

TRC Workshop on National Reconciliation

116. From 27 to 29 November 2003, the TRC organised a workshop on national reconciliation. Issues discussed during the workshop included such diverse themes as the proper management of state resources, anti-corruption and poverty reduction strategies. The workshop intended to work out a plan to address these issues and develop a roadmap towards national reconciliation. At the end of the three-day workshop, the Commission had hoped that the participants of the Conference, the key stakeholders of national reconciliation, would commit themselves to this roadmap.
117. Although national reconciliation was addressed during the thematic hearings, the workshop was the last in a series of efforts by the Commission to foster reconciliation before the publication of the final TRC report, through which the Commission obviously hopes to contribute to national reconciliation.
118. The workshop was organised in collaboration with the Campaign for Good Governance (CGG) and the Inter-Religious Council. These organisations have committed themselves to continue the process of reconciliation after the Commission winds up. The South African Institute for Justice and Reconciliation (IJR) and the International Centre for Transitional Justice (ICTJ) supported the workshop through the provision of experts in reconciliation.¹⁰
119. Since the workshop focused on national reconciliation, those invited to attend included national stakeholders such as the President's Office, various line ministries, national bodies such as the Anti-Corruption Commission, the Government Gold and Diamond Office, political parties, representatives of Parliament and the judiciary, members of civil society and the media. Among those present were the Minister of Works, the Deputy Minister of Social Welfare, Gender and Children's Affairs, and representatives from the police, Defence Headquarters, Prisons, NCDDR, NCDHR, APC, PLP and RUFF. Given the low level of participation and the absence of key national stakeholders, developing a roadmap that would lead to national reconciliation seemed impractical. Nevertheless, the contributions by participants at the workshop are reflected in this report.

¹⁰ These experts include: Charles Villa-Vicencio, Director of the Institute for Justice and Reconciliation, South Africa; Mr. Letlapa Mphahlele, former field commander in APLA (Azanian People's Liberation Army), the military wing of the PAC (Pan-African Congress) of South Africa; General Andrew Masondo (South Africa); Felix Reategui and Eduardo Gonzalez of the Peruvian Truth Commission; and Hugo Fernandes of the East Timorese Truth Commission.

Overview of the outcome of consultations and workshops on national reconciliation

120. As a result of the workshops and consultations on reconciliation, many of the participants and respondents have identified the challenges that impede reconciliation as well as the conditions that are necessary in order to foster reconciliation. These challenges and conditions will be addressed under the nine themes that have surfaced during the consultations and workshops. These themes are: a) disarmament; b) the role of perpetrators; c) the role of victims; d) the role of citizens and the community in general; e) the role of religion and tradition; f) the role of civil society, oversight institutions, and the role of the media; g) good governance; h) the role of government in the reconciliation process; and i) external actors. The following paragraphs discuss how these different themes relate to the reconciliation process:

A) Disarmament:

Disarmament was considered to be one of the pre-conditions to reconciliation in Sierra Leone. However, many stakeholders have expressed their concerns over the fact that weapons and ammunition were hidden during the disarmament process. This could potentially serve as a threat to security in the future, especially in Kenema and Kailahun Districts, as well as impeding the reconciliation process.

B) The Role of Perpetrators:

In order for reconciliation to occur between a) perpetrators and victims and b) perpetrators with their communities, perpetrators are encouraged to acknowledge their actions during the conflict and to seek forgiveness. However, some perpetrators are not willing to participate in the reconciliation process. The unwillingness of perpetrators to participate in the process appears to stem from some of the following factors:

- Dissatisfaction with the NCDDR programme: A number of ex-combatants say that they have not benefited from the NCDDR reintegration and skills training initiatives.
- Dissatisfaction with the Government: Some former combatants, especially those associated with the CDF, are disgruntled over the inability of the government to deliver on the promises that were made to them in the way of post-conflict assistance.
- Confusion between the TRC and the Special Court: Some perpetrators have been reluctant to talk about their involvement in the conflict out of fear of being prosecuted in the Special Court, or being called as a witness against their former commanders. In addition, many members of the CDF are disgruntled over the arrest of their former leader, Chief Hinga Norman.
- The high incidence of drug use among some perpetrators impedes their ability to become proactive members of the reconciliation process.

C) The Role of Victims:

One of the major concerns addressed in the workshops and consultations was that the needs of the victims of the conflict have not been addressed by the government, whereas numerous programmes have been established to assist former combatants and perceived perpetrators. The following response was provided by the Women's Forum in its completed TRC questionnaire:

"Reconciliation should not be one-sided, especially in terms of satisfying the needs of perpetrators at the expense of victims. Government should take a decisive action to ensure that all parties' needs are met."

Most of the consulted organisations and participants in the workshops strongly emphasised the need for reparations to help put victims in positions conducive to reconciliation. As a result of the violations committed against victims, many are in need of assistance. According to the respondents, the needs of the victims include: medical treatment, psychiatric help, psycho-social therapy, skills-training, micro-credit, education, resettlement, compensation, creation of employment, shelter and help for displaced persons and refugees to return home. The following response was given by the Sierra Leone Consumer Protection Council in its questionnaire:

"Provide food for the victims, without which nobody can stand to reconcile with another if he/she is hungry."

The Evangelical Fellowship of Sierra Leone stated in its questionnaire responses:

"Put the victims in the right frame of mind through psychosocial counselling and healing."

Other organisations stressed the fact that the Special Fund for War Victims needs to be established in order to assist those victims in need, as mandated by the Lomé Peace Agreement. Care International stated in its response to the questionnaire:

"For reconciliation to be durable, the TRC itself should ensure that a sustainable package of compensation is developed and implemented while it lasts, and the Special Fund is strengthened to support those who have been crippled out. The Government should seek funding to rebuild the worst areas of the country."

It was also mentioned in the consultations that in order to involve as many victims in the process as possible, the TRC should have conducted a grassroots campaign and organised hearings in every village. The short lifespan of the Commission and the various constraints imposed on the Commission did not allow it to reach all those victims it would have liked to reach.

D) The Role of Citizens and the Community at Large:

The main stakeholder in the reconciliation process is considered to be the average Sierra Leonean citizen. It is the responsibility of every citizen to make the process a nationally-owned process and to realise the importance of their contributions and participation, regardless of how insignificant it may seem to them. As stated by the Sierra Leonean Red Cross Society in its responses to the questionnaire: "The public will for reconciliation needs to be there."

Reintegration of ex-combatants and victims into communities is an integral part of reconciliation. Some ex-combatants and victims of abduction such as the "bush wives" cannot return to their communities for fear of being rejected, stigmatised, or punished either by individuals or by the community. This was mentioned as a particular problem in the Kailahun District. Reconciliation requires that the atmosphere for the reintegration and acceptance of such persons be created.

Additionally, respondents felt that the government, NGOs and other agencies currently engaged in reconciliation have failed to decentralise the process. There is a general feeling that "Freetown is not Sierra Leone and Sierra Leone is not Freetown." This phrase is used because most interventions only focus on the capital of Freetown and have not been extended to other parts of the country. It is imperative that the coverage of reconciliation projects widens.

There is an urgent need to embark on nationwide sensitisation and public information / education campaigns in order to get more people interested and involved in the reconciliation process. Grassroots consultations should be held with communities and their traditional and religious leaders, various groups and organisations, children, etc. in order to raise awareness. By bringing these stakeholders together, an open forum would be created whereby people can exchange their thoughts on how they want to proceed with the reconciliation process.

Many respondents also indicated the need for agents of reconciliation and conflict resolution in every community not only to settle conflicts but also to identify early warning signs of new conflict and to ensure that they are addressed properly.

E) The Role of Religion and Tradition:

The religious leaders in Sierra Leone have played a major role in the restoration of peace. However, it was noted during the consultations and workshops that in certain districts, conflicts exist amongst the religious leaders themselves. These leaders must learn to live and work together for the sake of reconciliation. As indicated by the Women's Forum in its response: "There is need for greater interaction between religious leaders of all faiths so that concerted action can be taken on issues." Obtaining the continuous commitment of the religious leaders to the reconciliation process is widely recognised as a prerequisite for its success.

Traditional leaders should be encouraged to become major stakeholders in the reconciliation process, since tradition still plays an important role in the lives of most people in Sierra Leone.

Reconciliation activities should be initiated and implemented at the community level by the government and other major stakeholders such as international and local NGOs. However, these activities should build upon local religious and traditional practices so as not to duplicate existing efforts or seem to “reinvent the wheel”.

F) The Role of Civil Society, Oversight Institutions and Media:

The reconciliation process cannot be a success without the support and participation of Sierra Leone civil society. Major civil society groups such as women’s organisations, youth groups, etc. should step up their involvement and be the force that helps to drive the process.

However, the answers to the questionnaires and the outcomes of the workshops reveal the lack of a very strong coalition of NGOs to promote, protect and “own” the peace and reconciliation process. This lack of cohesion and co-ordination is seen as a significant obstacle to reconciliation. Reasons were also offered as to why civil society is not functioning on the level that it should be functioning. These reasons include weak capacity-building initiatives, lack of transparency and accountability, as well as a lack of understanding among the public about the role of civil society. As the Network on Collaborative Peace Building Sierra Leone mentioned in its responses: “Efforts at peace building and reconciliation must be co-ordinated to avoid duplication of efforts and resource wastage.”

Many oversight institutions are considered to be ineffective and public confidence in these institutions is very low. Efforts should be made to ensure the accountability and transparency of institutions such as the Anti-Corruption Commission, the NCDHR and the Office of the Ombudsman.

Regarding the media, the freedom of expression and press is fairly limited and constitutional change is needed. In addition, public confidence in the media is fairly low. Many see the media as being biased. One way to improve confidence is for the media to engage the public on important national issues.

G) Good Governance:

In the process of reconciling the various individuals, groups, communities, government, etc., it is important continuously to promote a culture of good governance. This includes: respect for the principles of human rights; regular free and fair elections; freedom of expression; the fight against corruption; decentralisation; equitable distribution of facilities and resources; and a well functioning judiciary. These issues have been listed by most of the consulted organisations and stakeholders as some of the major antecedents and factors responsible for the conflict in Sierra Leone. Today, bad governance is still perceived as an obstacle to reconciliation.

As the Evangelical Fellowship of Sierra Leone stated in its response to the questionnaire:

“A combination of bad governance, corruption, and injustice is preventing the conditions for lasting reconciliation and sustainable development to be satisfied.”

Several aspects of good governance have been discussed during the consultations and workshops on reconciliation held by the Commission. Many of these were also discussed during the Thematic Hearings of the Commission. These aspects of governance include: 1) the separation of powers; 2) the inclusion of civilians; 3) the management of resources; and 4) the role of the security forces.

1) *Separation of Powers:*

The collapse of governmental institutions is one of the factors that led to the civil war. There has been a serious erosion of constitutional authority and independence, which calls for the redefinition of roles for the various organs of government, Parliament, the executive and the judiciary.

Overall, many participants in the workshops singled out the need for more transparency, the need for a stronger and more organised opposition, the centralisation of power and the lack of qualified personnel. As mentioned in the responses from Care International: “At village/community levels, let the people get justice. Let there be transparency and accountability. Let chiefs and government functionaries be sincere and honest. Remove all the man-made obstacles that will obstruct the flow of justice.”

2) *Inclusion of Civilians:*

The marginalisation of women and youth in politics and in the decision-making process, sectionalism, tribalism, nepotism, and the marginalisation of rural areas are all perceived as obstacles to reconciliation. Regarding women, particular attention was drawn to customary law and practices that limit the role of the women in society. Regarding youth, attention was drawn to the high unemployment rate. A similar affirmative action policy recommended for women should also be adopted for youth. Another problem facing youth is their lack of willingness to engage in politics. To address this problem, political parties and political institutions should accommodate greater participation for youth and women, including the occupation of key positions by these groups.

Rural areas have been forgotten and neglected for generations by the government. People in remote areas often relate more to neighbouring countries than to Sierra Leone. Reconciliation among people living in these areas will be difficult if there is a lingering feeling of neglect. As mentioned previously, there is a strong need for the decentralisation of state services.

The lack of engagement in the political process is a problem that plagues all sectors of society. It was also noted that there is a lack of political will to broaden it. Continuous public education nationwide on the tenets of democracy and civic responsibility is necessary. Citizens should also be encouraged to contest presidential, parliamentary, and local elections.

3) *Management of Resources:*

The poor socio-economic living conditions of most Sierra Leoneans are perceived as a serious obstacle to reconciliation. These conditions include a lack of basic infrastructure such as electricity, clean water supply, health care, schools, roads, housing, sanitation, income generating facilities, etc. This is generally linked to the bad management of resources, minerals and others.

More control and accountability mechanisms need to be put into place and existing mechanisms need to be reinforced and made more transparent.

The fight against corruption needs to be intensified and corrupt practices need to be exposed fearlessly and vigorously.

4) *The Role and Perception of the Security Forces*

In order for reconciliation to be fostered at the national level, the public must have confidence in the security forces. In the eyes of some people, the Army and police are seen as those who betrayed the nation and the people. The relations between civilians and the military must be addressed and improved from the national level downwards.

H) The Role of the Government:

The lack of commitment on the part of the government and politicians to reconciliation activities is seen as an obstacle to the process. The responsibility of the government to ensure the existence of peace and stability for her people and the entire nation requires its active participation and contribution to the process of reconciliation. Since the government is seen as the primary stakeholder in the reconciliation process, one of its major responsibilities is to ensure the provision of funds and other logistical support.

I) External factors:

In a somewhat shorter discussion than those that ensued around other themes, it became clear that the war in Liberia and the instability in the wider West African sub-region are also perceived as obstacles to reconciliation in Sierra Leone.

TRC



Members of the Warrior Dance Group, comprising combatants from all the factions in the war, perform at the TRC National Reconciliation Ceremony on 6 August 2003. The performances of the dance group embody the positive spirit of reconciliation that is required throughout Sierra Leone.

COMMUNITY-BASED RECONCILIATION

121. Community-based reconciliation is one of the central focuses of the Commission's activities on reconciliation. As witnessed in the extracts from hearings on reconciliation provided earlier in this chapter, in order for reconciliation to be sustainable between a victim and a perpetrator the ongoing support of the community is necessary.
122. The Commission is of the opinion that the organisation of reconciliation ceremonies at the end of the hearings, the daily marks of respect for the dead, the establishment of monuments and the organisation of common prayers at mass graves were not only important for the individuals concerned, but also for the entire communities in which they took place. These TRC initiatives laid the foundation for future reconciliation activities.
123. In this light and also considering that reconciliation is a long-term process, the Commission has started a nationwide programme on community-based reconciliation. The programme will continue after the end of the mandate of the TRC. The Commission has partnered with the Inter-Religious Council of Sierra Leone, comprising of both Christian and Muslim groups. The Commission is grateful to the UNDP Country Office in Sierra Leone and to the UNDP Bureau for Conflict Prevention and Recovery for the funding of this programme. At the time of writing it is projected to last for nine months, having started in October 2003. The Commission was careful not to repeat the mistakes made during the preparatory phase with the setting up of the District Support Committees.
124. The new programme allows all chiefdoms in the country to organise reconciliation activities according to the wishes and the needs of the people. The programme comprises three steps, the first two steps having been put in place by the Commission with the Inter-Religious Council and UNDP. The implementation of the last step is left to the Inter-Religious Council and UNDP.

Step 1: Training of Trainers

The Commission selected 14 of its former statement-takers to become district reconciliation officers, while the Inter-Religious Council selected one co-ordinator per district. These 28 representatives received training on several reconciliation issues during a three-day workshop in Freetown from 14 to 16 October 2003. Training was given on the concepts of reconciliation; the role of religion and tradition; the role of women and children; comparative perspectives from other countries; lessons learnt from work with ex-combatants; the trauma of victims and perpetrators; and challenges to the reconciliation process.

Step 2: District Workshops on Reconciliation

The next step in the programme was the organisation of workshops on reconciliation in every district and in the Western Area, which brought together representatives of all the chiefdoms, religious leaders, representatives from NGOs and CBOs, as well as victims' and ex-combatants' organisations. All the workshops took place between 10 and 20 November 2003. The choice of participants respected gender balance. This was, however, unsuccessful in some districts, where women were under-represented. The requirement for balance between the two main religions was more or less respected.

The participants were invited to reflect on what reconciliation means to them; the nature of the main conditions and challenges to reconciliation; the problems affecting some particular chiefdoms; and the kind of reconciliation activities that should be developed in the chiefdoms. The outcome of these workshops will be described below.

Step 3: District Support Committees

Every workshop resulted in the election of members of a District Support Committee that will implement the programme under the guidance of the Inter-Religious Council's district co-ordinators. The Committees are composed of one representative per chiefdom, as well as representatives of NGOs and victims' organisations.

These Committees will receive a modest Reconciliation Fund, which will allow them to support reconciliation activities in every chiefdom and community on the basis of the needs and wishes of the people. The Committees will start with sensitisation in the chiefdoms. They will launch appeals for proposals on reconciliation activities and meet once a month to select successful proposals. They will also participate in the implementation of the selected proposals.

125. During the workshops, many ideas were proposed on which kinds of activities should be developed in order to promote reconciliation. These suggestions will guide the District Support Committees in their future work. The suggestions can be divided into the following eight categories: 1) traditional activities; 2) religious activities; 3) commemoration/symbolic activities; 4) sports; 5) cultural/artistic activities; 6) other social activities; 7) joint economic activities; and 8) activities that promote truth telling and reconciliation, specifically:

- 1) **Traditional Activities:** traditional secret society rituals and dances; cleansing ceremonies; and pouring of libation, etc.
- 2) **Religious Activities:** religious gatherings of Muslims and Christians; religious lectures; open air prayers; fasting; building places of worship.
- 3) **Commemoration / Symbolic Activities:** holding memorial services; exhumations; and erecting monuments, etc.
- 4) **Sporting Activities:** games and inter-area sports with the amalgamated chiefdoms, etc.
- 5) **Cultural/Artistic Activities:** film shows; concerts; storytelling; song and drama; and cultural festivities, etc.
- 6) **Other Social Activities:** feasting; reciprocal community visits; gatherings; inter marriages; and the formation of women's groups, etc.
- 7) **Joint Economic Activities:** establishment of market and skills training centres in various chiefdoms; repairing/brushing of feeder roads; communal farm activities; and formation of co-operative societies ("commonly known as osusus").
- 8) **Activities to Promote Truth Telling and Reconciliation:** establishment of reconciliation committees in the various districts, sensitisation on various topics including drug use and sexual violence; and panel discussions.

126. The District Support Committees finally worked out guidelines for the reconciliation activities that should be developed in the chiefdoms. The guidelines can be summarised in four simple points, as follows:
- a. Sensitisation activities on reconciliation and the TRC - IRC/SL programme need to take place in all chiefdoms and sections and involve all stakeholders.
 - b. Since activities should be based on the culture and tradition of the people, traditional and religious leaders need to play a prominent and active role in this process.
 - c. The reconciliation activities should consider the specific problems of victims and ex-combatants. Accordingly, all activities should be geared to reducing stigma, promoting joint activities, including women and children who have suffered from the greatest of atrocities, etc.
 - d. Reconciliation activities should be decentralised to the greatest possible extent. There should be activities designed by and tailored to each village, section and chiefdom of the country.

CONCLUSION

127. Reconciliation is unfinished business in Sierra Leone. The Commission has consolidated the foundations laid by the NGOs and community-based groups whose important work facilitated the original return of so many children and ex-combatants to their home communities. The Commission has also created momentum towards reconciliation by creating space for dialogue between divided communities and facilitating encounters between victims and perpetrators. Several important initiatives have been described in this chapter.
128. Other stakeholders now need to move the process even further forward. The major catalyst for reconciliation ought to be the government. In particular, the Government of Sierra Leone should not let up in its efforts to improve the material conditions of victims and their communities all over the country. As witnesses repeatedly and rhetorically asked the TRC during its public hearings: "what is the value of reconciliation on an empty stomach?" Only with enhanced efforts towards crucial human development goals will the government begin to satisfy the appetite of all stakeholders in Sierra Leone to see sustainable reconciliation.

CHAPTER EIGHT

National Vision for Sierra Leone

TRC



Stamp design by Mohamed Bockarie, submitted to the National Vision for Sierra Leone, a project of the TRC.

CHAPTER EIGHT

National Vision for Sierra Leone

Introduction

1. Truth and Reconciliation Commissions look to the lessons of the turbulent past in order to build a peaceful future. Only by doing so can such commissions develop recommendations to address the problems that cause conflicts. The Sierra Leone Truth and Reconciliation Commission (TRC) decided that looking to the past was not enough to enable it to make recommendations that were relevant, robust and would capture the imagination of Sierra Leoneans. The future society that the recommendations are designed to achieve has to be properly understood and described; in short, it has to be “envisioned”. This future society or “vision for a future Sierra Leone” is the prescription. It is the kind of society we wish to build here in Sierra Leone. It is set out in this unique chapter of the TRC report in the form of the National Vision for Sierra Leone. The recommendations in this report aim to help translate the vision into reality.



Mohamed Bockarie, a youth in his late 20s, is a stamp-maker by trade. He created this stamp for the National Vision for Sierra Leone, proclaiming the message: “IT’S TRUE THE WAR IS OVER – WELCOME TO NEW SIERRA LEONE”. Inside the map of the country is a crowd of men, women and children cheering together. They are following a figure who is striding forwards, bearing the national flag.

Extract from **"My Sierra Leone"**
By the RUF Prisoners at Pademba Road Prison

MY SIERRA LEONE, a new chapter and era has opened
With awareness at every door
We must not let go
Because we've known the causes of our woes
It keeps us conscious and awake at all times
The past must remain the past
With the past we know the present
And combined we make the future
Now is the time to move forward, ever but only with oneness
Our mistakes have opened the doors of discoveries
And our discoveries must lead to recoveries

BACKGROUND TO THE NATIONAL VISION

2. Early in its mandate, the TRC decided to facilitate the construction of a "vision" that would act as a "roadmap" to work towards the needs of post-conflict Sierra Leone. The question that gave rise to the National Vision project was: What does the TRC envisage for Sierra Leone after 11 years of war?



Patrick Sinnah, an artist in his 30s, submitted this painting of 13 faces looking to the future: a bright new day, good roads and shining streetlamps, flourishing natural resources and education for all. The faces represent the twelve districts and Freetown, while the green, white and blue colours of the national flag signify strength in unity and pride in being Sierra Leonean.

3. In particular the TRC set out to gauge the expectations of Sierra Leoneans in the context of existing initiatives being undertaken by the Government and the international community. The TRC would then be in a position to assess whether such initiatives could fulfil the hopes of the people of Sierra Leone.
4. This strategy required the Commission to get a sense of the expectations, hopes and aspirations of the people of Sierra Leone. The TRC would need to reach out to individuals in all spheres of society – hence the requirement for a national campaign to gather inputs and contributions towards a national vision. The TRC would then compare and contrast these inputs with what was realisable under current plans and initiatives. Ideally the TRC recommendations would address the lacunas and fill the gaps.

THE CALL FOR CONTRIBUTIONS

5. The TRC decided to provide a platform for individual Sierra Leoneans to express their expectations and aspirations. The Commission saw the creation of a National Vision as an inspirational project in which all Sierra Leoneans, young and old from all different backgrounds, could participate. One means soliciting input was a call to the public for their ideas and contributions.
6. Judge Laura Marcus-Jones, the Deputy Chairperson of the TRC, launched the “Call for Contributions to the National Vision for Sierra Leone” at a press conference at TRC Headquarters on 17 September 2003. On behalf of the Commission, Judge Marcus-Jones invited Sierra Leoneans to set out their hopes for a future conflict-free Sierra Leone.
7. The TRC did not limit the form or scope of contributions. The public were invited to make their contributions in any form they wished, including by way of essays, poems, slogans, songs, drama, paintings or photographs. The TRC suggested that contributions may:
 - o Describe the kind of society the contributor would like to live in;
 - o Suggest how to make Sierra Leone a better place to live in;
 - o Set out the contributor’s hopes and aspirations for Sierra Leone;
 - o Describe where the contributor would like to see Sierra Leone in five or ten years; or
 - o Provide anything creative that inspires peace and unity – and pride in being Sierra Leonean.
8. The TRC advertised its campaign in newspapers, on the radio and in leaflets distributed around Freetown and in the provinces. It was also announced that selected contributions might be included in the final report of the TRC, displayed nationally and internationally in an exhibition, or published as part of a collection in a separate book.

A NATIONAL VISION FOR SIERRA LEONE



A CALL FOR CONTRIBUTIONS BY THE TRC

The Truth and Reconciliation Commission (TRC) seeks contributions from members of the public to assist the TRC to build a National Vision for Sierra Leone. Contributions may:

- DESCRIBE THE KIND OF SOCIETY THE CONTRIBUTOR WOULD LIKE TO LIVE IN.
- SUGGEST HOW TO MAKE SIERRA LEONE A BETTER PLACE TO LIVE IN.
- SET OUT THE CONTRIBUTOR'S HOPES AND ASPIRATIONS FOR SIERRA LEONE.
- DESCRIBE WHERE THE CONTRIBUTOR WOULD LIKE TO SEE SIERRA LEONE IN 5 OR 10 YEARS.
- DEVISE SLOGANS FOR A NATIONAL VISION.
- SUPPLY POEMS, SONGS, PAINTINGS OR PHOTOGRAPHS THAT SYMBOLISE THE NEW SIERRA LEONE.
- PROVIDE ANYTHING CREATIVE THAT INSPIRES PEACE AND UNITY - AND PRIDE IN BEING SIERRA LEONEAN.

Selected and creative contributions will be used in the **Report** of the TRC and the author/ creator will be accredited. Selected contributions may also form part of a larger collection that may be published in a separate **book**. Contributions may also be used in an **exhibition** that will be put on display throughout Sierra Leone and around the world.

Contributions must reach the TRC by Friday **12 November 2003** and may be **delivered** or **posted** to:

The National Vision Project, TRC, Brookfields Hotel, Jomo Kenyatta Rd, New England, Freetown, Sierra Leone.

Contributions may also be **emailed** or **faxed** to the TRC.
The contributions may be collected from the TRC on 28 November
2003

YOUR VISION. YOUR FUTURE.

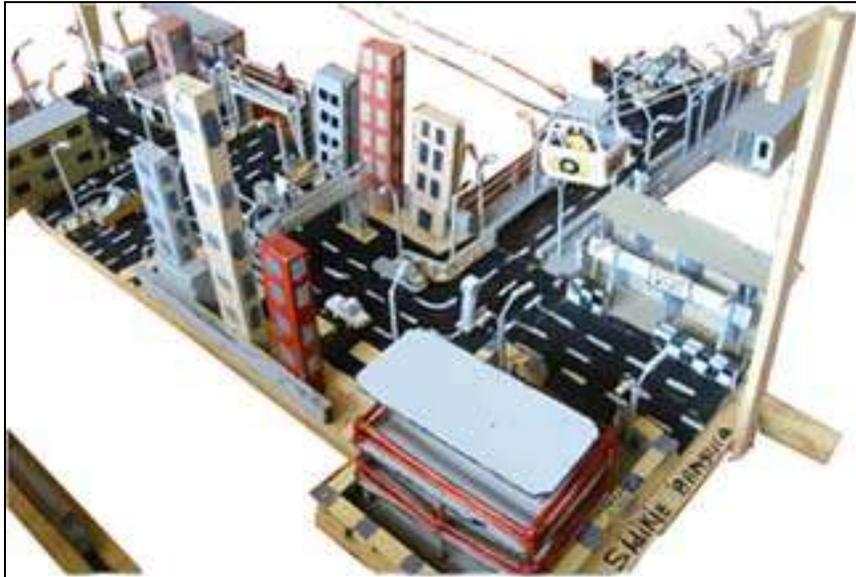
RESPONSE TO THE CALL FOR CONTRIBUTIONS

9. Over the course of two months, the TRC received over 250 contributions representing the efforts of over 300 individuals. The TRC and its Commissioners were overwhelmed by the effort, time and resources that so many Sierra Leoneans devoted to preparing their contributions. Among the contributors are men and women of all ages, backgrounds, religions and regions, including adults and children; 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 and installations.



Kabie Farama, a youth injured in the war, submitted this powerful, colourful two-part vision of reconciliation in action. In the upper half of the sketch, a perpetrator shoots at a victim. In the lower half, the victim joins hands and dances together with the perpetrator, who has given up his gun.

This picture is an inspirational invitation to all Sierra Leoneans who were affected by the war to take part in the process of reconciliation.



Sidikie Bangura, an unemployed carpenter in his 30s, submitted his vision for a future capital of Sierra Leone in the form of a three-dimensional model made of wood and metal. In the “Future of Freetown”, Sidikie renovates the current road system, where only 8% of the mostly pothole-ridden roads are paved and the traffic lights don’t work. Sidikie uses his imagination to supply Freetown with viable transport options in the form of overpasses and a cable car to ease congestion. He also capitalises on some of Freetown’s more successful aspects by building on the modern Sam Bangura building to create a whole central district of skyscrapers. In each of the four corners is located an important civic structure: a school, a hospital, a market and a warehouse for agricultural produce. The much-vaunted and long-awaited bridge to Lungi Airport stretches off to the north. Finally, the railway line is revitalised, bringing the innovations of the future capital to all regions of the country.

10. The TRC even received a sea-worthy boat called the "Future Boat", painted in the national colours of green, white and blue. The two creators described their contribution in the following terms:

“We built this boat as an inspiration to young people to develop themselves. This is to let the people of Sierra Leone know that they as carpenters can do something to develop Sierra Leone.”

- Ibrahim Bangura and Tejan Suma

*“If you look closely you will see the drums have been rolled out.
Drumming has actually started with the dancers in joyous mood.
This indicates the celebration of the peace
that has been achieved in Sierra Leone
with the hope of prosperity accompanying it.”*

Description of the painting “Celebration Time” by El-Denis

11. While contributors worked separately, a number of common themes and forms emerged. Although the TRC asked Sierra Leoneans to speak about the future, the majority of contributions addressed the future by making reference to the past. Many of the contributions included common motifs, such as: the map or outline of Sierra Leone; the scales of justice; the colours of the national flag; the words “peace”, “unity” and “love”; references to Sierra Leone’s natural resources; and images of houses. Some of the contributions set out prerequisites for a peaceful and prosperous Sierra Leone in the years ahead, while others point to the severe problems facing our society today. They serve as signposts for the future; signposts that we ignore at our peril.
12. Most of all, the contributions show what Sierra Leone can be. They show the enormous potential that exists in this country – potential that must be harnessed positively and productively. They point to the need for basic respect and tolerance amongst all human beings. The contributions amply demonstrate that Sierra Leone can and must reach for new heights.
13. The National Vision has provided an exciting opportunity for individual Sierra Leoneans to contribute their ideas and talent to the process of peace and reconciliation. Through the National Vision, Sierra Leoneans of all ages and backgrounds can claim their own citizenship space in the new Sierra Leone and make their contributions to the country’s cultural and national heritage.

*Crowd: “A child cannot be thrown into a house on fire
because he set that house on fire.
They are our brothers and sisters and we accept their apology.”*
- in “Reconciliation – the Way Out” by Ernest and Julius Mannah

THE LAUNCH OF THE NATIONAL VISION EXHIBIT

14. The National Vision Exhibit was launched on 10 December 2003 at the National Stadium in Freetown, Sierra Leone. The Chairperson of the TRC, Bishop Joseph Humper, officially opened the Exhibit with these words:

“The Vision should not stop with this Exhibition. In fact it must live beyond the life of the TRC. Each contributor, as indeed each Sierra Leonean, has a role to play in his or her own sphere in advancing the causes of peace and unity. Each one of you has shown your love for your country. You have demonstrated your courage and your energy to bring peace and unity to all corners of the land. Each one of you gives me enormous hope that the future of Sierra Leone is indeed a bright one... There is much work to be done to build this country. We must start this work now.”

*“The journey of a hundred years begins with a single step.
Our beloved country has been moving along the road
to total liberation since the colonial days”.*

- from “Let us Come Together with Love to Solve the Problems of Sierra Leone”, an 83-page visionary essay

By the RUF Prisoners at Pademba Road Prison

Salone Pikin By Emmanuel Bryma Momoh

I heard the cry of 'Salone pikin'
being conscripted
'Salone pikin' raped, killed
Were they not forced to drink in
human skulls?
Oh 'Salone pikin'
Where is your future?
Sweet Salone
Now I can see the future clearly
One Salone
'Salone pikin' disarmed
'Salone pikin' now a doctor
'Salone pikin' save lives
Sweet Salone

Aged in his mid-20s,
**Emmanuel Bryma
Momoh**
works as a
human rights officer
for UNAMSIL, based
in Koidu Town.
He writes poetry for a
hobby. He wrote
“Salone Pikin”,
which in Krio means
“*Sierra Leone’s Child*”,
to commemorate the
many children affected
by the violence in
Sierra Leone.

15. Over 400 individuals, many of them contributors, attended the launch. The event featured selected contributions and each contributor received a “Recognition of Contribution” certificate. When the TRC first decided to award prizes to the National Vision contributions, the TRC projected one overall winner and two runners-up, but the excellence of so many contributions in many different forms demanded that there be winners and runners-up in a variety of categories. The TRC awarded winners and runners-up in six categories and 30 certificates of Honourable Mention were issued. For a full list of contributors, winners, runners-up and recipients of honourable mention awards, please see the Appendix.

**MY NATIONAL VISION FOR SIERRA LEONE
A RENAISSANCE SIERRA LEONE
By Bishop Joseph C. Humper, TRC Chairperson**

At every stage of a country’s development, people are called upon to set out their dreams for the future of the nation. That time has come for Sierra Leone. There is the popular saying that “A people without vision the nation perish.” Now is the moment for all peace-loving citizens to make a contribution towards A NATIONAL VISION FOR SIERRA LEONE. Adults, youth and children have a singular responsibility and privilege to share with the nation and the international community their visions for this country.

I seize this opportunity to articulate my VISION FOR
A SIERRA LEONEAN RENAISSANCE.

1. I envision that a revived Sierra Leone, born out of the ashes of a reckless and senseless civil conflict, shall become active and committed to the establishment of genuine peace.
2. I long for a nation where people have trust and confidence in their nation’s leadership. The leadership must know that the trust and confidence of the people is not automatic; it is earned through honesty and lost through corruption and greed.
3. I would like to see the nation’s citizens, and particularly those vested with great responsibility, look to enrich the nation and its least privileged before they enrich themselves.
4. I envisage a nation in which the people are courageous enough to confess and forgive. Too often we blame others for our ills. It is time we looked within. Not a single Sierra Leonean can claim that there is no need for him or her to confess and forgive. We are all responsible for allowing our beloved country to slide into chaos and mayhem. Only when we have dismissed all pretence can we truly move forward.

THE NATIONAL VISION EXHIBIT AT THE NATIONAL MUSEUM

16. The National Vision Exhibit opened at the National Museum in Freetown, Sierra Leone on 15 December 2003. To satisfy the momentum that the Exhibit had generated, a voluntary National Vision Team, comprised of nationals and internationals, was established. The Team conducted guided tours of the Exhibit at the National Museum every weekday during January and February 2004. Members of the Team promoted awareness of the National Vision through leaflets, presentations, meetings and radio shows. An article published in *The Democrat* on 17 December 2003 wrote of the National Vision: "This is crucial to our quest for lasting peace and sustainable development".
17. On 22 December 2003, the President of the Republic of Sierra Leone, Alhaji Dr. Ahmad Tejan Kabbah and the Minister of Education, Dr. Alpha Wurie, undertook a televised tour of the Exhibit and publicly pledged their support for the National Vision and the prospect of a national tour. Between 20 December 2003 and early February 2004, more than 1,000 people signed their names and wrote their comments in a register of visitors to the Exhibit. Comments and excerpts from this "National Vision Guest Book" are reproduced below:

Rajiv Bendre, Director, British Council
"A moving and uplifting exhibition"

Mary Margaret Dineen, National Democratic Institute
"Inspirational representation of the positive human potential for peace, harmony and development Sierra Leone deserves. Bravo and thank you"

Honourable Chief Hindowa from Bo
"Congratulations to the Vision. I think this is what Sierra Leoneans need. I support that the vision move to the provinces so that every Sierra Leonean will include in the Vision for Sierra Leone"

Edmund Makiu, UNICEF
"This is the best Sierra Leone has ever had. Sierra Leoneans need to work hard to meet the wonderful vision"

Moisia Kawa
"I wish to see this programme included in the school curriculum of Sierra Leone in order to educate our young students about their role in the development of our beloved country"

Claudine A. E. Davies, Lemount College
"I'm amazed at the terribly exceptional talent our country possesses in people. Sierra Leone, indeed, has a bright future"

David Minah, Sierra Leone Government
"The exhibits are highly moving and they depict what we've been through. Reconciliation is the way forward and we should all join in it so that Sierra Leone can move forward to a brighter future"

Mark S. Koroma
"I really find it beyond comprehension why I was so late in partaking of such things as a Sierra Leonean. But to be justice, I am very much grateful of what I saw my brothers and sisters did and I hope to see more."

Mrs. Florence Okrap-Smart, Lemount College

"A laudable venture which needs to come to fruition with the help of everyone"

AR Hassan-King

"I congratulate the TRC and all the contributors. The nation has spoken"

18. By the end of January 2004, more than 600 school children had visited the Exhibit and taken part in group discussions on the significance of the National Vision to Sierra Leone's future. The National Vision Team also arranged tours for Members of Parliament, government officials, ex-combatants and amputees. Many UNAMSIL peacekeeping troops also visited the exhibit.

I Saw

By Mohamed Sekoya

I saw the atrocities in Sierra Leone

Yes I saw

I saw the people running for their lives from cities to towns, towns to villages, villages to the bush

Yes I saw

I saw rebels, Sierra Leone Army and Kamajors shooting in the streets, killing, attacking and looting

Yes I saw

I saw children crying for food

Yes I saw

I saw abomination between man and woman, man and man, woman and woman, adults and children

Yes I saw

I saw a victim helping a victim

Yes I saw

I saw the United Nations peacekeeping forces and I was happy

Yes I saw

I saw the rebels coming home for peace

Yes I saw

I pray never to see again what I saw in my beloved Sierra Leone.

Mohamed Sekoya, a draftsman in his mid-20s, read aloud his poem "I Saw" at the launch of the National Vision Exhibit.

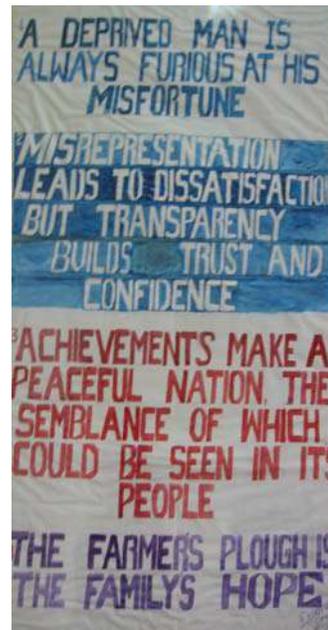
In this piece, he uses the formula of repetition, a means of emphasis and affirmation in the Sierra Leone oral tradition.

THE NATIONAL VISION AND TRANSITIONAL SIERRA LEONE

19. The National Vision has added considerably to debates around Sierra Leone's future. The National Vision can continue to have a positive influence on the key areas of development described in the following paragraphs:

- Artistic and scholarly expression: The National Vision offers an interactive forum for traditional and contemporary expression. It encourages artistic and scholarly drive and talent through individual recognition.
- Awareness and acknowledgement of the war: The National Vision is a forum for all voices to be heard, engaged with and preserved. It emphasises that the war occurred because of specific problems in society that must be addressed for change to take place and peace to become permanent. The National Vision has made these important messages uniquely accessible to all, including vulnerable groups such as children, the illiterate and those traumatised by the war.
- Self-empowerment: By displaying individual contributions to Sierra Leoneans and the international community, the National Vision affirms and validates the voices and talents of individual Sierra Leoneans. The Vision affirms the claim expressed in the contributions that Sierra Leone is capable of moving towards a peaceful and democratic future. It reiterates the need for individual Sierra Leoneans to participate in this process.
- Unity: The National Vision unites victims, ex-combatants, prisoners and free citizens of all ages, backgrounds, religions and regions under one common purpose: to ensure a better future for Sierra Leone. In this way, the National Vision fosters a new unified pride in being Sierra Leonean.
- Healing: The National Vision provides a space for personal and communal healing for its contributors and for those engaging with the contributions, in a country where conventional forms of therapy are largely inaccessible and unfamiliar.
- Democracy-building: The National Vision is a uniquely democratic, non-partisan and interactive civic space representing individuals regardless of age, background, region or religion. It serves as forum for open and active dialogue in Sierra Leone on political and social issues of the past, present and future.
- Reconciliation: As a public space, the National Vision Exhibit physically brings together different stakeholders in the same room, thus initiating the process of reconciliation through dialogue. Many contributions serve as acts of reconciliation on the part of contributors, as they express contributors' willingness to reconcile and invite others to do the same.

- Reparation: By “memorialising” the harsh realities of the past, the National Vision serves as a form of symbolic reparation to Sierra Leoneans, to whom public forms of acknowledgement reinforce community bonds.
- Never Again: By examining the pre-conflict and conflict periods in Sierra Leone and envisioning a better future, the contributions argue publicly that one cannot look forward without looking back. They express the desire of Sierra Leoneans that the past should not be repeated and that every Sierra Leonean should participate in ensuring this culture of “never again”.



Nine Revolutionary United Front Party (RUF) detainees held at Pademba Road Prison for over four years

submitted a range of art and craftwork to the National Vision. They also jointly wrote an eighty-three page visionary statement. This painting (above left) depicts a shackled man, who is not, however, in a prison. This man could be any Sierra Leonean who for years has been shackled by poverty, bad governance and division, despite Sierra Leone’s plentiful resources, as symbolised by the blue and green background. Only when this man frees himself of these man-made shackles may he move towards the bright dawn of a better future. To do so, the prisoners write: “Let us come together in love and solve Sierra Leone’s problems”.

SIERRA LEONE VISION 2025: "SWEET SALONE"

20. "No lasting achievement is possible without a vision and no vision can become real without action and responsibility." With these words, the President of Sierra Leone, Alhaji Dr. Ahmad Tejan Kabbah, launched "Vision 2025" on 15 March 2001 in the face of the human, institutional and financial challenges that have confronted Sierra Leone after the eleven-year war. A government venture, Vision 2025 was initiated by the Ministry of Development and Economic Planning and implemented by a National Core Team of Experts including leaders from the areas of culture, tourism, industry, gender, the economy, agriculture and political science. The UN Development Programme Sierra Leone provided financial and institutional backing while Africa Futures, a regional project of UNDP, provided technical support.

"The kind of society our organisation will like to see the citizen of the Nation (Sierra Leone) live in, is where some one is some-body and no-one is no-body; where every individual is respected".

- from "Youth Movement and People's Rights Contribution to the National Vision", **Wurie Mamadu Tamba Barrie**

Extract from
"The New Sierra Leone"
By Senessie Rogers

A Sierra Leone, I hope and pray
Fervently that one fine day
Will grow plump ripe, like a fat
Placid unassuming mother
That'll breast-feed children
Of the four comers of the earth

A transparent and tolerant
mistress
That'll teach her little children
The old tradition that, any time
they sit down
To eat, they must remember that
There're others coming after them
That may be equally, if not
More hungry and thirsty
A selfless Sierra Leone
A sweet Sierra Leone

*"I dream of a Sierra Leone
that will be worthy of the
title of the Athens of West
Africa; a land flowing with
milk and honey, not one
obsessed with silk and
money; a promised land
and a land of promise,
where people will come
running to seek pastures
greener, instead of running
away from our
rotten infrastructure"*

Extract from
**"My National Vision
for Sierra Leone"**
By Chinsia E. Caesar

21. Key questions driving Vision 2025 included: What kind of nation do Sierra Leoneans want their country to be? What challenges must be confronted? What are the most appropriate policies and programs? Vision 2025's motto sums up the goals of the initiative: "United People, Progressive Nation, Attractive Country". Vision 2025 aims to replace poverty and underdevelopment with peace, stability and wealth creation in Sierra Leone. To prepare a vision for long-term development that ensures national ownership of the development agenda and promotes a democratic and participatory process, Vision 2025 engaged national and international stakeholders in consultations. A national Steering Committee, headed by the Minister for Development and Economic Planning, organised consultations with students, refugees, internally displaced persons, private institutions, members of government, combatants, paramount chiefs, the national security forces, NGOs and civil society. Methods for soliciting input included radio phone-in conversations, questionnaires, essay competitions, workshops, regional consultations and interviews.
22. The August 2003 publication of Vision 2025 included: a report on the conclusions reached among stakeholders for the way forward; a strategic diagnosis of the country's past and present situation; alternative possibilities for Sierra Leone's future; and suggestions for a national focus and individual and collective responsibility in the national vision. Vision 2025 is to be a "guidepost" for Sierra Leone's future development. Additionally, it is to be a "living document that will be continuously reviewed and adapted to changing scenarios" at home and abroad. The 2003 document proposes the creation of a national "Vision Council", made up of visionary leaders from different sectors, to ensure the implementation, monitoring and evaluation of the activities of Vision 2025.

The National Vision for Sierra Leone and its Complementarity with Vision 2025

23. The TRC's National Vision for Sierra Leone uniquely and effectively complements the Vision 2025 initiative. Vision 2025 is a government policy document that outlines implementing strategies for the development of Sierra Leone over the next 20 years. As the National Vision for Sierra Leone serves as a non-partisan, inter-generational forum for dialogue, it raises awareness around the existence of processes like the one steered by Vision 2025. Indeed, the National Vision encourages individual Sierra Leoneans, especially the youth, to contribute to the dialogue entailed in such processes. The National Vision therefore has great potential to serve as a vehicle for continuing popular input into Vision 2025.

THE WAY FORWARD FOR THE NATIONAL VISION

24. The National Vision for Sierra Leone has gathered increasing momentum nationally and internationally as a nation-building programme. It has attracted the attention of representatives from different sectors of society including human rights activists, politicians, representatives of arts and culture, government, the business community and people in the provinces. Its diverse appeal lies in the fact that it is a peoples' project, not a political project. Moreover it is not time bound.
25. The Commission is of the view that participation in the National Vision project should be expanded. The Commission accordingly recommends to government and civil society stakeholders that the National Vision should become a permanent open, interactive civic space for all stakeholders in Sierra Leone to engage in dialogue through artistic and scholarly expression on political, moral and social issues of the past, present and future.

“I wish for the day when politicians are inducted into politics not for self-aggrandisement and self-assertion, but for genuine patriotic intentions geared towards nation-building. I look forward to a society where freedom of association, speech and movement are amplified so that government is kept on its guard and compelled to be responsible”.

- from an essay by **Sahr Egbinda Juana**

26. To ensure maximum exposure for the National Vision contributions, the Commission recommends that the following activities should take place:
- Further Freetown Exhibits: In order to access as many groups as possible, the Exhibit should be put on display in diverse locations around the capital. Eventually, the National Vision Exhibit should be housed in an appropriate, permanent location that will be an active and interactive site of workshops for different interest groups (women, children, youth, political leaders, etc.) around issues addressed in the contributions.
 - A National Tour: To ensure the visible accessibility of the Exhibit to as many Sierra Leoneans as possible, the National Vision should travel outside of the capital. The National Tour should bring the Exhibit to selected cities and towns in all provinces, where workshops could be held and the continued submission of contributions could be encouraged.

- An International Tour: An international tour would raise awareness around Sierra Leone and the issues discussed in the contributions. It would encourage others to consider applying this paradigm of a National Vision to their own contexts. It would further bring international exposure to the wealth of creative talent in Sierra Leone.
- A Publication: A possible publication would be a book containing photographs of contributions, biographies of contributors and essays by different leaders on reconciliation, national healing and related topics.

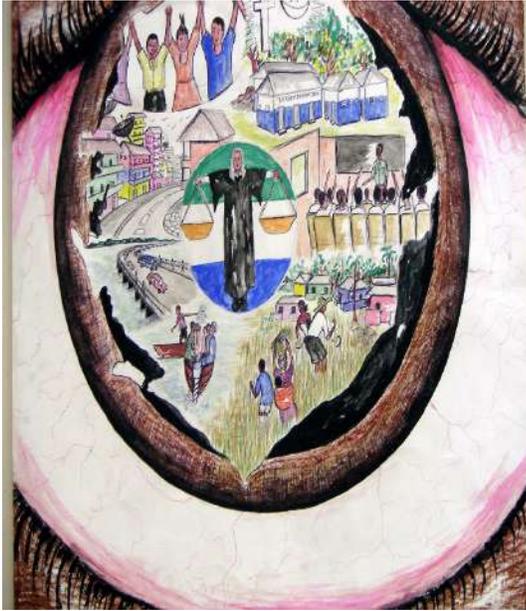


Olu Francis Davies is a carpenter from Kenema.

At the centre of his wood carving lie two of the most popular themes in the National Vision: the national flag of Sierra Leone and the scales of justice. The green, white and blue of the flag constitute the only colour on the piece, which emphasises the motto at the base of the carving: “unity is strength”. The other carved words reflect desired objectives for a future Sierra Leone.

27. In order to realise the four activities described above, the Commission recommends that the National Vision fall under the wing of the TRC’s successor body, the proposed National Human Rights Commission (HRC); or alternatively that the National Vision work in close collaboration with the HRC. Pending the formation of the HRC, the Commission recommends that civil society and government commit to keep the National Vision alive and establish a provisional vehicle or structure under which its activities can continue.

28. The Commission accordingly recommends the establishment of an independent Trust to oversee the activities of the project. The National Vision Trust should have independent trustees, representative of the different sectors of society, serving on the body.
29. The Commission notes that the National Vision for Sierra Leone as a project of the TRC must remain true to the founding principles underlying the TRC. As such all future National Vision activities must:
 - o serve the preservation of peace, strive for unity and promote healing and reconciliation; and
 - o Remain independent and non-partisan. The National Vision should always represent the collective visions of its contributors. It should never be the vision of a particular NGO or the vision of Government or any particular interest group.
30. The Commission notes that the contributors to the National Vision project have handed their contributions to the TRC in trust. The TRC advertisement that called for contributions stated that contributors were entitled to have their contributions returned to them. However the TRC stated publicly (in the advertisement and in its public announcements) that the contributions would be taken on provincial and public tours; and that the contributions would form part of a publication. On this basis the vast majority of contributors have entrusted their works to the TRC in order that such pledges may be realised. The Commission accordingly calls on the TRC's successor body or any provisional National Vision structure to take steps to fulfil these objectives and in particular to ensure that works of the contributors to the National Vision for Sierra Leone:
 - o are respected;
 - o are properly preserved;
 - o receive maximum public exposure and are not kept out of the public eye;
 - o are used to further the causes set out in the founding principles;
 - o are not used to further any political or commercial interests; and
 - o become part of a permanent exhibit in Sierra Leone.



Wilfred Thomas painted his contribution in the form of an eye, underlining vision and transparency. The scales of justice again lie at the centre, as does the flag. Images of a healthy society fill the eye, including classrooms full of children, cultivation of the country's resources in the fields and at sea, paved roads and bridges, modern buildings, and different Sierra Leoneans holding hands in a gesture of reconciliation.

31. The Commission further calls on the TRC's successor body or provisional National Vision structure to strive towards the following objectives:
- promote artistic and scholarly expression in Sierra Leone and recognise artistic and scholarly drive and talent;
 - complement and support the work of like-minded bodies, in particular Vision 2025, and collaborate with such bodies in joint projects;
 - promote awareness and acknowledgement of the war by displaying Sierra Leoneans' visions for the future and encouraging audiences to engage with them and the issues they address;
 - promote unity and reconciliation by encouraging different stakeholders to gather together to discuss the contributions' themes and possible ways to address problems raised;
 - broaden discourse on how to implement, through individual and group actions, solutions to issues raised in the contributions by arranging workshops and conferences;
 - empower individual Sierra Leoneans by serving as a vehicle for individual voices to be heard and engaged with;
 - promote personal and communal healing by continuing to encourage the submission of contributions around the country;
 - ensure that the National Vision for Sierra Leone remains a democratic, non-partisan, interactive and civic space representing all individuals regardless of age, background, region and religion; and
 - encourage the National Vision to serve as a form of symbolic reparation through its status as a memorial.

Extract from
“My Country”
By Mohamed Turay

Beneath forest trees
Lay my country covered with leaves
Trampled on by decades of misrule
Shoved to the bottom of the
world’s pool
Then –

The sunbeam penetrates the earth
Excavating the man-made
unenviable wrath
As the blood-drenched land weeps
The world struggles to make it leap
My country becomes a den

But I dreamt that at dawn
Peace and love cleared the gun
Propelled by unity, focus and
forgiveness
Sierra Leone will again lie in the
garden of bliss.

Extracts from
**“My Vision, My Home,
My Sierra Leone”**
By Ustina More

There’s no place like home,
like Sierra Leone
Where in spite of the family
each struggles alone
Through the squalor of sewage
and refuse that’s prone
To put anyone off from
the place he calls home.

With the prospect of making it
all on our own
We will drag ourselves out of
this poverty zone
We will raise up our hearts and
our voices as one
And we’ll find our way forward
with some National Vision.

Ahmad Saiwo,
of Peace Links Sierra Leone,
submitted this novel “Vision”
painting. He creates the “V”
of “Vision” out of two hands
praying. The “I” is a candle of
peace, wrapped in barbed
wire. The “O” of ‘Vision’
opens up into a rainbow that
reveals the form of Sierra
Leone. People from the four
corners of the country
represent diversity. At the
centre again lie the scales of
justice. In Ahmed’s vision, as
represented by the even
scales, every Sierra Leonean
is equal before the law.



CONCLUSION

32. The TRC cannot claim to have developed a complete vision for a future Sierra Leone. Such a vision must be an ongoing project for all concerned Sierra Leoneans, to which the National Vision for Sierra Leone aims to contribute, as a developing record of the evolution of thoughts on the past and present and on vision for the future. A clear vision for the future of the country provides the objectives towards which we all must strive. It also provides the yardstick for the measurement of our progress.
33. The TRC campaign for a National Vision for Sierra Leone has produced a collection of contributions that form part of Sierra Leone's national heritage. The contributions stand as testimony to what is possible in Sierra Leone. They speak of struggle and hope. The contributions inspire and challenge all of us to rise above the past and to build a better future. Their messages must be taken seriously.

Extract from
“My National Vision for Sierra Leone”
By Chinsia E. Caesar

“I want to see a Sierra Leone in which my people come together purposefully in pursuit of a different kind of national reconciliation... I want to see meaning given to that so-called spirit of love, unity and patriotism that is supposed to keep us together as one people and one country.

I picture myself travelling between Sierra Leone's towns and villages on roads that are free of potholes... I picture myself walking through streets free of swarming dust and overflowing rubbish containers. I want to be free to fill my cup with taps that are running with safe drinking water; free to go out in the evenings under the light of functioning street lamps; free to make use of a power supply that runs for twenty-four hours a day.”



Santos Kallon, a 24-year old victim of the war, is an immensely skilled woodcarver and sculptor. He submitted a wooden statue in the person of a woman to represent his vision for Sierra Leone. On the back of the flag, Santos carved the words that his vision embodies: peaceful, as a woman represents peacetime; proud, as she stands tall with her shoulders back and head held high; patriotic, as she is wearing a cloth in the colours of the national flag; but humble, as her hands are behind her back and her eyes are gently closed. The woman's positioning indicates the wish that all Sierra Leoneans stand together: under one flag, for one Salone.



34. Perhaps most importantly, the National Vision has emphasised the significance of each individual contributor to Sierra Leone. The work of building a new and better Sierra Leone belongs to every stakeholder in Sierra Leone. The individuals who have lent their hopes and dreams for Sierra Leone to this exhibit are actors in the process – as is each visitor to the Exhibit – and as such they are all vehicles for change. The Exhibit is a catalyst and it is up to each individual to ensure that it maximises its potential to effect day-to-day change. In the words of one National Vision 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.”*