

CHAPTER THREE

Recommendations

I pray never to see again what I saw in my beloved Sierra Leone.

Extract from the poem "I Saw" by Mohamed Sekoya¹

Introduction

1. The Truth and Reconciliation Commission Act 2000 ("the Act") requires the Commission to make recommendations concerning the reforms and measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission; namely, providing an impartial historical record, preventing the repetition of violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation.²
2. The recommendations contained in this chapter are designed to facilitate the building of a new Sierra Leone based on the values of human dignity, tolerance and respect for the rights of all persons. In particular, the recommendations are intended to help create an open and vibrant democracy in which all are treated as equal before the law.
3. The Commission is of the view that the adoption of its recommendations will assist the people of Sierra Leone to rise above the bitter conflicts of the past, which caused unspeakable violations of human rights and left a legacy of dehumanisation, hatred and fear.
4. These legacies must be confronted on the basis that there is a need for tolerance, not for prejudice; a need for acknowledgment and accountability, not for recrimination; a need for reparation, not for retribution; a need for community, not for victimisation; a need for understanding, not for suspicion; and a need for reconstruction, not for greed.

Unique Legal Framework

5. The Act requires that Government shall faithfully and timeously implement the recommendations of the report that are directed to state bodies and encourage or facilitate the implementation of any recommendations that may be directed to others.³
6. The Act further requires that the Government shall, upon the publication of the report of the Commission, establish a committee or other body including representatives of the Moral Guarantors of the Lomé Peace Agreement ("the Follow-Up Committee") to monitor and facilitate the implementation of the recommendations of the Commission.

¹ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

² Section 15(2) of the Truth and Reconciliation Commission Act 2000.

³ Section 17 of the Truth and Reconciliation Commission Act 2000.

7. Few enabling statutes of other truth and reconciliation commissions have contained a provision compelling the governing authority to implement the Commission's recommendations. Nor are we aware of any similar provision requiring the establishment of a monitoring committee to hold Government to account.
8. The Parliament of Sierra Leone enacted such provisions against the backdrop of a society devastated by bloody conflict and economic decay. The intention behind sections 17 and 18 of the Act must have been nothing less than the most serious endeavour to address the fundamental ills facing Sierra Leone. The effect of the law is to invite the closest scrutiny of the Government's response to the recommendations made by the Commission.
9. The categorical nature of the law is immensely significant. The only qualifications in the provision requiring the Government to implement the Commission's recommendations are contained in the words "faithfully and timeously implement." We interpret these words to mean that the Government is required to take all reasonable steps within its means to implement the recommendations; and that such steps should be taken promptly and without unreasonable delay.
10. Acting faithfully means acting seriously and acting with resolve. It means that the Government is obliged to do all that is within its power and resources to carry out the recommendations.
11. Determining what is "timeous" or a "reasonable period" will depend on all the prevailing circumstances. But it implies that the government must direct its immediate attention to implementation.
12. Assessing faithful and timeous performance will involve a careful and measured analysis of what was possible and realistic in the light of all relevant factors.

Approach of the Commission

13. In the light of the peremptory requirement imposed on the Government, the Commission has been mindful of its heavy responsibility to make recommendations that are indeed capable of being implemented. In so doing, the Commission has itself considered what it deems to be "possible and realistic". This means taking into account the resources and capacity available to the government. Accordingly, the Commission has refrained from overwhelming the Government with recommendations. This would be a meaningless exercise. It is not the role of the Commission to address every ill and shortcoming in society. The recommendations are confined to those that are aimed at preventing the repetition of the conflict, addressing impunity, responding to the needs of victims and the promoting of healing and reconciliation.

14. In making its recommendations the Commission has been reluctant to enter the arena of governmental discretion with regard to what government programmes should be initiated and how they should be implemented.⁴ The Government is already in possession of many reports filled with recommendations that urge it to resource its ministries and line functions; to pay its staff better; to build capacity and put in place various mechanisms; and to raise public awareness of various issues. Simply repeating such recommendations will not be helpful to the Government or Sierra Leone.
15. The Commission has rather opted to focus on recommendations that serve to establish and safeguard certain rights, principles and values, consistent with its mandate, which is focussed upon violations and abuses of human rights and international humanitarian law. These rights and values are those that have not as yet been established in Sierra Leone or are under serious threat. The Commission views the implementation of its recommendations as the starting point to prevent the repetition of conflict.

FRAMEWORK FOR RECOMMENDATIONS AND THE ROLE OF THE FOLLOW-UP COMMITTEE

16. In order to give practical effect to the approach outlined above, the Commission has divided its recommendations into three main categories, namely “Imperative”, “Work Towards” and “Seriously Consider”.

“Imperative” Recommendations

17. In certain instances, the Commission will state that a recommendation is imperative and ought to be implemented immediately or as soon as possible. In the view of the Commission such recommendations fall strictly within the peremptory obligation as stated in the Act. The Government is required to implement these recommendations “faithfully and timeously”.
18. These recommendations tend to be those that establish and uphold rights and values.
19. The Commission proposes that Parliament enact an “omnibus bill” to address those imperative recommendations that may be implemented by mere repeal of existing legislation or parts thereof. The Commission calls for such a law to be enacted without delay.
20. The Follow-Up Committee should *monitor closely and regularly* the implementation of “imperative” recommendations.

⁴ The main exception to this relates to the needs of victims, which requires the introduction of certain programmes.

“Work Towards” Recommendations

21. In other instances, the Commission recommends that the Government “work towards” the fulfilment of a recommendation. This category is titled the “Work Towards” category. In this category, the Government is expected to put in place the building blocks to make the ultimate fulfilment of the recommendation possible. No time stipulation is made although the Commission nonetheless expects recommendations in this category to be implemented within a reasonable time period.
22. These recommendations tend to be those that require in-depth planning and the marshalling of resources in order to ensure their fulfilment.
23. The Follow-up Committee is required to maintain *ongoing monitoring* of Government’s performance in respect of its implementation of these recommendations.

“Seriously Consider” Recommendations

24. Finally, the Commission makes recommendations for the serious consideration of Government. In the “Serious Consideration” category, while the Government is expected to thoroughly evaluate the recommendation, it is under no obligation to implement the recommendation.
25. Recommendations in this category are not necessarily any less important than those contained in the “Imperative” and “Work Towards” categories. The Commission does, however, recognise that the funds and skills base available to the Sierra Leone state are limited and that there will be recommendations that fall outside the two essential categories.
26. The Follow-Up Committee is required to provide *occasional* monitoring of the Government’s decision-making in respect of these recommendations.
27. The categories of recommendations are reflected in the following table:

Category	Implementation	Time	Follow-Up Committee
“Imperative”	Required	Immediate or as soon as possible	Frequent and close scrutiny
“Work towards”	Put in place building blocks	Less stringent, but still within a reasonable time	Ongoing monitoring
“Seriously Consider”	Seriously evaluate	None	Occasional monitoring

28. Unless specifically stated all recommendations are directed to the attention of the Government of Sierra Leone, along with its various organs and agencies.

“Calls on” Recommendations

29. The Commission makes several recommendations directed at bodies that do not fall within the ambit of Section 15 of the Act. These are institutions that do not form part of the Executive or Legislative arms of government or that are non-governmental bodies or members of the international community. In these circumstances, the Commission “calls on” the body in question to implement the recommendation.

Role of Civil Society in Monitoring

30. While the role of the Follow-up Committee with regard to the monitoring required in respect of each category of recommendations is specifically set out, the Commission urges civil society organisations and activists to apply equal vigour in monitoring the performance of government and its agencies in the implementation of the recommendations.

THE RECOMMENDATIONS

31. The Commission has prioritised the recommendations to address the underlying causes of the conflict. In addition, certain of its recommendations are directed at remedying particular wrongs committed against specific groups, such as women and children. The civil war created several vulnerable groups such as the war-wounded, amputees, the sexually abused and war widows. Specific recommendations are made in relation to these vulnerable groups. The Commission’s recommendations on reparations, which follow this chapter, put forward measures to redress violations suffered by these groups.

Findings and Recommendations

32. The Commission’s recommendations are based on the findings it reached. The central findings of the Commission and associated recommendations are highlighted hereunder.
33. The Commission, as its first primary finding, found that the conflict represented an extraordinary failure of leadership on the part of all those involved in government, public life and civil society. No enlightened and visionary leaders emerged to steer the country away from the slide into chaos and bloody civil war. For this reason the Commission highlights its recommendations under the Governance section. In particular, the Commission calls upon leaders at all levels of Sierra Leone society to commit themselves to the principles of leadership contained under the sub-heading “Committed Leadership”.
34. The Commission found that the central cause of the war was endemic greed, corruption and nepotism that deprived the nation of its dignity and reduced most people into a state of poverty. The recommendations under the headings “Promoting Good Governance” and “Combating Corruption” are accordingly highlighted. The Commission calls on all of those involved in the public sector to usher in a new culture of ethics and service and to fight the scourge of corruption which saps the life-force of Sierra Leone.⁵

⁵ See the section entitled “A Culture of Ethics and Service” under the heading “Promoting Good Governance” later in this chapter.

35. The Commission identified a need for individual and national restoration of dignity and the establishment of a new rights culture in Sierra Leone; a rights culture in which all Sierra Leoneans respect each other's human rights, without exception. Under the heading "Protection of Human Rights", the Commission recommends the enshrining of the right to human dignity in the Constitution and the upholding of the right to human life.⁶
36. The Commission found that a factor that contributed to causing the conflict was the suppression of political expression and dissent. The Commission in its recommendations emphasises that freedom of expression is the lifeblood of a democracy. A culture of public debate and tolerance of dissenting ideas is the sign of a vibrant and healthy democracy.⁷
37. The Commission calls for a new and equitable citizenship in Sierra Leone. A common or equitable citizenship is likely to promote a new patriotism and devotion to Sierra Leone. This new citizenship demands a new culture of mutual respect, understanding and tolerance by Sierra Leoneans for all Sierra Leoneans and other peoples.⁸
38. The Commission proposes that Sierra Leone should consider the creation of a new Constitution, which should be the product of a wide and thorough consultative and participatory programme. Such a constitution must lay the foundations for a democratic and open society in which every citizen is equally protected by the law. It must free the potential of every Sierra Leonean. A Sierra Leone that is united around clear constitutional rights, values and principles has a promising future.⁹
39. The Commission found that, prior to the start of the conflict, government accountability was non-existent. It concluded that democracy and the rule of law were dead. The Commission accordingly makes recommendations to strengthen democracy and institutions of accountability. In particular, the Commission highlights its recommendations in respect of the independence of the judiciary,¹⁰ the role of parliament¹¹ and the holding of free and fair elections.¹²
40. The Commission found that successive political regimes abused their authority over the security forces and unleashed them against their political opponents in the name of national security. Soldiers and police officers were reduced to playing roles as agents of destabilisation. The Commission accordingly highlights its recommendations that new principles of National Security, which reflect the will of Sierra Leoneans to live in peace and harmony, be enshrined in the Constitution.¹³

⁶ See "Human Dignity" and "Human Life" under the heading "Protection of Human Rights".

⁷ See "Freedom of Expression" under the heading "Protection of Human Rights".

⁸ See "Citizenship" under the heading "Protection of Human Rights".

⁹ See "The Constitution" under the heading "Protection of Human Rights".

¹⁰ See "Independence of the Judiciary" under the heading "Establishing the Rule of Law".

¹¹ See "Role of Parliament" under the heading "Promoting Good Governance".

¹² See "Free and Fair Elections" under the heading "Promoting Good Governance".

¹³ See "Principles of National Security" under the heading "The Security Services".

41. The Commission found that prior to the conflict the Provinces had become totally excluded by the centralisation of political and economic power in Freetown. Local government was in demise across the country. The Commission emphasises its recommendations to bring government and service delivery to people throughout Sierra Leone. The Government must be seen to be establishing infrastructure and delivering health, education, justice and security services in all Provinces.¹⁴
42. The Commission found that the political elite in successive regimes excluded society-at-large from meaningful participation in decision-making, in particular youths and women. The Commission highlights its recommendations to increase the level of representation for youths and women in representative politics, in cabinet and government.¹⁵

Organisation of Recommendations

43. The chapter is organised under the following headings and sub-headings:
- **THE PROTECTION OF HUMAN RIGHTS**
Human Dignity, Human Life, Arbitrary Detention, Emergency Powers, Freedom of Expression, Citizenship, Corporal Punishment, Promoting a Human Rights Culture, Human Rights Commission, The Role of the Judiciary in Protecting and Advancing Human Rights, Customary Law and Human Rights, International Human Rights Obligations, the Constitution
 - **ESTABLISHING THE RULE OF LAW**
Independence of the Judiciary, Judicial Autonomy, Judicial Appointments, Tenure of Office, Keeping Judges Accountable, Prosecuting Authority, Local Courts, Access to the Courts, Legal Activism and the Sierra Leone Bar Association, Legal Resources Centre, Simplification of Rules and Procedures, Approaching the Courts, Justice Delayed, Law Reform Commission, Court Infrastructure and Equipment
 - **THE SECURITY SERVICES**
Principles of National Security, Sierra Leone Army, Operational Support Division, Conditions of Service
 - **PROMOTING GOOD GOVERNANCE**
Committed Leadership, A Culture of Ethics and Service, Freedom of Information, Free and Fair Elections, Role of Parliament, Just Administrative Action, Bringing Government and Service Delivery to the People, Chieftaincy, Lustration¹⁶

¹⁴ See "Bringing Government and Service Delivery to the People" under the heading "Promoting Good Governance".

¹⁵ See "Political Representation" under the heading "Youth"; and "Political Participation and Access to Power" under the heading "Women".

¹⁶ "Lustration" means the disbarment of officials of a previous regime from public office on the basis of violations and abuses of human rights committed by them.

- **FIGHTING CORRUPTION**
Disclosure of Assets, Independent Corruption Prosecutions, United Front against Corruption, Civil Society, Business, Government, Donor Community
- **YOUTH**
National Mobilisation, National Youth Commission, Political Representation
- **WOMEN**
Women Affected by the Armed Conflict, Domestic Violence, Sexual Violence, Sexual Offences under Customary Law, Police, Prosecutors and Judicial Officers, Discrimination against Women, Minimum Age of Marriage of Girls, Skills Training and Economic Empowerment, War Widows, Education, Access to Justice, HIV/ AIDS, Gender Commission, Political Participation and Access to Power, Developing Leadership, Achieving Equality, The Most Vulnerable
- **CHILDREN**
Child Rights Bill, School Education, Age of Majority, Adoptions, Fostering and Guardianship, Early Marriages, Sexual Offences against Children, Laws on the Employment of Children
- **EXTERNAL ACTORS**
Promotion of Regional Integration and Unity, Preventing War in the Mano River Basin, Peace Agreements, Military Intervention and Peacekeeping, Mercenaries, Tracing the Assets of Charles Taylor and the NPFL, Tracing RUF Assets in Other Countries, Relationship with the United Kingdom, The Withdrawal of UNAMSIL from Sierra Leone, Post-Conflict Aid
- **MINERAL RESOURCES**
Accounting for the Spending of Diamond Proceeds, Preventing the Smuggling of Diamonds, The Kimberly Process, Corruption in the Diamond Industry, Child Labour, Labour Conditions, Community Empowerment
- **THE TRC AND THE SPECIAL COURT FOR SIERRA LEONE**
Future Post-Conflict Arrangements, Staffing of Future Post-Conflict Bodies, Building the National Justice System, Amnesties
- **REPARATIONS**
Health, Pensions, Education, Skills Training and Micro-Credit/ Micro-Projects, Community Reparations, Symbolic Reparations, Implementation
- **RECONCILIATION**
Guiding Principles, Reconciliation Activities
- **NATIONAL VISION FOR SIERRA LEONE**
The Vision Going Forward, Guiding Principles
- **ARCHIVING OF COMMISSION DOCUMENTATION**
Confidential and Restricted Information, Regulating Access

- **DISSEMINATION OF THE TRC REPORT**
Widest Possible Dissemination, Education, Popular Versions and the Internet
 - **FOLLOW-UP COMMITTEE**
Human Rights Commission and Civil Society, Reporting
44. For ease of reference the chapter ends with “Recommendations Tables” in which every recommendation made by the Commission is reflected in columns representing the different categories of recommendations.

THE PROTECTION OF HUMAN RIGHTS

In the new years to come

We would strive to live side-by-side in our rebirth

Jumping in the glowing sun, seeing the seas from the hill tops from behind the palm trees

Saying “Kunafa burma” – Never again.

Extract from the poem “On my Rebirth” by Paul James Allen¹⁷

45. Under this heading, the Commission seeks to promote the creation of a human rights culture in Sierra Leone. A rights culture is one in which there is knowledge and recognition of the basic rights to which all human beings are entitled. A rights culture demands that we respect each other’s human rights, without exception.

Human Dignity

46. Everyone has inherent dignity and the right to have their dignity respected and protected.
47. The conflict constituted a denial of humanity to all Sierra Leoneans. Thousands upon thousands of victims were subjected to inhuman brutality. Humans were treated as non-humans. Human life was disrespected. Sierra Leone must reject this violent and cruel past.
48. The Commission identifies a need for individual and national restoration of dignity. This requires individual and collective action. Each and every Sierra Leonean bears responsibility for this. There can be no lapses in the responsibility of respecting and upholding the fundamental human rights of all in Sierra Leone. This responsibility endures forever.
49. A failure to respect the rights of others stems ultimately from a failure to respect oneself. Self-respect or self-dignity is not possible when one undermines or destroys the dignity of others. Those who maintain their dignity, notwithstanding conditions of extreme poverty and deprivation, set examples for us all. We need look no further than the ghettos of Freetown or the villages of the Provinces for such examples.

¹⁷ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

50. Human life without dignity is substantially impaired. Respect for human dignity means not treating fellow human beings in a demeaning way. It means not subjecting any human to cruel, degrading or inhumane treatment. Respecting human dignity ultimately means respecting the life of each and every human being.
51. Every person has the right to live as a human being and to experience life as part of a community and the nation. The new Sierra Leone must recognise and cherish the individual value of all persons, regardless of their differences. It is up to all Sierra Leoneans to give meaningful content to the right to human dignity.
52. The Commission recommends, as its first imperative recommendation, that the right to human dignity be enshrined as a fundamental right in the Constitution of Sierra Leone 1991 ("the Constitution").¹⁸

Human Life

53. Respect for human dignity and human rights must begin with respect for human life. Everyone has the right to life. A society that accords the highest respect for human life is unlikely to turn on itself.
54. The Commission recommends the abolition of the death penalty and the immediate repeal by Parliament of all laws authorising the use of capital punishment.
55. The Commission recommends that section 16(1) of the Constitution of Sierra Leone, 1991 (the Constitution) be amended to incorporate the principle that the right to life is inviolable. The new section 16(1) should enshrine the right that every human being shall be entitled to respect for his or her life and the integrity of his or her person. It should state that no person shall be punishable by death.
56. The recommendation is imperative and should be implemented without any delay.¹⁹ The Commission further recommends the introduction of a moratorium on all judicially sanctioned executions pending the Constitutional amendment.²⁰ Any pending death sentences should be immediately commuted by the President.

¹⁸ Human dignity is referred to in sections 8 (Social Objectives) and 13 (Duties of the Citizen) of Chapter II of the Constitution. Section 8(2)(b) enjoins the State to treat citizens with dignity. However, as per section 14 of the Constitution, none of the principles contained in Chapter II confer any legal rights nor are they enforceable by the courts.

¹⁹ The abolition of the death penalty also warrants an amendment to section 17 of the Constitution.

²⁰ This is in line with the African Commission on Human Rights and Peoples' Rights resolution on the death penalty adopted at the 26th Ordinary Session in November in Kigali, Rwanda.

57. This recommendation is made in the context of Sierra Leone's recent history. The conflict period resulted in the demeaning of human life and dignity. The state must now set the example by demonstrating that it places the highest value on all human life. The abolition of the death penalty will mark an important and symbolic departure from the past to the future.²¹
58. Respect for human life and dignity does not only mean a prohibition on the taking of the lives of others. It also means protecting all persons from violence and harm, whether this be on the streets or in the home. A duty rests on the State to provide adequate security to all Sierra Leoneans.

Arbitrary Detention

59. The deprivation of liberty is a serious infringement of human rights. It is, however, legitimate when sanctioned by rules and laws which accord with principles of fairness and due process. Arbitrary arrest and detention without trial cannot be tolerated in a just and democratic society.
60. There are several persons detained under "safe custody detention" in clear violation of international law. No provision in Sierra Leonean law provides for such detention. In these circumstances the rule by law has been replaced by the rule of decree.
61. Several of the detainees have been held in detention without charge or trial since 2000. The detention of such persons constitutes a gross and unjustifiable violation of their human rights. The Commission recommends the immediate release of all persons held in "safe custody detention". The Commission further recommends that such detention never be resorted to again.
62. It is not possible to engage in a serious discourse on human rights and the rule of law in Sierra Leone, while such violations of human rights persist.
63. These recommendations are imperative.

Emergency Powers

64. The imposition of emergency powers inevitably results in the denial of human rights. Emergency provisions have been used to silence political opponents who posed challenges to different regimes. The resort to emergency powers to deal with political opposition is a sign of failure on the part of the government to govern effectively.

²¹ There is a clear trend worldwide and across Africa towards the abolition of the death penalty. Worldwide an average of three countries a year abolishes capital punishment. 123 countries have abolished capital punishment, while only 71 retain it. About half of the countries in Africa no longer execute convicted prisoners. Between 1994 and 2004, the number of countries in the Economic Community of West African States (ECOWAS) and Mauritania that have legally abolished the death penalty or have not carried out executions has risen from one to ten. Only Guinea, Liberia, Nigeria and Sierra Leone have carried out executions in the last decade. (Source: Amnesty International, Index: AFR 01/010/2004, 10 May 2004).

65. Emergency powers should be used only as a last resort to deal with a genuine state of emergency in which the life of the nation is actually threatened by war, insurrection, natural disaster or other public emergency; and emergency powers are required to restore peace and order.
66. The current Constitution of Sierra Leone devotes more space to taking away the rights of citizens than to ensuring their respect. Section 29, which provides for public emergencies, is the best example of this.
67. The United Nations Human Rights Committee has attempted to prepare guidelines for the use of states of emergencies. The Committee declares that even in a state of emergency:
- “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Furthermore, during a state of emergency, judicial remedies must be available so that citizens can contest the legality of special measures, including detention.”²²
68. The Commission recommends that all emergency measures must be subject to judicial review by the Courts of Sierra Leone. Any superior court of record should be able to decide on the validity of a declaration of a state of emergency and any extension of a declaration of a state of emergency. No clause should be permitted to stand, which prevents the courts from reviewing any measure taken in terms of a public emergency. No law made under a public emergency should permit the indemnifying of the state or any person, in respect of any unlawful act. These recommendations require the partial repeal of sections 29(4) and (6) of the Constitution.
69. A state of emergency must be effective only prospectively. Parliament should be permitted to extend a declaration of a state of emergency for no more than three months at a time. This will require an amendment to section 29(13) of the Constitution.
70. The President is given wide powers under sections 29(5) and (6) to make regulations and take measures during a period of public emergency that may have the effect of suspending all fundamental human rights. Clauses authorising such powers should be removed from the Constitution.
71. Laws or regulations made in terms of a public emergency should be consistent with Sierra Leone’s obligations under international law that apply to states of emergency. This requirement should be enshrined in section 29 of the Constitution.

²² See General Comment No. 29, UN Doc. HRI/GEN/Rev.6.

72. Laws and regulations made under a public emergency should deviate from the protection of fundamental human rights and freedoms²³ only to the extent that the deviation is strictly required by the emergency. The Commission makes specific recommendations as to which rights should not be derogated or deviated from in the table below. Column 4 of the table below sets out those portions of the rights that the Commission recommends should not be derogated from. Such rights are sometimes referred to as “non-derogable” rights. These recommendations require the amendment of sections 29(5) and 29 (6) of the Constitution.

Section Number	Right, or Obligation of the State	Section Title	Extent to which the right is protected in a public emergency
	Human Dignity		Entirely
16	Life	<ul style="list-style-type: none"> Protection of right to life 	Entirely
17, 18, 20 and 23	Freedom and Security of the Person	<ul style="list-style-type: none"> Protection from arbitrary arrest or detention Protection of freedom of movement Protection from inhuman treatment Provision to secure protection of the law 	<ul style="list-style-type: none"> Not to be tortured in any way; and Not to be treated or punished in a cruel, inhuman or degrading way. Everyone arrested has the right... <ul style="list-style-type: none"> To remain silent; and To be informed promptly... <ul style="list-style-type: none"> of the right to remain silent; and of the consequences of not remaining silent; Not to be compelled to make any confession or admission that could be used in evidence against him or herself; Everyone who is detained has the right <ul style="list-style-type: none"> To challenge the lawfulness of the detention before a court and, if the detention is unlawful, to be released; Every accused person has a right to a fair trial.

²³ Fundamental human rights and freedoms are set out in Chapter III of the 1991 Constitution.

Section Number	Right, or Obligation of the State	Section Title	Extent to which the right is protected in a public emergency
	Protection of Children		<ul style="list-style-type: none"> • Not to be used directly in armed conflict, and to be protected in times of armed conflict. • To be protected from maltreatment, neglect, abuse or degradation; • To be protected from exploitative labour practices; • Not to be detained except as a measure of last resort, the child may be detained only for the shortest appropriate period of time, and has the right to be <ul style="list-style-type: none"> ○ Kept separately from detained persons over the age of 18 years; and ○ Treated in a manner, and kept in conditions, that takes account of the child's age.
19	Slavery, servitude and forced labour	<ul style="list-style-type: none"> • Protection from slavery and forced labour 	<ul style="list-style-type: none"> • With respect to slavery and servitude
27	Equality	<ul style="list-style-type: none"> • Protection from discrimination 	<ul style="list-style-type: none"> • With respect to unfair discrimination on the grounds of race, ethnic or social origin, sex, religion or language.

73. In addition to the protection afforded to persons detained under a public emergency in terms of section 17 of the Constitution, the Commission makes the following recommendations for the further protection of detainees:

- A notice must be published in the Government Gazette shortly after the detention (but at least within five days of the detention), stating the detainee's name and place of detention and referring to the emergency measure in terms of which the person was detained.

- The detainee must be allowed to choose and be visited at any reasonable time by a medical practitioner and a legal representative.
- The Tribunal referred to in section 17 of the Constitution must review the detention as soon as reasonably possible, but no later than 10 days after the detention, and must be empowered to release the detainee, unless it is necessary to continue the detention to restore peace and order.
- A detainee not released by the Tribunal should be able to apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee, unless it finds that it is still necessary to continue the detention to restore peace and order.
- The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention.
- The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.
- If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows to a court good cause for re-detaining that person.

74. These recommendations are imperative.

Freedom of Expression

75. Freedom of expression is the lifeblood of a democracy. A culture of public debate and tolerance for dissenting ideas is the sign of a vibrant and healthy democracy. Restrictions on the freedom of expression represent a fearful State; it reflects a State that has no confidence in its ability to promote and disseminate its doctrines in the marketplace of ideas.

76. A free press ranks alongside an independent judiciary as one of the most important counter forces to the excesses of both the public and private sectors. The media should be free of political patronage. The degree to which the media is independent is the degree to which it can perform an effective public watchdog function on the conduct of public officials and powerful individuals in society. Laws establishing "freedom of expression" require support and enforcement from the courts. Without an independent judiciary, press freedom cannot be maintained.

77. The use of sedition and defamation proceedings under the criminal law does not bode well for freedom of expression in Sierra Leone. These provisions are the leftovers of a long gone colonial era. In many countries, laws on sedition and criminal libel have been either formally or effectively abandoned.²⁴ The only circumstances in which criminal sanctions on free speech can be justified is where an intention to incite violence or lawless conduct has been demonstrated beyond a reasonable doubt and where there is a real risk that violence will ensue.

²⁴ For example, in 2001, Ghana's parliament unanimously repealed the country's criminal libel and sedition laws, including clauses governing sedition and defamation of the members of the government, officials and their associates.

78. The Commission recommends that criminal sanctions in the sphere of expression should be avoided.²⁵ The civil law, which permits the issue of injunctions restraining the publication of defamatory material and actions for damages arising from defamatory publication, is sufficient to protect individuals from unfounded allegations.
79. The Commission recommends that the laws creating the offences of seditious and criminal libel should be repealed. Conduct aimed at inciting violence or lawless conduct is dealt with elsewhere in the criminal laws of Sierra Leone. Until the laws are repealed, the Commission recommends a moratorium on all existing or pending prosecutions for sedition and criminal libel. These recommendations are imperative.
80. The Commission calls on the members of the media in Sierra Leone to carry out thorough investigations before publishing stories. Newspapers should be offering informed comment on matters of national and international concern. Some newspapers are in danger of becoming little more than scandal sheets, relying on provocative and, at times, dishonest headlines to promote sales. Reports that are inaccurate or even untrue seriously undermine the cause of freedom of expression. Journalists who take bribes and allow their newspapers to be used for party political ends or for the settling of personal scores abuse the freedom of the press. Such journalists are not fit to be members of the independent press.
81. The Commission calls on the Sierra Leone Association of Journalists and the Media Commission to be more proactive in monitoring standards of journalism practiced in Sierra Leone and to establish mechanisms for effective self-regulation. These organisations can do much to advance a culture of human rights in Sierra Leone.

Citizenship

82. The Sierra Leone Citizenship Act of 1973 discriminates in favour of persons who are of “Negro African descent” and whose father or grandfather (as opposed to mother or grandmother) was born in Sierra Leone. Thus a person born in Sierra Leone (after 19 April 1971) who is not a person of Negro African descent and whose father or grandfather was not born in Sierra Leone is not entitled to Sierra Leonean citizenship by birth.²⁶ The provisions are both racist and sexist.

²⁵ In a “friend of the court” brief submitted on 6 May 2004, the Open Society Justice Initiative urged the Inter-American Court of Human Rights to seize an historic opportunity to advance freedom of expression by outlawing criminal defamation. The brief notes a growing consensus worldwide that criminal defamation statutes hinder free expression. “A society cannot be free if its citizens must avoid criticism of public officials out of fear of criminal prosecution,” the brief argues. The case involved two Costa Rican publishers who had been found guilty of criminal defamation. The Inter-American Commission has already found that Costa Rican law violates the American Convention on Human Rights by criminalising publications on matters of public interest, such as the conduct of public officials.

²⁶ Part II of the Sierra Leone Citizenship Act, 1973

83. According to Part II of the Sierra Leone Citizenship Act, only persons who are of “Negro African descent” may apply for Sierra Leonean citizenship. This law is racist.
84. The mixture of various groups with different skills can be the engine room of a vibrant democratic society. It is desirable that Sierra Leone evolves into a more pluralist society, welcoming persons of all ethnic origins. Racist legislation is a perpetuation of the philosophy that justified the slave trade and colonialism, and should be unthinkable in an African democracy that has emerged from the continent’s oppressive past.
85. Citizenship should be acquired by birth, descent or naturalisation. Race and gender must not be a consideration in the acquisition of citizenship. The Sierra Leone Citizenship Act should be amended accordingly. This is an imperative recommendation.
86. All citizens should be equally entitled to the rights, privileges and benefits of citizenship. They should be equally subject to the duties and responsibilities of citizenship. These principles should be enshrined in the Constitution of Sierra Leone. This is an imperative recommendation.
87. The Commission is of the view that the changes effected under these recommendations will mark the beginnings of a new culture of citizenship in Sierra Leone. A common or equitable citizenship is likely to promote a new patriotism and devotion to Sierra Leone. This new citizenship demands a new culture of mutual respect, understanding and tolerance by Sierra Leoneans for all Sierra Leoneans and other peoples.

Corporal Punishment

88. Every person has the right not to be treated or punished in a cruel, inhuman or degrading way. In particular every child has the right to be protected from maltreatment, neglect, abuse or degradation.
89. Children suffered gross physical abuse at the hands of adults in the Sierra Leonean conflict. Children are still subject to institutional physical abuse through the use of corporal punishment at schools and in homes. The government school system that arose in the days of colonial rule adopted nineteenth-century British traditions of school discipline, including that of beating children.
90. Corporal punishment is inflicted with the intention of causing physical pain and humiliation. The use of beatings for purposes of correcting behaviour in schools legitimises violence as a means to control behaviour more generally. This message goes out to both children and adults. The message says that hurting others is acceptable behaviour. The consequence of corporal punishment is to encourage physical aggression throughout society.
91. Many children are left with physical and psychological scars as a result of corporal punishment. For some children, physical scars and disabilities remain a life-long reminder of the educational system’s brutality. Children are entitled to receive education in an environment of freedom and dignity, free from fear.

92. Children are the future of Sierra Leone. There is no justification for permitting another generation of children to be subjected to brutality, whether this is in the name of education or ideology. The Commission recommends the outlawing of corporal punishment against children, whether this be in schools or the home. This is an imperative recommendation.
93. The criminal law of Sierra Leone should be amended so as to declare that it shall not be a defence to a charge of assault to say force was used against a child for the purposes of discipline. This is an imperative recommendation.

Promoting a Human Rights Culture

94. Several submissions made to the Commission urged it to recommend that human rights and peace studies should be introduced into the curriculum at schools. The Commission agrees. The teaching of tolerance and understanding should start as early as possible in the education of children.
95. Sierra Leone, known in recent times for its unspeakable atrocities and untold suffering, can become known for its compassion and respect for human rights. It should become a centre of dialogue on tolerance and the preservation of peace.
96. The Commission recommends the development of a compulsory programme of human rights education into schools at the primary, secondary and higher levels of education. Human rights education should become part of the formal curriculum and be examinable. Appropriate human rights and peace programmes should be compulsory for the training of recruits into the army, police and judicial service. The Government should work towards the fulfilment of these recommendations.
97. Public education about the law is one of the most effective means of creating a culture of rights. Street Law is a programme involving law students in the participatory teaching of law to the general public at the community level.²⁷ Law students are taught communication skills they will need to teach others, including the running of mock trials.²⁸ Another objective is to provide public education about the law to as wide an audience as possible - including school children and prisoners. Easy to use textbooks can be published on subjects where there is the most pressing need for legal literacy.²⁹ The Commission calls upon the international community to support the introduction of Street Law into Sierra Leone.³⁰

²⁷ It was developed in the United States and has been popularised by Street Law, Inc., based in Washington D.C.

²⁸ One principal idea behind Street Law is to teach law students some of the practical aspects of the law, not just the theory.

²⁹ Texts published in different countries cover constitutional rights, the court system, criminal procedure, consumer law, family law, labour law, conflict resolution and participation in public life.

³⁰ The Commission notes that the Fourah Bay College Human Rights Clinic conducts classes on human rights issues in secondary schools.

Human Rights Commission

98. A Human Rights Commission (HRC) can serve as both a watchdog and a visible route through which people can access their rights. Such a commission can help create a national culture of human rights through its advocacy, research and legal functions. Above all it must monitor and assess the observance of human rights throughout the country. Individuals who claim that their human rights have been violated should be able to submit complaints for investigation.
99. A Human Rights Commission must have the power to take steps to secure appropriate redress where human rights have been violated.³¹ It should have the authority to require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of rights.³² The powers and mandate of the HRC should accord with guidelines set out in the Paris Principles.³³
100. While the HRC should be accountable to Parliament and not to the executive arm of government it can provide advice and support to government on human rights matters. Currently no institution has the expertise and mandate to advise the three branches of the State on how to effectively meet international obligations by incorporating human rights concepts into laws, policies and day-to-day activities. A Human Rights Commission can monitor legislation before Parliament. It can monitor how the government enforces constitutionally guaranteed political, civil, social, economic and cultural rights.
101. The Lomé Peace Accord required the establishment of an "autonomous quasi-judicial National Human Rights Commission"³⁴ within 90 days after the signing of the Accord. Such a Commission is still not in place.

³¹ This requires that the body be in a position to subpoena witnesses and conduct interviews.

³² Many Human Rights Commissions, apart from monitoring the upholding of fundamental human rights, also monitor the provision of housing, health care, food, water, social security, education and the protection of the environment.

³³ In 1992, the U.N. Commission on Human Rights endorsed a set of internationally recognized principles concerning the status, powers and functioning of national human rights institutions. The U.N. Principles relating to the Status of National Institutions, known as the Paris Principles, which were subsequently endorsed by the U.N. General Assembly in 1993, set out the basic guidelines recommended by the U.N. in the establishment of a national human rights institution. The U.N. defines a national human rights institution as a government body established under the constitution or by law, whose functions are specifically designed to promote and protect human rights. The Paris Principles stress, as fundamental features designed to contribute to independence, the need for: a founding constitutional or legislative statute; as broad a mandate as possible; an independent appointments procedure, with terms of office specified by law; a pluralistic and representative composition; independence from the executive branch; and adequate funding. Such institutions should be able to take up any human rights matter at their own initiative, at the suggestion of government, and at the request of "any petitioner."

³⁴ Article XXV.

102. The Commissioners should be selected on the basis of institutional representation. Government, after consultation with civil society and other stakeholders, should determine the institutions that should nominate commissioners. Members of the institutions should then choose their respective institutional representatives. The chosen commissioners should appoint one of their number as the chairperson of the Commission. The institutions should ensure that the selected Commissioners are the product of a transparent nomination process based on the will of the majority of their members.

103. These recommendations are imperative.

The Role of the Judiciary in Protecting and Advancing Human Rights

104. The Commission calls on the judiciary not to permit laws or practices to stand which are contrary to justice or which undermine the rights to liberty, equality and justice. Clauses that oust the jurisdiction of the courts in matters pertaining to fundamental human rights should be declared illegal.

105. When interpreting any legislation and when developing the common law or customary law the judiciary should promote the spirit and purpose of Chapter III of the Constitution, the Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual. The Commission calls on the judiciary to uphold the values that underlie an open and democratic society. These values include human dignity, equality and freedom.

106. While the Supreme Court should remain the final arbiter of all constitutional matters, serious consideration should be given to extending constitutional jurisdiction³⁵ to the other courts making up the Judicature, namely the High Courts of Justice and the Court of Appeal. This will contribute to the development of a more vibrant constitutional jurisprudence in Sierra Leone. This will require an amendment to section 124 of the Constitution.

Customary Law and Human Rights

107. While the institution, status and role of traditional rules and custom should be respected they must be subject to the Constitution. Some elements of customary law and Islamic Law contradict basic human rights.³⁶ A girl is considered to be marriageable, for example, once her breasts have developed, her menses have started, and she has been initiated. This could mean that a girl as young as 12 is put up for marriage.³⁷ The consent of the bride to marriage is not required. Only the consent of the bride's family is needed.³⁸

³⁵ As set out in section 124(1) a. and b. of the Constitution. These powers are the enforcement or interpretation of any provision of the Constitution and where any question arises as to whether an enactment was made in excess of legal power.

³⁶ For the purposes of this chapter all references to "customary law" include Islamic Law.

³⁷ See Dr. Joko Smart, "Sierra Leone Customary Family Law", at page 152.

³⁸ See Dr. Joko Smart, "Sierra Leone Customary Family Law", at page 152.

108. To the extent that customary law is inconsistent with Chapter III of the Constitution, courts should be empowered to declare it unconstitutional. This recommendation requires the repeal of sections 27(4)(d) and (e) of the Constitution which exempts certain areas of the law such as adoption, marriage and divorce from protection against discrimination. This is an imperative recommendation.
109. A serious problem is the inconsistency in local court decisions dealing with customary law. This has led to a great deal of uncertainty as to what customary law says. This problem is not unrelated to the fact that customary law remains un-codified in Sierra Leone. The Commission recommends that customary law be codified. Codifying customary law is a massive task as customs vary from tribe to tribe and district to district. Nonetheless, the Commission recommends that Government work towards the fulfilment of this important objective.
110. When codifying customary law, the Commission recommends that the drafters pay particular attention to those aspects of customary law that offend basic human rights. Such laws should not become part of an enforceable code of customary law. However, the reform of customary law should be undertaken creatively and democratically. The process of reform should commence with the people it will affect, such as women and peasant farmers at chiefdom level. They should be consulted on how they would like to see customary law changed.
111. The Commission recommends that the government, through the Law Commission, begins a national dialogue on the codification of customary law with special emphasis on the rights of women and children. The ultimate aim must be to bring customary and Islamic law in line with the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

International Human Rights Obligations

112. Sierra Leone is a party to the seven major international human rights treaties within the United Nations system.³⁹
113. The principal enforcement mechanism in each of the seven main conventions is an obligation upon States to submit periodic reports on their compliance. Although it is not alone, Sierra Leone would appear to be among the worst in its consistent failure to submit these periodic reports.
114. It appears that Sierra Leone produced its last report under the International Convention for the Elimination of All Forms of Racial Discrimination in 1973. The Committee for the Elimination of Racial Discrimination in its most recent annual report lamented Sierra Leone's apparent indifference to its international obligation in this respect.⁴⁰ Sierra Leone's initial report to the Committee on the Elimination of Discrimination Against Women was due on 11 November 1989

³⁹ The International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the International Convention for the Elimination of All Forms of Racial Discrimination, the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the International Convention on the Protection of All Migrant Workers and Members of Their Families.

⁴⁰ UN Doc. CERD/C/58/Misc.27.

and has not yet been produced.⁴¹ Its initial report to the Human Rights Committee was due on 22 November 1997, and has not yet been produced.⁴² Its initial report to the Committee on Economic, Social and Cultural Rights was also due on 22 November 1997, but is overdue.⁴³ Sierra Leone submitted an initial report to the Committee on the Rights of the Child, in June 1996,⁴⁴ which was discussed by the Committee in 2000. A subsequent report was due on 1 September 1997, and has not yet been produced. Its initial report to the Committee Against Torture was due on 24 May 2002, and has not been produced.⁴⁵ In all, Sierra Leone has a total of 24 (twenty-four) reports that are due according to the treaties and that it has not submitted.

115. An alarming gap in Sierra Leone's participation in international human rights treaties is its failure to ratify the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the United Nations in 1948. Sierra Leone has also failed to cooperate with United Nations human rights officials, such as the Special Rapporteur on Extra-judicial, Summary and Arbitrary Executions, which is a special procedure of the United Nations Commission on Human Rights.⁴⁶
116. While it is commendable that Sierra Leone has undertaken the obligations by ratifying or acceding to all seven of the principal United Nations human rights treaties, and several of the other international human rights instruments, this would seem to be little more than a mere formality, if we are to judge by its failure to submit reports.
117. The Commission recommends that the Government of Sierra Leone take these obligations more seriously. It should not be difficult to obtain technical assistance for the preparation of the overdue reports, either from the Office of the High Commissioner for Human Rights or from international human rights NGOs. The Commission also recommends that Sierra Leone promptly ratify or accede to the international human rights treaties that it has not yet accepted.⁴⁷
118. Finally, Sierra Leone should put in place procedures and mechanisms within the relevant government ministries to ensure that any petitions directed against it to the Human Rights Commission, the African Commission on Human and Peoples' Rights, and similar bodies, are answered promptly and faithfully, and that requests for information from the Special Rapporteurs of the United Nations and the African Commission are treated seriously and with respect.
119. These are imperative recommendations.

⁴¹ UN Doc. A/56/38, at page 140.

⁴² UN Doc. A/57/40, at page 159.

⁴³ UN Doc. E/2003/22, at page 108.

⁴⁴ UN Doc. CRC/C/3/Add.43.

⁴⁵ UN Doc. A/57/44, at page 93.

⁴⁶ UN Doc. E/CN.4/2001/9, paragraphs 16 and 21.

⁴⁷ The Second Optional Protocol to the ICCPR, aimed at the abolition of the death penalty, the Optional Protocol to CEDAW, the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Protocol to the African Charter on Human and Peoples' Rights (ACHPR) on the Establishment of an African Court on Human and Peoples' Rights, the Protocol to the ACHPR on the Rights of Women in Africa, and the Convention for the Prevention and Punishment of the Crime of Genocide.

The Constitution

120. A constitution ought to be the foundation and basis of the society desired by the people. It should reflect their common aspirations and minimum safeguards. The 1991 Constitution that is currently in force was not the product of a wide participatory process.
121. The lack of participation by society is reflected in the 1991 Constitution. Chapter III of the Constitution is extremely elaborate and detailed, undermining clarity and the force of the text. There are numerous "claw-back clauses", by which a right is announced in one provision, but curtailed in the next. A bill of rights should be comprehensible and framed in straightforward terms. A bill of rights should provide an enumeration of the basic principles on which society is based, accessible to the citizen, instead of losing itself in details and exceptions. Some fundamental rights to which Sierra Leone is bound by international law do not figure at all, such as the right to education, which is recognised in articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights.
122. It would be desirable to reformulate the fundamental rights provisions of the Constitution, not only by shortening them and making them simple and accessible, but also by ensuring their compatibility with Sierra Leone's international obligations. The Constitution should declare that the country's international obligations with regard to the protection of human rights are incorporated in the Constitution and subject to direct application by the courts.
123. The Commission is of the considered view that it is an appropriate time for Sierra Leone to formulate a new Constitution. The Commission accordingly recommends that Parliament seriously consider the creation of a new constitution for Sierra Leone.
124. A constitution that is the product of a thorough consultative and participatory programme will provide a historic bridge between the divided and violent past and a future based on peace, unity, social justice and economic development. Such a constitution must lay the foundations for a democratic and open society in which every citizen is equally protected by the law. It must free the potential of every Sierra Leonean.
125. The Constitution is the most important document in Sierra Leone. It must do more than set out the rights of individuals and the powers of the State. It should be the collection of ideas and aspirations that holds the country together. A Sierra Leone that is united around clear constitutional rights, values and principles has a promising future. These rights, values and principles will provide the signposts to guide Sierra Leone's people through a future that is filled with many obstacles and challenges.
126. The decision to build a new Constitution and to act in accordance thereof requires the taking of a long-term view by Sierra Leone's Parliament and its people. It requires arduous work, the fruits of which will not necessarily be enjoyed by this generation. This generation, which experienced the worst of times, will however leave a gift for future generations. There can be no better legacy to bequeath than the construction of the foundations of society that provide lasting peace and prosperity.

127. This recommendation is made for the serious consideration of the Sierra Leonean Parliament. Constitution making is a long-term programme. The recommendation is not to be construed as permitting the delay or holding back of other imperative recommendations that require amendments to the 1991 Constitution.

ESTABLISHING THE RULE OF LAW

All Sierra Leoneans must be equal before the law. And the laws this time must be like a cloth, it must be made to fit the people that it is meant to serve.

Extract from the essay "My Vision, Hope and Aspiration for Sierra Leone"
by Augustine Lavai-Tiva Bundu⁴⁸

128. In a true democracy there is no compromise on the supremacy of the Constitution and the rule of law.
129. The rule of law is the expectation of equality of treatment under objective and accessible rules. Discretionary governmental power should be subject to control by the courts. Courts should apply the same law to all regardless of their standing in society. In short, the rule of law says that nobody is above the law.
130. Inequitable law, separate court systems, lack of access to courts, few lawyers, and a confusion of administrative and judicial roles all conspired to prevent the application of the rule of law in Sierra Leone. Courts rarely protected human rights or policed administrative irregularity.
131. The starting point in establishing the rule of law is the creation of an independent, impartial and autonomous judiciary.

Independence of the Judiciary

132. A judiciary must be independent, if it is to stand between the powerful and powerless. Judges must be independent if they are to dispense impartial justice. An independent and impartial judiciary holds a central place in the realisation of a just, honest, open and accountable government. The judiciary can play its role only when it has the power to enforce rulings and it has efficient organisation.
133. Judicial independence ultimately depends on the will of the individuals in the three branches of state to adhere to the Constitution. Those in the executive and legislature must be committed to the independence, impartiality and the supremacy of the judiciary in its role as adjudicator. Whether the judiciary is adequately resourced and whether the other branches of government obey and implement the rulings of the courts are factors against which the extent of this commitment will be assessed.

⁴⁸ Essay submitted to the National Vision for Sierra Leone, a project of the TRC.

134. Judicial officers themselves, above all others, have to be committed to the building of an independent and impartial judiciary. This requires judges to possess courage and integrity. The success of the rule of law in Sierra Leone ultimately depends on the calibre of people involved in the judiciary.⁴⁹ The Commission calls upon all judicial officers and those involved in the administration of justice to act with integrity at all times and to dispense justice without fear or favour.

Judicial Autonomy

135. The judiciary should have financial and administrative autonomy. Budgetary independence means that the budget should be separately presented and managed. The judiciary itself is best placed to do the planning for an efficient justice delivery system.
136. The Commission recommends that Government should work towards the creation of an independent judiciary. This includes providing the judiciary with budgetary independence or self-accounting status.

Judicial Appointments

137. The most blatant means used by an executive to influence the courts is the practice of appointing as many of its supporters or sympathisers as possible to the courts.
138. The way in which judges are appointed and subsequently promoted is essential to their independence. Judges must not be appointed for political reasons, but only for reasons of competence and political neutrality. The public must have confidence that judges are chosen on merit and for their integrity, not as a reward for party service or as a tactic by the executive to ensure a friendly face on the bench.
139. The need for the judiciary to reflect broadly the ethnic and gender composition of Sierra Leone must be considered when judicial officers are appointed.
140. Civil organisations should be brought into the appointment process. Debates on appointments, outside of political and judicial circles, should be encouraged in the media and among academics. The appointment process should consider experience and performance, vision and judicial philosophy of the nominees.
141. There is a need to broaden representation on the Judicial and Legal Service Commission (JLSC), which appoints judges. In addition to the existing representation, there ought to be representation from parliament and the law teaching profession. At least one teacher of law designated by teachers of law at Sierra Leonean universities; and at least three members of Parliament, one of whom must be a member of the official opposition, ought to be represented on the JLSC.

⁴⁹The Chief Justice of Sri Lanka, Mr. Justice Samarakoom, noted at the 1983 meeting of Commonwealth Law Ministers that: "Independence is a question of the individual, and all the law can do is merely help him to be independent. So when you consider the independence of any judiciary, remember [that] if you do not get an independent man, all the laws and all the provisions in the Constitution cannot make him be independent."

142. The Commission recommends further that the representation of the organised bar be increased. At least four practicing lawyers nominated from within the organised bar to represent the profession should be appointed to the JLSC.
143. The recommendation to broaden the representation of the JLSC to include the sectors suggested is imperative.

Tenure of Office

144. If judges are not confident that their tenure of office and their remuneration are secure, their independence will be threatened. Judges should not be removable by executive action. It is generally desirable that judges must retire when they reach the retirement age. This reduces the scope for the executive to favour handpicked judges whom they find sympathetic and also reduces the temptation, on the part of the judge, to curry executive "approval" for re-appointment.
145. The practice of employing retired judges on contract should cease. The Commission recommends that the retirement age of judges should be extended to seventy, without the possibility of extension. Government should work towards the fulfilment of this recommendation.
146. The Commission notes the perennial problem that poor remuneration causes many of the best legal minds to decline appointments to the bench. The Commission takes further notice of the efforts undertaken to address this problem. In the light of these efforts the Commission makes no particular recommendation in this regard, but observes that there are few (or no) countries in the world where judges are able to earn as much as their colleagues in private practice.⁵⁰
147. Leading members of the bar are normally appointed judges after they have accumulated considerable years of experience. An appointment to the bench is an opportunity not only to serve Sierra Leone but also to help shape a future society. The Commission calls upon experienced lawyers in Sierra Leone, and indeed experienced Sierra Leonean lawyers practicing law abroad, to respond to this important challenge.⁵¹

Keeping Judges Accountable

148. The Judicial and Legal Service Commission is empowered by the 1991 Constitution to dismiss and discipline persons exercising judicial functions. This authority has never been used effectively.
149. It is recommended that an independent disciplinary committee be set up within the Judicial and Legal Service Commission to investigate complaints of corruption and malpractice made against judges, magistrates, bailiffs, registrars and other court personnel. This body should sit on a regular basis and report to and make recommendations to the full JLSC.

⁵⁰ Such a comparison must of course only be made between the incomes of judges and the incomes of the leading members of the profession.

⁵¹ According to an article in the *Concord Times* of 22 January 2004, the Chief Justice, Dr. Abdulai Timbo stated that not a single application had been received for eight judicial vacancies to serve in the provinces.

150. It is recommended that a binding and enforceable Code of Conduct be drafted and enacted for members of the bench (including Magistrates). Such a Code should lay out the guidelines and governing principles of acceptable professional behaviour. It should foster the highest standards of honour and integrity.
151. These are imperative recommendations.

Prosecuting Authority

152. The prosecuting authority must exercise its functions without fear, favour or prejudice. The rule of law requires that prosecutions on behalf of the state be conducted fairly and reasonably. The decision to prosecute or not must not be motivated by improper and political considerations, but by the public interest and the need for justice.
153. The Attorney General acts as the "guardian of the public interest" and has extensive powers with regard to the initiation, prosecution and discontinuance of criminal proceedings. The Attorney General must also provide legal advice on matters of public administration and government to the executive.⁵² Clearly, the Attorney General must exercise his or her functions impartially and be free from political influences. While the Office of the Attorney General and that of the Ministry of Justice remains merged the incumbent can never be expected to act independently.
154. The Commission recommends the separation of the offices of the Attorney General and the Minister of Justice. The Attorney General should be the Chief Law Officer of the state and should enjoy security of tenure of office. The implementation of this recommendation will require an amendment to the Constitution. Government should work towards the fulfilment of this recommendation.

Local Courts

155. The various peoples of Sierra Leone have always had systems and principles for dispute resolution. But the basic institutional framework of the current customary legal system is a product of colonialism; established by the Protectorate Ordinance of 1896. What were then called "Courts of Native Chiefs" or "Native Courts" are now called "Local Courts."⁵³
156. Under the colonial strategy of indirect rule, chiefs were used as instruments of the colonial administration. Chiefs were made immune to the checks and balances of traditional institutions and accountable instead only to the colonial state. Within the jurisdiction set for it by the protectorate, customary law was both made and enforced by the chiefs. They used it to carry out colonial demands such as tax collection and, often, to carry out their own exploitation by way of fines, coerced labour, and arbitrary decisions.⁵⁴

⁵² The Attorney General is also expected to ensure to the full extent of his or her authority that government takes place within a framework of law; that government and official agencies adhere to international human rights standards; and scrutinise new or proposed legislation.

⁵³ See the Local Courts Act 1964.

⁵⁴ See Arthur Abraham, *Mende Government and Politics under Colonial Rule* (Freetown: Sierra Leone University Press, 1978), p. 304-05.

Sierra Leone's present-day customary legal system should be viewed in the light of the rural de-democratisation that was wrought by indirect rule.⁵⁵

157. The Ministry of Local Government presently supervises local courts.⁵⁶ The executive arm of government should not set matters such as codes of conduct for court officials. The Commission recommends that the Judicial and Legal Services Commission incorporate the local courts into the judiciary, which is headed by the Chief Justice and supervised.
158. The *Local Courts Act* provides for the work of local courts to be supervised by judicial advisers, or customary law officers. Such officers are empowered to advise local courts in matters of law, train local court personnel⁵⁷ and even exercise the right of judicial review over decisions of local courts. Very few such officials have been posted in the districts since the 1980s.⁵⁸ In effect the districts were left to their own devices.
159. Customary Law Officers are presently part of the Law Officers Department and appointed by the Attorney General. They should be under the judiciary as specified in section 141(2) of the Constitution. This section states that the Judicial and Legal Services Commission should appoint Customary Law Officers.
160. The Commission recommends that suitably qualified judicial/ customary law officers be appointed for each of the twelve districts. These officers should organise training programmes for local court officers.
161. In line with the Commission's recommendation that the local courts be integrated into the judiciary, the power of judicial review should be removed from customary law officers once the integration has taken place. Currently, the District Officers also have the power of review over decisions of the Local Courts. In keeping with the principle of separation of powers the, Commission recommends that the power of judicial review be removed from District Officers.
162. Local Court chairmen are paid 30,000 Leones per month (about 11 US Dollars.). This creates a strong structural incentive for corruption. Allegations abound that many local court chairmen use excessive and baseless fines to supplement their incomes. The Commission recommends that Government work towards the incremental improvement of the remuneration of Local Court officials.
163. The Commission recommends that the Government work towards the fulfilment of these recommendations.

⁵⁵ See Mahmood Mamdani; "Citizen and Subject"; Princeton University Press, Princeton; 1996. Mamdani demonstrates at length the way that the colonial strategy of indirect rule worked to democratise rural Africa. He argues that confronting this legacy of indirect rule is key to reducing conflict and strengthening democracy on the continent.

⁵⁶ See Section 2 of the Local Courts Act of 1974.

⁵⁷ At the time of writing this report, Local Court officials have not been trained since 1982.

⁵⁸ During the 1990s, a single judicial adviser or customary law officer serviced all three provinces.

Access to the Courts

164. If the majority of Sierra Leoneans have no real access to the courts, then the rights enshrined by the Constitution are meaningless. Legal representation is one of the most important means of enforcing rights.
165. Section 23 of the Constitution guarantees the right of access, by all, to the courts. Only those accused persons charged with capital offences such as murder, treason and robbery with aggravation are entitled to legal representation under the current legal aid regime. The 1991 Constitution mandates Parliament to make provisions for the rendering of financial assistance to indigent citizens of Sierra Leone whose rights have been infringed.⁵⁹ Parliament has not made any such provisions.
166. The Commission notes that an effective legal aid system will be enormously expensive to establish and maintain. The Commission is reluctant to make recommendations requiring massive expenditure when there are economical (albeit less ambitious) options, to explore.
167. Government should consider making a condition in the granting of scholarships to law students that they be required to work in an institution offering free legal services to indigent clients for at least one year after their call to the Bar.
168. The establishment of legal aid clinics at universities and colleges and under the auspices of the law departments can fill in some of the gaps in the government-funded system of legal aid. In each clinic, a qualified lawyer should supervise between 10 and 20 law students. The Commission calls upon universities and colleges to consider the establishment of legal aid clinics.⁶⁰ The Commission calls upon Fourah Bay College to make service in the law school's legal aid clinic part of the curriculum for all law students.
169. The Commission recommends that the Government work towards the establishment of public defender offices in the main centres of the country.⁶¹ Senior law students can also be used as public defenders in criminal matters. This would provide indigent accused with some defence and provide the students with practical training experience. The law governing rights of appearance in courts should be amended in order to permit senior law students to participate in public defender programmes.

Legal Activism and the Sierra Leone Bar Association

170. Lack of courage on the part of lawyers and judges over the years paved the way for the desecration of the constitution, the perpetuation of injustice and the pillaging of the country's wealth.

⁵⁹ See Section 28(5)(a) of the Constitution of Sierra Leone 1991.

⁶⁰ There is currently only one law school in Sierra Leone, namely the law school at Fourah Bay College. The law school does have a legal aid clinic and its students work with the Lawyers' Centre for Legal Assistance (LAWCLA).

⁶¹ Public defenders ought to be independent from the prosecution arm of the Ministry of Justice, so as not to compromise their services.

171. The organised bar is in a good position to be a powerful watchdog and should add its voice in protest, when human rights are abused and the rule of law is threatened. The Commission calls upon lawyers to stand up to injustice.⁶²
172. The Commission calls on the Sierra Leone Bar Association to require its members to offer their services regularly on a *pro bono* basis.⁶³ A particular onus rests on the Bar Association to provide legal representation for indigent accused in trials involving serious offences, where significant periods of imprisonment are at stake.
173. To the extent that members are already, on an individual basis, offering such services, the Commission commends them. But it is clear that the provision of pro bono services is inadequate. Lawyers are able to pursue a lucrative profession, but they have duties that accompany this, including that of furnishing services to the indigent.
174. The Commission calls upon the Sierra Leone Bar Association to become the guardians of the protection of the Rule of Law and the human rights of Sierra Leoneans. The Bar Association should require that its members receive mandatory continuing education in human rights law and related subjects.
175. A binding and enforceable code of ethical conduct should be promptly drafted and adopted for members of the Bar (legal professionals). The Bar Association should enforce such a code. Strict sanctions, including loss of the right to practice, should be enforced against all members of the profession in cases of infringement.

Legal Resources Centre

176. The Commission calls on private lawyers to establish a legal resources centre that can litigate test cases before the courts.⁶⁴ Test cases are cases that focus on problems experienced by large numbers of people and can impact on whole communities or the entire country. They often result in a change of the law.
177. A sustainable public interest legal organisation with full time lawyers is able to plan its work strategically. It can set up intermediaries between lawyers and clients in the form of field-workers and paralegals. The Commission calls upon the international community to support the establishment and running of such a centre.⁶⁵

⁶² Lawyers and activists would do well to take heed of the words of the late Pastor Martin Niemöller who in the mid- twentieth century stated: "In Germany, they first came for the communists, and I didn't speak up because I wasn't a communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics and I didn't speak up because I wasn't a Catholic. Then they came for me -- and by that time there was nobody left to speak up."

⁶³ This is already a compulsory requirement in many Bar Associations around the world.

⁶⁴ Examples of legal assistance organisations that have been successful in providing meaningful access to the courts include the Legal Assistance Centre (Namibia), the Legal Resources Centre (South Africa), the Legal Resources Foundation (Zambia), the Legal Resources Foundation (Zimbabwe), Legal Mozambique Dos Direitos Humanos (Mozambique), Centre for Advice and Education on Rights (Malawi), Legal Services Centre (Zanzibar), Legal and Human Rights Centre (Tanzania), Legal Aid Project of the Law Society of Uganda, Ditshwanelo (Botswana).

⁶⁵ The Lawyers' Centre for Legal Assistance (LAWCLA) could perhaps be transformed into a fully-fledged legal resources centre.

Simplification of Rules and Procedures

178. Access to justice can also be achieved through a simplification of legal rules so that they may be understood and used by anyone. Alternative conflict resolution methods should be promoted. Traditional and customary methods of mediation and conflict resolution have proven to be useful at resolving issues in many communities.
179. The adversarial procedure may not be absolutely necessary in all matters such as small claims and family disputes. Alternative forms of dispute resolution and settlement, such as mediation and arbitration, should be required, or provided as an option, before resort is made to the courts.
180. The Commission recommends that the Government consider the feasibility of introducing alternative forms of dispute settlement.

Approaching the Courts

181. Courts ought to relax the traditional procedures for instituting proceedings for relief. Unsophisticated and indigent petitioners ought to be able to approach the courts by a variety of means, such as the addressing of letters to judges.
182. The Commission calls on the judiciary to take a pro-active approach to the protection of human rights.

Justice Delayed

183. Delays in the delivery of both criminal and civil justice threaten to cripple the administration of justice in Sierra Leone. The use of judicial time must be maximised. Those factors that create the idle use of time should be eliminated. The creation of an efficient case flow management system, the proper scheduling of cases and an increase in judicial sitting hours will enable the judiciary to work at greater capacity. In order to encourage longer sitting hours, courts must be adequately resourced and made comfortable.⁶⁶ Judges are often late for hearings and at times do not even appear because the courts do not have enough vehicles to transport them.
184. Flexibility of use of judicial personnel should also be considered.⁶⁷ A single structure of trial courts, created through the merging of courts, would make for flexibility in the use of judicial personnel.
185. In the adversarial system, judges have played a passive role in the control of proceedings, unless moved at the instance of one of the parties. There is a growing awareness that, if cases are to move faster, courts must become more involved in the speeding up of the process. They should monitor case development, require parties to report progress and set down time scales.
186. The Commission urges Government and the judiciary to consider these recommendations for purposes of addressing the backlog in the delivery of justice.

⁶⁶ This requires attending to such issues as furnishing, ventilation and lighting.

⁶⁷ In The Gambia, section 17(8) of the *Courts Act* enables a judge of the Supreme Court to preside in any subordinate court. Also in The Gambia, several provisions in the *Criminal Procedure Code*, which are regarded as causing delays, have been removed.

Court Infrastructure and Equipment

187. Adequate court facilities are essential to the proper administration of justice. Overcrowded courthouses lead to under-performance and congestion.
188. Use of court buildings ought to be maximised and running costs minimised.⁶⁸ Courts can be used as continuing education lecture halls after court hours. In smaller communities, they can also be used as community halls.
189. The Commission takes note of the progress made in the refurbishment of the main courthouse in Freetown and the construction of courts in some districts. The Commission recommends that the Government work towards the establishment of more courthouses in Freetown and the Provinces.
190. The use of computers by courts for case management and the storage and retrieval of information has proven to be cost effective in many countries. The provision of computers with access to the Internet to Judges will also facilitate legal research. Several Supreme and Constitutional Courts around the world publish the full texts of their judgments online, which can be downloaded free of charge.⁶⁹
191. Provision of books and library facilities are important components in the administration of justice, but often neglected. The quality of justice dispensed must suffer, if books are not readily available. The Commission calls on international legal organisations and members of the international community to donate legal texts and law reports⁷⁰ emanating from their respective countries to Court libraries and law libraries in Sierra Leone.

Law Reform Commission

192. Many of Sierra Leone's laws were adopted from England. Some laws on the statute books date back as far as the 17th century.⁷¹ While the British have long amended or repealed these laws, they remain in force in Sierra Leone.

⁶⁸ Running costs can be minimised through reducing the consumption of energy. Design of courts, indeed all public buildings, should emphasise natural ventilation and natural lighting. Simplicity and efficiency of design, such as single story courts will release funds for essentials such as furniture, equipment and books.

⁶⁹ These courts include the High Court and Supreme Court of Zambia, Nigerian Supreme Court, the Constitutional Court of South Africa, the Supreme Court of Appeal of South Africa, the U.S. Supreme Court, the Supreme Court of Canada, the High Court of Australia, and the European Court of Human Rights. Decisions from Kenya, Tanzania and Uganda are online through the website: lawafrica.com. *Quicklaw*, a Canadian legal database, has an arrangement with the Canadian Bar Association whereby judges worldwide who provide their judgments get free access.

⁷⁰ Such legal texts and law reports could be donated in either hard copy or electronic versions, or both. Law reports should be updated on a regular basis as part of the donation.

⁷¹ Section 74 of the Courts Act made a number of pre-1880 English laws applicable to Sierra Leone. Examples include: the Statute of Frauds, 1677; the Wills Act, 1837; and the Common Law Procedure Act 1852.

193. Several areas of the law are out of step with modern developments. Such legislation ought to be amended, repealed and where appropriate completely rewritten. Examples of the law, which cry out for reform, are the criminal procedure laws, including provisions governing bail, laws dealing with the protection of women and children⁷² and land tenure.
194. Without law reform, the Rule of Law is greatly hampered because new challenges cannot be addressed satisfactorily. In an increasingly globalised world, lack of law reform can negatively impact on the investment climate. Penalties for breach of the law may become so meaningless as to encourage impunity.
195. A Law Reform Commission ought to research all branches of the law in order to make recommendations for the development, improvement and modernisation of the law. A Law Reform Commission that is effective ensures the renewal of the law on a continuous basis. Many of the recommendations being made by the Commission require law reform, and, so, it is essential, if these are to be implemented effectively, that a genuinely functional law reform commission should exist.
196. Successive governments have neglected the Law Reform Commission. The Law Reform Commission needs full time staff, including researchers. It requires adequate premises and a library. The Commission recommends that the government should work towards equipping the Law Reform Commission so that it may discharge its responsibilities effectively.

THE SECURITY SERVICES

*There's no place like home, like Sierra Leone,
Where a man in a uniform, thin to the bone,
Stops a man in the street and in god-fearing groan
Begs for cash or for bread or for transport back home*

Extract from the poem "My Vision, My Home, My Sierra Leone" by Ustina More⁷³

197. The Commission has found that the security forces, the army and police, failed the people of Sierra Leone during their time of greatest crisis. Significant elements within these forces desecrated the Constitution and acted against the wishes of the people. Successive political regimes abused their authority over the security forces and unleashed them against their political opponents in the name of national security.
198. Sierra Leoneans have a right to security forces that are professional, disciplined and representative of all the people.

⁷² By way of example, the maximum provided for child maintenance is a paltry Le 400 per week.

⁷³ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

Principles of National Security

199. The Commission is of the view that new principles governing national security ought to be adopted in Sierra Leone. Those in power must never again use national security as an excuse to deploy security forces for political ends. These principles are as follows:
- National security must reflect the commitment of Sierra Leoneans, as individuals and as a nation, to live in peace and harmony and to be free from fear.
 - The Sierra Leone Army must be the only lawful military force in Sierra Leone.⁷⁴ There should be no other military or paramilitary force, under the guise of any institution, including the police.⁷⁵
 - No member of any security service should be permitted to obey a manifestly illegal order. Obedience to a manifestly unlawful order should never be a defence to a crime.
 - Neither the security services as a whole, nor any of their members, may, in the performance of their duties, act against a political party's legitimate interest or promote the interest of any political party.
 - No Sierra Leonean should participate in armed conflict internationally, except as provided for in terms of the Constitution or national legislation.⁷⁶
 - The use of armed force in Sierra Leone must be deployed in strict accordance with the Constitution.
200. The Commission recommends that the National Security principles be enshrined in the Constitution. This is an imperative recommendation.

The Sierra Leone Army

201. The Army, which prior to the civil war and during the conflict sunk to the depths of disobedience and degeneracy, is now expected to rise to unprecedented levels of professionalism. Much has to be done to restore the faith and confidence of the people of Sierra Leone in the Army.
202. This responsibility of restoring faith in the Army rests not only with the leadership of the military, but also with each and every soldier. This responsibility must be reflected in the day-to-day conduct of all SLA soldiers. Serving in the Army should be regarded as a privilege. Those soldiers who are unable to conduct themselves professionally and to respect the Constitution at all times are not fit to serve their country.

⁷⁴ Section 166 of the Constitution prohibits the raising of any private armed force.

⁷⁵ This principle would naturally not apply to United Nations and other internationally sanctioned Peacekeeping Forces.

⁷⁶ This principle would not preclude Sierra Leoneans who become citizens or residents of other countries from serving in the lawfully constituted armies of such countries.

Operational Support Division

203. The Inspector General of the Sierra Leone Police⁷⁷ in his submission to the Commission pointed out that the paramilitary force formed in the police under the Siaka Stevens regime became an “instrument of tyranny and suppression”.⁷⁸ A paramilitary force of sorts exists in the police today in the form of the Operational Support Division (OSD). The proposed National Security Principles enjoin the Government to ensure that no paramilitary force exists outside of the Sierra Leone Army. The existence of such a force within the police is contrary to the proposed National Security Principles.

Conditions of Service

204. Inspector General Kamara of the Sierra Leone Police informed the Commission that the net monthly salary of a police constable is equivalent to one sack of rice, one sack of onions and a few loaves of bread. The rent allowance for police officers amounts to 1,000 Leones per month. Kamara pointed out that a bottle of Coca Cola costs more than that. As a result, police officers “sleep rough”, often camping on the floors of houses of friends and family.
205. The Commission recognises that providing professional policing in these circumstances is extremely difficult. The temptation for policemen and women to engage in actions of “pay yourself” must be overwhelming. However, simply stating that the Government must improve the income of the police may prove to be an empty gesture, at least in the foreseeable future. Indeed the Government hardly needs to be told of the deplorable conditions in the security services.
206. Policemen and women who nonetheless perform their duties with integrity and courage represent the calibre of people needed to build this country. For such policemen and women, working in the police is not just a job. It represents a real commitment to protect and to serve the people of Sierra Leone. The Commission salutes these members. These men and women will make the police a force for good.

PROMOTING GOOD GOVERNANCE

I want to see a Sierra Leone that is free of the broken bottles that cut us into pieces. Broken bottles like tribalism, nepotism, favouritism, and sectionalism ...

Extract from the essay “My National Vision for Sierra Leone” by Chinsia E. Caesar⁷⁹

207. Years of lapses in governance and unrestrained corruption⁸⁰ produced the deplorable conditions that set the scene for bitter civil war in Sierra Leone. There is no option but to address bad governance and corruption head on. It would not be an overstatement to say that the survival of the nation depends on the success of society in confronting these issues.

⁷⁷ Brima Acha Kamara, BA MA

⁷⁸ Submission dated 23 July 2003. The first paramilitary force was the Internal Security Division (ISD), which was followed by the Special Security Division (SSD).

⁷⁹ Essay submitted to the National Vision for Sierra Leone, a project of the TRC.

⁸⁰ Corruption is dealt with in the following section under the heading “Fighting Corruption”.

208. Governance is commonly described as the practices and institutions through which authority is exercised for the common good. This includes the process by which those in authority are elected, appointed and monitored; and the capacity of the government to effectively manage its resources for the good of all.
209. Government effectiveness is a measure of the quality of the delivery of public services, the competence of civil servants and the independence of the civil service from political pressures.⁸¹ Poor governance is the mismanagement of public assets and resources. It results in the denial of the delivery of effective public services to the people. Bad governance is the breeding ground for corruption.
210. Successful governance and indeed the effective combating of corruption are largely dependent on strong and committed public leadership; the availability of information; and collective action on the part of civil society.

Committed Leadership

211. It is the example set by the national leadership that sets the tone for the entire public administration and indeed for people at large. The self-seeking machinations of successive ruling elites set the worst of examples. They permitted Sierra Leone's slide into chaos and conflict. In the view of the Commission, this cycle has not been broken.
212. Trust in government leads to respect for the political system. Respect for the political system ensures stability. Stability is a precondition for development in all sectors of society. Trust in government has to be earned by government and, in particular, by the leaders of government.
213. Sierra Leone needs leaders of the highest calibre at all levels. Leaders who are selfless, not self-serving. Such leaders will be remembered and acknowledged by succeeding generations.
214. Committed leadership means many things. It means acting with integrity, understanding and compassion. It involves hard work and self-sacrifice. Committed leaders are those who have no desire to live their lives at the expense of others. These qualities enable such leaders to develop the foresight and wisdom needed to build communities and to build the country.
215. Committed leadership should not just take place at the national level. Such leadership should take place in homes, the streets, workplaces, barracks, schools, colleges, associations and sport fields. Committed leaders change lives for the better, regardless of where they find themselves.
216. The Commission calls upon the national leadership of Sierra Leone and all those in positions of authority and influence to set the highest of standards in their public and private conduct. The Commission calls upon these individuals to place the interests of Sierra Leone and its people above their own.

⁸¹ In July 2003, the World Bank released the results of a comparative study conducted to measure the quality of governance worldwide between 1996 and 2002. The study found that in Sierra Leone some gains had been made in respect of political stability, political rights and the control of corruption. However, the research reflected a disturbing decline with regard to perceptions of government effectiveness, regulatory quality and adherence to the rule of law. More detail can be found at the website: http://info.worldbank.org/governance/kkz2002/sc_chart.asp.

A Culture of Ethics and Service

217. There appears to be an expectation that those who enter the civil service will use their positions to enrich themselves and their extended families. A culture of entitlement within the civil service has become entrenched. This malignant culture must be stopped.
218. The civil servant who sits and chats all day destroys the civil service. The bureaucrat who uses his or her position to secure deals for himself or herself, his or her friends and family acts as a parasite draining the country of resources. The head of department who employs his or her friends and family rather than candidates of merit crushes the spirit of public service. The Commission calls on all civil servants to faithfully and diligently serve the people of Sierra Leone.
219. Sierra Leone needs a culture of ethics and service to prevail in the civil service. There is not a single reference to the word “ethics” in the Constitution. There should be. The Commission recommends that the Constitution of Sierra Leone require all those who are employed in the service of the State to act ethically. In particular, the Constitution should enjoin public servants not to act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests.
220. Members of the executive and those in positions of seniority such as judges and heads of parastatals are expected to comply with a higher ethical standard. The Constitution should require Parliament to publish a code of ethics⁸² prescribing standards and rules aimed at promoting accountable government with which senior members of the Executive and others holding positions of public authority must comply in performing their official responsibilities.⁸³
221. Ethics regulations should be simple, sensible and straightforward. The code must be understandable to every official without a lawyer.⁸⁴
222. The Constitution should further require Parliament to provide by law that a person who has been dismissed or removed from office by reason of a breach of the code of ethics shall be disqualified from holding any other public office, whether appointed or elected, either generally or for a prescribed period.
223. A constituted body with capacity should investigate alleged breaches of such a code of ethics.
224. These are imperative recommendations.

⁸² Referred to in section 233 of the Constitution of the Republic of Uganda as the “Leadership Code of Conduct”.

⁸³ This would be in addition to codes of conduct that apply to the whole public administration.

⁸⁴ These attributes should be the hallmarks of all laws.

Freedom of Information

225. Information empowers. It is for this reason that repressive governments are secretive.
226. Access to information is an important tool for public oversight. If citizens are able to scrutinise government information, they can discipline public officials at the ballot box. They can also use the information for legal challenges and the lobbying of decision makers.
227. Governments are more effective, when they listen to business and citizens and work with them in deciding and implementing policy. Building a viable country requires openness and transparency. This in turn requires that the freedoms of expression and association should be respected at all times. These freedoms are however, meaningless without access to public information.
228. The government must not only publish statutes, regulations and rules, but also the proceedings of all legislative bodies. Judges must report their decisions and reasons in order to render the judiciary accountable. The Commission accepts the principle that government information should be available to the public. There is a duty on the part of the Government to inform.⁸⁵
229. The Commission recommends that the Government work towards the enactment of Freedom of Information legislation and the creation of the necessary apparatus to administer such a legal regime. The purpose of such legislation would be to provide a right of access to information in records under the control of government.
230. The Commission accepts that there are necessary exceptions to the right of access, but that these should be limited and specific. Decisions on the disclosure of government information should be reviewed independently of government.
231. The Commission acknowledges that the setting in place of a Freedom of Information regime is a major undertaking, which necessarily requires an incremental approach. The Follow-Up Committee, while taking this into account, should insist on incremental targets being met.

Free and Fair Elections

232. Free, fair and regular elections are central to democracy. Elections in Sierra Leone have been characterised by violence, intimidation and electoral fraud. These elections subverted democracy. Elections in Sierra Leone must never again be marred by fear and deception.
233. Elections must be effective and well run if democracy is to be consolidated in Sierra Leone. The electoral authority, the National Electoral Commission (NEC), bears the main responsibility in building public confidence in the democratic process. This Commission must be independent and impartial. The Commissioners of the NEC must be individuals with impeccable

⁸⁵ In many former British colonies, including Sierra Leone, the old Official Secrets Act is still in place. Such laws obstruct access to information by preventing officials from passing information to the public through media.

credentials. They must enjoy the respect and confidence of all stakeholders. In the performance of its functions, the Electoral Commission must be insulated from executive interference.

234. Candidates in elections should not be beholden to a narrow group of people. For this reason, candidates and political parties ought to be required to disclose the sources of funds and the amounts of money they raise and spend. The NEC should make such information freely available. Appropriate limits on contributions by individuals and groups to candidates and parties should be placed. These limits should be set following open and transparent consultations with political parties and civil society organisations.
235. No political party should be favoured over another by any organ of state. This particularly applies to the state controlled broadcast media. All political parties should be given an equal amount of time, including primetime, on state controlled television and radio.
236. These recommendations should be addressed by the National Electoral Commission. Where necessary, the Government should facilitate the necessary legislation. The recommendations are imperative.
237. Civil society organisations have a particularly crucial role to play in building confidence in democracy through the close monitoring of the electoral process. The Commission calls on civil society to safeguard democracy by highlighting instances of electoral fraud, monitoring campaign financing and spending and exposing any abuse of state resources for party political purposes.
238. Civil society groups should form a countrywide coalition to monitor general elections. Such a coalition can ask all prospective candidates to publicly subscribe to an integrity pledge. Candidates can also be asked to renounce all forms of electoral intimidation. In particular, such a coalition should closely monitor the work of the NEC to ensure independent and impartial conduct on the part of the electoral authority. The State also needs to be monitored to prevent the abuse of state agencies, such as the police and army, for political ends.
239. The media has an important informative role to play through making available accurate information on potential public office holders. The public must be informed of areas of potential conflict of interests in public office and election manifestoes. If this is done responsibly the media can help to build a culture of accountability.

The Role of Parliament

240. Parliament, as the principal law-making body in Sierra Leone, has a special responsibility to check abuse by the executive branch. Since independence, however, Parliament has shown itself to be a servile agent of the executive, lacking courage and determination to resist tyranny and to ensure respect for democracy and human rights in Sierra Leone.
241. In 1966, Parliament passed the first reading for the passage of Sierra Leone to a one-party state. In 1978, Parliament failed to oppose the introduction of the one-party state. Parliament must accept responsibility for the effective entrenchment of dictatorship and bad governance that laid the grounds for war.

242. Parliament and its committee on justice affairs should be closely scrutinising the work of the judiciary and the administration of justice. Individual members of the legislature are well placed to direct questions to the relevant Ministers on the progress of reforms. Parliament should be closely monitoring human rights in Sierra Leone. Questions should be raised with regard to human rights violations and the failure of governmental organs to investigate and prosecute such abuses.
243. Parliament must pursue the best interests of the electorate. Parliamentarians should be available to hear complaints from their constituents at all times. They should open offices in their constituencies so as to be accessible to the public. The Commission calls upon Members of Parliament to provide real and active representation to the people of Sierra Leone.

Just Administrative Action

244. Citizens are often captive to the whims of bureaucrats when attempting to access public services. Sadly, some of these officials conduct themselves in an arbitrary and corrupt way. In most cases, citizens have no recourse against such decisions.
245. Administrative action⁸⁶ means any decision (or failure to take a decision) by an official or organ of state exercising a public power, which affects the rights of any person.⁸⁷ People should have a right to a just administrative action. Just administrative action is administrative action that is lawful, reasonable and procedurally fair. Where a person's rights are adversely affected he or she ought to be entitled to written reasons in order to assist the complainant to take the matter further.
246. Public administration cannot be said to be open and accountable, unless it substantially accords with the principle of just administrative action. The Commission recommends that government at all levels should work towards the fulfilment of this objective.
247. The Commission recommends that the provision of just administrative action should be enshrined in the Constitution as a governmental objective that all administrative levels of government must work towards. This is an imperative recommendation.

Bringing Government and Service Delivery to the People

248. For many years, successive governments have failed dismally to meet the basic needs of most Sierra Leoneans, particularly those outside of Freetown. The present Government and future governments must be seen to be establishing infrastructure and delivering health, education, justice and security services in all Provinces.

⁸⁶ An example of administrative action is the decision of an official to refuse to grant a business license.

⁸⁷ Administrative action would not include the exercise of powers by the cabinet, councils, the judiciary and the Attorney General. Other constitutional and legal provisions govern the exercise of power by these entities.

249. Even before the start of the civil war, public service delivery had ground to a halt in much of the country. The war devastated public infrastructure and almost totally emasculated government's ability to deliver services to the people. Most Sierra Leoneans do not have access to clean water or consistent power supply.
250. Sierra Leone is one of several developing countries that spent more on military than on education (and health when compared individually) between 1999 and 2000.⁸⁸ Sierra Leone spent 3.6% of its GDP on the military and only 1% on education.⁸⁹ During 2002 goods and services expenditures⁹⁰ were estimated at Le158.5 billion or 9.6% of GDP.⁹¹ Security related outlays accounted for 36 percent of the goods and services expenditure.⁹² Sierra Leone's 2003 budget allocated Le42.6 billion to the military, Le44.2 billion to education, and Le34 billion to the health sector.⁹³
251. While the Government is required to strengthen and restructure the security sector after years of neglect, war and particularly as UNAMSIL proceeds with its phased withdrawal, military spending should be curbed in the longer term. Heavy spending on the military means that there is less money available for public health, education, and poverty reduction. Longer-term security for Sierra Leone rests in the development of the potential of its people.
252. The Commission commends efforts made by the Government and certain international agencies to decentralise government. Such efforts will bring government closer to the people. They will also permit greater participation in the democratic process. Hopefully, these efforts will result in improved delivery of public services.
253. The Commission recognises that this exercise is an enormous undertaking and makes no particular recommendations as to how it should happen. That expertise rests with those involved in the programme. The Commission recommends that the Government consider certain core principles when building local government and reviving institutions such as District Councils.
254. Local government must be democratic. The primary aim of local government must be to enable the progressive social and economic development of local communities and to ensure access to essential services that are affordable. New local government must be premised on the active engagement of communities in the affairs of the local structure, including planning, service delivery and performance assessment. Local councils must use their resources in the best interests of the local community. Services should be provided in a financially sustainable manner. Local government must give members of the local community full and accurate information about the level and standard of services they are entitled to receive.
255. The Commission recommends that these principles of local government should be enshrined in the Constitution. This is an imperative recommendation.

⁸⁸ See United Nations Development Programme (UNDP), Human Development Report, 2003.

⁸⁹ See United Nations Development Programme (UNDP), Human Development Report, 2003.

⁹⁰ "Goods and services expenditures" refer to non-salary, non-interest recurrent expenditures.

⁹¹ Paragraph 21, Government of Sierra Leone Budget and Statement of Economic and Financial Policies for the Financial Year 2003; delivered by Mr J. B. Dauda, on 29 November 2002. More detail can be found at the website: www.statehouse-sl.org/gov-budget-2003.html.

⁹² Government Budget for the Financial Year 2003, *Ibid*.

⁹³ Paragraphs 44 to 48, Government Budget for the Financial Year 2003, *Ibid*.

Chieftaincy

256. New chieftaincies created by the colonial power after the Hut Tax War were deeply resented by the long-standing hereditary ruling houses. In the post-independence period, chieftaincies were corrupted by their co-option and politicisation by successive central governments. Chiefs lost sight of their traditional roles and neglected their duties to their subjects.
257. The Commission calls for the return of Chiefs to their traditional roles and functions. Their first and primary loyalty must be to their subjects, not to party political bosses. The Commission accordingly recommends the decoupling of Chiefs from party politics. Their legal responsibilities and authority should be closely examined to ensure that these accord with their traditional roles. This recommendation is made for the serious consideration of Government.
258. The Commission calls for a national dialogue on the restoration of the Chiefs to their symbolic and traditional roles.

Lustration

259. The Commission seriously considered whether to recommend lustration in the public service and the security forces. Lustration would involve the purging from these institutions of all public officials, soldiers and police members tainted by the fact that they committed human rights violations or engaged in corrupt acts in the past. After much reflection, the Commission decided not to recommend lustration.
260. Sierra Leone's peace is built on the back of a negotiated settlement. The pursuit of national unity, peace and the reconstruction of society requires reconciliation between the people of Sierra Leone.
261. The Commission is of the view that lustration, in the context of post-conflict Sierra Leone, has the potential to be enormously divisive. Besides being unworkable at a practical level, there is the real potential that the process will be abused for political ends and used for purposes of settling scores and pursuing vendettas. This would seriously undermine the prospects for national reconciliation.
262. Public organisations, by necessity, have to be forward-looking. Nonetheless, such organisations are required to be vigilant in monitoring the conduct and behaviour of their members, within and outside the workplace, to determine their fitness for duty. Individuals who display or revert to miscreant behaviour should be dealt with firmly and expeditiously, according to fair labour rules. In appropriate cases, disciplinary action should include dismissal.

FIGHTING CORRUPTION

*And you big-boy Corruption
We say No! – Pack and go...
About face turn
Please go*

Extract from the poem “We Say No” by Rebecca Edmond⁹⁴

263. Corruption is conventionally defined as the exercise of public power for private gain. Corruption results in the diversion or siphoning off of public funds and resources. As a result public services are denied to the intended beneficiary, the people. It is a wrong committed against each and every Sierra Leonean. Corruption constitutes a crime against the people.
264. The Commission has found that endemic corruption was a central factor that produced the dire conditions that made civil war inevitable. Sierra Leone remains in the grip of pervasive corruption, which, if not arrested, will sap the country of its life force and lay the grounds for further conflict.
265. The threat of corruption is manifested in many evil forms, namely greed, bribery, embezzlement, abuse of power, self-serving deals by public officials, extortion, favouritism and nepotism.
266. Examples abound. The teacher who compels students to take “extra lessons” in order to obtain a pass mark destroys the spirit of learning and instils in the youth a culture of grabbing. The university professor who overlooks work of merit until he is “compensated” obliterates the notion of excellence in higher education. The police officer who concocts charges and then extorts money from the “suspect” for the dropping of the charges sabotages law and order in Sierra Leone.
267. Real economic development is not possible, when corruption and bad governance are the order of the day. They result in the massive reduction of the national cake. Both local and international investments go elsewhere. The inability to provide basic services and infrastructure to the people inevitably results in civil disorder. In short, corruption and failings in governance are a recipe for national calamity.
268. On a cautionary note, the Commission observes that anti-corruption campaigns in many countries are often superficial and rarely tackle the real issues. They are launched with much publicity and are then followed by mere token actions. The anti-corruption slogans remain rhetorical.⁹⁵
269. Daddy Saj, the popular Sierra Leonean artist who sang the hit song “Corruption”, points out in the chorus line, “E Do So”, that everybody is doing it. This statement has been acknowledged as something of a national truism. The hard truth is that there are few people in Sierra Leone who are not involved in one form of corruption or another. How seriously the song’s refrain is taken remains to be seen. The Commission hopes that Sierra Leoneans will not be dancing to the same tune in years to come.

⁹⁴ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

⁹⁵ See the Global Corruption Report 2003, available at the website: www.globalcorruptionreport.org

270. The effective implementation of the recommendations made under the preceding heading of "Promoting Good Governance" will be a powerful weapon in the fight against corruption. The Commission commends the steps taken so far by the Government to address corruption in Sierra Leone, in particular, the establishment of the Anti-Corruption Commission (ACC). The campaign against corruption should be broadened and intensified. It should start with those at the top.

Disclosure of Assets

271. A government that is serious about accountability and combating corruption will be serious about transparency. In particular those in government holding positions of responsibility will be transparent about their own dealings, both public and private. Such leaders will have nothing to hide.
272. Sierra Leoneans have become accustomed to those in authority using their positions and information entrusted to them to enrich themselves. The Commission is persuaded that the best way to stamp out this malevolent tradition is to put in place monitoring mechanisms and to take action when self-enrichment occurs.
273. Those in powerful public positions should be required to register their financial interests, when assuming office. They should also disclose their financial interests⁹⁶ acquired after their assumption of office, including those of their spouses and dependents. This must be done on an annual basis. Most of this information should be open to the public.⁹⁷ Those who should be subject to this requirement include all members of cabinet, Parliament, judges, heads of parastatals, general managers in the civil service and parastatals and members of District and City Councils.⁹⁸
274. Clear and strict penalties should be imposed for failure to comply with the duty to disclose. These should include: suspension from office, forfeiture of part or the whole of remuneration, public reprimand, and dismissal from office.⁹⁹
275. A constituted body (or bodies) with capacity must maintain registers of financial interests. Such an organisation must be able to verify the disclosures and check for any potential or actual conflict of interests.
276. These recommendations are imperative.

⁹⁶ Including any gifts, sponsored foreign travel, pensions, hospitality and other benefits of a material nature received by them.

⁹⁷ The confidential part of the register should include details about the monetary value of the interests and all details about spouses and dependent children. The public section of the records should be easily accessible. Some countries such as the Philippines make all disclosures available for public scrutiny.

⁹⁸ Such provisions are common worldwide. See by way of example section 213 of Constitution of Malawi (Act 1 of 1997), section 233(2)(a) of the Constitution of the Republic of Uganda and sections 96 and 136 of the Republic of South Africa. In Botswana and the Philippines, all public officials, irrespective of their ranking, are required to submit disclosures.

⁹⁹ In the United States non-compliance with financial disclosure laws carries penalties which include imprisonment of up to one year and fines of up to US\$50 000. In the Philippines, offenders face up to 5 years imprisonment.

Independent Corruption Prosecutions

277. The Attorney General has been criticised for rendering the Anti-Corruption Commission (ACC) ineffective by not acting on its recommendations.¹⁰⁰ The Attorney General's office is understaffed and under-resourced. The Commission recognises that this is largely due to the fact that experienced lawyers are unwilling to take up appointments because of poor remuneration. The Commission notes that the Attorney General's office is somewhat compromised, at least at the level of public perception, by its ties to the Executive. This perception is reinforced by the fact that the Attorney General is also a serving cabinet minister.
278. There is global trend towards the closer collaboration of investigators and prosecutors in the combating of specialised crime, such as corruption.¹⁰¹ This is particularly the case where the crime in question is of a complex nature and where the criminal conduct in question has become endemic. An effective anti-corruption agency will have appropriate powers of investigation, prosecution and prevention.
279. Prosecution of corruption cases should be free of any scope for political interference. The Commission recommends that the Anti-Corruption Commission (ACC) should be permitted to pursue its own prosecutions in the name of the Republic of Sierra Leone. The Commission recommends that the ACC Act 2000 should be amended to include a provision deeming prosecutions undertaken by the ACC to be in the name of the Republic.
280. The Commission recognises that currently the ACC does not have the capacity to prosecute its own cases. The Commission recommends that the Government and the international community work towards building this capacity and locating such capability within the ACC.

Public Knowledge

281. A government that is serious about harnessing the support of the public in the fight against corruption will provide the public with as much relevant information as possible. Where the public is aware of what is allocated from the public coffers for specific services and amenities it can engage in effective monitoring and scrutiny.¹⁰²
282. Out of every dollar Uganda allocated to education in 1995, just 20 cents reached the country's schools. The rest was lost to local patronage politics. After discovering that it was losing 80% of its education spending to corruption, the Ugandan government started publishing the amounts due to each school in the local newspapers. With this information, local teachers and parents made sure that as much as 80% of the allocated funds actually reached the schools.¹⁰³ The Commission recommends that the Government should work towards the publication of all relevant amounts allocated to the provision of

¹⁰⁰ In June 2002, the ACC's Deputy Commissioner complained that three-quarters of the 57 cases submitted to the Attorney General since the establishment of the Commission in January 2001 had not been acted upon. *Global Corruption Report 2003*, p219

¹⁰¹ See Independent Anti-Corruption Agencies at <http://www.transparency.org/sourcebook/11.html>

¹⁰² See the section below titled "Civil Society".

¹⁰³ See the article "Fighting corruption", published in *The Economist* on 29 April 2004. More detail can be found at the website: www.economist.com/copenhagenconsensus.

services and amenities. Such publication should aim to provide the amounts allocated to specific services at local and community level.

283. Civil servants, at times, attempt to supplement their income by arbitrarily levying charges against citizens. This is made possible where citizens are uncertain as to what they are entitled to. At points of contact with the public, the Commission recommends the erection of signboards (and other means) which clearly set out the service the public is entitled to; whether there are charges; and, if so, the specific amounts. The Commission recommends that Government should work towards the fulfilment of this recommendation throughout the country.

Exposing Corruption

284. Corruption is often exposed, when individuals within government come forward with information. The Commission is of the view that all those who work in the public service and the judiciary have a duty to expose and root out corruption. Where public officials have knowledge of corruption and do not come forward with such information, they are, for all intents and purposes, accomplices in the corrupt act.
285. Individuals who come forward with information about corruption are sometimes referred to as “whistle-blowers”. In order to successfully act against corruption, whistle blowing ought to be encouraged. Such individuals are invariably victimised when they expose corruption. They are penalised and, at times, they lose their jobs and even face physical harm. It takes courage to expose corruption.
286. Some public officials claim that they are unable to disclose details about corruption because of confidentiality provisions and state secret laws that bind them to secrecy. Such provisions cannot be used to cover up crimes. No court or tribunal should entertain such criminal proceedings, where it is clear that the accused is a whistle blower. Where there are potential anomalies in the law, the Government is enjoined to amend the law accordingly. This is an imperative recommendation.
287. The Commission recommends that Government leaders publicly announce that the victimisation of whistle-blowers will not be tolerated. The Commission recommends that the Government provide legal protection to whistle-blowers who provide information that leads to the exposure of corrupt activities. It should be a criminal offence to engage in reprisals against whistle-blowers. This is an imperative recommendation.

A United Front against Corruption

288. The Commission calls on government, business and civil society to come together to form a potent force against corruption.¹⁰⁴ Each sector has a critical role to play in stopping the spread of corruption.
289. Those leading the fight in each sector should hold an annual anti-corruption or national integrity summit to assess progress and to strategise the way forward.¹⁰⁵

¹⁰⁴ This could happen under the umbrella of the Anti-Corruption Commission Coalition of the ACC.

¹⁰⁵ The summit could be complemented by an annual anti-corruption day, involving as many interested organisations as possible.

Civil Society

290. Civil society has a crucial role to play in monitoring and reporting on cases of misconduct and corruption in the public sector. In particular, independent monitors should be assessing the performance of anti-corruption bodies and the measures they have instituted. Non-governmental groups should be engaged in ongoing advocacy and research. There is much that can be done.
291. “Citizens’ Charters” detailing the dos and don’ts that private individuals should follow to prevent corruption and promote integrity ought to be widely distributed.¹⁰⁶ Such charters will set out conduct on the part of citizens that tends to promote corruption and which should be stopped. It will also set out activities that citizens can engage in to curtail corruption. Citizen groups ought to declare adherence to such charters.
292. Concerned citizen groups should come together to promote integrity in public service delivery in their areas.¹⁰⁷ These groups can lobby for reform, where corruption is rife or where local service delivery is failing. Activists and journalists can develop “Report Cards” to score levels of corruption in public utilities and departments. The Report Cards can also be used to assess the performance and standards of service provided by public utilities and government departments.¹⁰⁸ The publication of the results of these Report Cards can help curb corruption and spur public officials to perform better.
293. Civil society should be closely monitoring the privatisation of public assets and procurement processes. Activists could lobby for the implementation of Integrity Pacts or voluntary agreements underwritten by parties to a contract involving public resources.¹⁰⁹ These agreements, which involve independent scrutiny, are meant to ensure transparency and honesty in contracts or bids involving public funds.
294. In Sierra Leone, the private economy is highly reliant on the public sector for business. Inflating government contract prices is not uncommon. This is done in order to provide for “kickbacks” that have to be paid and to take into account the fact that Government invariably pays late. Civil society monitoring could include a “Prices and Purchases” programme, which involves the collection and publication of information for the purpose of comparing prices of goods and services purchased by government entities.¹¹⁰ Such a programme will expose the practice of inflating contract prices. Government will be forced to explain why they are overspending on items.

¹⁰⁶ Transparency Mauritius popularised such a document titled “The Citizens’ Charter”. More detail can be found at the website: www.transparencymauritius.net.mu.

¹⁰⁷ In Bangladesh, a network of Committees of Concerned Citizens campaigned for the formation of “Islands of Integrity” to ensure ethical conduct in local service delivery.

¹⁰⁸ An example is Report Card system developed by the Public Affairs Centre, Bangalore, India. More detail can be found at the website: www.pacindia.org.

¹⁰⁹ Transparencia por Colombia has been implementing Integrity pacts since 1999. More detail can be found at the website: www.transparenciacolombia.org.co. Nepalese groups have also achieved success using Integrity Pacts.

¹¹⁰ A programme of this nature was used to good effect in Colombia. More detail can be found at the website: www.veedurriadistrital.gov.co.

295. Members of civil sector groups in Sierra Leone have been referred to as those “on the waiting list;” that is waiting to get into government. Such persons can never be expected to perform their role of zealously scrutinising public conduct. They will never want to offend government. Sierra Leone does not need individuals who simply join non-governmental groups as a stepping-stone to something better. Sierra Leone needs civil society activists who are committed to their country.
296. If local non-governmental organisations are serious about their role in representing civil society and monitoring public excesses then they must be watchdogs, not lapdogs. The Commission calls upon non-governmental organisations and civil society to become active watchdogs in the fight against corruption.

Business

297. Local and international businesses are important partners in the fight against corruption. Much corruption happens only because there are willing accomplices in the business world. Organised business has no choice but to confront corruption within its own ranks.
298. The Commission calls upon the business sector to develop its own Code of Corporate Governance in order to build a culture of ethical conduct.
299. Around the world, businesses assist in the reduction of crime and corruption by sharing information with each other and law enforcement agencies. This should happen in Sierra Leone.

Government

300. Apart from initiatives to introduce transparent government as described above, the government can do much to limit the corrupt activities of many of its employees. There are certain areas in the public service, where corruption is rife because of the opportunities they present for enrichment. These areas include procurement, the privatisation process and transportation. The Commission calls on the government to pay particular attention to these areas. Much can be done to close down the opportunities for corruption. Making these processes scrupulously open and transparent is the starting point.
301. Weaknesses in public administration fundamentals permit corruption to flourish. Instituting basic financial management tools and introducing systems for proper filing and record-keeping will go a long way towards closing the doors on opportunities for self enrichment.

The Donor Community

302. The donor community places corruption high on its agenda. The donor community needs to become more vigilant in the monitoring of the non-governmental organisations, government ministries and public agencies it supports.

303. Beneficiary organisations and ministries that display the same mismanagement and the same corrupt tendencies, year in and year out, should not qualify for continued donor support. Aid agencies tend to hold back from acting against individuals, particularly senior individuals who are responsible for corrupt practices. Donor groups should insist on firm action against corrupt individuals in beneficiary organisations, when the evidence is presented. Failing to do so serves to promote the very behaviour the agencies are attempting to stop.

YOUTH

“PRODUCTIVE YOUTH BUILD BETTER NATION”

Slogan from the Combat Camp Youth Committee¹¹¹

304. Youths¹¹² were the driving force behind the resistance to one-party state rule in the 1980s. As students, journalists, workers and activists they exposed injustices and the bankruptcy of the ruling elite’s ideology. They also bore the brunt of the state’s repressive backlash. During the conflict, youths formed the bulk of the fighting forces in all the factions. The last twenty years of Sierra Leone’s history are, in reality, the story of Sierra Leone’s youths.
305. Many of the dire conditions that gave rise to the conflict in 1991 remain in 2004. As in the late 1980s, many young adults continue to occupy urban ghettos where they languish in a twilight zone of unemployment and despair.

National Mobilisation

306. The civil war has aggravated matters for the youth. After ten years of war, thousands of young men and women have been denied a normal education and indeed a normal life. Their childhood and youth have been squandered by years of brutal civil conflict. Many young Sierra Leoneans have lost the basic opportunities in life that young people around the world take for granted. These young people constitute Sierra Leone’s lost generation. The Commission recommends that the youth question be viewed as a national emergency that demands national mobilisation. This is an imperative recommendation.
307. The Commission has detected a certain energy and resolve among many of the youths with which it has interacted in hearings, reconciliation programmes and the National Vision for Sierra Leone. This resolve is reflected in the desire to overcome the difficulties and traumas of the past and to forge a new and proud Sierra Leone. The Commission has detected this resolve among university students, professionals, young men and women in Government and among the unemployed in the ghettos. This energy must be harnessed and channelled towards productive ends. The future of Sierra Leone depends on this.

¹¹¹ Slogan submitted to the National Vision for Sierra Leone, a project of the TRC.

¹¹² For the purposes of this report the age category of youths extends from 18 to 35 years. Recommendations on “Children” are dealt with under a separate heading later in this chapter. The 18-35 category adopted by the Commission is in line with the age category employed by the Sierra Leone Ministry of Youth. The Youth Ministry has extended the age limit of youth because it regards the period of the conflict as “lost years” for many youths.

National Youth Commission

308. The Commission recommends that Government work towards the transformation of the youth portfolio of the Ministry of Youth and Sports into a National Youth Commission. Such a Commission should be located in the Office of the President. The mission of a National Youth Commission would be to address the youth question as a fundamental priority in post-war reconstruction. Currently, the Youth Ministry is constrained by an overburdened civil service bureaucracy that prevents it from carrying out its basic tasks and functions. At present the Ministry is unable to finance its programmes in the provinces. In short, the Ministry of Youth does not have the means to address the youth question.
309. A National Youth Commission would be empowered by its ability to raise funds locally and internationally. It would be able to work meaningfully with fundraising agencies, while co-ordinating and streamlining the activities of the NGOs working in this field. A National Youth Commission ought to be responsible for the implementation of the Youth Policy as well as the National Youth Plan. The effective implementation of the Youth Policy and National Youth Plan would address the specific issues facing the youth as set out in the findings of the Commission.
310. A National Youth Commission could spearhead public-private partnerships involving youth in different sectors including tourism, agriculture, fisheries, housing and mining. Industrial sites and service centres could be earmarked for initiatives aimed at providing employment opportunities for youth. The National Youth Commission could facilitate investment in such schemes and encourage worker – owner schemes which would give young workers a stake in the initiative. Over a period of time, youthful workers could become co-owners and investors in such companies. The Commission recommends that the Government of Sierra Leone work towards the fulfilment of these recommendations.
311. The Commission recommends that, every year, a “State of the Youth” report be tabled before Parliament. Pending the creation of the National Youth Commission, this should be the responsibility of Ministry of Youth and Sports. Such a report should provide an overview of the state of the youth in Sierra Leone for the preceding year. It should set out a detailed assessment of all efforts and programmes to develop the youth in the public, non-governmental and private sectors. Progress should be measured against a set of agreed indicators. This recommendation is made for the serious consideration of Government.

Political Representation

312. The denial of a meaningful political voice to the youth has had devastating consequences for Sierra Leone. More avenues for the youth to express themselves and to realise their potential need to be created. Political space should be opened up so that the youth can become involved in governance and in the decision-making process. Youths must have a stake in governance.

313. The Commission recommends that all political parties be required to ensure that at least 10% of their candidates for all public elections are youths.¹¹³ This includes national elections, local government and district council elections. Legislation should be enacted to make this a legal requirement. The National Electoral Commission should be required to enforce this minimum representation. Such a stipulation will require all political parties to nurture and develop meaningful participation of the youth. This is an imperative recommendation.
314. Engagement in electoral politics should be accompanied by political responsibility. In this regard the Commission endorses the programme launched by the Ministry of Youth and Sports to cultivate political responsibility among the youth. This programme envisages the creation of elected Chiefdom Youth Committees that would send representatives to a District Youth Committee. The District Committee would act as a clearing-house for youth activities and projects. District Youth Committees would send representatives to Regional Youth Committees, which would set the agenda for a National Youth Conference. The Regional Committees would send representatives to the National Youth Conference that would elect members to a National Youth Committee.
315. Such an initiative would structure youth participation in public affairs and provide a training ground for tomorrow's leaders. The Commission supports this initiative and calls on Government to set in place the necessary legislative framework to make it work. The Commission also calls on Government and the donor community to resource this important programme.

WOMEN

I hope to see a Sierra Leone offering equal opportunities for boys and girls from the cradle to the grave. ... In particular, I want to see a country where girls are not left out but are encouraged to reach the highest peak of their potential.

Extract from the essay "My National Vision for Sierra Leone" by Chinsia E. Caesar¹¹⁴

316. Women and girls were the deliberate targets of sexual violence and rape by all the armed groups during the conflict. Women continue to be victims of gender-based violence. The Commission has noted the submissions made by women's groups, which point to the failure of successive governments to protect women and girls during the conflict and post-conflict periods.
317. The Commission recommends that the President, as the "Father of the Nation" and as the Head of State, should acknowledge the harm suffered by women and girls during the conflict in Sierra Leone and offer an unequivocal apology to them on behalf of the government and preceding governments in Sierra Leone. This is an imperative recommendation.

¹¹³ The definition of youths here is again young adults between the ages of 18 and 35 years.

¹¹⁴ Essay submitted to the National Vision for Sierra Leone, a project of the TRC.

318. The Commission calls on the leadership of all political parties to acknowledge the harm suffered by women and girls during the conflict in Sierra Leone and to offer an unequivocal apology to them on behalf of their particular political parties.
319. Women and girls in Sierra Leone continue to suffer historic structural inequality on account of their gender. Gender inequality is entrenched in all spheres of social, political and economic life by discriminatory laws, customs, traditions and practices.
320. The Commission notes that the State has not yet taken the necessary steps to eradicate structural inequality against women that still pervades Sierra Leonean society. Discriminatory laws and customs in the areas of marriage, divorce, land rights, inheritance and the administration of estates remain major obstacles to the transformation of women's lives.
321. The Commission's recommendations to address structural inequality encompass law reform, access to justice, the abolition of discriminatory customary law and practices, the building of institutional capacity and the establishment of educational programmes to counter attitudes and norms which lead to the oppression of women. The Commission views education, health, economic empowerment and political participation as priority areas for the progressive development of women in Sierra Leone.
322. The Commission has identified war widows, aged women, girl mothers, and victims of displacement and female ex-combatants as particularly vulnerable groups. The recommendations attempt to address the specific needs of these victims.

Women affected by the Armed Conflict

323. Women were subjected to systematic abuse during the conflict. Violations perpetrated against women included torture, rape, sexual abuse, and sexual slavery, trafficking, enslavement, abductions, amputations, forced pregnancy, forced labour and detentions.
324. Never again should women in Sierra Leone be subjected to brutality. Every man and boy in Sierra Leone owes a duty to respect women and girls and to protect them from abuse at all times.
325. The Commission calls on communities to make special efforts to encourage acceptance of the survivors of rape and sexual violence as they reintegrate into society. The physical and emotional well being of the women victims of rape and their children born as a result of rapes should be protected.¹¹⁵
326. The Commission notes that women who have been sexually violated during the conflict period deliberately avoid being identified, as they fear stigmatisation. The Commission notes that assisting them with long-term mental and physical injuries depends on making services accessible.

¹¹⁵ The health needs of women victims of the conflict are addressed in the chapter on Reparations, at Chapter Four of Volume Three A of this report.

327. The Commission recommends that a directory be established by the Ministry of Social Welfare and Gender Affairs in conjunction with UNIFEM, the World Health Organisation and other stakeholders which should contain a list of donor agencies and service providers assisting women together with their contact details both in the provinces and Freetown. The emphasis should be on where women can obtain information and access assistance. The launch of the directory should be accompanied by a media campaign. The Ministry of Social Welfare and Gender Affairs should work towards the implementation of this recommendation.

Domestic Violence

328. Domestic violence against women intensified during the civil war and endures in the post-conflict period. The Commission notes that the laws of Sierra Leone relating to the prosecution of domestic violence are inadequate and offer little protection to women and girls. The Commission recommends that Government work towards the enactment of specific legislation to address domestic violence. Such laws should facilitate the prosecution of offenders and empower women to access protection orders.
329. Women and girls experience great difficulty in pressing charges in respect of rape and sexual violence as police and judicial officers are reluctant to investigate and prosecute such cases. The Commission recommends that the Ministry of Social Welfare and Gender in conjunction with UNIFEM and the Gender Desk of the police work towards the creation of an educational programme for the police, prosecutors and judicial officers raising awareness of issues of gender, educating and training them in the investigation and prosecution of gender-based crimes and sensitising them on how to deal properly with complainants.

Sexual Violence

330. Women and girls in Sierra Leone continue to be the victims of sexual violence. The Commission notes that the national laws of Sierra Leone are inadequate to deal with the prosecution of crimes of sexual violence, including rape, sexual harassment and other forms of sexual abuse. The current rules of procedure and evidence in respect of crimes of sexual violence are not only discriminatory but are also offensive to women and girls.
331. The Commission recommends that a directory be created, which includes all the information existing in regard to the various skills programmes and the providers of such services. The release of such a directory should be accompanied by a media campaign, which will lead to more women learning of the programmes being offered.¹¹⁶
332. Women and girls who are sexually violated rarely lay complaints, as the current environment is not conducive to doing so. This has led to a culture of impunity in respect of crimes of a sexual nature.

¹¹⁶ The Ministry of Social Welfare and Gender Affairs should consider the creation of one network to co-ordinate all organisations working with women and the issuance of one directory setting out all their services – which could be updated annually.

333. In order to address these inadequacies, the Commission recommends that laws that link the prosecution of sexual offences to the moral character of a complainant should be repealed.¹¹⁷ This is an imperative recommendation.
334. The Commission recommends that the government work towards the harmonisation of the national laws of Sierra Leone with the provisions contained in the Rome Statute of the International Criminal Court in regard to the evidentiary burden, rules of procedure and evidence in respect of crimes of sexual violence.¹¹⁸

Sexual Offences under Customary Law

335. Customary laws and practices in respect of sexual offences are deeply discriminatory against women and girls and have contributed to a culture of impunity over a long period of time.
336. The Commission is disturbed to note that, under customary law, the consent of a minor for sex is not required. Furthermore, crimes of rape and sexual violence are usually settled directly between the violator and the parents or guardians of the girl-child without the victim having any say in the matter. Families usually settle crimes of rape and sexual violence by accepting monetary compensation or by the offender being compelled to enter into marriage with the minor victim.
337. The Commission recommends that the Government should launch a campaign to end the practice under the customary law of compelling women and girls who have been raped to enter into marriage with the offender. This is an imperative recommendation.
338. The Commission calls on community leaders to discourage the practice of accepting monetary compensation for the crimes of rape and sexual violence as an alternative to reporting the cases for criminal prosecution. Communities should be encouraged to pursue prosecutions for offenders of sex crimes.
339. The Commission recommends that the Ministry of Social Welfare and Gender Affairs, in conjunction with UNIFEM, should work towards a national campaign, together with other agencies, to raise awareness about the culture of silence that pervades the issue of rape and sexual violence and encourage the abolition of customary practices which impact negatively on the rights of women.
340. The Commission recommends that the Government work towards the harmonisation of the customary law with the common law and that to ensure laws dealing with the protection of women, particularly in regard to domestic violence and crimes of sexual violence, accord with international human rights standards.

¹¹⁷ See the Protection of Women and Girls Act 1960, which can be found at Chapter 30 of the Laws of Sierra Leone of 1960.

¹¹⁸ ICC –ASP/1/3. See also Rule 98 of the International Criminal Tribunal for Yugoslavia and Rules of Procedure and Evidence of the International Criminal Court.

Discrimination against Women

341. Women and girls in Sierra Leone, before, during and after the conflict, were subjected to discrimination by practice, custom and law. There is no basis to justify the discrimination that women have endured in Sierra Leone. The legal apparatus that entrenches discrimination against women must be dismantled. The Commission recommends the repeal of all statutory and customary laws that discriminate against women.
342. Laws that should be repealed include those provisions that discriminate against women in relation to marriage, the administration of estates, inheritance, and divorce and property ownership. This recommendation requires the repeal of sections 26(4)(d) and (e) of the Constitution, which permit discrimination against women in these areas and on the grounds of customary law. Constitutional provisions that authorise discrimination on the basis of gender have no place in a modern democratic society based on equality and respect for human dignity.
343. The Commission recommends that Sierra Leone ratify the Protocol to the African Charter on the Rights of Women. The Protocol enjoins signatories to address “Harmful Practices” against women. Harmful Practices are defined as all behaviour, attitudes and practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.
344. The Commission recommends that the Government take steps to immediately implement its obligations under the Convention on the Elimination of All Forms of Discrimination against Women¹¹⁹ and to ensure that gender is taken into account in all legislation and policy.
345. The Commission recommends that all aspects of customary law¹²⁰ as well as practices which discriminate against women in the realm of inheritance, land ownership, marriage, divorce and the administration of estates be abolished by Parliament.
346. These recommendations are imperative.

Political Participation and Access to Power

347. Women have been excluded from decision-making in Sierra Leone. Women are largely absent in the structures of government and traditional forums that are critical in formulating policies.
348. The Commission is persuaded that simply calling for the opening up of the political space for women is not sufficient. If Sierra Leone is serious about giving a meaningful voice to women in representative politics, then more serious efforts have to be made to achieve this end.

¹¹⁹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly and ratified by Sierra Leone on 11 November 1998. See the website: www.un.org/womenwatch/daw/cedaw.

¹²⁰ The expression “customary law is intended to include Islamic or “Mohamedan” Law.

349. The Commission recommends that political parties be required to ensure that at least 30% of their candidates for public elections are women. This includes national elections, local government and district council elections. Legislation should be enacted to make this a legal requirement. The National Electoral Commission should be required to enforce this minimum representation. Such a stipulation will require all political parties to nurture and develop meaningful participation of women. This is an imperative recommendation.
350. The Commission further recommends that Government and Parliament work towards achieving 50/50 gender parity in representative politics (Parliament, District Council and Local Government) within the next 10 years.
351. The Commission recommends that the Government work towards achieving a representation of at least 30% women in cabinet and other political posts. Government should also work towards incrementally achieving 50/50 gender parity in cabinet and political posts within the next 10 years.
352. The Commission notes the lack of young women in positions of leadership and calls on the government, UNIFEM and the NGO sector to establish leadership programmes for women in both the provinces and Freetown to ensure that there is a new generation of women with sufficient skills to participate in public life.

Skills training and Economic Empowerment

353. Women lack adequate access to productive assets including land, credit, training and technology. For these reasons, they are largely consigned to food production and petty trading with very low earnings.
354. The Commission notes that many women ex-combatants were not able to participate in the skills training programmes provided on demobilisation. The Commission also notes the proliferation of skills training programmes in the country run by various international and local organisations. The Commission recommends that, to ensure that women are able to access the skills training programmes that are being offered by the various agencies, the Ministry of Social Welfare and Gender Affairs should establish a network of service providers and agencies offering the various skills training programmes and ensure that services are decentralised and that women in the provinces are able to access them.
355. The Commission notes that a major obstacle for many of the women who have gone through skills training programmes is the absence of suitable opportunities to practise their skills as well as the lack of accessible markets. The Commission recommends that the Ministry of Social Welfare and Gender Affairs, in conjunction with UNIFEM, explore opportunities for women to utilise the skills acquired and market opportunities, where their items can be sold.
356. The Commission recommends that micro-credit schemes should target women ex-combatants, internally displaced women, female heads of households and war widows. Those providing micro-credit should be encouraged to incorporate a basic business management course into the provision of micro-credit.
357. These recommendations are for the serious consideration of Government.

Education

358. Women comprise the largest category of persons without formal education in Sierra Leone. Women have, in effect, been under-educated. This bias against women must be redressed.
359. Steps should be taken to promote the enrolment of girls in schools and other training institutions. The Commission recommends that the Government work towards providing free and compulsory education to girls up to and including the level of senior secondary school.
360. The practice of expelling girls who become pregnant from educational institutions is discriminatory and archaic. This is an imperative recommendation.
361. The Commission recommends that the Ministry of Education in conjunction with the Ministry of Social Welfare and Gender Affairs and UNIFEM consider the establishment of adult education programmes for women in which basic literacy and numeric skills can be taught.

Access to Justice

362. The Commission notes that women do not enjoy adequate access to legal aid. The Commission calls on the Fourah Bay University Legal Aid Clinic, together with LAWCLA and the Bar Council, to consider initiating a specific focus on domestic and sexual violence against women as well as issues pertaining to inheritance, land and marriage.

HIV / AIDS

363. The Commission notes the high prevalence of the HIV / AIDS among the population of Sierra Leone as well as the high number of women infected. The Commission also notes that women married into polygamous marriages are exposed to a higher risk of sexually transmitted diseases because of their husband's multiple partners.
364. The Commission recommends that the Ministry of Social Welfare and Gender Affairs, in conjunction with UNIFEM and the NGO sector, work towards the launching of an education programme, which addresses both men and women on safe sex practices.

Gender Commission

365. The Commission is of the view that gender issues do not receive sufficient attention within the Ministry of Social Welfare and Gender Affairs. The Commission recommends that the Government seriously consider the removal of the gender portfolio from the Ministry of Social welfare and the creation of a gender commission.
366. The Gender Commission should be representative of all sectors of Sierra Leone society. The Gender Commission should co-ordinate and drive all issues pertaining to the advancement of women in Sierra Leone.

The Most Vulnerable

367. War widows, aged women, girl mothers, victims of displacement and female ex-combatants are among the most vulnerable groups in Sierra Leone today. The Commission urges the government and relief agencies to pay particular attention to their needs.
368. The government should provide psychosocial support and reproductive health services to women affected by conflict. These services should be provided free to those who have experienced physical trauma, torture and sexual violence.¹²¹ Government should work towards the early fulfilment of this recommendation.

War Widows

369. War widows experienced serious hardships as result of the killing of their husbands. In post conflict Sierra Leone, they are further disadvantaged by the loss of their husbands. Tradition and custom prevents many of them from owning property, accessing land and inheriting from their husbands.
370. In certain ethnic groups, they are passed on as property to the husband's next eldest brother or closest male relative who inherits from their deceased husbands. The Commission recommends the repeal of all laws, customs and practices that discriminate against widows and which prevent land being owned or held by them.¹²²
371. The Commission recommends that the repeal of such laws and customs should be accompanied by sensitisation programmes for society, particularly in the provinces, which seek to deal with the negative perceptions of how widows should be treated.
372. The Commission calls on the *Bondu* societies¹²³ to serve as mechanisms for change and that they should use their influence in communities to improve the quality of life for widows and elderly women.

Female Ex-combatants

373. Now that the formal disarmament and reintegration programmes are complete, the Commission calls on communities to continue with the accepting back of former girl and women soldiers into their villages and neighbourhoods. Communities should do this with compassion. The same applies to the many women who were displaced by the conflict and have not as yet returned to their communities.

¹²¹ See the chapter on Reparations, at Chapter Four of Volume Three A of this report for detailed recommendations to address the health, psychological and social needs of war victims.

¹²² The Commission has made the imperative recommendation that all laws and customs that discriminate against women should be repealed. This recommendation includes the repeal of provisions on Sierra Leone's statute books, which undermine the inheritance and property rights of women.

¹²³ *Bondu* societies are secret societies for women. They assist women in household and domestic management and play an important role in the socialisation of girls and women into community life.

374. Many girl and women ex-combatants did not benefit from the disarmament programmes. The Commission calls on relief agencies to continue to assist these women with skills training and their rehabilitation back into society. Similar support should be given to non-combatant women who were internally displaced by the civil war and who found themselves economically and socially marginalised.

Elderly Women

375. A large number of elderly women have been rendered destitute and unemployable by the conflict. The war was accompanied by the breakdown of social and cultural values that would normally have ensured protection and support for elderly women. These women have been largely abandoned by society. They now live on the margins of society. Elderly women should be treated with dignity.
376. The Commission recommends that Government establish old people's homes in all the main urban centres and ensure that elderly women have access to land in rural areas. The Commission further recommends that Government attend to the social and medical needs of elderly women. The Government should work towards the fulfilment of these recommendations.

CHILDREN

*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*

Extract from the poem "Salone Pikin" by Emmanuel Bryma Momoh¹²⁴

377. The Commission has found that in the Sierra Leone conflict children¹²⁵ were singled out for some of the most brutal violations of human rights recorded in any conflict. The children targeted were sometimes even below ten years of age.
378. The Commission found it most disturbing that children were the main victims in the following violations: drugging,¹²⁶ forced recruitment; rape; and sexual assault. The Commission also notes that children were compelled to participate in the war as child soldiers and were forced to commit a range of atrocities.
379. Never again should the children of Sierra Leone be subjected to brutality.

¹²⁴ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹²⁵ For the purposes of this report children are considered to be those persons below the age of 18 (eighteen) years.

¹²⁶ "Drugging" refers to the forced consumption of drugs.

Child Rights Bill

380. The Commission notes that the laws and customs relating to children are confusing and require codification to ensure that they are clear and not utilised in an arbitrary manner.
381. The Commission recommends that the Child Rights Bill, incorporating the provisions of the Convention on the Rights of the Child be passed into legislation as a matter of urgency.¹²⁷
382. The Commission recommends that the Law Commission commence a review of all legislation with a view to determining whether the rights of children have been taken into account and, in particular, whether such legislation is in accord with the Convention of the Rights of the Child and the African Charter on the Rights and Welfare of the Child.
383. These are imperative recommendations.

School Education

384. The Commission recommends that primary school education be compulsory for all children. It should be an offence not to send children to primary school. This is an imperative recommendation.
385. The Commission notes that primary school education is supposedly made available free of charge to all children. The Commission recommends that no “hidden charges” or “chalk fees” be levied against parents. Free primary school education must mean free in every sense of the word. The Government should work towards the fulfilment of this recommendation.
386. The Commission recommends that the Government should work towards the creation of incentives to encourage children of school going age to attend secondary school.

Age of Majority

387. The Commission recommends that Parliament enact legislation making 18 the age of majority bringing it into line with the voting age of 18 already provided for in the Constitution.¹²⁸
388. This is an imperative recommendation.

¹²⁷ Sierra Leone is a party to the UN Convention on the Rights of the Child and to the African Charter on the Rights and Welfare of the Child.

¹²⁸ Article 1 of the Convention on the Rights of the Child defines a child as “every human being below the age of eighteen unless, under the law applicable to the child, majority is attained earlier.”

Adoptions, Fostering and Guardianship

389. In Sierra Leone, adoptions are governed by a dual system of laws and custom. The effects of adoption under customary law are different from those under the common law system. In addition, 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. 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, the rights of guardians are tenuous.
390. The Commission recommends that the Government of Sierra Leone urgently review the Adoption laws to incorporate the practice of guardianship and fostering which exists in the common law and in practice.
391. After the war, thousands of children were orphaned. This led to the establishment of 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 regulated so that the best interests of the child are protected and donor funds are properly accounted for.
392. The Commission recommends that the Government enact legislation to regulate the establishment of orphanages both private and public in order to ensure that the rights of children are protected.
393. Government should work towards the fulfilment of these recommendations.

Early marriages

394. The absence of a minimum age for marriage of girls in Sierra Leone has impacted negatively on the development of young girls. Under customary law, girls under the age of ten may be given away in marriage. In order to address this problem, the Commission recommends that legislation be enacted abolishing this practice and that a minimum age for marriage be established at eighteen.¹²⁹
395. The Commission recommends that the Government enact legislation making it a criminal offence to permit, authorise and assist in the marriage of children under 18 years of age. This is an imperative recommendation.
396. The enactment of legislation should be accompanied by an education campaign, which highlights the negative aspects of marriages of children, in particular girls under the age of 18. The Government should work towards the implementation of this recommendation.
397. The Commission calls on the Ministry of Social Welfare and Gender Affairs and civil society to monitor this issue particularly in the Northern provinces and take steps to prosecute those who violate such a law.

¹²⁹ 18 (eighteen) years old has been determined as the appropriate age for marriage by the CEDAW committee, in terms of general recommendation 21 of the CEDAW committee.

Sexual Offences against children¹³⁰

398. The Commission recommends that the Government should enact legislation that would make it a criminal offence to have sexual relations with a child under the age of 16. Sex with a child under the age of 16 should constitute the offence of statutory rape. This is an imperative recommendation.

Laws on the employment of children

399. The Commission recommends that the government review the practice of employing children under the age of 18 on a full-time basis. Children who are employed should work under conditions that are humane and which comply with international human rights standards.¹³¹
400. The Government should work towards the fulfilment of this recommendation.

Trafficking of Children

401. Sierra Leone was one of three nations in sub-Saharan Africa that received a "Tier Three" or least favourable ranking in the US Department of State's annual "Trafficking in Persons Report"¹³² (Trafficking Report) for failing to make reasonable attempts to end the exploitation of minors. The report said that the Government of Sierra Leone recognises that trafficking is a problem, but has not made substantial efforts to prevent it.
402. The Trafficking Report indicated that child trafficking is a particularly challenging problem in Africa because of the practice of "fostering" or "placement" of children. Under this traditional system, children are sent to live with relatives or other trusted individuals, and are given schooling or learn a trade. Yet in many cases, the child is trafficked into a situation of forced domestic servitude, street vending, or sexual exploitation. UNICEF estimates that as many as 200,000 children in West and Central Africa alone are smuggled across national borders every year to provide what amounts to forced labour in neighbouring countries. Countless others are sold or traded within their own countries.
403. Trafficked children are virtual prisoners in their workplace, denied education, health care, or contact with their families and deprived even of adequate food, clothing, and rest. Frequent targets of physical and sexual abuse, trafficked children succumb to injuries, illness, and sexually transmitted diseases. Open border policies established by the Economic Community of Western African States (ECOWAS) to promote free trade have made it easier for international traffickers to ply their trade.¹³³

¹³⁰ See also the recommendations in respect of "Sexual Violence and Domestic Violence" under the heading "Women".

¹³¹ See also the recommendations in respect of "Child Labour" under "Mineral Resources".

¹³² The US Department of State's "Trafficking in Persons Report" was released in June 2004. More detail can be found at the website: <http://usinfo.state.gov/gi/Archive/2004/Jun/17-838848.html>.

¹³³ More detail can be found at: <http://usinfo.state.gov/products/pubs/traffick/homepage.htm>.

404. The current laws of Sierra Leone do little to stop the trafficking of children. In addition, the lack of access to adequate health care, education and opportunities for vocational training for children contributes to exacerbating sexual exploitation and the potential for children to be trafficked out of the country. The Commission recommends that the Law Commission draft a law criminalising trafficking and the sexual exploitation of children. This law should accord with the Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Such a law should be enacted as soon as possible. The Commission recommends further that the Government of Sierra Leone becomes a signatory to the Optional Protocol. These are imperative recommendations.
405. The Commission calls upon the member states of the Economic Community of West African States (ECOWAS) to take concerted action to implement the Political Declaration and Action Plan against trafficking in human beings, especially women and children. The Action Plan commits the ECOWAS countries to take specific steps, such as launching public awareness campaigns to alert potential victims to methods used by traffickers; creating special police units to combat trafficking; and training police, customs, and immigration officials to catch and prosecute traffickers and to protect the rights of victims.

Recreational Centres

406. The armed conflict exposed the children of Sierra Leone to violence of an unprecedented nature. The violence has left them emotionally scarred. It robbed them of the opportunity to enjoy childhood and the art of playing.
407. Opportunities to play are scarce for children affected by conflict and poverty. This scarcity must be addressed because play occupies and strengthens both mind and body. Play gives children the opportunity to be children. Without that opportunity, children and communities cannot thrive. The Commission commends the work of organisations such as Right To Play for their promotion of sports and physical education in Sierra Leone.
408. The Commission recommends that the government and children's agencies seriously consider the establishment of recreation centres throughout the country where children can be exposed to sports and to the art of play.

Children's Forum Network

409. The children of Sierra Leone have not had a meaningful role and voice in the social, political and economic life of Sierra Leone despite the fact that they were compelled to adopt adult roles during the conflict. The establishment of the Children's Forum Network (CFN), an advocacy group run by children, enabled the Commission to hear and listen to the voices of Sierra Leone's children telling about their experiences in the civil war.
410. The Commission recommends that the Ministry of Social Welfare, Gender and Children's Affairs work towards providing facilities and resources for the Children's Forum Network to operate at national, provincial and local levels. The Commission recommends that the Ministry pay particular attention to supporting the CFN in the northern, eastern and southern parts of the country.

EXTERNAL ACTORS

*I saw the United Nations peacekeeping forces and I was happy
Yes I saw*

Extract from the poem "I Saw" by Mohamed Sekoya¹³⁴

Promotion of Regional Integration and Unity

411. The Commission commends the current efforts of ECOWAS and the African Union in promoting sub-regional and regional integration and unity. Such efforts will make it difficult for a country to promote unrest and armed conflict in a neighbouring country or provide resources to insurgents in another country.
412. The Commission calls on the governments of Libya, Cote d'Ivoire and Burkina Faso to publicly acknowledge their roles in promoting and financing the RUF. These countries should publicly commit themselves to the principles of regional cooperation enshrined in the founding documents of the African Union and ECOWAS.
413. In particular, the Commission calls upon the government of Libya, in recognition of the training and financial support it supplied to the insurgents, to provide monetary support to the War Victims Fund and to support reconciliation initiatives within Sierra Leone.

Preventing War in the Mano River Basin

414. The Commission calls on the Government of Liberia to publicly acknowledge the role of its predecessor in promoting war and armed conflict in Sierra Leone. The Government of Liberia should consider an act of symbolic reparation to Sierra Leone and its people. This could be in the form of an event or the erection of a monument in Sierra Leone to the memory of all those who died in the conflict.
415. The Commission recommends that the Government of Sierra Leone work with the Governments of Liberia and Guinea to ensure adequate security along the common borders in order to prevent the flow of small arms¹³⁵ and light weapons.¹³⁶
416. In the longer term, the Commission recommends that the laws regulating firearms and explosives in the three countries be harmonised in order to achieve a common licensing procedure and penal code.
417. Diamonds were a major resource fought over by the armed factions during the war. The Commission recommends that the Governments of the Mano River Basin should commit themselves to effective mechanisms for controlling the smuggling of diamonds along their common borders.

¹³⁴ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹³⁵ "Small arms" include revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns, and light machine guns.

¹³⁶ "Light weapons" include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-tank and anti-aircraft guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems, and mortars of less than 100mm calibre.

418. The governments of the Mano River Basin should work towards the fulfilment of these recommendations.

Peace Agreements

419. The Commission acknowledges the desire by the international community to bring conflicts to an end and quickly restore peace in countries savaged by conflict. This desire should not result in quick-fix solutions in which countries are rushed into concluding peace agreements. The Commission believes that the international community forced the Abidjan Peace Agreement on the government of Sierra Leone. Rather than bringing peace, this ill-conceived agreement facilitated the escalation of the conflict.

Military Intervention and Peacekeeping

420. The conflict in Sierra Leone lasted so long because the international community ignored it. The lack of response promoted the perception that Sierra Leone, like other parts of Africa embroiled in conflict, was not sufficiently important. A well-organised military intervention is by far the quickest and most cost-effective means of limiting and stopping violence. The Commission calls on the international community never again to ignore internal armed conflict on the basis that the country in question does not hold any strategic value.
421. The Commission calls on the UN and AU to strengthen the capacity of ECOWAS for peacekeeping in conflict situations. Such increased capacity will enable ECOWAS to effectively intervene in internal armed conflicts.
422. The Commission calls on ECOWAS to quickly implement the ECOWAS Protocol on early warning and conflict prevention¹³⁷. This will prepare members of the international community for potential conflicts within the sub-region and, hopefully, catalyse effective and timeous regional and international response to the conflicts.
423. Some ECOMOG Peacekeepers committed human rights violations while in Sierra Leone. The Commission recommends that part of the capacity building of ECOWAS peacekeepers should include training on human rights issues. The Commission recommends further that ECOMOG soldiers accused of having committed human rights violations during the Sierra Leone conflict should be investigated. Those soldiers found to be responsible for human rights violations should be excluded from future peacekeeping missions.
424. The Commission calls on countries within the sub region not to allow their territories to be used as staging grounds for attacks on other countries. They should also not allow their territories to be used for mobilising resources to attack other countries. Military interventions are only justified when carried out for peacekeeping purposes and when done under the auspices of the United Nations, the African Union or ECOWAS. The Commission calls on all governments in the Mano River Basin region to jointly and publicly make such an undertaking to the people of the region.

¹³⁷ See the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed in Lomé on 10 December 1999.

425. Most of the initial United Nations Peacekeeping troops who arrived in Sierra Leone were wholly unprepared for what was awaiting them on the ground. The Commission recommends that there should be adequate preparation of peacekeeping troops. Such preparation should include a good understanding of local conditions and current developments.
426. The Commission acknowledges the determination of the United Nations and the international community to stay the course in Sierra Leone. In many respects, the UN Mission in Sierra Leone has set the standard for future peacekeeping missions. Staying the course has allowed for the gradual consolidation of governmental authority.

Mercenaries

427. The UN and the member states of ECOWAS should take effective action to prevent the movement of mercenaries and soldiers of fortune within the sub-region. The fact that Sierra Leonean fighters have taken part in the internal armed conflicts of Liberia and Cote d'Ivoire should be of serious concern to all. For more than two decades, many young men and women, within the Mano River Basin, have known no occupation other than fighting and violence. Countries within this zone should cooperate with each other to initiate effective economic programmes that target the youth in order to provide them with viable and peaceful means of survival.
428. The Commission recommends that the UN re-commit itself to eliminating mercenaries in inter or intra state conflicts and enforcing the provisions of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries adopted by the United Nations on 4 December 1989. Mercenaries are soldiers of fortune who prosper with the escalation of conflict. They are threats to peace.

Tracing the Assets of Charles Taylor and the NPFL

429. Charles Taylor and the NPFL benefited enormously from the diamond resources procured by the RUF. The Commission recommends that the Governments of Sierra Leone, Liberia and the International Community spare no efforts to trace the material and financial assets of Charles Taylor and the NPFL and to take measures to recover such assets.
430. Any recovered assets or parts of them should, subject to negotiations with the government of Liberia, become part of the War Victims Fund proposed under the Lomé Peace Agreement and used for financing the comprehensive reparations programme recommended by the Commission.

Tracing RUF Assets in Other Countries

431. The Commission recommends that the Government of Sierra Leone elicit the support of the UN in tracing all assets acquired by the RUF in other countries including bank accounts and other assets.
432. The Commission calls on the Governments of Cote d'Ivoire, Liberia, Burkina Faso and Libya to publicly commit to assisting the Government of Sierra Leone in this endeavour. When any such assets have been identified the Government of Sierra Leone should take all reasonable means to recover the assets and ensure that they become part of the War Victims Fund.

Relationship with the United Kingdom

433. Sierra Leoneans celebrate their historic relationship with the United Kingdom. The Commission acknowledges the commitment of the Government of the United Kingdom to a ten-year development partnership being implemented by the Department for International Development (DFID). The Commission calls on the United Kingdom to pursue this partnership with renewed vigour. The partnership is crucial to consolidating the peace, economic transformation and the reconstruction of Sierra Leone.

The Withdrawal of UNAMSIL from Sierra Leone

434. The withdrawal of the bulk of the United Nations Mission to Sierra Leone will have certain consequences for the country. While there is constant monitoring of the security situation, which appears to be stable, little consideration has been given to the economic and social consequences of the removal of thousands of foreign troops and aid workers. There can be little doubt that the arrival of the United Nations and other foreign agencies provided a major boost to local economies in Freetown and elsewhere in Sierra Leone. The withdrawal of UNAMSIL may have profound effects on the local economy, which may impact on the country more generally.
435. The Commission calls on UNAMSIL to investigate the nature and extent of the economic impact of the UN intervention in Sierra Leone. In particular UNAMSIL should investigate the economic and social ramifications of the withdrawal of the UN and related organisations from Sierra Leone and make recommendations on how to lessen the effect of any economic loss.

Post-conflict Aid

436. The Commission calls on the international community to continue with its aid programmes in Sierra Leone. A study has revealed that the effect of boosting aid in post-conflict countries by 2% of GDP per year for five years, in the middle of the decade after the war ends, will reap considerable rewards and go a long way in preventing a relapse into war.¹³⁸
437. The Commission recognises that, overseas development assistance and debt relief is crucial to Sierra Leone's recovery in the short to medium term. However, in the longer term, foreign direct investment in the productive assets of the country is required. The Commission recognises further that foreign private sector investment and capital inflows are unlikely to happen until the rule of law is firmly entrenched in Sierra Leone and acceptable standards of public and corporate governance are established. The Commission calls on the international community to help Sierra Leone to address these issues and to take the necessary steps to make the country an attractive location for both domestic and foreign investment.
438. The Commission commends the efforts of the New Partnership for Africa's Development (NEPAD) to consolidate peace, democracy and sound economic management on the African continent. The Commission also commends the decision of the Government of Sierra Leone to submit to the AU Peer Review Mechanism during the AU summit in Addis Ababa in July 2004.

¹³⁸ See the article "The Price of Peace", published in The Economist on 24 April 2004. More detail can be found at the website: www.economist.com/copenhagenconsensus.

MINERAL RESOURCES

*We'll seek those who can lead us without undertones,
Who can stop all our diamonds from turning to stone.*

Extract from the poem "My Vision, My Home, My Sierra Leone" by Ustina More¹³⁹

Accounting for the Spending of Diamond Proceeds

439. Natural resources, in the form of diamonds and gold, can spark or fuel internal strife. If people are aware what the State earns from the exploitation of mineral resources and exactly how such proceeds are spent there may be less impetus to try and seize these profits. The Commission recommends that the Government of Sierra Leone publish a regular and detailed account of how it spends the proceeds it generates from diamonds.
440. In particular, the Commission recommends that regular reports be published to inform people how the revenues generated through the Community Development Programme tax are disbursed at community level.¹⁴⁰
441. The Commission recommends that the bidding process for all mineral exploitation licenses be scrupulously fair and transparent.
442. These are imperative recommendations.

Preventing the Smuggling of Diamonds

443. Sierra Leone must confront rampant smuggling if it to sustain development.¹⁴¹ The smuggling of diamonds is an ongoing problem in Sierra Leone. Poor regulation and implementation of preventative measures have spawned the smuggling of diamonds, which in turn deprives Sierra Leone of much needed revenues for development.
444. Mines Monitoring Officers constitute the front line in the war against diamond smuggling. Currently there are too few officers. They are under resourced and not well trained. The Ministry of Mineral Resources should provide Mines Monitoring Officers with the necessary means to carry out their duties effectively. Their transportation and communication facilities should be improved. The number of officers should be augmented so they may cover the territory more efficiently. They should receive ongoing training.
445. Mines Monitoring Officers face great temptation to engage in corruption. Their remuneration should be reviewed in order to reduce the incentive to partake in graft.

¹³⁹ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹⁴⁰ See "Community Empowerment" for a further recommendation on the "Community Development Programme". In terms of this programme, a percentage of the tax from diamond mining goes directly to the chiefdoms. The fund is managed by the local Paramount Chief and is supposed to be used for community development.

¹⁴¹ See the USAID report entitled "Sierra Leone: Conflict diamonds", a progress report on diamond policy and development programmes; 30 March 2001, at page 3.

446. Border control should be tightened. Border patrols should be stepped up in order to provide a visible deterrent to smuggling.
447. The most unregulated aspect of diamond exploitation is at the dealership level. Dealers sponsor miners through the “supporter system”. Much abuse takes place at this level. Not all of these supported miners are licensed. Once a diamond is received at a dealer’s office, it is often claimed to have been produced by a supported licensed miner and “officially” sold to the dealer. A diamond dealer declared to the Commission during a closed hearing that he was able to “legalise any diamond and then sell it.”¹⁴²
448. Although dealers may not export diamonds without an export license, they do deal in diamonds within the country without declaring such sales to the Government Gold and Diamond Office (GGDO). Such buyers include foreign speculators and unscrupulous merchants. These middlemen then smuggle the diamonds out of the country.
449. Miners should therefore be encouraged to sell their diamonds directly to the authorised exporters. The Government should further consider the abolition of the class of dealers. The Commission recommends that all buying and selling of diamonds, within Sierra Leone, should take place under the auspices of the Government Gold and Diamond Office. Parliament should enact a law prohibiting the dealing in diamonds locally outside of the GGDO. Consideration should be given to converting the GGDO into a public limited liability company, which should accord with the highest standards of corporate governance.
450. These recommendations are for the serious consideration of the Ministry of Mineral Resources.

The Kimberley Process

451. The Commission commends the Kimberly Process¹⁴³ for the creation in October 2003 of a peer review system to monitor the implementation of the international Certification Scheme.¹⁴⁴ If fully implemented, the peer review measures will go a long way to ensure that conflict diamonds do not enter the legitimate trade.
452. The Commission notes the progress made to date in the implementation of the peer review system.¹⁴⁵ The Commission notes however that not all members of the Kimberley Process have as yet implemented adequate monitoring of their respective certification systems. The Commission calls on the members of the Kimberley Process to implement monitoring systems and to invite independent monitoring by outside bodies.

¹⁴² TRC Closed Hearing involving a diamond dealer; TRC Headquarters, Freetown; 20 May 2003.

¹⁴³ The Kimberley Process was established in 2000 by southern African diamond-producing countries. The process is designed to eliminate the use of rough diamonds to finance armed conflict and to protect the legitimate diamond industry, upon which many countries depend.

¹⁴⁴ The Kimberley Process Certification Scheme, adopted on 1 January 2003.

¹⁴⁵ Important progress has been made with respect to the implementation of the peer review system, which includes the submission of annual reports on implementation, voluntary review visits to participants and the deployment of review missions in cases where there are credible indications of significant non-compliance. The Process has so far conducted review visits to the United Arab Emirates and Israel in 2004. It has also conducted review missions to the Central African Republic and the Republic of Congo during 2004 due to indications of non-compliance. More than half of the 43 members of the Kimberley Process have expressed interest in receiving similar visits.

453. The Commission calls on international NGOs and diamond industry officials to closely scrutinise the implementation of such monitoring systems in order to ensure full compliance with the Kimberley Process.
454. The Commission calls on all participants in the Kimberly Process to invite voluntary review visits in terms of the peer review system.¹⁴⁶ In particular, the Commission calls on the governments of Sierra Leone, Liberia and Guinea to invite review visits. During such reviews, regional linkages in the diamond trade should be closely examined.
455. The Kimberley Process is made up of countries that produce rough diamonds and those that simply trade in rough diamonds. Some Kimberly Process participants are only a conduit for the movement and trade in rough diamonds.¹⁴⁷ The Commission is concerned that some Kimberley Process Participants may issue certificates for rough diamonds that have not been produced within their own country, or that have been imported in a manner inconsistent with the Kimberley Process.¹⁴⁸
456. The Commission commends the establishment by the Kimberly Process in April 2003 of a Participation Committee to ensure that participants and applicants meet the organisation's minimum standards. The Commission calls on the Kimberly Process to ensure that participants in the Kimberley Process export only rough diamonds that they either legitimately produced or legitimately imported from another Kimberly Process participant.
457. The Commission calls on the Kimberley Process to exclude all countries that are not fully complying with the requirements of the certification scheme, including those that fail to establish internal control mechanisms from the diamond trade.
458. Given the role that conflict diamonds have played in fuelling armed conflict in West Africa, the Commission calls on all participant states in the region to apply particular vigilance in ensuring that the Kimberley Process Certification Scheme is strictly enforced.

Corruption in the Diamond Industry

459. The Commission recommends that law enforcement authorities examine closely the issuance of mining, dealing or exporting licences to relatives and associates of public officials. The object of such inquiries would be to investigate whether family members and close associates are simply acting as nominees and agents for public officials. The Commission recommends that the Anti-Corruption Commission should perform this role. This is an imperative recommendation.

¹⁴⁶ The mandate of the review teams is to undertake a professional and impartial inspection of national implementation. Each team is composed of five experts, three from Participant Governments, one from industry and one from civil society.

¹⁴⁷ This includes some of the most important countries in the diamond trade including Belgium, United Kingdom and the United States.

¹⁴⁸ This is the allegation against the Republic of Congo that is currently being investigated by the Kimberley Process.

460. The Ministry of Mineral Resources should publish the names of all mining-related licence-holders on an annual basis. Publication of the names would introduce transparency into the industry. It would also assist the government to track down agents or nominees of public officials through members of the public alerting the authorities with relevant information. This is an imperative recommendation.
461. The Commission recommends that the Ministry of Mineral Resources should work towards conducting a full review of the role played by chiefs in the granting of mining licences.

Child Labour

462. While child labour is widespread and takes different forms in Sierra Leone, the phenomenon of child miners in the diamond mines, in particular in the Kono and Tongo Fields areas, requires special attention and political action.¹⁴⁹ It is estimated that up to 10,000 children between the ages of 6 to 18 are working in the diamond mines of Sierra Leone.¹⁵⁰ There are no clearly defined child labour standards in Sierra Leone with regard to age limits, or a common understanding of what constitutes 'child mining'.¹⁵¹ Sierra Leone is a party to the UN Convention on the Rights of the Child and to the African Charter on the Rights and Welfare of the Child.¹⁵² The Government stated, in 2002, that it had ratified the International Labour Organisation (ILO) Convention 182 on the Prohibition of the Worst Forms of Child Labour of 1999.¹⁵³ However, the

¹⁴⁹ World Vision undertook a study in 2002 on children in mining activities in Kono, based on interviews with child miners, parents and mine supporters. According to their findings, most of the child miners (who are between 6-18, and 90% boys) are in the mines with the consent of their parents/guardians, often even with their encouragement. Among them is a high percentage of returned refugee or internally displaced children. There are also a considerable number of child ex-combatants working with their former commanders. Many of the children are of school-going age and receive neither formal education nor skills training. More than 80% of interviewed children in the mines are directly involved in mining activities (digging, shovelling of gravel, toting of gravel, washing of gravel). More than 40% said that they only received very limited benefits for their work.

¹⁵⁰ UNAMSIL Child Protection Advisor's note for 2004 Government of Sierra Leone Mining Policy and Child Miners meeting, 22 January 2004.

¹⁵¹ There are reports, which state that the official minimum age for employment is 18, with the possibility for children between 12-18 to work in certain non-hazardous occupations with parental consent.¹⁵¹ (See US Department of State, Country Reports on Human Rights Practices – 2002, Sierra Leone). However, existing labour legislation seems to provide lower levels of protection: under the 'Employers and Employed Act' (Chapter 212 of the Laws of Sierra Leone), children under 15 shall not work in any public or private industrial undertaking; boys under 16 shall not work underground in mines, while girls and women in general shall not be allowed to work in mines below ground.

¹⁵² According to *Article 32 of the Convention on the Rights of the Child* every child, i.e. person below the age of 18, shall be protected from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child's education, or to be harmful to the child's health, or development. States shall therefore set minimum age(s) of employment and appropriate regulations. Similarly, *Article 15 of the African Charter on the Rights and Welfare of the Child* calls on States to protect children (18) from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.

¹⁵³ Under the *ILO Convention 182 on the Prohibition of the Worst Forms of Child Labour*, States have an obligation to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. This includes work of children below 18 'which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety and morals of children' (ILO C182, Article 3). The types of work covered under this prohibition shall be determined by national laws or regulations and periodically reviewed (Article 4).

ILO has not yet received the instrument of ratification. Sierra Leone has not ratified ILO Convention 138 on the Minimum Age of Employment. The Commission recommends that Sierra Leone confirm its ratification of ILO Convention 182 and that it should ratify ILO Convention 138 and implement the provisions under the Conventions. These are imperative recommendations.

463. The Commission notes that different proposals have been made in the ongoing drafting of a comprehensive “Children’s Act” for the minimum legal age of child labour, in particular that 15 shall be the minimum age of employment¹⁵⁴. The Commission also supports the inclusion in the draft of a prohibition of any exploitative child labour, i.e. labour, which deprives any child under the age of 18 of his or her health, education or development.¹⁵⁵
464. The Commission commends the recent initiative of the Ministry of Mineral Resources, which requires Mining Licence-Holders to complete a form stating the names and age of labourers and to make a declaration that no labourer engaged in mining is below the age of 18.¹⁵⁶ A violation could lead to suspension and/ or cancellation of the mining license. The Commission also notes that the Attorney General has instructed the Sierra Leone Police to arrest any alluvial diamond miner who employs children in the diamond mines.¹⁵⁷ The Commission recommends that Licence-holders should have their licences permanently revoked if they are found to be employing children.¹⁵⁸ This is an imperative recommendation.
465. In early 2004, the Government adopted a “Core Mining Policy” in which it undertook to “develop and strictly enforce regulations to prevent the employment of children in mining activities”. The Commission recommends that the Government promulgate such regulations as a matter of urgency. Government should also develop the appropriate enforcement mechanisms. These are imperative recommendations.
466. Effective monitoring, by government authorities and civil society, is required to tackle the scourge of child labour in the diamond mines. The main responsibility for enforcing the child labour standards should remain with the Government and its different organs – the Sierra Leone Police, the Mine Wardens and the Ministry of Social Welfare. Child Protection Agencies should play a supportive role by conducting “spot check” visits to mining sites to ensure that no children are employed. The Ministry of Mineral Resources, the Child Protection Agency network and the Ministry of Social Welfare should work towards the fulfilment of these recommendations.
467. Sensitisation needs to be carried out with families and care-givers to stress the importance of education for the future of their children. Family poverty that brings children to the mines should be tackled by creating alternative sources of income for families currently reliant on the proceeds of child labour. The Government should work towards the fulfilment of these recommendations.

¹⁵⁴ See the draft “Child Rights Act” of 2002, Section 27.

¹⁵⁵ See the draft “Children’s Act” of 1998, Section 87.

¹⁵⁶ See Schedule A - Form 19; The Mines and Mineral Act, Tributor Declaration, Artisanal / Small-scale Mining Licence.

¹⁵⁷ See *Awoko* Newspaper, Freetown, 30 September 2003. No cases of arrests or prosecutions have been reported at the time of writing this report.

¹⁵⁸ “Children” denotes persons under 18 (eighteen) years of age.

468. The Commission commends the efforts of NGOs such as World Vision, UNICEF and the National Commission for War-Affected Children to enrol child miners in school and skills training programmes. More needs to be done. The Commission reiterates its recommendations, made under the “Children” heading, that the government should provide free and compulsory basic education for all children.

Labour conditions

469. Labour laws protecting the rights of miners should be strictly enforced. Particular attention should be paid to enforcing the legal limit on the hours miners may work per week and day. A sensitisation campaign should be organised to inform miners about their rights. The Ministry of Labour and the Ministry of Mineral Resources should work towards the fulfilment of these recommendations.

Community empowerment

470. Article VII, clause 6, of the Lomé Peace Agreement requires the Government of Sierra Leone to devote all the proceeds generated from gold and diamonds exclusively for the social development and economic advancement of the people of Sierra Leone. It reads:

“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.”

The Commission calls on the Government to implement this clause of the Lomé Peace Agreement.

471. A higher percentage of the export tax on diamonds should be made available to local communities through the Community Development Programme. The government should monitor this programme more carefully to avoid mismanagement of funds.
472. Miners should be supplied with information and training on how to assess the quality and monetary value of diamonds. Micro credit projects should also be implemented to enable local miners to acquire the necessary capital to finance their own activities without having to resort to the services of “mine supporters”.¹⁵⁹
473. These recommendations are for the serious consideration of Government.

¹⁵⁹ “Mine supporters” or mine owners support miners by leasing the land that is mined and feeding the miners.

THE TRC AND THE SPECIAL COURT FOR SIERRA LEONE

Future Post-Conflict Arrangements

474. In future post-conflict societies, there may be compelling reasons to justify the establishment of a body to engender 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 bodies working side by side.
475. 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. The Commission does, however, issue certain cautionary advisements in the event that the parallel option should be adopted. The Commission's recommendations for this eventuality are as follows:
- a. There ought 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.
 - b. A model should be developed that is sensitive to local conditions and which harmonises the objectives of the two bodies in a symbiotic fashion.¹⁶⁰
 - c. A consensus, on matters of important principle, should be reached between the organisations. This consensus should be reflected in a written agreement, which the institutions must regard as binding.
 - d. It may be necessary that matters of fundamental principle should not only be part of an agreement, but enshrined in law, to provide enforceable protection.
 - e. Matters of fundamental principle should establish the basic rights of individuals in relation to each body in different circumstances. In particular, the right of detainees and prisoners, in the custody of a justice body, to participate in the truth and reconciliation process should be enshrined in law.
 - f. Conflict of law issues should be settled upfront. In order to avoid potential primacy disputes and jurisdictional overlaps, consideration should be given to the enactment of an overarching law, recognised nationally and internationally, that sets out the jurisdiction and mandate of both bodies and deals with issues of joint application.
 - g. Provision should be made for a binding dispute resolution. The arbiter should not be one or the other complementary body.

¹⁶⁰ See the discussion contained under the heading "Conclusions" in the chapter on "TRC and the Special Court for Sierra Leone" in Volume Three B of this report.

476. The Commission recommends that future international criminal tribunals make provision for the “use immunity” of testimony provided to a truth and reconciliation commission.¹⁶¹

Staffing of Future Post-Conflict Bodies

477. In the appointment of foreign personnel to staff sensitive post-conflict organisations, great care must be taken to ensure that members undergo sensitisation not only to local conditions but also to the delicate balances that must be maintained in post-conflict endeavours. Such training should engender a good understanding of the history and nature of transitional justice, the history of the country and region in question, and the respect required for local people, customs and traditions.

Building the National Justice System

478. In future post-conflict transitional justice arrangements, the international community and national governments should seriously consider a major investment in the national justice system instead of, or in addition to establishing international tribunals to investigate and prosecute violations of human rights.
479. Foreign jurists, prosecutors, investigators and defence lawyers could be seconded to the national courts and the national prosecution service. This option would be better suited to strengthening domestic skills and capacity. It would have a potentially lasting impact on local justice institutions.

Amnesties

480. The Commission has found that the withdrawal of amnesty following the breaking of the Lomé Peace Accord, which resulted in the prosecution of individuals who had nothing to do with the breach and who were protected by the amnesty, was unwise and legally unsound.
481. 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 that include an amnesty should contain a clause that specifically revokes the protection of amnesty in respect of the party or individuals responsible for breaching the agreement.

¹⁶¹ For further detail on this recommendation, see the discussion contained under the heading “Use Immunity of Information provided to the Commission” in the chapter on “TRC and the Special Court for Sierra Leone” in Volume Three B of this report.

REPARATIONS

*MY SIERRA LEONE, your children are crying to see you restored
The short-sighted think it impossible
We have taken the stride to right all the wrongs*

Extract from the poem "My Sierra Leone?"
By the RUF Prisoners at Pademba Road Prison¹⁶²

482. The Commission's enabling Act required it to make recommendations concerning the measures needed to respond to the needs of victims.¹⁶³ The full proposed measures are contained in the Reparations Chapter, which directly follows the Recommendations Chapter. A summary of these measures is contained hereunder.
483. The Commission proposes that the Reparations programme should be co-ordinated by the National Commission for Social Action (NaCSA). It is envisaged that NaCSA, as the "Implementing Body" entrusted with governing the Special Fund for War Victims, will ensure the decentralisation of programmes in conjunction with different Ministries. It is proposed further that NaCSA should be assisted by an Advisory Committee. The Commission recommends that the National Human Rights Commission perform the role of the Advisory Committee.
484. The Commission's recommended measures deal with the needs of victims in the following areas: health, pensions, education, skills training and micro credit, community reparations and symbolic reparations.

Health

485. The aim of the recommended health care programme is to encourage victims of the conflict to seek medical treatment by removing the prohibitively high costs of treatment. This should be facilitated by strengthening government provision of services across the country and by developing centres of expertise in each district. In the short-term, the programme should be initiated by identifying medical centres with expertise in the needs of a particular condition, and by providing transportation to such centres (the referral system). In addition, a system of prioritisation should be implemented. Internationally trained physicians should be recruited to temporarily fill positions. The Commission recommends that the Ministry of Health and Sanitation should oversee all areas of health-related reparations.
486. In relation to war victims who are amputees, the Commission recommends that they be given free physical healthcare for the rest of their lives. Wives who were married to such persons, at the time the injury occurred, should be eligible for free primary health care.¹⁶⁴ Children of the eligible adult amputees who are under 18 should be eligible for free primary health care.

¹⁶² Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹⁶³ See Section 15(2) of the Truth and Reconciliation Commission Act 2000.

¹⁶⁴ Where the amputee victim was the wife and the breadwinner for her family at the time of the injury then the husband and children should benefit accordingly.

487. The Commission recommends that the government provide war victims who are amputees with free prosthetic and orthotic devices. Technicians who are able to maintain and repair such devices should be trained. The amputees should be provided with free rehabilitation services, including training in use and maintenance of prosthetic devices. They should also receive free physiotherapy and occupational therapy.
488. Other war wounded¹⁶⁵ should receive medical support to the degree their injury or disability demands. Other war wounded must be assessed by a government or NGO doctor in order to determine their eligibility. Wives who were married to other war wounded persons, at the time the injury occurred, should be eligible for free primary health care.¹⁶⁶ Children of the eligible adult other war wounded who are under 18 should be eligible for free primary health care. Such wives and children should only be eligible if the victim experienced a 50% or more reduction in earning capacity as a result of the injury. Once the other war wounded victims have fully recovered from their injuries, the benefits recommended for the wives and children should cease. A grace period may be considered at the discretion of the health authorities.
489. Adult and child victims of sexual violence sustained during the conflict should be eligible for free physical health care including free fistula surgery, where necessary. Adult victims of sexual violence should be eligible for health care depending on the severity of their injury. Child victims of sexual violence should be eligible for health care until 18 years of age unless their injury sustained requires care past the age of 18. All beneficiaries must be assessed by a government or NGO doctor to determine their eligibility. Provision of free primary health care for dependent children and spouses should cease once the victims of sexual violence have fully recovered. The Commission recommends free testing (accompanied by counselling) for HIV/ AIDs and other STIs for all victims of sexual violence and free treatment for those testing positive.
490. The government should provide assistance to organisations providing scar removal surgery for branded children.
491. The government should expand its provision of mental healthcare treatment for victims by supporting existing programmes, training counsellors and ensuring that all districts have access to such services.

¹⁶⁵ "Other War Wounded" are defined as victims who have become temporarily or permanently physically disabled, either totally or partially, as a consequence of a violation or abuse other than amputation. Examples may be victims who received lacerations, who lost body parts other than their limbs (such as fingers, ears, lips and toes), or have gunshot wounds, bullets or shell fragments in their bodies in so far as they are totally or partially disabled as a consequence of a human rights violation.

¹⁶⁶ Where the "other war wounded" victim was the wife who was the breadwinner for her family at the time of the injury then the husband and children should benefit accordingly.

Pensions

492. The Commission recommends that a monthly pension be paid to all adult amputees; other war wounded who experienced a 50% or more reduction in earning capacity as a result of their injury and victims of sexual violence. The amounts should be determined by NaCSA. NaCSA will be required to balance the needs of the victims with what government can afford. In doing so, NaCSA must take into consideration the basic living scale for Sierra Leone as set by the United Nations Development Programme. NaCSA should also take into account the amounts provided to ex-combatants on a monthly basis under the NCDDR programme and the pensions received by the war wounded SLA soldiers. The Ministry of Finance, in particular, the Accountant General's Department, should be entrusted with coordinating the distribution of pension payments.

Education

493. In addition to its general recommendation that free education should be provided to all children at the basic level, there should be free education until senior secondary level for specific groups affected by the conflict. Those eligible include children who are amputees, other war wounded, and victims of sexual violence; children who were abducted or conscripted; orphans of the war; and children of amputees, other war wounded who experienced a 50% reduction in earning capacity as a result of their injuries, and victims of sexual violence.
494. Existing programmes such as the Community Education Investment Programme (CEIP) and the Complimentary Rapid Education for Primary Schools (CREPS) programme should be made available for all eligible children. Priority should be given to all permanently disabled children and victims of sexual violence (both adult and children) for scholarships to secondary and tertiary schools. The government should expand on existing education and teacher training programmes, with incentives for qualified teachers in remote areas. The Ministry of Education, Science, and Technology should be entrusted with overseeing all reparations relating to education.

Skills Training and Micro-Credit / Micro-Projects

495. The Commission recommends that skills training programmes should be provided for amputees, other war-wounded, victims of sexual violence, and war widows. On the successful completion of these programmes a business management course for running a small business should be run for the beneficiaries. Where feasible and appropriate, micro-credit or micro-projects should be provided to those who successfully complete all programmes.
496. The Ministry of Labour should be entrusted with overseeing all reparations in the area of skills-training while NaCSA should oversee all reparations in the area of micro-credit and micro-projects.

Community Reparations

497. Community reparations seek to rehabilitate areas most affected by the war through the provision of capital and technical assistance.
498. The government should consider the assessments conducted by various organisations such as the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the United Kingdom's Department for International Development (DFID), the United Nations Development Programme (UNDP), and the Sierra Leone Rural Reintegration Project (SLRRP) regarding the need for infrastructure in areas most affected by the war. Communities and groups concerned should then be consulted to assess what they need by way of community reparations. The consultation should be conducted by the District Recovery Committees as well as any other body identified by the Implementing Body, NaCSA. The Ministry of Development and Economic Planning and the Ministry of Local Government should work in concert with each other to coordinate all activities pertaining to community reparations.

Symbolic Reparations

499. Symbolic reparations provide continued public acknowledgment of the past and address the need on the part of victims for remembrance. The Commission recommends the holding of commemoration ceremonies, symbolic reburials for victims of war by traditional and religious leaders. The Commission encourages these forms of expression and solidarity.¹⁶⁷
500. Memorials serve as lenses or prisms through which to see the past, present and future. Memorialising is a social and political act that encompasses not just the memorial itself, but also the process of creating the memorial, the creation of the memorial and the continued engagement with the memorial. Through the process of examining the past and present and preparing for the future, memorials create a public space for lasting dialogue.
501. Incorporation of stakeholders into the creation of a memorial is essential. The consultation with stakeholders, especially victims and communities, in the process of "memorialisation" creates a forum for the exchange of views.
502. Memorials are catalysts for interaction because they have the potential to bring victims and perpetrators together. Memorials do not have to be costly. Examples of memorials include the establishment of a monument, the renaming of a building or location, and the transformation of a site of conflict and violence into a useful building or space for the community.
503. The Commission recommends that at the least, the government should build one national war memorial. The Commission encourages local communities to explore their own means of creating public spaces for memory and dialogue.

¹⁶⁷ A more detailed discussion of this subject can be found in the presentation on "Memorials and Transitional Justice" by Artemis Christodoulou, produced as an Appendix to this Report.

Implementation

504. The Commission recommends that NaCSA's mandate be extended beyond 2008, but that it should complete the implementation of the reparations programme within a period of six years. The Commission recognises that certain programmes, such as pensions and medical care, will need to continue throughout the lives of certain beneficiaries. The Special Fund for War Victims should be established within three months of the publication of the Commission's Report.
505. The Commission recognises that substantial funding and resources are required for the successful implementation of the proposed reparations programme. It is unlikely that the Government will be able to underwrite the entire programme. NaCSA should collaborate with the government and the international community in order to identify and obtain possible sources of additional funding.
506. Possible sources include any additional revenues generated through the exploitation of mineral resources as provided for in article 7 of the Lomé Peace Accord; a once off tax on local and foreign corporate entities operating in Sierra Leone; and the pursuit of the recovery of assets and funds illegally removed from Sierra Leone during the conflict. With regard to labour-intensive projects, NaCSA may wish to explore the use of voluntary labour for those who wish to engage in national service for their country.
507. The Commission recommends that the Government work towards the full implementation of the reparations programme.

Political Persecution of those in Public Office

508. The Commission found that certain regimes, during the conflict period, victimised a large number of individuals who held public office on suspicion that they were "collaborators" or on the basis that they were associated or related to perceived "collaborators" or "the enemy". In many instances such persons suffered summary dismissal and, in other cases, such individuals were detained for long periods.
509. The Commission found that the NPRC regime unlawfully dismissed Major Lucy Kanu from the Army in 1993 simply because her husband was one of the alleged coup plotters of December 1992. The Commission recommends that the good name of Major Lucy Kanu be restored; that she be recalled to the Army and formally retired with effect from 1 August 2003;¹⁶⁸ and paid her lost benefits.

¹⁶⁸ 1 August 2003 was the date agreed between the Commission and the then Chief of Defence Staff, Major-General Tom Carew, for Major Lucy Kanu's formal retirement. Carew and all officers of the RSLAF who testified to the Commission on Major Kanu's petition admitted that she was dismissed in error and recommended her recall to the Army.

510. The authorities detained Mrs. Sylvia Blyden, a civil servant who had served the nation for some thirty years, in February 1998 for nine months without charge. She was held on the strength of untested allegations against her. The Commission recommends that the wrongs suffered by such individuals be redressed. In particular the Commission recommends that their good names be formally restored. The Human Rights Commission (HRC) should be tasked with investigating all cases of political persecution of public office-holders with a view to restoring people's good names where necessary, by way of a public finding. All those in the public sector who suffered political persecution during the conflict period should be able to approach the HRC for such relief.
511. The Commission recommends that the HRC investigate each case of political persecution on its merits. Where appropriate the HRC should recommend to the Government the restoration of lost benefits occasioned as a result of political persecution; or an award that the HRC deems appropriate in the circumstances.
512. The HRC and the Government should work towards the fulfilment of these recommendations.

RECONCILIATION

*Beneath forest trees
Lay my country covered with leaves
Trampled on by decades of misrule...
My country became 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*

Extract from the poem "My Country" by Mohamed Turay¹⁶⁹

*Now is the time to make Sierra Leone
Bury the hatchet ...
And put your pains to gain
Because none is free from blame
Then and only then will you make Sierra Leone*

Extract from the poem "Who will make Sierra Leone?"
By the RUF Prisoners at Pademba Road Prison¹⁷⁰

513. The Commission recognises that reconciliation is a long-term process that must occur at the national, community and individual levels.¹⁷¹ The Commission places no preconditions on the realisation of reconciliation. Reconciliation is an ongoing process that must be nurtured and promoted. The Commission offers guidelines that will facilitate reconciliation. However, it is ultimately up to all Sierra Leoneans to engage in imaginative acts that will serve the cause of reconciliation and healing at all levels.

¹⁶⁹ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹⁷⁰ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹⁷¹ See the chapter on "Reconciliation" in Volume Three B for more detailed recommendations.

514. In the long term, the Commission recognises that national reconciliation ought to rest on certain fundamentals. These include the improvement of the socio-economic living conditions of the people; good governance; strong and functional oversight institutions; the creation of a respected and professional security force; and the implementation of a reparations programme that takes into account the needs of the victims of the conflict.
515. The Commission also recognises that there are certain steps that will facilitate the reaching of national reconciliation. These steps include: truth telling; reconciliation between victims and perpetrators as well as the perpetrator with his or her community; the provision of adequate physical security; and the implementation of a reparations programme.

Guiding Principles

516. The Commission recommends that reconciliation activities should adhere to certain guiding principles. First and foremost, reconciliation activities should be initiated in consultation with all relevant stakeholders.
517. Victims must be included in the process. In particular, special efforts should be made to include the victims of sexual violence, bush wives, child ex-combatants, and victims with visible physical disabilities such as amputees and the war wounded.
518. The Commission recommends certain activities that can help to foster the reconciliation process. These activities include:
- apologies by all actors involved in the conflict;
 - a national peace day;
 - dissemination of the TRC report;
 - traditional and religious activities;
 - social and recreational activities;
 - trauma counselling; and
 - Government support for the continuation of activities of the District Reconciliation and Support Committees set up by the TRC and the Inter-Religious Council.
519. In order for the reconciliation process to be advanced, it must enjoy the committed support from all actors involved: the Government, other public officials, communities, victims, and perpetrators.
520. Acknowledgement of wrongdoing, recognition of suffering, and the apologising to victims ought to be made by national and political leaders, government representatives and other stakeholders in the national reconciliation process. The Commission also calls on leaders at all levels, down to chiefdom level to account to their communities and to take the lead in advancing reconciliation.
521. Reconciliation should take place within the Security Forces and, in particular, the RSL Armed Forces, which has integrated ex-combatants from different former fighting forces into their ranks. Reconciliation should also take place between the armed forces and the civilian population. Many civilians perceive the armed forces to have betrayed the country during its time of need. The Security Forces should work towards the fulfilment of this recommendation.

Reconciliation Activities

522. The Commission recommends that the Government and other organisations seriously consider the initiation of the following activities that can promote reconciliation:
- Symbolic activities¹⁷² such as the establishment of monuments on mass graves.
 - A national peace day during which reconciliation and solidarity with those who suffered during the war is promoted. This should be a national holiday. Activities on this day should take place at all levels, from community level to the national level. The Commission suggests that this be the 18th of January, which is the day on which the war was officially declared to be over in 2002 with the symbolic burning of 3000 weapons at Lungi.
 - The Commission encourages victims and ex-combatants, as well as other members from the community, to come together in joint projects for the development of their communities. Such projects can be symbolic in nature and can include activities that improve the lives of people such as the clearing of land for the creation of peace parks; the removal of rubbish and litter that is prevalent almost everywhere in urban Sierra Leone; the repairing of roads and the like.
 - The Commission encourages traditional activities to reintegrate victims and ex-combatants into communities and to restore the social fabric in the community. Such activities can include traditional dances, pouring of libation, cleansing ceremonies, and cleansing of the bush.
 - The Commission encourages religious activities, such as the organisation of commemoration ceremonies for the victims of the war, symbolic reburials for those victims who are missing or who have not been buried according to religious and traditional customs and common prayers.
 - The Commission encourages sports games and sporting competitions, involving victims, ex-combatants as well as other members from the community.
 - The Commission encourages social and recreational activities, in which victims, ex-combatants as well as other members from the communities can meet at events such as feasts, peace carnivals, and traditional hunting.
 - The Commission encourages artistic activities in which victims, ex-combatants, as well as other members of the community can express themselves through drama, music, song, story telling, art, poetry in order to promote tolerance, respect, and non-violent means of conflict resolution.¹⁷³
 - The Commission recommends that the District Reconciliation Support Committees, recently set up in every district by the Truth and Reconciliation Commission and the Inter Religious Council in order to promote reconciliation activities in all chiefdoms, be supported to continue their work.

¹⁷² For other symbolic activities, see recommendations on reparations programme.

¹⁷³ See the chapter: "National Vision for Sierra Leone".

523. The Commission recommends that in the spirit of reconciliation, the Government of Sierra Leone should request the Security Council of the United Nations to lift the travel ban imposed on all RUF members.¹⁷⁴

NATIONAL VISION FOR SIERRA LEONE

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

Extract from the poem "My Vision, My Home, My Sierra Leone" by Ustina More¹⁷⁵

524. The Commission looked to the past in order to tell the story of the civil war and to make recommendations to prevent a repetition of conflict. The Commission also looked to the future for the purpose of describing the kind of post-conflict society that the recommendations were designed to achieve. The Commission invited Sierra Leoneans to tell it about the kind of society they envisaged for their country.
525. The Commission was overwhelmed by the effort, time and resources that so many Sierra Leoneans devoted to preparing their contributions. Among the contributors were adults and children of many different backgrounds, religions and regions; artists and laymen; amputees, ex-combatants and prisoners. The contributions included written and recorded essays, slogans, plays and poems; paintings, etchings and drawings; sculptures, wood carvings and installations. The contributions form part of the national heritage of Sierra Leone.

The Vision Going Forward

526. The Commission 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.
527. To ensure maximum exposure for the National Vision contributions, the Commission recommends:
- *Establishing a Permanent Home:* The Exhibits should be housed in an appropriate, permanent location that will be an active and interactive site of workshops for different interest groups (women, children, political leaders, etc.) around issues addressed in the contributions.
 - *Arranging a National Tour:* To ensure the visible accessibility of the Exhibits 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.

¹⁷⁴ The UN Security Council imposed the travel ban under UNSC-Resolution 1132 of 1997.

¹⁷⁵ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

- *Arranging an International Tour:* An international tour would raise awareness about Sierra Leone and the issues discussed in the contributions and 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.
 - *Publication of a book:* This book would include photographs of the contributions, biographies of the contributors, and essays by different leaders on reconciliation, national healing and related topics.
528. In order to realise these objectives the Commission recommends that the National Vision fall under the wing of its 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 the Government commit themselves to keeping the National Vision alive and to establishing a provisional vehicle or structure under which its activities can continue.
529. The Commission accordingly recommends the establishment of an independent Trust to oversee the activities of the project. The Trust should have independent trustees and be representative of the different sectors of Sierra Leonean society.

Guiding Principles

530. The Commission urges that the National Vision for Sierra Leone, as a TRC project, must remain true to the founding principles underlying the Commission's work. As such, all future National Vision activities must:
- Serve the preservation of peace, strive for unity and promote healing and reconciliation.
 - Remain independent and non-partisan. The National Vision should always represent the collective visions of its contributors. It should never become the vision of a particular NGO or the vision of the Government or any particular interest group.
531. The Commission calls on its successor body or any provisional National Vision structure to take steps to ensure that the works of the contributors:
- are respected;
 - are properly preserved;
 - receive maximum public exposure;
 - are used to further the causes set out in the founding principles; and
 - are not used to further any political or commercial interests.¹⁷⁶

¹⁷⁶ These principles would not prohibit the sale of prints of Vision contributions for purposes of reinvesting the proceeds in the furtherance of National Vision activities.

ARCHIVING OF COMMISSION DOCUMENTATION

532. The Commission recommends that the National Human Rights Commission (HRC) should become the official custodian of all Commission documentation and materials. Pending the creation of the HRC, the Commission's documents should be held at the National Archives.

Confidential and Restricted Information

533. The Commission recommends that Parliament refrain from passing legislation authorising access by criminal justice mechanisms, either directly or indirectly, to information in the archives of the Commission that was provided on a confidential basis.
534. The identities of child combatants and victims of rape and sexual violence, supplied to the Commission on a confidential basis, should never be disclosed. No archival materials that reveal the identities of such persons should be released.
535. The Commission recommends that, along with any conditions imposed on any researcher or person accessing confidential information, he or she must be required to sign a sworn statement declaring that confidentiality will be upheld. A criminal penalty of a fine and or imprisonment should be imposed for any breach of the confidentiality requirements.
536. These are imperative recommendations.

Regulating Access

537. The HRC, and pending its creation, the National Archives, should regulate access to the Commission archives within the parameters outlined above. Persons requiring access should be required to set out the purpose for which they require access to the materials. A committee of the HRC and pending its formation, the National Archives, should consider each application on its merits to ensure that the conditions referred to in these recommendations are complied with.
538. The Commission recommends that the HRC continue with the indexing of the statements and information in order to determine which portions of the statements are confidential and embargoed, and to organise the statements in such a way that future research is possible.
539. The HRC and, pending its establishment, the National Archives, should designate an appropriate facility within its premises, where the materials may be inspected and where appropriate, copied. No original materials should be removed from the HRC or National Archives.
540. The Commission recommends that the HRC work towards converting the statements and information it had gathered into digitised form. This will reduce the amount of space required to store the information, assist with information management and also preserve the information indefinitely.¹⁷⁷

¹⁷⁷ By digitised form, we mean that each page of each paper statement will have a digital "snapshot" stored electronically, not that the information will be captured in text form.

541. The Commission recommends that the rest of its assets be transferred to the HRC. The Commission encourages the HRC to use its materials for educational purposes and to facilitate the educational use of the materials by other organisations.

DISSEMINATION OF THE TRC REPORT

*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
With the past we know the present and combined we make the future
Our mistakes have opened the doors of discoveries and our
Discoveries must lead to recoveries*

Extract from the poem "Who will make Sierra Leone?"
By the RUF Prisoners at Pademba Road Prison¹⁷⁸

542. The Commission regards it as crucial that Sierra Leoneans develop an understanding of the conflict, including its causes and its consequences for the country. Knowledge and understanding promote foresight. Knowledge and understanding are the most powerful forces against the repetition of conflict.

Widest Possible Dissemination

543. The Commission recommends the widest possible dissemination of its Report. The Commission calls upon the government and civil society to facilitate the accessibility of the report to all people, literate and illiterate, in local languages.
544. The Commission encourages the formation of dissemination committees to organise the distribution of the report at national and local level. In particular, the Commission encourages the use of the Report and its different versions to promote dialogue and debate. The Video¹⁷⁹ and Children's versions of the Report should be used in workshops around the country in order that people may learn more about the Report of the Commission.

Education, Popular Versions and the Internet

545. The Commission recommends that the contents of its report be incorporated into the education programmes in all schools, from primary to tertiary level. The Children's version¹⁸⁰ of the Report can be used as tool of education at the primary school level.
546. The Commission encourages the production of popular versions and summaries of its Report. These should be produced in consultation with the Human Rights Commission, when it is established.

¹⁷⁸ Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

¹⁷⁹ The video version of the TRC report, entitled "Witness to Truth", was produced by WITNESS, the New York-based human rights NGO (www.witness.org), in collaboration with the Commission.

¹⁸⁰ The Children's version of the TRC report was produced with the assistance of UNICEF.

547. The Commission recommends that the full contents of the Report and its appendixes should be made available on the Internet. A website should be established to host the Report, which should be properly maintained. The Commission calls on local and international organisations involved in online human rights education to support such a project.

FOLLOW-UP COMMITTEE

548. The Truth and Reconciliation Act, 2000 (the Act) requires that the Government shall, upon the publication of the report of the Commission, establish a committee or other body, including representatives of the Moral Guarantors of the Lomé Peace Agreement (“the Follow-up Committee”) to monitor the implementation of the recommendations of the Commission and to facilitate their implementation.¹⁸¹
549. The Commission has set out, in the introduction to this chapter, the particular monitoring role it recommends for the Follow-Up Committee.

Human Rights Commission and Civil Society

550. The Commission recommends that the HRC should be appointed by the Government to fulfil the role of the Follow-Up Committee. The HRC should keep the bodies referred to in the Lomé Peace Agreement apprised, on a regular basis, of its activities by way of written reports and, where necessary, oral presentations.
551. The Commission recommends that, at least, four representatives of civil society should be represented on the Follow-Up Committee, one of whom should represent women and one other should represent the youth.

Reporting

552. The Act requires the Government, during the period of eighteen months or such longer or shorter period after the establishment of the Follow-up Committee, as that Committee shall determine, provide quarterly reports to the Follow-up Committee, summarising the steps it has taken towards the implementation of the recommendations of the Commission.¹⁸²
553. The Act requires the Follow-up Committee to publish the reports of the Government and submit quarterly reports to the public, evaluating the efforts of the Government and the efforts of any other person or body concerned to implement the recommendations of the Commission.¹⁸³
554. The Commission recommends that the Follow-Up Committee should issue an annual report reflecting the level of performance in the Government’s implementation of the Commission’s recommendations. This report must be made public at the time of delivery to the Government and the Moral Guarantors.

¹⁸¹ See Section 18(1) of the Truth and Reconciliation Commission Act 2000.

¹⁸² See Section 18(2) of the Truth and Reconciliation Commission Act 2000.

¹⁸³ See Section 18(3) of the Truth and Reconciliation Commission Act 2000.

RECOMMENDATIONS TABLES

“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”

Extract from an essay by Wurie Mamadu Tamba Barrie¹⁸⁴

PROTECTION OF HUMAN RIGHTS			
Imperative	Work Towards	Serious Consideration	Calls On
Enshrine human dignity as a fundamental right in the Constitution.	Compulsory human rights education in schools, army, police and judicial services.	Creation of a new constitution for Sierra Leone.	Judiciary to adopt rights and values based approach to constitutional interpretation.
Abolish the death penalty. Commute pending death sentences.	Codify Customary Law. Codification to be in accordance with Constitution and international obligations.	Extend constitutional jurisdiction to other courts.	Judiciary not to permit unjust laws and practices to stand.
Release of persons held in Safe Custody detention. Never again resort to Safe Custody detention.		Outlawing of corporal punishment throughout Sierra Leonean society.	International Community to support a Street Law programme in Sierra Leone.
No ouster of Courts' jurisdiction in Public Emergencies. Certain rights are not derogable in Emergencies. Various measures for the protection of detainees.			Media to thoroughly investigate stories before publication.

¹⁸⁴ Essay submitted to the National Vision for Sierra Leone, a project of the TRC.

Imperative	Work Towards	Serious Consideration	Calls On
Avoid criminal sanctions in sphere of expression. Limit criminal sanction to conduct aimed at inciting violence and lawlessness.			Sierra Leone Association of Journalists and Media Commission to be more active in monitoring of standards of journalism.
Race and gender must not be a consideration in the acquisition of citizenship.			
Outlaw use of corporal punishment in schools and homes.			
Repeal sections 27(4)(d) and (e) of the Constitution which permits discrimination against women.			
Creation of National Human Rights Commission (HRC). Public and open nomination process for Commissioners.			
Ratify or accede to international human rights treaties that Sierra Leone has not yet accepted. Submit outstanding reports under its International Human Rights Obligations.			

ESTABLISHMENT OF THE RULE OF LAW

Imperative	Work Towards	Serious Consideration	Calls On
Broaden representation on Judicial Services Commission. Increase representation of the Bar.	Creation of an autonomous judiciary with budgetary independence.	Introduction of alternative forms of dispute resolution and settlement.	Judicial officers to act with integrity and dispense justice without fear or favour.
Binding Code of Conduct for judges and magistrates.	Separation of the offices of the Attorney General and the Minister of Justice.	Various recommendations to address the backlog in the delivery of justice.	The Judiciary to take a pro-active approach to the protection of human rights.
	Extend retirement age of judges to seventy.	Condition in scholarships for law students that on qualification a year of community service be performed.	Experienced Sierra Leonean lawyers to respond to the call to serve on the bench.
	Judicial / Customary law officers to be appointed in each district.		Lawyers and the organised Bar to stand up to injustice. Bar Association to become the guardians of the Rule of Law and human rights in Sierra Leone.
	Local courts to be incorporated into the judicial system. Powers of judicial review to be removed from non-judicial officers.		Bar Association to require its members to provide <i>pro bono</i> services.
	Incremental improvement of remuneration of Local Court officials.		Bar Association to introduce a binding and enforceable code of ethics for members of Bar.

Imperative	Work Towards	Serious Consideration	Calls On
	Establishment of public defender offices in all main centres.		Fourah Bay College to incorporate service in the Legal Aid Clinic as part of the curriculum for law students.
	Properly resource the Law Reform Commission.		International Community to support creation and running of a legal resources centre.
	Establishment of more court houses in Freetown and the Provinces.		Members of the international community to donate law reports and legal texts from their respective countries to court and law libraries.

SECURITY SERVICES

Imperative	Work Towards	Serious Consideration	Calls On
Adopt new principles of National Security and enshrine them in the Constitution.		Disband the Operational Support Division (OSD).	All soldiers bear responsibility to restore faith and confidence of the nation in the Army.
No member of any security service to be permitted to obey a manifestly illegal order.			Members of the police to serve with integrity.
Security Services in performance of duties not to act against political party's legitimate interest; or promote a political party.			

PROMOTING GOOD GOVERNANCE

Imperative	Work Towards	Serious Consideration	Calls On
Constitution to enjoin public servants not to act in any way inconsistent with their office.	Freedom of Information legislation and creation of necessary administrative apparatus.	Return of Chiefs to traditional roles and functions. National dialogue on restoration of chiefs to traditional role.	National leadership to set highest standards and place national interests above their own.
Parliament to promulgate code of ethics for senior members of executive and leading public sector officials.	All levels of public administration to accord with principle of just administrative action.		Civil Servants to faithfully and diligently serve the people of Sierra Leone.
Officials dismissed for a breach of ethics to be disqualified from holding any public office.	Local government and District Councils to accord with certain core principles.		National Electoral Commission to build public confidence in the democratic process.
Alleged breaches of ethics to be investigated by a constituted body with capacity.			Civil society to highlight electoral fraud, monitor campaign financing, and expose abuse of state resources for party political purposes.
Just administrative action to be enshrined as a governmental objective in the Constitution.			Parliamentarians to provide real and active representation to the people of Sierra Leone.
Candidates and political parties to disclose money raised and sources thereof.			Parliamentarians to open offices in their constituencies so as to be accessible to the public.
Appropriate limits to be placed on contributions to political campaigns.			Parliamentary Committees to consult regularly with civil society

Imperative	Work Towards	Serious Consideration	Calls On
No political party to be favoured over another by any organ of state.			The media to help build a culture of accountability.
Principles of Local Government to be enshrined in the Constitution.			National Dialogue on the return of chiefs to their traditional roles and functions.
FIGHTING CORRUPTION			
Imperative	Work Towards	Serious Consideration	Calls On
Disclosure of financial interests for senior public officials. Clear and strict penalties for failure to comply.	Government to display at points of contact with public the entitlements of citizens and details of any charges.		Government, business and civil society to hold an annual integrity summit.
Government to publicly announce that the victimisation of whistle blowers will not be tolerated.	Publish relevant amounts allocated to provide services and amenities at local and community levels.		Civil society groups to engage in ongoing advocacy and research; and to scrutinise public conduct zealously.
Provide legal protection to whistle blowers who expose corruption. It should be a criminal offence to engage in reprisals against whistle blowers.	Permit independent prosecution of corruption cases by the Anti Corruption Commission. Build prosecutorial capacity.		Business to develop Code of Corporate Governance and share information with law enforcement agencies.
Amend laws to prevent secrecy and confidentiality provisions from stopping exposure of corruption.			Donors to insist on firm action against individuals in beneficiary groups who are involved in corruption.
Prosecution of corruption cases should be free from political interference.			Donors to withdraw support from government bodies and NGOs failing to address corruption or mismanagement.

Imperative	Work Towards	Serious Consideration	Calls On
Procurement, tenders, bids, privatisation to be scrupulously open and transparent.			
YOUTH			
Imperative	Work Towards	Serious Consideration	Calls On
Youth question to be viewed as a national emergency that demands national mobilisation.	Transformation of Ministry of Youth and Sports into a National Youth Commission.	A "State of the Youth" report to be tabled each year before Parliament.	Government and donor community to support Ministry of Youth programmes to cultivate political responsibility in youth and to establish chiefdom, district, and regional and national youth committees.
All political parties required to ensure that at least 10% of their candidates for all public elections are youths.			
WOMEN			
Imperative	Work Towards	Serious Consideration	Calls On
Government and factions to conflict to issue a full and frank apology to women for abuses sustained in the war.	Enactment of legislation to address domestic violence.	Provide women with micro-credit along with focussed skills training.	Communities to accept rape and sexual violence victims and their children back into society.
Repeal all statutory and customary laws discriminatory against women, including provisions that prevent their inheritance and land access.	Establish training programme for police, prosecutors and judiciary to assist them to deal with gender-based crime.	Removal of Gender portfolio from Ministry of Social Welfare and the creation of a Gender Commission.	Men to respect women and to protect them from abuse at all times.

Imperative	Work Towards	Serious Consideration	Calls On
Sierra Leone to ratify the Protocol to the African Charter on the Rights of Women.	Harmonise the national laws dealing with crimes of sexual violence with the provisions of the Rome Statute.	Adult education programmes to teach literacy and numeric skills to women.	Communities to act with compassion in accepting female ex-combatants and displaced persons back into society.
All political parties to be required to ensure that at least 30% of their candidates for all public elections are women.	Provide free and compulsory education for girls up to senior secondary level.		Relief agencies to assist with rehabilitation and skills training for female ex-combatants and displaced persons who did not benefit from formal programmes.
Repeal provision in Protection of Women and Girls Act which links the prosecution of sexual offences to the 'moral character' of the complainant.	Provide psychosocial support and reproductive health services to women affected by the conflict.		Fourah Bay Legal Aid Clinic, LAWCLA and Bar Council to focus on domestic and sexual violence against women.
Launch a campaign to end practice of customary law compelling victim of rape to marry the offender	National Campaign to break the silence that pervades rape and sexual violence.		Community leaders to encourage the prosecution of rapists.
Abolish practice of expelling pregnant girls from school	Achieve 50/50 gender parity in representative politics within next ten years.		UNIFEM and NGOs to establish leadership programmes for women.
	Representation of at least 30% women in cabinet and political posts.		Bondu societies to serve as mechanisms for change.
	Achieve 50/50 gender parity in cabinet and political posts within next ten years.		

Imperative	Work Towards	Serious Consideration	Calls On
	Implement educational programmes that promote safe sex practices.		
	Establish directory of service providers assisting women.		
	Establish old peoples' homes in main urban centres and attend to the social and medical needs of elderly women.		
CHILDREN			
Imperative	Work Towards	Serious Consideration	Calls On
Child's Rights Bill to be enacted into law	Removal of all hidden or 'chalk' fees for primary school education.	Government and agencies to establish recreation centres throughout the country where children can be exposed to sports and the art of play.	Employers who employ children to provide working conditions that are humane.
Law Commission to review legislation to ascertain whether laws accord with Convention of the Rights of the Child.	Provide incentives to encourage children to attend the secondary school level.		Member states of ECOWAS to implement the Political Declaration and Action Plan against trafficking in human beings, especially children
New law to criminalise not sending a child to primary school. Make 18 the age of majority.	Enact legislation that brings the procedural and evidentiary rules relating to the prosecution of sexual violence in line with the Rules of Procedure and Evidence of the Rome Statute.		

Imperative	Work Towards	Serious Consideration	Calls On
Law Commission to draft a law criminalising trafficking and the sexual exploitation of children.	Review the practice of employing children under the age of 18 on a full-time basis.		
Sierra Leone to sign the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.	Review the adoption laws to incorporate the practice of guardianship and fostering.		
	Enact legislation to regulate the establishment of orphanages both private and public.		
	Ministry of Social Welfare, Gender and Children's Affairs to support the Children's Forum Network to operate at national and local level, especially in the Provinces.		
EXTERNAL ACTORS			
Imperative	Work Towards	Serious Consideration	Calls On
	Work with the Government of Liberia to control flow of small arms and light weapons along common border.	Commit to programme objectives of NEPAD.	Government s of Libya, Cote d'Ivoire and Burkina Faso to publicly acknowledge their roles in financing the RUF.
	Harmonise laws regulating firearms and explosives in Sierra Leone and Liberia.		Libya to provide financial support to the War Victims Fund.

Imperative	Work Towards	Serious Consideration	Calls On
			Government of Liberia to consider an act of symbolic reparation to people of Sierra Leone.
			International community to never again ignore internal armed conflict because country has little or no strategic value.
			International community to raise peacekeeping capacity of ECOWAS.
			ECOMOG soldiers found responsible for human rights violations to be excluded from peacekeeping missions in future.
			ECOWAS protocol on early warning and conflict prevention to be implemented; all countries in sub region not to allow territories to be used to launch incursions into other countries.
			UN peacekeepers to have good understanding of local conditions.
			International community and ECOWAS to prevent movements of mercenaries and enforce International Convention against mercenaries.

Imperative	Work Towards	Serious Consideration	Calls On
			Trace assets of Charles Taylor, NPFL and RUF that were illegally removed from Sierra Leone. Recovered assets to become part of War Victims Fund.
			United Kingdom to pursue with vigour its development partnership with Sierra Leone.
			UNAMSIL to investigate the economic ramifications of its withdrawal from Sierra Leone.
			International Community to continue with its aid programmes.

MINERAL RESOURCES

Imperative	Work Towards	Serious Consideration	Calls On
Publish a regular and detailed account of how government spends proceeds generated from diamonds.	Child Protection Agencies to conduct spot checks on mining sites to ensure that children are not employed.	Increase border patrols to deter smuggling.	Members of the Kimberley Process to implement monitoring systems and to invite independent monitoring by outside bodies.
Bidding process for mineral exploitation licenses should be fair and transparent.	Sensitisation of families to stress importance of education for children. Alternative sources of income for families should be investigated.	Miners to be encouraged to sell diamonds directly to authorised exporters. Abolishment of dealership class. All diamond buying and selling to be under control of GGDO.	International NGOs and diamond industry officials to closely scrutinise the implementation of Certification Scheme.

Imperative	Work Towards	Serious Consideration	Calls On
Authorities to closely examine issue of mining licenses to relatives and associates of public officials.	Miners to be informed of their labour rights.	A higher percentage of the export tax on diamonds to be made available to local communities through the Community Development Programme.	Governments of Sierra Leone, Liberia and Guinea to invite voluntary review visits of the Kimberly Process.
Ministry of Mineral Resources to publish names of holders all mining related licenses on an annual basis.	Ministry of Mineral Resources to conduct a review of the role played by chiefs in the granting of mining licenses.	Miners to be supplied with information and training on how to assess the quality and monetary value of diamonds.	Kimberly Process to ensure that participants export only rough diamonds that they legitimately produce or legitimately import from another Kimberly Process participant.
Sierra Leone to confirm its ratification of ILO Convention 182 and to ratify ILO Convention 138 dealing with child labour.		Micro credit projects to be implemented to enable miners to acquire capital to finance their own activities.	Kimberley Process to exclude countries that are not complying with the requirements of the Certification Scheme, including those that fail to establish internal control mechanisms.
Mining License holders to have their licenses permanently revoked if found to be employing children.			States in West Africa to apply particular vigilance to ensure that the Kimberly Process Certification Scheme is strictly enforced.
Government to promulgate regulations to prevent the employment of children in mining activities			Government of Sierra Leone to implement Article VII, clause 6 of the Lomé Agreement.

THE TRC AND THE SPECIAL COURT FOR SIERRA LEONE			
Imperative	Work Towards	Serious Consideration	Calls On
			International community to harmonise objectives of future transitional justice bodies that operate at the same time.
			Matters of fundamental principle to be agreed upon and enshrined in law.
			Conflicts of law to be settled upfront.
			Provision for binding dispute resolution. Arbitrator to be a third party.
			Provision to be made for “use immunity” of witness testimony supplied to TRC.
			Foreign personnel of post-conflict bodies to receive sensitisation on local conditions.
			Staff not to move between in-country post-conflict organisations.
			International community and governments to consider major investments in national justice systems.
			Future peace accords providing amnesty to include a clause revoking amnesty for party in breach of accord.

REPARATIONS¹⁸⁵			
Imperative	Work Towards	Serious Consideration	Calls On
	Creation of referral and prioritisation systems for victims requiring medical care.	Reparations programme to be co-ordinated by NaCSA.	
	Amputees to receive free physical healthcare for rest of their lives.		
	War wounded and amputees to receive free prosthetic / orthotic devices; and free physiotherapy and occupational therapy.		
	Other war wounded to receive medical support to the degree their injuries or disability demands.		
	Victims of sexual violence to be eligible for free physical health care including fistula surgery.		
	Existing mental health programmes to be supported and expanded.		
	Support for organisations providing scar removal surgery for branded children.		

¹⁸⁵ This table provides merely an outline of the proposed Reparations Programme. As the recommendations are sometimes qualified, the full text of the recommendations should be consulted. Chapter Four on Reparations provides detailed explanations for each recommendation.

Imperative	Work Towards	Serious Consideration	Calls On
	A monthly pension (amount to be recommended by NaCSA) to be paid to amputees, war wounded and sexual violence victims who experienced a 50% or more reduction in earning capacity.		
	Free education up to senior secondary level to be supplied to specific children groups affected by the conflict.		
	Skills training programmes for amputees, other war wounded, sexual violence victims and war widows.		
	Consultations with various organisations regarding need for Community Reparations.		
	Symbolic reparations including commemoration events, symbolic reburials and memorials.		
	HRC to investigate the political persecution of those in public office. Where appropriate, a public finding to be made restoring the good names of those persecuted.		

Imperative	Work Towards	Serious Consideration	Calls On
	Where appropriate, the HRC to recommend restoration of lost benefits to public officials who were victims of political persecution.		
RECONCILIATION			
Imperative	Work Towards	Serious Consideration	Calls On
	Reconciliation within security forces and between armed forces and civilian population.	Reconciliation activities to be initiated in consultation with all relevant stakeholders.	National and political leadership to acknowledge wrongdoing, recognise suffering and apologise to victims.
		National Peace Day to be held every year on 18 January.	Leaders at all levels down to chieftom to account to communities and take lead in reconciliation.
		Support to be given to the District Reconciliation Committees established in each district by the TRC.	Victims and ex-combatants to come together in joint development projects and other events.
		Symbolic activities such as the building of monuments on mass graves.	Communities to hold traditional activities to reintegrate victims and ex-combatants.
			Religious leaders to hold commemoration ceremonies for victims of war.

NATIONAL VISION FOR SIERRA LEONE			
Imperative	Work Towards	Serious Consideration	Calls On
		The National Vision to fall under the wing of the Human Rights Commission.	All stakeholders to ensure that the National Vision becomes a permanent and interactive civic space.
			Stakeholders to organise national and international tours and a publication of the contributions.
			Stakeholders to establish provisional body to oversee Vision activities.
			HRC or provisional body to ensure that the Vision remains independent; that its activities serve the causes of peace and unity; that contributions are respected and preserved and are not used for political or commercial interests.
ARCHIVING OF COMMISSION DOCUMENTATION			
Imperative	Work Towards	Serious Consideration	Calls On
HRC to become official custodian of TRC documentation. Pending the creation of the HRC the archives to be held at the National Archives.	HRC to continue with indexing of statements and information.		

Imperative	Work Towards	Serious Consideration	Calls On
No law to be passed authorising access by justice mechanisms to confidential information held by the archives.	HRC to establish facility where materials may be inspected and consulted.		
Confidential materials relating to child combatants and sexual violence victims not to be released.	HRC to convert statements and information into digital form.		
Conditions and procedures for access to confidential information and general archives.			
No original TRC materials to be removed from National Archives/ HRC.			
DISSEMINATION OF THE TRC REPORT			
Imperative	Work Towards	Serious Consideration	Calls On
		Incorporate contents of the Report into the education curricula of schools, colleges and universities.	Government and civil society to organise the widest possible dissemination of the Report.
			Stakeholders to form dissemination committees to organise distribution at national and local level.
			Stakeholders to use Report and its different versions to promote dialogue and debate.

Imperative	Work Towards	Serious Consideration	Calls On
			Stakeholders to produce summaries and popular versions of the TRC Report.
			Local and international NGOs to collaborate on hosting full contents of the TRC Report on the Internet.
FOLLOW-UP COMMITTEE			
Imperative	Work Towards	Serious Consideration	Calls On
Establishment of Follow-up Committee in terms of the Act and the Lomé Peace Accord.		The HRC to be appointed to perform the role of the Follow-up Committee.	
At least four representatives of civil society should serve on the Follow-up Committee. One to represent women and one to represent youth.			
Follow-up Committee to issue quarterly updates and one annual report.			