

# CHAPTER FOUR

## Reparations

### Introduction

1. The Commission, in interpreting its mandate in respect of victims, was guided by the provisions of the Lomé Peace Agreement of 7 July 1999 and its enabling legislation, the TRC Act of 22 February 2000.
2. Article XXVI of the Lomé Peace Agreement obliges the Commission to, “among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations.”
3. Article XXIX of the Lomé Peace Agreement refers to the establishment of a Special Fund for War Victims for the rehabilitation of war victims. Section 7(6) of the TRC Act calls upon the Commission to make recommendations for the Special War Fund for Victims.
4. Section 15(2) of the TRC Act mandates the Commission to make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission. This object includes:
  - *preventing the repetition of the violations or abuses suffered;*
  - *responding to the needs of the victims; and*
  - *promoting healing and reconciliation.*

Section 6(2)(b) of the TRC Act also requires the Commission to:

- *work to help restore the human dignity of victims and promote reconciliation.*
5. The TRC Act did not explicitly use the term “reparations.” Instead, the Commission was instructed to “address the needs of the victims,” and “restore the human dignity of victims” as well as “promote healing and reconciliation.” A reparations programme that the government can implement will go a long way to address the needs of the victims of the conflict. Such a programme encompasses a broader sense of justice that goes beyond individual satisfaction and includes recognition for the harm suffered, as well as a sense of civic trust and social solidarity.<sup>1</sup> The Commission’s recommendations, which constitute the reparations programme, serve to fulfil this obligation as set out in the enabling legislation.

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<sup>1</sup> Pablo De Greiff, “The Role of Reparations in Transition to Democracy,” Forthcoming in *Repairing the Past*, a publication by the International Center for Transitional Justice. New York, p. 8



6. In designing a reparations programme for the victims of the Sierra Leonean conflict, the Commission had to take into account a number of factors. It would have been gratifying if all victims of the conflict could benefit from a reparations programme but such a programme would be totally impossible for the country to implement. The Commission therefore had to determine who would benefit from a reparations programme. The Commission determined the category of beneficiaries by considering those victims who were particularly vulnerable because of the human rights violations they had suffered and the harm that they continued to live with.
7. The Commission then considered the current needs of those victims in order to determine what benefits to accord them in a reparations programme. In determining the specific recommendations, the Commission considered whether the state would be able to implement the recommendations given the available resources. The Commission was also guided by its mandate and decided that the potential list of victims should be kept open in order to ensure the widest possible access to the reparations programme by victims.
8. In the following paragraphs, the Commission provides the legal basis (both domestic and international law) for reparations; explains how reparations can foster reconciliation; elaborates the guiding principles that inform the reparations programme; lists the categories of eligible beneficiaries; and makes recommendations on the benefits to be accorded to the beneficiaries as well as to how effectively implement the reparations programme.

## **Reparations in Domestic and International Law**

9. The purpose of a reparations programme is to provide redress and accord a measure of social justice to victims of human rights violations. Under international law, victims can obtain redress either through political means such as reparations programmes or pursue legal recourse through the civil courts. However, as in many post-conflict societies, it is not possible to prosecute perpetrators or seek civil damages through the courts.
10. In transitional societies, it is extremely difficult to pursue prosecutions and civil claims for damages. Often new governments are forced by the reality of the circumstances they find themselves in to broker amnesty deals as part of the peace process. Additionally, many perpetrators are nameless and unidentifiable. The evidentiary burden for the state and victims is impossible and so prosecutions remain an empty elusive reality, real in name only and not possible. Transitional states are compelled to find alternatives as well as other mechanisms to deal with accountability and to provide justice for victims. This is certainly true for Sierra Leone.
11. In Sierra Leone, effective redress is simply not available through the courts. The justice system currently does not have the capacity to deal with the massive violations committed during the conflict. Large parts of the country do not have functioning courts and access to formal justice is difficult to obtain. Moreover, the judiciary suffers from a perceived lack of credibility and lacks public confidence. Therefore, the possibility for victims to seek redress through the civil courts for the violations committed against them is not a reality in Sierra Leone. In the last decade, reparations programmes established through truth seeking mechanisms have become the only measure of redress for victims of violations arising out of civil conflicts.

12. The right to seek redress is enshrined both in Sierra Leone's domestic law and in international law. Under domestic law, references will be made to the provisions of the 1991 Sierra Leone Constitution. Under international law, the Commission focused its attention on the obligation of the state to provide reparations to victims of human rights abuses.

### ***Domestic Law***

13. Chapter III of the 1991 Constitution of Sierra Leone provides a list of fundamental human rights and freedoms to which every Sierra Leonean is entitled. Those fundamental human rights and freedoms that were violated during the war include the protection of right to life, protection from arbitrary arrest or detention, protection from slavery and forced labour, and protection from inhuman treatment.
14. Section 28(1) of the 1991 Constitution of Sierra Leone allows victims of fundamental human rights abuses to seek "redress" before the Supreme Court of Sierra Leone.
15. The Lomé Peace Agreement, in particular, Article XXIX and the TRC Act refer specifically to the obligation of the government to establish measures for the rehabilitation of war victims.

### ***International Law***

16. It is an accepted principle in international law that states may be held liable for human rights violations committed either by them or by their agents. The breach of its international obligations imposes a duty on a State to afford adequate reparation.<sup>2</sup> A "breach of an international obligation" includes the violation of international human rights law or international humanitarian law.
17. Further, several international human rights instruments impose on States the duty to provide the individual with "an effective remedy", "effective protection and remedies", "redress and an enforceable right to fair and adequate compensation". Examples include Article 8 of the Universal Declaration of Human Rights, Article 2.3 of the International Covenant on Civil and Political Rights, Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Articles 7 and 21 of the African Charter on Human and Peoples' Rights. The Conventions and Charter have all been ratified by Sierra Leone.
18. A study conducted by Theo Van Boven, who was appointed by the UN Sub-Commission on the Prevention and Protection of Minorities in 1989 to explore what remedies could accompany violations of human rights, concluded that gross violations of human rights are by their nature irreparable and that any remedy or redress will fail to be proportional to the grave injury inflicted, particularly when the violations have been committed on a massive scale.<sup>3</sup> He was of the view that

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<sup>2</sup> As early as 1928 the Permanent Court of International Justice issued a decision to this effect in the Chorzow Factory case ("Case concerning the Factory at Chorzow (Merits), P.C.I.J. Series A, No. 17, 13 September 1928). The principle is further reflected in the "Articles on the Responsibility of States for Internationally Wrongful Acts," adopted by the International Law Commission of the United Nations and commended to the attention of States by the UN General Assembly. (A/RES/56/83, 28 January 2002).

<sup>3</sup> Professor Van Boven published a preliminary report on reparations for gross violations of human rights in 1990 and finalized his report in 1993, annexing draft principles on restitution,

remedies must therefore focus on the restoration of rights and the accountability of wrongdoers, as it is "an imperative norm of justice that the responsibility of perpetrators is clearly established and that the rights of victims are sustained to the fullest possible extent".<sup>4</sup> Van Boven went on to say that the revelation of the truth is a fundamental requirement of justice.<sup>5</sup>

19. The "Draft Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights Law and International Humanitarian Law", submitted by Special Rapporteur M.C. Bassiouni to the UN Commission on Human Rights,<sup>6</sup> is indicative of the current status of international law of the right to redress of victims of such violations. According to the Draft Basic Principles and Guidelines, every State has the obligation to respect, ensure respect for and enforce international human rights and humanitarian law norms. This obligation includes the duty to afford appropriate remedies to victims and provide for or facilitate reparations to victims.
20. The Draft Basic Principles further indicate that remedies for violations of international human rights and humanitarian law include reparations for harm suffered. It is also stated that a State shall provide reparations to victims for its acts or omissions constituting violations of international human rights and humanitarian law norms.
21. The Commission took the view that the State has a legal obligation to provide reparations for violations committed by both state actors and private actors. The Commission is of the opinion that all victims should be treated equally, fairly, and justly. Given the nature of the conflict in Sierra Leone, it was not always possible to identify the perpetrators or the group they belonged to. States have the obligation to guarantee the enjoyment of human rights and to ensure that human rights violators are brought to justice and that reparations are made to victims.<sup>7</sup>

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compensation, and rehabilitation. The final report was sent to the United Nations Commission on Human Rights for consideration at its 1994 session.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid. In 1996, Van Boven submitted a revised set of proposed basic guidelines on remedies which is published by the Sub Commission on the Prevention of Discrimination and Protection of Minorities, E/CN./Sub.2/1996/17. In 1998, the UN Commission for Human Rights called for the appointment of another expert to prepare a final draft for its 1999 session with the intention that these principles would be submitted to the United Nations General Assembly for adoption. Subsequent to the publication of the Commission's final report, the United Nations authorized a further study on the subject of reparations. On the 18 January 2000, a working group headed by Professor M. Cherif Bassioni, drew up a report which incorporated the UN "Draft Principles and Guidelines on the right to Remedy and Reparations for Victims of Violations of International Human Rights and Humanitarian Law."

<sup>6</sup> M.C. Bassiouni, "*The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms*," final report of the Special Rapporteur M.C. Bassiouni submitted to the UN Commission on Human Rights on 18 January 2000, incorporating the "*Draft Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law*." (E/CN.4/2000/62). At the time of the writing of the Commission's Final Report a new version of these "Principles and Guidelines" is being discussed.

<sup>7</sup> The Inter-American Court of Human Rights and the Peruvian Truth and Reconciliation Commission are among the institutions that have held a similar view. For the Inter-American Court of Human Rights, see the "Velasquez Rodriguez Case," judgment of 29 July 1988, Series C, No. 4 (1988), in particular paragraphs 166 and 174. For the Peruvian Truth and Reconciliation Commission, see its final report, Vol. IX, pp. 149-150.

States do not only have an obligation to respect human rights themselves; they are also obliged "to ensure compliance with international obligations by private persons and an obligation to prevent violations. If governments fail to apply due diligence in responding adequately to, or in structurally preventing human rights violations, they are legally and morally responsible."<sup>8</sup>

## Defining Concepts

### *Reparations*

22. In its simplest form, reparations can be defined as the provision of redress to victims of human rights abuses. Reparations can take many forms including rehabilitation; restitution; compensation; establishing the truth; the restoration of dignity; and improving the quality of life of those who have suffered harm. The guarantee of non-repetition has become increasingly important for those who have lived through successive periods of conflict. Reparations that strive to accomplish these objectives can be made through material or symbolic gestures, to individuals or collectively. While a number of principles on reparations have emerged from the work of Van Boven and Bassiouni as to what constitutes "reparations", the Commission considered these principles as "guides" in devising this reparations programme. The context and the economic reality that Sierra Leone finds itself in was a major factor that the Commission had to take into account.
23. The reparations programme proposed by the Commission will largely focus on the rehabilitation of the victims through the distribution of service packages and symbolic measures which acknowledge the past and the harm done to victims and gives victims the opportunity to move on. Of utmost importance was the need to balance the needs of victims and the state's responsibility to them, and the development agenda of the country in which every citizen is entitled to participate and benefit from. In developing an appropriate programme, the Commission was careful not to create new classes of victims or to exacerbate the divisions between citizens living in the same communities. In the context of Sierra Leone, compensation and restitution must be a unifying factor and should not be used to further divide the population.
24. Rehabilitation is defined as the provision of social service support such as medical and psychological care which can be facilitated through the delivery of social service packages to address the real needs of the victim. Concentrating on rehabilitative measures would respond to the acute needs of the victims and improve their future quality of life.

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<sup>8</sup> T. van Boven, "Study Concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms," Final report submitted by Special Rapporteur van Boven to the UN Commission on Human Rights on 2 July 1993 (E/CN.4/Sub.2/1993/8), page 16, paragraph 41.



25. The provision of social service packages help to promote the development of existing governmental institutions, thereby addressing not only the needs of the victim, but the community at large in the long-term. This is particularly important in a context such as Sierra Leone where almost every citizen is a victim of the war.
26. Symbolic reparations comprise non-material measures to show respect for the victims. They are a clear expression of recognition for the harm suffered. Symbolic reparations can preserve the memory of what happened during the conflict and most importantly, serve as a reminder that society must not allow this to happen again. Exhumations, proper burials, the laying of tombstones, national memorial services, the pouring of libations, the carrying out of traditional ceremonies and the erection of appropriate memorials may go a long way to restoring the dignity of victims and facilitating healing and reconciliation.

### **Victims**

27. The Commission adopted the definition of a victim generally accepted in international law:

*A person is a 'victim' where as a result of acts or omissions that constitute a violation of international human rights and humanitarian law norms, that person, individually or collectively, suffered harm, including physical or mental injury, emotional suffering, economic loss, or impairment of that person's fundamental legal rights. A 'victim' may also be a dependant or a member of the immediate family or household of the direct victim as well as a person who, in intervening to assist a victim or prevent the occurrence of further violations, has suffered physical, mental or economic harm.<sup>9</sup>*

28. The Commission prioritised the victims who will benefit from specific measures of the reparation programme using 'vulnerability' as the basis. The Commission acknowledges the impossibility of compensating victims in proportion to the harm they have suffered, and does not by this categorisation prioritise suffering and harm. The Commission is of the opinion that victims not included in the reparations programme can benefit from the general recovery programmes of the government.

### **The Needs of the Victims and the Ability of a Reparations Programme to Meet those Needs**

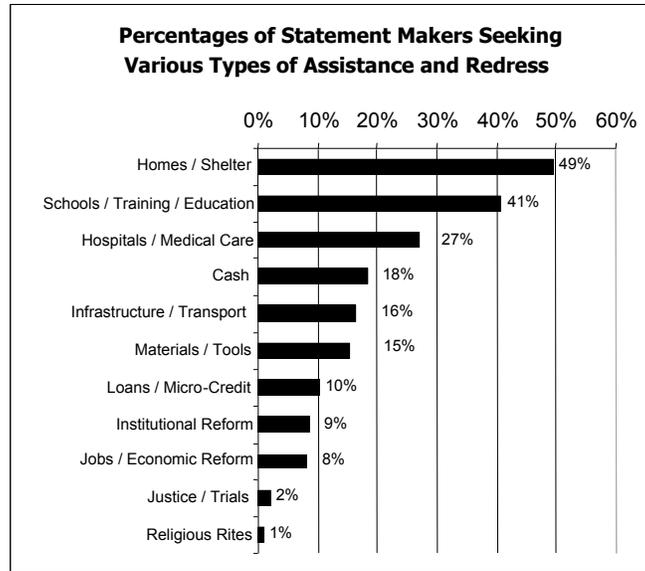
29. Victims were subjected to various forms of human rights abuses. These abuses have left many of the victims in urgent need of assistance in order for them to continue with their lives. In thousands of statements, the victims, identified their needs to the Commission. In addition, the Commission conducted extensive research consulting a large number of international organizations and NGOs to assess the concrete needs of victims and how best they could be met. Consultations were also organised with various victim organisations, and they provided further insight into the measures that should be taken for their real needs to be addressed.

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<sup>9</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and International Humanitarian Law, p. 6.

30. The Commission received a total of 7707 statements in the course of its work. A random sampling of these statements stratified by districts reflects the needs identified by the statement givers as most urgent in order to deal with the harm they suffered during the conflict.

Figure 1<sup>10</sup>



31. The table above clearly reveals that for most of the victims socio economic rights issues such as education and health were of primary concern. They regard these services as important for their families, their communities, and society as a whole.
32. While the Commission recognized that basic social services should be universally provided, there are particularly vulnerable victims whose needs require prioritisation. For example, although all female victims of sexual violence may require basic gynaecological services at the primary health level, some victims may require additional assistance such as surgery in order to repair the damage that had been caused as a result of rape or any other sexual violation committed against them. Presently, some victims cannot access the additional benefits or assistance they require for reasons that include the high costs associated with medical treatment and accessibility. In identifying the specific types of assistance required by the victims, and by setting out a clear plan for implementation, the Commission has established the parameters by which the government can acknowledge the unique nature of the harm suffered by this category of victims and the need to redress that harm.

<sup>10</sup> The total does not equal 100 since respondents indicated more than one type of assistance or redress.

33. The victims who came before the Commission expressed the view that addressing their needs should be the obligation of the government. Government participation is a central component of a reparations programme. What distinguishes a reparations programme from a general recovery programme is that 1) in a reparations programme, the harm done to victims is acknowledged and 2) government involvement constitutes an acknowledgment that the violations were committed and that they deserve to be attended to, thereby going some way to restoring the citizen-state relationship. Government's adoption of the reparations programme is a necessary condition if the programme is to have any reparative effect on the victims. This responsibility of the government cannot be ceded or delegated to other potential sources of assistance, such as the international community.

## **The Potential of Reparations to Foster Reconciliation**

### ***Acknowledgement of Victims***

34. Articles 15(2) and 6(2) (b) of the TRC Act, require that the Commission foster reconciliation in the country. National reconciliation is based on a common determination not to repeat the past and to allow both victims and perpetrators to live side by side in a spirit of tolerance and respect.
35. In most transitional societies, political realities force compromises on new governments, which result in the rights of victims being compromised. Victims are deprived of opportunities to seek legal redress and punishment for wrongs done to them. They bear the brunt of these political compromises. In such societies, a reparations programme assumes particular importance as it allows the state to deal with large numbers of victims. In this way reconciliation can begin.
36. Programmes have already been implemented on the rehabilitation and inclusion of perpetrators into society, necessary elements of a successful transition. These programmes, such as the Disarmament, Demobilization, and Reintegration Programme (DDR), helped to assist ex-combatants some of whom were perpetrators of atrocities. As a consequence of the war, these ex-combatants have been alienated from their respective communities. They need opportunities for education and skills acquisition as well as gainful employment to foster self-esteem, economic growth and provide them with a sense of ownership and participation. However, the establishment of programmes to assist ex-combatants created an onus on the Government to replicate these efforts on behalf of victims.
37. Most of the victims who appeared before the Commission expressed a widely held perception that the state had taken better care of the ex-combatants rather than the victims of the conflict. This perception has the potential to hinder reconciliation between victims and perpetrators.
38. Gibrilla Dumbuya, a victim, testified at a public hearing on 9 June 2003 in Moyamba District. He related his experiences during the time that his village, Magbenka, was controlled by the RUF. He talked about the arbitrary killing of civilians, the burning of houses and, the loss of his child. After his testimony, Mr. Dumbuya was asked whether he had any questions for the Commission. He replied:

*Yes, what puzzles me is that the perpetrators are cared for and those of us who are victims are left out. What will happen to us in the future?*

39. The implementation of a reparations programme will respond to the concerns expressed by the victims. It allows the Government to acknowledge the plight of victims and their suffering. This will reduce the perception that perpetrators are better cared for than victims.

### ***Truth-Telling and Reparations***

40. Truth telling and reparations are key components of reconciliation. Jose Zalaquet, a former member of the Chilean Truth and Reconciliation Commission stresses this:

*To provide for measures of reparation and prevention, it must be clearly known what should be prevented. Further, society cannot simply block out a chapter of its history; it cannot deny the facts of its past, however differently these may be interpreted. Inevitably, the void would be filled with lies or with conflicting, confusing versions of the past. A nation's unity depends on a shared identity, which in turn depends largely on a shared memory. The truth also brings a measure of healthy social catharsis and help to prevent the past from reoccurring.<sup>11</sup>*

41. Truth telling without reparations could be perceived by the victims as an incomplete process in which they revealed their pain and suffering without any mechanism in place to deal with the consequences of that pain or to substantially alter the material circumstances of their lives. In that regard, the Commission concurs with the view expressed by the South African Truth and Reconciliation Commission that without adequate reparation and rehabilitation measures, there can be no healing or reconciliation.<sup>12</sup>

### ***The Potential of Reparations to Restore the Dignity of Victims***

42. The conflict caused many innocent people to fall victim to the cruellest violations of fundamental human rights. As a consequence, victims often find themselves in a condition which is not conducive to living with dignity. Most have been reduced to living in poverty, some having to endure the loss of limbs and others shunned because of their personal experiences such as rape and sexual slavery. Their dependency and social exclusion are constant reminders of the suffering they went through.

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<sup>11</sup> J. Zalaquett, Extract from the Matthew O. Tobriner Lecture. "Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations." 1992. 43 Hastings Law Journal, p. 1425 and 1433.

<sup>12</sup> The Truth and Reconciliation Commission for South Africa, Final Report, Volume 5, Chapter 5, p. 170.



43. Some are faced almost continuously with those who have harmed them in their own communities, their presence serving as a constant reminder of the violation suffered. Moving on beyond this state is impossible given the economic and social conditions that victims find themselves in and their dependence on handouts. The humiliation of being dependent on the charity of others and often having to beg in order to live re-victimizes victims, leaving lasting scars and wounds that may fester thoughts of bitterness and anger. This may constitute the seeds of future violence. A reparations programme has the potential to restore the dignity of victims whose lives have been most devastated to move beyond the position they are currently in as a consequence of the war. The restoration of the dignity of victims can help to create the conditions necessary for reconciliation.
44. The testimony of Adama Koroma, at a hearing in Makeni on 26 May 2003, is illustrative of how a reparations programme can assist victims. In 1998, Adama Koroma's village was attacked. She ran into the bush and managed to reach another village. During her attempted escape, she was caught by the rebels along with 26 other people. One of her hands was amputated while the other was permanently damaged. Her husband's hands and ears were also amputated and he later died because of the amputation. Adama was later found by ECOMOG soldiers and brought to Freetown. She has four children. At the end of her testimony, when she was given the opportunity to ask questions the Commission she said:

*Adama Koroma: We the amputees, how are we in this world now? I am not speaking for myself here. The government should not leave our case behind. It is not for us, it is for our children. If my child grows up and asks me who chopped off my hand, I will say these people did it to me. That will bring the war again. If you say peace should come, we the amputees should bring the peace. I can't be struggling and say that I am living in peace. That is why our case should be pushed forward. If our problem is left behind, the war will not end. We the amputees, we all have children.*

*Bishop Humper: What kind of recommendation will you want to make so that we can incorporate it in our report?*

*Adama Koroma: This is all I have to say. We have no hands. We should be assisted. If we are assisted we will have a peace of mind. All our children can think for themselves now. They ask us who chopped our hands and feet. We have to make our children reconcile their minds.*

45. Tamba Finnoh, in his testimony on 14 April 2003, expressed the sentiments of many victims on forgiveness, when asked to make recommendations to the Commission:

*Bishop Humper: If you were to make a recommendation to this Commission for consideration, what type of recommendation would you want to make?*

*Tamba Finnoh: The first thing I want to recommend is that most of us are willing to forgive, but to sustain this forgiveness, you can all see that we have lost our dignity because we used to be fit to fend for ourselves but this is not so anymore. That has caused most of us to become beggars in the streets .... So I will recommend to the Commission that they should put mechanisms in place, which will ensure that there are provisions for us, which will be sustainable and not something that we can eat in a single day; something that will be sustainable maybe as long as we are alive and even for our children. This is one of the recommendations I will make.*

46. In addition to the views of victims on how reparations can foster reconciliation, many NGOs expressed similar views. A representative from CARE, an NGO working in Sierra Leone, expressed the following view on reconciliation:

*For reconciliation to be durable the TRC itself should ensure that a sustainable package of compensation is developed and implemented while it lasts, and the Special Fund is strengthened to support those who have been crippled.<sup>13</sup>*

### ***The Link between Reparations and the Restoration of Civic Trust***

47. Witnesses before the Commission and representatives of institutions that made submissions to the Commission expressed the view that the lack of good governance was a major factor leading to the conflict. A recurring theme was that of ongoing corruption, nepotism, the mismanagement of state resources and the total loss of confidence and trust in institutions meant to enhance democratic values in the period before and during the conflict. There is a fear that this situation will continue in the future.
48. The witnesses expressed discontent over the fact that those public institutions designed to defend the interests of the people were only serving the interests of those constituting them. A decade-long conflict, in which many groups of people have been victimised, marginalized and brutalised, has only aggravated such feelings. There is very little trust in leadership. Many people also indicated

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<sup>13</sup> Submission to the TRC. May 2003

their fear of being victimised if they criticize them openly. This breakdown in the relationship between citizen and state does not bode well for the future. People's spirits have been broken by the horrors they endured during the conflict. The leaders should urgently address this lack of trust, for it can only be a source of further strife and unrest.

49. Reparations are an important instrument in achieving the restoration of civic trust. A sincere commitment from the Government to the execution of the proposed reparations programme will give a clear sign to the victims that the State and their fellow citizens are serious in their efforts to help establish relations of equality between citizens and the State.<sup>14</sup> Acknowledging the wrongs done to victims by engaging with those who are victimised and disempowered may lead to a renewed faith in the democratic process. This leads to the restoration of civic trust and a sense of ownership in the nation, attributes which are necessary if Sierra Leone is to take its rightful place in the community of nations.

### ***The Link between Reparations and Social Solidarity***

50. Rebuilding a society requires a new social solidarity, arising from the empathy characteristic of someone who is willing and able to imagine himself or herself in the place of another. This must be built on a common understanding of the relevance of learning from the past, while allowing for different nuances. This new society can only be built on the acknowledgement and recognition by the nation of what went wrong, and particularly the suffering caused to victims, and what is needed to repair it. Acknowledging that reparations are a national responsibility generates social solidarity.
51. Reparations show that the particular society, formerly characterized by division, takes an interest in those who have suffered most from the consequences of the breakdown.<sup>15</sup> This is exactly what a democracy is supposed to do. It must take into account the interests of all, especially its weakest members. This way a new social fabric can be woven and old divisions overcome. This is a crucial step towards peaceful coexistence and the avoidance of repetition of violent conflict.

## **Principles that Inform the Reparations Programme**

52. In devising recommendations that address the needs of victims as well as those recommendations that deal specifically with the implementation of the programme; the Commission was guided by various principles. The Commission took the decision to make the programme feasible and practical. The section that follows explains the considerations and the rationale behind the commission's recommendation on reparations. The order in which the principles are stated does not reflect a hierarchy.

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<sup>14</sup> De Greiff, pp. 18-21.

<sup>15</sup> *Ibid.*, p. 21.

### ***Guiding Principles Regarding Victim Eligibility***

53. Many, if not all of the people of Sierra Leone suffered during the war. Some suffered directly from various kinds of violations mentioned in this report. Others witnessed these violations or indirectly suffered from them. In this way, all Sierra Leoneans are survivors. The Commission hereby explicitly acknowledges the suffering of all these people, Sierra Leonean and others, during the war.
54. The Commission decided not to follow the example of the South-African Truth Commission by limiting the beneficiaries of the Reparations Programme to those victims who co-operated with it. The Commission is fully aware of the fact that the limited time span allowed for taking statements and conducting hearings, as well as other logistical constraints, did not allow it to reach out to every victim who may have wanted to tell their story to the Commission. Limiting reparations to only those who partook in the Commission process would arbitrarily preclude a large proportion of victims from being recognised by this reparations programme. Since the work of the Commission is focused on victims, such an arbitrary distinction cannot be made. Also, making such a distinction is not likely to contribute to reconciliation, which is one of the goals of the reparations programme. On the contrary, it may serve to create new divisions.
55. Citizens and non-citizens of Sierra Leone suffered during the conflict. The Commission did not want to make a distinction between victims on the basis of their nationality. A victim does not need to be a Sierra Leonean to qualify for this programme.
56. Nonetheless, not all victims can be beneficiaries of the reparations programme or aspects of it. While all victims of the conflict will be beneficiaries of the symbolic measures outlined in the programme, the Commission sought to prioritise certain categories of victims who will be eligible to benefit in the form of service packages. Whereas many people in Sierra Leone wish to see all of their needs met, it is unrealistic to think that this can be done by the reparations programme recommended by the Commission. In making the decision to limit access to certain measures of the reparations programme, the Commission was guided by practical considerations, mainly the inability of the state to provide for the needs of all the victims given the limited resources available. The decision to accord benefits to certain victims does not reflect a judgment on the intensity or significance of the suffering of different victims, but is based on pragmatic grounds.
57. The Commission determined the categories of beneficiaries who should benefit from the reparations programme by considering those victims who were particularly vulnerable to suffering human rights violations. Most Sierra Leoneans agree that amputees, war wounded, women who suffered sexual abuse, children and war widows would constitute special categories of victims who are in dire need of urgent care. The Commission also considered those victims who are in urgent need of a particular type of assistance to address their current needs, even if this only serves to put them on an equal footing with a larger category of victims. The reparations programme aims at contributing to the rehabilitation of those victims, even if complete rehabilitation is not possible.

58. Based on the rationale described above, the Commission recommends the following groups of victims as beneficiaries of the specific measures of the reparations programme: (1) amputees; (2) other war wounded (defined under the section describing the various categories of beneficiaries); (3) children; and (4) victims of sexual violence. Due to their particular vulnerability either before or after the commission of the violation, many of the victims in each of these categories of beneficiaries suffered from multiple human rights violations. For example, a victim of sexual violence may also have been abducted, tortured, and abused or subjected to a variety of other types of inhumane acts.
59. In including the amputees, the other war wounded, and victims of sexual violence as beneficiaries of this programme, the Commission considered the fact that many of them who fall in either one of the categories have enduring physical handicaps as a result of which they suffered cumulative harm both physically and mentally. Many are unable to reintegrate into their communities of origin, cannot sustain themselves or their families, and are unable to tend to their medical conditions because of the high costs associated with treatment.
60. No clear government policy exists in respect of the disabled, amputees, war wounded and those who suffered sexual violence. Further, most of the assistance available to these groups has come from national and international NGOs. There is an urgent need for government intervention to help in the provision of more sustainable assistance.
61. There is a high degree of consensus in the country that amputees, other war wounded, those who suffered sexual violence and children victimized through the war should be prioritised as victims in need of particular care and assistance given the enduring effects of the violations they suffered.
62. In including children and victims of sexual violence as beneficiaries of specific measures of this reparations programme, the Commission relies directly on its mandate. Article 6.2 of the TRC Act explicitly states,
- To work to help to restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict.*
63. Whereas many of the recommendations of the Commission refer to all the children in Sierra Leone, the Commission is nevertheless convinced that some specific reparations measures need to be taken in respect of those categories of children that suffered during the war or that still suffer from the consequences of the war such as abducted children, forcibly conscripted children, and orphans. The Commission places particular focus on restoring lost educational opportunities for children.
64. Although the mandate does not specifically refer to women, the Commission interpreted the provision that refers to "the subjects of sexual abuses" to refer mainly to women. It is undeniable that women were subjected to all forms of sexual violence and are in need of assistance to address many of the consequences that resulted from the violations committed against them. Many of the victims of sexual violence require medical attention so that they can carry

on with their day to day activities. The Commission wanted to include those female victims that have not received enough attention from existing programmes, such as victims of sexual violence and bush wives.

65. In addition to providing redress to the direct victims of human rights violations, the Commission wanted to address the needs of indirect victims as well. Indirect victims are defined as the dependents or relatives of the direct victim. The Commission decided to include war widows, those women whose husbands had died as a consequence of a human rights violation during the course of the war, as beneficiaries of specific measures of this reparations programme. For some of these war widows, their husbands were the breadwinners of the family. As a consequence of their husband's death, many of these women struggle to provide for themselves and their family. Recognising the difficulties they endure, the Commission made recommendations for them in the reparations programme.
66. Although gender equality is a guiding principle of this programme, the Commission did not consider it a contradiction with this principle to exclude widowers and husbands of female amputees and other war wounded from the programme. It is generally accepted that husbands and widowers are often the bread-winners of their family and are therefore economically independent.
67. The Commission limited the number of victims who can benefit from certain measures of the programme based on a certain percentage of potential income lost as a result of the violation committed against a victim. The Commission did not want to accord the same benefits to a victim who lost his or her limbs, (thus causing a high degree of disability and a greater potential for lost income as a consequence of a violation, for example), with a victim who lost a finger as a result of a violation and may be able to sustain himself or herself. In order to avoid a sense of arbitrariness in determining the percentages for the reduction in earning capacity, the Commission referred to the Workmen's Compensation Act of 1955, in particular, the Second Schedule of the Act.<sup>16</sup> A certain percentage is assigned to each violation in the schedule that constitutes the potential loss of income for that victim. For example, the loss of an arm constitutes a 70% reduction in earning capacity.
68. The Commission determined that for certain benefits to be accorded to victims, the violation committed against the victim must constitute a 50% or more reduction in earning capacity. This can be the result of one injury or an aggregate of injuries that total or exceed the 50% benchmark. In making the decision to use the reduction of earning capacity as a cut-off point for some of the measures in the reparations programme, the Commission was influenced by the practices employed by the Inter-American Court for Human Rights and the German Holocaust reparations scheme.<sup>17</sup> It is also important to note that while the Commission has chosen to employ this practice, it did not constitute a judgment on the harm suffered by a particular victim. The provision of benefits is not proportional to the harm suffered nor can the harm suffered by a victim be satisfactorily quantified.

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<sup>16</sup> Although the Act has been subsequently amended in 1969 and 1971, the provisions that were used for the purposes of the reparations programme have not been amended since 1955.

<sup>17</sup> Under the German Holocaust reparations scheme, for example, claimants needed to prove that their persecution caused health problems that led to at least a 30% reduction in their earning capacity. Doctors often relied on tables for quantifying the damage, loss of an eye constituted a 30% reduction and loss of arm constituted a 50% reduction in earning capacity.

69. The Commission did not make a distinction between civilians and ex-combatants for the purpose of their eligibility as beneficiaries of the reparations programme. A reparations programme is not based on a person's past actions but rather on what violations have been suffered by him or her. However, ex-combatants have already benefited from several programmes, in particular the substantive programme for Disarmament, Demobilization, and Reintegration (DDR) developed by the NCDDR and UNAMSIL. However, restoring the balance between benefits already assigned to ex-combatants and reparations for the victims is one of the main public expectations that the reparations programme will seek to meet.
70. Although ex-combatants were not excluded per se, the Commission strove to avoid providing double benefits to victims. No one civilian or ex-combatant should be allowed to benefit from the reparations programme if they had already benefited from the same programme or measure under another initiative. For example, a war wounded SLA soldier who received compensation from the government should not be eligible for a pension in the context of this programme. However, this principle needs to be applied with some flexibility: a person having received medical attention or trauma counselling might need more assistance, and each individual should be assessed on the merits of his or her case.

### ***Guiding Principles for Reparations***

71. In devising recommendations on the reparations programme, the Commission was faced with two options: either recommending individual reparations payments or devising a programme based on social service packages. The Commission chose a programme that would centre on the provision of social service packages based on the following reasons:
- In the testimonies provided to the Commission, the victims overwhelmingly asked for assistance or redress in the form of social services rather than individual cash payments. The Commission therefore is not being unduly prescriptive towards the victims since it is a choice based on their expressed desires.
  - Recommending individual cash payments would go beyond the available resources of the state to provide such payments to the individual beneficiaries. To make this programme as feasible and practical as possible, the Commission made recommendations that build on existing structures in addressing the needs of the victims. The Commission found merit in the argument of the South African Truth Commission regarding the evolution of victim's needs over time. However, any amount awarded as an individual reparations payment would probably only serve the immediate needs of the victims. Any recommendation enshrined in a service package offered more opportunity for sustainable assistance than a one-time cash payment.
  - The Commission finds that in the particular circumstances of poverty prevalent in Sierra Leone, individual cash payments may lead to additional division and strife as opposed to the sense of social solidarity that the reparations programme is meant to foster.

72. In determining which types of social services to provide to the beneficiaries of the programme, the Commission relied on the needs expressed both by the victims themselves and by the organizations working with them. The recommendations were therefore based on consultations undertaken during the statement-taking phase, the hearings, and from submissions received by the Commission.
73. The Commission also wanted to address those needs that had been rarely or poorly expressed by victims themselves, due to the nature of the abuses suffered, but which were identified by experts working in the field. For example, trauma counselling as provided through psycho-social support, is often not recognised as a need by some victims, since many may not be familiar with the condition of trauma.
74. The Commission was mindful of the programmes and benefits available to ex-combatants and war-wounded SLA soldiers. Sectors of assistance provided to the ex-combatants under the NCDDR programme included vocational training, formal education, agricultural activities, public works and job placement, monthly allowances for a limited period of time, and a children's programme with provisions for educational opportunities.<sup>18</sup> War-wounded SLA soldiers have received assistance in the form of pensions, a one-lump sum, a training course, and as of November 2003, provisions were being developed for medical support for certain individuals.<sup>19</sup>
75. In making recommendations on health, education, skills training, and pensions for the beneficiaries of this programme, the Commission reviewed existing programmes implemented in these fields, which currently provide the social services included in the reparations programme. The Commission assessed the capacity of both governmental and non-governmental institutions to carry out the recommendations prescribed in the reparations programme. The assessment took into account factors such as the number of skilled professionals, the existence of physical structures such as health units and schools existed, the mandates of the organizations conducting the particular service, and the resources available to implement the recommendations. In some cases, the Commission offered specific recommendations in order to improve service delivery so that the programme could be properly executed.
76. The Commission also took into account how other truth commissions around the world devised their recommendations on reparations. For example, for both health care reparations and pensions, the Commission drew inspiration from both the Chilean and Peruvian Truth Commissions.
77. Developing programmes for specific categories of people carries the risk of creating new stigma, whereas some of the victims already suffer from stigmatisation. Avoiding new stigma or reinforcement of existing stigma was one principle behind the development of this programme. The Commission wanted to reduce existing stigma as much as possible and considers the development of programmes to increase awareness and understanding of the specific needs of victims as a necessary measure in reducing their suffering.

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<sup>18</sup> Presentation on the DDR Programme April 2002-July 2003 at the Fourth State of the Nation Symposium, 5 August 2003, pp. 4-5.

<sup>19</sup> Restricted Document provided by the Directorate of Defense Personnel, Ministry of Defense, 18 November 2003.

78. To ensure sustainability, the programme focused on the reduction of dependency and the empowerment of victims. Restoring the human dignity of a victim means helping him or her to become a fully participating citizen of society again. Having an income may contribute significantly to the feeling of recovered dignity. Therefore, many of the reparations measures recommended by the Commission focus on education, skills training, micro-credit, entrepreneurship, and employment. Empowering victims to take responsibility for themselves is the only way to make them and their families economically autonomous and ultimately independent of life-long state support programmes.
79. Another basic principle was the rehabilitation and reintegration of victims in their original communities as far as is possible. The Commission recommends that where possible and desirable, victims need to be reintegrated in their own communities. However, the Commission realises that reintegration may be very difficult for some in the short-term. With time, sensitisation, and economic independence, this may be achievable in the long-term.
80. While the views of victims shaped these recommendations, the victims should continue to play an integral role in the formulation of reparations policy. Since the purpose of the reparations programme is to help restore what was taken from them and to improve their quality of life, victims should have a say in the process wherever possible. Their participation has therefore been built into the recommendations for community and symbolic reparations.
81. The elaboration of a reparations programme by the Commission has been hampered by the lack of data on the number of potential beneficiaries who may be eligible to benefit from the reparations programme. In addition, there is no precise information available on the number of victims who have already benefited from any of the existing programmes. This may hamper the implementation of the recommendations. The Implementing Body should therefore have some discretion in making the recommendations operational once concrete information becomes available regarding the potential universe of beneficiaries. In suggesting the discretion, the Commission wanted to balance the need to ensure that benefits are available to all potential beneficiaries with the available resources of the government to provide for the benefits recommended by the programme.

### ***Guiding Principles Regarding Implementation of the Reparations Programme***

82. Reparations is primarily the responsibility of the government. A clear commitment from the President, Parliament, political actors and the rest of the country is required. The implementation of a reparations programme by the government will restore civic trust in government institutions. Government needs to take up this responsibility, because international donors will not continue to contribute forever. Some of the reparations measures recommended can be implemented within the time span of a few years, but others require a commitment for the life-time of the beneficiary.
83. In line with the guiding principle of feasibility and sustainability, many of the proposal reparations measures can fit into existing programmes that are currently being implemented by donor agencies and NGOs. However, because government participation is crucial to any reparations programme, the government is obliged to assist those existing institutions in faithfully executing the recommendations made.

84. In keeping with the principle of feasibility, the Commission made recommendations for the implementation of activities in the short and long term. Those recommendations, which the government could implement within its existing programmes or through allocation of its resources, should be implemented in the short term. The short-term recommendations should be implemented within a year. Certain measures may take more time to be implemented. These measures should be implemented in the mid to long-term. Mid to long-term recommendations should be implemented within the next 3-6 years.
85. The need for accessibility to the reparations measures requires decentralisation of the programme. Much effort will have to be made to ensure that programmes are available in the provinces, not just in Freetown.
86. The accessibility of the programme is closely related to the procedures for the registration of the beneficiaries. There is a risk that victims who are entitled to reparations may not be registered, while others may try to abuse the programme through acquiring undeserved benefits. Registration and identification of beneficiaries needs to be done with utmost care. Instead of creating new procedures and bodies, the Commission recommends that the Implementing Body draw as much as possible on pre-existing structures which have already proven their administrative effectiveness. At the community level, traditional chiefs, religious leaders, NGOs and Community Based Organisations (CBOs) with a focus on women and youth organisations should be involved in the registration and identification of beneficiaries. These social structures should also be involved in the implementation of the programme.

## **Categories of Beneficiaries and Eligibility Requirements**

87. For a person to be eligible for reparations, the event or injury sustained had to have occurred between 23 March 1991 and 1 March 2002.<sup>20</sup>
88. The reparations programme is available to citizens and non-citizens of Sierra Leone who sustained injuries during the time specified as a consequence of a violation committed against them.
89. The following categories of victims are recommended as beneficiaries of the programme.

### ***Amputees***

90. Amputees are defined as war-wounded victims who lost their upper or lower limbs as a result of the conflict.
91. Since many of the recommendations on amputees refer to the reduction of earning capacity as a prerequisite to qualify for certain benefits, the Commission refers to the Second Schedule of the Workmen's Compensation Act of 1955. According to the schedule, a specified level of reduction in earning capacity has to be attained before a claimant can qualify for benefits. The commission has fixed this benchmark at 50% for amputees.

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<sup>20</sup> The day the state of emergency was lifted.

### ***Other War-Wounded***

92. 'Other War-Wounded' are defined as victims who have become temporarily or permanently physically disabled, either totally or partially, as a consequence of the conflict, other than through an 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.
93. Due to the broad nature of violations committed against the 'other war-wounded' and because the Commission has limited certain benefits of the programme based on the percentage of lost income as a consequence of a violation, the Commission refers to the Second Schedule of the Worker's Compensation Act. Included below are excerpts from the Act which highlight those violations applicable to the other war-wounded along with the corresponding percentage indicating the loss of potential income.

#### Fingers and Thumbs:

60%:	loss of four fingers and thumb of one hand;
35%:	loss of four fingers; and loss of one thumb
10%:	loss of index finger;
6%:	loss of middle finger;
5%:	loss of ring finger; and
4%:	loss of little finger.

#### Toes:

15%:	loss of toes.
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#### Eyes:

100%:	total loss of sight;
30%:	removal of eye from socket; and
30%:	loss of sight.

#### Ears

50%:	loss of both ears; and
7%:	loss of one ear

94. For those violations not listed in the schedule, the Commission recommends that the Implementing Body, with the assistance of the Ministry of Health and Sanitation, consult various medical experts who can determine the reduction in earning capacity as a result of any violation committed against a victim who falls under the category of "other war-wounded." The Implementing Body should seek the approval of at least two-thirds of the members of the Advisory Board<sup>21</sup> before any addendum is added to the Second Schedule for the purposes of this reparations programme.

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<sup>21</sup> The duty of the Advisory Board is mentioned in paragraph 218.

### ***Victims of Sexual Violence***

95. Victims of sexual violence are defined as those women and girls who were subjected to such acts as rape, sexual slavery, mutilation of genital parts or breasts, and forced marriage. To the extent boys and men suffered from sexual violence, they will also be beneficiaries of this programme.
96. The Commission decided not to apply the reduction of earning capacity test to victims of sexual violence because many victims who fall into this category suffer a tremendous amount of stigma. Many victims of sexual violence are rejected by their own communities and families and because of this, many victims find it difficult to sustain themselves, regardless of the injury they have sustained as a result of a violation committed against them.

### ***Children***

97. Eligible children for this Reparations Programme are subdivided into five categories:
  - Children who suffered from physical injury, such as amputees, other war-wounded or victims of sexual violence.
  - Children whose parents were killed as a consequence of any abuse or violation as described in this report.
  - Children born out of an act of sexual violence and whose mother is single.
  - Children who suffer from psychological harm.
  - War-Wounded children.
  - Children are eligible for reparations if they were 18 years of age or younger by 1 March 2002.
98. Children are excluded from the reduction in earning capacity test based on the fact that all reparations for children centre around health or educational benefits, for which it is not necessary to determine reduced earning capacity.

### ***War Widows***

99. Women whose husbands were killed as a consequence of any abuse or violation and who, as a result, have become the primary breadwinners for their families.

### ***Recommendations***

100. The Commission made recommendations on the following areas: health care, pensions, education, skills-training and micro-credit/projects, community and symbolic reparations.
101. Government participation is vital to the success of any reparations programme. For this reason, reference is made throughout this report calling for government assistance. Government assistance, requires the government to finance the measures prescribed in the programme. It may also entail: (a) the government continuing a service where an organization or body does not have the capacity or the mandate to maintain its activities; and/or (b) the government seeking outside financial or donor support for any given measure mentioned in the programme.

102. Government should consult those NGOs and international organizations that are already providing assistance to the victims in order to assess what role it could play in coordinating and assisting these organizations to carry out their programmes. It should assess the duration of these activities be prepared to take them over when the donor community no longer provides the service.

## **SPECIFIC RECOMMENDATIONS**

### **Health Care for Individual Beneficiaries**

#### ***Information Considered by the Commission***

103. The conflict in Sierra Leone had deleterious consequences on the physical and mental health of its people. It caused major disruptions to the health system in terms of damage to physical infrastructure, loss of skilled professionals, and other valuable resources to the health sector.
104. In devising its recommendations on health care, the Commission took into account the current structure of the health care system in Sierra Leone. The Ministry of Health and Sanitation is responsible for setting up a health care policy and ensuring that various health agencies work in accordance with the policy. The health care system operates at three levels. Primary level care is exclusively for minor illnesses administered through Primary Health Units (PHU). There are currently over 750 primary health units in Sierra Leone. Secondary level care is administered through district hospitals. There is at least one hospital in each district. The Ministry of Health and Sanitation recently decentralized its services. Each district hospital was allocated its own budget. At the tertiary level, there are specialized medical facilities such as 1 mental hospital, 1 tuberculosis clinic, and 1 children's hospital.
105. In making its recommendations on health related reparations, the Commission has taken into account the shortage of trained medical professionals. There are approximately 250-300 doctors in Sierra Leone with half of them working in Freetown.
106. Although international NGOs continue to play an instrumental role in providing physical and mental health care, most people in the country are faced with the burden of having to pay for medical care. As a result of the high costs, many people do not seek medical treatment. According to the Report of the Public Expenditure Tracking Survey (PETS), the inability to pay for medical services and drugs was cited as the number one reason why people in rural communities do not visit hospitals when they are in need of care.<sup>22</sup>
107. In a special coding exercise of 300 statements in the Commission's database, more than half of the respondents indicated that the status of their health is either fair or in poor condition<sup>23</sup> arising from the violations they suffered.

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<sup>22</sup> Public Expenditure Tracking Survey (PETS) July- December 2001, p. 14.

<sup>23</sup> For the purposes of the coding exercise, a victim who considered their health to be in fair condition as a consequence of their violation was defined as someone with a major illness or disability and their health affects their daily life. A victim who considered their health to be in poor condition as a consequence of their violation was defined as someone whose health is so badly

Nearly two-thirds (67%) of the respondents who require medical attention or counselling have not received any medical assistance. Approximately 11% consider themselves disabled as a consequence of their violation.

108. The recommended health care programme will encourage victims to seek medical treatment through removing the high costs of treatment. This should be facilitated by strengthening government's 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 providing transportation to such centres (the referral system). A system of prioritisation should also be implemented. Internationally trained physicians should be recruited to temporarily fill positions.

## Physical Health Care for Amputees

### *Amputees and the Provision of Free Physical Health Care*

109. Amputees suffer from various conditions that affect their livelihood. These conditions include phantom sensation<sup>24</sup>, fistulae and various other infections. Amputees endure an enormous amount of suffering from their injuries and will require medical care for the rest of their lives. The Commission recommends that all amputees be provided with free physical health care for the duration of their lives. The provision of free physical health care should also include surgery where necessary in terms of their specific needs.
110. The Commission recommends that the immediate family members of amputees such as wives and children under the age of 18 should also be eligible to receive free physical health care.
111. The Commission recommends that the physical health care be made available at primary health units, district hospitals, and tertiary care units. Given that it is unlikely in the immediate future that access to physical health care will be available at all hospitals and care units, the Commission recommends that those in need who are eligible to receive this service should be referred to the appropriate centre for assistance. This will require that in the short term the government strengthen the referral system between medical centres within the country so that the medical needs of the amputees can be met.
112. The Commission recommends that the Connaught Hospital in Freetown serve as the coordinating centre for all medical services relating to amputees. The Commission also recommends that the government establish referral centres in all four regions of the country for the coordination of health services for amputees. The Ministry of Health should identify those health institutions which are able to provide the required services and ensure that where institutions do not have the available services, the amputees are aware of where services are being offered and that victims can be transported to those institutions offering the services.

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affected that they cannot carry on with their daily activities which include working and caring for their families.

<sup>24</sup> Phantom sensation is any sensation or pain originating from a residual limb and can range from tingling sensations to severe, sharp, stabbing pain that can only be controlled via professional pain management.

### ***Amputees and the Provision of Free Prosthetic and Orthotic Devices***

113. The Commission recommends the provision of free prosthetic and orthotic devices to those amputees who have not yet received one but who require and desire such assistance. Prosthetic and orthotic devices should include upper and lower artificial limbs as well as other assisting devices such as wheelchairs, crutches, orthopaedic shoes, splinters, etc.
114. The Commission recommends that the government play a coordination role in assisting amputees to access those organizations and bodies that provide prosthetic and orthotic devices.
115. The Commission recommends that the government assist the organisations and bodies that train prosthetic and orthotic technicians in the fabrication of upper and lower limb prostheses. Currently, technicians are operating without formal training. The government should support a sustainable process of training according to the standards set by the International Society for Prosthetics and Orthotics (ISPO) at Categories I, II, and III.<sup>25</sup>
116. The number of prosthetic and orthotic trainers in the short and medium term should accord with the recommendations made by the Ministry of Health and Sanitation in the National Strategy for the Development of Prosthetics and Orthotics Services issued in March 2002.
117. In the long-term, the government should assist those organizations and bodies that currently train prosthetic and orthotic technicians in accordance with the standard set by the World Health Organisation (WHO) regarding the number of technicians' required (1 trainer per 500 persons in need of devices).
118. The Commission recommends that the government offer incentives to qualified trained prosthetic and orthotic technicians in order to retain them in Sierra Leone.

### ***Amputees and the Provision of Free Rehabilitation Services***

119. The Commission recommends the provision of free rehabilitation services to the amputees, including training on the use, repair, and maintenance of the prosthetic, as well as physiotherapy and occupational therapy to enhance the functionality and autonomy of the amputees.
120. The Commission recommends that the government assist the existing rehabilitation centres established by organisations and bodies that provide rehabilitation services, such as Handicap International. In the long-term, the Commission recommends that the government establish rehabilitation centres in each of the district hospitals, with priority given to the district hospitals in the Northern Region where few rehabilitation services are currently available.

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<sup>25</sup> Category I is the most advanced category of the three. It involves 3-4 years of formal structured training leading to a university degree. The proper term for a Category I professional is prosthetist/orthotist.

Category II involves 3 years of formal structured training, lower than degree level. The proper term for a Category II professional is orthopedic technologist.

Category III is the most basic category of the three. It involves formal structured or on-the-job training.

121. Recognising the limited number of rehabilitation centres that are currently available in the country, the Commission recommends that the government strengthen the referral system between the district hospitals and the rehabilitation centres.
122. The Murray Town Rehabilitation Centre in Freetown should serve as the National Referral Centre (NRC) for all rehabilitation services in the country. In the long-term, referral centres should be established in each of the three regions of the country.
123. The Commission recommends that the government support the implementation of community-based rehabilitation (CBR) activities. CBR programmes can provide information to the service providers about the need for orthopaedic devices in the communities as well as coordinating follow-up meetings after the fitting of orthoses / prostheses is carried out. CBR workers can raise awareness among the local population about disability issues and about the existence of prosthetic and orthotic services at the provincial and national level.
124. The Commission recommends that the government assist the organisations and bodies that train physical therapists, such as the joint programme between Handicap International and the College of Medicine and Allied Health Sciences (COMAHS). The number of trained therapists should be in accordance with the standard set by the WHO as mentioned above (1 per 500 persons in need).
125. The Commission also recommends that the government offer incentives to qualified trained physical therapists in order to retain them in Sierra Leone.

### **Physical Health Care for “Other War Wounded”**

126. The Commission recommends the provision of free primary, secondary and tertiary physical health care for all eligible “other war wounded”, to the degree their injury or disability demands. The provision of free physical health care also includes surgery for those in need.
127. The Commission recommends that children who fit the category “other war wounded” be provided with free physical health care until 18 years of age except if the injury sustained requires care past the age of 18.
128. The Commission also recommends that the wives and children under 18 years of age of the eligible adult “other war-wounded,” if the victim experienced a 50% or more reduction in earning capacity as a result of the violation committed against them, be provided with free physical health care as long as the direct beneficiary of this programme is continuing to benefit from the provision of free health care.
129. The beneficiary must be assessed by a government doctor to determine eligibility.
130. The Commission recommends that “other war wounded” beneficiaries and his or her dependents be given at a three month grace period from when they are no longer eligible to be recipients of a particular health benefit to when all services permanently cease to be administered.

131. The Commission recommends that the health care be made available at primary health units, district hospitals, and tertiary health units. However, in the short term, recognising that many health centres are limited in the care they provide, the Commission recommends that the government strengthen the referral system between hospitals within the country so that the medical needs of the “other war- wounded” can be met.
132. The Commission recommends that Connaught Hospital in Freetown serve as the coordinating centre for all medical needs relating to the category of “other war wounded.” In the long term, the government should establish referral centres in all the district hospitals for the coordination of health services for the “other war wounded.”
133. For those “other war -wounded” in need of rehabilitation, the Commission recommends the provision of physiotherapy and occupational therapy. Regarding the need for rehabilitation centres and physical therapists, the Commission refers to its recommendations for amputees.

## **Physical Health Care for Victims of Sexual Violence**

### ***Victims of Sexual Violence and the Provision of Free Physical Health Care***

134. Victims of sexual violence suffer from various medical conditions. Such conditions include a prolapsed uterus, scarring, sexually transmitted diseases, amenorrhoea, vaginal destruction, foot drop<sup>26</sup>, difficulties conceiving or carrying a child full-term, as well as experiencing complications during birth. Therefore, the Commission recommends the provision of free primary, secondary, and tertiary physical health care for adult and child victims of sexual violence, on an as needed basis, depending on the degree of their injury.
135. The Commission recommends that child victims of sexual violence be provided with free physical health care until 18 years of age except if the injury sustained requires care past the age of 18.
136. The Commission also recommends that children of victims of sexual violence who are under 18, and the wives of eligible male victim of sexual violence, be eligible for the provision of free physical health care as long as the direct beneficiary of the programme is continuing to benefit from the provision of free health care.
137. The beneficiary must be assessed by a government doctor to determine eligibility.
138. The Commission recommends that victims of sexual violence and his or her dependents be given at a three month grace period from when they are no longer eligible to be recipients of a particular health benefit to when all services permanently cease to be administered.

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<sup>26</sup> For a description of some of these conditions, please refer to the chapter on women.

139. The Commission recommends that the health care be made available at primary health units, district hospitals, and tertiary health units. However, in the short-term, recognizing that many health centres may not be able to provide the care that is needed, the Commission recommends that the government strengthen the referral system between hospitals in the area of reproductive and women's health and to the Princess Christian Maternity Hospital (PCMH) hospital in Freetown where fistula surgery is being performed, so that the medical needs of the victims of sexual violence can be met.

### ***Victims of Sexual Violence and the Provision of Free Fistula Surgery***

140. The provision of free physical health care also includes surgery for those in need, especially for those victims who suffer from vesico-vaginal fistula (or VVF, a rupture between the bladder and the vagina) and recto-vaginal fistula (or RVF, a rupture between the rectum and the vagina).
141. The Commission recommends that the government assist the efforts being made by organisations and bodies in equipping the PCMH hospital in Freetown with the tools necessary to perform VVF and RVF surgeries.
142. The Commission recommends that the government make provision for the deployment of additional qualified international surgeons to Sierra Leone on a fixed-term basis to perform fistula surgery.
143. The Commission recommends that the government assist the organisations and bodies in the establishment of a Fistula Repair and Training Centre in Freetown, where additional surgeries can be performed and national surgeons can be trained.
144. The Commission recommends that the government offer incentives to surgeons and other medically trained professionals in order to retain them in the country.

### ***Victims of Sexual Violence and the Provision of HIV/AIDS and Sexually Transmitted Infection (STI) Testing and Treatment***

145. In devising its recommendations on HIV/AIDS and STI Testing and Treatment, the Commission considered the initiatives already in place in Sierra Leone. In 2002, President Alhaji Dr. Ahmad Tejan Kabbah launched the Sierra Leone AIDS Response Project (SHARP).<sup>27</sup> SHARP is a four-year initiative with approximately USD \$15 million in funding from the World Bank.<sup>28</sup> There are four main components to SHARP: capacity building activities, funding to the health sector, funding to other non-health line ministries, and a community and civil society initiative.<sup>29</sup>

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<sup>27</sup> Report of a Comprehensive Assessment of the HIV/AIDS Situation in Sierra Leone and the National Response, January 21-February 3, 2003, p. 17.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

146. SHARP established the National AIDS Council (NAC) which is chaired by the President.<sup>30</sup> The NAC oversees all activities of the National AIDS Secretariat (NAS) which has responsibility for all nation-wide programmes.<sup>31</sup> 141. As a consequence of the acts of sexual violence and the high prevalence of sexually transmitted diseases, the Commission recommends the provision of free HIV/AIDS testing as well as testing for STIs for all victims of sexual violence. Currently, free testing is offered at tertiary health units and in every district hospital. However, testing is not available at primary health units. As a short-term goal, the Commission recommends that the government strengthen the referral system between the tertiary and district health units that provide free testing with the primary health units that do not provide this service.
147. In the long term, in order to increase the number of medical facilities that provide HIV/AIDS testing, the Commission recommends the provision of free testing at primary health units across the country.
148. The Commission recognizes the need for trained counsellors in all facilities that provide HIV/AIDS testing. Those who wish to be tested for HIV/AIDS testing must receive counselling before, during, and after the test has been administered. Counselling is necessary to sensitise the patient about what the test actually entails and how to cope with the results of the test. Currently, there are approximately 2 HIV/AIDS counsellors per district. The Commission recommends that the government assist the organizations and bodies that currently provide training for HIV/AIDS counsellors, such as the HIV/AIDS Response Group (a joint programme between the National HIV/AIDS Secretariat and the Ministry of Health and Sanitation).
149. As a short-term goal, the government should strive to increase the number of trained counsellors per district. As a long-term goal, the National HIV/AIDS Secretariat estimates that 50 qualified Counsellors are needed in each district.
150. The Commission recommends the provision of free medical treatment for those victims of sexual violence who test positive for the HIV/AIDS virus or any other STI. The provision of free treatment includes medication for those in need; in particular medicines/drugs to treat sexually transmitted viruses and anti-retroviral medication. This service should also be available to family members of the victim.
151. The Commission recognizes the limited number of facilities that currently provide medical care for victims who are living with a sexually transmitted disease. The Commission recommends that the government assist the medical health centres that provide care for those affected by a sexually transmitted disease, such as the Farm Care Clinic in Freetown and the Shepherd's Hospice.
152. The Commission recognizes the limited number of physicians who provide treatment to victims of sexual violence afflicted with sexually transmitted diseases. There are currently 4 qualified trained physicians in this field. In the short-term, the Commission recommends that the government deploy a limited number of qualified trained physicians to Sierra Leone on a fixed term basis to handle any case that may arise as a result of the testing.

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

153. In the long-term, the Commission recommends that the government train national physicians in treating HIV/AIDS and other sexually transmitted diseases. It is recommended that there be 2 trained physicians in each district.
154. The Commission recommends that the government offer incentives to qualified trained medical professionals in the field of HIV/AIDS and other sexually transmitted diseases to retain them in Sierra Leone.

## **Physical Health Care for Children**

155. The Commission commends the efforts to assist children branded with scars. The International Medical Corps (IMC) in collaboration with UNICEF and USAID developed a special scar removal surgical programme.<sup>32</sup> The programme started at Lungi Hospital and by March 2002, 82 of the 93 children recommended for the programme had had their scars surgically removed.<sup>33</sup>
156. In addition to the recommendations on health care for amputees, other war-wounded and victims of sexual violence, which apply to children as well, the Commission recommends that the government assist the organisations and bodies that provide scar removal surgery for those children who still have letters branded by the fighting forces on various parts of their body. Letters such as RUF, AFRC, and EX SLA were engraved on the forehead, chest, arms, or back of many children. These physical scars have affected the children psychologically and in many cases, prevented their successful reintegration with families and communities.
157. The Commission recommends that the government strengthen its referral system to those hospitals that provide this kind of surgery in order to ensure that all eligible children are able to receive the service.
158. The Commission recommends that the government extend an invitation to those international surgeons and other relevant medical staff who have performed these services in the past to spend some time in Sierra Leone and carry out further surgery on those who require it.

## **Mental Health Care (Counselling and Psycho-social Support)**

159. The Commission recommends the provision of free counselling and psycho-social support for all victims mentioned above as beneficiaries of this programme, as well as for their dependants if needed. The beneficiary is entitled to both individual and group counselling. The Commission recommends that the government coordinates and assists those organisations and bodies that provide counselling as well as those that provide training for counsellors, such as religious organisations, NGOs and international organisations. Examples include the joint training programme of Handicap International and the Institute of Public Administration and Management (IPAM), Freetown to recruit potential counsellors from among members of the community and to train them to deal with victims/ survivors of the conflict. The Commission also recommends that there be certified, trained counsellors available in each district hospital.

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<sup>32</sup> Child Protection Programme Document published by UNICEF, p. 6.

<sup>33</sup> UNICEF submission to the TRC, p. 10.

160. In the long-term, the Commission recommends that the government establish a mental health care facility in each of the districts, staffed with additional trained counsellors and eventually 1 psychiatrist per district.
161. The government include additional courses in the area of counselling in the curriculum of medical and nursing training schools.
162. Regarding amputees and other war wounded, the Commission recommends that counselling services be provided at the existing rehabilitation centres if such services do not currently exist and at all rehabilitation centres in the long-term.
163. Considering the stigmatisation that many victims of sexual violence suffer, the Commission recommends that trauma counselling be available in all medical facilities that currently treat women, such as the reproductive health centres and the PCMH hospital, where the fistula surgeries are being performed.
164. The Commission recommends that the government assist programmes providing trauma counselling services specifically for women. These programmes include the Rainbo Centre and the Sexual Assault Referral Centres set up by the International Rescue Committee (IRC) Gender Based Violence Programme.
165. The Commission recommends that the government assist the Child Protection Agencies and the Child Welfare Committees to provide additional trauma counselling to children in all the chiefdoms.
166. The Commission recommends that the Ministry of Health and Sanitation be entrusted with overseeing the reparations programme in the area of health.
167. The Commission also recommends that the post of Director of Mental Health Services be established within the Ministry of Health to oversee all activities relating to mental health and that the Director work in concert with the Ministry of Social Welfare on the implementation.

## **Pensions for Individual Beneficiaries**

168. Recognizing that some of the victims are disabled to the point where they cannot sustain themselves or their families, the Commission recommends that a monthly pension be paid to all adult amputees, the adult 'other war wounded' who experienced a 50% or more reduction in earning capacity as a result of the violations committed against them, and adult victims of sexual violence.
169. The Commission recommends that the amount of the monthly pension be determined by the Implementing Body responsible for the reparations programme. The Implementing Body should consider the standard of living, the amount provided to ex-combatants on a monthly basis under the NCDDR programme, and the amount that the war-wounded SLA soldiers received from the government. Based on these considerations, the amount awarded to any beneficiary should not be lower than Le 60,000 per month.
170. The Commission recommends that the amount of the monthly pension that each beneficiary receives be directly linked to the reduction in earning capacity.

171. The Commission also recommends that the amount of the pension be adjusted over time according to the rate of inflation.
172. The Commission recommends that the Ministry of Finance, in particular, the Accountant General's Department, be entrusted with coordinating all reparations in the area of pensions.

## **Education for Individual Beneficiaries**

### ***Information Considered by the Commission***

173. There are numerous governmental policies regarding children and the provision of education. In 2001, the government introduced the universal free primary education policy in all state-owned and assisted schools. In addition, the Ministry of Education has made three important policy decisions, namely to waive schools fees for girls in all national examinations, to eliminate schools fees at the primary school level, and to offer scholarships for girls going into junior secondary school.
174. In devising its recommendations on education, the Commission took into account various factors. According to estimates provided by the World Bank, the number of students enrolling in schools far exceeds the number of spaces available to accommodate them. In addition, the number of schools damaged during the war remains high. According to the World Bank, as much as 35% of classrooms need to be reconstructed, while 52% need to be either repaired or rehabilitated.<sup>34</sup> Therefore any recommendation made by the Commission had to consider the spaces available in the schools to accommodate those child victims who can benefit from the educational provisions of this programme. The government has already begun to address this issue. The World Bank Rehabilitation of Basic Education Project aims at rehabilitating 140 primary and 60 secondary schools during 2002-2006.<sup>35</sup> The new phase of the EC/SLRRP project aims at rehabilitating more than 400 classrooms over the period 2002-2004.<sup>36</sup>
175. Another consideration taken into account by the Commission was the number of qualified trained teachers in Sierra Leone. Since the end of the conflict, the problem of getting teachers to return to newly accessible areas, and attracting and retaining newly qualified teachers, has been an enormous challenge. Factors affecting the return of teachers are the lack of accommodation, transportation, and low remuneration. In some districts such as Kailahun, it is estimated that only 30% of the teachers have returned to their schools or teaching posts.<sup>37</sup> This is despite the fact that in 1996, the government introduced the Remote Area Allowance as an incentive for teachers to teach in less accessible, mostly remote locations.<sup>38</sup> In addition, the World Bank reports that one-half of the teaching force is unqualified, with only 6% of teacher's holding Bachelor of Arts degrees.<sup>39</sup> Initiatives have been taken to train the large number of unqualified teachers. These initiatives include the Sabaabu Rehabilitation of Basic Education Project.

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<sup>34</sup> World Bank Rehabilitation of Basic Education Project, p. 7.

<sup>35</sup> National Recovery Strategy for Sierra Leone, p. 39.

<sup>36</sup> *Ibid.*

<sup>37</sup> National Recovery Strategy, p. 36.

<sup>38</sup> World Bank Rehabilitation of Basic Education Project, p. 9.

<sup>39</sup> *Ibid.*, p. 9.

176. The Commission also took into consideration the number of educational initiatives that have been implemented to assist children affected by the war. These initiatives include the Complementary Rapid Education Programme for Schools (CREPS) Programme, the Community Education Investment Programme (CEIP), and the Rapid Response Education Programme (RREP) Programme. However, problems exist with some of the programmes. In 2003, the CREPS programme suffered delays. Just 185 of the planned 625 classes were established and only 6,680 children were reached out of a targeted 25,000.<sup>40</sup>

### ***Recommendations Regarding Education***

177. Regarding education, the Commission refers to its general recommendation to provide free education at the basic level for all children.
178. In addition to the general recommendation, the Commission recommends that free education be provided until senior secondary school level to the following eligible children:
- Children who are amputees, 'other war-wounded' or victims of sexual violence;
  - Children who suffered abduction or forced conscription;
  - Orphans;
  - Children of amputees, other war wounded if their parents experienced a 50% or more reduction in earning capacity as a result of the violation committed against them, and victims of victims of sexual violence; and
  - Those children who have been through the DDR programme and are undergoing schooling or other training from that programme are excluded from this list.
179. The Commission recommends that the government assist and expand the existing programmes, such as the Community Education Investment Programme (CEIP) and Complementary Rapid Education for Primary Schools (CREPS), for those above-mentioned categories of children who qualify for these programmes.
180. The Commission recommends that the government assist teacher training programmes, such as the Sabaabu Rehabilitation of Basic Education Programme, in order to increase the number of qualified trained teachers in Sierra Leone.
181. The government should continue to offer incentives to qualified teachers in the remote areas of Sierra Leone in order to retain them in areas where there are shortages.
182. The Commission recommends that the government prioritises the education of all permanently disabled victims and all victims of sexual violence, adults as well as children.
183. The Commission recommends that the Ministry of Education, Science and Technology be entrusted with the coordination of all reparations in the area of education.

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<sup>40</sup> Confidential Source, Freetown, December 2003

## **Skills Training, Micro-credit and Micro-projects for Individual or Collective Groups of Beneficiaries**

### ***Information Considered by the Commission***

184. The financial sector in Sierra Leone was destroyed as a result of the protracted war. Returnees from the war lacked the capital necessary to restart any business activities. Providing financial services to the victims of the conflict will help many of them generate an income and become financially independent.
185. The Commission also took into account the various micro-credit programmes by the government and NGO's that have been made available to many victims of the conflict. In mid-2001, the government financially supported the Social Action for Poverty Alleviation (SAPA) micro-credit chiefdom programme.<sup>41</sup> The government also provided financial support to a micro-credit programme for ex-combatants administered through NDRRR, now known as NaCSA (National Commission for Social Action).<sup>42</sup> Micro-credit programmes administered through NGOs include the Association for Rural Development, the American Refugee Committee, GTZ, Christian Children's Fund, and so on.
186. The Commission recognises the limited number of formal financial institutions that can provide micro-credit.<sup>43</sup> Because of this, many Sierra Leoneans have engaged in informal mechanisms to gain credit, such as the *esusu* (the traditional rotating savings and credit associations).<sup>44</sup> Despite the limited number of institutions, some steps were taken by the government to rectify the situation. The government requested the World Bank to conduct a broad analysis of the sector.
187. The Commission noted that numerous NGOs such as Cause Canada and the Forum for African Women's Educationalists (FAWE) provided many of the victims with skills training. However, many of the skills training programmes focused on a limited number of skills such as soap making, gara tie-dyeing and tailoring.

### ***Recommendations Regarding Skills Training and Micro-Credit/Micro-Projects***

188. Skills' training is a means of providing the beneficiaries with an opportunity to become economically independent, one of the stated goals of the reparations programme. The Commission recommends that the government assist organizations and bodies that provide skills training to expand their efforts to all amputees, 'other war wounded', victims of sexual violence, widows, and children.

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<sup>41</sup> Mayada El-Zoghbi, "Microfinance Policy Review Sierra Leone" submitted in June 2002 to the Consultative Group to Assist the Poorest (CGAP) World Bank.

<sup>42</sup> *Ibid.*, p. 7-8.

<sup>43</sup> American Refugee Committee, International Sierra Leone Programme, "Finance Salone Business Plan 2002-2007." October 1, 2002, p. 3.

<sup>44</sup> *Ibid.*

189. The Commission recommends that the government conduct an assessment of the market in order to provide skills training in accordance with the needs of the market.
190. The Commission recommends that the skills training programme include a small-scale business management training course.
191. The Commission recommends that micro-credit or micro-projects be provided to those beneficiaries upon successful completion of the skills training programme, or to collective groups of such beneficiaries. Micro-credit may be provided in the form of Financial Service Associations (commonly known as *esusu*). The decision to provide micro-credit over micro-projects and vice-versa for the individual beneficiaries and collective groups should be left to the Implementing Body of the Reparations Programme to decide.
192. The Commission recommends that the government assist the organisations and bodies that provide micro-credit programmes and micro-projects.
193. The Commission recommends that all amputees, as well as the 'other war wounded' who experienced a more than 50% reduction in earning capacity as a result of their violation, and victims of sexual violence may elect one family member to partake in this programme in lieu of themselves.
194. The Commission recommends that the Ministry of Labour be entrusted with the coordination of all reparations in the area of skills-training, and micro-credits.

## **Symbolic Reparations**

195. While the aforementioned forms of reparation address the tangible needs of victims, symbolic reparations, as the South African Truth and Reconciliation Commission noted, 'emphasise the importance of placing individual reparations within a wider and social and political context.'
196. Symbolic reparations provide continued public acknowledgement of the past and address the demand and need on the part of victims for remembrance. Remembrance lies at the centre of a network of themes important to survivors of mass atrocity and human rights abuses, such as truth-seeking, prevention of future abuses, reconciliation, and reparations.

### ***Public Apology***

197. The Commission recommends that individuals, groups, bodies and organisations who bear any responsibility for the abuses and violations committed during the war, be encouraged to apologise publicly. The Commission further recommends that the government acknowledge the suffering Sierra Leoneans went through during the conflict and unreservedly apologise to the people for all actions and inactions of all governments since 1961.

### ***Memorials***

198. Memorials help define and construct a shared notion of the collective experience, imagination, and self-definition of a people. The Commission wants to emphasize that memorials are catalysts for interaction. As such, the success of a memorial cannot be measured by financial investments. Memorials are made by the people who engage with them and they engage with each other as a result of them.
199. The Commission recommends that at least one National War Memorial be established in memory of the victims of the war. The Commission also recommends the establishment of memorials in different parts of the country. The decision on the National War Memorial should be taken after consultation with the population. It is important to remember that memorials may take different forms. Examples include the establishment of monuments, the renaming of buildings or locations, the transformation of victim's sites into useful buildings for the community, etc.
200. The Commission recommends that victims and their communities should be consulted on the establishment and placement of appropriate memorials. The District Reconciliation Support Committees and other community structures should be involved in the consultation processes.

### ***Commemoration Ceremonies and Dates***

201. The Commission recommends that traditional and religious leaders organise commemoration ceremonies for the victims of the war, as well as symbolic reburials for those victims who haven't been buried according to religious and traditional customs.
202. The Commission recommends that the government declare a National Reconciliation Day in order to honour the victims of the conflict. The Commission recommends that the government should organise and support various commemoration activities all over the country on that day. The Commission recommends that the 18 January, the day President Kabbah declared the conflict over in 2002, be commemorated as the National Reconciliation Day.

### ***Dissemination of the Reparations Programme***

203. The Commission recommends that the reparations programme be disseminated publicly on a large scale and translated into local languages.

### ***Mass Graves and Reburials***<sup>45</sup>

204. The Commission recommends the identification of mass graves in which victims of the conflict were buried. The victims should be consulted on what should be done with the mass graves.

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<sup>45</sup> More detail can be found in the Mass Graves report produced as an Appendix to this report.

### ***Line Ministry Entrusted with Symbolic Reparations***

205. The Commission recommends that the Monuments and Relics Commission be entrusted with the coordination of the symbolic reparations.

### **Community Reparations**

206. Considering the scale of material destruction caused by the war all over the country and the fact that certain regions were destroyed more than the others, the Commission recommends that the government work out a programme for the reconstruction and rehabilitation of those areas. Community reparations contribute to the reconstruction and consolidation of institutions in communities that were the hardest hit during the conflict and make them whole again through the provision of capital and technical assistance. In devising such a programme, the Commission recommends that the government follow the guidelines listed below.
207. The government should consider the outcome of the assessments by different bodies and organisations, such as the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the United Nations Mission in Sierra Leone (UNAMSIL), United Nations Development Programme (UNDP), National Commission for Social Action, Department for International Development (DFID), Sierra Leonean Rural Reintegration Project (SLRRP), and others on the level of destruction of infrastructure in districts and what work remains to be completed or initiated in some cases.
208. The programme should be worked out in close consultation with the communities and groups concerned, especially women and youth groups. The Commission recommends that the consultation also include the District Reconciliation Support Committees<sup>46</sup> and the District Recovery Committees along with other local bodies and organisations identified by the Implementing Body.
209. The Commission recommends that the Ministry of Development and Economic Planning and the Ministry of Local Government work in concert with each other to coordinate all activities pertaining to community reparations.

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<sup>46</sup> The District Reconciliation Support Committees were established by the Truth and Reconciliation Commission and the Inter-Religious Council (IRC-SL).

## Implementing Body and Special Fund for War Victims

### *Determining the Implementing Body*

210. In recommending an Implementing Body for the reparations programme, the Commission is of the opinion that it would not be cost effective to recommend the establishment of a new institution given the government's limited resources. In recommending an already existing governmental body, the Commission was guided by the following criteria:
- The mandate of the institution or body to ensure that it is in line with the recommendations being made in this programme. An institution already dealing with war-affected communities and victims would be the most appropriate implementer of the reparations programme.
  - Experience with implementing or overseeing programmes similar in nature to the ones being recommended in this programme. Given that the reparations programme relies heavily on existing programmes, an institution with broad based knowledge and familiarity with programmes already implemented in Sierra Leone would be in the best position to implement the recommendations proposed by the Commission.
  - Experience with governing or managing a fund. Given that one of the roles of the Implementing Body will be to govern the Special Fund for War Victims, any experience in this field would be particularly useful.
211. Based on the above criteria, the Commission recommends the National Commission for Social Action (NaCSA) as the Implementing Body for the reparations programme.
212. The National Commission for Social Action (NaCSA) was specifically established by the Government of Sierra Leone to tackle the devastation caused by the war. The current mandate of the Commission includes to:
- a. oversee the planning, programming, coordination, supervision, and monitoring of all humanitarian, resettlement, rehabilitation, and reconstruction work as a consequence of the war;
  - b. co-ordinate the activities of all non-governmental organizations engaged in these activities;
  - c. ensure that all activities are in conformity with the National Reconstruction, Resettlement, and Rehabilitation Programme of the Government; and
  - d. design an operational and procedural framework that will be credible and flexible enough to facilitate effective collaboration and coordination among government departments and other partners. NaCSA's aim is to rehabilitate war-affected communities by providing services in the areas of agriculture, education, community infrastructure, health, sensitisation, and resettlement.<sup>47</sup>

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<sup>47</sup> NaCSA submission to the TRC, 25 July 2003, pages 1 - 2.

213. NaCSA was preferred by the Commission as the implementing body because it is an existing governmental institution with a specific mandate to rehabilitate war-affected communities. NaCSA is currently providing services to these communities in the areas of education, community infrastructure, health, sensitisation, resettlement, and agriculture. These are all areas that are covered by this reparations programme.
214. In addition, because the Reparations Programme relies extensively on existing programmes, NaCSA is the only government agency that is aware of all these programmes in the country and has a working relationship with many of the actors and ministries involved. NaCSA is also the chair of the Regional Inter-Agency Forum.

### **Specific Recommendations Regarding the Implementing Body**

215. The Commission recommends that NaCSA's mandate be extended beyond 2008 in order for all aspects of this Reparations Programme to be implemented. The mandate should be extended for activities relating to the reparations programme and for the sub-unit that will manage.
216. The Commission recommends that a sub-unit be created within NaCSA to deal specifically with the implementation of the programme, to coordinate all activities relating to the programme, and to govern the Special Fund for War Victims as provided for in Article XXIV of the Lomé Peace Agreement.
217. The sub-unit should establish an office in every district for the purpose of decentralising the implementation of the reparations programme.
218. The Commission recommends that an Advisory Committee be created to assist and oversee the actions of the Implementing Body. The Advisory Committee should be composed of members from the government, the line ministries, civil society, victim's organisations, and the international community.

### ***The Role of the Implementing Body***

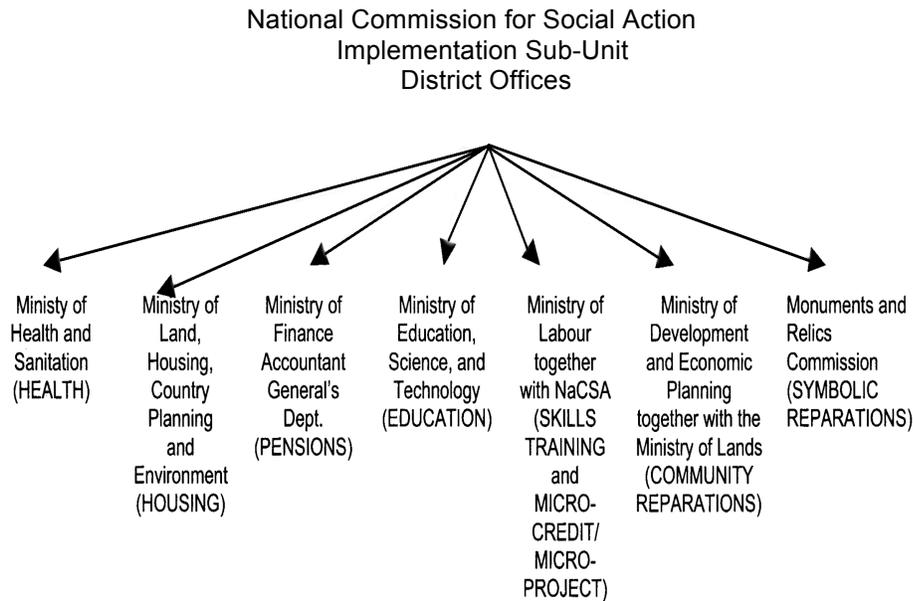
219. The role of the Implementing Body is to oversee the implementation of the reparations programme. The Implementing Body is to coordinate and oversee the activities of the line ministries to ensure that all aspects of the reparations programme are implemented.
220. The Implementing Body is entrusted with governing the Special Fund for War Victims.
221. In certain circumstances where the Commission felt that it did not have the ability or the information to make a specific recommendation, such as the amount of the monthly pension, the Commission called upon the Implementing Body to conduct an assessment to determine such information.

222. Because the potential universe of beneficiaries is unknown, the Commission entrusts the Implementing Body with amending any of the recommendations mentioned in this Programme once further information is available. However, before any recommendation is amended, the Implementing Body must obtain the unanimous consent of the members of the Advisory Board to the proposed amendment.

### Structure of the Reparations Programme

223. The structure of the programme recognises that line ministries are assigned to each social service sector. The role of the line ministry is to ensure the implementation of the recommendations directed to the sector. For example, the Ministry of Health and Sanitation will oversee all aspects of health related reparations. The Implementing Body of the reparations programme, the National Commission for Social Action (NaCSA), will oversee the activities of the line ministries in relation to the reparations programme and govern the Special Fund for War Victims. NaCSA should establish offices in each district of the country to ensure the decentralization of services. The proposed structure of the reparations programme is laid out in the following diagram:

#### ***Diagram Outlining the Structure of the Commission's Reparations Programme***



## Specific Recommendations Regarding the Special Fund for War Victims

224. According to Section 7(6) of the Truth and Reconciliation Commission Act, the Commission may provide information or recommendations to or regarding the Special Fund for War Victims provided for in Article XXIX of the Lomé Peace Agreement, or otherwise assist that Fund in any manner the Commission considers appropriate but the Commission shall not exercise any control over the operations or disbursements of that Fund.
225. The Commission recommends that the Special Fund for War Victims be established no later than three months after the handover of this report.
226. The Commission recommends the creation of a Fund Raising Board to solicit and collect funds for the Special Fund for War Victims in order to allow the secretariat to implement the Reparations Programme. Additionally, the Commission recommends that the Fund Raising Board be composed of respected Sierra Leoneans and friends of Sierra Leone. The Fund Raising Board should report to the Advisory Committee on all its activities.
227. The Commission recommends that contributions, financial or otherwise, should be provided through some of the following means:
- a. Government
    - The prioritisation of reparations within the government's budget
    - The revenue generated from mineral resources according to Article VII of the Lomé Peace Agreement
    - Debt-relief-for-reparations-scheme
  - b. A reparations or peace tax
  - c. Donor support
  - d. Seized assets from convicted persons. The Commission recognises the role of internal and external actors who profited from the conflict. Where any prosecutions or civil action are taken to recover some of these profits, any monies or assets recovered should be paid into the Special Fund for War Victims
  - e. Commission recognises that perpetrators can assist in the rebuilding process. The Commission recommends that 'In kind contributions' from ex-combatants who are willing and able to perform 'free labour' for the benefit of communities and the wider society should be encouraged. However the Commission wishes to guard against the possibility that people might be compelled to do this and emphasises that this should be entirely voluntary
  - f. Funds from 'other legal sources' which become available
228. The Commission recommends that NaCSA make annual public reports on its activities and on the financial status of the Fund to Parliament.

### ***Registration of Beneficiaries***

229. The Commission recommends that the procedures for the registration of potential beneficiaries of the Reparations Programme be based on the following considerations:
- a. That the programme needs to be easily accessible to the beneficiaries, especially those who live in remote areas, those who do not belong to victim's organizations, and those beneficiaries not living in resettlement camps.
  - b. Local leaders and civil society organisations, especially women and youth organisations, should be used as much as possible in the identification and registration of potential beneficiaries of this programme.
  - c. The privacy of individuals, especially victims of sexual violence.
  - d. The need for sensitisation before any programme is administered.
230. The Commission recommends that the Implementing Body use the database compiled by the Commission to help identify some of the potential beneficiaries of the programme. The Implementing Body may also rely on other information being compiled about victims of the conflict. However, under no circumstance may the Government or the Implementing Body delay the implementation of this programme until such information becomes available.
231. Regarding areas of the country with high concentrations of victims of sexual violence, the Commission recommends that the Implementing Body deploy as many female staff members as possible to ensure the privacy and convenience of women who wish to identify themselves as victims.
232. The Commission recommends that all beneficiaries of the reparations programme be given a form of identification to enable easy access to services.

### ***Time Frame***

233. The Commission recommends that the sub-unit within NaCSA that will implement the programme, as well as the Special Fund for War Victims, be established within three months of the handover of the Commission's Report to the President.
234. The Commission recommends that the implementation of the most urgent reparations starts within 6 months after the handover of its report to the President of Sierra Leone.
235. The Commission recommends that priority be given to those reparations that directly affect the survival and livelihood of the beneficiaries. The Commission recommends that the time frame for the implementation of the reparations programme not exceed 6 years, except those aspects that need to continue throughout the lives of the beneficiaries such as pension and medical care.
236. The Commission recommends the establishment of an independent victims' oversight group for each of these programmes to monitor the implementation of the recommendations.