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## **Glossary**

AFRC	Armed Forces Revolutionary Council
CDF	Civil Defence Forces, a militia fighting alongside the Sierra Leone Army
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
DDR	Disarmament, Demobilization and Reintegration
FAWE	Forum for African Women Educationalists
FSU	Family Support Unit
IRC	International Rescue Committee
MSF	Médecins Sans Frontières
NaCSA	National Commission for Social Action
REDRESS	An international human rights organisation
RUF	Revolutionary United Front
SLANGO	Sierra Leone Association of Non-Governmental Organizations
SLCMP	Sierra Leone Court Monitoring Programme
Special Court	Special Court for Sierra Leone
STI	Sexually Transmitted Infection
TRC	Truth and Reconciliation Commission
UNICEF	United Nations Children's Fund
UNIOSIL	United Nations Integrated Office in Sierra Leone

# Sierra Leone

## Getting reparations right for survivors of sexual violence

*When women asked the president for an apology for victims of sexual violence from the war and he refused, it sent the wrong message.*

*NGO staff*

*When the war ended, NGOs and the UN made it known to the government that we were prepared to fund or provide services for reparations. The government never asked. It sent the wrong message.*

*UN staff in Sierra Leone*

*When the government responded to the ... TRC recommendations with a white paper instead of just taking steps to implement them, it sent the wrong message.*

*UNIOSIL staff*

### I Introduction

Six years after the end of the conflict in Sierra Leone, little has been done to ensure that survivors of sexual violence receive justice, acknowledgement of their suffering, or full, meaningful and effective reparations. The unimaginable brutality of violations committed against up to a third of Sierra Leone's mostly rural women and girls has been well documented; however the government has failed to effectively address the physical, psychological and economic impact of these crimes on the survivors. Without justice, recognition of the crimes or effective programmes to ensure their rehabilitation, without help to rebuild their lives or steps being taken to ensure that they are protected from future crimes, the suffering of the women and girls continues.<sup>1</sup>

Amnesty International interviewed women and girls who have employed many strategies to survive, both during the conflict and in its aftermath. For them, sexual violence was not a single event but a violation that has continued in the absence of comprehensive measures to deal with it. Along with the sexual violence, many identified themselves as former 'rebel wives', which also contributed to isolation and exclusion. As a result, many have had difficulty accessing food, shelter, work and healthcare. The continuing discrimination they have faced has impeded their reintegration into the community.

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<sup>1</sup> Although beyond the scope of this report, it is unsurprising that, in the absence of measures to address widespread violence against women during the conflict, domestic violence is considered the most serious social ill women face in Sierra Leone today.

These women and girls expressed a desire for justice and meaningful reparations not out of revenge but simply to enable them to become economically independent and begin to re-establish their lives free from fear, stigma and discrimination.

A reparations programme recommended by the Truth and Reconciliation Commission (TRC) in its 2004 report includes specific measures for victims of sexual abuse. This provides the government with new opportunities to ensure that victims can finally begin to address the damage that has been done to them. Lessons learned from efforts at reintegration reveal that the needs of women and girls have not been adequately met.<sup>2</sup> These lessons must be incorporated into the reparations programme, which requires the active participation of its beneficiaries if it is going to be designed to meet their needs.

In order to address the complex social and individual impact of sexual abuse, the reparations must be provided in a context that seeks to prevent future violence, addresses the deep-seated discrimination against women, promotes equality and improves women's status.

All victims and survivors of crimes against humanity, war crimes and other serious violations of international human rights and humanitarian laws are entitled to justice and reparations. This report focuses specifically on reparations for survivors of sexual abuse, which mainly affects women and girls from rural areas in Sierra Leone. Amnesty International examines the social and individual effects of sexual violence, the failure of the government to provide measures to address its impact, including justice and reparations, and the need for the government to implement a comprehensive and effective reparations programme to *get reparations right for victims of sexual violence*.

## **II Sexual violence in the Sierra Leone conflict and its impact on survivors**

Between 1991 and 2002, all parties to the conflict in Sierra Leone perpetrated rape, sexual slavery and other crimes of sexual violence against Sierra Leonean women and girls.<sup>3</sup> Overall estimates are that 250,000 women and girls (33 per cent of the total female population) were subjected to these crimes.<sup>4</sup> Sierra Leone's Truth and Reconciliation Commission (TRC) concluded: "it is clear

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<sup>2</sup> For an in-depth analysis of girls' experience of the Disarmament Demobilization and Reintegration (DDR) process see Susan McKay and Dyan Mazurana, *Where Are the Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone and Mozambique: Their lives during and after war*, Rights & Democracy, 2004.

<sup>3</sup> *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Volume III B Chapter 3 paragraph 207 states: "Testimonies before the Commission confirmed that all the major armed groups in the conflict perpetrated violations against women. Government security forces, civil militia and opposing armed factions were all at different times in the conflict responsible for violations against women."

<sup>4</sup> *We Will Kill You If You Cry: Sexual violence in the Sierra Leone conflict*, Human Rights Watch Vol 15, No. 1 (A), January 2003, and *War-Related Sexual Violence in Sierra Leone: A population-based assessment*, Physicians for Human Rights, 2002 (War-Related Sexual Violence in Sierra Leone).

that there were deliberate policies systematically to target women and girls and systematically to rape and sexually violate them.”<sup>5</sup> Crimes of rape and sexual violence have been documented by the international community, civil society and the TRC. Crimes of sexual violence have been investigated and prosecuted by the Special Court for Sierra Leone (Special Court). Its first judgement, handed down in June 2007, found three Armed Forces Revolutionary Council (AFRC) leaders guilty of rape and outrages of personal dignity, including sexual slavery.

Women and girls of all ages and across all districts in Sierra Leone suffered a multiplicity of abuses and violations, including rape, sexual slavery, forced pregnancy and other crimes of sexual violence. They were also subjected to abductions, enslavement, torture and forced labour. Many women and girls and their families were killed, lost limbs or witnessed horrendous acts committed against their children, husbands and other members of their families and communities.

The psychological, physical, social and economic impact on women and girls of this inhumane treatment is immeasurable. Shame has prevented large numbers of them from returning to their communities. Others live in silence, unable to share their painful memories out of fear that they will be rejected by family members and lose their future economic security. Women who have borne children as a result of the violation committed against them are not only unable to escape the stigma, but have to care for their children with limited means of sustaining themselves. These women and children are denied work, home, family and community, and are condemned to exist on the margins of society. In some cases, prostitution is their only means of survival, but this often results in further marginalization. As a result of this, reintegration has been extremely difficult or even impossible for many women and girls who were raped and sexually abused.

Survivors from Sierra Leone’s easternmost district, Kailahun, and from villages in the northern districts of Tonkolili and Bombali, shared their experiences with Amnesty International in March 2007.<sup>6</sup> They revealed that, although six years had passed, the impact of the rape, sexual violence and sexual slavery they experienced still affected their everyday lives. Few had received the assistance they needed and, as a result, they were continuing to suffer terribly.

## **Case studies**

### ***Displaced in Kailahun***

Kailahun is Sierra Leone’s easternmost district. Situated on the border of Liberia, this area was a stronghold of the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC) throughout the conflict. It was not only the scene of significant destruction but

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<sup>5</sup> *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Volume 3B Chapter 3, paragraph 330.

<sup>6</sup> A follow-up visit to Freetown also took place in July 2007 to facilitate a workshop with members of civil society on their role in the reparations process.

was also the place where rebel groups had their main bases. These were dependent on the thousands of women, and girls who served as “wives”, cooks, labourers, fighters and sex slaves.

The majority of the women Amnesty International interviewed were abducted from other districts, including Bo, Kenema, Pujehun, Makeni, Magburaka and Bonthe, at a very young age. Some were as young as four. Their family members had often been killed, and they were brought to Kailahun in 1994 and forced to live with the RUF until peace came in 2002. The majority stayed in Kailahun after 2002, for a variety of reasons.

All the women had been subjected to sexual violence, sexual slavery and torture. Some had children. They were all suffering from physical and/or psychological effects of the crimes they had endured. As well as medical and psychological problems, their experiences have contributed to them suffering from low self-esteem, compounded by feelings of shame and stigmatization associated with rape. Some confessed that they had never spoken to anyone about their experiences due to the fear of stigma; others with children complained of being ridiculed and ostracized, and said they were shunned by other people, even relatives. Many said they needed medical care, education for their children, land to farm, micro-credit to start businesses and a place to live, but were weary of being labelled as women who had lived with the rebels or been raped.

### ***Returning to Makenilol***

Makenilol is a small community of approximately 100 houses half-way between Makeni town and Magburaka. During the 11-year conflict it suffered repeated attacks and a period of occupation by the RUF. It is estimated that 40 girls were abducted during the conflict. After disarmament in 2002, approximately 25 returned. Those who did not return had either died or resettled elsewhere. Although many girls were suffering war-related medical conditions, few sought proper medical assistance, as they were fearful that this would expose them to negative judgements and rejection by their parents. Instead they were treated with native medicine. When the girls first returned, many stayed isolated from the rest of the community.

In response to the ridicule and ostracism that many of the girls faced, the mammy queen<sup>7</sup> and the chief explained to members of the community that the girls were not to blame for what had happened to them and said that anyone who harassed them would be fined. While this helped initially, it did not result in long-term acceptance of the girls. Up to eight returned to school, while many of the others, who had by now reached adulthood, left Makenilol to resettle in a community where they did not know anyone in the hope that they would find husbands to take care of them.

## **III The impact of shame and stigma**

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<sup>7</sup> Female head of a village or community.

The shame, stigma, discrimination and rejection associated with rape and sexual violence significantly influence the choices and decisions of survivors and severely limits the opportunities open to them. Feelings of shame about having been raped affect the physical and mental health of women and girls, and this influences whether or not they seek the medical care they need. The stigma of sexual violence also affects where they live: many were too ashamed to return home; others were rejected by their communities if they did attempt to return.

Shame and fear of rejection affected the choices women and girls made about who they would speak to about their experiences and the type of information they felt they could share with others. Their reluctance to access services was matched by a general reluctance by girls who had suffered sexual violence to participate in Disarmament, Demobilization and Reintegration (DDR) and the Truth and Reconciliation Commission (TRC) processes in the same way as their male counterparts.

Rejection by communities and families also carries enormous economic consequences for the victims, who are excluded from their homes and cut off from possible means of livelihood. Survivors abandoned by their husbands are unlikely to marry again, leaving them as sole carers and supporters of their children.

## **1. Access to services**

Social isolation and fear of rejection prevent many survivors from seeking help or speaking out about their experiences and needs. The mammy queen of Macomb, a village in the north near Makeni town, told Amnesty International:

*“The women in our village did not speak to the TRC because they would have to say that they had been raped not once but many times, and they were not prepared to let others know this truth about what happened to them. This has prevented them from accessing many of the other services they need.”*

Fearful of being exposed as rape victims, many women and girls did not make use of health centres. As a result, large numbers received no treatment or relied on native medicine. A health worker from the Forum for African Women Educationalists (FAWE) told Amnesty International that, even though the rapes had started in the early 1990s, it was not until the attack on Freetown in 1999 that people really started to speak about the gang rape and mass rape, and to address the health concerns related to it. She said:

*“I don’t know the number of women and girls that died because they didn’t access any healthcare, or what the long-term impact will be on them of not addressing their medical needs. It is something we do not know. After 1999 the issue was finally exposed but only those with urgent medical needs came out. The majority were too ashamed to go to the health centre and instead relied on native medicine.”*

## 2. Nowhere to go

Mamatu, originally from Pujehun, was forcibly brought to Kailahun and did not return home when peace came. She told Amnesty International:

*“They tolerate us here but we are not really welcome. In 2002 we were released from the rebels but, because we all stayed so long with them, when it finally was time to return many did not have relatives left, or they felt that they would not be accepted if they tried to go back; some tried and were rejected. Where we are now, no one really speaks to us; we have no house and no land to farm. We are occupying more than 40 villages. None of the men are around as most went to the mining areas to find work and have met other women. None of us spoke to the TRC; we were ashamed.”*

Mamie, originally from Bo and nearly 60 years old, was abducted and brought to Kailahun in 1995. When she tried to return home, her community rejected her. She said:

*“I returned to Bo in 2004 and 2006, and both times they called me a rebel. They said that the rebels were killing and eating people so they didn’t want anything to do with me. Now to survive I take care of a child and in return the family gives me food. People in the community call me a rebel. Few people will talk to me. I need food, shelter, and medicine now.”*

## 3. Considered “dirty” and “unworthy”

In Sierra Leone there is an assumption among some people that women were somehow responsible for what happened to them. They are often viewed as “shameful” or “dirty” because of the rape, making marriage an unlikely future option for many who suffered from sexual violence. Often, shame prevented them from trying to find husbands, and they feared that they would be rejected or abandoned if their experiences were discovered.

When Linda, now 30, returned to Makenilol in 2002, she was well aware of her limited future options. She knew that the community would be unlikely to accept her and that her chances of marriage would be reduced if it were known that she had been with the rebels. So she did not tell anyone what happened to her, and married a man from the community. Soon after her child was born, her husband abandoned her. She said:

*“When I saw that one of the girls that I knew in the bush was rejected by her family, I knew it would not be good to tell too many people in the community, especially the men as they will not accept you. So I did not tell my new husband but later I heard that other men in the community were making fun of him for being married to me. Soon after I had the child he left me.”*

Women and girls who survive rape are sometimes accused of not having resisted enough, of having somehow consented to sex or of having cooperated with the perpetrators. The chief in Macomb told Amnesty International: “Some women and girls have not come back because they know that people think it is their fault. We have tried to talk to people in the community but the feeling is strong.”

Children born as a result of rape generally face severe discrimination and are often referred to as “rebel children”. Fatmata from Makeni told Amnesty International about her experience of living with her stepsister:

*“My stepsister gave my little son and me a place to live and some food. But the place was very dirty and they were abusive towards us. They would call my child a rebel child. This hurt me a lot. He is my son and this really offends me. In the end they threw us out a few months ago, saying that I did not do my chores properly.”*

#### **4. Rejected by relatives**

Some of the women and girls were rejected by their own family members. Mamuta also told Amnesty International about a girl she knew:

*“One of the women from the group of 50 who came from Pujehun was rejected by her family. During the war her family went to Guinea but she didn’t go with them – so now they are rejecting her. I don’t know where she is now.”*

Leitia from Makeni told Amnesty International:

*“I haven’t told anyone about what happened to me but my grandmother has and they laugh at me and say that I was with the rebels. This hurts me. I haven’t told anyone myself. I am not happy.”*

#### **5. Relieved to find someone to trust**

Mary, originally from Makenilol, finally returned there in 2007 after being in Kono throughout the war. She stayed with the rebels for two years and had a child while she was in captivity. When she returned to Kono she did not tell anyone what had happened to her.

*“When I finally escaped from the rebels I went to live with relatives in Kono. I didn’t tell anyone what happened to me ... I was ashamed....It was only when I arrived back in Makenilol that I told my mother. After I told her what happened I felt better. I felt it OK to talk to my mother because I knew she would not judge me and would accept me, and never tell anyone.”*

#### **6. Psychological scars**

Few women and girls went through any formal Disarmament, Demobilization, and Reintegration (DDR) process as a result of being associated with the fighting forces. Instead, many returned to their communities on their own and often in secrecy with no psychological assistance to help them reintegrate. The secrecy, combined with limited options to address the psychological consequences of the extreme violence, loss of family members, community rejection, the financial and social consequences of children born as a result of rape, and loss of control of their reproductive capacity, has left women and girls to face their anxiety, depression, nightmares, anger and fear alone. Amnesty International found that many spoke of headaches, stomach pains and backaches – physical symptoms of psychological stress. With the harsh treatment they endured in captivity many women are disabled and unable to find work to sustain themselves, adding to their stress.

Hawa, now almost 70, and originally from the town of Daru in Kailahun district, is still severely traumatized from an event that took place in 1992, but has few options and no one to take care of her due to the death of her children. She also feels isolated as she has been unable to tell anyone what happened to her. In March 2007, more than 15 years after the event took place, she told Amnesty International:

*“I was abducted in 1992. I was laid in front of everyone and openly gang raped by four boys. They raped me in front of a lot of people near to where the paramount chief lives in town. As a result of this rape I used to bleed all the time. It finally stopped bleeding about two years ago. I used native herbs to treat it. I never told anyone about this as it was just too awful to recount. I still remember it as though it happened yesterday as I am still in a lot of pain now. I have not been able to be with any other man since then. I am too afraid. Before the war I had four children and now they are all dead. My daughter was pregnant and they split her stomach and she and the baby died. I am all alone now because everyone else was killed. I am lonely. I don’t have anyone to share what happened to me I actually think telling others would only hurt me. I think they would only look down on me and no help would come from it. I know how people talk and then ridicule you.”*

Many women and girls are unable to share their experiences, either because they have no living relatives and no one they trust to share them with, or because they fear that they will be rejected or ridiculed, leaving them lonely, isolated and unsupported. Musa is originally from Moyamba and has no living relatives. At the age of four, she watched her parents being killed in front of her and was then given the option of rape or death.

*“I chose to live so that meant choosing to be raped. I stayed with them for 10 years. I am not able to sit properly as it is very painful for me to do so. I also have frequent sharp pains in my stomach. I have never menstruated either. This makes me very sad. So often during the 10 years I thought they were going to kill me. One man became my husband. He would often give me to other men. He and the others tortured me. They used to inject me in my leg and now I cannot walk properly. I was also beaten in the head and I still suffer pain in the head from time to time. I have a problem with my eyes because the*

*rebels used to put herbs in and rub them around. If there is too much light I cannot see well.”*

Although Musa suffered unimaginably, she has been unable to share her experiences with anyone apart from another girl in the community who had suffered in a similar way to herself:

*“I have not told anyone here except for one friend who is from my village, who was also abducted and survived, and sometimes we talk. She was the one who gave me information about my parents. I won’t tell anyone else as I am so afraid of how they might think of me.”*

The social stigma that prevents women and girls from speaking about rape, combined with their need to ensure their own and their children’s survival, makes it very difficult for them to ask for services to address their mental health concerns. Staff of women’s organizations who worked directly with survivors of sexual violence highlighted the need for much greater attention to these concerns. Yet they noted that there were very few available programmes, and many of the programs that did exist had not always been thoroughly evaluated. Many recognized that mental health was not a governmental priority and believed that the fact that survivors themselves do not seem to prioritize it, has made it easier for government and other decision makers not to prioritize it either. A member of staff of the Ministry of Social Welfare stated: “Women and girls had psycho-social counselling at the end of the conflict. Now mental health concerns are not the priority but financial considerations are their main concerns.”

Adequately addressing psychological concerns is a challenging prospect given the myriad stresses that women in Sierra Leone face, the lack of understanding globally of the psychological impact of rape and sexual violence on women, and the lack of psychosocial and psychological services available in Sierra Leone. There is little doubt, however, that if mental health concerns continue to go unaddressed, it will be difficult for women and girls to be in a position to rebuild their lives or contribute to rebuilding the social fabric of their communities.

## **7. Severe beating as part of sexual violence**

Sexual violence was accompanied by other forms of violence. Sylvia told us how the beating was sometimes more severe than the rape, and said that it has been difficult to get the care she needs.

*“We were then taken to be slaves in the farm, fetching food and water, and beaten regularly. Once I accidentally gave the commander an insect in his water and suffered 40 lashes for it. We were constantly on the move and expected to carry heavy loads. Since disarmament in 2002, despite all the pain in my back and internally, I have only been treated with native medicine.”*

Kediata told Amnesty International how the rebels used her and then hit her; she is still in a lot of pain today.

*“They sexually used me and then afterwards hit me on my side and beat me. I now have problems with my legs and at the side of my buttocks. When they did this I was pregnant and then later the unborn baby died. I was so badly off that when I finally got to the village I was taken to the hospital for treatment. I still have a lot of pain in my leg and it has impacted my ability to work.”*

## **8. Inaccessibility to appropriate healthcare**

Amnesty International found that the repeated rapes and sexual abuse caused damage to the reproductive organs, miscarriages, unwanted pregnancies and sexually transmitted diseases including HIV/AIDS. Many women suffered injuries as a direct result of the rape and sexual violence they endured, including gynaecological problems affecting their uterus. Women raped at a very young age, who became pregnant, often suffered from fistula, a serious and painful disorder with devastating physical consequences. Other physical health problems resulted from the brutality of repeated rape. The majority of survivors were also disabled after having been subjected to other forms of torture, beatings, slave-like conditions and carrying heavy loads.

The poor status of the healthcare system and the lack of specialized care for women available throughout the country make it a challenge for women to gain access to the care they need in the aftermath of these experiences.

After Awa’s experience with the rebels she returned to Kono and gave birth to her first child. Immediately after this, she developed urinary incontinence, one of the physical consequences of fistula, but she found it impossible to find adequate healthcare in Kono. She said:

*“After spending six years with the rebels, I decided to stay in Kono. I began to have problems with my water running when I returned back to the village. It was not continuous but once I had my first child it got worse. I then had another child and then it began to run all the time and became continuous. As there was no service in Kono, I came to Magburaka. It cost 160,000 le (US\$45), which took the family three months of farming to accumulate. By the time they saved this money I was unconscious. My mother and men in the village carried me on a stretcher for two days and then I was brought on a truck which took another two days. I have now had the operation but my water continues to run. I have no money to return.”*

Florence, now living in Makeni, told Amnesty International:

*“When I was shot in the vagina I had problems; I had no control over my bowels or my urine. I went to the hospital and so now I have no problems with my bowels but I still do with my urine. I have not had any follow-up since this happened. I was also told to go to Mercy Ships but I tried twice, but both times I was told that I could not enter because I did not have a paper.”<sup>8</sup>*

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<sup>8</sup> Mercy Ships is an international organization focused on health issues.

Hawa spoke about the impact that gang rape has had on her daughter:

*“My eldest daughter was gang raped when she was 10, and now at 17 she cannot walk properly. Although I know she needs an operation to help her, we don’t have the money so she has only received medicine that’s not curing her.”*

While efforts are being made by the government through the National Commission for Social Action (NaCSA) to build health structures in rural Sierra Leone, feedback from the chiefs in several communities revealed frustration at the lack of medicine and qualified personnel.<sup>9</sup> Organizations such as MSF, which have operated in Sierra Leone since the mid-1990s, continue to highlight the poor state of the health sector and the impact this is having on the population. In August 2007 MSF (Operational Centre Amsterdam) left the country even though many of the health indicators remain very poor, indicating that not even basic healthcare needs are being adequately addressed.

Sierra Leone has one of the highest maternal mortality rates in the world, with 2,000 women out of every 100,000 dying in childbirth. There are severe problems of access to reliable health information, high rates of harmful traditional practices, and insufficient gynaecological and reproductive health services available to women and girls. Greater emphasis should be placed on providing accurate information about women’s health and the provision of services including access to primary healthcare, qualified birth attendants and access to specialized health services.

## **9. Little access to work, education, and housing**

Feelings of frustration and despair were expressed in conversations with women across Sierra Leone as they talked about their desire for work and educational opportunities, and described the limited options available to them. Mamata in Kailahun reflected on how many women and girls in that town were living:

*“All of us here are still suffering. We need to act like slaves to survive. We all work for other people here; we take care of their children, and we clean the house and prepare the food. Many of us are disabled. None of us are living like we would in our village if we lived there now. We live like slaves. Our children are not going to school, we have no food, and no houses.”*

## **10. Discrimination as a result of age**

The despair was particularly acute for women over the age of 25, when they realized their limited options. Too old for school, and with marriage an unlikely prospect, women sought skill-training, farming and micro-credit schemes. However, they found that most of the programmes run by

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<sup>9</sup> NaCSA is tasked with coordinating all the activities of all non-governmental organizations and ensuring that they are in line with the government’s overall goals of reconstruction, resettlement and rehabilitation.

NGOs were aimed at children, while commercial programmes were either too expensive or did not offer day-care, making it impossible for those with children to participate. Many of the older women who spoke to Amnesty International also highlighted how limited their options were. Hawa from Port Loko told Amnesty International: *“After the war I went back to Port Loko but there were no programmes for an old woman like me. I decided to then return to Makeni because it was a bigger town.”* Many were separated from their families and had suffered the humiliation of being raped or treated brutally by boys or young men as young as their own children or grandchildren, but they did not have anyone to take care of them or to talk to about these experiences.

### **11. Inaccessible education**

The high cost of education caused significant stress, since adult women with children were preoccupied with earning enough money to be able to send their children to school, while girls who had children were also concerned about going to school themselves. However, although school for primary age children was free, families were expected to supply books and school uniforms, which was beyond the means of some families. As a result they could not send their children to school. Secondary education school fees, ranging from 20,000 -75,000 le (US\$ 7-25) per term, were prohibitive for most families. The chief of Makenilol lamented the high cost of education, saying: *“It is so important for our rural children to go to school, but it is just too expensive for most people.”*

### **12. Prostitution leads to further marginalization**

Insufficient available programmes designed to help women and girls move on from the conflict and rebuild their lives resulted in some women and girls resorting to prostitution. Jamesina from Makeni told Amnesty International:

*“I went through DDR but then the skill training provided was not enough. It lasted for six months and then one machine was given to two people. I sold off my portion of the machine to the other girl but that money soon ran out and my only option then was to go into prostitution as it was the only way that I could find to make money.”*

### **13. Continuing discrimination, violence and denial of justice**

The high levels of violence against women in Sierra Leone and society’s acceptance that violence is ‘normal’ are, in part, a result of the state’s failure to prosecute those responsible for rape and sexual violence during the conflict and for the continuing violence against women and girls in homes and communities. Despite the government’s obligation to protect women from rape and sexual violence, only a few steps have been taken to deal with these crimes.

Amnesty International believes that this failure to punish perpetrators for both past and current crimes gives the impression that they will not have to face the consequences of their actions, ignores the distress of the victims, and creates a risk of future violations.

After serious campaigning by civil society concerning critical women's rights bills that had been pending since 2003, just before the parliament closed in June 2007 three significant bills were passed: the Domestic Violence Bill, the Registration of Customary Marriage and Divorce Bill, and the Intestate Succession Bill. The Domestic Violence Bill criminalizes violence in the family providing the police with the legal tools they need to investigate and prosecute these crimes. The Registration of Customary Marriage and Divorce Bill and Intestate Succession Bills can begin to help improve the status of women in rural Sierra Leone by allowing them greater access to property and greater rights in marriage, making it easier for them to leave abusive relationships. However in rural Sierra Leone the true challenge will be to ensure that police enforce these laws and they do not continue to be illegally adjudicated informally by the chiefs, as this perpetuates discrimination against women.

#### **14. Remaining challenges**

Despite the passage of the women rights bills mentioned above, there is still a long way to go to deter the violations in the first place. Not only is violence against women and girls rampant, but efforts to prosecute perpetrators have been largely ineffective. Discussions with the gender coordinator of the International Rescue Committee (IRC) in July 2007 indicated that rape, including gang rape, was still taking place.

*“Only yesterday I heard about a girl who was so brutally gang raped that she died. It was men from her village. There was another one we heard about the day before. Rape is still happening on a large scale in Sierra Leone and there is very little being done to stop it.”*

Amnesty International is concerned that mediation in rape cases contributes to impunity and facilitates state evasion of the obligation to ensure that violence against women is prosecuted. The restoration of 'peace' is usually aimed at providing an understanding between families, and such agreements do not prioritize the victims' needs including for justice. A staff member of the Ministry of Social Welfare, Gender and Children's Affairs discussed the challenges of prosecuting current cases concerning violence against women including rape. She told Amnesty International:

*“Even when girls are encouraged to report cases to the FSU, it seems that the magistrate looks for peaceful solutions to deal with the issue rather than trying the case. I think that if both the family and the magistrate opt for a peaceful solution then they both should be fined. These are practices which are discouraging girls from even reporting cases.”<sup>10</sup>*

### **IV The government's obligation to ensure justice and reparations**

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<sup>10</sup> The Family Support Unit has been set up within the Sierra Leone Police to deal with domestic violence.

Under international law, those responsible for rape, sexual slavery and sexual violence amounting to crimes against humanity, war crimes and torture must be brought to justice and the survivors must receive full and effective reparations.

In 2005, the United Nations General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines).<sup>11</sup> The Basic Principles and Guidelines codify the obligations of states under international law to respond to serious crimes under international law, when they are committed, by implementing the rights of victims.

The Basic Principles and Guidelines require states to ensure that victims receive justice. It affirms the obligation under international law for states to investigate crimes under international law (including, rape, sexual slavery and sexual violence amounting to crimes against humanity, war crimes and torture), and, where there is sufficient admissible evidence, to prosecute those suspected of committing the crimes.<sup>12</sup> Trials should apply international fair trial standards and the death penalty should not be applied in any cases. The obligation to investigate and prosecute these crimes prohibits the adoption of national amnesties covering the crimes.<sup>13</sup>

The Basic Principles and Guidelines affirm that victims of such crimes also have a right to full and effective reparations under international law. The right to reparation is well established in international human rights law as a central element of the right to a remedy contained in international and regional human rights treaties.<sup>14</sup> The right to and forms of reparation for

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<sup>11</sup> General Assembly Resolution A/RES/60/147, 16 December 2005.

<sup>12</sup> See Principle 4 of the Basic Principles and Guidelines. The obligation is also set out in numerous conventions, including the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and other cruel, inhuman and degrading treatment or punishment, the Geneva Conventions, the Rome Statute of the International Criminal Court, as well as under customary international law.

<sup>13</sup> See: Amnesty International's *Sierra Leone: Special Court for Sierra Leone: denial of right to appeal and prohibition of amnesties for crimes under international law* AI Index: AFR 51/012/2003.

<sup>14</sup> Universal Declaration of Human Rights, Article 8; International Covenant on Civil and Political Rights, Article 2 (3); Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, Article 13; International Convention on the Elimination of All Forms of Racial Discrimination, Article 6; Declaration on the Protection of All Persons from Enforced Disappearance, Articles 9 and 13; UN Principles on Extra-legal Executions, Principles 4 and 16; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Principles 4-7; Charter of Fundamental Rights of the European Union, Article 47; American Convention on Human Rights, Article 7 (1) (a) and 25; American Declaration of the Rights and Duties of Man, Article XVIII; Inter-American Convention on Forced Disappearance of Persons, Article III (1); Inter-American Convention to Prevent and Punish

violations of international human rights law are expressly stated in a number of instruments and jurisprudence by international and regional human rights courts and bodies.<sup>15</sup> In most cases where these crimes have been committed, governments are primarily responsible for providing reparations because of the state's own involvement in the crimes and because the state has failed to protect its citizens. In Sierra Leone, as the TRC report notes:

*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. ... 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.*

*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*

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Torture, Article 8 (1); African Charter on Human and People's Rights, Article 7 (1) (a); Arab Charter on Human Rights, Article 9.

<sup>15</sup> For example: International Covenant on Civil and Political Rights, Article 9(5): "anyone who has been a victim of unlawful arrest or detention shall have an enforceable right to compensation"; Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, Article 14: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of death of the victim as a result of an act of torture, his dependants shall be entitled to compensation"; Committee on the Elimination of Racial Discrimination, General Comment 26 on Article 6: "the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination... is not necessarily secured solely by the punishment of the perpetrator... the courts and other competent authorities should consider awarding financial compensation for damage, material or moral, suffered by a victim, whenever appropriate"; Committee on the Elimination of Discrimination against Women, General Recommendation 18 on Violence against Women (UN Doc. A/47/38), para. 24(t): "States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia: Effective legal measures, including penal sanctions, civil remedies and compensatory provisions..."; Working Group on Involuntary or Enforced Disappearances, General Comment to Article 19 of the 1992 Declaration on the Protection of All Persons from Enforced Disappearance (UN Doc. E/CN/4/1998/43): "The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible. In the event of death of the victims as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation"; International Convention on the Protection of All Persons from Enforced Disappearance (not yet in force), Article 24(4): "Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation"; European Court of Human Rights, *Aksoy v. Turkey*, Judgment of 18 December 1996, para. 98: "where an individual has an arguable claim that he has been tortured by agents of the State, the notion of an "effective remedy" entails, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access for the complainant to the investigatory procedure."

*adequately to, or in structurally preventing human rights violations, they are legally and morally responsible.*<sup>16</sup>

Under international law, the individuals who committed the crimes,<sup>17</sup> armed groups who commit crimes<sup>18</sup> and other states whose forces commit crimes can also be responsible for providing reparations.<sup>19</sup> However, in Sierra Leone, the government has precluded victims from obtaining reparations from individuals and armed groups by establishing the Lomé amnesty. The government has also failed to seek reparations against other states involved in the conflict. In these circumstances, the government is responsible for providing reparations for all crimes, which is not to say, that it cannot accept assistance in fulfilling this responsibility from non-governmental and humanitarian organizations, international donors, the United Nations and other actors.

In terms of what reparations the state must provide, international law requires that:

*Reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.*<sup>20</sup>

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<sup>16</sup> *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Volume 2, Chapter 4, paragraph 21

<sup>17</sup> Most legal systems provide that victims of crime can claim compensation and other forms of reparation against the person who committed the crime through the criminal or civil process. Principle 15 of the UN Basic Principles and Guidelines states: "In cases where a person, a legal person or other entity is found liable for reparation to a victim, such person should provide reparation to the victim..."

<sup>18</sup> Armed opposition groups are required to respect international humanitarian law (see: ICRC, Customary International Law, Volume I, Rules, Rule 139.) and there has been some practice to demonstrate that such groups are required to provide appropriate reparation. UN Security Council Resolution 1071 (30 August 1996) on the Situation in Liberia called on "the leaders of all factions to ensure the immediate return of looted property"; UN Commission on Human Rights in Resolution 1998/70 on the situation on situation of human rights in Afghanistan, urged all parties "to provide sufficient and effective remedies to the victims of grave violations and abuses of human rights and of accepted humanitarian rules and to bring the perpetrators to trial"; UN Secretary General, Report of the causes of conflict and the promotion of durable peace and sustainable development in Africa, UN Doc. A/52/8710S/1998/318, 13 April 1998, para.50 recommends: "international legal machinery be developed to facilitate efforts to find, attach and seize the assets of transgressing parties and their leaders"; The Comprehensive Agreement on Respect for Human Rights and Humanitarian Law in the Philippines states "the Parties to the armed conflict shall adhere to and be bound more generally by the generally accepted principles and standards of international humanitarian law." Article 2(3) of Part II states that the right of victims and their families to seek justice for violations includes "adequate compensation or indemnification, restitution and rehabilitation."

<sup>19</sup> Under the law of state responsibility a state responsible for crimes under international law "is under an obligation to make full reparation for the injury caused by the internationally wrongful act" (Article 31 of the International Law Commission's Articles on State Responsibility).

<sup>20</sup> Chorzow Factory Case, Merits, 1928, PCIJ, Series A, No. 17, p47; Crawford, *The International Law Commission's Articles on State Responsibility*, Commentary to Article 31, p202.

The UN Basic Principles and Guidelines describe five recognized forms of reparations: rehabilitation, restitution, compensation, satisfaction and guarantees of non-repetition. Rehabilitation, restitution and compensation are designed to affect the individual directly, whereas satisfaction and guarantees of non-repetition are less direct and contribute to the broader and longer-term restorative aims of reparations.

**Restitution** involves measures aimed at restoring the victim to the original situation before the crime occurred, including, as appropriate:

- restoration of liberty;
- enjoyment of human rights, identity, family life and citizenship;
- return to one's place of residence;
- restoration of employment and return of property.

This form of reparation provides for measures to be taken to address the status of women within the family or community as the result of the violation. It can also assist in ensuring that individuals can return to their homes and obtain access to the type of employment they had prior to the conflict.

**Compensation** involves monetary awards for economically assessable damage, such as:

- physical or mental harm;
- lost opportunities, including employment, education and social benefits;
- material damages and loss of earnings, including loss of earning potential;
- moral damage;
- costs required for legal or expert assistance, medicine and medical services and psychological and social services.

**Rehabilitation** includes medical and psychological care, as well as legal and social services. As identified in this report the rehabilitation needs of survivors of sexual violence in Sierra Leone are immense.

**Satisfaction**, which is referred to in the TRC report as symbolic reparations, includes measures such as:

- verification of the facts and full and public disclosure of the truth;
- the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and for assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;
- an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;
- public apology, including acknowledgement of the facts and acceptance of responsibility;
- judicial and administrative sanctions against persons liable for the violations;

- commemorations and tributes to the victims.

**Guarantees of non-repetition** go one step further than trying to re-establish the situation that would have existed had the crimes not been committed. This seeks to take measures to address the conditions that led to the crimes so they can never be committed again. Such measures include:

- reform of the army or the police;
- strengthening the independence of the judiciary;
- educating different sectors of society in human rights and international humanitarian law;
- promoting conflict resolution;
- reviewing and reforming laws which contribute to or allow crimes under international law.

There is no set formula for responding effectively to crimes of sexual violence, and programmes should be developed, which include a range of measures, taking into account primarily the views and needs of the survivors.

The Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation, adopted in March 2007 at a meeting of civil society and women's organizations, offers specific and comprehensive measures recognizing the gendered experiences of women and girls in conflict. Article 3 of the Declaration states<sup>21</sup>:

*That reparation must drive post-conflict transformation of socio-cultural injustices, and political and structural inequalities that shape the lives of women and girls; that reintegration and restitution by themselves are not sufficient goals of reparation, since the origins of violations of women's and girls' human rights predate the conflict situation..*<sup>22</sup>

The Declaration also makes clear in its recommendations that measures to include women must substantively address the impediments that they face:

*Governments should not undertake development instead of reparation. All post-conflict societies need both reconstruction and development, of which reparation programmes are an integral part. Victims, especially women and girls, face particular obstacles in seizing the opportunities provided by development, thus risking their continued exclusion.*

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<sup>21</sup> Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation [www.womensrightscoalition.org/site/reparation/signature\\_en.php](http://www.womensrightscoalition.org/site/reparation/signature_en.php) (Nairobi Declaration).

<sup>22</sup> Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation [www.womensrightscoalition.org/site/reparation/signature\\_en.php](http://www.womensrightscoalition.org/site/reparation/signature_en.php) (Nairobi Declaration).

## **V The government's implementation of justice and reparations to the survivors**

Despite the obligations of the government of Sierra Leone, little has been done to ensure justice and reparations for survivors of sexual violence. This issue has arisen in a range of contexts; however, as demonstrated below, on most occasions the rights of survivors have been ignored or not made a priority.

### **1. Delays in implementing the TRC's recommendations for a reparations programme**

The TRC process has provided the main context for developing a comprehensive reparations programme for victims of the conflict. The Commission worked to create a historical record of violations of international human rights and humanitarian law committed during the conflict, identifying the reasons for those abuses, and creating a framework of recommendations designed primarily to address the underlying causes of conflict and to help build a strong foundation for the future of Sierra Leone. A total of 11,991 victims participated in the TRC, including approximately 1,012 victims of sexual violence.

At the conclusion of its work, the TRC issued a detailed report of its findings and set out recommendations for a reparations programme that should be established by the government.<sup>23</sup> The Commission identified five broad categories of victims that should receive reparations, based on their degree of vulnerability. These were: war wounded; amputees; victims of sexual abuse; children; and war widows.<sup>24</sup> Women are therefore a key focus of the reparations programme based on their direct suffering and as the main caretakers of children. Through extensive consultation with victims and service providers, the TRC recommended that a reparations programme should focus on mental and physical healthcare, education, community and symbolic reparations.

Victims of sexual violence were defined as women and girls who had been subjected to such acts as rape, sexual slavery, mutilation of genital parts or breasts, and forced marriage. It is important to interpret the TRC's definition of this group broadly, noting that the list of crimes are not intended to be exhaustive. The TRC reports on widespread crimes of sexual abuse that would not amount to rape, sexual slavery, mutilation or forced marriage, which must be addressed by the

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<sup>23</sup> *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Vol II Chapter 4 Reparations pp 227-270.

<sup>24</sup> In the detailed descriptions of who qualifies, however, there is considerable room for interpretation, such as whether this would include all children or only children who are now orphaned. These more extensive definitions can be found in *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Vol 2 pp.248-250.

reparations programme.<sup>25</sup> Men and boys were also considered victims. In some circumstances children born as a result of rape, who have suffered harm, are also identified as victims and entitled to reparations.

The TRC recommendations relating to survivors of sexual violence rely on the accessibility and availability of healthcare to women. Free healthcare service was the main remedy recommended to address the various medical consequences of rape and sexual violence. Access to fistula surgery, the provision of free testing and treatment for HIV/AIDS and sexually transmitted infections (STIs), and free psychosocial and counselling support for all victims were also recommended. Trauma counselling was recommended in all medical facilities that currently treat women, including reproductive health centres and hospitals. It was also recommended that skills training and micro-credit opportunities be made available to victims of sexual violence to help them rebuild their lives.

The TRC recognized that the government is primarily responsible for providing reparations, and recommended that the National Commission on Social Action (NaCSA) be established as the main implementing body. The TRC recommended that contributions must come from the government budget. It suggested using revenue generated from mineral resources, and instituting a “debt relief for reparations” scheme. Other suggestions focused on a reparations or peace tax, seeking donor support and working with the Special Court for Sierra Leone to seize assets of those convicted. Demanding in-kind contributions from ex-combatants and other funding strategies were also suggested.<sup>26</sup>

As part of its report, the TRC recommended that the NaCSA establish a sub-unit within three months of the launch of its report and to start work on implementing the most urgent reparations within six months. However, despite continuing calls from civil society, three years on the implementation of the reparations programme has not begun.<sup>27</sup>

In June 2005, almost a year after they received the report, the government issued a White Paper on the recommendations set out in the TRC report. Many believe that, rather than producing a White Paper, the government should have started to implement the TRC recommendations, especially those identified as imperative. The White Paper concluded that the government:

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<sup>25</sup> See *The Final Report of the Truth & Reconciliation Commission of Sierra Leone*, Vol II Chapter 3B, paragraphs 312-317.

<sup>26</sup> For a more detailed explanation of suggestions made by the TRC types of funding to be provided for the Special Fund for War Victims see TRC report Vol. II Chapter 4 paragraphs 224-228.

<sup>27</sup> For example, at the March 2005 National Victim’s Commemoration Conference on Truth, Justice, and Reconciliation, organized by civil society with support from the Special Court for Sierra Leone, an action plan was developed. Based on the recommendations of the TRC report, this called on the government to set up the Special Fund for War Victims and to establish a follow-up committee for the TRC.

*Will use its best endeavours to ensure the full and timely implementation of various reparations programmes recommended by the Commission, subject to the means available to the State, taking into consideration the resources available to it and assistance received from the international community and the countries mentioned in the Report.*

Finally on 8 September 2006, a government directive approved the NaCSA as the implementing body of the reparations programme. It appointed a reparations task force, which included a representative from NaCSA as chair, a representative from the Vice President's office, a representative from the TRC, the Chief of the Human Rights and Rule of Law section of the United Nations Integrated Office in Sierra Leone (UNIOSIL), a civil society representative from the national organization, Forum for Conscience, and a victim representative from the Amputee Association of Sierra Leone.

Disappointingly, no women or women's organizations are currently represented on the task force, which raises concerns about the government's commitment to women's participation. The task force held regular meetings in the first months of 2007. During this time, the task force obtained the expert advice of non-governmental organizations, including REDRESS.<sup>28</sup> In January 2007, REDRESS issued a Preliminary Options Paper to the task force, setting out recommendations for the structure and operation of the reparations programme.<sup>29</sup>

In May 2007 the task force submitted a proposal to the government laying out what the reparations programme would consist of, and the steps necessary to make it operational. Although the government had agreed in principle to the recommendations contained in the report, to date, this report has not been made public.

## **2. Delays in establishing the Special Fund for War Victims**

Article XXIX of the Lomé Peace Agreement provided for the establishment of a Special Fund for War Victims.<sup>30</sup> It states:

*The Government, with the support of the International Community, shall design and implement a programme for the rehabilitation of war victims. For this purpose, a special fund shall be set up.*

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<sup>28</sup> REDRESS is an international organization based in the United Kingdom with a mandate to seek justice and reparations for victims of torture and related crimes, and their communities [www.redress.org](http://www.redress.org)

<sup>29</sup> REDRESS, *Implementation of the Sierra Leone Truth and Reconciliation Commission (TRC) Recommendations on Reparations, Preliminary Options Report*, 30 January 2007, available at: [www.redress.org/publications/Draft%20Options%20Report%2030%20Jan%202007.pdf](http://www.redress.org/publications/Draft%20Options%20Report%2030%20Jan%202007.pdf)

<sup>30</sup> Peace Agreement Between The Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, signed in Lomé, Togo on 7 July 1999.

In its 2004 report, the TRC recognized the importance of establishing the Special Fund for War Victims, and recommended that it be set up three months after completion of the report.

Eight years later, despite the government's obligation to carry this out and repeated requests from civil society, the fund has not been established. The delay has undoubtedly resulted in further suffering, since it has denied survivors of sexual violence access to physical and psychological rehabilitation, which they need as soon as possible after the crimes have taken place. Delays in providing rehabilitation have no doubt extended suffering of survivors and compounded their physical and psychological problems.

### **3. Failure to acknowledge the suffering of victims**

Reparations are an important instrument in achieving the restoration of civic trust. Acknowledgement by the government in the form of a public apology that recognizes victims' suffering is an important part of the healing process. Disturbingly, however, the government of Sierra Leone has, to date, failed to implement the TRC's recommendation that the president apologize to women and acknowledge their suffering during the conflict. During the March 2006 Women's Day celebrations, women's organizations made an official request to the president to fulfil this obligation. Yet in the long speech that followed, the president failed to make this acknowledgment, thus missing a significant opportunity to bring some relief to the many survivors of rape and sexual violence.

During an Amnesty International visit in March 2007 and a workshop in June 2007, members of civil society and women's organizations repeatedly expressed their disappointment and bafflement at the president's failure to acknowledge the suffering of women, since this would cost nothing financially. During the June workshop, John Caulker of Forum of Conscience, who is acting as the civil society member of the task force, stated that the 2007 government report to CEDAW wrongly claimed that the president had apologized to the women of Sierra Leone for their treatment during the war.

### **4. Denial of justice**

Justice is a fundamental element of the reparations process. Bringing to justice those who have perpetrated crimes, and publicly recognizing the illegality of their actions is a significant way of acknowledging the damage that has been done to their victims. As this report shows, in Sierra Leone, it is survivors of sexual violence who are stigmatized rather than the perpetrators of the crimes that have been committed against them. Criminal prosecutions challenge the social assumptions that underlie that stigmatization.

The justice process is also an important complement to other forms of reparations. A properly functioning justice system should enable survivors to describe what has happened to

them in an environment where their dignity is protected. In common law countries such as Sierra Leone, criminal convictions can form the basis of claims before national civil courts for other forms of reparations. Prosecuting the crimes is also an important means of deterring people from repeating them. The Nairobi Declaration also states that ending impunity through legal proceedings for crimes against women and girls is a crucial component of reparation policies and a requirement under international law.

There has been little justice for survivors of war-related sexual violence in Sierra Leone. On 20 June 2007 the Special Court for Sierra Leone found three senior members of the AFRC guilty of 11 out of 14 counts of war crimes and crimes against humanity. These included rape and outrages on personal dignity including sexual slavery. Remarkably, this was the first instance of anyone in Sierra Leone being held to account for war-related crimes. While this is a significant step forward in the fight against impunity, it is only a small and partial response to addressing impunity for these crimes, since thousands of others have escaped justice.

In part, this is due to the amnesty clause in the Lomé Accord of 7 July 1999 which bars the prosecution of anyone who committed crimes against humanity, war crimes and other crimes under international law between 1991-1999. In addition to precluding criminal prosecution, the Lomé amnesty also precludes victims of crimes from seeking reparations against perpetrators before Sierra Leone's national courts. It is also impossible to prosecute crimes committed between 1999 and 2002 when the hostilities finally came to an end since Sierra Leone has not yet defined crimes against humanity, war crimes and torture as crimes under national law. Further, to date no one has been brought to justice for rape and murder committed during the conflict even though these are crimes which are covered by Sierra Leone's penal code. As a result, thousands of victims have been left without access to any form of justice in the national courts.<sup>31</sup>

Amnesty International continues to call on the government of Sierra Leone to revoke its amnesty law and to prioritize rebuilding the national justice system in order to implement a comprehensive strategy to investigate all crimes committed in the conflict and to prosecute those suspected of committing the crimes. Amnesty International also feels that efforts should be made to implement the Rome Statute of the International Criminal Court in order to incorporate it into Sierra Leone's legal and judicial system.<sup>32</sup>

## **5. Failure to ensure the participation of women and girls in DDR**

Studies carried out on Disarmament, Demobilization and Reintegration (DDR) programmes concluded that there was a great disparity between the number of women and girls who are believed to have participated in the fighting forces and those who entered the DDR

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<sup>31</sup> The Special Court ruled that the amnesty did not apply to the cases it was prosecuting. However, the decision has not, so far, led to prosecutions in the national courts.

<sup>32</sup> For more information on Amnesty International's position on this issue, see: Special Court for Sierra Leone: Denial of right to appeal and prohibition of amnesties for crimes under international law (AI Index: AFR 51/012/2003).

programmes.<sup>33</sup> For instance it is estimated that, of a total of 8,216 child soldiers, approximately 2,056 were girls. However, of the 6,558 child soldiers that actually went through DDR only 506 were girls. In addition, girls and boys received the same or similar benefits from the process, which indicates that little effort was made to understand how the post-conflict needs of girls differed from those of boys.

In 2004, in response to this low participation of girls, UNICEF created a project called Girls Left Behind. Some 1,000 girls from Kono and Bombali districts benefited from the project, which provided them with skills, access to healthcare, psychosocial counselling, day-care for their children and, upon graduation, some capital to start a business. There was also a reintegration component in which social workers worked at the community level to help the girls reintegrate.

## **6. Failure to implement the overall TRC recommendations including social, economic and legal reforms**

The final report of the Truth and Reconciliation Commission (TRC) was presented to the president in October 2004. The Sierra Leone government is required by the TRC Act 2000 to implement its recommendations in a “faithful” and “timely” manner. Yet more than three years after receiving the report, the government has shown little sign of commitment to its legal obligations.

The recommendations have not been implemented comprehensively despite the enactment of some reforms recommended by the TRC report, such as the Domestic Violence Bill, the Intestate Succession Bill, and the Registration of Customary Marriage and Divorce Bill. A critically important recommendation, which needs to be implemented immediately, is to designate the National Human Rights Commission, constituted in 2006, as the institution responsible for ensuring that the government implements all of the TRC recommendations. This step is necessary for continued pressure on the government to ensure that they implement all the recommendations.

## **7. Failure to establish systems that enable survivors of crimes prosecuted by the Special Court to claim compensation against the accused**

Amnesty International expressed disappointment that the 2000 Statute of the Special Court, negotiated between the government and the United Nations, did not follow the example set by the Rome Statute of the International Criminal Court and adopt progressive provisions on reparations. The Rome Statute provides for a range of reparations to victims of crimes that it prosecutes, and calls for the establishment of a trust fund to ensure that resources are available if the convicted person lacks the means to provide reparations.

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<sup>33</sup> For further analysis on this, see Susan McKay and Dyan Mazurana, *Where are the Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone and Mozambique: Their lives during and after war*, Rights & Democracy, 2004.

Instead, the Statute of the Special Court adopted a significantly more restricted approach, providing that the Special Court may only order the forfeiture of property taken from victims by a convicted person and its return to the rightful owner.<sup>34</sup> Provision is made for victims to claim compensation against a person convicted by the Special Court; however, victims cannot apply to the Special Court for compensation. Instead they must apply through national courts, raising concern that the weak national justice system will be unable to deal promptly and effectively with such cases.<sup>35</sup> The lack of genuine access to formal legal processes for rural women in Sierra Leone also raises concerns.

Despite calls by Amnesty International, the government has so far failed to review the national justice system to ensure that procedures are put in place to enable victims of crimes prosecuted by the Special Court to seek compensation before national courts without delay. In particular, it is unclear whether a fast-track system will be established so that victims can claim compensation without delay or whether they will be provided with legal aid to seek compensation.

## **VI Recognizing the efforts of other actors to ensure reparations to survivors**

Although this report focuses primarily on the lack of action by the government to ensure reparations for survivors of sexual violence, it is important to recognize that other actors have taken initiatives to address the suffering of survivors.

### **1. Advocacy efforts by civil society to put reparations on the agenda**

In March 2005 a national commemoration conference was organized by civil society organizations with support from the Special Court for Sierra Leone. In June 2006 a civil society-initiated meeting was held in Freetown to call on the Sierra Leone government to put reparations on its agenda. In March 2007, civil society organizations held conferences throughout Sierra Leone to communicate civil society's concerns about the status of the reparations process to the government.

Civil society organizations and the reparations task force also participated in an Amnesty International-organized workshop in Freetown on 26 June 2007, the UN's International Day in Support of Victims of Torture. This was followed up by a declaration signed by the Sierra Leone

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<sup>34</sup> Rules of Procedure and Evidence of the Special Court for Sierra Leone, Rule 104: Forfeiture and Property.

<sup>35</sup> Section 45 of the Special Court Ratification Act 2002 states: *Any person who has been a victim of a crime within the jurisdiction of the Special Court, or persons claiming through him, may claim compensation in accordance with the Criminal Procedure Act, 1965 if the Special Court has found a person guilty of that crime.*

Court Monitoring Programme (SLCMP), the Sierra Leone Association of Non Governmental Organizations (SLANGO), and Amnesty International. This relayed concerns about the reparations process, and focused on ensuring that women's participation was central to the process.

## **2. Women's organizations**

Despite the lack of an overall coordinated response to address the needs of girls in post-conflict Sierra Leone, currently several programmes target women and girls who were victims of rape and sexual violence. Among the initiatives that Amnesty International came into contact with, were Help a Needy Child, Christian Children's Fund, Women in Crisis, Action of Children in Armed Conflict and Caritas. Essentially their services target vulnerable single girls and young women up to the age of 25 who have children. These programmes provide skills training, healthcare, childcare, psychosocial counselling and, upon graduation, some capital so they could make practical use of what they had learned. Staff members of all these organizations recognized that their programmes were catering for only a fraction of the psychosocial, physical and economic needs of the women and girls.

The efforts of the Women's Forum in Sierra Leone involved in advocating for the government and other members of civil society to sign on to the Nairobi Declaration should be fully supported, and other women's organizations should also become more actively involved.

## **3. International donors**

There are possibilities of funding from the UN Peace Building Commission<sup>36</sup> out of the US\$35 million being made available for Sierra Leone by the UN Peace Building Fund.<sup>37</sup> According to the members of the reparations task force, they are seeking a total of approximately US\$3 million for reparations, this includes approximately US\$1 million to set up the reparations unit within NaCSA and to begin the process of identifying the victims, and US\$2 million to be set aside for the Special Fund for War Victims. However the provision of these funds is contingent on the Sierra Leone government's own commitment to the process.

In discussions with Amnesty International, members of the reparations task force repeatedly emphasized the additional need for donors to support the Special Fund for War Victims, and said that the launch of this fund would be critical for the success of the programme.

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<sup>36</sup> The United Nations Peacebuilding Commission was launched on 11 October 2006 with both Sierra Leone and Burundi as pilot countries. It will marshal resources at the disposal of the international community to advise and propose integrated strategies for post-conflict recovery, focusing attention on reconstruction, institution building and sustainable development, in countries emerging from conflict.

<sup>37</sup> The Peace Building Fund will support interventions that directly contribute to the stabilization of the country (implementing peace agreements, promoting peaceful resolution of conflicts, preventing recurrence of conflicts, among others) and for which other funding is not available. These interventions would aim to "catalyze" longer-term support from other donors.

They also argued that it was largely the responsibility of the government of Sierra Leone to set this in motion. However, in follow-up discussions with international donors, only the European Union office was aware of the progress being made to establish the Special Fund for War Victims and of the fact that voluntary contributions by donors would be essential to the reparations programme.

Every effort should be made to prevent the confusion of reparations with funds provided by the international community for development projects. All money allocated for reparations should be clearly identified as such and kept separate from funding for other projects.

#### **4. Special Court for Sierra Leone**

The Special Court has made some important additional contributions to obtaining reparations for victims of sexual violence. Although it is only prosecuting some nine cases, the Office of the Prosecutor has sought to address crimes of sexual violence in each case.<sup>38</sup> It is hoped that this will raise awareness of the extent of crimes of sexual violence during the conflict and their impact throughout Sierra Leone, sending a powerful message that perpetrators must be held accountable for these crimes in order to prevent crimes of this nature in the future. The Special Court has also recognized the suffering of victims, including survivors of sexual violence, and has held a number of commemoration events, offering them a degree of satisfaction.

Amnesty International recommends that through its outreach and advocacy, the Special Court raises awareness throughout Sierra Leone about the current reparations programme, as well as urges the government to fast-track the establishment of the Special Fund for War Victims. Greater awareness of the status of the reparations process is critical in order to persuade the government to act on this issue.

#### **5. The Truth and Reconciliation Commission**

Truth is, in itself, a form of reparation, which can start to restore the dignity of victims by providing acknowledgement of their suffering and establishing the facts about crimes committed against them. The TRC has played a very important role in this. Although many survivors of sexual violence were unable to take part in the TRC process, some survivors told their stories to the Commission while it was collecting evidence. As part of the information-gathering process, the TRC also conducted public hearings on violence against women and children, which gave some survivors an opportunity to talk about what had happened to them and for others to hear the experience of others. In its final report, the Commission devotes a full chapter to the impact of the conflict on women and sets out the extent of crimes of sexual violence against women and girls. This chapter establishes an important record of the facts and acknowledges the suffering of survivors.

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<sup>38</sup> In the Civil Defence Forces (CDF) case, however, the Special Court decided that the prosecutor could not amend the indictment to include crimes of sexual violence.

Although the TRC, like the Special Court for Sierra Leone, has not provided any form of compensation, it recognized that: “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.”<sup>39</sup> This sentiment was expressed by most of the women Amnesty International spoke to, who had participated in the TRC proceedings. Adama of Makeni told Amnesty International:

*“Well they did tell us that we would not benefit directly from participating but some help would come later. It has been such a long time since, almost three years, and we haven’t seen anything. We are truly discouraged now because the hope that was created then is now gone.”*

## **6. Disarmament, Demobilization and Reintegration (DDR)**

The Disarmament, Demobilization and Reintegration programme has made an important contribution towards ensuring the end of the conflict and to the rehabilitation of combatants (in particular child soldiers) and thus helps guarantee the non-repetition of violence. In the case of children, effective DDR programmes can also provide services such as schooling, skill training and access to both medical and psychosocial healthcare. Although considered a successful DDR, as mentioned earlier this process in Sierra Leone largely failed to recognize the experience of women and girls.

## **VII Conclusion**

Given all the challenges that women face in Sierra Leone, and the inadequacies of the reparations programme so far, Amnesty International has specific concerns about the government’s commitment to providing meaningful reparations to the victims of sexual violence. It will clearly be important for civil society to ensure that the government remains committed to the reparations process, the success of which will depend on adequate funding, gender sensitivity, transparency, accountability, inclusion, and participation of victims.

Therefore Amnesty International believes that unless major efforts are made both to ensure the participation of those women’s organizations that are working or have worked with survivors of sexual violence and to involve these women themselves, it is unlikely that those most in need of reparations will have access to them. Involvement, inclusion and accountability are crucial, otherwise the reparations programme itself could be at risk of denying survivors of sexual violence their right to reparation.

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<sup>39</sup> *Final Report of the Truth & Reconciliation Commission of Sierra Leone* Vol. II Chapter 4 paragraph 41.

There is a long road ahead for women victims of sexual violence in Sierra Leone. A meaningful reparations programme, which genuinely involves the survivors of these crimes, can provide a stepping-stone to help restore their dignity ultimately to take an active role in moving on from their terrible experiences. Amnesty International believes that reparations should be aimed at helping women to rebuild their lives, assisting women in recovering from the trauma of sexual violence, and developing understanding and addressing the impact of rape in communities in order to de-stigmatize survivors and combat discrimination against women in society. It should seek to transform socio-cultural injustices and structural inequalities that predate the war. This will require a significant commitment from all stakeholders.

## **VIII Recommendations**

### **1. To the government**

More than six years after the end of the conflict, it is vital that there are no further delays and that significant progress is now made to ensure justice and reparations for survivors of sexual violence. Amnesty International calls on the new government to show a strong commitment to ensuring justice and reparations to the many victims, in consultation and, where possible, with the support and assistance of civil society, international donors and agencies. Amnesty International calls on the government to take the following steps.

#### ***1. Publicly acknowledge the suffering of women and girls in Sierra Leone***

The president of Sierra Leone should implement the recommendation to acknowledge and apologise for the suffering of women, especially victims of sexual abuse, during the war.

Demonstrate its commitment to “getting the reparations programme right” in Sierra Leone, the government and parliament should sign up to the Nairobi Declaration on the right of women and girls to remedy and reparation.

It should declare publicly a commitment to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

#### ***2. Ensure reparations for survivors of sexual violence***

##### **• Establish the Special Fund for War Victims**

Resources are vital to ensure the success of a reparations programme. The establishment of the Special Fund for War Victims will be an essential tool to raise funds nationally and internationally. It should be established without further delay.

**• Make a significant financial commitment to reparations**

As set out in this paper and in the TRC report, the government is responsible for providing reparations to victims. Although multilateral, bilateral and non-governmental resources should be sought towards the implementation of a reparations programme, the government should also demonstrate its commitment to fulfilling its obligation to provide reparations by making a significant contribution to the Special Fund and providing all necessary resources to ensure the implementation of the reparations programme.

**• Implement the reparations programme recommended by the TRC without delay**

Amnesty International strongly believes that the reparations programme proposed by the TRC should be a main priority for the government. Amnesty International urges the government to establish the infrastructure for implementing the TRC's reparations programme as soon as possible, and to adopt the recommendations made by REDRESS on the structure and work of the implementing body. Every effort should be made to start providing reparations to victims of sexual violence within the next few months. Specific forms of reparation, such as a public apology by the government, could be implemented much sooner.

**• Ensure transparency, consultation and gender expertise in the implementation of the reparations programme**

It is vital that any reparations programme is prepared openly, with the participation of women's organizations and in consultation with victims. The government should therefore ensure that the process of creating such a programme is transparent.

As a first step, the government should acknowledge the oversight of not including any women or women's organizations to the task force established in 2006 to assist NaCSA. The government should ensure that future mechanisms include women, with expertise in gender-based violence.

Secondly, it should make public the proposal submitted by the task force in May 2007 and open the document for consultation. The government should actively seek to engage with victims. It is important that there is consultation with survivors of sexual violence, which should include women's organizations that support them.

It is important that experts in gender-based violence are appointed as NaCSA staff to implement the day-to-day work of the reparations programme. Transparent, gender sensitive and consultative processes will be necessary at all stages of the programme, both in the identification process and in the provision of reparations.

At the operational phase, as suggested by task force members at a workshop on 26 June 2007, a separate Sexual Violence Unit should be established alongside units on health, pensions and other forms of provision. The role of the unit would be to implement the strategy developed by the special research officer, including identifying victims and ensuring confidentiality and victim protection. Although sexual violence victims would need to be included in the mainstream of other operational sections, such a unit would ensure that special provision is assured for the

particular needs of such victims. There must also be regional/district implementation officers, specifically employed and trained to deal with victims of sexual violence, to ensure that the policy on confidentiality developed at higher levels is manifest in all actions on the ground.

NaCSA should report publicly and regularly on its work. It should also consult civil society, in particular women's organizations, on the development and implementation of its programmes.

The nature of sexual violence and the stigma associated with it make it important to establish safe and effective systems to identify survivors who are entitled to reparations. Such strategies should be prepared and implemented in association with civil society organizations and individual researchers who have already worked with victims of sexual violence in Sierra Leone.

Consideration should be given to the inclusion of community leaders, traditional healers, chiefs, secret society leaders and school authorities in educating communities about their own responsibilities in the holistic concept of reparations and in reducing the stigma that surrounds victims of sexual violence.

### **3. Implement the TRC's, legal, social and economic reform in order to eradicate discrimination against women**

One issue which is not addressed by the reparations chapter of the TRC report, but which is covered in the general recommendations chapter, is the need for legal, social and economic reform to address discrimination against women in Sierra Leone. This issue has also been partly addressed by Amnesty International in its 2005 papers: *No One to Turn To: Women's lack of access to justice in rural Sierra Leone* (AI Index: AFR 51/011/2005) and *Women Face Human Rights Abuses in the Informal Legal Sector* (AI Index: AFR 51/002/2006). Reparations cannot achieve their stated aims, unless the underlying causes of the discrimination which compound the crimes of sexual violence against women are also addressed. Amnesty International is concerned by the government's reluctance to address the violence women face in Sierra Leone today. Amnesty International welcomes the passing of women's rights bills. The challenge now will be to ensure that rural women and girls are educated about their rights and that those rights are enforced. While these legislative changes are a positive step, greater efforts must be made to prosecute perpetrators of war-related rape and current rape, as a deterrent to future crimes.

Powerful traditions and cultural attitudes remain strong reasons for women's low status and the discrimination they continue to face in their homes and communities and Amnesty International will continue to demand that the government take more action to challenge them. Amnesty International therefore urges the government to ensure that implementing the TRC's recommendations for legal, social and economic reform should also be included alongside the reparations programme.

### **4. Ensure justice**

- **Develop a comprehensive strategy to address impunity**

In light of the seriously weak state of the national judicial system, the government, with the support of external donors and experts, should seek to develop a comprehensive strategy, including special mechanisms, to investigate and prosecute the crimes committed during the course of the conflict. Such a process should ensure that girls and boys associated with the fighting forces are dealt with in a manner which fully respects international law and standards concerning juvenile justice, taking into account mitigating factors such as abduction and duress, and ensuring reparations, as part of a broader programme of their rehabilitation and reintegration. The development of the criminal justice system to address crimes committed during the armed conflict should provide for survivors to seek reparations directly against a convicted person. Such a system of seeking reparations against the individual perpetrator does not replace the responsibility of the government to provide reparations.

- **Revoke the Lomé amnesty**

As set out in this report, the Lomé amnesty is a barrier to justice for crimes of sexual violence. Under international law, the government has an obligation to investigate and prosecute these crimes. To date, with the exception of the cases before the Special Court, it has failed to do so. The government should revoke the Lomé amnesty without delay.

- **Ensure that victims of crimes prosecuted by the Special Court can apply to national courts for compensation without delay**

It is essential that the provisions of the Special Court Ratification Act and the Rules of Procedure and Evidence are fulfilled to ensure that victims can seek compensation before national courts against persons convicted of crimes by the Special Court. A review of the national law and justice system will need to be conducted to ensure that national courts are able to perform this important function. In particular, procedures need to be established so that the Special Court can transfer assets seized from convicted persons to the national judicial system to fund compensation awards. Victims will need legal aid to pursue their claims. This is particularly important for victims of sexual violence, who should not be expected to present their own claims without legal representation. Effective safeguards will need to be established to protect victims claiming reparations. A review of the capacity of the national justice system to consider claims will need to be conducted and measures taken to ensure that they deal with such claims without delay. A fast-track system may need to be considered.

- **Reform national law to implement the Rome Statute of the International Criminal Court**

To ensure that national courts can investigate and prosecute crimes under international law, Sierra Leone should proceed with incorporating the Rome Statute into national legislation.

## **2. To non-government actors**

As recognized throughout this report, although the government is responsible for providing reparations, this will require the support of a range of non-government actors.

### **1. To civil society organizations and victims' groups**

- ensure that progress made on 26 June 2007, UN International Day in Support of Victims of Torture, is followed up by further advocacy and the organization of victims' groups and civil society organizations in creating a concrete action plan to engage and be involved in the reparations programme as it progresses;
- continue to lobby the government to fast-track the implementation of the Special Fund for War Victims;
- be meaningfully involved in the process of identifying qualified candidates for key decision-making and advisory bodies to implement the reparations programme and to help promote applications for highly qualified candidates for NaCSA staff;
- be involved in the implementation of the reparations programme to ensure that all intended beneficiaries do benefit from reparations, including children and victims of sexual abuse;
- continue to lobby for the implementation of the overall TRC recommendations ensuring their implementation is a top priority for the new parliament and government.

### **2. To the Special Court for Sierra Leone**

- ensure that steps are taken to identify property taken from victims, so that it can be returned according to Rule 104 of the Rules of Procedure and Evidence;
- work with the government to ensure that effective systems are established so that victims of crimes convicted by the Special Court can claim compensation before national courts;
- continue initiatives to commemorate victims and recognize their suffering;
- expand the gender justice work within its outreach programme to make sure that the recent AFRC judgements and other cases are publicized widely, in order to acknowledge the extent of crimes of sexual violence;
- incorporate into its outreach and advocacy work information about the reparations programme and call on the government to urgently establish the Special Fund for War Victims;
- promote the rebuilding of the national justice system so that it can investigate and prosecute the thousands of cases that the Special Court has been unable to prosecute.

### **3. To the UN Peace Building Fund**

- ensure funding is allocated to the reparations process is provided in a timely manner;
- ensure that the funds allocated to the reparations programme reach the victims, by guaranteeing that the majority of the funds are used as initial funding for the Special Fund for War Victims;

- ensure that the funds provided for reparations are used to provide reparations and do not become merged with development funds.

#### **4. To the international donor community**

- continue to put pressure on the government to make a commitment to justice, and implement a comprehensive reparations programme including establishing the Special Fund for War Victims as a matter of urgency and ensuring there is sufficient funding provided for in the process.