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## **Glossary**

AFL	Armed Forces of Liberia
ATU	Charles Taylor's Anti Terrorist Unit
AU	African Union
CCC	Concerned Christian Community
CPA	Comprehensive Peace Agreement
DDR	Disarmament, Demobilization and Reintegration
DDDR	Disarmament, Demobilization, Rehabilitation and Reintegration
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
FEWCCIL	Forum for the Establishment of a War Crimes Court in Liberia
HRPS	Human Rights and Protection Section of UNMIL
ICTJ	International Center for Transitional Justice
IDP	Internally Displaced Person
INCHR	Independent National Commission for Human Rights
INPFL	Independent National Patriotic Front of Liberia
IRC	International Rescue Committee
LDF	Lofa Defence Force
LJSSD	Legal and Judicial Support Division
LPC	Liberian Peace Council
LURD	Liberians United for Reconciliation and Democracy
MODEL	Movement for Democracy in Liberia
NPFL	National Patriotic Front of Liberia
NTGL	National Transitional Government of Liberia
OAU	Organization of African Unity
OHCHR	Office of the UN Commissioner for Human Rights
OSJI	Open Society Justice Initiative
RUF	Revolutionary United Front
TRC	Truth and Reconciliation Commission
ULIMO	United Liberation Movement for Democracy in Liberia
UN	United Nations
UNMIL	The United Nations Integrated Mission in Liberia

UNOL      United Nations Office in Liberia  
UNOMIL    United Nations Observer Mission in Liberia



# Liberia

## Liberia: Truth, Justice, Reparation for Liberia's victims

### Introduction

Ellen Johnson-Sirleaf, the new president of Liberia, took a strong stand against impunity when she asked Nigeria to send back former President Charles Taylor on 25 March 2006. Charles Taylor's subsequent transfer to the Special Court for Sierra Leone is an important step forward in the fight against impunity in Africa. Amnesty International believes that Charles Taylor's transfer should set the stage for Liberia to tackle its own problem of impunity and to ensure that the thousands of persons who have committed crimes under international law during Liberia's 14-year conflict be brought to justice. As Liberia's recent history suggests, the failure to address violations of international human rights and international humanitarian law in the past has helped perpetuate civil conflict and further abuse.

Liberia ratified the Rome Statute of the International Criminal Court (Rome Statute) on 24 September 2004<sup>1</sup> but to date, the Government has not taken steps to implement obligations under that treaty into national law.<sup>2</sup> The significance of prosecuting those suspected of war crimes and crimes against humanity is widely recognized in Liberia by both civil society and members of the government. Furthermore, the UN Secretary-General's 2004 report on the rule of law and transitional justice in conflict and post-

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<sup>1</sup> The full text of the Rome Statute of the International Criminal Court, ratified by 103 countries, is available at: <http://www.un.org/law/icc/statute/romefra.htm>. The Rome Statute gives jurisdiction to the International Criminal Court (ICC) to investigate and prosecute genocide, war crimes and crimes against humanity which took place after the Rome Statute's entry into force on 1 July 2002. Under the principle of 'complementarity' referred to in the Preamble and in Article 1 of the Rome Statute and reflected in the provisions on admissibility in Article 17, a case is inadmissible to the ICC where it is being investigated or prosecuted by a state with jurisdiction over it, unless the state is unwilling or unable genuinely to carry out the investigation or prosecution. States parties therefore have the primary responsibility to bring to justice those suspected of having perpetrated genocide, war crimes and crimes against humanity. States parties should therefore enact comprehensive implementing legislation which makes genocide, war crimes and crimes against humanity crimes in national law, and enables their effective investigation and prosecution. Liberia's legal system lacks provisions on victim and witness protection and on reparations that reflect the principles of similar provisions contained in the Rome Statute.

<sup>2</sup> Liberia ratified the International Covenant on Civil and Political Rights (ICCPR) on 22 September 2004. By ratifying the ICCPR, Liberia has undertaken under Article 2(3)(a) and (b) to ensure an effective remedy, determined by a competent authority, to any persons whose ICCPR rights are violated.

conflict societies<sup>3</sup> recognized this obligation. It recommended that governments, in consultation with their civil societies, develop an overall strategic action plan to address past human rights violations. These recommendations have been reinforced in the second rule of law report issued in 2006<sup>4</sup>.

Even though the Truth and Reconciliation Commission (TRC), established by the Comprehensive Peace Agreement (CPA)<sup>5</sup>, started work in June 2006, there are significant gaps in the Liberian government's overall strategy to redress past violations of international human rights and international humanitarian law. Liberia's decimated national judicial system is a major obstacle. It suffers from a severe lack of sufficiently qualified personnel, low level of professionalism, resources and salaries for judges, prosecutors, and lawyers, and lack of jurisprudence. Few people in Liberia have access to or confidence in the justice system.

Prisons and police detention facilities are overcrowded, and most of the inmates are detained without charge or trial, in violation of international law. Without legal aid services in place, few detainees and defendants have access to lawyers to represent them, as they can not afford to pay the high fees required.

To date there is no consensus on the numbers of suspected perpetrators of war crimes and crimes against humanity, who or how investigations for individual prosecution will be carried out, no victim and witness protection unit has been established, nor has it been determined which judicial mechanism will prosecute any of the alleged perpetrators. It is also unclear if, when, and what type of reparations may be granted to victims.

Amnesty International appreciates both the political and practical challenges of addressing impunity in Liberia. On the political front, at least four Members of Parliament (MPs) have had sanctions imposed against them by the UN Security Council<sup>6</sup> because of their ongoing ties with former President Charles Taylor, and some MPs are alleged to have perpetrated human rights violations themselves. Passing appropriate legislation in Congress to bring all perpetrators to justice in Liberia will be a major challenge.

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<sup>3</sup> *The rule of law and transitional justice in conflict and post conflict societies*, report of the UN Secretary-General, UN Doc S/2004/616, 23 August 2004

<sup>4</sup> *Uniting our strengths: Enhancing United Nations support for the rule of law*, report of the Secretary-General, UN Doc S/2006/980, 16 December 2006.

<sup>5</sup> Comprehensive Peace Agreement Between the Government of Liberia, the Liberians United for Reconciliation and Democracy (LURD), the Movement for Democracy in Liberia (MODEL) and Political parties was signed in Accra, Ghana, on 18 August 2003. The text of the CPA can be found at [http://www.usip.org/library/pa/liberia/liberia\\_08182003\\_cpa.html](http://www.usip.org/library/pa/liberia/liberia_08182003_cpa.html)

<sup>6</sup> UN SC Resolution 1521 (2003), paras 2 and 4(a).

Amnesty International recognizes the commitment made so far by the Liberian Government, the UN and donors, which is laid out in a recently endorsed confidential UN/Government Joint Rule of Law strategy paper and a copy of which has been obtained by Amnesty International.<sup>7</sup> Wide-ranging reforms are proposed for the judicial sector, including constituting a Law Reform Commission to ensure that civil and criminal law meets international law and standards.

However this strategy does not lay out a comprehensive approach to redressing past human rights violations. In addition it is a matter of concern that the report remains confidential and was not drafted in a transparent manner in close consultation with civil society contrary to one of the key recommendations made in the UN Secretary General rule of law report.

The CPA has made provisions for police and army reforms, and the disarmament, demobilization, rehabilitation and reintegration (DDRR) of all soldiers. The rationale for these measures are considered a form of reparation as they aim to ensure that victims will not be subjected to future crimes<sup>8</sup>. Reforms aim to bring civilian control to security forces and the police. Likewise the rationale behind DDRR programs are to disarm, rehabilitate, and reintegrate former combatants so that they are no longer a threat to society. These reparation initiatives however are limited in that they target those formally active in the conflict but do not provide any direct benefit for Liberia's many victims.

Donors and international organizations have provided funds for commemorations and memorial services. So far, however, the Government has not made any formal reparation plans. International law and standards are clear that it is the state's duty to ensure that victims receive reparations. Existing donations from international organizations and the international community cannot replace the government of Liberia's primary obligation to ensure the right of victims to a remedy and reparations.

In May-June 2006 discussions took place between Amnesty International researchers and a wide range of actors in Liberia: suspected perpetrators, such as ex-commanders

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<sup>7</sup> The UN/Government Rule of Law Strategy paper has not yet been made public, though it has been publicly endorsed by the Government.

<sup>8</sup> One of the principles of reparation is the *Guarantees of non-repetition* which involve measures aimed at ensuring that victims are not subject to other crimes. The measures include: ensuring effective civilian control of military and security forces; ensuring that all civilian and military proceedings abide by international standards of due process,.... found in the Basic Principles on the right to a remedy and reparation, principles 19 to 23.

of armed opposition groups, and those loyal to former President Charles Taylor's government; victims of rape and sexual violence; children under 15 conscripted or enlisted into fighting forces; survivors of massacres; torture victims; internally displaced persons and members of civil society. They all revealed their expectations that the Government should take steps to redress past violations. While many thought the TRC was an important beginning point largely they expressed the importance of prosecuting the suspected perpetrators of war crimes and crimes against humanity. Both the UN Secretary General's 2004 and 2006 report on the rule of law and transitional justice in conflict and post-conflict societies recognized this obligation.

Amnesty International believes the most important step now is for the government to develop, in a transparent manner and in close consultation with civil society, a long-term comprehensive plan to ensure that those suspected of involvement in crimes under international law are brought to justice in trials that meet international fair trial standards, that the truth about the crimes is established and victims and their families receive full reparations.<sup>9 10</sup>

The present report *Liberia: Time for Truth, Justice, and Reparation for Liberia's Victims* is divided into four parts:

**Part I** provides an historical overview of Liberia's first conflict, which lasted from 1989-1996, leading to a re-emergence of conflict and human rights violations in 1999.

**Part II** highlights the crimes under international law which were carried out during the 14 year conflict and sets out the Liberian Government's international legal obligations to redress past violations of international human rights and international humanitarian law.

**Part III** uses the framework of truth, justice, and reparation found in international law to highlight the steps taken so far to fulfil these obligations. It highlights the current gaps and highlights the steps needed to ensure that more is done to redress past violations and abuses and provide reparation.

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<sup>9</sup> UN Commission on Human Rights, 60th session, *Promotion and Protection of Human Rights Impunity* Note by the Secretary General E/CN.4/2004/127.

<sup>10</sup> The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines) reiterate that international law requires states to ensure that their domestic law is consistent with their international legal obligations. States must incorporate international norms into national law; provide fair, effective and prompt access to justice; and make available adequate, effective, prompt and appropriate remedies, including reparations.



In **Part IV** Amnesty International urges the Government of Liberia, in consultation with civil society and with support from the UN and the wider international community, to devise and implement in a transparent manner, a long-term comprehensive action plan for investigation, prosecution, redress and reparations.

The long-term strategic action plan should be initiated by the government, in close consultation with civil society, and should take the following key steps:

- Continue to provide sustained logistical and financial support to the TRC;
- Implement the substantive provisions of the Rome Statute of the ICC, Commission Against Torture (CAT) and International Coalition for the Protection of All Persons from Enforced Disappearances in domestic law, criminalizing genocide, war crimes and crimes against humanity, and enabling their investigation and prosecution by Liberian authorities;
- Investigate crimes under international law and, where sufficient evidence exists, prosecute individuals in trials that meet international fair trial standards;
- Establish a victims' and witnesses' unit;
- Initiate a national consultative process on reparations.

## **Part I**

### **Background**

Liberia's history demonstrates that the failure to address impunity following the 1989-1996 armed conflict not only resulted in continuing human rights abuses but was also a major contributor to the second war, which lasted from 1999-2003.

Charles Taylor led a small rebel invasion force into Liberia from neighbouring Côte d'Ivoire in late December 1989 to overthrow the Doe Government<sup>11</sup>. This action provoked Liberia's long descent into a prolonged civil war, characterized by war crimes and crimes against humanity. All parties to the conflict committed unlawful killings along ethnic lines, including large scale killing, rape, torture, ill-treatment, abduction, conscription and enlistment of child soldiers under 15 and their use in hostilities, hostage-taking and killing of humanitarian workers. The perpetrators included members of the Government army (the Armed Forces of Liberia (AFL)), and of armed opposition groups including the National Patriotic Front of Liberia (NPFL), the Independent National Patriotic Front of Liberia (INPFL), the United Liberation

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<sup>11</sup> Samuel Doe, a master sergeant came to forcibly to power in 1979 overthrowing the then government in power. He ran a repressive regime which was overthrown in 1990 as a result of the invasion led by Charles Taylor's National Patriotic Front of Liberia. He was killed in 1990.

Movement for Democracy in Liberia (ULIMO)<sup>12</sup>, the Liberian Peace Council (LPC), and the Lofa Defence Force (LDF).

Early in 1990 the Economic Community of West African States (ECOWAS) intervened to stabilize the situation in Liberia, and in August 1990, the Economic Community of West African States Monitoring Group (ECOMOG) was sent in to support the civilian government in Monrovia in 1990. Following Doe's death in 1990 an interim government was set up as a part of the peace negotiations which took place in Banjul. Amos Sawyer was named interim president. Charles Taylor denounced ECOMOG as illegal and did not recognise the authority of the interim government. Instead he declared himself president of Greater Liberia and set up the twenty-member National Patriotic Reconstruction Assembly. By 1993, the United Nations Observer Mission in Liberia (UNOMIL) was set up by Security Council Resolution 866 (1993) and deployed to monitor the ceasefire.<sup>13</sup>

Amnesty International monitored and reported on the human rights abuses and violations of international humanitarian law committed by all parties to the conflict, which included, largely Nigerian, ECOMOG soldiers. Although ECOMOG was mandated to keep the peace, it soon became embroiled in the conflict, providing support to the AFL and weapons to factions such as the LPC to fight against the NPFL.<sup>14</sup> UNOMIL failed to report on major violations of international humanitarian law and violations of human rights as required by its mandate.<sup>15</sup>

In total, 13 peace accords were signed. Principal among them was the Cotonou Agreement signed in 1993, which included a general amnesty for all combatants in the Liberian civil conflict during the course of actual military engagements. Before the agreement was signed, AI highlighted that an amnesty should not be extended to

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<sup>12</sup> ULIMO began as one faction comprised largely of members of the Krahn and Mandingo ethnic groups. In 1993 ULIMO split into two factions, one of which was led by Alhaji Kromah called ULIMO-K, composed largely of Mandingos, and ULIMO-J, led by Roosevelt Johnson, mainly comprised of members of the Krahn ethnic group.

<sup>13</sup> For more information on the UNMIL's mandate see [http://www.un.org/Depts/dpko/dpko/co\\_mission/unomilM.htm](http://www.un.org/Depts/dpko/dpko/co_mission/unomilM.htm).

<sup>14</sup> Amnesty International, *Liberia: Time to take human rights seriously – placing human rights on the national agenda* [AI Index: AFR: 34/05/1997] p7 and Amnesty International, *Liberia: A New Peace Agreement – an opportunity to introduce human rights protection* [AI Index: AFR 34/01/1997] make the point that ECOMOG became a party to the conflict.

<sup>15</sup> Security Council resolution 866 (1993) "...to report on any major violations of international humanitarian law to the Secretary General and then again in Resolution 1020 (1995) of 10 November 1995 ... To investigate and report to the Secretary-General on violations of human rights and to assist local human rights groups, as appropriate, in raising voluntary contributions for training and logistical support...".

anyone who had committed crimes under international law. ECOWAS, the OAU now the African Union, UN and leaders of the warring factions signed the accord. In 1996, the Abuja Supplement was signed. It was the only peace accord which provided for a war crimes court if the provisions of the accord were not adhered to. It brought temporary peace to Liberia.<sup>16</sup>

Finally, in 1996, disarmament, demobilization and reintegration (DDR) took place, followed by elections in 1997. ECOMOG and UNOMIL departed. The requirements of the Abuja supplement to prevent repetition of past crimes included setting up the Independent National Human Rights Commission and restructuring the army and police. The United Nations Office in Liberia (UNOL) replaced UNOMIL, and started operations in 1998.

In 1997 Charles Taylor came to power as President, and by 1999 the conflict had restarted. Between 1999 and 2003 there was active fighting between government troops, including Charles Taylor's Anti Terrorist Unit (ATU), and armed opposition groups – Liberians United for Reconciliation and Development (LURD) and the Movement for Democracy in Liberia (MODEL). With support from neighbouring Guinea and Côte d'Ivoire, the two armed opposition groups controlled 70 per cent of the country.

During Charles Taylor's presidency, no effort was made to redress past human rights violations committed during the armed conflict. Government security forces, including the ATU, contained former combatants who had not been vetted or retrained, nor undergone any process of demobilization or reintegration. Numerous examples of interference of the executive in trials, especially those of political nature, proved that the judiciary was not independent of the executive, and it made no effort to bring any of the perpetrators to justice. Impunity reigned.

In June 2003, while Charles Taylor was attending peace talks in Ghana, the Special Court for Sierra Leone made public his indictment on 17 counts of war crimes and crimes against humanity. The charges were based on Charles Taylor's active support for the armed opposition group, the Revolutionary United Front (RUF) during neighbouring Sierra Leone's internal armed conflict, which lasted from 1991-2002. As the Government of Ghana was unwilling to comply with the international arrest warrant put out by Interpol following the announcement by the Special Court for Sierra Leone of the indictment, Charles Taylor was not arrested in Ghana, but

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<sup>16</sup> Amnesty International, *Liberia A New Peace Agreement-an opportunity to introduce human rights protection* [AI Index AFR:34/005/1997].

immediately flown back to Liberia escaping the international arrest warrant. On Charles Taylor's return to Liberia in June and July 2003 violence erupted and for those two months Liberians experienced some of the worst fighting of the almost two decades of war. LURD and MODEL, dissatisfied that Taylor had returned to Liberia carried out three successive attacks on Monrovia and throughout the country, widely referred to as World War I, II and III. These attacks resulted in a high death toll and massive displacement of civilians. More than 1,000 civilians were killed in Monrovia alone and over a million became internally displaced, and without access to the means to meet their basic needs. A massive humanitarian crisis resulted. As LURD moved into Monrovia in late July, they demanded Charles Taylor's removal from power as a condition for a ceasefire.

On 11 August 2003, Charles Taylor went to Nigeria. This brought a temporary peace to Liberia.<sup>17</sup> Five days later, on 18 August 2003, the CPA was signed. By October of that year, the National Transitional Government of Liberia (NTGL) was in power, headed by businessman Gyude Bryant. The United Nations Integrated Mission in Liberia (UNMIL) entered Liberia in October 2003, and by late 2004 all 15,000 troops were fully deployed throughout the country. The CPA provided for a TRC, an Independent National Commission for Human Rights and police and army reform.<sup>18</sup>

The National Transitional Government of Liberia was in power from October 2003 for a little over two years. The transitional government was comprised of members of the various warring factions and political parties that signed the agreement. This period was characterized by massive corruption within the government. Due largely to the transitional government's inertia, little was done to implement the reforms provided for in the peace agreement. The reform process finally got underway in January 2006, when the new government headed by Ellen Johnson-Sirleaf came to power.

## **Part II**

### **War crimes and crimes against humanity**

*No one can use the name of war to butcher children, rape women, cut babies out of pregnant mothers, and massacre innocent people...no one can use the*

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<sup>17</sup> AI consistently opposed Nigeria's granting of a safe haven to Charles Taylor and repeatedly stated that Nigeria was in violation of its obligations under international law by failing to arrest Charles Taylor and surrender him to the Special Court for Sierra Leone. For the full list of AI public documents on Charles Taylor see <http://web.amnesty.org/library/eng-sle/index>.

<sup>18</sup> See text of the CPA at [http://www.usip.org/library/pa/liberia/liberia\\_08182003\\_cpa.html](http://www.usip.org/library/pa/liberia/liberia_08182003_cpa.html).

*name of war to brutalize a society so badly, no one can do that in the name of war.*<sup>19</sup>

Throughout the history of the armed conflict in Liberia, Amnesty International has documented unlawful killings, attacks on civilians, rape and other forms of sexual violence, the conscription, enlistment and use of children associated with the armed forces and groups in hostilities<sup>20</sup>. (An overview of such cases can be found in AI's recent submission to the Truth and Reconciliation Commission (TRC).)<sup>21</sup>

The following pages provide examples of crimes under international law committed during the conflict in Liberia, documented by Amnesty International through interviews with victims and witnesses. None of these cases has been adequately investigated or prosecuted by any government in Liberia.

International humanitarian law unconditionally prohibits all targeting of civilians, and all attacks which do not distinguish between military targets and civilians. According to the Rome Statute, intentionally directing attacks on the civilian population as such, or on individual civilians in the context of both international and non-international armed conflicts, are war crimes.<sup>22</sup>

Crimes against humanity include murder, torture, enslavement, enforced disappearance, and other inhumane acts. A crime against humanity forms part of a widespread or systematic attack directed against the civilian population with knowledge of the attack.<sup>23</sup> Crimes against humanity are crimes in international law, included in the jurisdiction of the International Criminal Court in accordance with Article 7 of the Rome Statute.

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<sup>19</sup> Kofi Woods, Minister of Labour, in an interview with AI on June 2006.

<sup>20</sup> This UNICEF definition broadens the more common term of "child soldiers" to include any person under 18 years of age who is part of any regular or irregular armed force or armed group in any capacity, including... combatants, cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. This definition was established by the Cape Town Principles and Best Practices (1997) in order to give a broader and more inclusive definition of a child soldier, into which girls may fall.

<sup>21</sup> Amnesty International, *Liberia: Submission to the TRC* (AFR: 34/006/2006) under headings provides details of the cases that AI has documented since 1979. Greater detail on these cases can be found in the public reports on the AI website at: <http://web.amnesty.org/library/eng-lbr/index>.

<sup>22</sup> Article 8 (2) (b) (i) and Article 8(2) (e) (i) of the Rome Statute.

<sup>23</sup> Article 7 (2) (a) "Attack directed against the civilian population means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;"

Important strides in international law have been made with regard to defining unlawful killings, rape and other forms of sexual violence and the conscription and enlistment of children under the age of 15 as war crimes and crimes against humanity.<sup>24</sup> In neighbouring Sierra Leone where the Special Court for Sierra Leone<sup>25</sup> was set up to address the crimes committed in the Sierra Leone conflict, its statute, includes unlawful killings, rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence and the use of children associated with the fighting forces. War crimes related to children associated with the fighting forces were included in the indictment of Charles Taylor before the Special Court for Sierra Leone. Further developments include the case of Thomas Lubanga Dyilo of the Democratic Republic of Congo (DRC), charged by the International Criminal Court with the war crime of conscripting and enlisting children under the age of 15.<sup>26</sup> In early 2007 the court confirmed that there was enough evidence to proceed with this trial. In 2006, Senegal announced that it would try the former President of Chad for war crimes, crimes against humanity, and Ethiopia convicted its former leader of genocide and other crimes under international law.

### **Unlawful killing, mass killings and attacks on civilians**

*Massacres<sup>27</sup> were common in the Liberian conflict. Just as amputations were significant in the Sierra Leone conflict. Massacres were common here. So many people were affected by them everyone I know, knows someone who died in a massacre over the last 14 years<sup>28</sup>.*

It is difficult to estimate accurately the large numbers of people who died or whom had family members who died as a result of unlawful or mass killings throughout the 14 years of conflict. Killings of over 100 people at one time were common and carried out by all parties to the conflict. NGOs documented numerous incidents of this number.<sup>29</sup> Between 1989 and 1997, Amnesty International documented large-scale killings carried out by both the Government-AFL and NPFL. These attacks on civilians were largely ethnically driven, with AFL troops deliberately killing members of the Mano and Gio ethnic group and the NPFL killing members of both the Krahn

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<sup>24</sup> See Article 8(2) (e) (vii) of the Rome Statute.

<sup>25</sup> The statute of the Special Court for Sierra Leone Article 4 (c) defines as a serious violation of international humanitarian law "conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities".

<sup>26</sup> For more details of this case see: Case of the Prosecutor vs Thomas Lubanga: No: ICC-01/04-01/06.

<sup>27</sup> Amnesty International refers to massacres as mass or unlawful killings.

<sup>28</sup> Amnesty International interview with James Yarsiah, a member of civil society on 3 June 2006.

<sup>29</sup> Several human rights groups in Liberia have attempted to document the number of large scale killings that have taken place has been carried out throughout the 14 year conflict.

and Mandingo ethnic groups. Outcries from civil society resulted in the investigation of the 1993 Harbel mass killing by a panel of inquiry set up by the UN Security Council,<sup>30</sup> which determined that the NPFL carried out the mass killing. This finding was later challenged and, in the end, no one was held responsible or brought to justice. Similar tactics were used throughout the 14 years of conflict, with the result that killings of large numbers of people at one time continued. Between 1999 and 2003 only a few investigations were carried out by the Independent National Human Rights Commission, however no one has been brought to justice.

### ***Mahe Bridge Incident***

On 18 July 2002, 175 people from Tubmanburg in Bomi Hills were allegedly killed by government troops, suspected of being LURD supporters. The troops entered Tubmanburg just as LURD retreated, having run out of ammunition, and told residents that farina and sugar were available for them in Monrovia. Upon this news, hungry and scared residents gathered at the gas station in anticipation of being transported to Monrovia by government troops for food and safety. Instead, they were piled into pickup trucks and taken to the Mahe Bridge, just a few miles outside Tubmanburg. There they were shot, pushed into the river, and drowned.

In June 2006, Amnesty International visited Tubmanburg and spoke to survivors and family members of victims at the Mahe Bridge. **M**, 18, a survivor, witnessed the killing of large numbers of community members, lost both his parents and came very close to losing his own life.

**M**<sup>31</sup> told Amnesty International what he had witnessed on 18 July 2002:

*I don't know the exact numbers but people were taken from the gas station at two distinct times on 18 July 2002. There was a morning and evening group. My mother and little brother went in the morning and my father and I went in the evening. In each group there must have been close to 100 people, including many children.*

*My father and I were towing ammunition for the government troops all day. They kept telling us that they would bring us to Monrovia that night. When it started getting dark they rounded us up at the gas station. In our group, we were brought to a house that was halfway between the gas station and the*

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<sup>30</sup> See Amnesty International, *Liberia: An opportunity to introduce human rights protection*.

<sup>31</sup> Throughout the report, initials have been used to protect the identity of the victims and survivors of those that were interviewed.

bridge. When we got to the house, the government soldiers ordered us out of the pickup and made everyone to go into the house. The soldiers stood around it. When the door closed, people became scared and started to worry. After a little while they ordered us out of the house and took us to the bridge in pickups. By then, it was 10.30pm.

I was in one of the last groups and by the time I got to the bridge, I overheard the soldiers saying that it was better to do it at night so that no one would see. I saw all the soldiers dumping people in the water. They had old people and young children there and were just shooting and pushing people into the water.

All of a sudden, two soldiers came to me. They made me take off my clothes and then these two soldiers stood in front of me and were asking each other how they should kill me. One of the soldiers said he wanted to shoot me with a gun. The other one said that he wanted to kill me with a knife. They got into an argument about it. Then one of them just took the gun and tried to shoot me but lucky for me the gun could not shoot. While the soldiers continued to argue, one of their commanders, a Mandingo man, got to the bridge. He told me to come to him. Because he was a commander, the other soldiers had to listen to him. The commander called me because he knew me. But....by that time, the rest of the people had already been killed, including my father.

**M** spoke about two commanders, whom he alleges are responsible killings at the Maher Bridge. He said that one of them gave the order to kill:

*I heard him say to the other soldiers that 'no baby will tie girl'. What that means is 'when you meet anyone – don't pick and choose – just kill everyone'.*

### ***Death of three sons***

**W** of Buchanan told AI how his sons were killed by members of the rebel forces of MODEL when they entered Buchanan<sup>32</sup> on 29 July 2003. **W** does not know who killed his three sons. He says, however, that the government and the UN have been telling him that he should "forgive and forget the past and just move on because we are Christians". But **W** stated that he would like to see those responsible for the death of his sons brought to justice, saying:

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<sup>32</sup> Buchanan, the second largest city in Liberia is the capital of Bassa County in the southeast of Liberia approximately 100 miles from Monrovia.



*I see them [those who killed his sons] [in court] I will wear my last coat. However to really forgive and forget is a difficult project.*

*We were here in the house when the people [MODEL] were fighting against government troops. They had one big gun on the coal-tarred road. They came and knocked the door. They say we should not be scared of them and then I opened the door and saw them. They said that it was not safe here and that we should go to the Catholic campus. Therefore, we left, with small, small children, my wife, my three big boys and my son-in-law. I had a little bag with cassava on my head so we would not starve. When we reached the coal-tarred road three rebels met us. One had a big gun and they just grabbed the three big boys. They said they would take the boys to a house. They took the boys away there... My big daughter and I ran to where they took the boys and asked what would happen to them. A man said: "If you do not go you will be the first to die." I grabbed my daughter. Less than two hours later, I discovered that my boys had been killed They were four, my three sons and my son-in-law, no judgement. They died.*

### ***Shot in the back, now confined to a wheelchair***

Throughout the course of the armed conflict, there were countless attacks on civilians resulting in death, disfigurement, and displacement., I, 25, of Buchanan, mother of a five-year-old son, tells Amnesty International what happened to her. Today I is in a wheelchair.

*I was running to the campus (Bassa High School) after MODEL entered Buchanan on the 29 July 2003. As men from MODEL caught up with us, they yelled, "No one should go outside the campus." I tried to follow their orders by running towards the campus but the next thing I knew I was shot in the back. I just dropped. I did not have any first aid for the first day. I lost a lot of blood. I slept at the school and then was carried to the hospital the next morning when the fighting had stopped. I met ICRC. They took me to the hospital. I stayed there for three months and two weeks to recover. I lost my baby during this time. I did not get any better so I was transferred to JFK, (a major hospital) in Monrovia. I stayed there for one month and two weeks. However, they did not have any good medicine. Therefore, I did not recover there either. They sent me back home to Buchanan where I stayed for over two weeks. At home I was not improving and so they sent me back to the hospital in Buchanan. I stayed in the hospital for one year and three months. After that, they put me in a wheelchair and sent me home.*

### **Rape and other forms of sexual violence**

Rape and other forms of sexual violence have taken place since 1989. In 2004, Amnesty International published *Liberia: No Impunity for Rape – a Crime against Humanity and a War Crime*, highlighting the systematic way in which, between 1999 and 2003, the government and armed opposition groups used rape and other forms of sexual violence against women and girls as deliberate strategies, as a weapon of war and to instil terror. Although difficult to establish the extent of rape and other forms of sexual violence, there are estimates that 60-70 per cent of the population suffered some form of sexual violence during the conflict.<sup>33</sup> Women of all ages were victims, including very young girls and older women. Although girls and women from the Mandingo and Krahn ethnic groups were disproportionately targeted, reflecting the ethnic dimension of the war, women of all ethnic groups suffered. Gang rape and repeated rape were common. Women and girls were also victims of abductions and sexual slavery. All these crimes of sexual violence are also crimes against humanity.<sup>34</sup>

**M** from Arthington told Amnesty International in June 2006 of her experience during 2003:

*I was gang raped repeatedly by Taylor's men. It was never during the time that war was going on but when the guys would come to visit Charles Taylor in his home in Arthington. This began in 1991, and then again in early 2003 before the LURD came in. The president used to bring his soldiers here. So whenever they would come they would grab us women and they would use us. All the girls were in one house. They were using all. Charles Taylor knew that his soldiers were doing this. We couldn't complain about it because they would just go ahead and beat you. They would whip us in fact. We would be in the house with them and then they would be using you. It can hurt me. I am now in pain all over – in my back.*

*This happened to me four times. Sometimes I would run away but I really couldn't just run away and leave my children.*

*I see some of them sometimes. It was different people all the time. They are not in Arthington. I see them when I go to town. When I see them, I feel very bad. They don't know me. When I see them, they don't know me. They just pass. I feel scared when I see them. My heat can rise – because of the kind of thing that we passed through. It is not easy.*

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<sup>33</sup> See Amnesty International, *Liberia: No Impunity for Rape – a Crime against Humanity and a War Crime* (AI Index: AFR 34/017/2004).

<sup>34</sup> Rome Statute, Article 7(1)(g).

Women and children's units are being set up within the police as part of an attempt to investigate current cases of rape. However, little effort has been made to investigate and document rape and other forms of sexual violence that took place during the course of the armed conflict. As a result, there will be no effective basis for eventual prosecution of the alleged perpetrators of those crimes.

Women's groups in Liberia such as Concerned Christian Community (CCC) highlight difficulties in investigating rape and other forms of sexual violence which took place in the course of the conflict. They show that the majority of survivors have a difficult time identifying perpetrators, and medical records do not exist. Additionally, of those who do know the identity of the perpetrator, many expressed reluctance to report their cases out of fear, exposure and stigma. Others were reluctant to speak out because they depended on the perpetrator for survival.

### **Conscripting or enlisting children under 15 and using them to participate actively in hostilities**

At the end of the war, there was an official estimate of approximately 21,000 children associated with the fighting forces in Liberia<sup>35</sup>. It is believed, however, that there is a large numbers of children ho are associated with fighting forces who have not been identified, making the likely number of children who participated in the conflict much higher. Children were conscripted or enlisted into all the fighting forces during Liberia's almost two decades of war, and they were used to participate actively in hostilities.

Both boys and girls were abducted and forced to fight, carry ammunition, prepare food or go to the front line. Girls were raped and forced into sexual slavery. Many children have been drugged or forced to use alcohol. Many were sent to the front line and, if they refused, were often injured or killed.<sup>36</sup> In many cases, child soldiers were forced to carry out killings, torture, rape and other forms of sexual violence, looting, abducting and forcibly recruiting other children.

Adequately addressing the needs of the large numbers of traumatized former child soldiers is a major challenge for Liberia now.

Some of the children formerly associated with fighting forces in the northern town of Ganta and the northwest town of Tubmanburg in Bomi County raised the need to bring to justice those responsible for the conscription and enlistment of children. In

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<sup>35</sup> See Amnesty International, *Liberia: The promises of peace for 21,000 child soldiers* (AI Index AFR 34/006/2004).

<sup>36</sup> See Amnesty International, *Liberia: The promises of peace for 21,000 child soldiers*.

interviews with Amnesty International, those who had joined “voluntarily<sup>37</sup>” generally felt that their commanders should not face justice; however, those who were “forced” into becoming fighters felt that those responsible should be held to account. Amnesty International opposes the recruitment into and participation in armed forces of children under the age of 18. Regardless of whether children are conscripted or enlisted by government forces or armed groups, children’s participation in armed conflict jeopardizes their physical and mental integrity.

## **Part III**

### **Truth, justice and reparation**

A comprehensive long term action plan to combat impunity should consist of the mutually reinforcing principles of truth, justice and reparation, each of which plays a distinct but complementary role.

So far, the TRC, has been mandated by the government through the peace agreement, to play a role in combating impunity. Amnesty International believes that the TRC has a role in addressing impunity, but it is not a substitute for a court of law nor can it sufficiently play a role in providing reparation. So far, however, no decision has been made as to when, how and if those suspected of committing human rights violations will be brought to justice; nor has there been any discussion about a comprehensive action plan for reparation. The CPA’s failure to adequately address past crimes through ensuring that a mechanism was identified and supported for comprehensively dealing with investigations and prosecutions, has contributed to the impunity gap that currently exists in Liberia.<sup>38</sup> The Government of Liberia should address past abuses, including ensuring that those alleged to have committed serious crimes are brought to justice in trials that meet international fair trials standards. A reparation policy should also be developed and begin with an acknowledgement of the suffering that has gone on for the last 14 years. Governmental action so far falls short of the aspirations laid out in the UN Secretary-General’s 2004 and the updated 2006 rule of law report.

Amnesty International believes that societies like Liberia, which have emerged from a long history of human rights violations and abuses, must create a long-term

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<sup>37</sup> Amnesty International does not consider that any child joins fighting forces voluntarily however in the Liberian context those children who were not abducted and forced to fight are considered to have joined voluntarily. In a sense they felt that joining the fighting forces was the best option for them at the time either there was no school available, they saw it as a way in which to earn a livelihood and help support their family, and etc.

<sup>38</sup> See Amnesty International, *Justice and the rule of law: the role of the United Nations*, Statement by Amnesty International (AI Index AFR 30 September 2004) p2.

comprehensive action plan developed and led at the national level, to ensure that the truth is told, that justice is done, and that reparation is provided for all the victims.

The following section provides an overview of what steps the government of Liberia has taken so far and highlights where the gaps are.

### **The Truth and Reconciliation Commission<sup>39</sup>**

*I just want the truth to come out – I want people to know what happened. I want them to know what happened on 18 July 2002.*

*People need to know the truth because of the huge numbers of people who were killed at the Maher bridge. We are not talking about two or three people. People from the different parts of Liberia may not know about this but may have relatives who have died and they just don't know. Because in the war – people are scattered everywhere and those that are living in different areas won't know about this.*

*Even in my case, when my brother returned we thought he was killed in the massacre. In fact, in the end, he came back and we had to tell my Grandma about what happened. Before my brother returned, we told my Grandma that my parents and my brother had fled to Guinea. When my brother turned up, we had to tell her about my parents [that they had been killed]. She has the right to know the truth. In the end, she accepted it and now she is taking care of the little boy.*

***M, survivor of the Maher Bridge***

The TRC was set up by the CPA to address the human rights violations that had occurred, to enable Liberians to move forward to a lasting peace. The TRC will play an important role in providing a full account of the human rights violations committed during the conflict, contributing to them being investigated and eventually prosecuted, preventing them from being repeated, and making recommendations that victims and their relatives are granted full reparation.

For example, community members and survivors of the Maher bridge killings expressed the importance of the truth being told. They felt that it was necessary to

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<sup>39</sup> For an extensive report on the role of the TRC in Liberia see Amnesty International, *Liberia: Truth, Justice, and Reparation: Memorandum on the Truth and Reconciliation Commission Act*, (AI Index AFR 34/005/2006) 22 June 2006. AI has provided significant support to this process through documents found on the AI website at <http://web.amnesty.org/library/engindex>.

investigate fully in order to identify all those who had died so people throughout Liberia could account for their missing relatives.

### **Contributing to justice**

The TRC has a mandate to hear from a wide spectrum of victims and perpetrators, with the aim of reflecting a communal approach towards justice and accountability. The government, civil society and the international community have high expectations for the TRC process, which is expected to play a role in addressing impunity following the 14-year conflict in Liberia.

Amnesty International believes that the TRC has an important role to play in investigating past crimes and recommending reparation for Liberia's many victims. Its most important function is to contribute to justice by establishing the facts about past crimes, such as genocide, crimes against humanity and war crimes, thus contributing to justice.<sup>40</sup> The only functions that the TRC can offer relative to prosecutions, will be to gather and preserve evidence for future use, and to make overall recommendations about prosecutions.

However, the TRC should not bear the entire burden of addressing the past. In particular, it is not, and should not be considered, a substitute for civil or criminal proceedings before judicial bodies. The TRC is not a court and it cannot establish individual criminal responsibility. It also can not award reparations.

### **Contributing to reparation**

*People must come forward and participate in the TRC. Victim communities will have to be mobilized. It is their testimony that will determine what kind of community reparation it will take given that 72 per cent of the population was affected during the war. So many women and children and displaced have been affected. All these people have a right to reparation. The TRC can help establish who is in most need. Something must be done to at least help people move on from the war.<sup>41</sup>*

The Liberian TRC itself may prove to be a form of reparation. By officially acknowledging that there was a pattern of human rights violations in the past, and taking measures to investigate the facts and disclose the truth, the TRC provides victims and their families with an initial form of satisfaction.

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<sup>40</sup> See Amnesty International, *Liberia: Truth, Justice, and Reparation: Memorandum on the Truth and Reconciliation Commission Act*, p11.

<sup>41</sup> Ezekial Pajibo, CEDE interview with AI on 27 May 2007.

The TRC will make recommendations for the creation of a trust fund for the benefit of victims and survivors of the conflict. It will appoint trustees and determine beneficiaries as part of the outcome of its proceedings, findings and recommendations at the end of its tenure (TRC ACT article IX, section 38).

### **Considerations for women and children**

Interviews conducted by Amnesty International showed that some women who had been victims of sexual violence, and children conscripted or enlisted, felt fearful and reluctant to report cases since many found themselves living in the same communities as those who had committed crimes against them. These concerns are critical, not only with regard to the work of the TRC, but also for the pursuit of potential cases being taken to court. Taking these concerns into account will help to ensure that all those who are encouraged to testify in front of the TRC or in court feel safe and secure enough to do so.

#### **Women**

In interviews with Amnesty International, women who had been victims of rape and other forms of sexual violence seemed unsure of how they could benefit from participating in the TRC process. Others felt reluctant to participate because of a sense of shame and were worried about the possible consequences of sharing their stories. Some felt it was important that their stories were told. Others felt that by participating in the TRC they would be in a better position to obtain much needed compensation. Some expressed the desire to face the alleged perpetrator with the impact of his actions on their lives.

**H**, 32, from Arthington, gang raped by armed men during the conflict, told Amnesty International:

*I will talk to the TRC – I am not scared... I think other women might be because of the shame – but I do not feel that. I just know that I am suffering. I don't know who they are [those who raped me] – but if I knew who they were, I would question them. I would ask them why they did that to me. What really made them do that to me... ? I just don't understand because they said they came to fight not to rape – so why did they rape me?*

#### **Children**

Scheduled public hearings before the TRC focusing on the violations experienced by women and children will highlight the disproportionate impact of the conflict on them and make recommendations which specifically target their needs.

Children played diverse roles in the conflict. The Minister of Labour highlighted the importance of understanding the experiences of children to make the Government to better able to help them. "Children were used and abused in this process. Now we need to engage them and we need to help them understand what happened in the war and really, what we have done to them. There is no doubt that they are victims" Former child combatants interviewed in Ganta expressed appreciation that the TRC was a place where they could go and reconcile their minds to some of their experiences. In Tubmanburg, former child soldiers spoke about the importance of finding out the truth about the war and what had led to them to being forced to fight, and why they had missed out on their education.

**D**, 16, a former child soldier from Bomi Hills, conscripted when he was 13, told Amnesty International:

*People should know the truth. People need to understand the reason that the war took place, the reason that we were used to fight this war. We need to know the reason that we weren't in school and missed our education. We just want to know.*

Others wanted to know what the entire war was about. With the wide consultation that the TRC process hopes to provide, it is expected that the findings could be incorporated into an appropriate plan of action to address the needs of children in the future.

The TRC's success will be measured by whether victims are treated with humanity and whether mechanisms are established to provide effective protection and support. Special measures for the protection and support of both victims and witnesses will be particularly important with regard to survivors of rape and sexual violence and for children. While some steps have already been taken by UNICEF and the Ministry of Gender to work with women's and children's organizations in setting up protection guidelines, including hearings to be held behind closed doors and other measures to encourage women and children to come forward to testify. However to ensure participation of women and children, more confidence building efforts need to be made primarily focussing on measures put in place to ensure protection.

### **Ongoing activities**

In December 2006 the process of appointment began for the Executive Director and members of the Secretariat from a wide range of backgrounds, to join the three International Technical Advisory Committee (ITAC) members and nine Liberian



Commissioners inaugurated in February<sup>42</sup>. Victim and witness participation is crucial and awareness raising activities are taking place. There is some concern that awareness raising activities have not reached some of the more remote areas such as the bordering areas of Lofa and Amnesty International recommends that greater efforts are made to reach all areas throughout Liberia especially bordering towns and counties. While ECOWAS is taking the lead with regard to the TRC, UNMIL Human Rights and Protection Section (HRPS) has provided support through training and other technical expertise.

Continuous and assured funding has been problematic. There is a gap between what has been pledged or promised by donors, what has been received to date, and what actual funding has been secured. . A lack of consistent funding, interpersonal relations between Commissioners and ITAC staff, and a lack of a clear work plan and structure have caused delays in the work and caused some disruptions to the smooth functioning of the TRC itself. Amnesty International was told by donors that greater accountability, a clear work plan, and clear benchmarks will be needed for there to be confidence in the provision of funding. So far the TRC has received only approximately \$US2.2 million of the \$US14 million that is needed for the next two and half years of its work.

### **Prosecutions**

*While the establishment of the TRC provides a context for addressing war-related violations, it is obvious that, by its very nature, the Commission will not address serious violations of human rights and humanitarian law, which should be better tackled by a more competent judicial body. The international community should spare no effort in providing the context for addressing war-related impunity for Liberia.*<sup>43</sup>

*The people who ordered and carried out this massacre should be punished. It was a bad thing to do. Some of the ones that did the act here – I know about two. They are not in the town all the time but when they do come, I see them here walking around. I feel very afraid when I see them. But I also feel angry and feel as though I might take revenge on them. I am very afraid of what I might do to them. I am just afraid that I might retaliate. It would be better if they were tried, punished and went to jail.*

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<sup>42</sup> One of the ITAC members resigned in January 2007 however a replacement had already been identified.

<sup>43</sup> Report to the (former) Commission on Human Rights, Independent Expert on Liberia, Charlotte Abaka, *Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Liberia* E/CN.4/2006/114 p9.

***M, a survivor of the Maher Bridge***

*I think those that forced me to tow ammunition and fight should be investigated because it is a violation of human rights. These people were in the habit of going into IDP camps and forcibly recruiting children. Sometimes these people are responsible for massacres or going into schools and just taking the children from there. They make these children go on the front line. The Government needs to take action against it. This was something that was commonly happening. I think they should go to court and if they are found guilty they should be punished and go to jail for their lifetime.*

***R, conscripted when he was 15, from Bomi Hills***

*After being captured by the LURD they sent me to the front line. When I did not want to fight any more, I left, and when my commander found me, he shot me in the leg. When I finally saw my mother, she cried because I am now crippled. I think that for what he did to me he should go to jail for a lifetime.*

***L, 12 when captured, now 15, a former child associated with the forces in from Tubmanburg***

### **Need for a long term plan on prosecutions**

Amnesty International is concerned that the government seems to have handed over responsibility for combating impunity to the TRC. The authorities have, in practice, transferred all investigations about crimes under international law to the TRC and apparently intend to wait until its final report which will be finalized at the earliest in mid 2008 to determine who may be recommended for further investigation and possible prosecution<sup>44</sup>. The Solicitor General, Tiawan Gongloe, told Amnesty International:

*The government is concerned about working towards addressing impunity in Liberia but we want to start with the TRC. We feel that gaining the perspective of the victims and the perpetrators in the proceedings will inform the entire society how to move forward*

Amnesty International stresses that, while the mandate of the TRC requires it to draw an historical picture of the factors that allowed human rights violations to occur, its

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<sup>44</sup> According to the TRC Act the period of operation for the TRC is planned for two years. It is then intended that there will be a three month period for wrap up activities and to write the report (article IV, section 5). There is also a possibility of an extension for up to, but no more than, 4 times (article IV section 6). The earliest possible date for the report to be ready would be September 2008.

task is different from and should not be confused with the purpose of criminal proceedings, which are designed to establish individual criminal responsibility.

The government of Liberia is under a legal obligation to investigate and prosecute the thousands of persons reasonably suspected of serious violations of international human rights and humanitarian law, including war crimes, crimes against humanity, torture, extrajudicial executions and enforced disappearances. Failing to punish perpetrators of the most serious crimes in international law gives them the impression that they will not have to face the consequences of their actions, it ignores the distress of the victims and creates a risk of further violations. This failure to address impunity weakens state institutions, denies human values and debases the whole of humanity.<sup>45</sup>

Amnesties for perpetrators of crimes under international law are contrary to international law. States are obligated to investigate persons suspected of such crimes and where there is sufficient admissible evidence in trials that meet international fair trial standards. For this reason, Amnesty International called for the amnesty in the CPA not to extend to perpetrators of crimes under international law. Prosecutions serve to clarify the truth about what happened, establish accountability for human rights abuses, and contribute to building confidence in the rule of law.

### **Efforts to strengthen the rule of law**

Historically, the poor state of the judicial and legal system in Liberia has contributed to impunity. Poor management of the judicial sector has resulted in numerous cases of prolonged detention without charge or trial and has contributed to overcrowding in prisons and detention centres. Interference by the executive is common practice, with the result that in the majority of cases are dealt with outside the official judicial system, and some cases are dropped while others are picked up on very little evidence at all and many can languish in prison for long periods without charge or trial. Public confidence in the judicial and legal sector is low.

Amnesty International believes the joint UNMIL/government of Liberia Rule of Law strategy paper which still has not been made public, and which was adopted in secret without close consultation with civil society, proposes a comprehensive set of initiatives with timelines and funding allocations, with the ultimate aim of re-establishing the supremacy of the rule of law in post-conflict Liberia. The Rule of Law Task Force, set up on November 2005, is composed of the Ministry of Justice,

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<sup>45</sup> Brussels Group for International Justice, *Brussels Principles Against Impunity and for International Justice: The fight against impunity: stakes and perspectives* (Brussels, 11-13 March 2002).

Chief Justice, members of the International Contact Group including ECOWAS, African Union (AU) and the UNMIL Legal and Judicial Affairs Section. In past reports on Liberia Amnesty International has called on the Government and the international community, especially UNMIL to draft a long-term comprehensive plan of action in a transparent manner in close consultation with civil society to strengthen the judiciary with the goal of creating a competent and independent body.<sup>46</sup> It is therefore a matter of deep concern, that members of civil society and the UNMIL Human Rights and Protection Section (HRPS) are noticeably absent from the task force.

Although the plan has a number of positive elements to be fully effective the plan has to give civil society a full opportunity to comment on the plan, suggest changes, help implement it, and monitor its implementation.

Once set up, the newly proposed Law Reform Commission, will review Liberia's existing legislation to identify necessary amendments, including filling gaps in the national legal framework with regard to international law. Amnesty International recommends the setting up of this body. Likewise, the newly proposed Judicial Inquiry Commission will set criteria and monitor the behaviour of judges. In early 2006 two important amendments to the law governing the judiciary were passed, one to ensure the financial autonomy of the judiciary, and the other, a jury law which provides for a majority rather than a unanimous vote which may undermine the requirement that no one may be convicted of a criminal offence unless proven guilty beyond a reasonable doubt. The intention of the reform is to speed up the number of cases passing through the courts.

### **Efforts to rebuild the national judicial system**

Efforts to rebuild the national justice system that have been taken and is a good first step with support from the UN and the US, however greater efforts to ensure that it is equipt to deal with crimes under international law needs also to be prioritized. UNMIL's Legal and Judicial Support Division (LJSSD) have made some strides, including reopening the Arthur Grimes School of Law at the University of Liberia, training 150 county and city prosecutors, overseeing "quick impact" projects that have led to the refurbishment and rebuilding of 13 county court structures. Since September 2006, UNMIL LJSSD has also assisted the Government in hiring 12 national prosecutorial consultants and 11 public defenders for six months. There are plans for seven public defender consultants to be appointed in 2007. The aim of these initiatives

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<sup>46</sup> See recent Liberia reports on website: <http://web.amnesty.org/library/eng-lbr/index>.

is to reduce the backlog of pending cases, improving adherence to fair trial standards and to increase public trust and confidence in the judicial system.

The United States' Judicial and Legal Reform Program has provided training for Liberian judges and magistrates. Other assistance includes the introduction of administrative techniques to improve court procedures, budgeting, payroll and legal office management.

### **Need for a prosecution policy**

In May 2006, the Forum for the Establishment of a War Crimes Court in Liberia (FEWCCIL), a local NGO, submitted a petition to the Liberian Parliament to establish a war crimes court in Liberia. The petition caught the attention of the media and a public debate ensued. Most agreed on the need for justice, and for the perpetrators of international crimes to be held accountable. However, there was a lack of consensus on who should be tried for crimes under international law committed during the conflict. The state of the judicial and legal systems currently prevents survivors and victims from gaining access to justice and reparation for the crimes committed against them. However, many believed that if given financial support, the Liberian judicial system would be the appropriate mechanism to try the alleged perpetrators.

*There are institutions ,there are structures Are they effective, strong enough, transparent enough? Well, no; do they have the political will, the courage to carry this out – well, not right now. They are corrupt. They cannot be trusted to carry out justice for today – much less justice with regard to serious crimes – such as war crimes and crimes against humanity. However, with time – I see this changing – there is new leadership. I don't think we need an independent body that is made up with a bunch of foreigners.<sup>47</sup>*

There was wide recognition of the gap between the numbers of people who committed human rights violations and abuses during the 14 years of war, and the potential capacity of the national court system to take on such cases. Members of civil society estimated that the numbers of alleged perpetrators of crimes under international law ranged between 40-50,000 people (out of a total population of around 3 million). Referring to the single case of murder from the conflict that is currently being tried in Monrovia criminal court A, the Solicitor-General, provided an insight into the government's current policy on bringing cases from the conflict to the Liberian judicial system stating: "If people have the evidence and want to bring a case to court

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<sup>47</sup> Aloysuis Toe, of FOHRD in interview with AI on 27 May 2006.

we are happy to take them and in fact compelled to by law.”<sup>48</sup> This implies that the government expects individual victims to bring a private prosecution, or to sue under civil law, with evidence they have collected themselves. Besides the fact that the government will rely on the initiative and limited funding of individual victims to bring cases to national courts, without the necessary laws and procedures in place to try individuals for crimes under international law, the system denies Liberians their rights to a remedy and reparation, as provided by international law and standards.

***Need for Liberian legislation to be in line with international standards***

The government of Liberia ratified the Rome Statute of the International Criminal Court on 24 September 2004, indicating a willingness to put an end to impunity for the perpetrators of genocide, crimes against humanity and war crimes. Liberia has also ratified human rights treaties including the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. However to date has not taken any steps to incorporate into national law. Even the new rape law introduced in 2004,<sup>49</sup> which uses a clearer definition of rape and more in line with international standards can apply prospectively, and cannot apply to the investigation or prosecution of rape as a crime against humanity committed before the law came into effect in January 2005.

***Need for investigation of past crimes for prosecution.***

Prior to Security Council Resolution 1509 (2003) establishing UNMIL, the UN Secretary-General recommended the establishment of a mechanism to investigate serious violations of international humanitarian law and other serious crimes and to provide evidence to Liberian or other authorities.<sup>50</sup> However, while UNMIL's Human Rights and Protection Section has a duty to conduct investigations to support the TRC or any other justice mechanism established in the future, the Secretary-General's recommendation of a crime investigation capacity never became a part of UNMIL's mandate in failure to do so has made implementation of the confidential UN/government rule of law strategy paper particularly difficult and calls into question the UN's commitment to ending impunity. Amnesty International believes that the investigation of international crimes requires specific expertise, with which the Liberian government may not currently be equipped. Therefore, substantial and effective technical support will be needed to enhance the capacity of the police,

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<sup>48</sup> Tiawan Gongloe, Solicitor-General, interview with AI in June 2006.

<sup>49</sup> An act to amend the New Penal Code Chapter 14 Sections 14.70, 14.70.1 and 14.71.

<sup>50</sup> Report of the Secretary-General to the Security Council on Liberia UN Doc S/2003/875, 11 September 2003, Para 64.

prosecutions and the judiciary to carry out these types of investigations in a timely manner.<sup>51</sup>

In early 2006, a request was made for members of the Office of the High Commissioner for Human Rights (OHCHR) to investigate mass graves in the area of Camp Schefflin. A team came to Liberia and carried out an investigation in early 2006. Later in discussions with the OHCHR about the outcome of this investigation, it was revealed to Amnesty International that the investigation had failed to find any mass graves.<sup>52</sup>

The Independent National Commission for Human Rights (INCHR), as provided for by the CPA, will conduct investigations into current human rights violations. Although not fully constituted at the time of writing, the INCHR will also serve as a follow-up body to carry out the work of the TRC once it has completed its remit, including the implementation of the TRC recommendations.

#### ***Need to establish a victim's and witness unit***

Amnesty International recommends that the Ministry of Justice establish a Victims' and Witnesses' Unit to provide counselling and other appropriate assistance for those who appear before the TRC or a court. Others at risk of retaliation on account of their testimony should also be protected by appropriate security arrangements. The Rules of Procedure and Evidence provided for the International Criminal Court can be instructive with regard to the detailed functions of a Victims' and Witnesses' Unit. Such a Unit could ensure the protection and security of all witnesses and victims who appear before a court, by ensuring appropriate measures are in place and establishing short- and long-term plans for their protection. It may assist with resettlement of victims and witnesses who are traumatized or threatened, and can help victims who appear before a court, as well as witnesses, to receive medical and psychological care. Such a unit can also work closely with the Ministry of Justice to draw up a code of conduct emphasizing the vital importance of security and professional secrecy for all personnel affiliated to a court. The Victims' and Witnesses' Unit should include staff with expertise in trauma, related to crimes of sexual violence.

The government of Liberia must fulfil its international obligations and encourage an atmosphere in which Liberian civil society can openly discuss the issue of prosecution

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<sup>51</sup> The responsibilities of UNMIL's human rights and protection section include: 'Conduct investigations of past violations of human rights and humanitarian law so as to provide support for the work of the Truth and Reconciliation Commission and any other justice mechanism that may be established in the future'; available at: <http://www.unhchr.ch/html/menu2/5/liberia.htm>.

<sup>52</sup> Interview with the former head of the Africa section at the OHCHR on 15 October 2006.

for crimes under international law and explore ways in which they can be most effectively and appropriately addressed. It should receive political, practical support and advice from the international community, including its representatives in UNMIL, especially the Human Rights and Protection Section (HRPS) and LLSSD, the Office of the UN Commissioner for Human Rights (OHCHR) and other UN agencies.

### **Steps to address impunity in the Africa**

In late March 2006, at the request of the Liberian President, the Nigerian Government turned former President Charles Taylor over to Liberia, where he was immediately arrested by UNMIL and transferred to the Special Court for Sierra Leone to face trial. His peaceful transfer brought great relief to people across West Africa, especially in Liberia.

On 6 December 2006 Amnesty International welcomed the US Federal Grand Jury indictment of Roy Belfast, Jr (also known as Charles or Chuckie Taylor, Charles Taylor II and Charles MacArthur Emmanuel) a US citizen, for torture and conspiracy to torture, allegedly committed while he served as head of the former Liberian President Charles Taylor's Anti Terrorist Unit (ATU). Chuckie Taylor is alleged to have committed torture and conspired to commit torture during his tenure as the head of the ATU. Although he has been indicted, he has the right to be presumed innocent pending a judicial determination in accordance with international law and standards concerning a fair trial. If Chuckie Taylor is found guilty of these crimes, he could face between 20 years and life imprisonment.

This indictment marks the first time that the USA has ever charged anyone under the federal anti-torture statute (18 USC §§ 2340-2340A) since it was enacted in 1994. That law, which until the indictment had been largely a dead letter with regard to criminal prosecutions, authorizes US Federal courts to exercise jurisdiction over persons found in the USA who are suspected of committing torture anywhere in the world.

On 22 April 2006, a Dutch national and a close associate of Charles Taylor, Gus van Kowhoven, was convicted and sentenced to eight years by a Dutch court for breaking the Liberian arms embargo. He was tried for war crimes and acquitted.

### **Reparation**

*It was the local people who really felt this... Those that went into exile really did not suffer too much... It is really the local people that you need to reach this message to really forgive... They were all in displaced camps...this message, the help, the justice all needs to get to these people who really*



suffered.<sup>53</sup>

**G, Staff member of CCC**

*I want to go to school now. I don't care if they ever find the guy it will not give me my ability to walk again. I want assistance though. I want an operation that can help me walk again. I want compensation.*

***I, now in wheel chair after being shot by MODEL forces***

*The main problem I still have is the vaginal discharge. When I go and explain to the doctor he gives me a tablet. I told the doctor about the dirty water – I keep telling him and all he gives me is a tablet. I need something more I need an operation. This dirty water made my husband to run away from me. I have five children but three are gone. They are separated from me. They have been separated from me for the last two years. The other children are with me and we are suffering.*

**H, survivor of sexual violence**

*I know that I cannot bring back my husband but what I now pray for is justice. I want the man that killed him to be brought to justice; and compensation should be forthcoming for my children as I am struggling to keep them alive. My husband was the breadwinner and now we have nothing and we are suffering.*

**G's husband was killed by government troops**

*In December 2004 after an assessment was done by Liberia Community Infrastructure Project (LCIP) they helped organize a memorial service that lasted for three days. It was an extremely important event for this community as it brought the entire community together to remember those that had died. It really helped us all move on from that terrible event.*

**A Catholic priest working with the victims of the Maher Bridge**

**Need for an action plan to provide reparation to victims**

Under international law, victims of crimes against humanity, war crimes and other serious violations of international human rights law have a right to full and effective reparation in an effort to address their suffering. Reparation ideally involves taking measures to repair the damage done by the crime. There are five recognized forms of

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<sup>53</sup> Interview with Mariama Golley of Concerned Christian Community (CCC) with AI on 28 May 2006.

reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.<sup>54</sup>

Under international law “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>55</sup> Of course, in situations where such horrific crimes have been committed, it will often be impossible to undo the consequences of the crime. Nevertheless, as demonstrated by the people interviewed by AI, there are many measures that can be taken to help address victims’ suffering.

The obligation to provide reparation to victims rests primarily with the state, even where a previous government committed the crimes. The government of Liberia is

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<sup>54</sup> Basic Principles on the right to a remedy and reparation, principles 19 to 23 **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.

**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.

**Satisfaction** includes 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; and commemorations and tributes to the victims. **Guarantees of non-repetition** involve measures aimed at ensuring that victims are not subject to other crimes. The measures include: ensuring effective civilian control of military and security forces; ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; strengthening the independence of the judiciary; protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders; providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises; promoting mechanisms for preventing and monitoring social conflicts and their resolution; and reviewing and reforming laws which contribute to or allow crimes under international law.

<sup>55</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.

therefore responsible for establishing effective mechanisms and programmes to provide reparations. Civil society groups, international agencies and donors can also play a role in implementing them. Such programmes should be established in consultation with victims to ensure that initiatives meet their needs. As a first step, Liberia must promptly enact legislation guaranteeing victims and their families the right to effective forms of reparations and establishing effective procedures to utilize them.

### ***Victims of rape and other forms of sexual violence***

Special consideration should be given to victims of rape and other forms of sexual violence. AI's discussions with women in Arthington, an area 10 miles outside of Monrovia, and in Ganta, in Nimba County, revealed their concerns in the post-war period. As rape and other forms of sexual violence can result in severe physical injury and psychological trauma, women have expressed the need for medical, surgical, and psychological responses.<sup>56</sup> Most women, in addition to coping with the consequences of their rape, have had to take on multiple roles to ensure the survival of their families, often as the sole breadwinner. Numerous survivors have become war widows, or been abandoned or displaced, leaving them without support. The total lack of basic services available in communities is exacerbating these concerns. With an ill-equipped health centre, women are unable to deal with the health-related consequences of their rape. Women have nowhere to send their children to school and they are worried about their future.

Post-war rehabilitation poses many challenges for survivors of rape and sexual violence. Some programmes offered by International Rescue Committee (IRC) and Concerned Christian Community (CCC) focus on providing psycho-social and medical support for women.<sup>57</sup> In addition, victims should be able to pursue reparation claims before national courts directly against the persons found responsible for the crimes against them. Legislation should be introduced to facilitate these claims and to ensure that legal aid is available to victims.

### ***Children associated with the fighting forces***

The international community has acknowledged the imperative of responding effectively to the needs of Liberia's child soldiers, and funding has been made available for reintegration programmes. A comprehensive Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR) programme includes

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<sup>56</sup> The most frequent medical consequences of rape and other forms of sexual violence include: HIV, syphilis, gonorrhoea, unwanted pregnancies, and vesicovaginal fistula resulting in urinary incontinence.

<sup>57</sup> *Liberia: No Impunity for rape – A crime against humanity and a war crime* AI Index: AFR 34/017/2004, 14 December 2004.

specific arrangements for children.<sup>58</sup> These arrangements include: access to health care, education, skills training, family tracing and protection of children in communities.

Access to education is crucial for the successful rehabilitation and reintegration of former child soldiers, both girls and boys, and reduces the risk of remobilization. Far fewer girls than boys enrol in school, so special attention will need to be paid to ensuring that girls have access to education during the post-conflict period.

### **The need for prompt and effective measures**

The government has not invested in a system for reparations. As a result, victims have been left to suffer without official acknowledgement of the crimes committed against them or assistance to rebuild their lives.

The truth, justice and reparation initiatives described here are a step in the right direction, but much more must be done to address the continuing widespread suffering. A great deal more could be done in the short term. The government of Liberia should act immediately and not wait for the TRC's findings before taking further measures to guarantee the right of victims to reparation.

Amnesty International therefore calls on the government of Liberia to develop and prioritize an action plan to provide full and effective reparation to victims. The plan should include enacting the appropriate legislation and provide for detailed consultation with victims, groups representing victims (including women's and children's organizations), civil society, international agencies and international donors. Amnesty International supports the recommendations of a number of Liberian civil society groups to hold a national consultative conference on reparations. The testimonies contained in this report reflect the need for a comprehensive plan that takes into account the wide array of suffering, aspirations and concerns of Liberians who have been adversely affected by the conflict – elderly people, children, women and the internally displaced.

## **Part IV**

### **Conclusion**

This report attempts to reflect the serious impact that the crimes of rape, torture, killings, and attacks on civilians has had on thousands of Liberians during the last 14 years of armed conflict. We heard from **M** who witnessed the death of over 175

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<sup>58</sup> Article VI of the Comprehensive Peace Agreement (CPA) Accra, 18 August 2003.

community members, including young children, who were thrown over the Maher Bridge by soldiers loyal to the then Government, and were left to drown. We heard from **I** who, on the order of a member of the armed group MODEL, ran towards a school, was shot in the back by the man who ordered her to run, and is now paralyzed and in a wheelchair. There is also **M** from Arthington who, in 1990, was raped by a man she would not be able to recognize today but still suffers pain, reminding her daily of what happened to her. Up to now, all the survivors have had to endure their trauma without any official recognition or acknowledgement that would have through the form of reparation, compensation or the feeling of justice having been done with those who caused the suffering brought to justice.

In April 2007 the trial of Liberia's former president, Charles Taylor, is due to begin in The Hague under the auspices of the Special Court for Sierra Leone. He will be tried on 11 counts of war crimes and crimes against humanity, which he is alleged to have committed against the Sierra Leonean people. Charles Taylor's arrest and transfer to the Special Court to stand trial has contributed to a significant shift in the Liberian landscape. So far however Charles Taylor has not been investigated and prosecuted for crimes he is alleged to have committed against the Liberian people. The opportunity presented by his arrest must not be squandered. Liberia must honor its obligations in international law to investigate and prosecute crimes in international law, in proceedings that meet international fair trial standards, and to ensure the victims' rights to truth, justice and reparation.

The Liberian authorities must swiftly establish appropriate mechanisms to ensure that those responsible for crimes under international law are brought to justice, and to provide full reparation to victims. Women who have been raped should be assisted with counselling and, if necessary, medical care. Demobilized child soldiers should be provided with education and counselling services.

The government should hold a series of consultations with members of civil society and relevant sections of UNMIL. In the spirit of the recommendations of UN Secretary-General's rule of law in conflict and post-conflict societies report of 2004, UNMIL should assist the government in developing a strategic and comprehensive action plan to address the past. Members of the international community, including donors, should also be supportive of the process. All efforts should be carried out in consultation with civil society and with Liberia's many victims. The international donor community and the Liberian government should continue to support the TRC to ensure that the largest possible number of victims and witnesses are able to participate in the process.

## **Recommendations**

The government of Liberia, in consultation with civil society and the international community, must put together a long-term comprehensive action plan to address the past violations of international human rights and humanitarian law. The plan should demonstrate to Liberians that victims' needs are the priority, and should elaborate on a transitional justice strategy which includes plans for achieving the rights to truth, justice and reparation.

### **Amnesty International urges the government of Liberia to:**

- Provide all necessary logistical and financial support for the Truth and Reconciliation Commission to ensure that it can carry out its work adequately and effectively;
- Provide all necessary logistical and financial support to the Independent National Commission on Human Rights to ensure that it can carry out its work adequately and effectively;
- Facilitate a transparent national consultation with civil society to develop a long term comprehensive action plan to address the past including the development of a prosecution policy and reparation policy;
- Implement the provisions of the Rome Statute of the International Criminal Court, Convention Against Torture, and International Convention for the Protection of All Persons from Enforced Disappearances into domestic law;
- Enact legislation guaranteeing victims and their families the right to effective forms of reparations and establishing effective procedures to utilize them;
- Investigate crimes under international law and where sufficient evidence exists, prosecute those suspected of involvement; in trials which adhere to international fair trial standards;
- Establish a Victims' and Witnesses' Unit for the protection and welfare of victims and witnesses testifying before the TRC and Liberian courts;
- To acknowledge the suffering of the Liberian people and make a public commitment to all Liberians to carry out a national consultation in collaboration with civil society which comes up with an overall comprehensive plan on reparation;
- Make public immediately the joint Government/UN rule of law strategy paper to ensure that it is taking steps to deal with crimes committed during the war;

- Ensure that the legislation defines crimes under international law as crimes under national law, and incorporates steps to investigate past crimes, a plan to develop a witness protection strategy, and a prosecution policy which involves outreach to victimized communities;
- Ensure that the newly proposed Law Reform Commission is adequately financed and focused on ensuring that national legislation meets international standards;
- Develop and strengthen a Judicial Inquiry Commission which is equipped to vet all staff working in the judiciary, monitor the behaviour and actions of judges and magistrates, identify gaps in training to ensure that staff are well equipped to adjudicate on international crimes;

**Amnesty International urges UNMIL's Human Rights and Protection Section to:**

- Support the development of the government of Liberia's national human rights action plan, which includes support for addressing the past.
- Support the Truth and Reconciliation Commission through training initiatives;
- Provide advice and support to the further development of the Independent National Commission on Human Rights (INCHR), once it is fully constituted;
- Provide advice to the government of Liberia in its implementation of the Rule of Law strategy paper and the development of a national reparation policy.

**Amnesty International urges UNMIL to:**

- Provide support to the government of Liberia in the incorporation of the Rome Statute of the ICC into domestic law, and in the comprehensive implementation of the Rule of Law strategy paper;
- Facilitate and contribute advice to ensure that the government of Liberia fulfils its reporting obligations to International Treaty bodies: CERD, CEDAW, CAT, CRC, and HRC

**Amnesty International urges Donors, especially members of the International Contact Group, to:**

- Provide necessary funding and logistical support for the TRC, the Independent Human Rights Commission, and the Rule of Law Implementation strategy;
- Support the establishment and continued functioning of a Victims' and Witnesses' Unit to protect victims and witnesses testifying before the TRC and Liberian courts;
- Provide necessary funding and logistical support to enable NGOs and civil society groups to monitor transitional justice mechanisms;

- Facilitate civil society's participation in a transparent national consultative mechanism with civil society on reparations.