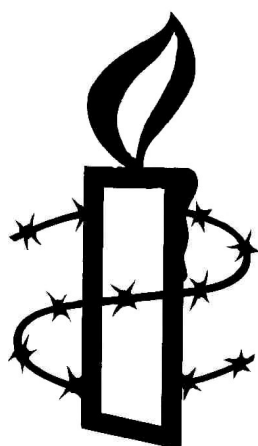

amnesty international

Liberia
Towards the final phase of the
Truth and Reconciliation
Commission



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Executive Summary and Recommendations

Amnesty International urges the Truth and Reconciliation Commission of Liberia to fully accomplish its mandate as a “forum that will address issues of impunity”. Liberian victims of past human rights violations have the right to know the truth, obtain justice and be granted full reparations for what they suffered. It is vital that the Commission ensures that its policies with respect to prosecutions and reparations are fully consistent with international law.

Until criminal prosecutions are initiated, the Commission will be the only mechanism at the national (or international) level able to contribute effectively to ending impunity for crimes under international law committed during the armed conflict in Liberia. The policies adopted by the Commission on prosecutions and reparations will be fundamental to shape the Liberian transition.

During the first year since its establishment, it seemed that the Commission had fallen into a vicious cycle of funding crisis and operational delays. Financial difficulties caused delays to the statement-taking process and to the completion of the Commission’s structure and operational support. Since mid-2007, an improved relationship with international donors and a review of the Commission’s budget, work plan and financial procedures allowed a much-needed injection of funds and a revamping of the programs. The launch of the individual hearings in January 2008 was a positive sign of the Commission’s ability to carry out its operations, despite initial difficulties.

While the problems linked to a lack of resources are slowly being overcome, other aspects of the Commission’s operations are still a source of concern. These include:

The lack of in-house legal support. At the time of writing, the International Technical Advisory Committee (ITAC), an international committee of experts designed to support the Commission in the fulfilment of its mandate, was inoperative. The Commission still did not have the support of an in-house legal team able to provide expert advice on questions related to its mandate, powers and procedures.

The lack of clarity among local media and the general public on key issues such as the Commission’s policies on reparations and prosecutions. While focusing on promoting participation in the statement-taking process and encouraging participation in the hearings, the Commission has failed so far to explain clearly its mandate and policies.

The Commission’s policy on granting “general immunity” to all those providing information. This policy may be applied to alleged perpetrators of crimes under international law and create obstacles to their prosecution. The interaction between the Commission’s policy on “general immunity” and the policy on recommending prosecutions for those who allegedly committed human rights violations is not clear.

The lack of a comprehensive program for psychological advice and support to victims and witnesses. At the beginning of the hearings in January 2008 the Commission was still effectively unable to provide people appearing before it with medical and psychological follow-up services and was organizing referrals to other organizations.

The insufficient protection measures for victims and witnesses. Even taking into account the limitations imposed by the Liberian situation, the Commission seems to have done too little, too late to safeguard the safety of those providing it with information, in particular the 200 people scheduled to give testimonies during the hearings.

The inadequacy of the Commission's procedures to protect the presumption of innocence of those named as perpetrators. Individuals accused of crimes during the public hearings did not receive any official notification by the Commission about the allegations made against them during the statement-taking process, nor were they officially invited to reply to these allegations.

The Commission's policy on recommending only reparations at the community level. Individual reparations aimed at addressing the victims' suffering and helping them rebuild their lives should be a priority for any reparations program.

This report discusses the lessons learned during the Commission's first two years and analyzes the challenges that it will face during the final phase of its work. Amnesty International offers observations and recommendations to the members of the Commission, to the Liberian government, to donors and to other international organizations, aimed at ensuring that the Commission fully accomplishes its mandate as a "forum that will address issues of impunity".

Recommendations to the Truth and Reconciliation Commission of Liberia

Structure

The Commission should appoint legal advisers within the Secretariat, able to provide expert advice on legal and policy questions related to the Commission's mandate, powers and procedures.

Policies on confidentiality, immunity and amnesty

The Commission should adopt and follow strict guidelines about the granting of confidentiality. Such guidelines should be fully consistent with international law and standards and ensure that the granting of confidentiality does not restrict the Commission's power to recommend prosecutions. In particular, the Commission should not provide confidentiality to any person giving information about their involvement in crimes under international law.

The Commission should clarify the interaction between its policy on "general immunity" and the policy on recommending prosecutions for those who allegedly committed human rights violations.

The Commission should amend Section 7.1 of the Rules and Procedures and the Policy Paper on General Immunity for All TRC Witnesses to exclude immunity for crimes under international law.

As required by the TRC Act and by international law, the Commission should not recommend amnesties or similar measures of impunity with respect to crimes under international law. To this purpose, the Commission should follow competent legal advice.

Women and Children

The Commission should develop and improve the measures taken to address the experiences of women.

The Commission should develop and improve the measures taken to address the experiences of children.

Victims and Witnesses

The Commission should establish a comprehensive program for psychological advice and support to victims and witnesses.

In cooperation with UNMIL and the LNP, The Commission should establish a fully functional, comprehensive protection program for victims and witnesses as a matter of urgency. In particular, the Commission should assume that a security risk exists for all those appearing in public hearings and naming alleged perpetrators, unless otherwise demonstrated. It should then fully use the powers conferred to it by the TRC Act on the basis of this assumption. Detailed security measures need to be taken for the victims and witnesses living in the same community as the alleged perpetrators.

Presumption of innocence

The Commission should make clear that accusations are not proof of guilt of any crime and that the individuals named as perpetrators during public hearings are entitled to the presumption of innocence.

The Commission should inform promptly and in detail all those accused of crimes before it of any allegations made against them. Media reports cannot be a substitute for information officially provided by the Commission.

The Commission should invite alleged perpetrators to defend themselves, i.e. to reply to the allegations, if they so wish. It must permit alleged perpetrators to defend themselves by giving their counter-statements and/or participating to one of the hearings.

Prosecutions

The Commission should define the criteria for compiling a list of those who allegedly perpetrated crimes under international law. Those included in the list should be given, as a minimum, the possibility to respond to the allegations. Such a list should be handed over to prosecution authorities so that, where there is sufficient evidence, those concerned can be prosecuted. The Commission should decide the modalities to ensure that the list of alleged perpetrators is known to prosecution authorities but is not available to the general public.

The Commission should recommend that the Liberian government adopt effective steps to ensure that all alleged perpetrators of crimes under international law are investigated and, if enough admissible evidence is gathered, prosecuted in accordance with international law and standards.

Reparations

The Commission should recommend both community and individual reparations to all victims without distinction.

In addition to the measures of rehabilitation, compensation and satisfaction mentioned in the TRC Act, the Commission should consider recommending a broad range of other reparations for victims. These include measures that would prevent repetition of past violations, reforming laws, administrative procedures and practice; strengthening the justice system; and promoting human rights education.

Recommendations to the Liberian government

The government of Liberia should provide The Commission with all the necessary funding and logistical support it needs to carry out its work adequately and effectively.

The Liberian authorities should establish the Independent National Human Rights Commission as a matter of priority.

The government of Liberia should facilitate a transparent national consultation to develop a long term comprehensive action plan to address past human rights violations and guarantee that victims fully enjoy their rights to truth, justice and reparations. The action plan should include a prosecution policy and a reparation policy.

In close cooperation with the international community, the Liberian government should adopt effective steps to ensure that all alleged perpetrators of crimes under international law are investigated and, if enough admissible evidence is gathered, prosecuted in accordance with international law and standards.

In close cooperation with the international community, the Liberian government should adopt effective steps to preserve evidence, protect victims and witnesses and prevent the flight of suspects.

Recommendations to donors and international organizations

Donors, especially members of the ICGL, should provide The Commission with all the necessary funding and logistical support it needs to carry out its work adequately and effectively.

Donors, especially members of the ICGL, should support the establishment and functioning of a comprehensive protection program to protect victims and witnesses testifying before The Commission.

Donors, especially members of the ICGL, should facilitate civil society's participation in a transparent national consultation to develop a long term comprehensive action plan to address past human rights violations and guarantee that victims fully enjoy their rights to truth, justice and reparations.

ECOWAS and the United Nations High Commissioner for Human Rights should appoint ITAC members as a matter of urgency.

Abbreviations

AHR: The Advocates for Human Rights

ECOWAS: Economic Community Of West African States

ICGL: International Contact Group-Liberia

ITAC: International Technical Advisory Committee

LNP: Liberian National Police

NGO: Non-governmental organization

TRC: Truth and Reconciliation Commission

UNMIL: United Nations Mission in Liberia

Liberia

Towards the final phase of the Truth and Reconciliation Commission

Introduction

During the first weeks of January 2008, gruesome stories of war atrocities started making the news again in Liberia. Local media reported extensively about two major developments in the quest for justice for the crimes committed during the armed conflicts that tore the region. One was the trial of former Liberian President Charles Taylor before the Special Court for Sierra Leone, sitting in The Hague. The other one was the start of the hearings of the Truth and Reconciliation Commission of Liberia (TRC or the Commission) in Monrovia.

The TRC is mandated to investigate gross human rights violations and violations of international humanitarian law as well as abuses that occurred during the period from January 1979 to 14 October 2003.¹ Its individual hearings began in Monrovia on 8 January 2008, the day after the opening of Charles Taylor's trial in the Hague. They were a positive sign of the Commission's ability to carry out its operations, despite initial difficulties.

This report discusses the lessons learned during the first two years of the TRC and analyzes the challenges that it will face during the final phase of its work. Amnesty International offers observations and recommendations to the Liberian government, to the members of the Commission, to donors and to other international organizations, aimed at ensuring that the TRC fully accomplishes its mandate as a "forum that will address issues of impunity".

The report is based on research conducted by Amnesty International over the past four years through June 2008, including several missions to Liberia, most recently in January 2008. The organization observed the first hearings of the TRC and had meetings with the Commission's members and staff, government representatives, local and international non-governmental organizations (NGOs), United Nations (UN) agencies, donors and representatives of foreign governments. Amnesty International would like to thank all those who helped its research.

Box 1: Amnesty International's work on transitional justice in Liberia

Amnesty International has been monitoring transitional justice developments in Liberia since 2003.

- Amnesty International, *Liberia: One year after Accra – immense human rights challenges remain* (AI Index AFR 34/012/2004), August 2004.

Before the 2005 elections Amnesty International published:

- Amnesty International, *Liberia: Violence, discrimination and impunity* (AI Index: AFR 34/003/2005), September 2005.

The organization welcomed the establishment of the Truth and Reconciliation Commission, hoping that it would help ensure that victims of past violations fully enjoy their rights to truth, justice and reparations. After a mission to Liberia in May 2005, Amnesty International published:

- Amnesty International, *Liberia: Truth, Justice and Reparation – Memorandum on the Truth and Reconciliation Commission Act* (AI Index: AFR 34/005/2006), 22 June 2006.

A shorter version of the memorandum, intended for local civil society, was published in Monrovia in December 2006.

- Amnesty International, *Liberia: A brief guide to the Truth and Reconciliation Commission* (AI Index: AFR 34/007/2006), December 2006.

Amnesty International's submission to the TRC, published in September 2006, is now used for the training of statement-takers in the Liberian diaspora.

- Amnesty International, *Liberia: Submission to the Truth and Reconciliation Commission* (AI Index: AFR 34/006/2006), September 2006.

Specific research on the Commission was carried out during a further mission in May 2006, which investigated more broadly the Liberian response to past crimes.

- Amnesty International, *Liberia: Truth, justice, reparation for Liberian victims* (AI Index: AFR 34/001/2007), February 2007.

I. The initial period: a “bumpy road”

An observer interviewed by Amnesty International described the initial period of work of the TRC, euphemistically enough, as a “bumpy road”. The Commission’s first operational year (June 2006-June 2007) was characterized by a difficult relationship with international donors and a serious lack of funds, which undermined the Commission’s ability to carry out its activities. Since mid-2007, an improved relationship with international donors and a review of the Commission’s budget, work plan and financial procedures allowed a much-needed injection of funds and a revamping of the programs.

The difficulties of the first year caused long-lasting delays in the completion of the TRC structure and of its Secretariat. At the time of writing, the International Technical Advisory Committee (ITAC), an international committee of experts established under the TRC Act to support the TRC in the fulfilment of its mandate, was inoperative. The Commission still did not have the support of an in-house legal team able to provide expert advice on questions related to the Commission’s mandate, powers and procedures.

I.A. No trust, no funds

President Ellen Johnson Sirleaf inaugurated the TRC on 20 February 2006, when its members were officially appointed.² After a three-month preparatory stage, the Commission announced the beginning of its investigation in June 2006.

Since the beginning of the Commission’s operations, the government of Liberia has been the single largest financial contributor to the work of the TRC, committing three million USD for the period October 2007-September 2008, out of a national budget of nearly 200 million USD.³ While the government’s support, at least financially, has been constant, the relationship with international donors and partners has been more challenging.

During its first three months (March-May 2006), the Commission received pledges for 1,2 million USD, that is 60% of the amount requested to donors for that preparatory period.⁴ However, the honeymoon with international donors did not last long. By September 2006 the Commission had received pledges for only 15% of its operational period budget (June 2006-September 2008), which amounted to 14 million USD.⁵ By November 2006 it was clear that a lack of funds was undermining the Commission’s ability to carry out its work.

Some donors believed that the TRC budget had been set too high and did not reflect an efficient distribution of resources between the Commission’s operational activities and its administrative costs. The donors also wanted the TRC to reduce the number of support staff and the amount of salaries and benefits of the Commissioners.⁶ A UN independent expert noted “disharmony” and a lack of coordination within the Commission on programming and activities.⁷ Such concerns caused a reduction in the flow of financial support. Some donors decided to suspend the funding altogether. During Amnesty International’s visit to Liberia in January 2007 the TRC operations had almost come to a standstill due to funding delays.

In March 2007, the TRC and the International Contact Group on Liberia (ICGL, a group of international donors)⁸ launched a TRC/ICGL Working Group, with the responsibility for

coordinating donor funding and supporting the TRC to fulfil its mandate. The Commission went through a three-month period of reassessment. The TRC and the TRC/ICGL Working Group drafted and approved a 18 Months Comprehensive Work Plan, with a revised final budget of 8 million USD.⁹ The Commission issued revised Rules and Procedures, including detailed regulations with respect to administration, finance and recruitment.¹⁰ A staff restructuring exercise was undertaken and several staff made redundant or re-assigned.¹¹ An independent firm carried out a financial review of the TRC accounts and formulated recommendations for improvement.¹²

Emergency funds allowed the TRC to re-launch its operations in July 2007. Thanks to an improved relationship with international donors, the TRC received positive answers to the funding request (5,6 million USD) formulated in September 2007 to cover core operational areas between October 2007 and September 2008.¹³ At the beginning of 2008, the TRC had received 4.2 million USD.¹⁴

Amnesty International recommends that:

The government of Liberia should provide the TRC with all the necessary funding and logistical support it needs to carry out its work adequately and effectively.

Donors, especially members of the ICGL, should provide the TRC with all the necessary funding and logistical support it needs to carry out its work adequately and effectively.

I.B. A structure still incomplete

The Commission divided Liberia into eight operational zones and established a regional office in each of them. Each Commissioner has oversight responsibilities over one of the eight zones, in addition to some thematic and operational areas.¹⁵ The TRC Secretariat, headed by an Executive Director, is structured around four Departments: an Inquiry Unit; an Outreach and Public Relations Department; a Program Department; and an Administrative Department.¹⁶

At the time of writing, the International Technical Advisory Committee (ITAC), an international committee of experts established under the TRC Act to support the TRC in the fulfilment of its mandate,¹⁷ was inoperative, as the three members originally selected left during the funding crisis of 2006-2007 and new members had not been appointed yet. According to the new terms of reference drafted by the TRC, two ITAC members would be required to have expertise in law and investigations, while the third one would be required to have experience in archives and documentation.¹⁸

The Special Magistrate, assigned to the TRC to issue the legal acts required under Liberian law to exercise the Commission's quasi-judicial investigative powers (including warrants of search and seizure, subpoenas, citations to procure information and testimonies),¹⁹ was appointed only in January 2008.

A February 2007 Working Document adopted by the TRC/ICGL Working Group highlighted the need to define the legal standards that the TRC could apply to its hearings, final decisions and recommendations. An international legal consultant contracted by the TRC finalized in July 2007 a Guidance Note discussing legal standards applicable by the Commission, drawn from

the Constitution and criminal law of Liberia, international humanitarian law, international human rights law and international criminal law.²⁰

Despite these positive steps, by June 2008 the Commission still did not have the support of an in-house legal team able to provide expert advice on questions related to the Commission's mandate, powers and procedures and to ensure that evidence produced by the Commission is admissible in later criminal proceedings. The lack of in-house legal support is a cause of particular concern in the light of the Commission's policies on recommendations for amnesties and prosecutions, which require the TRC to apply international law and standards (see section IV.B.: *A vision for the TRC: A "forum that will address issues of impunity"*).

Amnesty International recommends that:

ECOWAS and the United Nations High Commissioner for Human Rights should appoint ITAC members as a matter of urgency.

The TRC should appoint legal advisers within the Secretariat, able to provide expert advice on legal and policy questions related to the Commission's mandate, powers and procedures.

Box 2: Civil society engagement

Liberian civil society, in particular the Transitional Justice Working Group (a coalition of non-governmental organizations) had a fundamental role in the consultations leading to the drafting of the TRC Act.²¹ During the past two years, several local civil society organizations supported the Commission as partners, helping the implementation of its activities in areas such as women's and children's participation and protection, counselling, outreach, etc. (see section II: *The Commission's operations*).

However, the cooperation between the Commission and civil society organizations would benefit from better coordination. The TRC-ICGL Working Group, which has played such an important role in the work of the Commission, does not include civil society organizations. No similar body has been established to ensure communication and coordination between the TRC and civil society.

A strategy for the inclusion of civil society organizations (including transitional justice groups, child protection agencies and agencies specialized in psychosocial assistance) was being drafted in November 2007.²² It is not clear whether the draft has been finalized since.

II. The Commission's operations

Before the beginning of the public hearings in January 2008, the Commission's operations focused on outreach and statement-taking. Because of the financial difficulties experienced during its first year of activities, the work had to be delayed or carried out with insufficient resources.

Since its appointment in February 2006, the Commission organized outreach activities aimed at local media and the general public. The outreach activities targeted at local media (radio and newspapers) were generally successful. However, the results of the public information and education activities targeted at the general public are difficult to measure. In both cases, it seems that the TRC failed to explain clearly its mandate and policies on key issues such as reparations and prosecutions (see section II.A.: *Outreach*).

Delays in the payment of salaries and insufficient logistic support characterized the initial statement-taking activities in Liberia, which began in October 2006. As a result, certain counties were not adequately covered. Observers noted also a lack of coordination between outreach and statement-taking. At the request of the TRC the Advocates for Human Rights, an NGO based in the United States, organized outreach activities and statement-taking in the United States, Ghana and the United Kingdom (see section II.B.: *Statement-taking*).

The TRC declared that confidential statements will not be used in a court of law to prosecute the statement-giver. This policy restricts the Commission's power to hand over to prosecution authorities statements containing useful information or evidence of crimes under international law. Amnesty International is seriously concerned about the TRC policy on "general immunity" for all those giving statements to the Commission, including perpetrators, for any crimes mentioned in their statements (see section II.C.: *Immunity for perpetrators*).

The measures taken by the TRC to address the experiences of women and children need to be developed and improved. Some observers interviewed by Amnesty International described the TRC activities to support women's participation as "fragmented". The measures taken to provide special attention to the experiences of children are behind schedule (see section II.D.: *Listening to the needs of women and children*).

Box 3: The Commission's investigations

In January 2008 the TRC had a core staff of 23 inquiry officers doing investigations.²³ Its Inquiry Unit was investigating five research themes and 23 "window" cases.²⁴ However, the lack of vehicles and operational funds limited the progress made by the Commission's investigations.

In June 2007 Chairman Jerome Verdier reportedly stated that the TRC had discovered over 100 mass graves during its investigations in Lofa county, north-western Liberia.²⁵ The TRC reported discovering several mass graves, containing hundreds of bodies, again in December 2007 and January 2008 following visits to Sinoe, Rivercess, Bomi, Gbarpolu and Grand Cape Mount counties.²⁶ However, the TRC lacked the money and expertise for mass exhumations and declared that it did not intend to carry out any forensic investigation.²⁷

II.A. Outreach

II.A.1. Public information, education and communication

Outreach activities targeted at local media. The TRC enjoyed a good level of media interest since its establishment and outreach activities targeted at local media (radio and newspapers) can be considered generally successful. Local media and the TRC adopted a code of conduct for journalists reporting on the Commission, recommending among other things respect for the rights and dignity of all those involved, especially during the public hearings.²⁸ In addition, the Commission and partner NGOs carried out specific activities to inform and involve local media in the process.²⁹ The results of these efforts have been evaluated in a report on the media coverage of the TRC public hearings published by the Liberia Media Center.³⁰

Public information and education activities targeted at the general public. Eight regional offices were established throughout the country to facilitate outreach. Fifteen county coordinators were selected at the end of August 2006.³¹ However, as any other area of the Commission's work, outreach activities suffered from the crisis that the TRC experienced at the end of 2006. The Commission had to admit:

"During [October to December 2006], the Commission lacked effective information, education and communication strategy especially in the interior of Liberia. The communities in the interior of Liberia lack understanding of the TRC process."³²

In order to improve the TRC visibility with the Liberians outside Monrovia, County Coordinating Committees, comprised of TRC county coordinators, local officials, NGOs and civil society organizations, were established in each county to carry out outreach activities. Several public awareness activities were organized in the counties, including community meetings, training seminars, radio interviews, distribution of visual materials, etc.³³ Additional outreach projects were carried out by NGOs.³⁴

The results of public information and education activities targeted at the general public are difficult to measure. Still in April 2007, local media noted that: "today... very little is known about the work of the TRC even in parts of the capital, safe to say, largely because of funding difficulties".³⁵ A survey conducted in June 2007 for the BBC World Service Trust showed that 80% of the adult population in Liberia were aware of the TRC. However, such a high percentage dropped to 51% among those with no formal education.³⁶ A low level of awareness and participation among women led donors to organize specific awareness-raising projects targeting women at the end of 2007 (see: section II.D.1.: *Special attention to the experiences of women*).

The impact of outreach activities on participation in the TRC process are even more difficult to measure.³⁷ The TRC admitted that a lack of coordination between outreach activities and statement-taking caused opportunities for collecting statements to be missed during the early phases of its public awareness work.³⁸ In February 2008, media reported about low attendance to the hearings organized in Maryland and Grand Kru counties.³⁹

II.A.2. Outreach message

While focusing on promoting participation in the statement-taking process and encouraging participation in the hearings, it seems that the TRC failed to explain clearly its mandate and policies to the Liberian public. An examination of the TRC outreach material shows that the Commission's messages have been centred around two main ideas: (a) truth-telling; (b) to a less extent, reconciliation.⁴⁰ Despite declarations of the intention "to give information to the public about the possible outcomes of the TRC hearings regarding cases of human rights violations and crime",⁴¹ the TRC powers with respect to prosecutions and reparations have not been sufficiently articulated in the outreach messages directed to the general public. The June 2007 survey mentioned above showed that while 80% of the adult population in Liberia were aware of the TRC, less than half were aware of its powers.⁴²

The main focus of the outreach messages seems to be promoting participation in the statement-taking process and encouraging participation in the hearings. Promoting participation in the statement-taking process is the main objective of the posters distributed around the country. Targeted at the general public, these posters feature slogans such as: "*Come to the TRC – Tell the truth about what happened to YOU*" and "*Liberians, come to the TRC and tell your story*". A third poster, designed for an awareness raising project targeting women, declares: "*Women suffered abuses during the war; Please encourage them to talk*".⁴³ The slogans published on some Liberian newspapers around the first days of the TRC public hearings were more sophisticated, being directed at educated people mostly living in Monrovia. However, the main message was still encouraging truth-telling: "*TRC public hearings – Break the silence and speak out your mind*" and "*TRC public hearings: Not a court house – Come and tell the truth on what you know from 1979-2003*".⁴⁴ Some slogans tried to assure perpetrators that they would have an opportunity to present their view – another message encouraging truth-telling: "*TRC public hearings: Victims, witnesses and perpetrators all have equal opportunities to tell the true story*" and "*TRC public hearings equal opportunity and justice for all*".⁴⁵

The TRC told Liberians what it is not ("*not a court house*") but it failed to explain what it is. The result is a lack of clarity among both local media and the general public on key issues such as the Commission's policies on reparations and prosecutions. An independent survey found that local media "in very rare instances utilized information regarding the mandate, structure, functions and general legal framework of the Commission in providing context to testimony, emerging developments and stories".⁴⁶

II.B. Statement-taking

The statement-taking in Liberia suffered seriously because of the TRC financial crisis of 2006-2007. Because of the Commission's lack of sufficient funds for logistics and salaries the statement-takers, deployed in the counties in October 2006, were recalled in January 2007 and were not redeployed until October 2007. Observers noted a lack of coordination between outreach and statement-taking and limited coverage of certain counties.

At the request of the TRC, the advocates for Human Rights, an NGO based in the United States, organized outreach activities and statement-taking in the United States, Ghana and the United Kingdom.

In January 2008 the TRC estimated having collected between 10,000 and 16,000 statements in Liberia; more than 400 Liberians in the US and the UK had given or had signed up to give a statement and 700 statements had been gathered in Ghana.

II.B.1. Statement-taking in Liberia

Nearly two hundred statement-takers were commissioned in September 2006 and deployed in the counties by teams of three at the beginning of October.⁴⁷ The first “experimental” statement-taking process lasted for three weeks, during which nearly 2000 statements were collected.⁴⁸ At the end of November 2006, in response to reports that the TRC had to recall the statement-takers because of a lack of funds to pay them, the Commission conceded that the statement-takers’ pay had to be delayed.⁴⁹ Financial constraints caused the statement-takers to be recalled from the field and the statement-taking process to be halted in January 2007.⁵⁰ The re-deployment of the statement-takers was delayed by the process of reviewing the TRC budget (see: section I.A.: *No trust, no funds*). The second phase of the statement-taking process, integrating statement-taking and public awareness activities, began in October 2007, when 124 statement-takers and 15 county coordinators were re-deployed.⁵¹

Observers interviewed by Amnesty International consistently noted the constraints imposed on the statement-taking process in Liberia by limited resources, both human and material. As a result of these constraints, statement-takers could not reach certain remote areas, where serious human rights violations are known to have occurred.⁵² In addition to these constraints, some expressed doubts about the timing chosen for the deployment of statement takers, corresponding to the rainy season, when travelling is particularly difficult, and then to harvesting time, when Liberians in the counties are busy in the fields. In general, a lack of coordination between outreach and statement-taking was noted.

More than 5,000 statements had reportedly been collected in Liberia by March 2007, and more than 6,000 by September the same year.⁵³ In total, the TRC estimates having collected between 10,000 and 16,000 statements.⁵⁴ The statement-taking process was scaled down before the beginning of the hearings in January 2008; the TRC Chairman told Amnesty International that residual statement-taking activities would be targeted at specific counties.⁵⁵

Box 4: The public statement-taking of October 2006

The respect for and protection of the rights of both victims and witnesses and alleged perpetrators require that the information collected through statements be confidential during the initial stage of proceedings. It is only after a statement has been collected that the Commission can: evaluate the protection needs of the individual and establish protection measures; inform the alleged perpetrators that allegations have been formulated against them and invite them to reply to these allegations; and investigate the statement to verify its veracity and accuracy against other evidence. The TRC Chairman, J Verdier, reportedly told statement-takers that the testimonies collected were to remain confidential: “you don’t have to disclose your work to anyone but the TRC.”⁵⁶

Despite this caution, some statements were widely publicized during the first weeks of the statement-taking process. On 10 October 2006 the TRC organized a public statement-taking event in Monrovia, during which two statements were collected in the presence of about 50 members of the public. The full content of the statements, including names of alleged perpetrators, as well as the names of the statement-givers were widely reported in the press.⁵⁷ Other statements naming alleged perpetrators, collected in other counties, were also reported in the press together with the names of the statement-givers.⁵⁸

On 23 October 2006, less than two weeks after the first public statement-taking event in Monrovia, the Association for the Legal Defense of Charles G. Taylor, a campaign group, appealed to the Liberian Supreme Court to stop the TRC hearing testimony against him. Arguing that the public testimonies collected by the TRC would jeopardise Taylor's chance of a fair trial before the Special Court for Sierra Leone and that Taylor was not present before the TRC to defend himself, the petition called on the Supreme Court to issue a writ of prohibition against any evidence or testimony mentioning Taylor's name produced before the TRC.⁵⁹ On 1 November 2006 Supreme Court Justice Francis Korkpor decided not to proceed on the petition, reportedly based on the rights to freedom of speech and freedom of the press.⁶⁰

The TRC admitted that allowing public allegations at the start of the statement-taking process had been a mistake, gave assurances that statements would be verified before the hearings and announced that people accused of having committed crimes would be invited to the proceedings after completion of the statement-taking process.⁶¹ Unfortunately, the Commission did not keep all of these promises (see: section III.B.2: *The right to reply and the right to presumption of innocence*).

II.B.2. Diaspora Outreach Project

Taking into account the dimension and importance of the Liberian diaspora,⁶² the TRC planned to do outreach activities and then to organize statement-taking and hearings with the Liberians residing abroad. At the request of the TRC, the Advocates for Human Rights (AHR, previously Minnesota Advocates for Human Rights), an NGO based in the United States, started working on a Diaspora Outreach Project in mid-2006.⁶³

The TRC of Liberia is not the first truth commission having conducted outreach, statement-taking and other activities with its diaspora community. However, the scale of activities involving the Liberian diaspora community, especially in the US, is vast. Statement-taking among the Liberian diaspora community in the US began in January 2007 in Minnesota and will be continuing through 31 August 2008 in Illinois, Pennsylvania, New York City, Washington, D.C.-Maryland, New Jersey, Rhode Island and Georgia. Outside the United States, AHR has organized statement-taking in the Buduburam refugee camp in Ghana and in the United Kingdom.⁶⁴ More than 625 volunteers have been trained as statement-takers, most of them local attorneys working *pro bono*, but also academics and members of the Liberian community.

By the beginning of 2008, more than 400 Liberians in the US and the UK had given or had signed up to give a statement and 700 statements had been gathered in Buduburam. The TRC Commissioners travelled to the US to preside over The thematic public hearings, held in June 2008 in St. Paul, Minnesota, US. More than 30 witnesses from eight US cities testified about the human rights abuses that forced them to flee Liberia, as well as the experiences of living in

refugee camps in West Africa and settling in the US. In addition to victims, several high-ranking former Liberian government officials testified, as well as a former US Assistant Secretary of State for African Affairs.⁶⁵ At the end of the project, AHR will submit to the TRC a report with diaspora findings and recommendations, together with the database where all statements collected from the diaspora are being stored.

Because of the different context, the organization of statement-taking in the United States had to face specific challenges with respect to outreach and procedures. An Advisory Committee composed of Liberians living in the US has been established to ensure a close link with the diaspora community and involve it in outreach activities. Specific training had to be organized for the statement-takers, mostly non-Liberians.⁶⁶ Liberians having concerns about the consequences of statements on their immigration status have the option to give an anonymous statement or a confidential statement (see section II.C.: *Immunity for perpetrators*) and are put in contact with immigration lawyers.

In general terms, the organization of the statement-taking in the United States benefited from the resources available in the country, allowing it to provide greater attention to the needs of those giving statements, especially with respect to psycho-social follow-up. Statement givers in the diaspora can talk to mental health counsellors, pastors and others trained in helping survivors of trauma, as well as being referred to social service already available to the community.⁶⁷ They can indicate a preference about being interviewed by a Liberian team or a gender team of statement-takers.

Box 5: Collection of evidence and information management

In addition to statement-taking, the TRC of Liberia collected information by requesting documents from governmental and other bodies, soliciting submissions by NGOs, gathering media and other reports, etc. Following a request under the US Freedom of Information Act, US authorities transmitted to the TRC several thousands pages of US declassified documents containing information about the Liberian crisis.⁶⁸ Among international NGOs, both Amnesty International and Human Rights Watch submitted information about human rights violations committed during the period under investigation.⁶⁹ The Commission also benefited from a "Mapping the Conflict Project", carried out by UNDP in collaboration with the UN Office of the High Commissioner for Human Rights, which collected information on the conflict from 1990 to 2003 and gathered more than 13,500 statements as well as video and photographic evidence.⁷⁰

Benetech, a US-based organization specialized in applying scientific measurement to large-scale human rights violations, is responsible for developing a database to manage the information collected during the TRC process. The database would be the main instrument to process the statements given to the Commission and allow the kind of quantitative analysis that would enable the TRC to identify patterns of human rights violations. Internal guidelines, including a set of definitions, have been developed to ensure that all information collected in the statements (type of violations, names of victims and perpetrators, etc.) is coded, i.e. identified in a consistent way. A Coding Unit is responsible for receiving, coding and filing the statements. The information is then entered into the database. In February 2008, circa 6,000 statements had been coded, of which circa 2,000 have been entered into the database. To

ensure that the information in the database is at any moment representative of the statements collected, the process of coding and entry into the database is randomized.⁷¹

II.C. Immunity for perpetrators

Q: If I am a perpetrator, will my statement and/or testimony mean automatic amnesty or immunity from prosecution? A: No. neither the TRC nor the Advocates for Human Rights have the power to grant amnesty. The TRC may make recommendations for amnesty if appropriate. Although The Advocates for Human Rights cannot protect anyone from prosecution, we will keep your statement confidential unless ordered to break confidentiality by a court of law.

The Advocates for Human Rights,
Liberian TRC Diaspora Project, Frequently Asked Questions Webpage⁷²

The TRC policy and practice on collecting information is blurring the notions of confidentiality and immunity and generating confusion. Amnesty International is seriously concerned that the TRC policy on “general immunity” for all those giving statements to the Commission, including perpetrators, may be applied to alleged perpetrators of crimes under international law and create obstacles to their prosecution. The interaction between the Commission’s policy on “general immunity” and the policy on recommending prosecutions for those who allegedly committed human rights violations (see section IV.B.2.: *Recommending prosecutions*) needs to be clarified.

II.C.1. Confidentiality

Confidentiality should be used to protect the rights of individual victims, witnesses and, in some cases, suspected perpetrators, in particular when their security is deemed to be at risk. Measures such as concealing identities or *in camera* hearings (hearings behind closed doors) should be designed to ensure that victims and witnesses can recount their ordeals without fearing intimidation, retaliation or social stigma.

The TRC Act includes several provisions regulating confidentiality (see Box 6: *Confidentiality in the TRC Act*). When the TRC started its operations, Amnesty International was concerned about the broad discretion granted to the Commission with respect to confidentiality and recommended that the Commission should exclude, as a matter of policy, providing confidentiality to any person giving information about their involvement in crimes under international law.⁷³

The interpretation and practical implementation of the Commission’s power to grant confidentiality raises further concerns. Those who give statements, both in Liberia and in the United States (see section II.B.2.: *Diaspora Outreach Project*) have the option to give an anonymous statement (meaning that no information that could identify them is recorded). Alternatively, they can decide that their statement will remain “confidential”, i.e. that it will remain classified for 20 years following the dissolution of the TRC.⁷⁴ Such “confidentiality” is not intended to protect the information given in a statement, but only the actual statement.⁷⁵

Although these measures have been designed to reassure victims and witnesses about the process, allowing the statement-taker to decide about anonymity and confidentiality leaves the

door wide open to misuse by perpetrators, who can block the Commission from handing their statements to prosecution authorities. By giving up its power to determine whether protecting the rights of the statement-giver needs the granting of confidentiality, the TRC is allowing perpetrators to shield from both prosecutions and public scrutiny and is blurring the two notions of confidentiality and “use immunity”.

Box 6: Confidentiality in the TRC Act

The Commission may decide, at its own discretion, to keep confidential the information given by any person, group of persons or organizations or institutions as informants, witnesses, alleged perpetrators or victims. In some circumstances, it may decide to hold a hearing *in camera* and to keep confidential any information relating to the proceedings. The records or documents the Commission considers to be “confidential” will remain classified for 20 years following its dissolution. Finally, the Commission has the power to decide whether to disclose in its report the identities of any person who made a statement or gave evidence.⁷⁶

Amnesty International recommends that:

The Commission should adopt and follow strict guidelines about the granting of confidentiality. Such guidelines should be fully consistent with international law and standards and ensure that the granting of confidentiality does not restrict the Commission’s power to recommend prosecutions. In particular, the Commission should not provide confidentiality to any person giving information about their involvement in crimes under international law.

II.C.2. “Use immunity”

The TRC Act includes a provision giving the Commission the power to grant “use immunity” (a guarantee that the evidence individuals disclose will not be used against them in later criminal proceedings). The type of “use immunity” in the Liberian TRC Act appears to be particularly broad, because it covers not only criminal, but also civil proceedings (tort actions). However, the Commission can grant “use immunity” only when the information provided is given (a) in advancement of the public interest objective of the TRC; and (b) pursuant to the successful execution of its mandate.⁷⁷

The Rules and Procedures of the Commission contain two different provisions regulating the power to grant “use immunity”. Section 6.11 considers the power to grant “use immunity” to have a discretionary nature. It provides that the Commission should decide on whether or not to grant immunity on the basis of a formal individual application, which gives reasons for such a request.⁷⁸ At the same time, section 7.1 allows the TRC to grant “general immunity” to all those appearing before it, the only criteria being that the information provided be “truthful”.⁷⁹

In March 2008 the TRC adopted and published a Policy Paper on General Immunity for all TRC Witnesses, granting “general immunity from prosecution or tort action” to all individuals and institutions giving evidence or testifying before it, including perpetrators.⁸⁰

Amnesty International is concerned that the Commission’s policy on “general immunity” may be applied to alleged perpetrators of crimes under international law. National authorities do not have the power to grant immunity for crimes under international law.

In addition, both section 7.1 of the Rules and Procedures and the Commission's Policy Paper appear to be inconsistent with the TRC Act, as they provide for a "general" immunity without detailing any procedure whereby the Commission would be able to decide whether the criteria set in the TRC Act are met.

Amnesty International recommends that:

The Commission should clarify the interaction between the its policy on "general immunity" and the policy on recommending prosecutions for those who allegedly committed human rights violations.

The Commission should amend Section 7.1 of the Rules and Procedures and the Policy Paper on General Immunity for All TRC Witnesses to exclude immunity for crimes under international law.

II.D. Listening to the needs of women and children

The TRC is mandated to adopt specific mechanisms and procedures to address the experiences of women and children, paying particular attention to gender-based violations and to the issue of child soldiers, providing opportunities for them to relate their experiences, addressing their concerns and recommending measures for their rehabilitation.⁸¹ In particular, the TRC

"shall employ specialists in children and women's rights and shall ensure that special measures or mechanisms are employed that will enable women and children to provide testimony to the TRC, while at the same time protecting their safety and not endangering or delaying their social reintegration or psychological recovery".⁸²

In fact, the measures taken by the TRC to address the experiences of women and children need to be developed and improved. Some observers interviewed by Amnesty International described the TRC activities to support women's participation as "fragmented". The measures taken to provide special attention to the experiences of children are behind schedule.

II.D.1. Special attention to the experiences of women

The TRC established a Committee on Gender, including the United Nations Mission in Liberia (UNMIL), the United Nations Development Fund for Women (UNIFEM), women's NGOs and the Ministry of Gender. Gender issues were included in the training for statement-takers. In December 2006 the TRC began a series of four nationwide "zonal" workshops and 15 town hall meetings, intended to discuss women's participation in the TRC process and to lead to the development of a TRC gender policy document.⁸³

During the second half of 2007 special outreach programs, funded by international donors and implemented by local NGOs, were devised to encourage women to participate in the statement-taking process.⁸⁴ The TRC plans to hold thematic hearings on women in July 2008.

Despite these initiatives, observers interviewed by Amnesty International described the TRC activities to support women's participation as "fragmented" and noted that improved attention

to gender issues was needed. At the time of the beginning of the hearings, a TRC Gender Policy had not yet been adopted and women's participation in the TRC process remained limited. Only 21 of the 73 witnesses who appeared before the Commission in Monrovia in January 2008 were women.⁸⁵

Despite attempts to take into account the needs of women, the Commission failed to respond to their first concern: protection from retaliation. Already in 2006 some organizations working with victims of rape and other sexual and gender-based violence expressed concern to Amnesty International about encouraging women to give their statement to the TRC, as no form of protection was in place, especially in rural areas.⁸⁶ The Commission adopted a policy that testimonies by victims of sexual crimes would be heard behind closed doors, to protect their privacy and provide some security.⁸⁷ However, confidentiality is the only form of protection currently available, as protection measures for victims and witnesses are severely insufficient (see section III.B.1.: *Lack of protection for victims and witnesses*).

Amnesty International recommends that:

The TRC should develop and improve the measures taken to address the experiences of women.

II.D.2. Special attention to the experiences of children

Two of the members of the Commission has oversight responsibilities on Children and Youth issues, respectively. During Amnesty International's mission in May 2006 the TRC declared that it had given serious attention to the involvement of children in its work, including seeking the advice and collaboration of children protection advisers. Indeed, on 21 September 2006 the TRC signed a Memorandum of Understanding with a task force of Child Protection Agencies (CPA), aimed at "catering to the general wellbeing of children during the entire TRC process".⁸⁸ On this basis, child protection agencies have been working to set up a network for children's support and protection. At the beginning of 2007 the TRC Committee on children conducted a pilot workshop for 75 school children in Buchanan, Grand Bassa County.⁸⁹ Other workshops reportedly followed the first one.

The Commission adopted a policy of protecting the identity of minors appearing before it and of conducting all hearings involving children behind closed doors.⁹⁰ A controversial policy reportedly exists, both in Liberia and in the diaspora, to keep confidential statements about crimes committed by children (see section IV.B.1.: *No amnesties for crimes under international law*). The Commission plans to hold thematic hearings on children in July 2008 and to adopt a TRC Children's Agenda.

However, the measures taken to provide special attention to the experiences of children are behind schedule. A child protection advisor reportedly started working only in December 2007.

Amnesty International recommends that:

The TRC should develop and improve the measures taken to address the experiences of children.

III. Hearings of the TRC in Liberia

After significant delays,⁹¹ the TRC individual hearings began in Monrovia on 8 January 2008, the day after the opening of Charles Taylor's trial in the Hague. After a month of individual hearings in Monrovia, the TRC started a country-wide tour, holding a week of individual, thematic and institutional hearings in each of the 15 Liberian counties from February to the end of May 2008. The TRC then plans to hold thematic hearings in Monrovia from July to September 2008. Institutional hearings will take place in October. The TRC also plans to organize a National Conference on Reconciliation in November 2008.⁹²

During the 15 days of hearings in Monrovia 73 people testified, 52 men and 21 women, including nine people that the Commission qualified as "perpetrators".⁹³ Amnesty International observed the first four days of hearings in Monrovia, on 8, 9, 10 and 14 January 2008. About 100-150 people attended every day. The hearings were well-covered by local media.

Box 7: A fragmented truth

The testimonies examined by the TRC during the first four hearings in Monrovia were selected among those presenting the most serious violations; in addition, they had to be representative of different themes and mention different actors as perpetrators.⁹⁴ As a result, they focused on different events happening at various times in disparate parts of the country, providing a very fragmented global representation of the Liberian conflict. This naturally drove local media to highlight the most sensational aspects of the testimonies, rather than trying to find patterns or common features.

An independent survey noted about coverage of the hearings in local newspapers: "the media was simply reporting testimonies, providing limited backgrounds and literally not finding other angles. Most papers were also not fielding public comments and interpretations. Very few outlets were critically reviewing the process through their editorials, commentaries and opinion columns".⁹⁵

Some observers wondered whether a different selection of cases for the hearings or a different daily arrangement of the cases selected (by time, by place or by event), would have better served the purpose of public education.

III.A. Lack of support for victims and witnesses

The TRC decided to focus the hearings on victims, giving them a platform to tell their stories and showing them empathy. Witnesses were allowed time for their testimony, at the end of which the Commissioners would ask questions, mostly to clarify the names, dates and places mentioned. Questions would rarely challenge the facts reported.⁹⁶ The Commissioners consistently thanked the witnesses for their courage and the audience was asked to give support to the witnesses while they were giving their testimony.

Unfortunately, the attention to victims showed during the hearings is not matched by a comprehensive program for psychological advice and support to victims and witnesses. The

TRC had initially devised an ambitious plan for psychosocial advice and support of victims, perpetrators, family members, Commissioners and staff throughout the whole process.⁹⁷ Such a plan was delayed and had to be scaled down as a result of the TRC financial crisis. By March 2007 a Psychosocial Unit had been established in the TRC Secretariat to provide support to TRC Commissioners and staff as well as witnesses. However, the Unit, based at the TRC headquarters in Monrovia, could not reach the counties.⁹⁸

At the beginning of the hearings in January 2008, two TRC staff would prepare and support victims and witnesses during the hearings. The TRC was still effectively unable to provide people appearing before it with medical and psychological follow-up services and was organizing referrals to other organizations, such as the Center for Victims of Torture (CVT), a US-based NGO already working in Liberia.⁹⁹

Amnesty International recommends that:

The Commission should establish a comprehensive program for psychological advice and support to victims and witnesses.

III.B. Naming and shaming

Disappointingly, the TRC does not seem to have learned lessons from the public statement-taking incident of October 2006 (see Box 4: *The public statement-taking*). During the period between the beginning of the statement-taking and the beginning of the hearings, insufficient measures were put in place to respect and protect both the rights of victims and witnesses and the rights of alleged perpetrators.

During the hearings observed by Amnesty International, the TRC consistently asked all those appearing before it to name the perpetrators of the crimes they were recounting and to specify whether they would be able to recognize them. Only one victim refused to name perpetrators, saying that he feared for his family and his own security. However, he confirmed in public, without repeating them, the names he had made in his statement. In one case, a witness was shown a picture of an alleged perpetrator by the Commission and asked to recognize him.

Of the 73 people who appeared before the TRC during January 2008 in Monrovia, three victims were heard *in camera*, including a victim of sexual violence. However, the press releases issued by the TRC itself provided so many details about the testimony of witnesses whose names were withheld that they could be easily identified.¹⁰⁰ No measures were adopted to protect the identity of the 70 witnesses who gave their testimony in public.¹⁰¹ Photos and names of the witnesses, including in some cases information on their place of origin and residence, appeared on the first pages of Monrovia newspapers together with photos of the person they had accused and a complete account of the allegations against them.

Amnesty International is seriously concerned by the procedure adopted by the TRC about “naming names” during its hearings. While it is not unusual that alleged perpetrators are identified during the hearings of a truth commission, it seems that the TRC did not put in place adequate measures to protect either the safety of those naming names or the presumption of innocence of those named as perpetrators. By the time the hearings began, no

comprehensive protection program was in place for victims and witnesses, and no procedure had been adopted to inform alleged perpetrators of the accusations made against them.

III.B.1. Lack of protection for victims and witnesses

"We are now living in fear; our security is in the hands of the TRC. The TRC needs to provide us with security protection".

A witness who had appeared before the TRC¹⁰²

Several witnesses during the hearings observed by Amnesty International in Monrovia said that they wouldn't return to the counties where they witnessed crimes for fear of retaliation. The members of a community involved in one of the first testimonies reported receiving pressures to change the allegations and claimed fearing for their security.¹⁰³ At the same time, international media reported that death threats had allegedly been received by family members of prosecution witnesses in the war crimes trial of former Liberian President Charles Taylor before the Special Court for Sierra Leone.¹⁰⁴

The timely implementation of a comprehensive protection program for victims and witnesses would have been necessary not only in preparation for the hearings, but also to give victims and witnesses the confidence to participate in the statement-taking process since the beginning. Effective protection from retaliation appears to be crucial, for example, for women victims of rape and other sexual and gender-based violence, who are often living in the same community as the alleged perpetrators (see section II.D.1.: *Special attention to the experiences of women*).

The challenges of establishing a comprehensive protection program for victims and witnesses in Liberia cannot be underestimated. While the security situation is generally stable thanks to the presence of UNMIL, lack of funding, infrastructure and equipment limits the full deployment of the Liberian National Police (LNP) to all the counties. In some of the counties security and the rule of law are extremely limited. However, even taking into account the limitations imposed by the Liberian situation, the TRC seems to have done too little, too late to safeguard the safety of those providing it with information, in particular the 200 people scheduled to give testimonies during the hearings.

A Security and Protection Plan had been drafted by the TRC and submitted to the TRC/ICGL working group, UNMIL and the Liberian National Police (LNP) for review by September 2007.¹⁰⁵ Both the creation of safe homes and the conclusion of witness protection protocols with other countries were discussed.¹⁰⁶ However, by the time the hearings started in January 2008 there was still no comprehensive protection program for victims and witnesses. With exception of the small number of victims heard *in camera*, the only protection available to victims and witnesses was the security during each hearing session, provided by UNMIL, LNP and TRC staff.

The Commission maintains that it carries out a first individual security assessment before the hearing, to determine whether a closed hearing is necessary, and then a second one after the hearing.¹⁰⁷ However, Amnesty International was not able to witness these assessments and it cannot determine whether the Commission is giving witnesses a sufficiently clear picture of the security risks and of the limitations in the Commission's ability to protect them, necessary for an informed consent on fundamental issues such as naming names and revelation of

personal details. It is a matter of concern that some witnesses said during the hearings that they had been assured that “none would harm them” – an assurance beyond the Commission’s real capacity.

While the public character of the hearings should be preserved as much as possible, measures can be taken during a public hearing to protect the identity of witnesses and reduce their security risk, short of calling a closed hearing. For example, victims and witnesses should be able to testify from behind a screen. Instead of asking witnesses to name perpetrators, the Commission should ask them to confirm the names they already mentioned in the statement, without repeating them.

Amnesty International recommends that:

In cooperation with UNMIL and the LNP, the TRC must establish a fully functional, comprehensive protection program for victims and witnesses as a matter of urgency. In particular, the Commission should assume that a security risk exists for all those appearing in public hearings and naming alleged perpetrators, unless otherwise demonstrated. It should then fully use the powers conferred to it by the TRC Act on the basis of this assumption. Detailed security measures need to be taken for the victims and witnesses living in the same community as the alleged perpetrators.

Donors, especially members of the ICGL, should support the establishment and functioning of a comprehensive protection program to protect victims and witnesses testifying before the TRC.

III.B.2. The right to reply and the right to presumption of innocence

“Let [the man I am accusing] come to the TRC to prove me wrong”.

A witness to the TRC, 8 January 2008

Amnesty International is seriously concerned that the TRC did not adopt a procedure to inform consistently all alleged perpetrators about the accusations made against them and to give them a chance to reply and defend themselves. This is a matter of particular concern in the light of specific provisions in the Commission’s Rules and Procedures devised to guarantee the right to reply.¹⁰⁸

Although the TRC declared that those accused as perpetrators would have equal opportunity to appear before it and defend themselves,¹⁰⁹ individuals accused of crimes during the public hearings did not receive any official notification by the Commission about the allegations made against them during the statement-taking process, nor were they officially invited to reply to these allegations. The TRC told Amnesty International that it does not intend to invite all those named in public hearings to reply to the allegations, and that alleged perpetrators will be asked to appear before the Commission if they are perceived as major perpetrators or if they are believed to have important information.¹¹⁰ The individuals named during the hearings generally got to know about the allegations against them through the local media. Many of them publicly declared to be prepared to testify before the TRC to exercise their right to reply.¹¹¹ However, the modalities of these statements are still not clear.

The procedure adopted by the TRC - or rather, the lack of such a procedure - with respect to allegations made against individuals during the hearings is creating a presumption of guilt in

the Liberian public debate. Individuals named during the hearings are considered guilty until they prove their accusers wrong in another hearing, which may never take place.

Persons alleged of having committed crimes before a truth commission have the right to be presumed innocent until proven guilty beyond a reasonable doubt according to law in separate fair criminal proceedings. Allegations by victims or witnesses do not constitute a violation of the presumption of evidence in themselves. The Commission nonetheless has an obligation to protect the dignity and reputation of alleged perpetrators. The right to presumption of innocence may be violated if the TRC facilitates media reports which infringe on the dignity and reputation of alleged perpetrators. Although the TRC claims investigating and corroborating all allegations before the hearings, a truth commission is not a judicial body and its investigations do not determine guilt or innocence.

Amnesty International recommends that:

The TRC should make clear that accusations are not proof of guilt of any crime and that the individuals named as perpetrators during public hearings are entitled to the presumption of innocence.

The TRC should inform promptly and in detail all those accused of crimes before it of any allegations made against them. Media reports cannot be a substitute for information officially provided by the Commission.

The TRC should invite alleged perpetrators to defend themselves, i.e. to reply to the allegations, if they so wish. It must permit alleged perpetrators to defend themselves by giving their counter-statements and/or participating to one of the hearings.

Box 8: Going after the “big fishes”

The TRC repeatedly declared that “no Liberian is exempt” from the process, and that, where necessary, it would use of its subpoena powers to call selected individuals, including former warlords, to testify.¹¹² In the eyes of the Liberian public, the credibility of the TRC process will depend largely on whether the Commission will be able to keep this promise.

Liberian authorities called in several occasions on the Liberian people to take part in the process. After several public calls, President Ellen Johnson Sirleaf declared being ready to testify before the TRC, if called to do so.¹¹³ In February 2008 the issue was raised in the Senate whether the body would debate appearance before the TRC of Senators summoned for public hearings. The President *pro-tempore* of the Senate, Senator Isaac Nyeneboe, reportedly declared that the TRC has the right to subpoena anybody.¹¹⁴ However, the Commission has not yet publicly called any individual to testify.

The TRC told Amnesty International that cases implicating government officials would all be heard behind closed doors.¹¹⁵ It is not clear whether the choice of using *in camera* hearings would be dictated by concerns about the security of witnesses, rather than political or other considerations.

IV. Between a tribunal and a ‘palava’ hut. But where exactly?

Having spent its first operational year struggling with lack of funds and organizational problems, the Commission seems now still looking for its identity.

The first outreach poster distributed by the Commission depicted the TRC process as two people standing in front of four Commissioners, sitting behind a bench. That image was later considered to equate the TRC to judicial proceedings – not the way the TRC wants to be perceived. In a second poster, designed to publicize the public hearings, the TRC was portrayed sitting inside a ‘palava hut’, a place traditionally used by Liberian communities to discuss issues of common interest and solve disputes. Despite this shift, the hearings that the TRC organized in Monrovia looked more like judicial proceedings than a ‘palava hut’.

Issues such as the TRC policy with respect to accountability and prosecutions, or its role in a wider transitional justice plan for the country, have been debated superficially and sporadically, mostly by the media. Paradoxically, such a debate is kept alive by some civil society organizations, such as the Forum for the Establishment of a War Crimes Court, which oppose the TRC, fearing that it would divert attention from criminal prosecutions, and campaign for the establishment of a war crimes tribunal instead.

Only 21 of the 129 sections of the May 2007 Rules and Procedures of the TRC regulate the execution of the Commission’s mandate, and only four of them are related to its policies on prosecutions and reparations. In September 2007, the TRC could explain its policy on accountability in one single paragraph.¹¹⁶ Finally, the Commission published its policy on reparation, prosecution and amnesties in March 2008. However, several aspects of it need to be clarified (see below).

Several observers interviewed by Amnesty International suggested that the TRC needs “a vision” – something that it has not managed to agree so far because of the Commissioners’ competing ideas about what the TRC is for.¹¹⁷

IV.A. Leading the Liberian transition

Until criminal prosecutions are initiated, the TRC will be the only mechanism at the national (or international) level able to contribute effectively to ending impunity for crimes under international law committed during the armed conflict in Liberia. This implies enormous responsibilities: the policies adopted by the Commission on prosecutions and reparations will be fundamental to shape the Liberian transition.

During the negotiations for the Comprehensive Peace Agreement (CPA) in Accra, the TRC was proposed as an alternative to the war crimes tribunal pushed by civil society.¹¹⁸ While the option of a tribunal was never formally excluded, the CPA established the TRC and remained silent on prosecutions. With the exception of the provisions related to security sector reform and restructuring of the Liberian National Police and other security services, issues related to accountability, such as the reform of the justice sector and legislative reforms, as well as reparations for victims, received little or no attention. In this sense, the compromises of the CPA contributed to the impunity gap currently affecting Liberia.

Thanks to a fruitful cooperation between the Liberian government, civil society and the United Nations, the TRC Act partially made up for the shortcomings of the CPA, providing the Commission with a clear mandate and broad powers. In particular, the Act gives the TRC the power to make recommendations to the head of state with regard to: “reparations and rehabilitation of victims and perpetrators in need of specialized psycho-social and other rehabilitative services”; the enactment of specific legal, institutional and other reforms; any necessary government actions to be taken in furtherance of its findings, such as continuing investigations or inquiries into particular matters and prosecutions in particular cases.¹¹⁹

However, the TRC Act could not be a substitute for a long-term, comprehensive action plan, developed in transparent consultation with civil society, to ensure that the truth is told, that justice is done and that reparation is provided to all the victims. Amnesty International expressed concern that the government seems to have handed over to the TRC its responsibility for combating impunity.¹²⁰ The authorities have, in practice, transferred all investigations about crimes under international law to the Commission and apparently intend to wait until the publication of its final report to take measures, if any, with respect to prosecutions and reparations for victims.¹²¹

Amnesty International recommends that:

The government of Liberia should facilitate a transparent national consultation to develop a long term comprehensive action plan to address past human rights violations and guarantee that victims fully enjoy their rights to truth, justice and reparations. The action plan should include a prosecution policy and a reparation policy.

Donors, especially members of the ICGL, should facilitate civil society's participation in such a transparent national consultation.

IV.B. A vision for the TRC: A “forum that will address issues of impunity”

The Comprehensive Peace Agreement (CPA) signed at Accra in August 2003 provided for the establishment of a Truth and Reconciliation Commission “to provide a forum that will address issues of impunity, as well as an opportunity for both the victims and perpetrators of human rights violations to share their experiences, in order to get a clear picture of the past to facilitate genuine healing and reconciliation.”¹²²

IV.B.1. No amnesties for crimes under international law

The TRC Act provides the Commission with the power of recommending amnesty “under terms and conditions established by the TRC upon application of individual persons making full disclosures of their wrongs and thereby expressing remorse for their acts and/or omissions, whether as an accomplice or a perpetrator”. However, the same provision, in conformity with international law, clarifies that amnesties or exoneration shall not apply to “violations of international humanitarian law and crimes against humanity”.¹²³

A misunderstanding, originated during the peace negotiations at Accra, led to a widespread assumption that the TRC would grant amnesty to perpetrators in exchange for confessions, in an “amnesty-for-truth” process inspired by the one carried out by the Truth and Reconciliation

Commission of South Africa. The TRC had to clarify at the beginning of its operations that, in accordance with its establishing Act, it would not grant a general amnesty to all the perpetrators appearing before it and confessing their crimes.¹²⁴

In its March 2008 Policy Paper on Reparation, Prosecution & Amnesty, the Commission stated:

“Recommendation for amnesty will be made only in favor of an individual or group of persons for any act, wrong or crime committed between the period 1979 and October 2003 or before, upon request and upon the making of full and truthful disclosure of all material fact, in expression of remorse, pertaining to the act, wrong or crime for which amnesty is sought or pertaining to the actions, deeds or activities of the individual during the period 1979 to 2003 or any preceding period in Liberian history as the TRC is mandated to cover.”¹²⁵

A procedure by which individuals can apply to the Commission to request amnesty was adopted in the May 2007 Rules and Procedures and then revised in March 2008. Such a procedure requires the TRC to determine whether the crimes disclosed amount to violations of international human rights law in order to exclude the granting of amnesty.¹²⁶

However, the implementation of such a policy may prove challenging. Only some of the Commissioners have a legal background. The Commission as a whole does not have the necessary expertise to make sophisticated legal evaluations, such as those required to determine whether specific acts amount to violations of international human rights law – nor it should be requested to, without competent legal advice. The TRC has called for the timely appointment of ITAC members with expertise in law and investigations, as well as of legal advisers within the Secretariat, as measures needed to provide guidance on legal and policy issues.

Some declarations by members of the Commission and its original plans to hold a week of thematic hearings on “youth, prosecution & amnesty” in June 2008 led some observers to wonder whether the TRC is developing a policy of granting immunity to former child soldiers.¹²⁷ A policy reportedly exists, both in Liberia and in the diaspora, to keep confidential statements about crimes committed by children.¹²⁸ However, no clarity appears to exist on these points.

According to the information available to Amnesty International, no perpetrator had requested amnesty as of February 2008. Some interpreted the lack of amnesty applications as a sign of true repentance and reconciliation in Liberian society.¹²⁹ However, the attitude of the majority of the perpetrators seems to be different. The option of requesting amnesty for crimes other than violations of international human rights law, as well as the procedure to do so, have been scarcely publicized. In addition, the practice of automatically granting confidentiality to all those requesting it and the policy on granting “general immunity” to all those giving information made applications for amnesty not necessary to shield from criminal prosecution (see section II.C.: *Immunity for perpetrators*).

Amnesty International recommends that:

As required by the TRC Act and by international law, the Commission should not recommend amnesties or similar measures of impunity with respect to crimes under international law. To this purpose, the Commission should follow competent legal advice.

IV.B.2. Recommending prosecutions

The TRC has the power to make recommendations to the head of state with regard to the need to hold prosecutions “in particular cases as the TRC deems appropriate”.¹³⁰ The Commission reaffirmed its intention to use this power in 2006.¹³¹ At the time of writing, however, it still remained unclear how the Commission will enforce this power and how its findings and recommendations will feed into future judicial investigations.

After some contradicting statements,¹³² the Commission stated its policy on prosecutions in March 2008:

“Prosecution and other justice mechanisms will be recommended for all individuals who by commission or omission committed acts, wrongs and crimes amounting to violations of human rights, including violations of international humanitarian laws, international human rights law and crimes against humanity as determined by the Commission.”¹³³

Although such statement does not mention prosecution for other crimes under international law, such as torture, extra-judicial executions and enforced disappearances, Amnesty International welcomes the Commission’s commitment to judicial accountability for crimes committed in Liberia. However, the organization believes that the Commission should clarify the following statement:

“The TRC will recommend prosecution for any individual fitting the above categorization who knowingly ignores or disregards the TRC process, is in contempt of the TRC, exhibits an impenitent, haughty and unremorseful posture, and thereby manifesting insensitivity to the national cravings for national reconciliation and healing, and to the need for accounting and ownership for ones past deeds to build a new society founded on justice and the rule of law to forever combat impunity in Liberia.”¹³⁴

Amnesty International believes that participation in the TRC process should not be a criteria for recommendations of prosecutions.

During the hearings monitored by Amnesty International, Commissioners routinely asked witnesses to identify commanders and the command structure of the armed groups. Implementing a TRC policy, similar questions are asked by the statement-takers interviewing Liberians in the diaspora.¹³⁵ It appears that the TRC intends to use its power to grant immunity to persuade lower and mid-level perpetrators to give testimony implicating their commanders. While low- and mid-level perpetrators are assured that their testimonies will not be used against them in a court of law, the information gathered establishes a case to recommend prosecutions against high-level perpetrators.¹³⁶

The TRC is planning to hold hearings on Prosecution in September 2008.

Amnesty International recommends that:

The TRC should define the criteria for compiling a list of those who allegedly perpetrated crimes under international law. Those included in the list should be given, as a minimum, the possibility to respond to the allegations. Such a list should be handed over to prosecution authorities so that, where there is sufficient evidence, those concerned can be prosecuted. The Commission should decide the modalities to ensure that the list of alleged perpetrators is known to prosecution authorities but is not available to the general public.

IV.B.3. Providing full reparations to the victims and their families

"You will be able to help me."

A witness to the TRC, 10 January 2008

The TRC Act provides that the Commission should recommend "measures to be taken for the rehabilitation of victims of human rights violations in the spirit of national reconciliation and healing".¹³⁷ At the end of its mandate, it should create a trust fund for victims and survivors of the conflict; appoint trustees and determine beneficiaries.¹³⁸

In September 2007 the Commission indicated its preference for reparations at the community level, rather than individual reparations.¹³⁹ Individual reparations were not considered to be practically feasible because of the vast scale of the crimes committed.¹⁴⁰ In March 2008 the Commission formulated its policy on reparations as follows:

"Recommendations for reparation will not be individual-driven. It will target a whole community, village, town, district, county, institution or a group of individuals. Reparations will be considered only in extreme cases of individual need, within the exclusive discretion and wisdom of the Commission, for physical, health, mental, psychosocial and other rehabilitative services and needs without which a reasonably normal life will not be possible."¹⁴¹

While understanding the need for recommendations to be realistic and tailored to the country situation, Amnesty International is deeply concerned that individual reparations have been excluded by the Commission. Although serious human rights violations affect whole communities, and measures should be taken targeting affected communities, it is individuals and their family members that are most directly affected. Individual reparations aimed at addressing their suffering and helping them rebuild their lives should be a priority for any reparations program.

Furthermore, Amnesty International is concerned about the limitation of recommendations for reparations to "extreme cases of individual need". While a reparations program should be driven primarily by the needs of victims, all victims, independently of their personal circumstances, have a right to restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Amnesty International recommends that:

The Commission should recommend both community and individual reparations to all victims without distinction.

In addition to the measures of rehabilitation, compensation and satisfaction mentioned in the TRC Act, the Commission should consider recommending a broad range of other reparations for victims. These include measures that would prevent repetition of past violations, reforming laws, administrative procedures and practice; strengthening the justice system; and promoting human rights education.

Box 9: Apologies to the victims of past crimes

The proper establishment and functioning of a truth commission is in itself a form of reparation. By officially acknowledging that a pattern of human rights violations occurred in the past and taking measures to investigate the facts and disclose the truth, the state provides victims and their families with an initial form of satisfaction.

In more than one occasion the TRC offered public apologies to the victims, on behalf of the government and the people of Liberia.¹⁴² During her statement in occasion of the opening of the hearings, President Ellen Johnson Sirleaf apologised on behalf of the government to Liberian people for its role in the conflict.

V. After the TRC

The TRC was established on 20 February 2006. After a preparatory period of three months, the operational work began in June 2006 and was due to be completed by June 2008. The Commission has a further three months to wrap up its activities and produce a report on its activities and findings – which should be ready by September 2008. It may request the National Legislature to extend its tenure for an additional period of three months. The request, which must demonstrate a good cause for extension, cannot be repeated for more than four times.¹⁴³ If it were given the full series of extensions, the Commission would end its work in September 2009.

The TRC Act provides that “all recommendations shall be implemented” and establishes a procedure involving the National Legislature to ensure that the government implements the Commission’s recommendations.¹⁴⁴ In addition, the Act gives the Independent National Human Rights Commission the responsibility to ensure that all the recommendations contained in the TRC final report are implemented.¹⁴⁵ It is a matter of serious concern that the National Independent Human Rights Commission had not yet been established by the time of this report.¹⁴⁶

Amnesty International recommends that:

The Liberian authorities should establish the Independent National Human Rights Commission as a matter of priority.

V.A. Who will prosecute?

“In addition to truth-telling processes, it will be essential to consider appropriate justice mechanisms to ensure that perpetrators of serious human rights violations be held accountable and to dissuade would-be violators from committing future abuses.”

UN Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang,
concluding a visit to Liberia, 9 May 2008¹⁴⁷

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 arrested and transferred to the Special Court for Sierra Leone to face trial. Charles Taylor’s transfer and the beginning of his trial in January 2008 showed that prosecutions of high-ranking individuals for the crimes committed in the region are indeed a reality.

Liberian society is increasingly expressing strong views in support of addressing impunity. A Group for the establishment of a war crimes court is active in Liberia and the call for criminal prosecutions reached the TRC when, during a hearing, several women’s groups under the banner of Grand Kru County Women reportedly recommended the establishment of a war crimes court in Liberia.¹⁴⁸

As mentioned above, Liberian authorities have not yet taken any measure to support the prosecution of crimes under international law committed in the past. However, they declared being open to the recommendations of the Commission. President Ellen Johnson-Sirleaf

reportedly declared: “There is no alternative to justice; we will accept the recommendations of the Commission”.¹⁴⁹

Amnesty International recommends that:

The Commission should recommend that the Liberian government adopt effective steps to ensure that all alleged perpetrators of crimes under international law are investigated and, if enough admissible evidence is gathered, prosecuted in accordance with international law and standards.

V.A.1. An inadequate national justice system

The challenges of addressing impunity in Liberia, both practically and politically, could not be overestimated.

On the political front, the UN Security Council imposed sanctions against at least four Members of Parliament (MPs) because of their continuing ties with former President Charles Taylor.¹⁵⁰ Some MPs are alleged to have perpetrated human rights violations themselves – and some have been named in testimonies before the TRC. The current composition of the Liberian Parliament makes passing effective legislation to bring perpetrators to justice a major challenge.

On the practical front, Amnesty International has repeatedly expressed serious concerns about the shortcomings of the justice system in Liberia, noting a low level of professionalism and accountability, as well as a striking lack of resources. This situation *de facto* prevents victims of past crimes and current human rights violations from gaining access to justice.¹⁵¹ If “the Liberian criminal justice system is not... in a position to respond to ongoing human rights violations and abuses”,¹⁵² even less it is in a position to deal with past crimes under international law, the prosecution of which requires specific resources and expertise, as well as effective legislation.

In February 2007 Amnesty International recommended the government of Liberia to develop, in a transparent manner and in close consultation with civil society, a long-term comprehensive plan to ensure truth, justice and reparation to the victims of past human rights violations.¹⁵³ However, the rebuilding of the justice system in Liberia will require years of sustained effort by the Liberian government, UNMIL and international donors. On one hand, the rebuilding of the justice system in Liberia should not be rushed to carry out improvised prosecutions. On the other hand, urgent action is needed to avoid that suspects individuated by the TRC flee the country, intimidate victims and witnesses or destroy evidence.

Amnesty International recommends that:

In close cooperation with the international community, the Liberian government should adopt effective steps to ensure that all alleged perpetrators of crimes under international law are investigated and, if enough admissible evidence is gathered, prosecuted in accordance with international law and standards.

In close cooperation with the international community, the Liberian government should adopt effective steps to preserve evidence, protect victims and witnesses and prevent the flight of suspects.

V.A.2. Exploring the options

In its final report, the TRC will have to formulate recommendations on future prosecutions. Several options are available to the Liberian people to ensure the prosecution of crimes under international law and gross human rights violations. While each of them could effectively contribute to ensuring justice, they reflect different degrees of international involvement.

(a) An international ad hoc tribunal. International *ad hoc* tribunals have been established by the United Nations Security Council to prosecute crimes committed in the former Yugoslavia (International Criminal Tribunal for the former Yugoslavia) and in Rwanda (International Criminal Tribunal for Rwanda). They apply international law and employ international staff. Neither of the two is based in the relevant country. International *ad hoc* tribunals are dependent on the international community to provide adequate resources and full cooperation. Such a dependence is generally considered as a limitation.

(b) An internationalized tribunal. Internationalized tribunals apply both national and international law and have both national and international staff. They are based in the relevant country, a factor which facilitates access by victims and witnesses and outreach activities. The collaboration between national and international staff helps strengthening national capacity. Finally, internationalized tribunals are cheaper than international tribunals. However, the fact of being based entirely on voluntary contributions has endangered their independence and has proven to cause financial instability.

In Sierra Leone, the government and the United Nations established a Special Court in 2000. Based in Freetown, the Special Court has been established by treaty.

The United Nations and Cambodia cooperated for the establishment of two Extraordinary Chambers with jurisdiction over crimes committed during the period of Democratic Kampuchea between April 1975 and January 1979. The Chambers have been established by national law within the existing Cambodian courts structure.

(c) A special chamber within the national judiciary.

The United Nations Transitional Administration in East Timor (UNTAET) established by regulation Special Panels in the District Court of Dili (and in the Court of Appeal for East Timor), with exclusive jurisdiction over serious criminal offences. The Special Panels are composed of both East Timorese and international judges.

A War Crimes Chamber within the Bosnia-Herzegovina State Court became operational in March 2005. Composed of both national and international judges, it has the task of dealing with cases deferred by the International Criminal Tribunal for the former Yugoslavia as well as "sensitive" war crimes cases.

(d) International prosecutors and judges sitting on national panels with national judges.

In February 2000 an International Judges and Prosecutors Programme was established, providing for the appointment of international judges and prosecutors to conduct criminal cases within the jurisdiction of courts in Kosovo.¹⁵⁴

V.B. The principles

Whichever approach the Liberian people will choose to ensure the prosecution of crimes under international law, the following fundamental principles should be followed:

(1) Consultation. To ensure ownership and legitimacy at the national level, a wide process of national consultation should be organized to discuss the establishment of any process or institution responsible for prosecutions. Such a consultation should fully involve all those concerned, including national and international civil society organizations, victims, human rights defenders and persons belonging to minorities and vulnerable groups.

(2) Sustainability and capacity building. Any process or institution responsible for prosecutions should be included in a broader, long term, comprehensive action plan to uphold the right of victims of past human rights violations to obtain truth, justice and reparations. In particular, it should be designed to support the rebuilding of the Liberian justice system.

(3) Independence and impartiality: Any prosecution must be truly independent from national authorities and pursue suspected perpetrators solely on the basis of the evidence against them. At the same time, there should be no selectivity in the pursuit of suspects. Anyone suspected of having committed crimes in Liberia must be brought to justice.

(4) Competence. The judges, prosecutors and lawyers (either Liberian or international) selected for any process or institution responsible for prosecutions should be screened on the basis of their human rights record and trained, so as to ensure compliance with international law and standards.

(5) Consistency with international law. Any process or institution responsible for prosecution must be able to try crimes under international law defined consistently with the strictest standards of international law.

(6) Fair trials: Suspects should be brought to justice in proceedings that fully respect international law and standards for fair trial at all stages. The presumption of innocence must be respected from the moment a person is investigated until he or she is proved guilty beyond a reasonable doubt. There should be no recourse to the death penalty or other form of cruel, inhuman or degrading punishment, whatever the circumstances. Suspects must never be subjected to torture or ill-treatment.

(7) Guaranteed resources. Any process or institution responsible for prosecutions should be guaranteed the human and material resources necessary to carry out its mandate timely and effectively.

VII. Conclusion

One observer noted that the problems experienced by the TRC of Liberia “in some ways only highlight the challenge of carrying out such a difficult and resource-intensive human rights inquiry in a context such as Liberia”.¹⁵⁵ In effect, the Truth and Reconciliation Commission of neighbouring Sierra Leone experienced similar problems during the first phases of its work.¹⁵⁶ The insistence of the Liberian Commission on the importance of national ownership of the process should be commended, as well as the financial and other support provided by the government. The TRC hearings, which were taking place when this report was published, are a positive sign of the Commission’s ability to carry out its operations, despite the initial difficulties.

Amnesty International welcomes the Commission’s commitment to judicial accountability for crimes committed in Liberia and awaits the implementation of the TRC policy on recommending prosecutions for the alleged perpetrators of genocide, crimes against humanity, war crimes and other serious human rights violations.

However, the Commission’s policies on “general immunity” for all those providing information and on recommendations for reparations are both a matter of serious concern. To play its role in a wider transitional justice plan for the country and to accomplish its mandate as a “forum that will address issues of impunity”, it is vital that the Commission ensures that its policies are fully consistent with international law.

- ¹ Act to Establish the Truth and Reconciliation Commission of Liberia (TRC Act), approved by the National Transitional Legislative Assembly of Liberia on 10 June 2005, article IV, section 4(a).
- ² The nine original members of the Commission, five men and four women, were: Cllr. Jerome Verdier, Chairman; Dede Dolopei, Vice Chairperson; Cllr. Pearl Brown-Bull; Bishop Arthur F. Kulah; Rev. Gerald B. Coleman; Sheik Kafumba F. Konneh; John H.T. Stewart; Massa Washington and Oumu K. Syllah. Bishop Arthur F. Kulah resigned in February 2008. In April 2008 the TRC suspended Commissioner Pearl Brown-Bull, reportedly for conflict of interest. Commissioner Brown-Bull challenged the suspension before the Supreme Court of Liberia.
- ³ Truth and Reconciliation Commission of Liberia, *Advancing the TRC Mandate: 5th and 6th Quarterly Reports, 1 April – 31 September 2007*, September 2007 (TRC 5th and 6th Quarterly Reports), p. 14. Republic of Liberia, *National Budget for the Period July 1, 2007 – June 30, 2008, 2007-2008 Budget Summary*, http://www.emansion.gov.lr/doc/FY200708Budget_summary.pdf.
- ⁴ Truth and Reconciliation Commission of Liberia, *Comprehensive Work Plan and Program Budget, June 2006 to September 2008*, June 2006, p. 19.
- ⁵ In particular, the government of Liberia pledged 1, 4 million USD; UNDP pledged 449,682 USD; Open Society Initiative for West Africa (OSIWA) pledged 278,000 USD; and the European Union pledged 31,046 Euros. Such pledges would total circa 2,173,000 USD. “No Turning Back”, *The Analyst* (Monrovia), 4 September 2006.
- ⁶ See for example the comments reportedly made by George Soros, founder of the Open Society Initiative for West Africa (OSIWA): “TRC May Reduce Activities”, *The Inquirer* (Monrovia), 5 February 2007. “Billionaire Blows Alarm at TRC”, *Daily Observer* (Monrovia), 5 February 2007.
- ⁷ Report of the independent expert on technical cooperation and advisory services in Liberia, Charlotte Abaka, UN Doc. A/HRC/4/6, 28 February 2007, p. 2 and 6.
- ⁸ The International Contact Group on Liberia (ICGL) includes UNMIL, the European Union, ECOWAS, the African Union and the governments of United States of America, United Kingdom, Germany, Sweden, Ghana and Nigeria. Established in 2002, the ICGL was cited by the Accra Comprehensive Peace Agreement as one of the guarantors of its implementation (article XXXIII).
- ⁹ TRC 5th and 6th Quarterly Reports, p. 6.
- ¹⁰ Truth and Reconciliation Commission of Liberia, *Rules and Procedures*, 8 May 2007.
- ¹¹ TRC 5th and 6th Quarterly Reports, p. 5.
- ¹² *Ibid.*, p. 7.
- ¹³ *Ibid.*, p. 14-15. In December 2007 Sweden pledged 1 million USD to the Commission. “US \$1m From Sweden to Boost Liberia’s TRC”, *The Analyst* (Monrovia), 10 December 2007; “Sweden Provides Over U.S. \$ 6 Million”, *The Inquirer* (Monrovia), 11 December 2007.
- ¹⁴ Sixteenth progress report of the Secretary-General on the United Nations Mission in Liberia, UN Doc. S/2008/183, 19 March 2008, par. 49.
- ¹⁵ Thematic areas have been identified as follows: women; children; youth; reconciliation and reunification; thematic hearings (special); report writing; human rights violations / survival hearings, victims and witnesses; and historical review. TRC Rules and Procedures, par 2.3.
- ¹⁶ *Ibid.*, par. 2.1.
- ¹⁷ TRC Act, article V, section 10.
- ¹⁸ TRC 5th and 6th Quarterly Reports, p. 7.
- ¹⁹ TRC Act, article VIII, section 27(b).
- ²⁰ Truth and Reconciliation Commission of Liberia, *Towards Achieving the Mandate: A Progress Report of the TRC (May 2007 – September 2007)*, 13 September 2007 (TRC Semi-Annual Report), p. 4; and TRC 5th and 6th Quarterly Reports, p. 7.
- ²¹ See: Ezekiel Pajibo, “Civil Society and Transitional Justice in Liberia: A Practitioner’s Reflection from the Field”, *The International Journal of Transitional Justice*, vol. 1, 2007, p. 287-296.
- ²² Truth and Reconciliation Commission of Liberia, *Statement of the TRC on the Current State of Affairs*, press release, 26 November 2007.
- ²³ Amnesty International interview with Stephen Manley, TRC Director of Programs, 11 January 2008.
- ²⁴ TRC Semi-Annual Report, p. 9-10.
- ²⁵ “Truth Commission reveals discovery of over 100 mass graves in Liberia”, *Running Africa*, 18 June 2007.
- ²⁶ “Liberia Commission Visits Mass Graves”, AP, 4 December 2007; “Mass graves found across Liberia”, *News24.com*, 27 December 2007; “TRC Chairman Urges Citizens ‘To Speak Out’”, *The Inquirer* (Monrovia), 27 December 2007; “Liberia’s reconciliation commissioners discover more mass graves”, APA, 4 January 2008.
- ²⁷ Amnesty international interview with Stephen Manley, TRC Director of programs, 11 January 2008.
- ²⁸ Truth and Reconciliation Commission of Liberia, “TRC and Media Meet on Policy”, *TRC Fast Track*, issue 2, 1-14 December 2006.
- ²⁹ See, for example: “Training for journalists reporting on the TRC”, TRC News, 26 January 2007, <https://www.trcofliberia.org/news-1/trc-news/training-for-journalists-reporting-on-the-trc/>.
- ³⁰ Liberia Media Center, *Transitional Justice Reporting Audit: A Review of Media Coverage of the Truth and Reconciliation Process in Liberia*, Monrovia, March 2008.
- ³¹ “TRC Prepares for Hearings”, *Liberian Observer* (Monrovia), 22 August 2006.

- ³² Truth and Reconciliation Commission of Liberia, *Widening Our Horizons, Third Quarter Report, January 1 - March 31, 2007*, not dated (TRC Third Quarter Report), p. 7.
- ³³ TRC 5th and 6th Quarterly Reports, p. 6.
- ³⁴ See: "Civil Society begins Outreach to Enhance TRC Work", *The Inquirer* (Monrovia), 7 August 2007; "Transitional Justice Working Group (TJWG) on TRC Outreach", *The Inquirer* (Monrovia), 12 September 2007.
- ³⁵ "TRC Needs More Attention", *The Analyst* (Monrovia), 18 April 2007.
- ³⁶ Survey conducted for the BBC World Service Trust with Search for Common Ground, based on a random sample of 1,600 Liberians between 18 and 59 years of age in eight counties. *Survey Finds Liberians Aware of Truth Commission, but not its Powers*, BBC World Service Trust, 31 July 2007, <http://www.communicatingjustice.org/en/surveys/liberia> visited 7 February 2008.
- ³⁷ Soon after its establishment, the TRC developed a website (<http://www.trcofliberia.org/>), currently maintained by the Georgia Institute of Technology. A study on the use of the website by the Georgia Institute of Technology, based on an on-line survey, was ongoing at the time of writing.
- ³⁸ TRC Semi-Annual Report, p. 8.
- ³⁹ "Outside the capital, the TRC draws no crowd", *International Justice Tribune*, no. 84, 3 March 2008, p. 2.
- ⁴⁰ This consideration does not concern the outreach material distributed to the diaspora, which explains the purpose and mandate of the TRC and briefly discusses its role with respect to prosecutions, reparations and amnesty. For example: AHR, Frequently Asked Questions Brochure, http://liberiatr.com/advocates.org/sites/cc8c0ee4-1ad1-49b7-9c2a-0a632726e1c3/uploads/FAQ_Brochure_02.19.07_2.pdf
- ⁴¹ TRC 5th and 6th Quarterly Reports, p. 8.
- ⁴² *Survey Finds Liberians Aware of Truth Commission, but not its Powers*, cit.
- ⁴³ TRC, first outreach poster, supported by Public Information / UNMIL, illustration by S. Zogbaye, on file with Amnesty International. TRC, "Public hearings" poster, on file with Amnesty International. TRC poster used for the awareness-raising project run by FIND for the TRC, on file with Amnesty International courtesy of FIND.
- ⁴⁴ *The News*, Monrovia, 9 and 10 January 2008, cover page. *New Democrat*, Monrovia, 10 January 2008, cover page.
- ⁴⁵ *Heritage*, Monrovia, 10 January 2008, p. 8. *Public Agenda*, Monrovia, 9 January 2008, p. 8.
- ⁴⁶ Liberia Media Center, *Transitional Justice Reporting Audit*, cit., p. 5.
- ⁴⁷ Statement takers were selected through aptitude tests nationwide. Selected candidates were publicly vetted before being recruited: their names were published and the public invited to submit information about their human rights record.
- ⁴⁸ Truth and Reconciliation Commission of Liberia, "Statement Takers Return to the Field", *TRC Fast Track*, issue 4, 19 Jan. – 1 February 2007.
- ⁴⁹ "Liberia's Truth Commission Denies Reports of Suspension", *Voice of America*, 30 November 2006, <http://voanews.com/english/2006-11-30-voa28.cfm> visited 1 December 2006. Cfr. "Liberia's TRC suspends work on atrocities", Sapa-AFP, 29 November 2006.
- ⁵⁰ TRC Third Quarter Report, p. 3, 8.
- ⁵¹ "TRC Deploys Statement-Takers", *The Analyst* (Monrovia), 25 October 2007.
- ⁵² In September 2007 all statement-takers in Rivercess county resigned, reportedly because of poor working conditions and the remoteness and inaccessibility of the county. UNMIL, *Report on the Human Rights Situation in Liberia, May – October 2007*, 2 April 2008, par. 58.
- ⁵³ TRC Third Quarter Report, p.3, 8-9. TRC 5th and 6th Quarterly Reports, p. 11.
- ⁵⁴ Amnesty International interview with Stephen Manley, TRC Director of Programs, 11 January 2008.
- ⁵⁵ Amnesty International interview with Jerome Verdier, TRC Chairman, 11 January 2008.
- ⁵⁶ "TRC Chairman Challenges Statement Takers", *The Inquirer* (Monrovia), 2 October 2006.
- ⁵⁷ "Liberia truth commission hears testimony", AP, 10 October 2006. "Liberia's Taylor ordered mass execution, panel hears", Reuters, 10 October 2006. "Day of Reckoning!", *The Analyst* (Monrovia), 11 October 2006. "As TRC Statement Taking Begins, Perpetrator Explains How 'Gen. Mosquito' Was Killed", *The Inquirer* (Monrovia), 11 October 2006.
- ⁵⁸ "Liberia's war rape victims recount ordeals", AFP, 17 October 2006; "Liberian war torture victims cry for justice", - Sapa-AFP, 19 October 2006.
- ⁵⁹ The petition argued that "[Charles Taylor] is entitled to a free and fair trial... and this cannot be obtained when [he] is on trial in The Hague and the commission is... receiving and publishing evidence against him to the entire world" (quoted in "Taylor backers want to end Liberian truth testimony", *Reuters*, 23 October 2006). The petition also considered that "these kinds of lies and publications certainly do have legal capacities to effect the petitioner's ongoing trial in The Hague" and asked "that all such evidences be declared nonexistent and expunged and obstructed from the records" (quoted in "Ex-Liberian president tries to block truth commission testimony related to former leader", *The Associated Press*, 23 October 2006).
- ⁶⁰ "Supreme Court Trashes Taylor Allies Plea", *The Liberian Times* (Monrovia), 1 November 2006.
- ⁶¹ Commissioner Sheik Kafumba Conneh, interview with Star Radio (Monrovia), 25 October 2006, as reported in "Truth commission assures hearings to be public", BBC, 25 October 2006.
- ⁶² As much as 25% of the Liberian population is estimated to have fled the country during its 14-year civil war. By the Accra agreement in 2003, about 900,000 Liberians were refugees, asylum seekers or internally displaced. In 2006 there were about 36,000 Liberian refugees in Ghana, 34,000 in the United States, 27,000 in Sierra Leone and 26,000 in Cote d'Ivoire. Office of

the UN High Commissioner for Refugees, Statistical Online Population Database, <http://www.unhcr.org/statistics/45c063a82.html>, By Origin Table, visited 10 April 2008.

⁶³ While coordinated with the Commission and designed to help its work, this project does not receive funds from the TRC. Its activities are sustained mainly by donations in kind and volunteers' work. Minnesota Advocates for Human Rights received in January 2007 a 12-month grant of 300,000 USD for activities linked to the Liberian TRC. http://www.jehtfoundation.org/internationaljustice/strengthening/detail_index.html

⁶⁴ Full information on the Liberian TRC Diaspora Project can be found on AHR website: <http://liberiatic.mnadvocates.org/>.

⁶⁵ The US public hearings are archived on www.trcofliberia.org.

⁶⁶ Training materials can be consulted at http://liberiatic.mnadvocates.org/Current_Volunteers.html.

⁶⁷ "TRC Statement Taking Starts in the US", *The Analyst* (Monrovia), 24 January 2007.

⁶⁸ "Let the Cat Out of the Bag", *The Daily Observer*, 25 June 2007; "TRC Gathers Evidence from USA", *The Inquirer* (Monrovia), 8 August 2007; "Liberia's truth body gets war atrocities classified report from US", AFP, 31 October 2007; "Liberia to get US abuse report", BBC World News, 31 October 2007.

⁶⁹ In response to specific requests by the TRC, Amnesty International published *Liberia: Submission to the Truth and Reconciliation Commission* (AI Index: AFR 34/006/2006), 4 September 2006.

⁷⁰ UNDP in Liberia, official website <<http://www.lr.undp.org/hr.htm>>, last visited 9 March 2006.

⁷¹ Amnesty International, phone interview with Kristen Cibelli, Outreach and Project Coordinator at the Benetech Human Rights Program, 14 February 2008.

⁷² The Advocates for Human Rights, Frequently Asked Questions webpage,

http://liberiatic.mnadvocates.org/FAQs2.html#If_I_am_a_perpetrator_will_my_statement_and_or_testimony_mean_automatic_amnesty_or_immunity_from_prosecution2 visited 28 March 2008. According to The Advocates for Human Rights, this language was developed specifically for the US context, where the possibility exists that a subpoena could be issued for the statements. In the event that a subpoena were issued, the Advocates for Human Rights would not release the statements to any individual or entity without litigation and a final order from a US court. The Advocates for Human Rights, communication to Amnesty International, 24 June 2008.

⁷³ Amnesty International, *Liberia: Truth, Justice and Reparation – Memorandum on the Truth and Reconciliation Act* (AI Index: AFR 34/005/2006), 22 June 2006, p. 33.

⁷⁴ The Advocates for Human Rights, Liberian Truth and Reconciliation Commission Project, *Forms and Information for Individuals to Submit a Statement to the TRC*, "Important Information about Giving a TRC Statement" form, 4 June 2007. The statement taking forms used in the Diaspora Outreach Project are based on those of the TRC in Liberia and collect the same information. Although the disclosure form used in the diaspora is lengthier than the one used by the TRC in Liberia, the options described (giving an anonymous statement; giving a confidential statement) correspond to a policy of the TRC and apply in Liberia as well as in the diaspora. The Advocates for Human Rights, communication to Amnesty International, 24 June 2008.

⁷⁵ The Advocates for Human Rights, communication to Amnesty International, 24 June 2008.

⁷⁶ TRC Act, article VII, section 26 (e), (m) and (p); article IX, section 40; article X, section 47.

⁷⁷ TRC Act, article VIII, section 30.

⁷⁸ Section 6.11 of the Rules and Procedures (cit.) provides: "Every witness seeking immunity from prosecution or tort actions on account of statement made or evidence to be given before the Commission pursuant to Article VIII, section 30 of the TRC Act, shall make a formal application for such immunity and give reasons for such request in order to enable the Commission make a decision on whether or not to grant the immunity requested. The Commission may on its own accord grant said immunity to any or all witnesses, prior or after testimony".

⁷⁹ Section 7.1 of the Rules and Procedures (cit.) provides: "The Commission shall grant general immunity to witnesses appearing before it and testifying to any and all truthful information, testimony, statements or admissions given or made before the Commission; and the same cannot be used against them in any court of law".

⁸⁰ TRC Public Bulletin No. 2, Policy Paper on General Immunity for All TRC Witnesses, 31 March 2008,

<https://www.trcofliberia.org/news-1/press-releases/trc-public-bulletin-no-02-policy-paper-on-general-immunity-for-all-trc-witnesses> visited 15 July 2008.

⁸¹ TRC Act, article IV, section 4 (e).

⁸² TRC Act, article VII, section 26 (o). See also: article VI, section 24.

⁸³ Truth and Reconciliation Commission of Liberia, "Women's Voices in the TRC Process", *TRC Fast Track*, issue 3, 18-31 December 2006.

⁸⁴ An outreach program targeting women, funded by UNDP, was implemented by FIND, a local NGO.

⁸⁵ "73 Witnesses Testify in Montserrado County", *The Analyst* (Monrovia), 10 February 2008.

⁸⁶ Amnesty International interview with a staff member of Concerned Christian Community, 29 May 2006.

⁸⁷ TRC Public Bulletin No. 5, Policy Paper on In Camera or Confidential Hearings, 31 March 2008, par. 2,

<https://www.trcofliberia.org/news-1/press-releases/trc-public-bulletin-no-05-policy-paper-on-in-camera-or-confidential-hearings-in-specific-instances-the-trc-will-hold-in-camera-or-confidential-hearings-away-from-the-public-in-specific-instances-the-trc-will-hold-in-camera-or-confidential-hearings-a> visited 15 July 2008.

⁸⁸ "TRC, CPA Task Force Sign MoU", *The Inquirer* (Monrovia), 25 September 2006.

⁸⁹ The workshop was organized in collaboration with Child Protection Agencies (CPAs) and UNMIL. Truth and Reconciliation Commission, *Widening Our Horizons, Third Quarter Report, January 1 - March 31, 2007*, p. 5.

⁹⁰ Truth and Reconciliation Commission, Rules and Procedures, 8 May 2007, section 6.5. TRC Public Policy Paper on In Camera or Confidential Hearings (cit.) par. 2.

⁹¹ The TRC had originally planned to hold individual and thematic hearings from the beginning of September 2006 to December 2007. In September 2006 the TRC announced that it would begin hearing cases in December 2006 or January 2007, provided that it received the logistical and financial support necessary for the immediate deployment of statement takers. On 25 January 2007, five days before the hearings were scheduled to begin, the TRC decided to postpone them, having determined that more needed to be done to ensure awareness, information and participation of the public. Truth and Reconciliation Commission of Liberia, *Comprehensive Work Plan and Program Budget, June 2006 to September 2008*, June 2006, p. 13. "TRC Begins Hearing in December", *The Inquirer* (Monrovia), 4 September 2006. Truth and Reconciliation Commission of Liberia, *TRC postpones public hearings*, press release, 25 January 2007.

⁹² Truth and Reconciliation Commission, *Schedule of public hearings*, published on the TRC website, <https://www.trcofliberia.org/hearings/schedule-of-trc-hearings/>, visited 25 June 2008.

⁹³ "73 Witnesses Testify in Montserrado County", *The Analyst* (Monrovia), 10 February 2008.

⁹⁴ The TRC developed internal guidelines on the selection of statements for the hearings; it is the task of statement-takers to point out at statements that correspond to these criteria. Amnesty International's interview with Stephen Manley, TRC Director of Programs, 11 January 2008.

⁹⁵ Liberia Media Center, *Transitional Justice Reporting Audit* (cit.), p. 12-13.

⁹⁶ For an episode to the contrary, see: "Drama at TRC – Commissioners Intolerant to Each Other", *The Analyst* (Monrovia), 23 January 2008.

⁹⁷ Truth and Reconciliation Commission of Liberia, *Comprehensive Work Plan and Program Budget, June 2006 to September 2008*, June 2006, p. 17-18.

⁹⁸ TRC Third Quarter Report, p. 9.

⁹⁹ The TRC negotiated a memorandum of understanding with the CVT. TRC 5th and 6th Quarterly Reports, p. 12.

¹⁰⁰ For example: Truth and Reconciliation Commission of Liberia, *INPFL Fighters Killed My Entire Family*, press release, 31 January 2008.

¹⁰¹ During the first two hearings, the TRC did not use the names of the witnesses, referring to them as "Mr. Witness" or "Mrs. Witness". However, the names could be easily understood during the initial oaths. During the following days, even these initial, very limited, measures to protect identity disappeared.

¹⁰² Quoted in "More Revelations On Sundaygar Dearboy", *The News* (Monrovia), 24 January 2008.

¹⁰³ *Ibid.*

¹⁰⁴ " 'Death threats' over Taylor trial", BBC NEWS, 25 January 2008.

¹⁰⁵ TRC 5th and 6th Quarterly Reports, p. 9.

¹⁰⁶ TRC Third Quarter Report, p. 6.

¹⁰⁷ Amnesty International's interviews with Jerome Verdier, TRC Chairman, and Stephen Manley, Director of Programs, 11 January 2008.

¹⁰⁸ Section 6.8 of the Rules and Procedures provides: "Every person, artificial or natural, who is named of wrongdoing at a public hearing, shall be afforded adequate opportunity to respond in a comprehensible and respectable manner within a reasonable time to be fixed by the Commission". Section 6.9 provides: "Where an accused person responds to allegations, sufficient opportunity shall be afforded him or her to be present in person and to ask questions of the accuser or witness where and when the Commission deems appropriate".

¹⁰⁹ Chairman Jerome Verdier, interview with Voice of America; "Liberia's Truth Commission Hears from Victims of Country's Civil War", *VOA News*, 11 January 2008, <http://www.voanews.com/english/archive/2008-01/2008-01-11-voa6.cfm?CFID=201650670&CFTOKEN=40695294> visited 17 January 2008.

¹¹⁰ Amnesty International's interview with Stephen Manley, Director of programs, 11 January 2008.

¹¹¹ "Kromah: 'I'm Preparing for the TRC'", *The Analyst* (Monrovia), 16 January 2008; "Morkonmana denies allegations", *The Analyst* (Monrovia), 23 January 2008; "George Boley Prepared to Testify Before TRC", *The Inquirer* (Monrovia), 31 January 2008.

¹¹² Truth and Reconciliation Commission of Liberia, *Public Statement on the Commencement of Public Hearings*, press release, 21 November 2007. "Prince Johnson will be subpoena [sic], says TRC spokesman", *Star Radio* (Monrovia), 29 January 2008, <http://www.starradio.org.lr/content/view/6952/59/> visited 11 February 2008.

¹¹³ "Liberia's President Sirleaf Is Said Ready to Face Truth Commission If Called", *VOA News*, 13 March 2008.

¹¹⁴ "Senate pro-tempore calls for unwavering submission to TRC", *Star Radio* (Monrovia), 8 February 2008, <http://www.starradio.org.lr/content/view/7069/61/>.

¹¹⁵ Amnesty International's interview with Stephen Manley, Director of programs, 11 January 2008.

¹¹⁶ TRC 5th and 6th Quarterly Reports, p. 8.

¹¹⁷ Individual Commissioners have publicly expressed very different views about how to deal with past crimes. See, for example, the interviews to Bishop Arthur Kulah, Commissioner Massa Washington and Chairman Jerome Verdier in "Mercy v. justice as Liberia heals itself", *The Christian Science Monitor* (Boston), 26 October 2006.

- ¹¹⁸ Priscilla Hayner, *Negotiating peace in Liberia: Preserving the possibility for Justice* (Geneva: Centre for Humanitarian Dialogue and ICTJ, November 2007), p.15.
- ¹¹⁹ TRC Act, article VII, section 26(j) and article X, section 45.
- ¹²⁰ Amnesty International, *Liberia: Truth, justice, reparation for Liberian victims* (AI Index: AFR 34/001/2007), February 2007.
- ¹²¹ In January 2007 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”.
- ¹²² Article XIII, 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, signed at Accra (Ghana) on 18 August 2003.
- ¹²³ TRC Act, article VII, section 26(g).
- ¹²⁴ “TRC Will Not Grant Amnesty To Everyone – Says Chairman”, *The Inquirer* (Monrovia), 5 June 2006.
- ¹²⁵ TRC Public Bulletin No. 4, Policy Paper on Reparation, Prosecution and Amnesty, 31 March 2008, par. 1, <https://www.trcofliberia.org/news-1/press-releases/trc-public-bulletin-no-04-policy-paper-on-reparation-prosecution-amnesty-pursuant-to-its-mandate-the-trc-will-recommend-reparation-prosecution-and-amnesty-when-appropriate> visited 15 July 2008.
- ¹²⁶ TRC Rules and Procedures, section 7.4. TRC Public Bulletin No. 6, Policy Paper on Application for Amnesty, 31 March 2008, par. 5, <https://www.trcofliberia.org/news-1/press-releases/trc-public-bulletin-no-06-policy-paper-on-application-for-amnesty-application-for-amnesty-may-be-done-in-writing-within-a-limited-period-specified-by-the-trc> visited 15 July 2008.
- ¹²⁷ “Liberia’s Musical Sensation Admits He Was A Taylor Rebel”, *VOA News*, 13 February 2008, <http://www.voanews.com/english/Africa/2008-02-13-voa6.cfm> visited 14 February 2008.
- ¹²⁸ The Advocates for Human Rights, Frequently Asked Questions webpage, “May I give an anonymous statement?”, http://liberiatrc.mnadvocates.org/FAQs2.html#May_I_give_an_anonymous_statement2 visited 28 March 2008.
- ¹²⁹ See also: “OSIWA President Praises TRC Work”, *The Inquirer* (Monrovia), 13 February 2008.
- ¹³⁰ TRC Act, article VII, section 26(j).
- ¹³¹ Truth and Reconciliation Commission of Liberia, *Comprehensive Work Plan and Program Budget, June 2006 to September 2008*, June 2006, p. 4.
- ¹³² In its Rules and Procedures the TRC identified a series of criteria on which to base a decision to recommend prosecutions, listing factors as generic and varied as: the status of international law; the status of the Liberian judiciary; the interest of peace and national reconciliation; individuals’ expression of remorse and commitment to peace in Liberia; and the need to institutionalize the rule of law to end impunity in the country (cit., section 7.2). A different approach is reflected in the May-September 2007 semi-annual report: “Prosecution may apply for all cases in which the TRC is certain war crimes and crimes against humanity were deliberately, wantonly, recklessly committed and the perpetrator ignores the TRC process and is neither remorseful nor repentant” (TRC Semi-Annual Report, p. 7). The fifth and sixth quarterly report, published at the same time as the semi-annual report in September 2007, appears to be more in line with international law and standards, as it limits those criteria to the alleged commission of war crimes or crimes against humanity: “Prosecution applies for all cases of war crimes and crimes against humanity and this case excludes pardon or Amnesty” (TRC 5th and 6th Quarterly Reports, p. 8).
- ¹³³ TRC Policy Paper on Reparation, Prosecution and Amnesty, cit. par. 3,.
- ¹³⁴ *Ibid.*, par. 5.
- ¹³⁵ The Advocates for Human Rights, *Statement-Taking Instructions*, 30 March 2007, http://liberiatrc.mnadvocates.org/sites/cc8c0ee4-1ad1-49b7-9c2a-0a632726e1c3/uploads/Statement-taking_instructions_National_03.30.07.pdf. The Advocates for Human Rights, communication to Amnesty International, 24 June 2008.
- ¹³⁶ See the interviews to Chairman Jerome Verdier in “Mercy v. justice as Liberia heals itself”, *The Christian Science Monitor* (Boston), 26 October 2006.
- ¹³⁷ TRC Act, article IV, section 4 (e).
- ¹³⁸ *Ibid.*, article IX, section 38.
- ¹³⁹ TRC 5th and 6th Quarterly Reports, p. 8.
- ¹⁴⁰ Amnesty International’s interviews with Commissioner Massa Washington and with Stephen Manley, TRC Director of Programs, 11 January 2008.
- ¹⁴¹ TRC Policy Paper on Reparation, Prosecution and Amnesty, cit. par. 2.
- ¹⁴² “TRC Apologizes to War Victims”, *The Inquirer* (Monrovia), 5 December 2007.
- ¹⁴³ TRC Act, article IV, sections 5 and 6.
- ¹⁴⁴ TRC Act, article X, section 48.
- ¹⁴⁵ TRC Act, article X, section 46.
- ¹⁴⁶ Concern in this sense was expressed also by the UN Independent Expert on Technical Cooperation and Advisory Services, Dr. Charlotte Abaka. “UN Expert Expresses frustration in Delay”, *The News* (Monrovia), 10 March 2008.
- ¹⁴⁷ “UN Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang, concludes visit to West Africa”, 9 May 2008, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/65DD0DDBAF46EC6C12574580064F3D9?opendocument>.
- ¹⁴⁸ “Women Press for War Crimes Court”, *The News* (Monrovia), 28 February 2008.

¹⁴⁹ “Ellen Urges Citizens to Engage TRC”, *The Inquirer* (Monrovia), 2 August 2007.

¹⁵⁰ UN SC Resolution 1521 (2003), paras 2 and 4(a).

¹⁵¹ Amnesty International, *Liberia: Truth, justice, reparation for Liberian victims* (AI Index: AFR 34/001/2007), February 2007. See also: Sixteenth progress report of the Secretary-General on the United Nations Mission in Liberia, UN Doc. S/2008/183, 19 March 2008, par. 44.

¹⁵² Report of the independent expert on technical cooperation and advisory services in Liberia, Charlotte Abaka, UN Doc. A/HRC/4/6, 28 February 2007, p. 8.

¹⁵³ Amnesty International, *Liberia: Truth, justice, reparation for Liberian victims* (AI Index: AFR 34/001/2007), February 2007.

¹⁵⁴ See: Amnesty International, *Kosovo (Serbia): The challenge to fix a failed UN justice mission* (AI Index: EUR 70/001/2008), January 2008.

¹⁵⁵ Hayner, p. 21.

¹⁵⁶ The Truth and Reconciliation Commission in Sierra Leone had difficulties in raising funds. Internal mismanagement led to problems in the establishment and early functioning of the Commission, creating a crisis of credibility that exacerbated the funding crisis. Sierra Leone Truth and Reconciliation Commission, *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, 2004, Vol. 1, p. 9.