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SIERRA LEONE

THE IMPLEMENTATION OF KEY TRC RECOMMENDATIONS: PRIORITIES IN 2008 AND BEYOND

March 2008

AI Index: AFR 51/001/2008

Amnesty International and civil society organizations in Sierra Leone recognised the task before the President, the Cabinet and Parliament in facing the challenges of leading the country over the next period. Majority of the people of Sierra Leone has gone through an eleven year civil conflict characterised by human rights violations and abuses. The Truth and Reconciliation Commission (TRC) was established as part of the Lomé Peace Accord to help ensure lasting and durable peace and security and respect for human rights in Sierra Leone.¹ The TRC published its final report in 2004.² The report provides an historical record of violations of international human rights and humanitarian law committed during the conflict. It identifies the reasons for those abuses, and presents a framework of recommendations to help build a strong foundation for the future of Sierra Leone. The TRC Act – passed in 2000 – requires the government to implement the TRC’s recommendations “faithfully and timeously”. Amnesty International and Sierra Leone civil

¹ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, signed in Lomé, Togo on 7 July 1999.

² Witness to Truth Report of the Sierra Leone Truth and Reconciliation Commission Volume 1-<http://www.trcsierraleone.org/drwebsite/publish/index.shtml>

society organizations would like to highlight the following key issues which fall into the framework of the TRC recommendations. The organisation urges the government to consider and implement the recommendations highlighted below as a matter of priority.

Ensure justice and provide reparations

Coinciding with the end to the armed conflict in Sierra Leone was the establishment of the Special Court for Sierra Leone, the Truth and Reconciliation Commission and the Special Fund for War Victims. All three mechanisms aimed to address the impunity for the human rights abuses suffered by the Sierra Leone people including killings, mutilations, rape and other forms of sexual violence, sexual slavery and conscription of children during a decade of internal armed conflict. Addressing impunity requires that the truth is told, that justice is done and that full reparations are provided for victims.

To date the Special Court for Sierra Leone, with a mandate to prosecute those "*who bear the greatest responsibility*" for crimes against humanity, and other serious violations of international law during Sierra Leone's armed conflict, has indicted only 13 individuals including former Liberian president Charles Taylor of the thousands of persons responsible for war crimes and crimes against humanity. Of those 13 people, three have died, one remains at large and nine are either on trial or appeal. Although the prosecution of a small number of those responsible for these crimes since 1996 is an important contribution towards ending impunity in Sierra Leone it addresses only a small number of the persons responsible for the numerous crimes committed. Efforts must therefore be made to equip the national justice system to implement a strategy to investigate in a comprehensive way crimes committed during the conflict and to prosecute those responsible. Initial steps that need to be taken by the government are the challenge to rebuild a criminal and civil justice system able to deal with future and past crimes and ensure a strong legal framework guaranteeing human rights, and to domesticate and incorporate the Rome Statute of the International Criminal Court into Sierra Leone's legal and judicial system.

The Lomé Peace Accord provided for the establishment of a special fund for the rehabilitation of war victims. The TRC recommended that the Special Fund for War Victims be set up three months after completion of the TRC's report in 2004. However despite the government's obligation to carry this out and repeated requests from civil society, the fund has not been established.

The implementation of a fully fledged reparations program was a key recommendation of the TRC report. Such a program should, the report recommended, acknowledge the population's suffering as well as the material benefits for survivors. To date the government's National Commission for Social Action has been identified as the implementing

agency and initial funds have been allocated from the UN Peacebuilding Fund. Due to the nature of the violation of rape and other forms of sexual violence and the shame and stigma associated with it, the challenge ahead will be to ensure successful implementation of a reparations program especially with regard to survivors of sexual violence. The TRC also recommended that the president and the leadership of political parties acknowledge the suffering of the women in the conflict. This was one of the TRC's "imperative" recommendations – considered to be implemented "immediately or as soon as possible" – yet has still not taken place.

As a matter of priority the government should:

domesticate and incorporate the Rome Statue of the International Criminal Court into Sierra Leone's legal and judicial system;

establish the Special Fund for War Victims;

ensure that survivors of sexual violence from the conflict receive timely and full reparations.

stop violence against women and gender discrimination

Rural women have historically faced discrimination and inequality in laws, custom, and rulings. They have little access to justice and few rights in marriage, divorce, inheritance, and property. The consequences are devastating. It has entrenched many in poverty, forced some to stay in violent relationships, contributed to homelessness, and severely compromised women's ability to care for themselves, and their children.

Recognizing the importance of addressing the discrimination and violence that women face in rural Sierra Leone the TRC's recommendations include the repeal of sections of the constitution that discriminate against women and the implementation of laws to strengthen women's human rights. The government's first steps in addressing this concern came in June 2007 when three significant bills were passed: the Domestic Violence Bill, the Registration of Customary Marriage and Divorce Bill, and the Devolution of Estates Act. The Domestic Violence Bill criminalizes violence in the family, providing the police with the legal tools they need to investigate and prosecute these crimes.

The Registration of Customary Marriage and Divorce Bill and Devolution of Estates Act can help to improve the status of women in rural Sierra Leone by allowing them greater access to property and greater rights in marriage, making it easier for them to leave abusive relationships.

A coalition of NGOs, UN agencies and donors has set up a National Action Plan on the implementation of the gender laws. Additionally the efforts being made by the Ministry of Social Welfare, Gender and

Children's Affairs to set up a trust fund for survivors of sexual and gender based violence is a very welcome development, and we encourage both the government of Sierra Leone and the international community to support it.

As a matter of priority the government should:

show public support for the work of the coalition and the implementation of the National Action Plan on the enforcement of the gender laws; relevant staff within the administration of justice should also be trained to ensure their timely implementation;

facilitate the setting up of the trust fund for survivors of sexual and gender based violence; facilitate the work of the National Human Rights Commission and the Ministry of Social Welfare, Gender and Children's Affairs; and call on the international community to support the initiative.

Amnesty International welcomes the hiatus in executions in Sierra Leone and the fact that there have not been any executions since 1997. This fits in with the world-wide trend towards the abolition of the death penalty, most recently illustrated by the United Nations General Assembly vote for a moratorium on executions. One hundred and thirty three countries have abolished the death penalty in law or in practice. Amnesty International believes that all executions constitute a grave abuse of human rights and are the ultimate cruel, inhuman and degrading punishment.

Currently there are 18 people in the Pademba Road prison who face the death penalty: eleven for treason, and seven for murder. The majority of these cases are on appeal. In one case the appeal has been heard and denied, and the death sentence reaffirmed.

In December 2004 Amnesty International raised concerns specifically with regard to the case of the eleven in a letter to President Kabbah asking for their sentence to be commuted. On other numerous occasions, Amnesty International and members of civil society have called on the government to abolish the death penalty, one of the imperative recommendations of the TRC. It also calls for a moratorium on all executions until this change comes into force.

In the case of the 11 found guilty of treason and sentenced to death in January 2005 the defendants appealed on the grounds that the verdict was unreasonable, the sentence too harsh, and that fair trial guarantees were violated throughout the trial process.³ In general the appeal

³ Sierra Leone has ratified the International Convention on Civil and Political Rights on 23 November 1996. Article 6 (1) states '*no one shall be arbitrarily deprived of his life*' Article 6 (2) states the death penalty should be used for '*the most serious crimes only*'. In this case there was no loss of life and there has been no proven intention of treason.

highlights that throughout the trial, evidence was inconclusive, insufficient, contradictory, and in some cases inadmissible.

According to the Sierra Leone Constitution, Article 17 (3) (a), anyone accused of a crime must be brought before a judge within a period of 10 days.⁴ However, according to court records there was a gap of 42 days from the time of the arrest of the accused to the time that they saw a judge.

Secondly the appeal raises concern and alleges that defendants were subjected to torture, ill-treatment, or the threat of torture while in custody and that statements gained under torture were permitted as evidence in violation of Article 20 (1) of the Sierra Leone Constitution.⁵ The appeal also highlights that throughout the course of the trial the accused were initially told that they were charged with stealing weapons and ammunition rather than the much more serious charge of treason.⁶ The appeal also made the case of how the prosecution failed to link their alleged involvement in an attack on Wellington Barracks to a wider plot to overthrow the government, therefore failing to prove the charge of treason adequately.

Amnesty International has also repeatedly expressed its disquiet about the discrepancy between the Special Court and the national courts – which continue to impose death sentences. In practice, this means that a person convicted by the Special Court of some of the worst known crimes, including crimes against humanity and war crimes, would face a prison sentence, whereas those convicted before national courts of treason or murder could face the death penalty. Such discrepancies can be damaging to public confidence in the judicial system and severely discriminatory to those before the courts.

As a matter of urgency the government should:

commute the sentences of those on death row in line with the recommendation of the TRC recommendations;

abolish the death penalty in law and practice.

This document has been endorsed by the following civil society organisations:

⁴ Stating that 'Any person who is arrested or detained in such a case as is mentioned in paragraph (e) or (f) of subsection (1) and who is not released shall be brought before a court of law – a. within 10 days from the date of arrest in cases of capital offenses, offenses carrying life imprisonment, and economic and environmental offenses.'

⁵ Stating that 'No person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading.'

⁶ Chapter 17 (2) (a) states that 'Any person who is arrested or detained shall be informed in writing or in a language that he understands at the time of his arrest, and in any event not later than twenty-four hours, of the facts and grounds for his arrest/detention.'

Campaign for Good Governance (CGG)

Centre for Democracy Human Rights (CDHR)

Coalition on Justice and Accountability (COJA)

Forum of Conscience (FOC)

Sierra Leone Court Monitoring Programme (SLCMP)

Amnesty International, 6 March 2008

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