

**FINAL REPORT OF THE
TRUTH AND RECONCILIATION COMMISSION
OF LIBERIA (TRC)
VOLUME I: FINDINGS AND DETERMINATIONS**



“Confronting our difficult past for a better future”

This volume of the TRC Report contains findings and determinations made to date by the Truth and Reconciliation Commission of Liberia

Truth, Justice and Reconciliation

**VOLUME 1
FINDINGS AND DETERMINATIONS**

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LIST OF ABBREVIATIONS

AFL	Armed Forces of Liberia
AU	African Union
CRC	Convention on the Rights of the Child
ECOWAS	Economic Community of West African States
EDC	“Egregious” Domestic Crimes
FHR	Foundation for Human Rights
GHRV	“Gross Human Rights Violations”
HRCSA	Human Rights Commission of South Africa
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICGL	International Contact Group on Liberia
ICL	International Criminal Law
ICTJ	International Center for Transitional Justice
IHL	International Humanitarian Law
IHRL	International Human Rights Law
INPFL	Independent National Patriotic Front of Liberia
IRL	International Refugee Law
LDHS	Liberia Demographic Health Survey
LURD	Liberians United for Reconciliation and Democracy
NPLF	National Patriotic Front of Liberia
OSIWA	Open Society Initiative for West Africa

Protocol II	Protocol II Additional to the Geneva Conventions of 1977
SHLV	“Serious” Humanitarian Law Violations
TJWG	Transitional Justice Working Group
TRC	Truth and Reconciliation Commission of Liberia
TRCWG	TRC Working Group
UN	United Nations
UNIFEM	United Nations Development Fund for Women
UNMIL	United Nations Mission in Liberia

I. INTRODUCTION

A. Statement from the Commission

This Report represents the Truth and Reconciliation Commission of Liberia's (TRC) forthright response to its core mandate of investigating and determining responsibility for 'egregious' domestic crimes, 'gross' violations of human rights and 'serious' humanitarian law violations as well as examining the root causes of Liberia's various episodes of state breakdown and violent conflicts to recommend measures to ensure that truth, justice and reconciliation become permanent features of Liberia's socio-economic, political, legal and cultural landscape.

It aims to part a mountainous and depraved sea built on 186 years (1822-2006) of misunderstanding, inequality, poverty, oppression and deadly conflict with the enduring principles of truth, justice and reconciliation.

This Report provides the Liberian people, Government of Liberia and the Honorable National Legislature with substantive finding and determinations made by the TRC to date, knowing that two other volumes, Consolidated Report (Volume II) and Appendixes (Volume III) will be released by the TRC prior to the end of its mandate on June 22, 2009.¹ The central rationale for issuing this Report prior to June is to provide the Liberian people notice of its findings and determinations to date in the wake of victims, thematic, actors and institutional-related hearings; notwithstanding that the actors and institutional hearings will continue through March 2009, as will its findings and recommendations.

¹ On September 22, 2008, the Liberian Legislature inclusive of the House of Representatives and the Senate adopted a joint resolution extending the mandate of the TRC until June 22, 2009.

Liberia's triumphant and tortuous history of conflict did not begin in January 1979 or end on October 14, 2003 (the TRC's temporal mandate period). Rather, the historical antecedents are woven deeply into its troubled socio-political and psychological culture. Until the November 8, 2005, run-off elections and subsequent inauguration of President Ellen Johnson-Sirleaf as Liberia's first post conflict democratically-elected president and Africa's first female democratically-elected president, Liberians were forced to live under various forms of oligarchic, autocratic, militaristic and authoritarian governments. In spite of the challenges of a verdant republic, the unsavory character of its various regime types, as Africa's first Republic and one of only two independent nations in Africa (Ethiopia being the other) throughout the colonial era, Liberia also served, among other things, as a sanctuary for Africans seeking to escape colonial oppression, an activist African nation while holding the presidency of the UN General Assembly in 1969, and a bulwark advocate against Apartheid in South Africa.

Our Country's troubled and dichotomous history inevitably culminated into nationwide protest, chaos and mass violence in the late 1970's, a violent coup, military dictatorship and brutal repression in the 1980's, state breakdown, widespread deadly conflict and warlord politics in the 1990's, and a resurgence of violent conflict and scandalous corruption in the beginning of the 21st Century. Consequently, and as a means to identify the root causes of conflict in Liberia, protect fundamental human rights, end impunity and foster national healing, rehabilitation and reconciliation, the National Transitional Legislative Assembly of the National Transitional Government of Liberia—political bodies born out of the 2003 Comprehensive Peace Agreement (CPA)—acting under Article XIII of the CPA enacted the Truth and Reconciliation Act on June 10, 2005. The TRC began officially operating on February 22, 2006.

The Commissioners of the TRC feel very strongly that the future of Liberia rests with Liberians. While the international community has and will continue play a role in assisting Liberia develop a sustainable democracy, only Liberians can establish a durable human rights-based culture where peace, development and the rule of law are permanent features of its political heritage.

The Commission is convinced, as all Liberians are that the TRC framework provides the best opportunity yet, to review the past, learn from the past and lay the foundations for sustainable peace, justice and national reconciliation.

Jerome J Verdier, Sr
CHAIRMAN, TRC

B. SUMMARY OF FINDINGS AND DETERMINATION

THE TRC FINDS THAT:

1. The conflict in Liberia has its origin in the history and founding of the modern Liberian State.
2. The major root causes of the conflict are attributable to poverty, greed, corruption, limited access to education, economic, social, civil and political inequalities; identity conflict, land tenure and distribution, etc.
3. All factions to the Liberian conflict committed, and are responsible for the commission of egregious domestic law violations, and violations of international criminal law, international human rights law and international humanitarian law, including war crimes violations.
4. All factions engaged in armed conflict, violated, degraded, abused and denigrated, committed sexual and gender based violence against women including rape, sexual slavery, forced marriages, and other dehumanizing forms of violations;
5. A form of both individual and community reparation is desirable to promote justice and genuine reconciliation.
6. Where in the determination of responsibility IHRL, IHL, ICL, do not apply domestic criminal law statutes will apply.
7. No faction in particular instituted – in some cases to a very limited extent- adequate mechanism to avoid or mitigate massive violations of human rights that characterized the conflict.
8. A form of both individual and community reparation is desirable to promote justice and genuine reconciliation.
9. All factions and other armed groups recruited and used children during periods of armed conflicts.
10. None derogation of rights during periods of emergency or armed conflict applies to the Liberian conflict situation.
11. Prosecution mechanism is desirable to fight impunity and promote justice and genuine reconciliation.

12. Common Article 3 and Protocol II of the Geneva Convention, having being ratified by the Government of Liberia apply to Liberia.
13. Liberian was engulfed in armed conflict from December 1989 to 1996; from 1999 to August 2003;
14. Preponderance of evidence is an appropriate evidentiary standard of proof appropriate to the work of the TRC considering that it is neither a criminal nor prosecuting institution.
15. Massacres, economic crimes, extra-judicial killings, for example, fall within the ambit of IHRL and IHL.
16. The New Penal Code of Liberia will apply as to mercenarism, official oppression, murder, kidnapping, rape, sexual assault, fraud in the internal revenue of Liberia, theft and/or illegal disbursement and expenditure of public money, counterfeiting, and misuse of public money, property or record.
17. General Human Rights Violations (GHRV) are generally, but not exclusively, committed by state actors, and may take place during times of peace or armed conflict, and can be directed against individuals or a group of individuals.
18. Lack of human rights culture and education, depravation and over a century of state suppression and insensitivity, and wealth acclamation by a privileged few created a debased conscience for massive rights violations during the conflict thus engendering a culture of violence as means to an end, with an entrenched culture of impunity.
19. External State Actors in Africa, North America and Europe, participated, supported, aided, abetted, conspired and instigated violence, war and regime change against constituted authorities in Liberia and against the people of Liberia for political, economic and foreign policy advantages or gains.

THE TRC DETERMINES THAT:

1. All warring factions are responsible for the commission of gross human rights violations in Liberia, including war crimes, crimes against humanity, IHRL, IHL, ICL, domestic criminal laws
2. Prosecution in a court of competent jurisdiction and other forms of public sanctions are desirable and appropriate mechanisms to promote the ends of justice, peace and security, foster genuine national reconciliation and combat impunity.
3. The massive wave of gross violations and atrocities which characterized the conflict assumed a systematic pattern of abuse, wanton in their execution, and the product of deliberate planning, organized and orchestrated to achieve a military or political objective; disregarding the rights of noncombatants, children, and women, the elderly, disarmed or surrendered enemy combatants, etc.
4. All factions to the conflict systematically targeted women mainly as a result of their gender and committed sexual and gender based violations against them including, rape of all forms, sexual slavery, forced marriages, forced recruitment, etc.
5. Reparation is a desirable and appropriate mechanism to redress the gross violations of human rights and shall apply to communities and individuals, especially women and children, to help restore their human dignity, foster healing and closure as well as justice and genuine reconciliation.
6. General amnesty for children is desirable and appropriate. Amnesty for crimes lesser than gross violations is also desirable and in certain circumstances appropriate to foster national healing and reconciliation.
7. IHRL, IHL, ICL, and Liberian domestic criminal statutes are applicable in establishing accountability for crimes committed during the mandatory period of the TRC work.
8. Reform of certain public institutions are appropriate to promote good governance and human rights, reduce poverty and alleviate illiteracy, promote peace, security, national reconciliation and opportunity for all.

9. While the TRC will not recommend general amnesty, except as provided in count 5 above, the commission however holds that all individuals admitting their wrongs and speaking truthfully before or to the TRC as an expression of remorse which seeks reconciliation with victims and the people of Liberia will not be recommended for prosecution.
10. Further investigations into matters under consideration by the TRC but remains incomplete up to the expiration of its tenure in June 2009 are desirable.
11. Liberians in the Diaspora are as much of a Liberian as Liberians at home; they continue to be engaged with developments on the homeland, supported, financed warring factions as an instrument for regime change; their voices must be heard and their issues and concerns must be addressed in fostering greater national reconciliation.

C. Commissioners of the Truth and Reconciliation Commission of Liberia (TRC) and International Technical Advisory Committee (ITAC)

i. Commissioners

Commissioners of the TRC were appointed by Gyude Bryant, Head of the National Transitional Government of Liberia pursuant to Article XIII of the CPA in February 2004, after a comprehensive national vetting process. After an extensive public vetting and recruitment process in late 2005, Commissioners were inducted into office by Her Excellency Ellen Johnson-Sirleaf, President of Liberia on February 20, 2006.

Cllr. Jerome Verdier, Chairman of the TRC, was a leading human rights and civil society activist prior to his selection to serve on the TRC. He holds a Bachelors of Business Administration (BBA) Degree in Accounting and Economics (1988) from the University of Liberia

and a Bachelors of Laws Degree (LLB) from its Louis Arthur Grimes School of Law. Apart from working both in the private and public sectors as a Senior Accountant, Comptroller and Executive Director, he has been instrumental in strengthening civil society advocacy while serving in several capacities as Executive Director of Liberia Democracy Watch (LDW); Chairman of the Board of Directors of The National Human Rights Center of Liberia (NHRCL), a consortium of nine human rights and pro-democracy organizations; Board Chairperson of the Foundation For International Dignity (FIND); Senior Staff Attorney for the Association of Environmental Lawyers (Green Advocates); and the first Research & Program Officer of the Catholic Justice & Peace Commission (JPC). Cllr. Verdier is a practicing attorney, credited for rendering pro bono legal services to indigent persons, civil society activists and journalists, while also leading civil society groups in several lawsuits against the Government of Liberia.

Commissioner Dede Dolopei, Vice-chair of the TRC, was a Liberian administrator, manager, social worker and peace activist. She holds a BBA in accounting with an emphasis in management from the University of Liberia where a Msc. candidate is also in regional planning. Commissioner Dolopei served as a member of the board of directors for National Women's Commission of Liberia and the Christian Foundation for Children and the Aging. She has been instrumental in the promotion and protection of women's rights in Liberia and is well-known for her efforts and expertise in peace building, conflict resolution and psychosocial counseling.

Commissioner Oumu K. Syllah is a registered nurse, HIV/AIDS counselor and social worker. She holds a Bachelor of Science degree in Nursing from Cuttington University College, Bong County, Liberia, and a certificate in nursing as a State Registered Nurse (SRN) from the National School of Nursing in Freetown, Sierra Leone. Commissioner Syllah has worked as a professional nurse and social worker in

renowned hospitals, including Connaught Hospital in Freetown and St. Joseph Catholic Hospital in Monrovia. She has also acted as a trainer/facilitator and participant in numerous workshops in social work.

Retired Bishop Arthur F. Kulah is a well-known Methodist prelate who traveled throughout Liberia during the civil war spreading hope to the people. He holds many degrees in theology and other disciplines from Cuttington University College, Bong County, Liberia; St. Paul Theology Seminary, Kansas City, USA; and Wesley Theological Seminary, Washington, DC, USA. In 1980 Commissioner Kulah began serving as pastor of the United Methodist Church in Liberia, and held numerous prominent positions until his retirement 2000 as Resident Bishop of the Liberia Annual Conference. As an educator, administrator and author, Bishop Kulah served as Dean of the Gbarnga School of Theology, and Dean and Principal of the Theological College and Church Training Center in Freetown, Sierra Leone. He has written several books and articles including *Liberia will Rise Again* and *Theological Education in Liberia: Problems and Opportunities*. In June 1990, Bishop Kulah and others organized a 60,000-person peace march that initiated the creation of an interfaith committee and helped build a foundation for the 2003 peace process in Liberia. Bishop Kulah resigned his position on the Liberian TRC in March 2008, to return to the Ministry of the gospel to become the Interim Bishop of the United Methodist Church of Nigeria.

Commissioner Sheikh Kafumba Konneh is a Liberian Muslim Authority who has a long practical record of conflict resolution and peace building efforts during the major civil and military conflicts in Liberia. In addition to his theological (Al-Islamic) achievements, Sheikh Konneh studied secular law through apprenticeship. He held several positions in the civil service, including Justice of the Peace, Associate Stipendiary Magistrate and County Commissioner in Nimba County, his birthplace. He has also served as Secretary-

General and Managing Director of the Liberian Muslim Union and as Secretary-General and National Chairman of the National Muslim Council of Liberia.

Cllr. Pearl Brown Bull has been a lawyer and renowned Liberian politician since the late 70s. She has obtained numerous degrees, including a Bachelor of Arts (BA) in Political Science from the University of Liberia and a Juris Doctor (law) degree from Quinnipiac University, USA. Cllr. Bull has served as Professor of Management & Supervision in Law Enforcement and Criminal Evidence at Shaw University, NC, USA, and held many high-profile public positions including being a member of the Interim Legislative Assembly, Constitutional Advisory Assembly, Public Procurement and Concession Commission, panel of experts for the selection of commissioners of the Independent National Human Rights Commission of Liberia, and Country Vice-President of the International Federation of Women Lawyers. She is a legal drafter with more than a quarter of a century of experience in peace building, conflict resolution and social work.

Ambassador Gerald Coleman is an electrical engineer and project manager by training, and holds a Master of Science in Electrical Engineering (M.S.E.E.) and completed post-graduate studies in Engineering Management at Northeastern University, MA, USA. Rev. Coleman is the spiritual elder and founding national missionary of the Unification Movement of Liberia and where he has worked for more than 25 years. In 1996, he was the Government of Liberia's Commissioned Ambassador and Special Envoy to the Far East. During this period, he worked for the peaceful transition of the Liberian National Transitional Government (LNTG III) to civilian government by facilitating several peace-building, education and cultural-exchange programs for Liberian youth. In 2000, Ambassador Coleman, along with several other prominent Liberians, launched the Inter-Religious & International Federation for World Peace of Liberia

(IIFWP-Liberia) as a national branch of an international peace-building NGO. The National Transitional Government of Liberia (NTGL) asked Ambassador Coleman to help facilitate the establishment of the Liberian TRC.

John Stewart is a Liberian journalist, human rights advocate and activist. He is well known for his acerbic writing and interviewing style and has served as Associate Editor of the New Democrat Weekly and presenter of the Radio Veritas Topical Issues program. He was educated at the University of Liberia and has held numerous professional positions including local consultant for the Media Foundation for West Africa; reporter for Channel Africa; Regional Coordinator for the Catholic Justice and Peace Commission; Information Assistant for the United Nations Population Fund (UNFPA); and National Assistant Field Security Advisor to the United Nations Development Program (UNDP). Commissioner Stewart's advocacy efforts have included working with the Citizens of Liberia Against Gambling (COLAG), Citizens of Liberia in Defense of Albert Porte (COLIDAP) and the Movement for Justice in Africa (MOJA). He has been an advocate for the past 30 years and has been imprisoned and tortured for his activism.

Massa A. Washington is a journalist with more than 20 years of experience. She holds a B.A. in Mass Communication with an emphasis in print journalism from the University of Liberia and is currently a second-year graduate student with high honors at the Temple University School of Social Administration and Management, Pennsylvania, USA. In 1984, she was trained in broadcast journalism by the Voice of America (VOA) and the Liberian Broadcasting System (LBS). She has served as a Public Relations Officer for the Liberian National Red Cross Society, Senior Reporter for the Ministry of Information New Liberian Newspaper and News Editor for the Independent Inquirer. Commissioner Washington covered the Liberian Civil War extensively, often reporting in hostile territories,

and she created a column in the *Inquirer* dedicated to Liberian women. She is a women's rights activist and a member of the Liberian Women Initiative (LWI), which has been at the vanguard of peace advocacy in Liberia.

ii. International Technical Assistance Committee (ITAC)

Dr. Jeremy I. Levitt is currently the sole member of the International Technical Advisory Committee (ITAC) active with the TRC. Professor Levitt was nominated by the United Nations High Commissioner for Human Rights at the beginning of 2008, and appointed by Her Excellency President Ellen Johnson-Sirleaf on July 31, 2008. He is an Associate Dean for International Programs and Distinguished Professor of International Law at Florida A&M University College of Law in Orlando, Florida. Dr. Levitt is a public international lawyer, political scientist and historian. Prior to joining the legal academy, Dr. Levitt served as Special Assistant to the Managing Director for Global Human and Social Development at The World Bank Group in Washington, D.C., and held a variety of global orientated positions in the public and private sectors. He served as a Legal Aide to the Constitutional Assembly of the Parliament of the Republic of South Africa during the country's constitutional making process, and assisted in drafting its 2005 Promotion of National Unity and Reconciliation Act. Dr. Levitt is an internationally recognized scholar having authored several books and law review articles. He is the author of widely acclaimed text, *THE EVOLUTION OF DEADLY CONFLICT IN LIBERIA: FROM 'PATERNALTARIANISM' TO STATE COLLAPSE* (Carolina Academic Press, 2005). Professor Levitt earned his B.A. at Arizona State University, his J.D. at the University of Wisconsin-Madison, and his Ph.D. in International Studies at the University of Cambridge, St. John's College.

Prof. (Mrs.) Henrietta Joy Abena Mensa Bonsu, was a serving member of ITAC. A national and internationally renowned legal academic, Prof. Joy Abena Nyarko Mensa-Bonsu who was nominated to the International Technical Advisory Committee by Economic Community of West African States (ECOWAS) is a Professor of the Faculty of Law, University of Ghana and once served as Vice-Dean of the Faculty of Law. She holds an LL.B First Class Honours (University of Ghana); LL.M. (Yale University) and was called to the Ghana Bar in 1982. She is the recipient of several academic awards and fellowships including Fulbright Fellowship. She was elected a Fellow of the Ghana Academy of Arts and Sciences in 2003 and currently serves as the Honorary Secretary of the Academy. Prof. Mensa-Bonsu has served her country in several capacities including membership of the Police Council of Ghana as the President's Nominee. She has previous experience of TRC work as a Commissioner of the National Reconciliation Commission of Ghana. She has also undertaken international assignments as a member of the OAU's Committee of Eminent African Jurists on the Lockerbie Case and the AU's Committee of Eminent African Jurists on the Hussein Habre Case. She was also a member of the Advisory Panel of the International Bar Association for the drafting of a Code of Professional Conduct for Defence Counsel appearing before the International Criminal Court and was Ghana's representative on the Intergovernmental Committee of Experts on the Drafting of the African Charter on the Rights and Welfare of the African Child. Professor Mensa-Bonsu has published widely on Criminal Law, Juvenile Justice, Children's rights, Family Law, and authored some basic texts in Criminal Law, including The Annotated Criminal Code of Ghana; The Annotated Criminal Procedure Code of Ghana; and The General Part of Criminal law,- A Ghanaian Casebook, vol. I and II . She is a member of Accra Ebony Lions Club and has held various positions of responsibility including Zone Chairman of Zone 161 of the International Association of Lions Clubs. She is married with three daughters and is currently the

Deputy Special Representative of the Secretary General (DRSG) of the United Nations Mission in Liberia (UNMIL).

Prof. Kenneth Agyemang Attafouah, Phd, ITAC Member (Ghana) was also a member of ITAC. A Criminologist, Sociologist and Barrister-at-Law and Solicitor of the Supreme Court of Ghana, Ken Attafouah was nominated to the TRC by the United Nation's High Commissioner for Human Rights. He is a former Commissioner of Human Rights in the Province of British Columbia, Canada, where he adjudicated human rights complaints, and a Member of the Canadian Immigration and Refugee Board, where he adjudicated claims to convention refugee status in Canada. Ken Attafouah was the Executive Secretary of Ghana's National Reconciliation Commission. He previously worked as Chief Investigator and Director of Public Education and Anti-Corruption at Ghana's Commission on Human Rights and Administrative Justice. He is a former Adjunct Professor of Criminology at the prestigious School of Criminology at Simon Fraser University (SFU) in Vancouver, B.C., Canada, from where he earned his Ph.D. in 1994. Ken Attafouah is also a product of the Ghana School of Law (B.L), the University of Manitoba in Winnipeg, Canada, (M.A., Sociology) and the University of Ghana (B.A. (Hons.), Sociology with Political Science).

Prior to his appointment to the TRC of Liberia, Prof. Cllr. Ken Attafouah was an Associate Professor of Governance and Leadership at the Graduate School of Leadership and Public Management at the Ghana Institute of Management and Public Administration (GIMPA). He is the recipient of the *Rev. Dr. Martin Luther King, Jr. Memorial Award* for outstanding contributions to race relations in Canada (February 1992), and of the much-coveted Vancouver Multicultural Society's *Distinguished Public Service Award* for outstanding contributions to, and dedicated service in, the promotion of human rights education and multiculturalism in British Columbia, Canada (November 1995). Prof. Cllr. Ken Attafouah's extensive publications

record includes a number of decisions that set precedents in human rights in Canada. He has trained and consulted widely, both locally and internationally, in the fields of human rights, adjudication, investigations, conflict resolution, crime, policing, crime prevention, criminal law reform, justice and the rule of law, gender mainstreaming, leadership and governance, corruption and conflict of interest, corporate/organizational re-engineering, peace and development, inter-group relations management, and advocacy and lobbying. He resigned his TRC portfolio late 2007.

D. Commissioners, Specialists, Senior Staff, Structure, Administration

The TRC organizational structure indicates reporting lines that have been adopted in the rules and procedures. The structure provides for nine Commissioners and an International Technical Advisory Committee (ITAC) composed of three technical advisors..

i. Commissioners

All Commissioners have equal powers with the Chairperson exercising his/her powers as a 'first among equals'. The organic powers of the Commission are contained in the TRC Act. All members of the Commission shall exercise oversight responsibilities for the functioning of the Commission in order to maintain a balanced and comprehensive perspective of TRC operations. Commissioners are not involved in day to day operations of the Commission.

The Chairperson functions as the Chief Representative and official spokesperson for the Commission; he may delegate some of his functions to one of the Commissioners to act on his behalf. The Chairperson presides over meetings, forums, conferences and hearings. He undertakes all other acts and exercises all authorities in consultation and with other Commissioners.

The Vice-Chairperson assists the Chairperson in the discharge of his duties and performs all such functions as the Chairperson may delegate. The Vice-Chair is one of four female members of the eight-member Commission.

ii. International Technical Advisory Committee

Article V Section 10 of the TRC Act provides for three ITAC members to be nominated, one by the United Nations High Commission for Human Rights and two by ECOWAS. Due to a number of constraints, two different ECOWAS nominated ITAC advisors were appointed in 2006, but thereafter resigned. In September 2008, one was again nominated by the United Nations High Commissioner for Human Rights and appointed by the President of the Republic of Liberia in July, 2008. The ITAC advisors provide legal and technical advice to TRC Commissioners and are accorded all rights and privileges as Commissioners, except the right to vote.

iii. Special Magistrate

Art VIII, Section 27 (b), provides for a Special Magistrate invested with the authority to, under the direction of the direction of the Commission, to; a) issue out citations, summons, warrants and commitments; b) conduct quasi judicial inquiries and hold contempt hearings; and (c) perform all other acts as may from time to time be designated by the Commission. The Special Magistrate performs his duties in consultation with the TRC Legal Counsel and the Executive Secretary, upholding all standards of due process, impartiality, fairness and justice in consonance with the constitution and laws of Liberia. The Special Magistrate was appointed by Her Excellency President Ellen Johnson-Sirleaf in December 2008.

iv. Senior Staff

Under Article IX Section 34, the Executive Secretary runs the day-to-day operations of the TRC Secretariat as provided under the TRC Act. The Secretariat is the administrative and operational arm of the TRC, rendering administrative, professional, technical, clerical and general administrative support services. It comprises a core of administrative and functional staff under the direction, leadership and supervision of the Executive Secretary who shall also serve the TRC as Secretary. In the conduct of duties, he is assisted by the below line officers.

According to the organogram, there are four line directors that form a part of the Secretariat. The four directors are: (1) the director of inquiry; (2) the media Director and (3) director of programs; (4) director of administration. These middle level managers report to the Executive Secretary who in turn reports to the Commission.

- a. The director of inquiry directs 22 investigators and researchers. For planning purposes and for the purpose of investigating the root causes of the war and to determine the antecedents, the commission identified 20 window cases and 14 thematic areas to be investigated and researched. As the commission winds down its data gathering activities in country and in the Diaspora, a reduced number of these staff continue to provide invaluable services of analyzing the vast data collected through the individual, thematic and institutional hearings conducted in all 15 counties. They continue to corroborate findings from witnesses or additional discoveries of sites and events in order to authenticate these findings.
- b. Outreach and Media Director: the director is assisted by two officers. He functions as the spokes person of the commission and guides the information that leaves the commission or filters back in to the commission. The outreach officer functions as a liaison between civil society organizations in disseminating

materials and messages throughout the length and breadth of the country. The media officer works closely with the print and radio houses.

- c. The director of programs and projects: the director is responsible for the data base and coding units, the psychosocial unit, statements taking, hearings in the 15 counties and the administration of all county offices. He is assisted by one program officer and a program assistant. The data base and coding section has two supervisors, 14 coders and 11 data clerks. The two supervisors are supervised by a Benetech consultant who in turn reports to the Executive Secretary through the program director. During the statement taking process, 124 local contractors were engaged to collect statements in the 15 counties. Statement taking was followed by the individual and thematic hearings in the counties. The psychosocial unit is headed by one coordinator who is assisted by two counselors. During the county hearings, the commission outsourced the counseling component of the intervention to a local organization. The Liberian Association of Psychosocial Services was closely monitored by the commission's three counselors. The commission was represented at the county level by two staff members-one county coordinator and one county field officer. These offices were especially useful during the county hearings. Nearing the end of its tenure, the Commission, in September 2008 began scaling down its operations and activities and had to close down all county offices, and layoff several employees. This will continue as the Commission winds up.
- d. Director of administration: this position was not filled. Instead a finance manager was appointed. Reporting to this manager is an accountant and a bookkeeper. Other staffs within the administration are the logistician, the procurement officer and ten drivers including the chief driver. A mechanic was also employed on a retainer bases. Also, in the security section, the

commission has maintained a roster of 12 parameter security, running three shifts and nine VIP securities assigned each to a commissioner. When the hearings began in January 2008, the national police also assigned 9 additional uniform police to the commission. That number has since been reduced considerably.

v. Administration

In March 2007, the Commission, after one year of existence, constituted a secretariat. Prior to that period, all nine commissioners played implementing roles in running the day to day activities of the Commission. When the Executive Secretary and the Director of Programs came aboard, the International Contact Group on Liberia (ICGL) intervened and requested that the Commission work with its partners to review and revise its work plan and develop one with program budget acceptable work to donors and partners. TRC rules and procedures were also reviewed and revised. Under similar objectives, the TRC requested and an external audit was conducted. The audit was conducted and the report circulated to member countries of the ICGL, Government of Liberia and donor partners.

On July 18, 2007, after almost five months of meetings with the ICGL/TRC working Group, an acceptable budget was adopted and the commission undertook a two-month fast tracking process of outreach activities into the fifteen counties. In July and August 2007, with funding initially sourced from UNDP and OSIWA, county offices were equipped and outreach activities of disseminating messages in preparation for statement taking were conducted. Between the months of October and December 2007, statement taking activities were concluded in all counties and in selected countries in the Diaspora. The Commission announced in December 2007 that individual and thematic hearings in the counties would begin on January 8, 2008 in Montserrado County. Since then, the commission's work has continued uninterrupted

II. MANDATE

A. Mandate

This chapter will primarily focus on the conceptual, standards and methodological aspects of the TRC's mandate, while other related components will be addressed in the chapters that follow. It is divided into four major sections including: Mandate, Legal Methodology, Standard of Proof and Legal Architecture, Standards and Crimes.

The mandate of the Truth and Reconciliation Commission of Liberia (TRC) is expansive and complex. It is charged with the onerous task of promoting national peace, security, unity and reconciliation by, among other things, investigating, identifying the antecedents of, and determining responsibility for egregious domestic crimes, gross human rights violations and serious humanitarian law violations. Article IV Section 4 of the Act to Establish the Truth and Reconciliation Commission (TRC Act) of 12 May 2005, states:

Section 4

- a. Investigating gross human rights violations and violations of international humanitarian law as well as abuses that occurred, including massacres, sexual violations, murder, extra-judicial killings and economic crimes, such as the exploitation of natural or public resources to perpetuate armed conflicts, during the period January 1979 to 14 October 2003; determining whether these were isolated incidents or part of a systematic pattern; establishing the antecedents, circumstances factors and context of such violation and abuses; and determining those responsible for the commission of the violations and abuses and their motives as well as their impact on victims.

Notwithstanding the period specified herein, the Commission may, on an application by any person or group of persons,

pursue the objectives set out in this Article IV (Mandate of the Commission) in respect of any other period preceding 1979.

- b. Providing a forum that will address issues of impunity, as well as an opportunity for both victims and perpetrators of human rights violations to share their experiences in order to create a clear picture of the past to facilitate genuine healing and reconciliation;
- c. Investigating the antecedent of the crises which gave rise to and impacted on the violent conflict in Liberia;
- d. Conducting a critical review of Liberia's historical past, with the view to establishing and giving recognition to historical truths in order to address falsehoods and misconceptions of the past relating to the nation's socio-economic and political development.
- e. Adopting specific mechanisms and procedures to address the experiences of women, children and vulnerable groups, paying particular attention to gender based violations, as well as to the issue of child soldiers, providing opportunities for them to relate their experiences, addressing concerns and recommending measures to be taken for the rehabilitation of victims of human rights violations in the spirit of national reconciliation and healing.
- f. Compiling a report that includes a comprehensive account of the activities of the Commission, and its findings.

From this background, the TRC must not only investigate and determine responsibility for violations of international human rights law (IHRL) and international humanitarian law (IHL) as well as their motives and impact on victims, but also determine the historical antecedents or causes of violent conflict in the country, conduct an audit of Liberian history to offer historical correctives, develop sustainable mechanisms to address gendered and child-based violence and promote national rehabilitation, reconciliation and

healing. Under any objective standard these are very lofty goals to effectuate within two years.

Article VII Section 26 (j) of the TRC Act requires that it make recommendations in five specific areas: Reparations; Legal Institutional and other Reforms; Continuing Investigations and Inquiries; and prosecutions. Section 26 (k) also requires the TRC to take any necessary action to gather information and receive evidence to allow it to effectuate its mandate. Whereas, Article VIII empowers it to “exercise powers generally in any matter, manner and form and for any purpose to the fulfillment of the objectives expressed in the Act” without limitation, whatsoever.

Issues of Law

Due to its broad mandate, the TRC was immediately confronted with the difficult task of assessing which bodies of IHRL and IHL applied to it—a critical question given that the mandate includes determinations on responsibility for egregious domestic crimes, gross violations of IHRL and violations of IHL. The TRC Act broadly defines “Human Rights violations” as: “(1) violations of international human rights standards, including, but not limited to acts of torture, killing, abduction and severe ill-treatment of any person; (2) violations of international humanitarian law, including, but not limited to crimes against humanity and war crimes.” It further states that “‘violations of international humanitarian law’ includes the Geneva Conventions of 12 August 1949 and its Additional Protocols.” Based on the legal mandate of the TRC as enumerated in Section 4(a), the TRC adopted a coherent set of categories of crimes, standards and definitions to guide and inform its work.

The process involved determining the applicability of IHRL and IHL on Liberia between January 1979 through 14 October 2003, which was a daunting task due to the large body of treaty law, general

international law and customary international law applicable to Liberia given its standing as Africa's oldest republic (since 1847), not to mention that IHRL and IHL had significantly evolved during this period. In this sense, what may not have been an IHRL or IHL violation in 1979 may have become one through treaty or customary law development by 1999, particularly with the establishment of an ad hoc international tribunal and with the adoption of the 1998 Rome Statute establishing the International Criminal Court. Liberia has ratified these international legal instruments.

Consequently, again, the TRC is confronted with the complicated task of developing a legal architecture and set of standards that comport with Liberia's international commitments and obligations and simultaneously complement its substantive and temporal mandate while providing it with the flexibility to apply law that is digestible to the Liberian pallet and suitable to the Liberian experience.

B. Legal Methodology

As an independent body created under and by Liberian law, the TRC must operate in accordance with international law binding on the Republic of Liberia. Despite the fact that the TRC Act provided broad legal guidelines to steer the TRC's legal mandate to investigate domestic law, IHRL and IHL violations and "determine those responsible for the commission of the violations and abuses," it did not offer insight into the multifarious existing rules and standards that bind, control and define the scope of the TRC's quasi-adjudicatory functions.

Consequently, the TRC had to conduct a legal audit of Liberia's obligations under Liberian penal law, African Union (AU) law, Economic Community of West African States (ECOWAS) law; United Nations (UN) law; general international law, and customary international law to fashion its own legal architecture and standards.

This process required canvassing over fifty human rights, humanitarian and other-related treaties, ascertaining the precise status of regional and customary international law, norms applicable to Liberia as well as examining the jurisprudence and practice of the various international and ad hoc criminal tribunals and truth and reconciliation commissions, respectively. This endeavor was further complicated by the unique temporal mandate of the TRC (from January 1979 to October 2003), which, for example, begins during the Cold War era and continues through the immediate post-Cold War into the twenty-first century. During this twenty-four year period, regional and international law significantly evolved, requiring nuanced analysis and legalistic filtering. For example, prior to the end of the Cold War, there was no comprehensive international protective regime for children; however, since 1990, the African Charter on the Rights and Welfare of the Child (1992), Convention on the Rights of the Child (CRC) (1989), and the Optional Protocol to the CRC on the involvement of children in armed conflict (2004) have crystallized into hard law along with complementary customary international law. Consequently, in 1979, Liberian children had fewer rights under regional and international law than they did in 1999. Not only did the TRC have to account for the evolution of regional and international law but also the critical distinction between IHRL and IHL. Consequently, the TRC addressed these temporal and substantive dichotomies by employing a sequential analysis for reviewing allegations, for developing broad standards, by only making determinations of responsibility using legal precepts applicable at the time that the alleged crimes occurred, and by drawing a fine line between IHRL- and IHL-based violations.

i. Distinguishing IHRL from IHL

Although IHRL and IHL are complementary and strive to protect the lives, health and dignity of people, they are distinct. IHL applies in situations of armed conflict, while IHRL applies at all times, in

situations of armed conflict and peace. IHRL is generally limited in application to violations committed by a state or its agents against citizens, whereas IHL is applicable to state actors and non-state actors alike. In the search to criminalize violations of IHRL and IHL, a new branch of international penal law referred to as international criminal law (ICL) has emerged. After a review of relevant and prevailing regional and international law and standards and in accordance with its mandate, the TRC concluded that while in times of public emergency some human rights treaties permit governments to derogate from certain rights, it is never acceptable to derogate from fundamental human rights (e.g. right to life and personal dignity). It also determined that no derogations are permitted under IHL because it was established to regulate emergency situations, and particularly armed conflict; rules governing the conduct of hostilities and Prisoner of War (POW) status are not applicable in non-international armed conflicts; and there is no derogation from ICL in times of public emergency because it exists to protect the fundamental rights of people through penal sanction.

ii. Distinguishing Armed Violence from Armed Conflict

International humanitarian law gives little guidance on how to determine when an armed conflict actually begins and, for this reason, when IHL is applicable to non-international armed conflict. This is a critical issue because, as already noted, situations of internal armed violence short of armed conflict only engender IHRL and ICL; whereas, situations of armed conflict are characterized by IHRL, IHL and ICL. With respect to IHL, the Geneva Conventions of 1948 (I-IV) and Protocol II Additional to the Geneva Conventions of 1977 (Protocol II) provide different standards for determining when armed conflict exists and consequently when the conventions apply. According to the Inter-American Commission on Human Rights

(IACHR) in the *Abella case*,² which is one of few authoritative interpretations identifying when Common Article 3 of the 1949 Geneva Convention is applicable to armed violence, armed conflict is “low intensity and open armed confrontations between relatively organized armed forces or groups that take place in the territory of a state.”³ For purposes of Common Article 3, armed conflict applies to all parties at conflict and involves “armed civil strife between government armed forces and organized armed insurgents” and “governs situations where two or more armed factions” battle “without the intervention of government forces where, for example, an established government has dissolved or is too weak to intervene.”⁴ According to the IACHR and the commentary of the International Committee on the Red Cross on the Geneva Conventions, there need not be large-scale war nor do armed groups need to control segments of national territory for there to be armed conflict under Common Article 3. The TRC shares this view.

Notwithstanding, Geneva Convention law and customary international humanitarian law do seem to require that, for purposes of application of Common Article 3, armed conflict must: (1) be protracted, not simply sporadic acts of violence (e.g. mass rioting or short-lived rebellion); (2) be conducted by armed organized groups; (3) not be contained to a small part of territory; (4) be violently intense in nature; (5) pose a threat to a government or the civilian population; and (6) not include the armed forces of another state. Therefore, Common Article 3 would apply to, for example, armed conflict between the National Patriotic Front of Liberia (NPLF) and the Government of Liberia as well as conflict between the NPLF and the Independent National Patriotic Front of Liberia (INPFL), among other factions, in the 1990s. The TRC likewise shares this view.

² IACHR Report No. 55/97, case No. II.137, 30 October 1997, para. 152. Hereinafter referred to as the *Abella case*.

³ *Id.*

⁴ *Id.*

Protocol II was ratified by Liberia in June 1988 and sets-out more conservative criteria or a higher threshold that legally controls all internal conflict after this period. For purposes of application of Protocol II, armed conflict must be: (1) violently intense or at a high level; (2) between armed forces of a state and dissident armed forces or other armed groups; (3) conducted under responsible command of armed groups that exercise control over enough territory to carry out sustained and concerted military operations, not excluding hit-and-run type operations. Protocol II does not apply to armed conflict between organized armed groups (e.g. the NPLF and INPLF in the 1990s), but only when one of the warring factions is represented by government forces (e.g. armed violence between the Liberians United for Reconciliation and Democracy (LURD) and Government of Liberia). If armed violence in a state does not satisfy the high threshold in Protocol II, it cannot be classified as armed conflict under Protocol II. Under this scenario, IHL may still apply if armed violence satisfies the broad threshold for armed conflict under Common Article 3.

While the TRC recognizes the need to differentiate between Common Article 3 and Protocol II types of armed conflict, the complex nature of violent conflict in Liberia necessitates a flexible juridical approach that simultaneously recognizes the blurred lines between armed conflict between organized armed groups and government, and opposing organized armed groups and armed splinter groups. This situation has been further complicated by the fact that, between 1979 through 2003, organized armed groups often controlled significantly more territory than contesting governments, some of which had no military capacity except for militia. Consequently, the TRC determined that during Liberia's various episodes of armed conflict (see Annex 1) among organized armed opposition groups and/or among or between such groups and the Liberian government that both Common Article

3 and Protocol II standards applied to such conflict and violence between armed opposition groups.

C. Standard of Proof

Since the TRC Act is silent on the question of which standard of proof to use in investigating and determining those responsible for the commission of violations of domestic law, IHRL and IHL, and after reviewing standards used by other truth and reconciliation commissions, the TRC decided that the corresponding standard of proof should be a **“preponderance of the evidence”** (that the accused **“more likely than not”** is responsible for committing the violation or crime). Since the TRC is **not** a criminal court or tribunal, no higher standard of proof is necessary. If a prosecution mechanism is established after the TRC process is complete, it will be for Government to determine the requisite prosecutorial standard of proof, which, in accordance with Liberian law, would be “beyond a reasonable doubt.”

D. Legal Architecture, Standards and Crimes

The TRC adopted three primary classifications of crimes that it is using to investigate and determine responsibility including: (1) “Egregious Domestic Crimes”; (2) Gross Violations of Human Rights Law; and (3) Serious Humanitarian Law Violations. The TRC reserves the right to and will make determinations of responsibility on any persons, groups or entities involved in a joint criminal enterprise or conspiracy including those that planned, instigated, ordered committed, aided or abetted in the planning, preparation or execution of any crime within its mandate. The sections that follow will discuss and define these terms in greater detail.

i. “Egregious” Domestic Crimes (EDC)

While the TRC mandate is preoccupied with IHRL and IHL violations, it also provides the necessary flexibility to consider other “abuses” or crimes that are not of an international character but fall into the realm of domestic criminal law violations including sexual violations (e.g. rape and molestation) and murder. Clearly, massacres, economic crimes and extra-judicial killings fall within the ambit of IHRL and IHL; however, to the extent that Liberian law addresses these or related egregious crimes (particularly those classified as first degree felonies), the TRC decided that they would comprise a part of the legal standards used to determine responsibility. This approach provides the TRC with needed flexibility because during times of peace—when only human rights law is applicable—it may investigate and adjudicate responsibility for violations committed by private citizens for private actions under domestic law, not simply crimes committed by the state against private citizens. Hence, to the extent Liberian law criminalizes sexual crimes, murder and massacres, the TRC will use it to determine responsibility where statutes of limitation are not applicable.

The relevant “egregious” domestic crimes include economic crimes under the Act Adopting A New Penal Law and Repealing Sections 31.3 & 32.1 of the Criminal Procedure Law (approved 19 July 1976), which are as follows: (1) Mercenarism; (2) Official Oppression; (3) Murder; (4) Kidnapping; (5) Rape; (6) Sexual Assault; (7) Fraud on the Internal Revenue of Liberia; (8) Theft and/or Illegal Disbursement and Expenditure of Public Money; and (9) Possession, Distribution, Transportation and/or use of Tools and Materials for Counterfeiting Purposes; and (10) Misuse of Public Money, Property or Record.

In accordance with the TRC Act, economic crime has been added as a substantive crime. There is no generally agreed upon definition of economic crime, so after conducting a comparative analysis of

domestic law in Africa, regional law and international law, the TRC adopted one, which is included in the “egregious” domestic crimes section, fully aware of its transnational characteristics and linkages to IHRL and IHL.

For a list of definitions, see Annex 2.

ii. “Gross” Human Rights Violations (GHRV)

The human rights protective regime is designed to protect individuals and groups of people from abuses of state authority. The TRC Act is almost exclusively concerned with gross violations of civil and political rights to include economic, social and cultural rights, with explicit reference to economic crimes. By definition, the Statute also unambiguously distinguishes between GHRV and milder types of violations enumerated in the International Covenant on Civil and Political Rights (ICCPR) such as the right to freedom of speech and assembly, a fair trial and liberty of movement, and freedom to choose a residence; as well as rights in the International Covenant on Economic, Social and Cultural Rights (ICESCR) such as the right to education, enjoyment of just and favorable work conditions and vacation pay. The TRC Act is clearly preoccupied with violations that bring about death, physical or mental pain and injury or deprivation of freedom and livelihood.

The TRC has determined that GHRV are generally but not exclusively committed by state actors, may take place during times of peace or armed conflict, and can be directed against individuals or groups of people. GHRV abrogate preemptory norms of international human rights law such as: (1) Murder; (2) Extermination; (3) Enslavement; (4) Torture; (5) Rape; (6) Sexual Slavery; (7) Enforced Prostitution; (8) Enforced Sterilization; (9) Sexual Violence; (10) Enforced Disappearance of Persons; (11) Persecution; (12) Deportation or Forcible Transfer of Population; (13) Imprisonment or other Serious

Deprivation of Physical Liberty; (14) Genocide; and (15) Crimes Against Humanity. Articles II and IV of the TRC Act encompass the aforementioned GHRV.

For a list of definitions, please see Annex 3.

iii. “Serious” Humanitarian Law Violations (SHLV)

GHRV are serious violations of humanitarian law that trigger universal jurisdiction to prosecute. Since conflict in Liberia is best characterized as a non-international armed conflict, only two bodies of IHL govern episodes of armed conflict in the country: (1) Common Article 3 of the 1949 Geneva Conventions; and (2) 1977 Additional Protocol II to the Geneva Conventions, not excluding customary international humanitarian law. As previously noted, the TRC has determined that both conventions apply to all of Liberia’s episodes of conflict.

Common Article 3 states, “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.”⁵ It strictly prohibits the following acts against these classes of persons: (1) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (2) Taking of hostages; (3) Outrages upon personal dignity, in particular humiliating and degrading treatment; (4) The passing of sentences and the carrying

⁵ Common Article 3 to the Geneva Conventions of 1949, adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August 1949, *entry into force* 21 October 1950.

out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples; and (5) Attacking objects or persons using the distinct emblems of the Geneva Conventions.

Protocol II states, “[a]ll persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honor and convictions and religious practices.” It requires that such persons always be treated humanely, “without any adverse distinction.” Protocol II strictly prohibits any order that there “shall be no survivors” as well as the following acts against persons: (1) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; (2) Collective punishment; (3) Taking of hostages; (4) Acts of Terrorism; (5) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution, sexual slavery, sexual violence and any form of indecent assault; (6) Slavery and the slave trade in all their forms; (7) Pillage; (8) Sentencing or Execution Without Due Process; (9) Using, Conscripting or Enlisting Children in Armed Conflict; and (10) Threats to commit any of the foregoing acts.

For a list of definitions of SHLV, see Annex 4.

In the final analysis, the TRC sought to ensure that the overall approach to carry out its mandate complemented Liberia’s complex history while simultaneously comporting with domestic, regional and international norms.

III. METHODOLOGY

There is no single methodological approach that adequately assists the TRC in fulfilling its complex mandate. This is especially true with respect to the interrelationships between the mandate provisions of the TRC Act, for example, in finding out the root causes of the conflict and its historical antecedents, or satisfying the public's perspective on the thorny policy areas of amnesty, prosecution and reparation, and in determining what is practicable and applicable under applicable laws and country conditions. The 2005 TRC Act is an intricate body of law compounded by high public expectations that the TRC will produce a one-size fits all remedy to decades of injustice and violent armed conflict in a neatly bow-tied end product. Equally so, the TRC is expected to make substantive contributions to the "law and doctrine of truth commissions" that surpasses its predecessors.

Given the unique historical and contemporary dynamics of Liberia the TRC defined the methodology of its work qualitatively and quantitatively under the following considerations: it first established the fundamental purpose of the TRC, then reviewed the mandate thoroughly for understanding and clarity of the functions and powers of the Commission, what was feasible and practicable bearing in mind the two year stipulated timeframe for implementation of its work, the country condition and available resources, and then established short and long term objectives for meeting its goals.

In determining procedures the Commission would employ in performing its functions, Article VII, Section 26 (a) stipulates that the TRC should facilitate and, where necessary, initiate or coordinate enquiries into, and investigate "[g]ross violations and abuses of human rights, privileges, powers and authority in Liberia including violations, which were part of a systematic pattern of abuse" as well as the "nature, causes and extent of gross violations and abuses of

human rights, including the root causes, circumstances, factors, context, motives and perspectives which led to such violations.”

Select provisions of Section 26 of the TRC Act also require the TRC to achieve multiple ends:

“Section 26

- d. Ensuring accountability, political or otherwise, for any such violation.
- e. Gathering information and receiving evidence from any person or persons, including persons claiming to be victims of such violations or the representatives of such victims, individuals, groups of individuals, perpetrators, witnesses and institutions through the taking of statements and through evidence gathered through the conduct of both public and confidential hearings upon request of witnesses, informants, petitioners, either as victims, perpetrators, subject to the exclusive discretion and authority of the TRC.
- f. Helping restore the human dignity of victims and promote reconciliation by providing an opportunity for victims, witnesses, and others to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, in an environment conducive to constructive interchange between victims and perpetrators, giving special attention to the issue of sexual and gender based violence and most especially to the experiences of children and women during armed conflicts in Liberia;
- g. Recommending amnesty under terms and conditions established by the TRC upon application by individual persons making full disclosures of their doings and thereby expressing remorse for their acts and/or omissions, whether as an accomplice or a perpetrator, provided that amnesty or exoneration shall apply to violations of international humanitarian law and crimes against humanity in conformity with international laws and standards;

- h. Preparing a comprehensive report which sets out its activities and findings based on factual and objective information and evidence collected or received by it or placed at its disposal;
- i. Creating an independent, accurate and objective record of the past and making recommendations reflective of the truth to reunify and reconcile contending groups and/ or the peoples of Liberia;
- j. Making recommendations to the Head of State with regard to;
 - i. Reparations and rehabilitation of victims and perpetrators in need of specialized psycho-social and other rehabilitative services;
 - ii. Legal, institutional and other reforms;
 - iii. The need for continuing investigations and inquiries into particular matters, at the discretion of the TRC; and
 - iv. The need to hold prosecutions in particular cases as the TRC deems appropriate;
- k. At the discretion of the TRC, any person, group of persons or organizations or institutions shall be permitted to provide information as informants, witnesses, perpetrators or victims to the TRC on a confidential or non-confidential basis and the TRC shall not be compelled by any authority to disclose any such information given to it in confidence;
- n. The TRC shall take into account the security and other interests of the victims and witnesses when appearing for hearings, design witness protection mechanisms on a case by case basis as well as special programs for children and women both as perpetrators and victims under burdens of trauma, stigmatization, neglect, shame, ostracization, threats, etc. and others in difficult circumstances who may wish to recount their stories either in privacy or public, subject to the discretion of the TRC.

Once the TRC agreed on the meaning of its mandate, functions and powers, it moved forward with determining its modus operandi as a

quasi-judicial body pursuant to the TRC Act. Consequently, the TRC adopted a set of rules and procedures to guide its work and ensure stability in TRC operations.

In order to provide notice to the public of its determinations on critical issues the TRC issued, published and circulated several public policy bulletins on key policy areas including: N0.01, Public Hearings; N0.02, General Immunity for all TRC witnesses; N0.03, Restatement of policy on the right to counsel during hearings; N0.04, Reparation, Prosecution and Amnesty; N0.05, In-camera or Confidential hearings; N0.06, Application for Amnesty; and N0.07, Warrants, and Compulsory processes. These policies clearly articulated the TRC's interpretation on key policy issues.

Public dissemination of public bulletins generated public confidence, particularly the TRC's bulletins on granting of general immunity to all witnesses testifying or appearing before it and its decision to mainstream confidentiality throughout its proceedings. These were pivotal in soliciting the cooperation of victims, witnesses and alleged perpetrators to participate in the process.

The protection of victims and witnesses in either giving statements to the TRC or testifying before it was a dominant factor in how the TRC conducted its investigations into IHRL and IHL violations. Witness protection was applied on an individual case by case basis due to inadequate resources and the limited time (two years) that the TRC had to achieve its mandate. Confidentiality of the statement-giver during statement-taking was insisted upon, and anonymous statements allowed. In-camera hearings were confidential and off limits to any member of the public or TRC staff.

Article VII Section 26 (f) requires the TRC to help "restore the human dignity of victims and promote reconciliation by providing an opportunity for victims, witnesses and others to give an account of the

violations and abuses suffered and for perpetrators to relate their experiences, in an environment conducive to constructive interchange between victims and perpetrators.” It also required that the TRC give special attention to the issue of sexual and gender based violence, particularly with respect to women and children. Consequently, the TRC decided that in order to protect the physical and psychological welfare of victims and alleged perpetrators, victims were informed about the appearances of alleged perpetrators and were free to attend public hearings if they desired to without being in conflict with or required to be in close proximity to them. The TRC decided against providing a venue for the accuser, particularly the most violent ones, to confront the accused, for security reasons, among others. While such exchanges took place, they were limited and did not occur frequently.

Data collection of the process was both qualitative and quantitative. For qualitative information, the Commission received information through the following means: statement-taking (the statement-taking forms had sections for both qualitative and quantitative information), Inquiry Unit interviews, public and In-camera hearings and testimonies, documented submissions, UN Country reports and assessments, reports of local and international human rights organizations, reports of Liberian civil society organizations, US State Department human right reports, media reports, publications and books. Some of these sources were confidential as well as non-confidential. For quantitative information, the TRC relied heavily on data and analysis from Beneficial Technology or Benetech, a U.S. based corporation contracted to manage the TRC database, a critical component of its work.

A. Commissioner Training and Preparation

Following a public vetting and recruitment process in late 2005, TRC Commissioners were selected by then transitional Head of State

Gyude Bryant and afterward received their commissions from Her Excellency President Ellen Johnson-Sirleaf on 20 February 2006. Immediately thereafter, Commissioners underwent various types of training and courses in the history and origin of truth commissions as a form of transitional justice mechanisms, including their functions, goals, objectives and importance in post conflict countries; best practice approaches and experiences of other truth commissions, and human rights and humanitarian law training. Commissioners also received training in the investigation of human rights violations; technical issues in conducting public and in-camera hearings; psycho-social care and support for victims, and others coming before the TRC; conflict prevention and resolution; reparations; and other specialized topics of interest that enabled Commissioners to function within the accepted operational standards of truth commissioners.

The training was facilitated by a combination of local and international experts in the field of international law and transitional justice. An array of institutions including the Economic Community of West African States (ECOWAS), Human Rights Foundation of South Africa (HRCSA), the International Center for Transitional Justice (ICTJ), the United Nations Mission in Liberia (UNMIL), and the locally based Transitional Justice Working Group (TJWG) assisted the TRC during those formidable stages of its work. Dr. Jeremy Levitt provided legal training for the Commission.

In June 2006, prior to the launching of the TRC, the nine member Commission visited South Africa under the auspices of the Human Rights Foundation (FHR) to undertake a study tour of South Africa for orientation and to become acquainted with the country's past truth and reconciliation process in order to experience first-hand how the South African TRC approached and managed its process. The training was well coordinated and intensive, and afforded the Commissioners the rare opportunity to meet and speak one-on-one with former South African Commissioners, staff, human rights advocates, government

officials, and renowned South Africans and others on the impact of the TRC in South Africa. The training assisted Commissioners in expanding their knowledge about the practice of truth and reconciliation commissions, and provided them with a clearer understanding of what they would be encountering. Additional training continued on an ongoing basis throughout the process.

B. Domestic and International Staff Training

In recognition of the important role staff plays in effectuating the TRC's mandate, the Commission, with the assistance of several partners, conducted research, writing, analysis, investigative techniques and management skills training for domestic TRC staff. Staff often participated in training alongside Commissioners, while at other times they were trained independently. For example, in 2006, over three hundred staff members were trained as statement-takers, investigators, psycho-social support persons and county coordinators in preparation for the statement-taking, inquiry and hearing processes, and the creation of TRC offices in Liberia's fifteen counties. Data entry staff or coders entrusted to input information into the database from the statement-taking were provided specialized training in this area coordinated by Benetech. The data coders were trained in 2007 in the mechanics of data coding, categorizing of human rights violations, geography of victims' communities and name codification.

In early May 2006, over one thousand community mobilizations from various civil society organizations resident in the counties were hosted at the Liberian Biomedical Research Center in Margibi County, where they underwent three days of training in communications and social mobilization skills facilitated by Ambassador Julie Endee, a Liberian communication expert and Cultural Ambassador contracted by the TRC to assist in its outreach efforts. This was in preparation for the official launching of the TRC in the 15 counties of Liberia and the

sensitization and awareness campaign associated with it. Staff associated with the Diaspora Project in the United States of America, Ghana and Nigeria, were similarly trained as coders and community mobilizers to ensure that TRC techniques were mainstreamed among all staff. All training programs focused a gender dimension that included emphasis on women and children's issues.

The majority of training was conducted in collaboration with civil society groups and members. Some were carried out for specific members of civil society in partnership with the TRC. For example, the TRC and ICTJ coordinated the International Media Center and the Press Union of Liberia training in early 2007 to conduct extensive training for local journalists on the TRC process. This effort culminated in a joint code of conduct being established to govern the media's coverage of the TRC process, and especially its hearings. Local and field staff also received training of various forms.

In order to maintain a balanced perspective, a uniform training program was designed with slight modification to suit the particular needs of the TRC Diaspora Project. The Diaspora Project was implemented by the TRC Diaspora partners, the Advocates for Human Rights, formerly Minnesota Advocates For Human Rights based in Minnesota, U.S.A, and closely supervised and co-managed by the TRC. Training modules in the Diaspora were jointly designed and coordinated to mirror as closely as possible the Liberia program. The TRC created a Diaspora Committee, to closely track and monitor the project. Commissioners made periodic visits to the USA and played a leadership role in several training modules on the TRC mandate, transitional justice, the history of Liberia and its various episodes of conflict, the Liberian Constitution, statement-taking and investigation, human rights law and multiculturalism. The Diaspora Project trained over six hundred volunteers to collect statements from Liberians in the USA. This model of training was replicated with competent modifications for the West Africa Diaspora Project. Ten

Liberians residing in the Buduburam Liberian refugee camp in Ghana were trained as statement-takers to assist the TRC to collect statements from Liberians in Ghana. About ten Liberians resident in the Federal Republic of Nigeria were also trained for the TRC project.

C. Statement-Taking

Between 2005-2006, approximately two hundred individuals were recruited nationwide from local communities as statement-takers and trained to solicit the voluntary narratives of individuals recounting their personal experiences and accounts of the conflict either as victims, witnesses, perpetrators, or as family members and loved ones from their communities. The statement forms were specifically designed to be gender sensitive, victim friendly, while special forms were designed for children statement-givers. This method employed a confidential interview using probing questioning techniques to assist the statement-giver in recounting traumatic events or experiences and to provide factual accounts or evidence of events that took place. Recommendations for how the TRC should proceed with its work and its final report were also solicited from those persons that participated in the process and the public in general. As a result of its careful statement-taking approach the TRC generated goodwill with the public and succeeded in obtaining over 20,000 statements from Liberians in Liberia and in the Diaspora including the U.S. and West Africa.

The TRC recruited more women statement takers than male while women participated strongly in the statement-taking process as statement givers, accounting for approximately 47% of all statements given to the TRC.

The statement-taking process was followed by Public and In-Camera Hearings in Liberia's fifteen counties and in the US. Hearings were initially scheduled for the West Africa in the Republic of Ghana.

Liberian refugees confrontations with the authorities of Ghana unsettled the planned hearings in the West African sub-region. The hearings including seven months of victims' and witnesses' testimonies and, to date, four months of actors, thematic and institutional hearings, which provided vital accounts and perspectives under the broader "contemporary history of the conflict theme". Special considerations have been made to accommodate women, children, elderly, handicap and other vulnerable groups.

D. Civil Society Participation, Outreach and Hearings

This section discusses the various civil society participation and outreach activities of the TRC inclusive of national and international hearings processes. In this context, it will also highlight the various activities that the TRC designed and implemented for women and children.

i. Civil Society

Civil society was a major stakeholder in the Liberian peace process and has been in the vanguard of the TRC process as far back as the 2003 Comprehensive Peace Agreement (Accra). From the conceptualization of the TRC and the drafting and passing of TRC legislation to the vetting of Commissioners and senior staff, civil society representatives from various organizations, including women's groups, youth groups, the disabled community, political parties, the religious community, traditional organizations and the media, participated in the TRC process and continued to play a lead roles in how the TRC implements its mandate. In 2007, the TRC entered into a memorandum of understanding with sixteen civil society organizations, further concretizing their partnership.

As early as May 2006, the TRC, through a public participatory process, launched a massive public outreach, awareness and sensitization

campaign in collaboration with several civil society organizations aimed at formally introducing the Commission by explaining its mandate, educating the populace about the pivotal role it could play in healing the nation, encouraging them to participate, and garnering the support of the broader Liberian public and partners in the process. This public awareness campaign began in Monrovia and was subsequently expanded throughout Liberia's fifteen counties.

The TRC held special interactive outreach presentations on its programs and activities with the National Legislature and the Cabinet. Civil society groups at different levels were engaged by the Commission to assist in this effort; they include: the Liberian National Girls Guides Association, Boys Scouts of Liberia, Artists Association of Liberia, Liberian Crusaders for Peace, Roller Skaters Association of Liberia, Women on the Move Association, and the Traditional Women Association of Liberia. Local media and the United Nations Mission in Liberia (UNMIL) and other partners have also provided assistance in this area.

Civil Society organizations buttressed the commission's efforts by conducting sensitization and awareness in all fifteen counties, distributing 15,000 copies of the TRC's informational questions and answers (Q&A) brochure, replicating and distributing 10,000 copies of the 1986 Constitution of Liberia to schools and communities for civic education and by conducting sensitization and awareness workshops about the TRC process. The involvement of civil society in the TRC process enormously enhanced the Commission's work in accomplishing its mandate.

ii. National and International Outreach and Hearings

With the launch of the Diaspora Project on 22 June 2006, concomitantly with the national launching of the TRC, rigorous outreach efforts were exerted to market and localize the TRC to

Liberians residing outside of the country beginning in the USA and then West Africa. Numerous outreach, education and sensitization events were held in several U.S. cities where large populations of Liberians reside. Like national TRC activities, these activities included town hall meetings, formal presentations, speaking engagements in churches and mosques, and special events. The media at home and abroad was also equally involved in spreading the TRC's message across to Liberians and the general public. Several newspapers, radios and television interviewed project staff and Commissioners in Liberia and abroad.

The TRC's Diaspora Project was innovative because it redefined the way in which truth and reconciliation commissions should operate—from local or nationally-centered bodies to global truth seeking institutions—by conducting international hearings that included testimony and perspectives from its citizens abroad; thereby, raising the bar of ingenuity in transitional justice approaches. The Diaspora Project began in Minneapolis, Minnesota (USA), which is home to approximately 5,000 of the 40,000 Liberians living in the U.S., with the assistance of one of the TRC's key partners, the Advocates for Human Rights, which served as a primary implementer of the Project. The Diaspora project resulted in the collection of approximately 1,500 statements from alleged perpetrators and victims of Liberia's various episodes of state chaos and conflict. The project eventually conducted activities in eleven U.S. cities, Europe and to Ghana, Nigeria, and Sierra Leone where a significant number of Liberian refugees in West Africa reside. Community Advisory Committees comprising credible Liberians were established in each city hosting a project. Numerous outreach events were organized in collaboration with the Advisory committees and often hosted by the various Liberian communities. This approach ensured Diaspora community involvement and support for the Project. Approximately 1000 statements were collected from Liberians in West Africa.

Public sensitization and awareness was a constant feature of the TRC process, initiated during each phase of the TRC's work. The communication, sensitization and mobilization aspect of the TRC's program was designed to coincide with every stage of activities. Sensitization and public outreach was a permanent feature of all TRC programs in the fifteen counties, and was carried out through music, drama, town hall meetings, workshops, visitations of churches and mosques, presentations and media reports. Other specialized modes of communication, including the non-traditional and conventional, were explored to maximize the outreach capacity and objectives of the TRC. Notwithstanding these efforts and extensive strategic planning, the necessary financial support from the donor community was not forthcoming, and consequently, the TRC's outreach programs were adversely affected.

After receiving initial feedback about country conditions in the counties during the outreach process, the TRC embarked upon a nationwide assessment of each county with the goal and objective of ascertaining first-hand the plight of civil war rural victims and living conditions of inhabitants in rural Liberia, generally. The TRC immediately established county offices in order to decentralize its operation and provide local residents with the opportunity to establish ownership of the TRC process.

iii. Women

Historically, women have been the most marginalized economically, socially and politically. In Liberia, it was only in 1947, for example, 100 years after the declaration of independence, that Liberian women were granted rights of suffrage.

Liberia is attempting to emerge from the throes of more than two decades of state breakdown and protracted civil conflict resulting in deaths and massive displacement of persons internally not excluding

the destruction of the country's infrastructure. Unfortunately, women bore a disproportionate amount of suffering during the war. Women were often brutally raped and kidnapped, forced to watch their husbands and children tortured and killed or forcibly conscripted into various warring factions. Thousands of children and youth were forced to take drugs as a means to control and teach them to kill, maim and rape without conscious making them virtual killing machines. It is estimated that the conflict in Liberia produced the highest number of female perpetrators in comparison to civil conflicts in other parts of the world.

According to TRC findings, various episodes of the armed conflict affected men and women differently. While men account for nearly 50% or half of all reported violations compared to one third or 33% from women. However, more than 70% of all sexual based violations reported were against women.

For historical, cultural, social, political, economic and other reasons, women's experiences are often not reported and hence under-represented in reported violations. Recognizing this reality, the TRC Act provides guidelines for the treatment of women in the TRC process. In addition to the Preamble, nine sections of the Act speak to women's realities and how they should be incorporated in the TRC process. These provisions and references demand the effective participation of women at all levels and in all aspects of the TRC process, including as Commissioners, managers and staff of the TRC, petitioners, victims, perpetrators, victim-perpetrators, and witnesses. Article IV and VI of TRC Act specifically requires the TRC to adopt mechanisms and procedures to address the experience of women, children and vulnerable groups; pay particular attention to gender-based violations; employ specialists in women's rights; protect women's safety; and not endanger women's social reintegration or psychological recovery.

In adhering to these requirements, the TRC has engaged in numerous activities with women in Liberia and in the Diaspora. Several formal and informal meetings have been held with individuals as well as women's groups. In 2006, to ensure proper coordination and broad-based participation by women in the TRC process, and to guarantee that woman's concerns are adequately expressed and addressed, the TRC established a gender committee comprising a wide spectrum of civil society and international partners. Members of this committee included the Women NGO Secretariat of Liberia; the Ministry of Gender; the Open Society Initiative for West Africa (OSIWA); ICTJ; the United Nations Development Fund for Women (UNIFEM); UNMIL Gender Section; Rule of Law Section and Human Rights and Protection Section; Liberia Crusaders for Peace Women's Wing; Traditional Women Association of Liberia; Women on the Move; and the Liberian Media Women Association.

From December 2006 to February 2007, the TRC implemented extensive outreach programs with women throughout Liberia's fifteen counties by holding four zonal workshops targeting women's organizations in the counties, and town hall meetings in all counties. Against this backdrop, there are concerns that, after more than a century of gross neglect, marginalization, and dehumanization, especially during Liberia's most recent episodes of conflict, women harbor deep seeded disdain towards those persons who are directly linked to their suppression and are fearful of reprisal if they cooperate with the TRC.

iv. Children

The TRC Statute requires the TRC to specifically focus on child participation and protection because they were targeted and victimized in Liberia's successive wars. They were illegally recruited to take part in hostilities-became victims-perpetrators and witnesses, of conflict in Liberia. Child friendly procedures have been used and

legal safeguards established to protect the rights of children's participation in the TRC process. In addition, protective measures were taken to conceal the identity of children, no video coverage was permitted, media was not allowed to interview or cover child-related sessions and special social workers were trained and available to assist them to provide counseling to them prior to, during and after the hearings.

From the onset, the TRC sought to ensure that children played a significant role in its activities. Consequently, the TRC invited the United Nations Children's Fund (UNICEF) to be one of its key partners. It negotiated an MOU with UNICEF and the National Child Protection Network creating TRC Task Force comprising 80 child protection agencies. Following the children's protection orientation training for TRC Commissioners and four sets of training for TRC statement takers and investigators on child-friendly procedures and policies, the TRC and its partners established various programs for children to participate in its processes. Such activities included: forty-five awareness workshops tailored especially for children held in each of the country's fifteen counties (one at each county seat and two in selected districts of each county) to over 5000 children. Nearly 1000 confidential statements were collected from children in the counties with the support and supervision of local child protection agencies.

In May through September 2008, the TRC held several regional hearings for children and held various panel discussions with them in Bong, Gbarnga, Grand Gedeh, Grand Kru, Nimba, River Cess, Grand Bassa, Margibi, Maryland, Montserrado, Sinoe, Zwedru Counties. Over 120 children testified before the Commission and hundreds of children witnessed their testimonies. TRC Commissioners also held interactive sessions with children every evening.

In late September 2008, Thematic Hearings titled, *Children and the Liberian Conflict: What Does the Future Hold?*, for children were

convened at the Centennial Pavilion in Monrovia, Montserrado County. Presentations were made by a convergence of professionals in the field of child advocacy including: Government's Line Ministries for Children, Child Protection Agencies, and the Liberian Children's Parliament. Confidential testimonies by three child witnesses were also taken. The hearings revealed a clear picture about the indiscriminate suffering and targeting of children and illegally recruited during the Liberian Civil War, up to the LURD and MODEL insurrections. The hearings also emphasized the courage of children that reunited with their families and communities, returned to school and are rebuilding their lives.

On September 27, 2008, The TRC Children's Art Gallery was officially opened by the Vice President of Liberia, H.E. Joseph N. Boakai. It featured poems, stories, and drawings by children about their experiences during the Liberian Civil War and how they envision the future of Liberia. The art was obtained from all across Liberia. Approximately 350 children attended the program.

E. Inquiry, Investigation and Witness Protection

In 2007, the TRC established an Inquiry Unit, inclusive of a Director and ten inquiry officers, to investigate and corroborate allegations for egregious domestic crimes, gross violations of human rights and serious humanitarian law violations emanating from statement-taking and other sources. The scope of its work included, for example, an inquiry into window cases such as the Lutheran Church, Carter Camp, Sinji, and Bakadu massacres, among others. The Inquiry Unit was also tasked with investigating what role, if any, non-state, state and international actors had in the commission of domestic and international crimes including economic crimes.

The names and other identifying information of victims was and is kept in strict confidence and the TRC has instituted measures to

protect the identity and physical person of those victims whose testimony puts them at grave risk of injury.

F. Thematic and Institutional hearings:

The statement taking process was followed by Public and In Camera Hearings in the fifteen sub-divisions of the country and in the United States of America representing the Diaspora. The hearings including seven months of victims and witnesses testimonies and to date, three months of perpetrators, thematic and institutional accounts and perspectives under the broader contemporary history of the conflict theme. Unique categories such as women and children were accommodated under this section. Special considerations were made to accommodate individuals testifying under unique circumstances or categories like women, children, the elderly, youth and the handicap. Two victims who fled the country and lived on the Budubram Liberian Refugee Camp in Buduburam, Ghana, testified in Liberia symbolically representing the sub-regional Diaspora community. The Thematic and Institutional hearings featured specific categories such as; women, children, religious, historical review, media, education, youth, religion, culture and tradition, law enforcement, and security. To date, the TRC has heard more than 800 testimonies from witnesses testifying before it.

G. Media:

As part of its mandate, the Truth and Reconciliation Commission ("TRC") held a three-day thematic hearing on October 27-30, 2008, focusing on the experiences of the domestic and international news media and the role they played in the Liberian civil conflict. The TRC's media hearings were especially significant assessing its standing during and after the conflict because strengthening democracy in Liberia and ensuring that all citizens have access to basic human freedoms, including freedom of expression, largely

depends on the news media's capacity to provide reliable information through professional and unbiased journalism. Numerous prominent local and international journalists and media experts testified at the hearings held in Monrovia. The thematic hearings on the media sort to examine the overall role of the media spanning the timeframe of the TRC mandate. It focused on how the media reported on the conflict regarding content, level of coverage, ethical issues underpinning media coverage of the conflict, challenges confronting the media during the period under review, how these impacted the conflict generally, and lessons learnt. It also solicited individual and institution's perspectives on the TRC mandate provisions regarding reparation, amnesty and prosecution. The hearing was structured to reflect the various Eras, highlighting window cases in tune with the TRC's timeframe and investigative periods as follows; under the first era 1979 to 1984, attention was paid to the rice riot, of 1979, the military coup of 1980 and subsequent execution of 13 government officials, the 1984 raid on the campus of the University of Liberia campus etc., Second era, from 1984 to 1989, focused on the Thomas Quiwonkpa invasion, the Nimba raid, the murder of TV Anchor, Charles Gbeyon, the arrest and detention of several journalists and the opposition including politicians, students activists; the third era from 1989 to 1997, the rebellion launched by the NPFL of former President Charles Taylor, the intervention of the West African-Sub-region through ECOMOG, the role of the Armed Forces of Liberia as a combatant group, the emergence of numerous warring factions, the origin of peace conferences, the link to the war in Sierra Leone and the elections of Charles Taylor as President of Liberia, the Fourth era from 1997 to 2003; human rights and international humanitarian laws violations by the Taylor government and the international community's response to these violations by imposing sanctions, the emergence of two new warring factions (LURD and MODEL), the exile of Taylor to Nigeria, the Accra Comprehensive Peace Accord which subsequently saw the creation of the TRC etc.

International and local journalists, who worked or were closely involved with the media during these times, were invited to provide testimonies. The hearing was followed by a three-day capacity building workshop held in collaboration with the Press Union of Liberia (PUL), and sponsored by UNESCO, the Carter Center, Emory University and the Sutherland Law Firm of Atlanta, Georgia, the U.S. A. The workshop critically appraised the performance of the Liberian media in its coverage of the civil war, while taking stock of the role journalists play in today's society and how best they could contribute to the national reconstruction process. It was equally intended to focus the important role of the media in the implementation of all the TRC recommendations. As disseminators of information, the media will be responsible for passing the TRC final report onto the public and initiating a critical discussion that should help the people understand the findings and recommendations of the TRC.

The hearings were precipitated by series of efforts aimed at involving the media in the process of the TRC and galvanizing support from the mass media for the commission's work. As early as May 2006, prior to the official launching of the TRC, a broad base approach for working with the media was initiated through the holding of initial meetings with editors, reporters and other media practitioners on how the TRC could collaborate with the media in facilitating the necessary and appropriate coverage of the commission. The TRC resolved to work with all media outlets across the board but would select from amongst the media, a core group with wider coverage or broader interest in TRC issues.

To make certain that the media was empowered and knowledgeable about the mandate of the TRC and its activities, the commission with the help of partners, held several trainings and workshops with the Press Union of Liberia (PUL), media institutions and individual journalists. As a result of these combined efforts, the TRC along with the PUL and representatives of media institutions, developed and

adapted a code of conduct to govern the media's coverage of the TRC particularly the public hearings. The TRC also developed a media friendly approach whereas members of the fourth estate had access to the commission. The TRC created the department of media and outreach which coordinated the public affairs of the TRC and liaised directly with the media in ensuring proper management of the information dissemination of the commission to the general public.

Owing to the mutual respect, professional and cordial relationship between the media and the TRC, it is factual to state that the Commission enjoys maximum support and cooperation from the media in the promotion of its mandate. With the exception of isolated negative incidences reported by some news outlet, the TRC received maximum objective coverage and the full attention of the Liberian media. The media was also in the vanguard of galvanizing and encouraging support of the government, the international community and the general citizenry for the TRC process. Many media especially newspapers ran editorials and commentaries in support of the Commission throughout its life span.

The media closely tracked the TRC hearings with media institutions assigning their reporters to travel with the commission as it conducted victims and thematic hearings throughout the country. The Diaspora project and hearings was also closely monitored and reported by the local media. The international media also reported comprehensively on the Liberian TRC including on the Diaspora project.

H. Religion, Culture and Tradition:

The TRC determined that religion and traditional culture, principles and values weigh heavily on the conscience of the Liberian people. As such a truly integrated reconciliation process must engage these institutions for sustainable and genuine results. The commission is graced with reputable religious leaders who provide oversight

leadership in ensuring that the Commission doesn't lose sight of this reality.

Culture and tradition is an integral and essential part of the Liberian society. The fabric of the nation and its people is deeply carved along cultural and traditional values, systems and practices. The recognition thereof and premium placed on tradition in Liberia is reflected broadly. For example, in recognition of the cultural systems and practices of the country, the Liberian penal code has allowed for dual legal system; statutory and customary, the latter, in reverent of the cultural customs of the land. National government also accepts the cultural norms and way of life of indigenous Liberians as enshrined within the structures of local government. Under this arrangement, traditional practices of governance through the system of chieftaincy are observed and preserved. Being cognizant of this fact, and in an effort to involve the traditional population in the TRC process, the Commission in early 2007 established a TRC-Traditional Advisory Council of 36 chiefs and elders from the 15 counties of Liberia. The organizing of the Traditional Council was facilitated by Liberia's Cultural Ambassador and Traditional Queen, Amb. Juli Endee.

The TRC-Traditional Advisory Council membership was drawn from the leadership of the National Traditional Council of Liberia which is the umbrella association of all traditional and tribal associations in the country. The National Traditional Council is representative of Chiefs and elders from the 78 political districts and 64 electoral districts of Liberia. Each of the 15 counties of Liberia has a County Council whose representative reports to the National Council. The National Traditional Council of Liberia has several sub-committees including Women Affairs and the National Coordinating Committee, responsible for settling all disputes affecting the organization and country at large.

It was this structure that the TRC established relationship with to assist the Commission in its work in rural Liberia and advise the commission in appropriate approaches needed to involve local inhabitants in the TRC process. Upon the establishment of the TRC-Traditional Advisory Council, council members received training through workshops on the TRC, mandate, and processes of the TRC. Substantial outreach was done with the traditional elders and people. The gender program of the TRC specifically designed and targeted outreach and sensitization about the TRC to female traditional leaders (Zoes) of the Sande Society who in turn educated their communities about the importance of participating in the TRC process. The Commission also considered traditional methods of conflict resolution, peace building and justice in preparedness for addressing reports of human rights violations emanating from its investigations in traditional context and affecting local communities. During thematic hearings in the counties, in addition to giving personal accounts of their experiences during the conflict, traditional elders lead their communities in making group presentations on how the war affected their people and advanced recommendations to the TRC for appropriate redress. On the overall, traditional stakeholders involvement in the TRC was greatly encouraged and yielded much benefit for the work of the Commission.

I. Youth

One of the focal areas for concentration of the TRC has been youth and the need to incorporation this population in the work of the TRC. Being cognizant of the tremendous impact off the conflict on the youth of the nation, their role as conspicuous combatants then victims, it was imperative to establish a Committee on Youth to engage the future of Liberia. The TRC took and engaged the youth population. Which engagements are still ongoing. In so doing, the Commission forged relationship with the Federation of Liberian Youth (FLY), the umbrella organization of youth organizations in the country. Through

the collaborative with FLY, the TRC held several town hall meetings with students of various junior and senior high schools on the TRC mandate and other areas of transitional justice. The TRC also established the TRC/University of Liberia Club with membership of 200 students who assisted the TRC outreach efforts in other universities and the communities. The Commission also held a special workshop with youths in Buchanan, Grand Bassa County, in 2007. Thematic and Institutional Hearings of the Commission around the country included special presentations by youth groups on the effect of the conflict on youth and their aspirations for the future. The TRC Coordinators in the counties also held special events such as: football tournaments, talent show to enhance awareness of the TRC in rural communities.

IV. VICTIMS

Between 1979 and 2003, Liberia has suffered coups, state breakdown, deadly internal armed conflict and international neglect. Every conceivable category of gross human rights and serious humanitarian law violation has been committed by Liberians against Liberians. For over twenty-six years (1979-2005), Liberians have been forced to live under militaristic, autocratic and corrupt regimes that have not only deprived Liberians from maximizing their human potential but also systematically prevented Liberia from sustainably developing.

Liberia's various episodes of state breakdown and conflict, particularly the Liberian Civil War (1989-1997) and the LURD and MODEL insurrections (1999-2003) resulted in the deaths of an estimated over 250,000 persons and forced over 1 million to be internally-displaced and hundreds of thousands to be refugees. The nature and magnitude of atrocities committed, especially against women and children, by the various warring factions including government forces, were in epic proportions.

This chapter presents a summary of the impact of conflict on Liberian children and women. The Final Consolidated Report will address these issues in greater detail.

B. Children and Women

At the outbreak of the Liberian Civil War in 1989, children were forcibly recruited in droves by the NPFL as well as the Armed Forces of Liberia (AFL). The enlistment of child soldiers became very popular with other rebel factions such as ULIMO, LPC, MODEL, LURD, as well as paramilitary units like the ATU and the SOD. Children of all ages—from 6 to 18—were recruited.

Children suffered some of the most horrific crimes committed during the Liberian Civil War and LURD and MODEL insurrections. They forced to kill friends and family members including their parents, rape and be raped, serve as sexual slaves and prostitutes, labor, take drugs, engage in cannibalism, torture and pillage communities. Many were force to be 'juju' controllers, ammunition carriers, spies, armed guards, arm bushers and so on.

Perhaps, the most shocking crime committed against children was their cannibalization. Rebel commanders organized cooking feasts and served children's body parts, including their intestines and hearts. The blood of children was collected and cooked into soups in which hearts were served as choice meats for cannibalistic commanders. In other instances, children's body parts were sold in open markets. The names and identities of several rebel commanders who cannibalized and forced children to be cannibals were identified by children and youth during TRC hearings/meetings and other sources.

Women

Nearly 26,000 or 28% of reported violations were against women. While as a group men comprise a larger victim category than women, Liberia's various armed conflicts excessively affected women in various ways. As previously noted, women disproportionately suffered from sexual violence including gang rape, sexual slavery, outrages upon personal dignity, and torture, among others. Girls and women aged 15-19 comprise the largest category of reported cases of sexual violence. Women as old as eighty-years old were perversely dehumanized through gendered violence by, for example, being forced to have sex with their sons or male relatives and by having taboo objects such spoons, sticks, hot pepper and rifle buds forced into their vaginal and rectal areas. Women were kidnapped and forced into sexual slavery only to be passed around as 'wives' of roaming combatants. They were also forced to engage in hard labor making them both sex and labor relegating them to the status of chattel slaves. Women suffered the indignity of having the children that they bore after being raped and held as sex slaves summarily taken away from them by combatants at the end of armed conflict. Many women that testified before the TRC either through statement taking or the hearings gave thousands of heart breaking narratives about how they were brutalized during armed conflict.

V. FINDINGS

A. The Root Causes of Liberia's Conflicts: 1822 – 2003

i. Introduction

In 2005, the Republic of Liberia established the TRC in order to confront the complex and too often brutal legacies of the past including the Liberian Civil War (1989-1997) and its progeny, the LURD and MODEL bloody insurrection (1999-2003) against the regime of former warlord and president, Charles Taylor that savaged it from 1989 to 2003. Article IV Section 4 (c) and (d) of the TRC Act mandated that the TRC investigate “the antecedents of the crises which gave rise to and impacted on the violent conflict in Liberia”, and “conduct a critical review of Liberia’s *historical* past with a view to establishing and giving recognition to historical truths in order to address falsehoods and misconceptions of the past relating to the nation’s socio-economic and political development.”

This chapter presents the root causes of the Liberian conflict. It identifies the historical antecedents of the various episodes of state breakdown and deadly conflict. Although the TRC has obtained extensive materials on this issue, this initial volume of the report will present a broad overview of the historical factors that lay at the heart of state chaos and violent conflict in Liberia responsible for shaping its socio-political order with a keen understanding that no overview can adequately record Liberia’s long, rich and complex history. Volume II will present a substantially more detailed analysis of these issues.

For ease of presentation, the Root Causes of the Liberian civil war are treated under three generic sections characterized by the various

socio-cultural and political antecedents to the Liberian polity and conflict. The first section spans from 1822-1847, comprising the official settling of free blacks and freed slaves from the United States and recaptives in Liberia, up to the time the country achieved independence from the American Colonization Society. The second section spans 1847-1989, including three significant developments: (1) the first time the settlers were directly in charge of making policies for Liberia; (2) the rise of oligarchy, authoritarianism and state repression; and (3) the development of a culture of constitutional subversion and political violence. The final period described in this section spans 1990-2003, when conflict exploded on the Liberia soil.

ii. Historical Antecedents to Liberian Conflict: Pre Independence 1822-1847

a) Socio-political Disparities between Settler and Native Liberians: Historical Mutual Misconceptions

One of the major historical and festering antecedents to conflict in Liberia was the enormously disparate socio-political and cultural norms and practices of the Americo-Liberians, who began settling in Liberia in 1822, and indigenous Liberians, also known as the natives comprising of sixteen ethno-linguistic groups. Another complex dynamic was the nature of wars between native Liberian groups that reach and apex during Europe and America's infamous Trans-Atlantic Slave Trade.

Contrary to wide perceptions about the fissure between the settlers and natives during this period, however, which almost invariably cast the rift in terms of blacks oppressing blacks, or settlers colonizing the indigenes, the root causes of historical political tensions between the settlers and natives are far more complicated than Black Colonial paradigm machinations. Contrary to the widely held presumption that there was a premeditated plan by one group (e.g. Americo-

Liberians) to dominate and exploit native Liberians from the onset, both settler and natives generated grave misconceptions, fears and hence conflict with one another.

The major historical antecedents of conflict between 1822 and 1847 were dictated by the autocratic policies of the American Colonization Society (ACS) and its principal backer, the U.S. Government. For instance, in 1819, the ACS drafted all of the law and policies of the new dominion without the input of the black settlers who would populate the settlement and certainly without any reference to indigenous Liberians. Moreover, in 1822, the land for the first settlement was literally taken at gun point from King Peter (Dei Paramount Chief of Cape Mesurado) by U.S. Navy Captain Robert Stockton and ACS Agent Eli Ayers. This was a significant root cause of future conflict between the settlement and native Liberians.

The ACS ruled the black settlers with an iron fist, while, at the same time, utilizing them to fortify the settlement against indigenous attacks. Consequently, relations between the settlers and their native counterparts were, to a large extent, a product of machinations and policy prescriptions of the ACS. Throughout most of this period, the settlers were as much a victim of the autocratic reign of the ACS as the natives.

Notwithstanding, the ACS' authoritarian and coercive approach to government ensured that relations between black settlers and indigenous Liberians would be hostile, not excluding the fact that the founding principles upon which they lived were juxtaposed. The new settlement was anti-slavery, pro-trade, predominantly Christian and highly centralized; whereas, most coastal native groups were pro-slavery, commercial tradesman, non-Christian and lived under decentralized authority structures. Hence, the likelihood of any form of union between the settlement and native nations was highly unlikely. This explains why conflict between the settlers and natives

during the period arose mainly due to competition over slavery, trade, land, and political legitimacy, rather than as a result of internal colonialism.

In spite of this, native kings did not consider the settlers a serious threat during this period, and there is significant evidence that shows that there was mutually beneficial cooperation between them. For instance, tribal kings such as Bob Gray, Young Bob and Yellow Will had very good relations with the settlers. It was often the voracious, aggressive, commercial crusades of such native rulers as King Joe Harris that often disturbed this equation. The Bassa-Settler War of 1835, for example, was a consequence of King Joe Harris's aggressive war against the new settler in Edina and Port Cresson. These ports were the king's major trading enclaves, where he sold his own people in slavery to Europeans who considered it impolitic to carry on their slave-trading activities close to the settlement in Monrovia.

Considerable insensitivity by the U.S. Government and ACS Agents, however, to the pre-existing customs, traditions and beliefs of indigenous Liberians manifested during this period, especially with respect to the ownership of land and trade. Native Liberians always believed and practiced a communal land-owning system that recognized land as a communal heritage that could not be owned by any individual, but the ACS thought otherwise. Consequently, the forcible ceding of land from the natives in 1822 by Eli Ayes and Captain Stockton created animosity, mistrust and conflicts between the settlers and the indigenous Liberian groups. Once the black settler declared independence from the ACS in 1847 and assumed control over the settlement now referred to as Liberia, they continued the ACS's problematic policies, particularly with respect the annexation of native lands. One of the driving forces behind this policy was Britain and France's forced annexation policy; they continually threatened to annex Liberian territory if it could not demonstrate effective control

over its people and land. This reality sent the Liberia settlement and native nations on a destructive collision course.

Another significant historical antecedent to settler and indigenous Liberian conflict was the innocuous attempt by settlers to degrade the identity and status of native Liberians through a subtle inferiorization process. Not only were native Liberians viewed as inferior by many settlers, but the settlers also attempted to erase the cultural identity of the natives by surreptitiously coercing them to adopt English names, borne by Americo-Liberians, and by inculcating them into Western traditions, before considering them as civilized. Hence, only natives who conformed to settler social mores were able to gain some semblance of access to public employment and other resources. The demeaning characterization and treatment of native Liberian was not universally accepted by the settler; however, the practice seems to have attained an official status when President William Vacanarat Shadrach Tubman referred to his native political challenger, Didho Twe, as a “man with premedieval mind” before hounding him into exile in Sierra Leone.

iii. Statehood and The Evolution of Socio-political Inequalities: 1847-2003

a) State-building and Co-habitation with Native Liberians

Although the socio-political disparity between the settlers and natives were largely a creation of the ACS, the period following the attainment of independence by Liberia in 1847 exacerbated preexisting tensions and generated new ones. The emergence of Liberia as a nation-state was immediately attended by the need to create modern democratic body politic. The emergence of Liberia as a new state placed enormous domestic and international political and economic pressures on the new government, which in turn caused it to be more assertive triggering pre-existing (even if somewhat now

dormant) socio-political tensions and a visceral contest between settler and natives for political survival. The root causes of tension during this period had less to do with the supremacist legacies of the ACS, which had characterized the 1822-1847 period, and more to do with the critical disconnect of a burgeoning state unable to assert authority or establish legitimacy over the majority of its people.

Americo-Liberian domination over the Liberian political and economic spheres in the post ACS era disenfranchised native Liberians that sought to participate in government and the private sector. Settler hegemony, based primarily out of fear that if they provided equal opportunity to indigenous Liberians that they would be ousted from power, deeply poisoned relations between native and settler Liberians. Indeed, describing native Liberians as “citizens” was generous, as the Republic of Liberia did not consider them citizens but rather subject until the Barclay government eradicated legal discrimination in 1904, 57 years later.

As previously noted, from 1847 onward, the government of Liberia forged a campaign to effectively control its territory—spawned by British and French annexations—resulting in several violent conflict between it and native nations that preferred to be independent from the Republic. For example, the Bassa-Government War (1851) and Kru-Government War (1855), were triggered by territorial and human and commodity trade disputes. During this period, there was a sharp rise in native resistance to Liberian nationalism which included an attempt to totally subjugate native groups. The government adopted many draconian methods to deal with native insurrections, although, in 1895, it dropped its robust methods in favor of more diplomatic means, only to attempt to reassert authority over the hinterland over the next three decades resulting in a scourge of conflict, particularly with kingdoms in the southeastern part of the country. Rather than function as a symbol of compassion, the government’s appeasement

policy was necessitated by the financial predicaments that the endless wars with natives created.

There was a long and relatively conflict free period after the Kru Confederacy-Government War of 1915 due largely to a rapidly growing economy and President Edwin Barclay's skill in native appeasement. President Tubman's reign in power, which lasted from 1944 to 1971, also introduced some pivotal policies that obviated constant confrontation between native and settler Liberians. Tubman's three-legged policies of "unification", "open-door" and "integration" were meant to redress historical inequalities or disenfranchisement of indigenous Liberians from political and economic sectors, an issue which Tubman's government officially recognized. Native representation in the legislature was increased, universal adult suffrage replaced a system where only kings voted on behalf of entire communities, and new counties replaced the erstwhile provincial systems. Ironically, however, while Tubman introduced some groundbreaking measures to ensure unification of all Liberians, the severe constitutional constraints in place ensured that these measures had little import. For instance, while universal adult suffrage was declared in 1946 in favor of the natives, the fact that only natives who paid hut taxes could vote effectively neutered that measure.

b) The Rise of Authoritarianism

President Tubman's authoritarian reign—though progressive in some instances—laid the structural foundation, the continuation of Americo-Liberian hegemony through oligarchy, for national chaos, state break down and violent conflicts between 1979-2003. In 1951, with the aid of the True Whig Party-controlled Legislature, President Tubman unilaterally sponsored a constitutional amendment that removed the 1935 provision on presidential term limits limiting presidents to one eight year term in office. The new clause permitted one eight-year term, followed by successive four year terms. This

incongruous act of constitutional manipulation created precedent that haunted Liberia throughout the twentieth century. Furthermore, Tubman's subsequent responses to the amendment can be regarded as the modern genesis of a culture of political intolerance and witch-hunting in Liberia. The challenger and Reformation Party leader, Didho Twe, an indigenous Liberian, was slurred by Tubman and forced into exile. The political contest between Tubman and Twe symbolized the continuation of the age-old divide between settlers and natives to their children and was, in a sense, a defining moment for Liberia. The consequences of this vendetta became one of the hallmark ways in which future politicians' treated political opponents and their families in Liberian politics.

Also, it was Tubman who introduced into Liberian politics the partisan use of democratic institutions, the political control of the military, the culture of extermination of political opposition, invidious destruction of lives and property, and more importantly, the rise of authoritarianism and political brutality. All of these vices festooned during this period and set into motion a political culture that would birth future wars.

c) Politicization of the Military: The Frontier Force and Beyond

One of the most disturbing and dangerous historical antecedents to the Liberian Civil War was the politicization of the Liberian military. This development played a crucial role in the events leading to the state chaos and conflict between 1979-2003. Although the Liberian Frontier Force (LFF) was established in 1908 to maintain peace and order in Liberia it also took on the nefarious tasks of enforcing the government's oppressive tax regime and stifling dissent from real and perceived opponents of the government. The LFF was also used by the government in a variety of forced labor scandals including the now infamous Fenando Po scandal of 1930 that resulted in a League of

Nations inquiry. One interesting legacy of the LFF was its structure as officers were recruited from among party loyal Americo-Liberians, while foot soldiers were recruited among receptive Liberians, and also a variety of loyal native Liberians to obviate the likelihood that there would be a coup from below. This practice resonated with Samuel Doe, who after overthrowing the Tolbert regime in 1979, leaned strongly towards his own tribe for political direction and protection within the national army. Doe's targeting of political opposition, particularly those from the Mano and Gio groups, took ethnic conflict to a new level and served as an exacerbating cause of the ethnic cleansing and division during the Liberian Civil War.

d) A Legacy of Human Rights Abuse, Instability and Underdevelopment

From the settling of freedmen in Liberia in 1822 to the coup d'état of 1980 and the outbreak of armed conflict in 1989, systemic inequality and disenfranchisement from the founding of the Republic to the present has created an immature political culture incapable of producing genuine democracy. While this phenomenon can be linked to the policies of the ACS, native Liberian independence claims and Americo-Liberian hegemony, it was the warlord politics—the economic and political treasures of war—of the late 1980's and 1990's and its marriage to globalization and transnational corporatist interests that have served as the most critical conflict causes. Doe's brutal ethnical regime coupled with Charles Taylor's warlord politics have seemingly replaced the old settler-native paradigm with a new form of greed politics that relies equally on the vote of the gun.

C. Accountability of Perpetrators

The Commissioners of the Liberian TRC determine that some persons are responsible for committing 'egregious' domestic crimes, 'gross' violations of human rights and 'serious' humanitarian law violations

in Liberia between January 1979 and October 14, 2003. The specific crimes committed by perpetrators will be detailed in the Final Consolidated Report (Volume II) in order to protect the identity and physical person of witnesses, victims and their communities. The Commissioners of the TRC reserve the right to and will make additional determinations on individual and group responsibility for domestic and international crimes throughout the duration of its mandate, which expires on June 22, 2009.

The TRC also reserves the right to and will make additional determinations of responsibility on any persons, groups or entities involved in a joint criminal enterprise or conspiracy including those that planned, instigated, ordered committed, aided or abetted in the planning, preparation or execution of any crime within its mandate, including economic crimes.

D. Accountability of Groups

The Commissioners of the Liberian TRC determine that the following armed groups, rebel groups or warring factions and the financiers, leaders, commanders, combatants and advisors etc. associated with them are responsible for committing 'egregious' domestic crimes, 'gross' violations of human rights and 'serious' humanitarian law violations including economic crime in Liberia between January 1979 and October 14, 2003. The TRC has divided these groups into the following two categories; however, their culpability is the same: (1) Significant Violator Groups; and (2) Less Significant Violator Groups. The distinction between them relates to the number of reported violations against them. The specific crimes and total reported violations committed by these armed groups, rebel groups or warring factions and the financiers, leaders, commanders, combatants and advisors etc. associated with them will be detailed in the Final Consolidated Report (Volume II). The Commissioners of the TRC

reserve the right to and will make additional determinations on these groups or factions for domestic and international crimes throughout the duration of its mandate, which expires on June 22, 2009.

Significant Violator Groups

- i. National Patriotic Front of Liberia (NPFL)
- ii. Liberians United for Reconciliation and Democracy (LURD)
- iii. Liberian Peace Council (LPC)
- iv. Militia
- v. Movement for Democracy in Liberia (MODEL)
- vi. United Liberation Movement (ULIMO)
- vii. Armed Forces of Liberia (AFL)
- viii. Unknown
- ix. United Liberation Movement-K (ULIMO K)
- x. Independent National Patriotic Front of Liberia (INPFL)
- xi. United Liberation Movement-J (ULIMO J)
- xii. Anti-Terrorist Unity (ATU)

Less Significant Violator Groups

- i. Vigilantes
- ii. Lofa Defense Force (LDF)
- iii. Liberian National Police
- iv. Special Operation Division of the Liberian National Police (SOD)
- v. Revolutionary United Front (RUF)
- vi. Special Anti-Terrorist Unit (SATU)
- vii. Special Security Unit (SSU)
- viii. Special Security Service (SSS)
- ix. National Security Agency (NSA)
- x. National Bureau of Investigation (NBI)
- xi. Criminal Investment Division (CID)
- xii. Rapid Response Unit (RRU)

Military Institutions Drawn into Conflict by their defensive and offensive postures

- i. ECOMOG
- ii. Black Beret

VII. RECOMMENDATIONS

A. Accountability: A Prosecution Mechanism

1. The Commissioners of the TRC determine that a criminal court with the competence and jurisdiction to adjudicate criminal responsibility for individuals, armed groups and other entities that the TRC determines were responsible for 'egregious' domestic crimes, 'gross' violations of human rights and 'serious' humanitarian law violations is appropriate. Such institution shall be specifically endowed with the authority and jurisdiction to adjudicate domestic, IHRL and IHL violations.

The TRC will submit a comprehensive recommendation on the competence, jurisdiction, structure, function and other authority of the recommended criminal court to the National Legislature and the President of Liberia in the Final Consolidated Report (Volume II).

B. National 'Palava Hut' Forum

1. The Commissioners of the TRC determine that the establishment of a National Palava Hut Forum under the aegis of the Independent Human Rights Commission is a useful tool for peace building, healing and national reconciliation at both the national and district levels. Commission to organize and administer national 'Palava Hut' Committees in all of Liberia's sixty-four districts in order to provide victims a public venue to confront perpetrators living in their communities to hasten reintegration and reconciliation and community-based atonement.

The TRC will submit a comprehensive recommendation on the competence, jurisdiction, structure, function and other authority of the "National 'Palava Hut Forum to the National Legislature in the Final Consolidated Report (Volume II).

C. Amnesty

1. The Commissioners of the TRC reserve the right to make recommendations of amnesty for children and persons, groups or entities that it has determined not to have committed 'gross' violations of human rights or 'serious' humanitarian law violations.

The TRC will submit a comprehensive recommendation on the nature and character of any amnesty in the Final Consolidated Report (Volume II).

D. Persons Not Recommended for Prosecution

1. The Commissioners of the TRC reserve the right to recommend and will recommend to the Government of Liberia, National Legislature and any criminal court that persons it determines are responsible for committing domestic and international crimes not be prosecuted if the TRC believes said persons testimony was truthful and remorseful.

The TRC will submit a comprehensive recommendation on those persons that it recommends not be prosecuted in the Final Consolidated Report (Volume II).

E. Reparations

2. The Commissioners of the TRC reserve the right to and will make individual and community reparations to any persons, groups, entities or communities, and to establish Reparations Trust Fund(s) as it deems appropriate.

The TRC will submit a comprehensive recommendation on the nature and character of any reparations in the Final Consolidated Report (Volume II).

F. Additional Recommendations

The TRC reserves the right to and will make several additional recommendations in the Final Consolidated Report (Volume II).

Annex 1
Episodes of Peace and Armed Conflict Chart
Application of Law to Temporal Mandate
(January 1979 to 14 October 2003)

PERIODS	No Armed Conflict	Armed Conflict	Domestic Law	IHRL	IHL	Comments
January 1979 to mid-December 1989	X		X	X		There was no armed conflict during this period, so only domestic law and IHRL apply.
Mid-December 1989 to early August 1996		X	X	X	X	There was armed conflict during this period, so domestic law, IHRL, and IHL apply.
Late August 1996 to February 1999	X		X	X		There was no armed conflict during this period, so domestic law and IHRL apply. International Criminal Law (ICL) would also apply from this period onward.

March 1999 to 14 October 2003		X	X	X	X	Although the Comprehensive Peace Agreement was signed on 18 August 2003, hostilities between government forces and rebel soldiers continued until an “arms-free ultimatum” commenced on 7 October 2003; hence, the date of 14 October 2003 is used. ICL will also apply during this period.
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This table demonstrates that the TRC can only hold actors responsible for:

1. Violations of domestic law and IHRL between *January 1979 and mid-December 1989* because there was no armed conflict during this period.
2. Violations of domestic law, IHRL and IHL including Common Article 3 and Protocol II between *mid-December 1989 and early August 1996* because Liberia was immersed in high intensity conflict during this period.
3. Violations of domestic law and IHRL between *late August 1996 and February 1999* because there was no armed conflict during this period.
4. Violations of domestic law, IHRL and IHL including Common Article 3 and Protocol II and ICL between *March 1999 and 14 October 2003* because Liberia was immersed in high intensity conflict during this period.

Annex 2: Liberia's Penal Code Definitions
"Egregious" Domestic Crimes
Definitions

Chapter 11. Offenses against internal security.

§11.13. Mercenarism.

§11.13 Mercenarism.

1. Offense. The crime of mercenarism is committed, a felony of the first degree, by an individual, a group, an association, representative or representatives of a State and the State itself with the intent of opposing by armed violence a process of self-determination or the territorial integrity of another State when the following acts are perpetrated:
 - (a) The sheltering, organizing, financing, assisting, equipping, training, promoting, supporting or employing armed forces partially or wholly and consisting of persons not nationals of the country being invaded or attempting to invade and merely or solely for money, personal gain, material or other reward; or
 - (b) The enlisting, enrolling or attempting to enroll in the said armed forces; or
 - (c) The allowing of the activities referred to in Sub-section (1)(a) to be carried out in any territory under the jurisdiction of another State or in any place under its control; or
 - (d) The affording of facilities for transit, transportation or other operations for the armed forces and activities referred to in Sub-section (1)(a).

2. Grading: Mercenaries shall not in this Republic enjoy the status of combatants and shall not be entitled to the prisoners of war status. Assuming command over or giving orders to

mercenaries shall be considered as an aggravating circumstance.

If the act of mercenarism results in the death of any non-participant in such mercenarism, other than a mercenary, the person convicted may be sentenced to death or life imprisonment as provided in Sections 50.5 and 51.3. In the case of a State, such act of mercenarism shall be regarded as a declaration of war against the Republic of Liberia (d).

Chapter 12. Offenses against Government Integrity.
Subchapter E. Abuse of Office. §12.70. Official oppression.

§12.70. Official oppression.

A person acting or purporting to act in an official capacity of taking advantage of such actual or purported capacity commits a first degree misdemeanor if he knowingly:

- (a) Subjects another to unlawful arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or
- (b) Denies, or impedes another in the exercise or enjoyment of, any right, privilege, power or immunity.

Prior legislation: 1956 Code 27:111-113; L. 1945-46, ch. IV.

Chapter 14. Offenses involving danger to the person.
Subchapter A. Criminal Homicide §14.1 Murder; Subchapter C.
Kidnapping and related offenses §14.50 Kidnapping. Subchapter D.
Sexual Offenses §14.70 Rape.

§14.1. Murder.

A person is guilty of murder if he:

- (a) Purposely or knowingly causes the death of another human being; or
- (b) Causes the death of another human being under circumstances manifesting extreme indifference to the value of human life. A rebuttable presumption that such indifference exists arises if the defendant is engaged or is an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit, treason, offenses defined in Sections 11.2 or 11.3 of this title, espionage, sabotage, robbery, burglary, kidnapping, felonious restraint, arson, rape, aggravated involuntary sodomy, escape, piracy, or other felony involving force or danger to human life.

Murder is a felony of the first degree but a person convicted of murder may be sentenced to death or life imprisonment as provided in Sections 50.5 and 51.3.

§14.50. Kidnapping.

1. Offense. A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following purposes:
 - (a) To hold for ransom or reward;
 - (b) To use him as a shield or hostage;
 - (c) To hold him in a condition of involuntary servitude;
 - (d) To facilitate commission of any felony or flight thereafter;
 - (e) To inflict bodily injury on or to terrorize the victim or another; or
 - (f) To interfere with the performance of any governmental or political function.

2. Grading. Kidnapping is a felony of the first degree unless the actor voluntarily releases the victim alive and in a safe place prior to trial, in which case it is a felony of the second degree.
3. When removal or confinement is unlawful. A removal or confinement is unlawful within the meaning of this section if it is accomplished by force, threat, or deception, or, in the case of a person who is under the age of 14 or incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

Prior legislation: 1956 Code 27:247, 260; Crim. Code §§ 59, 64; OBB; 92, of the slave trade, art. II; 1841 Digest, pt. I, Act regulating commerce and revenue, §§ 7, 8, 2 Hub. 1840.

§14.77. Sexual assault.

A person who knowingly has sexual contact with another person or causes such other to have sexual contact with him or her, when they are not married to each other, has committed a second degree misdemeanor if:

- (a) The actor knows that the contact is offensive to the other person when such other person is not a voluntary social companion or has not previously permitted sexual liberties to be taken;
- (b) The actor knows that the other person suffers from a mental disease or defect which renders such person incapable of understanding the nature of such conduct;
- (c) The other person is less than twelve years of age, provided the actor is sixteen years of age or older;
- (d) The actor has substantially impaired the other person's power to appraise or control his or her conduct by administering or

employing without the other's knowledge intoxicants or other means for the purpose of preventing resistance;

- (e) The other person is in official custody or detained in a hospital, prison or other institution and the act has supervisory or disciplinary authority over him or her;
- (f) The other person is less than twenty-one years of age and the actor is his or her parent, guardian or acts as his guardian; or
- (g) The other person is less than sixteen years of age and the actor is at least five years older than the other person.

Prior Legislation: 1956 Code 27:244; Crim. Code, § 51.

§14.70. Rape.

1. Offense. A male who has sexual intercourse with a female not his wife has committed rape if:
 - (a) He compels her to submit by force, or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;
 - (b) Has substantially impaired her power to appraise or control her conduct by administering or employing without her knowledge intoxicants or other means with the purpose of preventing resistance, or
 - (c) The female is less than sixteen years old, provided the actor is sixteen years of age or older.

2. Grade. Rape is a first degree felony if in the course of the rape the actor inflicts serious bodily injury upon the female, or if his conduct violates paragraph (1)(c) of this section, or if the female is not a voluntary companion of the actor and has not previously permitted his sexual liberties. Otherwise, rape is a second degree felony.

Chapter 15. Offenses against property.

Subchapter F. Economic Sabotage. §15.80 Fraud on the internal revenue of Liberia; §15.82 Theft and/or illegal disbursement and expenditure of public money; §15.83 Possession, distribution, transportation and/or use of tools and materials for counterfeiting purposes.

§15.80. Fraud on the internal revenue of Liberia.

A person is guilty of a first degree felony, if he:

- (a) Knowingly conspires or colludes to defraud the Government of Liberia;
- (b) Knowingly makes an opportunity for any person to defraud the Government of Liberia or another;
- (c) Does or omits to do any act with intent to enable another to defraud the Government of Liberia;
- (d) Makes or signs any fraudulent entry in any book or record of any Ministry or Agency of Government or signs any fraudulent certificate, return or statement;
- (e) Demands greater sums than authorized by law or receives any fee, compensation or reward for the performance of any duty except compensation from the Government of Liberia;
- (f) With intent to defeat the application of any provision of the Revenue and Finance Law of Liberia, fails to perform any of the duties of his office or employment;
- (g) Having knowledge of a violation of any Revenue and Finance Law of Liberia, or any fraud, fails to report in writing such information to the Commissioner of Internal Revenues or the Minister of Finance of Liberia;
- (h) Demands, accepts, attempts to collect, directly or indirectly, as a payment, gift or otherwise of sum or thing of value for compromise, adjustment or settlement of any charge or complaint.

§15.82. Theft and/or illegal disbursement and expenditure of public money.

A person is guilty of a first degree felony, if he:

- (a) Knowingly fails to render his account or accounts for public money or property as provided by law, said person being an officer, employee or agent of the Government of Liberia or of any Ministry or Agency thereof or public corporation, having received public money which he is not authorized to retain as salary, pay or emolument;
- (b) Knowing takes, misappropriates, converts, or exercises unauthorized control over, or makes unauthorized transfer of an interest in the property of another or the Government of Liberia, with the purpose of depriving the owner thereof or purposely deprives another of his property by deception, or by threat; or
- (c) Knowingly receives, retains or disposes of property of another or the Government of Liberia which has been stolen, with the purpose of depriving the owner thereof or the Government of Liberia [of such property].

§15.83. Possession, distribution, transportation and/or use of tools and materials for counterfeiting purposes.

A person is guilty of a first degree felony, if he:

- (a) Knowingly and without any authority from the Government of Liberia, secretes within, or embezzles, or takes and carries away from any building, room, office, apartment, vault, safe, or other place where the same is kept, employed, used and placed, logged or deposited by authority of the Government of Liberia, any tool, implement, or thing used or fitted to be used in stamping or printing any kind or description of bond, bill, note, certificate, coupon, postage stamp, factional currency note, or other paper, instrument, obligation, device, or document,

authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation on behalf of the Government of Liberia;

- (b) Knowingly and without such authority, so secrets, steals, or takes and carries away paper, parchment, or other material printed or stamped, in whole or in part, and intended to be prepared, issued, or put in circulation on behalf of the Government of Liberia as one of such papers, instruments or obligations, or printed or stamped, in whole or in part, in the similitude of any such paper, instrument, obligation, whether intended to issue or put the same in circulation or not;
- (c) Knowingly and without such authority, so secrets, steals, or takes and carries away any paper, parchment, or other material prepared and intended to be used in the making of any such papers, instruments, obligations, devices, or documents;
- (d) with the purpose of deceiving or harming the Government of Liberia or another person, or with knowledge that he is facilitating such deception or harm by another person, he knowingly and falsely makes, completes or alters a forged or counterfeited writing or object;
- (e) Knowingly sells, buys, imports, processes or otherwise has within his control any plate, stone, paper, tool, die, mold or other implement or thing uniquely associated with or fitted for the preparation of any forged or counterfeited security or tax stamp or any writing or object which purports to be made by the Government of Liberia, its agent or any foreign government or its agent.

Chapter 18. Offenses against public morality
§18.81 Misuse of public money, property or record.

§18.81. Misuse of public money, property or record.

A person is guilty of a first degree felony, if he:

- (a) Knowingly steals, takes, purloins, or converts to his own use and benefit or the use of another; or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the Government of Liberia or of any Ministry, or Agency thereof, or public corporation, or any property made or being made under contract for the Government of Liberia or any Ministry, Agency thereof or public corporation;
- (b) Receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been stolen, purloined or converted;
- (c) Disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, and in his capacity as a public servant or any officer of an institution, in a manner he knows is not authorized and that he knows to involve risk of loss or detriment to the owner of the property or to the Government of Liberia or other person for whose benefit the property was entrusted.

Annex 3

TRC Definition: Economic Crime

An economic crime is any prohibited activity committed for the purpose of generating economic gains or that in fact generates economic gain. It applies to any state or non-state actor with a link to the conflict in Liberia, including but not limited to public and private individuals, corporations, and other business entities whose economic

activities contributed to gross human rights and / or humanitarian law violations in Liberia or that otherwise perpetuated armed conflict in Liberia, as well as those who benefited economically from armed conflict in Liberia.

Annex 4
"Gross" Human Rights Violations
Definitions

While the definitions in Annex 1 are largely, but not exclusively, taken from the Rome Statute of the International Criminal Court (ICC), their substance is derived from conventional and customary IHRL and international refugee law (IRL) that predates the ICC. When such crimes are committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, they amount to genocide; and when committed as part of widespread or systematic attack directed against a civilian population with knowledge of the attack, they amount to crimes against humanity. It must again be stressed that while human rights obligations generally apply to state actors, select GHRV including, for example, enslavement, genocide and crimes against humanity which sit atop the hierarchy of IHRL and IHL increasingly extend to private persons and to private action.

Nevertheless, since the establishment of the international military tribunals at Nuremburg and Tokyo and the creation of the international criminal tribunals for the former Yugoslavia and Rwanda, these judicial bodies and the jurisprudence they have generated spawned a new hybrid body of law: ICL. ICL is largely derived from IHRL, IHL and international judicial precedent and seeks to criminalize "gross" violations of IHRL, and "serious" violations of IHL. Similar to IHRL, ICL is applicable during times of

war and peace. ICL has gained significant prominence with the establishment of the International Criminal Court (ICC) and Special Court for Sierra Leone. Although Liberia did not ratify the 1998 Rome Statute establishing the ICC until September 2004, it did become a signatory to it in July 1998, and, consequently, from this date forward had an positive duty to refrain from acts that would defeat its object and purpose. In this context, the TRC has reserved the right to rely on the entirety of the ICC Statute as a definitional guidepost for the categorization of violations or crimes from July 1998 onward.

“Gross” Human Rights Violations
Applicable to Non-International Armed Conflict

General Definitions and Elements

“Murder”

The perpetrator purposely or knowingly caused the death of another human being or caused the death of another human being under circumstances manifesting extreme indifference to the value of human life; the perpetrator killed one or more persons.

“Extermination”

The perpetrator killed one or more persons, including by the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population. The conduct constituted, or took place as part of, a mass killing of members of a civilian population.

“Enslavement”

The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty, in particular women and children.

“Torture”

The perpetrator intentionally inflicted severe physical or mental pain or suffering upon one or more persons. Such person or persons were in the custody or under the control of the perpetrator. Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions. In the context of IHRL, it is understood that no specific purpose need be proved for this crime as distinct from torture as a “war crime”.

“Rape”

The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. The concept of “invasion” is intended to be broad enough to be gender-neutral. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

“Sexual Slavery”

The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.

“Enforced Prostitution”

The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent; and the perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

“Enforced Sterilization”

The perpetrator deprived one or more persons of biological reproductive capacity. The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent. The deprivation is not intended to include birth-control measures which have a non-permanent effect in practice. It is understood that ‘genuine consent’ does not include consent obtained through deception. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

“Sexual Violence”

The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent. Such conduct was of a gravity comparable to the other offences in this

section. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.

“Enforced disappearance of persons”

The perpetrator arrested, detained or abducted one or more persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. It is understood that under certain circumstances an arrest or detention may have been lawful.

“Persecution”

The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law. The conduct was committed in connection with any act referred to above.

“Deportation or forcible transfer of population”

The perpetrator deported or forcibly transferred or displaced, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts. Such person or persons were lawfully present in the area from which they were so deported or transferred. The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.

“Imprisonment or other serious deprivation of physical liberty”

The perpetrator intentionally imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty.

The gravity of the conduct was such that it was in violation of fundamental rules of international law. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.

“Genocide“

Genocide means any of the following acts, whether committed in time of peace or in war, committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Persons committing genocide or any of the other acts enumerated above shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

“Crimes against humanity“

1. A “crime against humanity” is any of the following acts when committed as part of a **widespread or systematic attack directed against any civilian population**, with knowledge of the attack:
 - (a) Murder;

- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) "Extermination" includes the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

- (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
- (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
- (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
- (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the

authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. "Gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

Annex 5
"Serious" Humanitarian Law Violations
Definitions

When states adopted the principal IHRL (e.g. ICCPR and ICESCR) and IHL (Geneva Conventions and Additional Protocols) treaties they did not explicitly provide for penal sanction of violations;⁶ particularly in the context of non-international armed conflict. Nevertheless, today, there is considerable state and judicial practice through war crimes tribunals (e.g. Nuremburg, Tokyo, Yugoslavia, Rwanda and Sierra Leone) and customary international law that provide for penal sanction for violations of IHRL and IHL through the emergence of international criminal law. The concept of individual criminal responsibility is not only provided for in treaty law and judicial practice but has also become a part of customary international law. As the Commission is aware the most recent and comprehensive articulation of international criminal law is the 1998 Rome Statute establishing the International Criminal Court and the 2000 Statute of the Special Court for Sierra Leone. Individual violations of IHRL and IHL during internal armed conflict are criminal offences under international law. According to the Statute of the ICC, there are several rules that criminalize and govern serious violations of non-international armed conflict that are applicable to episodes of armed conflict in Liberia.

"Serious" Humanitarian Law Violations
Applicable to Non-International Armed Conflict

General Definitions and Elements

"Murder" The perpetrator intentionally killed one or more persons. Such person or persons were either *hors de combat*, or

⁶ The Genocide Convention, arguably, does explicitly provide for penal sanction.

were civilians, medical personnel, or religious personnel taking no active part in the hostilities. The term "religious personnel" includes those non-confessional non-combatant military personnel carrying out a similar function. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

"Mutilation" The perpetrator subjected one or more persons to mutilation, in particular by permanently disfiguring the person or persons, or by permanently disabling or removing an organ or appendage. The conduct was neither justified by the medical, dental or hospital treatment of the person or persons concerned nor carried out in such person's or persons' interests. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

"Attacking Civilians" The perpetrator directed an attack. The object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities. The perpetrator intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual

circumstances that established the existence of an armed conflict.

“Cruel Treatment” The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons. Such person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

“Torture” The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons. The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

“Taking of Hostages” The perpetrator seized, detained or otherwise held hostage one or more persons. The perpetrator threatened to kill, injure or continue to detain such person or persons. The perpetrator intended to compel a State, an international organization, a natural or legal person or a group of persons to act or refrain from acting as an explicit or implicit

condition for the safety or the release of such person or persons. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

“Outrages upon Personal Dignity” The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict. For this crime, “persons” can include dead persons. It is understood that the victim need not personally be aware of the existence of the humiliation or degradation or other violation. This element takes into account relevant aspects of the cultural background of the victim.

Protocol II is particularly concerned with **“Outrages upon Personal Dignity”** that included: Humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault:

- a. **“Cruel Treatment”** The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons. Such person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

- b. **“Rape”** The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

The concept of “invasion” is intended to be broad enough to be gender-neutral. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

- c. **“Enforced Prostitution”** The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent. The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.
- d. **“Sexual Slavery”** The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

It is understood that such deprivation of liberty may, in some circumstances, include exacting forced labor or otherwise reducing a person to servile status as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956. It is also understood that the

conduct described in this element includes trafficking in persons, in particular women and children.

- e. **“Sexual Violence”** The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent. The conduct was of a gravity comparable to that of a serious violation of Common Article 3 to the four Geneva Conventions. The perpetrator was aware of the factual circumstances that established the gravity of the conduct. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

“Sentencing or Execution Without Due Process” The perpetrator passed sentence or executed one or more persons. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities. The perpetrator was aware of the factual circumstances that established this status. There was no previous judgment pronounced by a court, or the court that rendered judgment was not “regularly constituted,” that is, it did not afford the essential guarantees of independence and impartiality, or the court that rendered judgment did not afford all other judicial guarantees generally recognized as indispensable under international law. The perpetrator was

aware of the absence of a previous judgment or of the denial of relevant guarantees and the fact that they are essential or indispensable to a fair trial. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict. These elements do not address the different forms of individual criminal responsibility.

“Attacking objects or persons using the distinctive emblems of the Geneva Conventions” The perpetrator attacked one or more persons, buildings, medical units or transports or other objects using, in conformity with international law, a distinctive emblem or other method of identification indicating protection under the Geneva Conventions. The perpetrator intended such persons, buildings, units or transports or other objects so using such identification to be the object of the attack. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

“Collective Punishment” The perpetrator inflicts a general penalty, pecuniary or otherwise, on the population on account of the act or acts of individuals for which it cannot be regarded as jointly and severally responsible because punishment is personal and can only be imposed on the perpetrator(s).⁷

“Acts of Terrorism” The perpetrator engages in any act which is a violation of the criminal laws of the Republic of Liberia and

⁷ See, Article 50, *Hague Regulations of 1907*; and Article 7(2), *African Charter on Human and Peoples Rights*, Banjul, Gambia, adopted 27 June 1981.. See also, Italy, Military Tribunal of Rome, *Priebke case*, Judgment, 22 July 1997.

which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

- a. intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
- b. disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
- c. create general insurrection in a State;

Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (c).⁸

"Enslavement" The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty, in particular women and children.

"Pillage" The perpetrator appropriated certain property. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use. The appropriation

⁸Article 1(3), *OAU Convention on the Prevention and Combating of Terrorism*, Algiers, Algeria, 14 July 1999, entered into force 6 December 2002.

was without the consent of the owner. The conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator was aware of factual circumstances that established the existence of an armed conflict. It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

“Using, Conscripting or Enlisting Children in Armed Conflict” The perpetrator conscripted or enlisted one or more persons into the national armed forces or used one or more persons to participate actively in hostilities. Such person or persons were under the age of fifteen years. The perpetrator knew or should have known that such person or persons were under the age of fifteen years. The conduct took place in the context of and was associated with an international armed conflict. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

**SUBMITTED BY THE TRUTH AND RECONCILIATION
ON THIS 19TH DAY OF DECEMBER, 2008 TO THE
HONOURABLE NATIONAL LEGISLATURE.**