

**Children
and
The Truth and Reconciliation Commission
for
Sierra Leone**



Recommendations for policies and procedures
for addressing and involving children in the
Truth and Reconciliation Commission

UNICEF
National Forum for Human Rights
UNAMSIL/Human Rights

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The Truth and Reconciliation Commission
for
Sierra Leone**

**This Report is based on a technical meeting on children
and the TRC**

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Children and the Truth and Reconciliation Commission for Sierra Leone:

Recommendations for policies and procedures for involving children in the TRC

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This report contains recommendations for overall policies, guiding principles and detailed special procedures for the involvement of children in the proceedings of the TRC. It is recommended that these special procedures be applied to all children, i.e. persons below the age of 18 years at the time of their involvement in the TRC.

Executive Summary

Recommendations for the involvement and protection of children in the TRC

The Truth and Reconciliation Commission (TRC) Act recognises the particular impact of the Sierra Leonean conflict on children and calls on the TRC for Sierra Leone to give special attention to the experiences of children within the armed conflict and, to this end, to consider implementing special procedures to address the needs of children who have been victims, or perpetrators, of violations.

In recognition of the unprecedented challenge of the TRC to address the experiences of children during the armed conflict, UNICEF, in collaboration with National Forum of Human Rights and UNAMSIL/Human Rights, organised a technical meeting on children and the TRC from 4-6 June 2001 in Freetown. The meeting brought together 40 national and international experts, as well as a group of children. The recommendations contained in this report are submitted for consideration by the members of the TRC. The recommendations build upon the outcome of the seminar on operational and managerial aspects of the TRC, organised by UNAMSIL and the Office of the High Commissioner for Human Rights (OHCHR).

The role of the TRC for children

The key task of the TRC in relation to children is to create an impartial and official historical record of what happened to children during the armed conflict in Sierra Leone. In relation to reconciliation, the TRC should build upon existing mechanisms for promoting the reintegration and reconciliation of children, particularly the work of child protection agencies and traditional leaders and structures. The TRC is thus expected to contribute to the ongoing re-integration of children back into their communities or host communities.

Guiding principles:

Special attention to children

The TRC should give special attention to the experiences of children during the conflict. Children's experiences should form an integral part throughout the TRC process - from the preparatory phase and the undertaking of preliminary background research to the final report and the establishment of a follow-up committee.

Child Rights standards informing the TRC

The work of the TRC concerning children should be guided by the Convention on the Rights of the Child, the African Convention on the Rights and Welfare of the Child and other international legal standards. The 'best interests of the child' shall be a primary consideration.

**Equal treatment
of all children
before the TRC**

The special procedures for the involvement of children in the TRC should apply to all children without differentiation as to whether they are considered primarily as witnesses, victims or perpetrators. Child perpetrators must be seen and treated, primarily as victims.

**Special attention
to the experiences
of girls**

The TRC should give special attention to the experiences of girls and specifically address gender-based violence during the conflict.

**Voluntary
participation**

The participation of children in the TRC should be voluntary; the powers of subpoena should not be used in relation to children.

**Protection
through
confidentiality
and anonymity**

A large-scale witness protection programme for persons appearing before the TRC, including children, does not appear to be feasible. Any information provided to the TRC by a child should therefore be confidential and should not be shared with, or released to any person, body or institution outside the TRC, including the Special Court. The participation of children, including child perpetrators, in the work of the TRC shall thus guarantee the privacy of the child in all its aspects. Steps must be taken to ensure that any child participating in the TRC remains anonymous. The TRC should not name or disclose names of children, whether victims, witnesses or perpetrators in its proceedings or its report. Any use of information provided by children shall strictly preserve the anonymity of the child.

If the TRC decides to involve children in their public sessions or to share information and statements received from them with other institutions, such as the Special Court, the relevant guarantees under existing international juvenile justice standards would have to be provided, as well as a comprehensive witness and victim protection programme.

**Taking of
confidential
statements**

The main form of participation of children in the TRC should be the taking of confidential statements. The taking of statements from children should be conducted by TRC statement takers who should be assisted by a social worker familiar with the child; the child shall be allowed to be accompanied by a parent, relative, or friend.

**Formal sessions
of the TRC
*in camera***

The participation of children in formal sessions of the TRC should be restricted to sessions of the TRC held *in camera*. The procedures proposed for the taking of statements should be applied for such private sessions *mutatis mutandis*. Apart from the child, only TRC staff, the social worker and a person accompanying the child (if the child so desires) such as a parent, guardian, or legal counsel should be present.

Special public sessions of the RC on children

Children shall not actively participate in public sessions of the TRC. Instead, the TRC can organise special public sessions on children in different parts of the country in order to give particular attention and visibility to the experiences of children during the conflict. In such sessions, representatives of child protection agencies could report on the situation of children and make recommendations to address issues relevant to children. Children should not directly give evidence in such public sessions. Information provided by children (written statements, audio tapes, drawings) should be presented in such a way that the child's identity is not disclosed. Sessions held at the community level could include measures to restore the dignity of victims.

Relationship between the TRC and the Special Court for Sierra Leone

Concerning the jurisdiction of the Special Court for Sierra Leone over persons who were between the age of 15 and 18 at the time of the alleged commission of the crime, the Security Council expressed the view that it is "extremely unlikely" that juvenile offenders will come before the Special Court and that other institutions, such as the TRC, are better suited to address cases involving juveniles. **The expert group emphasised that children should not be prosecuted by the Special Court.**

In order to preserve the confidentiality of the involvement of children before the TRC, to encourage them to participate in its proceedings and to preserve the non-judicial character of the TRC, it is recommended that the TRC makes use of its powers not to disclose information and does not share information concerning children with the Special Court. The work of the TRC and its report can make an important contribution to the work of the Special Court for Sierra Leone, in particular by establishing accountability for the crimes committed against children.

Building upon ongoing processes of reintegration and reconciliation of children

The TRC should seek to build upon and strengthen existing structures and processes of reintegration and reconciliation at the community level, in particular in relation to the role of traditional and religious leaders and child protection agencies. These actors can be important entry points for the TRC into communities and assist the TRC e.g. in awareness raising about its work.

Co-operation with child protection agencies

The TRC should seek close collaboration with child protection agencies, the NCDDR and other re-integration and resettlement supporting agencies, who have already developed a sophisticated system of reintegration and reconciliation for children. Their network of social workers should be used for the work of the TRC with children.

**Traditional
leaders and
Ceremonies**

Traditional practices and ceremonies for healing and reconciliation can be combined with the work of the TRC, e.g. the confidential statement taking of children could be acknowledged in subsequent traditional ceremonies. Such traditional ceremonies should not become formally part of the proceedings of the TRC. Steps should be taken to ensure that such ceremonies are in accordance with international child rights standards. Such acts of reconciliation should not be abusive or include public shaming and confessions.

If community-based public hearings are held, children should not actively participate in such hearings. If children are required to make a public apology, this should preferably be carried out through community leaders and/or child protection agencies; if carried out by the child in public, it should be done with the support of child protection agencies in consultation with traditional leaders.

**Preliminary
background
research**

During the preparatory phase, the TRC should undertake preliminary background research on the experiences of children during the armed conflict, drawing upon available information among child protection agencies, NGOs, the UN and the media.

**Primary and
secondary sources
of information on
children**

Information collected from primary and secondary sources should undergo analysis and be disaggregated according to the age of the child at the time of the atrocity and sex. Qualitative data gathered from children should be collected in their own voices, drawing upon their autobiographical history, ensuring that emphasis and importance is given to issues raised by the children themselves. In addition to children themselves, adults are an important source of information about what happened to children and should therefore be sensitised and systematically questioned about experiences of children during the conflict, when giving statements or appearing before the TRC. The general statement forms for adults and the categories of the data base of the Commission should explicitly include children's rights.

The TRC should seek to obtain access to information about child rights violations collected by child protection agencies, the "Gross Child Rights Violations Network", NGOs and the United Nations (UN).

**Special protection
for the participation
of children in the
TRC**

The participation of children in the TRC process - confidential statement taking, formal sessions of the TRC *in camera* - should meet the special needs and interests of children and ensure the protection of their physical, spiritual and psychological well being. Detailed guidelines for

statement taking, including special elements for interviews, are contained in this report.

Age of children participating in the TRC

There should be no fixed minimum age at which children should be permitted to give statements to the TRC. The giving of testimony should depend on the child's maturity. Interview techniques shall be adapted to the age and maturity of the child, e.g. drawings and figurative material, as well as interviews with small groups of children, might be particularly appropriate for younger children.

Psycho-social support for children

The taking of statements from children must be properly and safely conducted in order to prevent a negative emotional response or a re-activation of traumatic stress in children. Experienced personnel in whom children have confidence, particularly staff from the psycho-social network and child protection agencies, should be used as a child-friendly medium between children and the TRC and its staff. Therefore any funding appeal for the TRC should address the additional needs of psycho-social staff.

Psycho-social staff should assist the TRC in its work with children during every phase of the process: sensitisation of children, families and communities; psychological support to children during and after the statement taking, support in follow up to involvement in the TRC. The psycho-social staff should remain independent of the TRC and follow the same rules of confidentiality specified for the TRC staff.

Statement taking

The taking of statements should be conducted by TRC statement takers who have received training in interviewing children, assisted by a social worker familiar with the child. The child should be allowed to be accompanied by a parent, relative, or friend. In addition, the child should, if s/he so requires, be assisted by legal counsel.

Child-friendly environment

The interview should take place in a child-friendly, familiar environment; the child should have an opportunity to familiarise him/herself with the surroundings and a friendly relationship within the group should be established. Girls should be interviewed only by female staff who have received appropriate training.

The child should be allowed to speak about experiences, which s/he feels to be important. Questions should be open ended. The interview should not last more than one hour for children aged 12 years and above, and no more than 45 minutes for children under the age of 12 years. Should a child wish to terminate the interview before completion, such a wish should be respected; interviews should be concluded with an emotional debriefing.

Language

Statement takers and psycho-social staff should speak or be able to understand the language of the child.

Recording

Documentation of the child's testimony during interviews should either be carried out through note taking or audio-taping, although each method has its disadvantages. The child's consent must be obtained beforehand.

Follow-up to statements taken by children

Psycho-social staff should be available on the ground to provide support to children who have been interviewed. Children and their communities are to be regularly up-dated on the progress of the TRC.

Structure and staffing of the TRC

The organisational structure and staffing of the TRC should reflect the fact that a large number of victims to the conflict are women and children. The following steps are recommended to make the TRC child-friendly and sensitive:

- one or more Commissioners should have special responsibility for matters relating to children;
- the establishment of a Director of Women's and Children's Affairs immediately below the level of the Executive Director of the TRC should be considered. The director's office will monitor and supervise all activities of the TRC relating to women and children;
- child rights/protection experts should be placed in all substantive departments of the TRC – particularly those responsible for investigations, research and community engagement, and in all regional offices;
- the TRC at headquarters, regional offices and at the level of mobile teams should have strong expertise on all aspects of the involvement of children in the TRC; special mobile teams of statement takers for children should be established;
- the TRC could establish a Committee on Children and Women, as one of its advisory committees. Such a Committee can advise the TRC on all matters relating to women and children; facilitate co-operation between the TRC and child protection agencies on the involvement of children in the TRC and monitor the full observance of the special procedures and safeguards for children;
- all staff members of the TRC should be properly screened; strict rules of confidentiality should be established. Measures should be taken to ensure that TRC staff comply with the obligation of confidentiality.

Special training for all staff on children's issues

All TRC staff members, including Commissioners, should be thoroughly trained on child rights and child protection issues, statement taking from children and the analysis of information from or about children. The training of psycho-social staff should be undertaken during the three months preparatory period.

The TRC Report

The report of the TRC should provide a full historical record clarifying what happened to children during the armed conflict and highlighting the violations of children's rights in Sierra Leone. All relevant chapters of the report should contain information and analysis about specific child rights violations and a specific chapter (or volume) of the report should focus exclusively on children.

Children should remain anonymous in the report. No child should be named or described in a way which might reveal his or her identity; nor should the home location or parental relationships be identified.

Recommendations in the TRC report concerning children

The recommendations of the TRC report should support child victims of war, address the needs of war-affected children, help to prevent future generations from exposure to similar atrocities and encourage society to guarantee the protection and fulfilment of children's rights. The recommendations should develop elements for a new agenda for the children of Sierra Leone, and address impunity for crimes committed by adults against children by establishing responsibility. Recommendations will be the result of a detailed analysis of child rights violations, their impact and root causes during the war.

Question of reparations

The TRC could recommend the speedy establishment of Special Fund for War Victims with a significant proportion of its resources devoted towards the welfare of women and children. In general, the TRC can make recommendations for reparations for children to take place at the community level such as the rebuilding of social services.

Role of report in promoting reconciliation and children's rights

The report should be widely disseminated, including through schools and child protection agencies. Through age and culturally sensitive forms of dissemination, the report should be made known to children and adolescents (e.g. the production of a simplified version for children).

The TRC report can enable children and young people to understand and contextualise what has happened to them during the conflict. This will contribute to shaping a better understanding of their experiences and to the education of future generations.

Follow-up to the TRC report

The “follow-up Committee” tasked by the TRC Act to monitor the implementation of the report’s recommendations should contain a strong child rights focus. Mechanisms at the community level involving child protection agencies and child protection committees should oversee the follow-up and implementation of the recommendations of the report.

Sensitisation and awareness raising

Sensitisation and awareness raising about the TRC will be critical to promote the participation of children and should be directed at all levels of society including cultural, educational and religious institutions and armed groups. Information campaigns should be adapted to meet the needs and understanding of each segment of society, including children. The general public, including parents and guardians, should be informed of the importance and sensitivities of children’s participation throughout the entire process. Clear uniform messages explaining the objectives and limitations of the TRC and also the role of the Special Court should be developed to avoid any negative impact on the DDR programme for child ex-combatants. Regular meetings between Commissioners and representatives of the media should be held to keep the media and through them, the public informed about the work of the TRC. In addition to raising awareness about the TRC, sensitisation should also be carried out with regard to children’s experiences during the conflict and in particular, emphasise the criminal nature of sexual violence experienced by both boys and girls, including the use of girls as ‘wives’.

Media

The media will have an important role to play in support of the work of the TRC. The media should be sensitised to the protection needs of children participating in the TRC. In order to maintain the confidentiality of child participants, certain safeguards and regulations should be established to prevent the disclosure of children’s identities by the media. Journalists should not be permitted access to the work of the TRC involving children.

The TRC should consider establishing an accreditation system for news agencies covering the work of the TRC. The TRC could also establish a Code of Conduct for the media. Alternatively, the Independent Media Commission and the Sierra Leone Association of Journalists could develop a Code of Conduct for reporting on child related issues. All press agencies and journalists accredited to the TRC could be required to become party to such a code of conduct.

Recommendations for policies and procedures for addressing and involving children in the TRC

Introduction

The Truth and Reconciliation Commission (TRC) for Sierra Leone originates from the Lomé Peace Agreement and was enacted by Parliament in February 2000 (Truth and Reconciliation Commission Act 2000).¹

As with many other truth commissions established in different countries around the world over the past three decades, the key objective of the Sierra Leonean TRC is to create an impartial historical record of violations and abuses of human rights and international humanitarian law from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement that can serve as a significant step in the long term process of healing and reconciliation as preconditions for lasting peace (S 6 (1) TRC Act).

The TRC Act recognises the particular impact of the Sierra Leonean conflict on children and calls on the TRC to give special attention to the experiences of children within the armed conflict (S 6 (2(b)) and, to this end, to consider implementing special procedures to address the needs of children who have been victims, or perpetrators of violations (S 7 (4) TRC Act).

In November 2000, the United Nations Mission in Sierra Leone (UNAMSIL) and the Office of the High Commissioner for Human Rights (OHCHR)² organised a national workshop in Freetown to examine different aspects of the establishment of the TRC, entitled the *'Truth and Reconciliation Commission Workshop'*. One recommendation was that a working group of experts on child rights, juvenile rehabilitation and related issues be convened to develop specific proposals on children and their participation in the TRC.³

In response to this recommendation and in recognition of the unprecedented challenge of the TRC to address the experiences of children during the armed conflict primarily as victims but also as perpetrators of crimes, UNICEF, in collaboration UNAMSIL/Human Rights and the National Forum of Human Rights⁴, organised a technical meeting on children and the TRC from 4-6 June 2001 in Freetown. The meeting brought together some 40 national and international experts specialising in areas of children's rights in general and child protection in particular, truth commissions, international criminal justice, social anthropology, customary law, sexual violence, juvenile justice, counselling and child psychology.⁵ Participants from Sierra Leone represented the major child protection agencies, social welfare institutions, including the Ministry for Social Welfare, Gender and Children's Affairs (Ministry of Social Welfare), and human rights organisations. Ex-child combatants, girl mothers, disabled children and representatives of the Children's Forum participated as

¹ Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, Lomé, Togo, July 1999. The text of the TRC Act is reproduced in annex 10.1. of this report.

² The Office of the High Commissioner for Human Rights (OHCHR) is the principle UN office involved in the establishment and running of the TRC. Its implementation is being carried out by the Human Rights Unit within UNAMSIL.

³ Final Communiqué: www.sierra-leone.org/trc1100.html.

⁴ The National Forum of Human Rights is a national NGO umbrella organization consisting of human rights organizations within Sierra Leone.

⁵ See list of participants in annex 7 of this report.

experts in a parallel working group.⁶ Their views on the TRC and children are reflected in the main report and also reproduced in a separate chapter of the report.⁷

The objective of the technical meeting was to develop policies, guidelines and recommendations on the involvement of children in the TRC process for consideration by the members of the TRC. Several background papers and working documents were presented.⁸ The meeting built upon the deliberations of the UNAMSIL/OHCHR workshop on 'Operational and Managerial Questions Related to the Truth and Reconciliation Commission'.⁹ Issues considered at the technical meeting included:

- the experience of TRCs in other countries relating to children;
- the nature of the reconciliation process and traditional practises;
- society's attitudes towards war-affected children;
- the re-integration of separated children;
- the nature of violations carried out against children and the impact of impunity upon society.

This report summarises the recommendations emanating from this technical meeting.

There are high expectations from national political actors, civil society organisations and local communities that the TRC will address the role of children in the conflict as both victims and perpetrators and will provide a definitive account of children's experiences. The peace building process should be based on the rights of every individual and the children of Sierra Leone, all of whom have been deeply affected by the conflict, are an integral part of this process. Voicing their experiences will ensure that their life stories are documented as a reality and incorporated into the historical account of the conflict. This work will therefore inform Sierra Leoneans about child rights violations and the children's experiences, as well as establishing a child rights agenda for the future.

Future truth commissions will look to the experience of the TRC in Sierra Leone for guidance in dealing with both child rights violations and the role of children in the conflict.

⁶ The Children's Forum is a network of child activists advocating for children's rights, working out of the Ministry of Social Welfare.

⁷ See Chapter 12, Children's views on the TRC and children - report from the children's working group.

⁸ See annex 6 of this report.

⁹ This meeting was held 28 May - 1 June, 2001, in Freetown. An executive summary of the report of this meeting is in annex 2 of this report.

The TRC Act gives some general guidance; it shall be the function of the Commission,

“to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict’ (S 6(2(b)) TRC Act)

The Commission shall take into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may wish to recount their stories in public and the Commission may also implement special procedures to address the needs of such particular victims as children or those who have suffered sexual abuses as well as in working with child perpetrators of abuses or violations.’(S 7(4) TRC Act)

On the basis of these provisions, the TRC will be required to develop appropriate policies and procedures for addressing the situation of children during the conflict and to ensure that children are heard by the TRC in a manner which ensures respect for their rights, preserves their dignity, while at the same time providing them with an opportunity to narrate their experiences.

As a non-judicial body, the role of the TRC in relation to children is to create a better understanding and a comprehensive account of the experiences of children. The TRC report should provide an explanation for why children became victims and perpetrators as well as address the question of responsibility for crimes committed against children.

In developing appropriate mechanisms for involving children in the TRC, the TRC will have few precedents on which it can rely. Special measures regarding the internal organisation, staffing and training as well as special procedures and methodologies for working with children will have to be developed. Child victims and perpetrators have profoundly suffered throughout the conflict and have experienced and been subjected to traumatic events. It is recommended that children must be an integral part of the TRC process in order to allow their voices to be heard in the final report. Their participation in the proceedings of the TRC will present a particular challenge. In addition, important information about the experiences of children will need to be obtained from adults, as well as from child protection agencies and others working with children.

Children must be an integral part of the TRC process in order to allow their voices to be heard in the final report.

This report is intended to assist the TRC in adopting a child-friendly approach to children in its policies, procedures and methods of work, whilst seeking to respect the best interests of the child and to protect the rights of the child throughout its work.

The TRC may work in parallel with the Special Court for Sierra Leone, a judicial mechanism to be established in order to bring to justice persons “who bear the greatest responsibility” for serious crimes committed during the armed conflict. The Statute of the Special Court includes jurisdiction over persons who were over the age of 15 at the time of the alleged commission

of the crime and provides for special provisions and guarantees. This provision has given rise to a debate as to whether persons between 15 and 18 years of age, who allegedly committed crimes shall be prosecuted by a Special Court. The Security Council expressed the view that "it is extremely unlikely that juvenile offenders will in fact come before the Special Court and that other institutions, such as the TRC, are better suited to address cases involving juveniles". To this end, the Council encouraged the Government of Sierra Leone and the United Nations to develop specific provisions related to children. The recommendations in this report are thus also in support of this approach. The report also addresses the question of the overall relationship between the two institutions with regard to children.



Chapter 1 **The Role of the TRC for Children**

TRC Act

The objectives of the TRC are: to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of victims, to promote healing and reconciliation and to prevent a repetition of the violations and the abuses suffered.’ (S 6(1) TRC Act)”

All the objectives of the TRC are relevant for children and should be addressed from a particular children's perspective. The TRC has the key task to create an impartial historical record and officially acknowledge what happened to children during the armed conflict, in addition to creating a positive environment for a continual process of reconciliation. By providing high visibility to violations of children's rights, the TRC can help to overcome the trauma, abuse, exploitation, neglect and marginalisation children have suffered during the conflict.¹⁰

The TRC has the key task to create an impartial historical record and officially acknowledge what happened to children during the armed conflict

Children should be heard in a manner which ensures their dignity and safety, and avoids any retraumatisation. The final TRC report and its recommendations should create an impartial historical record of the experiences of children during the armed conflict, address the situation of children affected by the armed conflict, respond to their needs, develop elements for a new agenda for the children of Sierra Leone, and address impunity for crimes committed by adults against children by establishing institutional responsibility.

Given the limited number of staff and duration of the TRC (12-18 months), it may be difficult for the TRC to hear all children who wish to participate. Reconciliation - be it of an individual with him/herself, or at the community and national levels - is a long-term process extending well beyond the lifespan of the TRC. Furthermore, the capacity of the TRC to contribute to “bilateral” mediation between individual victims and perpetrators is limited. It is therefore recommended that the TRC concentrates on establishing the truth through providing a record of violations of children's rights and their experiences during the conflict. In relation to reconciliation, the TRC should build upon existing mechanisms for promoting the reintegration and reconciliation of children (see Chapter 5).

¹⁰ Widespread and serious violations and abuses have been committed against and by children during Sierra Leone's decade long civil conflict which have deeply affected their basic right to life, survival and development. See Annex 1 for an overview of these violations.

Relationship with the Special Court for Sierra Leone

The TRC might operate in parallel with the Special Court for Sierra Leone which will have jurisdiction to prosecute "persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996".¹¹ It is therefore important to clarify questions concerning the overall relationship between the two institutions as soon as possible. This is also essential in order to disperse fears and misconceptions about the Special Court which may harm the operations and reach of the Commission.

The work of the TRC can make an important contribution towards fighting impunity for crimes committed against children. By giving high priority to children's rights, the TRC can support the Special Court in addressing violations of children's rights in its prosecutorial strategy. Its report will help to establish accountability and provide the historical context for specific violations under investigation by the Court.

Regarding the question of prosecution of any person who was between 15 and 18 years at the time of the alleged crime, the members of the Security Council expressed the view that they "continue to believe that it is extremely unlikely that juvenile offenders will in fact come before the Special Court and that other institutions, such as the TRC, are better suited to address cases involving juveniles".¹² The expert group emphasised that no children should be prosecuted in the Special Court.

¹¹ cf. Report of the Secretary-General on the establishment of a Special Court for Sierra Leone, UN doc. S/2000/915, of 4 October 2000, and subsequent exchanges of letters between the President of the Security Council and the Secretary-General.

¹² Letter dated 31 January 2001 from the President of the Security Council addressed to the Secretary-General, UN doc. S/2001/95, of 31 January 2001.

Chapter 2 Guiding Principles for the TRC's Work on Children

2.1 Special attention to children

In light of the particular impact of the conflict on children, it is recommended that the TRC gives special attention to the experiences of children during the conflict. Children's experiences should form an integral part throughout the TRC process from the preparatory phase and the undertaking of preliminary background research (S. 5 (3) TRC Act) to its final report and the establishment of a follow-up committee (S. 18 TRC Act).

2.2 International child rights standards informing the TRC

The Convention on the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and other international legal standards for the promotion and protection of the rights of children should guide the work of the TRC in relation to children. In accordance with these instruments, a child is defined as every human being below the age of 18 years.¹³ It is recommended that special procedures for children presented in this report apply to all persons below the age of 18 years at the time of their involvement in the TRC.¹⁴

In addition to the CRC¹⁵ and the ACRWC¹⁶, several international standards seem to be particularly relevant for the task of the TRC. These include:

- Optional Protocols to the CRC on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography;¹⁷
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;¹⁸
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;¹⁹
- Convention on the Elimination of All Forms of Discrimination against Women;²⁰
- The Statute of the International Criminal Court and its Rules of procedure and Evidence;²¹
- International Humanitarian Law (Geneva Conventions I-IV and Additional Protocols I, II);²²

¹³ Much of the country operates under customary law. Customary law does not provide a definitive age of majority because in most parts of the country, births are not registered and ages are not known. There is no established age nor regulations dependent upon physical or mental maturity for determining whether or not a young person is a child. Adulthood may be conceived of in terms of roles, for example, girls who are initiated, yet have not necessarily reached physical maturity may be understood to be adults in that by custom, they may marry (although they must have started menstruation before they may be presented to their husband). Furthermore, if a child can climb a palm tree and provide food for their family, they may be considered to be adults. On the other hand, those above the age of 18 years yet attending school may be termed children. Consideration within customary law is given to, for example, the child's physical development, ability and maturity to analyze the situation around him/herself, and the child's dependency on family/community members for their own survival, in determining whether or not a person is a child or adult.

¹⁴ Juvenile justice standards are applicable to persons who were below 18 years at the time of the alleged commission of a crime. Since the TRC is a non-judicial body which does not decide on individual guilt and punishment and the special procedures are intended to protect children appearing before the TRC, it is recommended that these guarantees apply to children at the time of involvement in the TRC. In particular circumstances, e.g. in cases of victims of sexual abuse, the TRC might wish to decide to apply these provisions also for young adults in relation to events/acts which occurred while they were below 18.

¹⁵ Signed by Sierra Leone on 13 February 1990, ratified on 18 June 1990 and entered into force on 2 September 1990.

¹⁶ Signed by Sierra Leone in 1992 but not yet ratified.

¹⁷ Sierra Leone signed both Optional Protocols on 8 September 2000 and is in the process of ratifying them.

¹⁸ Signed on 18 March 1985 and ratified on 25 April 2001.

¹⁹ Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour: ILO Convention 182. Not ratified by Sierra Leone.

²⁰ Signed by Sierra Leone on 21 September 1988 and ratified on 11 November 1988.

²¹ Signed by Sierra Leone on 15 October 1998 and ratified on 15 September 2000.

- Declaration on the Protection of All Persons from Enforced Disappearances;²³
- Principles of the UN Declaration of the Basic Principles of Justice for Victims of Crimes and Abuse of Power;²⁴
- Guiding Principles on Internal Displacement.²⁵

The CRC and the ACRWC recognise the child as a subject of civil, political, economic, social and cultural rights. The observance of the four fundamental principles of the CRC and the ACRWC shall ensure that children are adequately protected and addressed in the work of the TRC, namely:

- **in all actions concerning children, the best interest of the child shall be a primary consideration;**
- **children have the right to participate at all levels of society and are to be provided with the opportunity to express themselves;**
- **children have the right to expect their civil, political, economic, social and cultural rights to be adequately protected to ensure their survival and development ; and**
- **children should never be subjected to discrimination of any kind.**

2.3 Equal treatment of all children before the TRC

It is recommended that the TRC adopts special procedures for the involvement of children whereby all children are treated in an equal manner. While it is recognised that, depending on the child's experiences, varying forms of psychological support might be required, there is no need for the TRC to establish different categories and different treatment for children as victims, witnesses or perpetrators. Any such differentiation would also counter the objective of re-integration and reconciliation.²⁶ For the purposes of the TRC, all children participating in its work, irrespective of their particular experience, are witnesses providing information for the TRC. There is broad agreement that “child perpetrators” are to be understood and treated primarily as victims. Many of those who have committed crimes during the armed conflict have themselves been victims, e.g. through having been forcibly recruited or abducted and would also want to speak about the violations they have suffered. There has been a general institutional and community failure over the 10 years of conflict to protect children's rights in the broadest sense. The recommendations in this report are thus submitted for children in general, without differentiation as to child witnesses, victims and perpetrators.

The recommendations in this report are submitted for children in general, without differentiation as to child witnesses, victims and perpetrators

²² Geneva Conventions I-IV ratified/acceded on 10 June 1965. Additional Protocols I and II ratified/acceded on 21 October 1986.

²³ Adopted by the UN General Assembly GA-res. 47/133 on 18 December 1992.

²⁴ Adopted by the UN General Assembly GA-res. 40/34, annex (UN. Doc. A/40/53 (1985)).

²⁵ Report of the Representative of the Secretary-General for Internally Displaced Persons, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

²⁶ In order to promote reintegration and to avoid stigmatization and marginalisation, the child protection agencies provide special assistance, including the placement in interim care centers, to all separated children, whether they are former combatants or separated from their families for other reasons such as displacement.

2.4 Special attention for girls

Whilst children of both sexes have been subjected to violations, many violations have been carried out specifically against the girl child, such as rape and forced marriages.²⁷ It is therefore recommended that the TRC gives special attention to the experiences of girls and specifically addresses gender-based violence against girls during the conflict. This includes the keeping of disaggregated data on gender based violence when recording violations, in addition to disaggregated data according to the child's age, appointing staff with expertise on sexual violence, and working with local agencies to ensure victims of sexual violence are not rejected by their communities.

2.5 Voluntary participation

The participation of children in the TRC should be voluntary, irrespective of whether the child might be considered a victim or a perpetrator. To this end, although the TRC has subpoena powers to compel witnesses to appear before it (S.8 (1) (d) TRC Act), it is recommended that this power should not be used in relation to children.²⁸

Since children have been so deeply affected by the conflict, it is important that they contribute to the documentation of the conflict. Customary law in Sierra Leone does not always promote freedom of expression amongst children; it is not broadly accepted amongst the various ethnic groups in Sierra Leone that children express themselves, in particular in the presence of adults.²⁹ It is therefore of importance that children are encouraged to participate in the work of the TRC and are provided with the opportunity and proper support to speak of their experiences, if they so require/wish. Family and community members may be reluctant to allow their children to participate in the TRC process, for fear of shame and humiliation. Widespread sensitisation on child participation is therefore a necessity.

2.6 Protection through confidentiality

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“shall take into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may wish to recount their stories in public” (S. 7(4) TRC Act)”.

There is a real concern that if children (victims, witnesses or perpetrators) were to give testimony before the TRC openly and in public, they would be vulnerable to societal disapproval, discrimination, stigmatisation or attack. Child ex-combatants might be exposed to reprisals from communities in which they committed atrocities, as well as being subjected to revenge attacks from their commanders and fellow combatants. There might also be strong pressure on children to participate in such a process and to speak out publicly about her/his experiences. There also seems to be a general understanding that a comprehensive witness protection programme for the TRC, with particular emphasis on children, will not be feasible – due to, i.a., the difficulty of relocating child witnesses and their families in host

²⁷ Boys have also been subjected to sexual violence, although the extent remains unknown. See also Annex 1, What happened to children during the conflict.

²⁸ This is also in line with the general recommendation of the UNAMSIL workshop on the TRC whereby it is expected that the TRC will only rarely make use of its subpoena powers.

²⁹ For details see Working Document on culturally relative approaches to the TRC for children in Sierra Leone, and background paper on socio-cultural baseline information on the TRC as it should apply to children in Sierra Leone, by Emmanuel Gaima and Taziff Koroma, annex 6.3. and 6.4. of this report.

communities whilst ensuring the confidentiality of their location, the need for social and psychological assistance, and the financial implications.

Thus, it is envisaged that the most effective way to provide protection for children participating in the work of the TRC would be through granting confidentiality, as outlined in S. 7 (3) TRC Act³⁰:

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At the discretion of the Commission, any person shall be permitted to provide information to the Commission on a confidential basis and the Commission shall not be compelled to disclose any information given to it in confidence.

It is recommended that any statement or information provided to the TRC by a child should be confidential and should not be shared with, or released to, any person, body or institution outside the TRC, including the Special Court. The participation of children, including child perpetrators, in the work of the TRC shall thus guarantee the privacy of the child in all its aspects. Steps must be taken to ensure that the identity of any child participating in the TRC is protected. The principle of confidentiality for children in judicial and quasi-judicial proceedings is supported by numerous international instruments, including the Statute of the International Criminal Court and shall be applied, *mutatis mutandis* to the TRC.³¹

It is recommended that the main form of participation for children is the taking of confidential statements. The participation of children in formal sessions of the TRC shall be restricted to sessions of the TRC held ‘*in camera*’ (in private with only specified individuals present). Children shall not actively participate in public sessions of the TRC, rather, the TRC should consider organising special public sessions on children in different parts of the country with the specific purpose of sensitising the general public to the plight of children. Chapter 5 contains detailed special procedures for children participating in the work of the TRC.

The TRC should consider organising special public sessions on children in different parts of the country with the specific purpose of sensitising the general public to the plight of children.

If the TRC decides to involve children in their public sessions or to share information and statements received from them with other institutions, such as the Special Court, the relevant guarantees under existing international juvenile justice standards would have to be provided, as well as a comprehensive witnesses and victims protection programme. This would also include the question of assistance, i.a., from the Sierra Leone Police and UNAMSIL³².

³⁰ This is in line with the general conclusion on this issue at the UNAMSIL workshop on the TRC.

³¹ For example, Principle 6 (d) of the UN Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power states that the judicial system should “take measures to minimise inconvenience to victims, protect their privacy, when necessary, and ensure their safety as well as that of their families and witnesses on their behalf, from intimidation and retaliation.” Art. 8 of UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules): “The juvenile’s right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling. In principle, no information that may lead to identification of a juvenile offender shall be published.” See also Articles 68-69 of the ICC Statute (Protection of the victims and witnesses and their participation in the proceedings (art. 68); and the Rules of Procedure and Evidence (art. 69) (Annex 10.2.). In addition, the Statute of the Special Court for Sierra Leone foresees protective measures in order to ensure the privacy of juveniles (see art. 7 and 16 of the Statute).

³² For details, see ‘Legal Protection of Children in Investigations and Hearings’, Carolyn Hamilton, Annex 6.5.

2.7 Preserving the anonymity of children

The principle of confidentiality is supported by the provision of the TRC Act that interviews may be held in private (S. 8 (1) (c) TRC Act). In light of the special protection needs of children and the need for confidentiality, it is therefore recommended that all children participating in the TRC proceedings should remain anonymous. That is, the TRC should not name or disclose names of children, or present any information which might identify the child, whether victims, witnesses or perpetrators in either the proceedings or its report, which will include children's testimonies and experiences. Procedures of de-identification should be considered to meet this objective. Furthermore, any use of information provided by children shall strictly preserve the anonymity of the child.

“All children participation in the TRC proceedings should remain anonymous”

It is recommended that children's information and statements and any other kind of recording should be kept for 50 years before being released.³³

Were the TRC to decide to name children, in particular the names of alleged perpetrators, in addition to any general guarantees the TRC might adopt in case of "naming names", the relevant guarantees under existing international juvenile justice standards and norms would have to be provided, in particular:

- the right of the accused to be represented by legal counsel;
- the right of the accused to be present at a hearing; or
- the right to defend any allegations.³⁴

³³ The Public Archives Act 44 (1965) states that documents must be kept for 25 years.

³⁴ For further details, see 'Legal Protection of children in investigations and hearings', Carolyn Hamilton, annex 6.5.

Chapter 3 Building upon Ongoing Processes of Reintegration and Reconciliation for Children

In relation to reconciliation, it is recommended that the TRC seeks to build upon and strengthen existing structures and processes of reintegration and reconciliation at the community level, in particular the role of traditional and religious leaders and traditional ceremonies; and that the TRC should seek close collaboration with child protection agencies, and other re-integration and resettlement supporting commissions and agencies, that have already developed a sophisticated system of reintegration and reconciliation for children.³⁵ Child protection agencies and traditional and religious leaders will have an important role to play as entry points for the TRC into communities. In relation to traditional methods of reconciliation, steps will be required to ensure that they are in accordance with international child rights standards.

3.1 Co-operation with Child Protection Agencies

The process of reintegration and reconciliation of separated children, in particular children who have been with the fighting forces, is an ongoing process at the community level. So far, child protection agencies have reunited more than 2000 separated children with their families, communities, or identified foster families for their short term/long term placement.³⁶

The main objective of the reintegration programme established by child protection agencies is the sustainable reintegration of separated children, including children from the fighting forces, with their families and communities. The child protection agencies have established a number of emergency interim care centres, which provide the first step for these children towards their reintegration. Whilst being provided with basic services including medical assistance, psychosocial programmes, counselling, education and skills training orientation, the family of the child is traced by a network of tracing agencies. Family mediation and community mediation/sensitisation are carried out to ensure the successful reunification of the child with his/her family. Successful reunification and reintegration is based on the communities' capacity to care for and protect children returning from the fighting forces, from other countries (refugees) and from the numerous IDP camps. At the Government level, the Ministry of Social Welfare, Gender and Children's Affairs, the Ministry of Education, the National Commission for Disarmament, Demobilisation and Reintegration (NCDDR) and the National Commission for Reconstruction, Rehabilitation and Reintegration (NCRRR) are all partners in the overall achievement of these objectives. Traditional re-socialisation processes are supported by the child protection agencies in order to overcome the rejection of children associated with the fighting forces who have committed atrocities in their communities. Religious leaders, secret societies and traditional leaders are targeted allies for the effective reintegration of the children into their families and communities.

In cases where families cannot be traced the child is being placed in one of the many community based networks of foster families or group homes. Upon reunification or alternative care placement the child and the family are monitored and supported by social workers from NGOs or from the Ministry of Social Welfare. Reintegration assistance in the

³⁵ This is in line with the outcome of the UNAMSIL workshop which recommended that since reconciliation is an ongoing process taking place at the community level, and will extend beyond the lifetime of the TRC, the TRC should build upon existing structures of reconciliation.

³⁶ For details of the objectives and experiences of reintegration and reconciliation of children, see 'Giving back childhood: a golden thread of hope, Rehabilitation, reintegration and reconciliation of war-affected children', Ibrahim Sesay, annex 6.2.

form of educational opportunities (which also extend to the school of placement) or skills opportunities are provided for the child.

It is therefore recommended that the TRC builds upon and promotes these existing structures established by child protection agencies and other re-integration and resettlement support agencies concerning the reunification, reintegration and reconciliation of children, including ex-child combatants.

3.2 The role of traditional and religious leaders; traditional ceremonies

According to the TRC Act, the TRC is to:

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"seek assistance from traditional and religious leaders to facilitate public sessions and in resolving local conflicts arising from past violations or abuses or in support of healing and reconciliation" (S. 7 (2) TRC Act)

Traditional and religious leaders will be expected to play an important role with regard to public sessions, but also in relation to other aspects of the work of the TRC, such as awareness raising about the TRC. The participation of children in the work of the TRC may require the support of the respective traditional leaders.

It is recommended that traditional practices and ceremonies for healing and reconciliation of the different ethnic groups throughout the country³⁷ do not become formally part of the proceedings of the TRC, although the TRC might encourage them. Such traditional ceremonies - often performed by secret societies (thus inaccessible to outsiders) might support the work of the TRC.³⁸ They could be linked to, for example, a public session of the TRC which might be followed by the performance of a traditional ceremony such as cleansing. If the TRC decides to hold 'community based' public hearings, it is recommended that children should not actively participate in such hearings. The confidential statement taking of children by the TRC could be combined with such ceremonies. In relation to children, the best interest of the child must always be borne in mind. It is recommended that steps should be taken by child protection agencies, and with the support of the TRC, to ensure that traditional forms of reconciliation are in accordance with international child rights standards. Therefore, any kind of reconciliation ceremony should:

- not be abusive;
- not discriminate on the basis of gender; and
- should not include public shaming, public confession or other activities injurious to the child or in violation of children's rights.³⁹

³⁷ cf. working paper on culturally relative approaches to the TRC for children in Sierra Leone, and background paper on Socio-cultural baseline information on the TRC as it should apply to children in Sierra Leone, by Emmanuel Gaima and Taziff Koroma, in annex 6.3. and 6.4. of this report.

³⁸ Similar views on the overall relationship between the TRC and traditional practices and leaders were expressed at the UNAMSIL workshop on the TRC. One possible option could for example be the involvement of traditional and religious leaders in the TRC process through a 'Committee on Community Engagement' although traditional practices shall not be formally integrated into the TRC.

³⁹ This is also stipulated by the African Charter for the Rights and Welfare of the Child whereby 'any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged' (Article 1(3)).

Some concern also exists with regard to children apologising in public before the community. If such acts are required, safeguards should be in place and the act of apology should be guided with the support of child protection agencies who in turn act in consultation with traditional leaders in relation to the terms of the act of apology.⁴⁰

The following procedure concerning children could thus be envisaged: with the support of respective traditional leaders, TRC mobile teams come to a village to take confidential statements from children, assisted by child protection agencies, in particular social workers. This participation of children in the TRC process could then be acknowledged by the community through subsequent traditional ceremonies undertaken by traditional leaders and secret societies as a basis for reconciliation, and supported/facilitated by child protection agencies.



⁴⁰ For instance, a public apology of a child shall not include a public confession. There is also a strong sense among Sierra Leoneans that communities should apologize to their children for having failed to protect them during the conflict.

Chapter 4

How to Obtain and Analyse Information on the Situation of Children

4.1 Preparatory work

It is recommended that the TRC undertakes preliminary background research (S. 5 (3) TRC Act) on the experiences of children during the armed conflict drawing upon available information and expertise among child protection agencies and human rights organisations/groups. This could include undertaking a survey on the information available among child protection agencies, national and international NGOs, the United Nations and the media on child rights violations during the period under review, as well as the development of methodological proposals on the collection, coding and challenges of quantitative and qualitative analysis of testimonies and secondary sources concerning children.

4.2 Sources of information

Primary sources of information on child rights violations include information from child victims, witnesses and perpetrators. Secondary sources include studies and reports from, for example, child protection agencies, NGOs, the UN, the media and academics.

It is recommended that information collected from primary sources (adults and children) and from secondary sources should undergo analysis according to the age of the child at the time of the atrocity since it is likely that the pattern of child rights violations will most probably differ according to the different age groups of children. The TRC in its analysis of data could, for example, differentiate between children under 6, children from 7 to 12 and adolescents under 18. Furthermore, data should be categorised according to gender. This will provide a comprehensive study of child rights violations during the conflict.

4.2.1 Primary sources

In all previous Truth Commissions adults were the most important source of information about child rights violations. Young adults recounted their stories about the pain and experiences they suffered as children; parents spoke of how their children were subjected to violations. Nonetheless, many adult witnesses as well as statement takers may have overlooked children while giving or receiving testimonies.

It is therefore recommended that adult witnesses should be sensitised and systematically questioned about child rights violations and experiences of children during the conflict when giving statements or appearing before the TRC.

In order to ensure an optimal information basis for the analysis of child rights violations it is recommended that the general statement forms for adults and the categories of the data base (thesaurus) of the Commission should explicitly include references to children's rights; the Commission should gather and code all data by age and sex, allowing for a comprehensive overview of the experiences of children in Sierra Leone.

Children are the principal primary source of information. Access to interviewing children should be facilitated by child protection agencies who are best positioned to identify children willing to present information. It is important that children's narrative experiences are heard, recorded and documented from the perspective of the child. It is therefore recommended that qualitative data is gathered from children in their own voices, drawing upon 'their stories'

and autobiographical history, and ensuring that emphasis and importance is given to issues raised by the children themselves.

Detailed recommendations for receiving statements and information from children are contained in the following chapter.

4.2.2 Secondary sources

In addition to primary sources, information collected by national and international governmental and non-governmental organisations and the media can provide rich information for the work of the TRC, in particular during its preparatory phase.

The “Gross Child Rights Violations Network” has collected thousands of written “gross child rights violations forms” from children or their legal guardians documenting some of the worst acts of violence against children during the armed conflict.⁴¹ Child protection agencies possess extensive data and information, in particular, by children passing through their programmes. It is recommended that the TRC should establish modalities with the child protection agencies on the question of access to their information on children as well as with the ‘Gross Child Rights Violations Network’ which, i.a., address the question of consent of the child and/or the legal guardians concerned.

The child protection network should seek to support the work of the TRC by sharing relevant information under conditions to be determined. However, if the direct sharing of existing documentation of child protection agencies is not felt to be appropriate or feasible (e.g. because of lack of consent of the children concerned), child protection agencies could provide the TRC with an assessment and evaluation of the available information which might facilitate the work of the TRC.

In order to provide outside partners with appropriate guarantees, the TRC will be required to adopt guidelines on the use of information from secondary sources that rely on confidential information, a minimum requirement being that in the handling of such information, the Commission and the child protection agencies, NGOs, the UN and other sources respect the principle of confidentiality.

In addition, reports generated by UN human rights mechanisms and UNAMSIL/human rights are important sources providing detailed information about child rights violations in Sierra Leone. International NGOs, such as Amnesty International and Human Rights Watch have produced comprehensive reports on the impact of the armed conflict on children and the violations of their rights by the different parties to the conflict. UN agencies such as UNICEF, UNHCR and WFP report regularly on the situation of children, including internally displaced and refugee children. Information from newspaper articles, reports and books might also be consulted.

The TRC could consider designing a survey to be carried out amongst children and adolescents on the basis of the findings of individual statements. The report of the Truth Commission in Uruguay (Servicio Paz y Justicia (SERPAJ)) opted for this methodological approach in order to support the individual declarations of prisoners with representative

⁴¹ The “Gross Child Rights Violation Network” was established by UNICEF, the Council for Churches in Sierra Leone (CCSL) being the agency’s implementing partner. The network is based on the membership of child protection NGOs, human rights/humanitarian NGOs and community based organisations which report on child rights violations to the network, based at CCSL in Freetown.

data.⁴² UNICEF and other child protection agencies have good experience of survey taking amongst adolescents including sensitive issues such as violence, human rights, democracy and peace.

Large scale child rights violations indicate a complete failure and defeat within society in relation to the rule of law and democracy. Therefore it is urgent that an analysis of legal, political and institutional practices in Sierra Leone in relation to children as well as the economic interests that created the structural framework for such child rights violations during the conflict be carried out. Such an undertaking will most probably largely depend on secondary sources.

⁴² The survey was an opinion poll carried out amongst the victims of the military regimes in Uruguay, providing quantitative data for the qualitative testimonies and 'denuncias' received by SERPAJ, "Servicio Paz y Justicia-Urugay". The Report by SERPAJ, 'Uruguay Nunca Mas' (September 1989), documents the atrocities that were committed during the military dictatorship in Uruguay from 1973 to 1985.

Chapter 5 Special Procedures for the Participation of Children in the TRC

The participation of children in the TRC process should meet the special needs and interests of children. This includes the protection of their physical, spiritual and psychological well being, as well as ensuring their needs for survival and development. The procedures for children participating in the TRC should be designed to ensure such protection.

5.1 Forms of participation for children

According to the TRC Act, the forms of involving individuals directly in the work of the TRC shall consist of the taking of individual statements and the holding of sessions of the TRC ‘some of which may be public, to hear from the victims and perpetrators of any abuses or violations or from other interested parties’ (S.7(1)(b)(c)). In general, the TRC can receive information from any person and can interview any individual or group (S. 8 (1) (c) TRC Act).

It is recommended that the primary form of participation of children in the TRC shall be through the provision of confidential statements, ensuring that the identity of the child remains protected. The taking of such statements from children should be conducted by statement takers who have received special training in the interviewing of children. It is recommended that all children are accompanied by a social worker familiar with the child. The analysis of these statements could form the basis for well-prepared (public) formal sessions of the TRC, including the identification of ‘window cases’ which might form the centre-piece of public sessions.

It is recommended that the participation of children in formal hearings of the TRC is limited and restricted to sessions held *in camera*. It is strongly recommended that no child be directly involved in public hearings of the TRC. The TRC could consider organising special public hearings on children in order to raise awareness and visibility of their experiences. Information provided by children in such sessions should be presented in such a way that ensures the anonymity of the child.

It is recommended that the participation of children in formal hearings of the TRC is limited and restricted to sessions held *in camera*

5.2 Age of Children

It is recommended that there be no fixed minimum age at which children should be permitted to give statements to the TRC. Instead, in accordance with Article 12 CRC, the giving of testimony should depend upon the child’s maturity.⁴³ In assessing this, the statement taker, together with the social worker, should consider the child’s:

- willingness to provide a statement;
- cognitive and psychological capability;
- understanding of the purpose of giving the statement; and
- ability to deal with the possible emotional outcome.

⁴³ Furthermore, any strict rules regarding age would be confronted with the problem of the lack of birth registration in Sierra Leone. Malnutrition and other effects of the long-standing conflict have further complicated the task of determining the age of children and young adults, a problem regularly faced in the DDR program for ex-child combatants.

The statement takers, with the support of the social workers, must be aware of the differences and specificities of the main stages of child development as culturally perceived in Sierra Leone in order to facilitate the participation of every child. International discussions relating to child participation differentiate between three main age groups: 6 years and below, 7-12 years and 13-18 years. A consensus exists in scientific literature that, from the age of 12 years, children begin to understand and express feelings and opinions on complex issues such as social and political relations. However, current concepts of child development are mainly based on western child psychological research. With the help of child protection agencies and social workers, the Sierra Leonean perception of child maturity and the national patterns of child capacities and responsibilities in relation to the various developmental stages could be assessed, informing the work of the TRC.

5.3 Child-friendly environment and psycho-social support

Child victims may have difficulties relating their experiences, especially in relation to the failure of secure attachment figures (parents and families) and institutions (e.g. communities and schools) to provide protection. Similar difficulties may be faced by child perpetrators denouncing actions of commanders who, during the time the child was with the fighting forces, fulfilled a 'parental' role inducing psychological attachment and dependency. It is therefore important that the taking of information from children is properly and safely conducted in order to prevent a possible intense negative emotional response or re-activation of traumatic stress.

It is recommended that experienced personnel, in whom children already have confidence, in particular staff from the psycho-social network and child protection agencies, be used as a child-friendly medium between children, the TRC and its staff. Since 1996 many child protection agencies and child rights advocates have carried out extensive programmes of sensitisation, peace education, reintegration, family and community mediation, rehabilitation and psychosocial counselling for child victims in many areas of the country. The staff engaged in those projects, in particular social workers with child protection agencies,⁴⁴ have already built relationships of trust and confidence with children, their families and communities. They could assist the TRC in identifying and guiding children through their participation in the TRC, provide the TRC with concrete suggestions about the best ways for involving children from the various communities, and advise on the more culturally appropriate tools and modalities for arranging the taking of statements and information sessions with children in the different areas of the country.

Such an arrangement, in which the TRC uses and supports existing structures of psycho-social support, would require a strengthening of the capacities of the child protection network and child protection committees. This would, however, greatly contribute to long-term capacity building in this important area, including referral systems for children to ensure follow-up to the work of the TRC. Any funding appeal for the TRC should therefore address the additional needs of psycho-social staff. Such a long-term approach is preferred over the alternative, namely to include a significant number of social workers for children in the staffing of the TRC.

⁴⁴ Approximately one third of psycho-social workers currently working on child protection programmes are seconded from the Ministry of Social Welfare and are expected to return to the Ministry when their contracts end or the child protection agencies terminate their programmes.

It is recommended that psycho-social staff should assist the TRC in its work with children during every phase of the process: sensitisation, research, statement taking and follow-up. It is also recommended that the psycho-social staff remain independent from the TRC, although they should work in close co-operation with the TRC staff – this should ensure that the child’s rights and dignity are fully respected during the process of statement taking (see following section). Furthermore, psycho-social staff should follow the same rules of confidentiality specified for the TRC staff.

Psycho-social staff facilitating and supporting the TRC process for children should contribute to achieving the following tasks:

- the sensitisation of communities, teachers and families before the beginning of the interview;
- educating communities and families of victims of sexual violence to ensure that victims are not rejected by their communities or blamed for their victimisation;
- supporting children or child groups during the whole period of TRC activities, especially during the statement and information taking;
- facilitating and co-ordinating group discussions and group activities for children of different ages to explain the TRC process;
- preserving the child’s psychological well being during and after the process;
- recognising and assessing levels of distress in children during statement taking and using appropriate psychological techniques to ease distress;
- leading emotional debriefings and relief sessions after the interview, using expressive-supportive practises and cultural traditional methods;
- the provision of individual psychological support to children in instances of discomfort, distress and re-traumatisation;
- supporting the family and the community during a child’s involvement in the TRC process and providing mediation when required;
- following up on the impact of statement taking on children, their families and their communities over a long-term period; and
- protecting and enforcing full respect of the rights of any child involved in the TRC process.

5.4 Taking statements from children

a. Preparation of children before statement taking

Before participating in the TRC process, children should be informed of:

- the purpose of the TRC;
- their role in the TRC;
- the confidentiality of their involvement;
- what their involvement will achieve;
- the roles of the statement taker and psycho-social facilitator; and
- the time frame.

This should facilitate the child’s comprehension of the objectives of the TRC, and ensure that their expectations of the TRC remain realistic.

b. Guidelines for statement taking

It is recommended that the taking of statements from children be conducted by (a) statement taker(s) of the TRC who has received training in interviewing children in the presence of a social worker familiar with the child. The child should be allowed to be accompanied by a parent, relative, or friend or legal counsel.

It is recommended that the TRC considers the following elements for guidelines for the taking of statements from children:

Environment

- The interview should take place in a child-friendly and familiar environment such as: schools, Interim Care Centres (ICCs),⁴⁵ child recreational centres, and religious centres.
- A formal setting should be avoided. The lay out of the interview room should be child-friendly: according to the age of the child; informal seating or the use of a round table would be appropriate.
- Interruptions or distractions should be anticipated and prevented, space should be dedicated solely to the interview. It should not be possible for third parties to observe, overhear or participate in the interview.
- Before starting the interview children should be allowed to familiarise themselves with their surroundings and a friendly relationship within the group should be established, particularly between statement taker and child or children.
- Girls shall be interviewed only by female staff who have received appropriate training. If a boy has been subjected to sexual violence, he should be given the choice as to whether he is interviewed by a male or female statement taker.

Individual and group interviews

The interview should, as a general rule, involve only one child. However, in certain circumstances, such as children having served under the same commander, or children from the same community having been subjected to identical experiences, and if children so desire, children in small groups (no more than 3-4) may be interviewed. This may be particularly appropriate in the case of younger children and in case of using non-verbal forms of expression and narration (e.g. drawing, drama).

Language, methods of expression and alternative forms of information:

In order to allow children to express themselves in their first language and to ensure the child's comprehension, statement takers and psycho-social staff should preferably speak or be able to understand the language of the child. At a minimum, this criteria should be fulfilled by at least one of them, who would also provide translation.

The statement taker and social worker should have tools of self expression at their disposal to assist in the interview. This is of particular importance in relation to young children. These may include drawing and figurative materials. Role-play or sessions involving the playing with toys may, if appropriate, be set up to enable children to express their memories more freely and easily. Although such information will not provide precise data, it can help the statement takers and the Commission outline a common pattern of facts, behaviours,

⁴⁵ Separated children are sent onto ICCs where rehabilitative activities take place and educational and vocational training is carried out. Family tracing activities take place and foster families may be identified. Ex-child combatants are handed over to the ICCs immediately after disarmament and demobilization.

reactions and effects related to the most common events which children were subjected to during the conflict. Training would be required in order to ensure that these techniques are used and analysed in an appropriate manner.

The statement taker and social worker should also be aware of local terms and mannerisms used to express different experiences and thereby decipher the testimony they receive.

Recording

It is important that children's testimonies are 'recorded' either through note taking or audio taping during the interview although each method has its disadvantages. It should therefore be left to the statement takers and social workers to determine, in consultation with the child, how the child wishes their story to be recorded.

Both methods could create a formal atmosphere which could make the child feel uncomfortable and influence his/her freedom of self expression. In addition, note taking will prevent the statement taker from establishing eye contact with the child which can help to create a reassuring and empathetic atmosphere, as well as preventing the observation of the child's non-verbal behaviour (essential to understand the child's feelings, emotions and level of distress). Audio taping can however be even more intimidating as it will document the child's testimony word for word and will also record the child's voice, thereby increasing the child's sense of vulnerability if the tape was to be played for example in a public session (although it is recommended that in such a case the voice be altered).

If interviews are audio taped, these audio tapes must be stored following the principles of confidentiality and security as recommended in this report.

However, if no form of recording / note-taking is carried out, this will impact negatively on the quality and accuracy of the information. The statement taker would then be obliged to summarise or paraphrase the child's discourse once the interview is terminated, resulting in the loss of important details or the use of original words. The most suitable and least harmful form of recording has to be identified in collaboration with the social worker. In deciding upon this, differentiation might be made based on the age and maturity of the child.

Statement taking and questions

- The statement taker and the psychosocial facilitator should avoid interrupting the child while speaking. Nor should they push unwilling children to speak. It is acceptable to ask children questions to clarify events but children should not be subjected to cross-examination.
- The statement taker should ask open-ended questions. Leading questions should not be asked. The use of negatively-constructed questions, especially double negatives should be avoided as should questions designed to promote or incite guilt, shame or reprimand. Repeated questions relating to the identity of perpetrators and dates of specific incidents should be avoided. Interviewers should refrain from putting pressure on children when they are unwilling or unable to provide information.
- The child should be allowed to speak of the experiences which s/he feels to be important. Therefore, if, for example, a child ex-combatant wishes to talk about his/her abduction, but not provide information relating to activities carried out as a combatant, this should be permitted. No child should be questioned about issues which they do not wish to talk about.
- The statement taker should be aware of the internal consistency of the information and take steps to clarify information where there appears to be inconsistency, illogical assertion or unexplained facts. However, it should be recognised that statements and information should not be tested to the extent required for legal documents. In addition, it should be recognised that children may be more susceptible to suggestion. Repeated questioning may be perceived by children as an indication that they are giving the wrong answer and that they should change their answer. Thus, repetition of the same question should be avoided.
- Given the different structure of perception, cognitive performance and narrative organisation between children and adults and between different stages of childhood, the ‘truth’ of the reported story must be considered from a specific approach of narrative content analysis. The statement taker must ensure that the story demonstrates enough internal coherence from a common sensical point of view (e.g. no contradiction with natural laws or general knowledge, if not culturally, religiously or otherwise explained).
- The interview should not last more than one hour including a 10 minute break for children aged 12 years and over. It may however be necessary to hold more than one interview when one hour proves to be inadequate. For those children below the age of 12 years, the interview should not extend beyond 45 minutes.

Special elements for interviews with children

It is recommended that the staff of the TRC adopts special elements to guide interviews with children in order to meet the special needs of children. The following elements are suggested as interview guidelines and should also facilitate the systematisation and recording of non-verbal information.⁴⁶

⁴⁶ These elements are based on the experience of the truth commission of the Catholic Church in Guatemala (the Recovery of Historical Memory-REMHI).

- **What is the main issue for the child? / What happened to the child?**
- **When did the events happen and where?**
- **Who was responsible for the events?**
- **What effect did the events have on the child, his or her family or the community?**
- **What did the family or community do in order to cope with the situation?**
- **Why did it happen?**
- **What would need to be done to ensure that the events never happen again?**

Termination of interview

If a child is distressed during the interview, the psycho-social facilitator should consider asking for a break. If this is not sufficient to address the distress, the interview should be suspended. If a child wishes to terminate the interview before completion, such a wish should be respected. An interview should be concluded with an emotional debriefing, led by the social worker, allowing the participants to express and confront their feelings before leaving.

Follow up support to statements taken by children

The psycho-social facilitator should be available to provide support to children following the interview. This should be facilitated by the permanent presence of psycho-social staff in communities and the well-developed system of registration, monitoring and tracing of children set up by the child protection agencies. It is important that children and their communities are regularly up-dated on the progress of the TRC.⁴⁷

It is important that children and their communities are regularly up-dated on the progress of the TRC

5.5 Formal hearings of the TRC *in camera*

The recommendations and guidelines for confidential statement taking and interviews can be applied *mutadis mutandis* to the participation of children in formal hearings of the TRC held *in camera*. Apart from the child, only TRC staff, the psychosocial expert and a person accompanying the child (if the child so desires) such as a guardian, parent, or legal counsel, should be present. The room and the atmosphere should be child-friendly, permitting the child to relax and feel comfortable before the start of the hearing. A positive and trusting relationship between TRC staff and the child should be established before the beginning of the hearing.

5.6 Special Sessions on Children

It is recommended that the TRC organises a number of special public sessions on children in order to give particular attention and visibility to the experiences of children during the conflict.⁴⁸ In such public sessions, representatives of child protection agencies and other organisations working with children could report on the situation of children, illustrate patterns of abuse and provide recommendations to address such issues.⁴⁹ Information

⁴⁷ cf. Guidelines for Action on Children in the Criminal Justice System, ECOSOC Resolution 1997/30, Guideline 51.a.

⁴⁸ The Special Sessions on Children of the TRC in South Africa can serve as a useful model. See: <http://www.truth.org.za>.

⁴⁹ Such representatives would be 'other interested parties' in the meaning of S.7(1(b)) TRC Act, or 'members of organizations or institutions' in the meaning of S.8(1(c)).

provided by children in such public sessions could be presented in such a way that the identity of the child is in no way disclosed. For example:

- statements provided by children could be read out – deleting any reference to names of persons, locations or events which might disclose the identity of the child concerned;
- audio-tapes could be played although the tone of the child's voice should be altered;
- children's drawings could be presented.

Children could themselves present a drama about their/other children's experiences - it is recommended that participation through drama is the only form of active participation for children in such hearings.

Such sessions could also include measures to restore the dignity of victims. Concerning apologies, children might be able to apologise to community leaders *in camera*, through the support of child protection agencies. The community leaders could then present this apology in the public session. At the same time, communities might apologise to the children.

Chapter 6 Internal Organisation of the TRC in Relation to Children⁵⁰

It is recommended that the structure and staffing of the TRC reflect the fact that a large number of victims of the armed conflict in Sierra Leone are women and children. Experience in and sensitivity to child rights and child protection should thus be taken into consideration in the selection of Commissioners. One or more Commissioners, e.g. one national and one international, should have special responsibility for matters relating to children in the work of the Commission ("Commissioner for Children"). The TRC - at headquarters, in regional offices and in all mobile teams - should have strong expertise on all aspects of the involvement of children in the TRC, such as legal, psychological and sociological/anthropological expertise. All staff of the TRC, including the Commissioners should be sensitised and receive specialised training on children's issues.

All staff of the TRC, including the Commissioners should be sensitised and receive specialised training on children's issues.

6.1 Structure and staffing

It is recommended that the establishment of a Director of Women and Children's Affairs at the level below the Executive Director of the TRC is being considered. This office would monitor and supervise all activities of the TRC relating to women and children and serve as a centre of expertise and excellence on women's and children's issues. It should therefore be serviced by appropriate expert staff. It would also oversee and support all activities relating to women and children throughout the entire TRC, including issues relating to witness protection (if required) and quality control of the TRC's work with children.

It is recommended that child rights/protection experts be placed in all substantive departments of the TRC, particularly those dealing with investigations, research and community engagement, and in all regional offices.

Strong child rights expertise is particularly important for mobile teams carrying out statement taking at the community level. The TRC could consider the establishment of special mobile teams of statement takers for children. Ideally such statement takers should have previous working experience with children, e.g. child protection experts among national NGOs.

According to S 10 TRC Act, the TRC can appoint committees to advise and support the work of the TRC. It is therefore recommended that the TRC considers the appointment of a Committee on Children and Women. Such a committee could consist of several commissioners including a "Commissioner for Children", representatives of child protection agencies, relevant ministries and experts on women's and children's rights.⁵¹ The Committee could advise the TRC on all matters relating to women and children and facilitate co-operation between the TRC and child protection agencies in the involvement of children in the TRC, in particular regarding statement taking.

In order to ensure the confidentiality, privacy and integrity/safety of children it is recommended that all staff members of the TRC and staff assisting the work of the TRC with children, in particular social workers, should be properly screened. Strict confidentiality rules should be established, including the possibility of an oath of confidentiality. An internal

⁵⁰ Discussion in the technical meeting on this issue was based on the outcome of the UNAMSIL workshop on the TRC.

⁵¹ This is in line with discussions at the UNAMSIL meeting which also proposed other committees.

monitoring body of the TRC should give particular attention to the full observance of the special procedures and safeguards for children. There should be a means by which children, their legal guardians or social workers can raise their concerns and views about the proceedings throughout the process. It is recommended that the Committee on Children and Women fulfill this role as well as collaborate with the body addressing complaints regarding the treatment of children by the TRC.

6.2 Training

In order to properly address child rights violations and provide appropriate protection and psychosocial support to children participating in the process, it is strongly recommended that all TRC staff members, including Commissioners, should be thoroughly trained on child rights and child protection issues, statement taking from children and the analysis of information from or about children. Such training should cover in particular the following issues:⁵²

- Child rights laws and concepts, as well as monitoring tools;
- Statement taking from children including sexually abused girls and boys ;
- Statement taking from adults about children;
- Interview techniques which will allow the child to present their autobiographical history according to what they feel to be of primary importance;
- Methodology on the treatment of victims;
- Methodologies of information analysis including research, quantitative and qualitative information analysis, psychometric, psychoanalytic, ethnographic and other qualitative methodologies.

It is recommended that the training package be developed in close collaboration with child protection agencies and could also include the involvement of expertise from outside Sierra Leone.⁵³

Since the statement takers will listen to a lengthy accounts of distressing and detailed events involving children, they should be psychologically assisted during the TRC process through emotional debriefing sessions and benefit from stress counselling. This could be performed by the psycho-social staff supporting the work of the TRC.

The training of the psycho-social staff should be undertaken during the three month preparatory period, taking into account the need to strengthen their capacity in order to enable them to support the work of the TRC. The training should be provided by child protection agencies and carried out by national and international experts.⁵⁴

Supervision and the co-ordination of psycho-social staff and their activities in the different districts and regions during the TRC process should be carried out by child protection agencies, and the Ministry of Social Welfare in collaboration with the Committee on Children and Women. Senior child protection staff could provide the supervision and also lead the training of trainers.

⁵² See 'General Training on Child Rights and Child Protection for Members and Staff of the TRC', in annex 4 of this report.

⁵³ According to S. 12 (2) TRC Act, the TRC can seek technical assistance from the international community in the fulfillment of its tasks.

⁵⁴ See 'Training Package for Psycho-Social Staff Supporting the TRC', in annex 5 of this report.

Chapter 7 **The TRC Report**

At the end of the TRC's operations, the TRC shall present a report which

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"shall summarise the findings of the Commission and shall make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise, needed to achieve the object of the Commission, namely the object of providing impartial historical record, preventing the repetition of the violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation." (S. 15 (2) TRC Act).¹

Out of these broad objectives, it follows that the TRC should provide a full record clarifying what happened to children during the armed conflict and highlight the violations of children's rights in Sierra Leone. The report's recommendations should support child victims of war, address the needs of war-affected children, help to prevent future generations from exposure to similar atrocities and encourage society to guarantee the protection and fulfilment of children's rights.

It will be of particular importance that the report takes into account children's opinions, experiences and testimonies – allowing children to express what they feel to be of particular importance, ensuring that their voices are reflected in the report, from their own perspective.

It is recommended that children should remain anonymous throughout the final report regardless of the source of information and that no child should be named or described in a way which might reveal their identity; nor should their home location or parental relationships be identified.

It is recommended that all relevant chapters of the report contain information and analysis about specific child rights violations and that a specific chapter (or volume) of the report focus exclusively on children. In the preparation of the report, it is recommended that the TRC takes into account the guidelines for reporting under the CRC developed by the UN Committee on the Rights of the Child. These guidelines are the most comprehensive international standard for reporting on compliance and violations of children's rights. While they are not designed for the specific needs and requirements of Truth Commissions they might serve as a source of inspiration to the Commissioners when deliberating about the structure of the Report.

7.1 Recommendations concerning children

Recommendations of the TRC report will be the result of a detailed analysis of child rights violations, their impact and root causes during the war.

Issues to be addressed:

- **an end to the recruitment and participation of children in armed forces and groups through the ratification, implementation, monitoring and enforcement of the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict and its inclusion in the upcoming Child Rights Bill;**
- **support to children victims/perpetrators of violence, such as family reunification, and measures to dignify victims; reintegration of IDP/refugee children and child soldiers, including psychosocial support, drug rehabilitation and support to disabled children;**
- **the needs of war-affected children. This shall include measures to meet the basic needs of children and their families, including improved access to and quality of education, health care, nutrition, water and sanitation and the elimination of child labour, as well as the provision of recreational space for children;**
- **rule of law and institutions to support the protection of children's rights. Issues may include law reform in the area of juvenile justice that is consistent with the requirements of the CRC and other relevant human rights instruments, or the reform of the criminal code to better ensure the prosecution of adult offenders; and training for law enforcement bodies such as the police and the army;**
- **support to child and youth organisations in order to facilitate the participation of children and youth in all aspects of public life affecting them, e.g. in areas of children, youth, women's policies;**
- **the role of education in building a culture of respect for human rights, especially in relation to the development of educational materials on peace, human rights and democracy for use in both formal and non-formal educational settings.**
- **issues affecting the girl child as well as into the role of traditional practices such as child marriage in relation to the rights of the child and consider addressing these issues in its recommendations.**

7.2 Question of reparations for children (including the Special Fund for War Victims)

The TRC has no power to decide on or to allocate reparations; it may only make recommendations. In particular, the TRC may provide "information or recommendations to or regarding the Special Fund for War Victims provided for in Article XXIV of the Lomé Peace Agreement" (S 7 (6) TRC Act). Since a large number of war-affected persons are women and children, the TRC might wish to recommend the speedy establishment of this fund, with a significant proportion of its resources devoted towards the welfare of women and children.

One of the first questions to be clarified by the TRC when considering making recommendations on the question of reparations for child victims of war is a distinction between financial and other forms of reparation. Instead of considering the granting of reparations to individuals, e.g. financial reparations for children, for example in the form of vouchers for cost free medical care or educational grants, it is recommended that the priority

should be placed upon resources being made available to communities for rebuilding social services such as educational establishments and health care centres.

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" The function of the TRC is, i.a., to investigate and report on whether violations and abuses "were the result of deliberate planning, policy or authorisation by any government, group or individual, and the role of both internal and external factors in the conflict" (S 6 (2) a TRC Act).

7.3 Accountability of those responsible for crimes committed against children

A key objective of the report will thus be to analyse the structures and policies that allowed the atrocities to take place including the question of responsibility of institutions and individuals. Such information could facilitate the work of the Special Court for Sierra Leone. The findings of the report should thus make a significant contribution to the fight against impunity for crimes committed against children, as requested in Security Council resolution 1314 (2000) and recommended by the UN Secretary-General.⁵⁵ The TRC will have to decide whether it will name names in its report. Concerning children, it is recommended that, in the best interests of the child, no child shall be named in the report.

7.4 Role of report in promoting reconciliation and children's rights

There should be a strong emphasis from the start on ensuring strategies and funding for the wide dissemination of the report and its recommendations.

All previous truth commissions were based on the fundamental conviction that the knowledge of the truth about human rights violations during internal conflicts is an essential precondition for democratic development, the strengthening of the rule of law, and the prevention of similar events in the future. Obviously, these are tasks that can only be achieved through the continuous efforts of several generations. Children are thus an important resource for conflict prevention and peace building.⁵⁶

A Truth Commission report can enable children and young people to understand and contextualise what has happened to them during the conflict. This will assist them in shaping an understanding and establishing the difference between right and wrong, contributing to the education of entire generations.

It is through this influence on social consciousness and generational identity building, that the report can strengthen peace and help break the cycle of intergenerational transmission of trauma, resentment and hatred. Reporting and discussing child rights violations in recent history also fosters intergenerational dialogue about events which took place during the war, why they occurred and what needs to be carried out to prevent similar events from occurring in the future.

Through age and culturally sensitive forms of dissemination, the report shall be made known to children and adolescents as well as to the adult population. Such measures could include:

⁵⁵ SC-res. 1314 (2000), para. 2. In his report to the Security Council on children affected by armed conflict, the Secretary-General recommends that genocide, war crimes and crimes against humanity and other egregious crimes perpetrated against children should be excluded from amnesty provisions contemplated during peace negotiations, UN doc. S/2000/712 of 19 July 2000, recommendation 39.

⁵⁶ Cf. Report of the Secretary-General on the prevention of armed conflict, UN doc. S/2001/574 of 7 June 2001, paras. 124-128.

- The production of simplified (popular) versions of the report for adults as well as for children;
- The wide circulation of the report among child protection agencies as well as all other civil society organisations;
- An examination of ways and means to ensure children’s participation in the promotion of the report;
- The dissemination of the report to schools and the empowerment of teachers in playing a lead role in the promotion of the report in schools, including through inclusion in school curricula;
- The involvement of the media (radio and TV, newspapers) in awareness raising campaigns promoting the report while ensuring that their coverage also promotes children’s rights;
- The design of an awareness campaign to reach children, including through the use of drama;
- The use of non-formal education to reach children out-of-school, including the involvement of community and religious leaders in the campaign.

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The Government of Sierra Leone shall "faithfully and timeously implement the recommendations of the report" directed at state bodies and encourage/facilitate the implementation of other recommendations (S. 17).

7.5 Follow-up to the TRC and its report

Appropriate follow-up to the report of the TRC will be critical to ensure the implementation of the recommendations contained therein, including those relating to children, and in order to facilitate the reconciliation process involving children, their families and communities.

It will thus be important that the “follow-up Committee” tasked by the TRC Act to monitor the implementation of the report’s recommendations contains a strong child rights focus (S. 18 TRC Act). This can best be ensured by including representatives of child protection agencies and experts on children on the Committee. In addition, the Commissions formed under the Lomé Peace Agreement should incorporate the TRC recommendations in their work, including those relating to children. Furthermore, mechanisms at the community level involving child protection agencies and child protection committees, should oversee the follow-up and implementation of the recommendations of the report.

Chapter 8 Sensitisation and Awareness Raising

Sensitisation and awareness raising about the TRC must target at all levels of society including armed groups, cultural, educational and religious institutions. Information must also be adapted to meet the needs and understanding of each segment of society. Since children have been so deeply affected by the conflict, and generally are not provided with a voice in Sierra Leonean society, it is of particular importance that the general public, including parents and guardians, are informed of the importance and sensitivities of children's participation throughout the entire process. Children themselves have very limited information and knowledge, so far, concerning the TRC. Therefore any sensitisation and information campaign concerning the TRC must also target children.

Awareness raising at all levels of society is vital for the successful functioning of the TRC. Clear uniform messages explaining the objectives and limitations of the TRC and also the role of the Special Court must be developed in order to allow the TRC to fulfil its potential, but also to avoid any negative impact on the DDR programme for child ex-combatants.

Any sensitisation should also raise awareness with regard to experiences children have been subjected to during the conflict, such as abduction, torture, forced recruitment and combat, displacement and separation from the family. In particular, information relating to the crime of sexual violence, forced marriages and sexual slavery should be disseminated in order to ensure that such acts are recognised as crimes by the local communities and that marginalisation does not take place towards children who have been victimised.

Sensitisation could take place through the simplification of the TRC Act and its translation into the four principal languages. Dissemination could be carried out through civil society organisations, such as the TRC working group, community and religious leaders and the media, in particular the radio. Religious institutions play an important role within Sierra Leonean society and reach large sectors of the population, therefore churches and mosques will have an invaluable position in disseminating information on the TRC. Children could be reached directly through schools, youth organisations, religious institutions, child protection agencies, women's organisations and income generation projects. Children's organisations such as the Children's Forum could also bring the message of the TRC to children, including those in IDP camps. Radio shows on the TRC, e.g. the weekly programme of the TRC working group could give particular attention to reaching out to children and youth, including the direct involvement of children in broadcasting. Drama, songs, jingles, drawings, leaflets, posters, national events and personalities are all viable means for reaching all segments of Sierra Leonean society, including children.

Periodic information about the activities of the Commission would ensure that Sierra Leonean society remains informed about the TRC and supports the Commission's work. To this end, the TRC shall "endeavour to inform the public of its existence and the purposes of its work" (S. 6 (4) TRC Act). Such activities could include regular meetings of Commissioners with representatives of the media. Public special sessions of the TRC on children could be broadcast on radio and/or television.

Chapter 9 **Media**

There exists concern about the ethics of reporting on children by the media, in particular the press – suspects and victims, including children, are frequently named and identified in the press. This is clear violation of international child rights standards.⁵⁷ Furthermore, no action appears to have been taken against the disclosure of the child’s privacy.

In line with the recommendation that the participation of children within the TRC shall be based on the principle of confidentiality, certain safeguards and regulations must be established to prevent the disclosure of children’s identities by the media. In order to maintain the element of confidentiality particularly for children, no journalist should be permitted access to the work of the TRC involving children – for example, accompanying statement takers working with children, or attending sessions with children *in camera*.

S.9 (2) to the TRC Act stipulates:

TRC Act	<p>“Any person who wilfully obstructs or otherwise interferes with the Commission or any of its members or officers in the discharge of the Commission’s functions under this Act, commits an offence and shall be liable on conviction to a fine not exceeding one million leones or to a term of imprisonment not exceeding one year or both such fine and imprisonment”.</p>
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This provision should be applied to the media’s reporting on the work of the TRC. It is imperative that the media is sensitised to the protection of the rights of children participating in the TRC. It is recommended that the TRC establishes an accreditation system for news agencies covering the work of the TRC. Furthermore, the TRC itself could establish a Code of Conduct for the media, or the Independent Media Commission and the Sierra Leone Association of Journalists could develop a Code of Conduct for reporting on child related issues. This code of conduct should be binding on all journalists practising in Sierra Leone.⁵⁸ All press agencies accredited to the TRC could be required to become party to the code of conduct.⁵⁹

The division or the department responsible for media relations within the TRC could hold regular meetings between Commissioners and representatives of the media to ensure media support for the Commission. Furthermore, the division should also receive complaints about inappropriate media reporting.

Under domestic legislation, protection and privacy for children in the judiciary is generally provided for. In general, the Constitution of Sierra Leone (1991)⁶⁰ provides that the

⁵⁷ Article 16 CRC: (1) No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. (2) The child has the right to the protection of the law against such interference or attacks. See also Article 68 (1), (2) and (5) ICC Statute.

⁵⁸ There is currently no Code of Conduct for the Media in Sierra Leone although the Independent Media Commission, the Sierra Leone Association for Journalists and the Ministry of Information are currently working on such a code.

⁵⁹ See the International Federation of Journalist’s Declaration of Principles on the Conduct of Journalists (1986), annex 10.2., and the Guidelines and Principles for Reporting on Issues Involving Children, adopted at the first international conference on journalism and child rights, Recife, Brazil, May 1998, annex 10.3. of this report.

⁶⁰ Act No. 6 of 1991.

individual's reputation, rights and freedoms should be protected whereby, for example, information received in confidence should not be disclosed, and the media should be subjected to regulation.⁶¹

Currently, steps are being taken to create an Independent Media Commission as foreseen in the Independent Media Commission Act, 2000. This Act also foresees a complaints Committee which shall be responsible for inquiring into complaints about contraventions against the Media Code of Practice and for the settlement of disputes between the public and media institutions (Article 9(1(b))). It is recommended that this complaints committee also address complaints on media reporting about children before the TRC. This might also require the inclusion of specific provisions concerning children in the Media Code of Practice.

Special measures should be taken to ensure that TRC staff comply with the obligation of confidentiality. Disciplinary action should be taken against staff of the Commission in case of divulging any confidential information and the TRC should formulate ground rules for its staff to strengthen this provision if the child's privacy is to be protected.⁶²

⁶¹ Constitution of Sierra Leone, (Article 25 (2 (a (ii))))). Also see Article 11 of the Constitution concerning freedom of the media.

⁶² S.14(3) TRC Act provides: 'No member of the Commission or member of staff of the Commission shall make private use of or profit from any confidential information gained as a result of his work in the Commission or divulge such information to any other person except in the course of his functions as a member or staff of the Commission and any contravention of this provision may result in dismissal from the Commission.'

Chapter 10

**Children's Views on the TRC and Children –
Report from the Children's Working Group**

One of the working groups in the technical meeting consisted of 8 children: two child ex-combatants, two girl mothers, two blind children and two children from the National Children's Forum. The children were accompanied by their social workers – in order to ensure support should difficulties arise. Three child rights advocates from child protection agencies, who have experience in working with children, facilitated the group. The children's working group provided input to the plenary and presented their findings and recommendations in the concluding plenary of the technical meeting. Below are the recommendations of the children's working group which have also been integrated throughout the report.

10.1: Children's expectations of the TRC

Participation:

- **the process of recounting their story to be a form of healing;**
- **the promotion of the child's right to be able to speak out about his/her experiences;**
- **the documentation of violations carried out against children; and a true and clear picture of the conflict which is expected to facilitate the peace process**
- **support for education, skills training, health care and employment opportunities;**
- **tracing for separated children – ensuring their re-unification with their families and the provision of care and protection for those children whose families cannot be traced; and**
- **an effective follow-up mechanism for those children during reconciliation**

Violations suggested to be considered by the TRC:

- the forced recruitment of children
- abduction
- rape
- amputation
- the use of drugs
- arson
- looting
- murder
- separation from their families and the deprivation of access to education.

10.2 The promotion of children's rights in Sierra Leone through the TRC

The fundamental objectives of the work of the TRC concerning child participation should be the promotion of the 'best interests of the child', with priority treatment to be provided to children's issues and measures to be taken for their protection.

Other recommendations relating to the promotion of children's rights through the TRC include:

- the implementation and monitoring of legal protection in relation to children;
- the freedom for children to express themselves at all levels and in as many ways as possible;

- the establishment of structures for children such as educational and health care institutions;
- the establishment of structures for children such as game centres and youth groups.

10.3 Protection of children participating in the TRC

Concerns expressed by children relating to their participation in the TRC process include a fear for their security from community members who might seek revenge; the lack of protection for children currently provided at the community level; the difficulty some children might face in attempting to recount atrocities which they might have committed. Special counselling programmes should be provided for these children.

All children participating in the TRC should be protected from the moment of participation to re-integration, through the community based Child Protection Committees. Furthermore, the judicial system should be strengthened in order to provide better protection for children participating in the process. It is of vital importance that the TRC ensures privacy and confidentiality for children providing information to the TRC.

10.4 Statement taking and hearings

In order to ensure the protection and confidentiality of the child and information provided by the child, the children's working group recommends that:

- statement taking and hearings be carried out *in camera*;
- no more than one child should be interviewed at a time;
- only the TRC and the child protection committee should be present;
- the media should not be provided with access to such interviews/hearings; and
- the name of the child be kept confidential. Laws should be established to ensure that information provided by children is not released to the public – this information must be kept in a safe place.

The child should be accompanied by someone with whom they are familiar. The interview/hearing should take place at a round table and the child should sit next to representatives from the child protection committee, as well as the individual accompanying the child.

Children should be permitted to express themselves through oral declarations, signs and actions, facial expressions, songs, drawings and written statements.

10.5 Children making themselves heard

The working group stressed difficulties children experience in making themselves heard. Children are generally brought up to say 'I do not know'. This arises from parents trying to protect their child from trouble, which conflicts with the objective of truth telling. Furthermore, customary law provides that children do not have rights when placed in a situation/problem concerning adults. The children's working group stated that children are never allowed to express their feelings about adults. Furthermore, the group stated that adults do not seriously consider the opinions and versions of events as reported by children and do not have the patience to listen to them.

Children may fear telling the truth when the issue concerns friends or family members. The children's working group stated that children may be discouraged from recounting an event or experience which might implicate their family or they might be accustomed to telling lies about another family to avenge any problems existing between the two families. It is therefore recommended that the social workers not only assess the psychological maturity and stability of the child, but also screen the child to ensure that the information to be provided by the child to the TRC is valid and not fabricated.

In order to make themselves heard, children should be permitted to participate in family discussions, put their problems forward, and be listened to and taken seriously. Children should be encouraged to put their grievances down on paper which might be presented to the appropriate TRC authorities. In addition, they should be provided with access to use the media to send out messages to the public for awareness raising. Children should be sensitised by other children on the CRC and TRC and should be encouraged to take the initiative to establish clubs and associations to hold meetings and discuss issues affecting them.

10.6 Traditional Methods of Reconciliation

The objective of reconciliation should be the facilitation of the child's re-unification, re-integration and acceptance into the communities. The working group recommends that the following should be considered:

- sacrifices should be carried out to appease the community and ritual cleansing ceremonies should be enacted where appropriate/required;
- chiefs, religious leaders, traditional elders should be involved; and
- children to be able to demonstrate their repentance by carrying out community work such as rebuilding community structures.

Children should be taken to the elders of the communities to ask for forgiveness and acceptance and those who have done wrong to the children should be made to apologise and ask for forgiveness. No child should be placed in a situation where they are obliged to publicly confront those whom they have harmed in front of the community.

10.7 Structure of the TRC - Committee on Women and Children

The Committee on Women and Children should act as a link between the office of the Director of Women and Children's Affairs and those bodies which are not formally part of the TRC such as child protection agencies and child protection committees, facilitating their co-operation with the TRC.

It is recommended that the following institutions and individuals form the Committee:

- UNICEF;
- the Ministry of Social Welfare, Gender and Children's Affairs;
- child protection agencies;
- child rights advocates;
- psychologists;
- legal practitioners;
- the police;
- the UNAMSIL Child Protection Advisor and Human Rights Section (Child Rights Officer); and
- the National Children's Forum.

The principal role of the Committee is envisaged to be that of a focal point and protective body for children participating in the TRC. To:

- ensure that the ‘best interests of the child’ are protected and promoted;
- ensure that appropriate links are established to provide for the child’s social and economic needs;
- assist in the identification of children to participate in the TRC
- facilitate the screening of these children;
- ensure their psychological stability as well as the validity of the information to be provided by the child to the TRC in the documentation process;
- provide support to communities to facilitate the preparation of children for their participation in the TRC;
- provide psychological support to those children participating in the process;
- facilitate the training of social workers in their work with child ex-combatants;
- promote reconciliation through awareness raising at the community level;
- facilitate and ensure the reunification and acceptance of children in their communities.