



Seeking Reparation for Torture Survivors

**IMPLEMENTATION OF THE
SIERRA LEONE TRUTH AND RECONCILIATION
COMMISSION (TRC) RECOMMENDATIONS ON
REPARATIONS**

PRELIMINARY OPTIONS REPORT

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**THE REDRESS TRUST
87 VAUXHALL WALK, 3RD FLR.
LONDON, UNITED KINGDOM
SE11 5HJ**

Tel.: +44 (0)20 7793 1777

Fax: +44 (0)20 7793 1719

Email: info@redress.org

Website: www.redress.org

Implementation of the Sierra Leone Truth and Reconciliation Commission (TRC) Recommendations on Reparations

Preliminary Options Report

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I. OBJECTIVES OF THIS REPORT

Sierra Leone's Truth and Reconciliation Commission (TRC) made extensive recommendations for reparation measures. In the section of the Government's White Paper on the Truth and Reconciliation Commission Report that deal with reparations, the Government "accepts in principle the findings and recommendations therein contained," and further indicates that "the Government will use its best endeavours to ensure the full and timely implementation of various reparation programmes recommended by the Commission, subject [to] the means available to the State, taking into consideration the resources available to it and assistance received from the International community and the countries mentioned in the Report."

This Report was prepared by REDRESS¹ on the invitation of the National Commission for Social Action (NaCSA), the governmental agency identified by the Sierra Leone Truth and Reconciliation Commission (TRC) to implement its recommendations on reparations. NaCSA requested REDRESS' assistance to consider some of the preliminary technical issues and challenges that lie ahead in the implementation process and to outline a series of staged options for NaCSA and other stakeholders to consider with a view to activating the process.

In the preparation of these recommendations, REDRESS benefited extensively from discussions with some of the key stakeholders of the reparations process, particularly through its attendance at a series of meetings of the task force that has been established to action the process. The task force is comprised of representatives of NaCSA, UNIOSIL, victims' associations, TRC Commissioners and civil society.

The comments and perspectives set out in this Report are intended to help initiate and progress discussion with relevant stakeholders who are ultimately charged with determining how to take the process forward. Repairing, or 'making right' the wrongs done to the many individuals and communities affected by the conflict is an immense challenge. Extreme dedication, careful planning, collective national and international efforts and creative thinking will be required to operationalise the process and to see it through, and to ensure that the result is meaningful, appropriate and legitimate.

II. CROSS-CUTTING ISSUES AND RISKS

There are a series of cross-cutting issues and risks impacting upon this process which are important to consider from the outset:

¹ REDRESS is an international organisation based in the United Kingdom with a mandate to seek justice and reparation for victims of torture and related crimes, and their communities. Its activities consist of legal casework on behalf of victims, international standard-setting, legal and institutional reform, capacity building and awareness-raising. More information about its work is available on its website: www.redress.org.

- **Unique Character of the Fund:** In a developing context, there is often a tendency to construe the provision of services and infrastructures to needy communities as reparations, given that they have a positive impact on war victims. In a transitional context, ‘reparations’ serve both symbolic and practical purposes. The process of providing reparations in this sense is unique, something quite different from development assistance, given the context in which the measures are provided and the purposes the process is ultimately trying to achieve. Reparations should be a meaningful marker to victims and their communities, and to the society at large – it should help to acknowledge the devastating impact of what was done and that it was wrong. It should also signal the Government’s commitment to restore dignity to all those that have suffered and to ensure that the crimes do not recur. At the same time the process should in a tangible way assist those that have been identified by the TRC as most vulnerable. Ensuring the symbolic import of reparative measures requires significant outreach (a clear understand of what victims’ communities themselves view as meaningful), ceremony and publicity. The uniqueness or special character of the reparations programme is important as a matter of principle but also in practice; it is key for how the process is accomplished, the structure of the programme and financing arrangements.

- **Adequate and appropriate resources:** The TRC’s recommendations on reparations are extensive and broad in scope, recognising the range of suffering inflicted on victims and communities (both physical and psychological) and that the needs of the most vulnerable are long-term. The overall costs of the reparations programme are not yet clear, owing to insufficient data on the number of victims and scope of injuries. The TRC has also clearly outlined that the Sierra Leone Government has the main responsibility for providing reparations, and therefore its commitment to the process must be evidenced not only by adhering to the principle of the process but in real financial terms. Nonetheless, the reparations process will only succeed if a wide variety of funding sources are secured, now and into the future and creative fundraising will be an essential backbone to the structure.

- **Reliability of data and data sources:** Whilst the TRC has gone to extensive lengths to identify classes of potential beneficiaries, a clear and conclusive (evidential) understanding of the numbers and their precise location is absent which must be factored into the methodology of the implementation process.

- **Manageability of the process:** Related to the reliability of data, the implementation of the TRC recommendations should not be an exercise that repeats or duplicates the efforts of the TRC itself; it should start where the TRC left off, taking its recommendations and conclusions as the starting point. Further, the manner in which beneficiaries are identified and supported should reflect the fine balance between precision and spiralling administrative costs. Identifying each beneficiary with 100% accuracy would likely entail a complex judicial or quasi-judicial enquiry and the high administrative costs that would greatly overshadow the funds to go to victims and their communities, which should certainly be avoided. A process which targets the beneficiary classes identified by the TRC yet is accomplishable with the minimum possible administrative processing is therefore preferable.

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- **Transparency and accountability:** As with any Trust Fund, but even more so with a Fund such as this one which fulfils such an important role in the transition process, transparency and accountability are key. Not only will strict adherence to such principles determine donor interest but in addition, strict adherence will also go far to demonstrate to victims and their communities the Government's commitment to the transitional process. This relates to the financial probity of the management and operation of the fund as well as in the fair and equitable decision-making processes on allocation and disbursements. Full disclosure of monies received and a detailed breakdown of expenditure (broken down into beneficiary classes and programme areas and differentiating between administrative or overhead costs and direct expenditure to victims) in publicly accessible reports will greatly assist in building public confidence in the work of the Fund.

III. PREPARATORY PHASE: AN ASSESSMENT OF TASKS AND OPTIONS

A. *Establish the Special Fund for War Victims*

Article XXIX of the Lomé Peace Accords calls for the establishment of a Special Fund for War Victims. The Truth and Reconciliation Commission recommended that the Fund be established no later than three months after the handover of its Final Report.

It is advisable that the Fund is *formally* and *publicly* established at the earliest possible opportunity. This will signal to all Sierra Leoneans, and in particular to victims, the Government's commitment to the process. It will also enable fundraising efforts to begin in earnest.

Issue for consideration: *What steps are required to 'establish the Special Fund for War Victims'?*

- i. **Legal Basis:** Ideally, a law establishing the Fund would be drafted, tabled and adopted swiftly. A clear legislative basis is important to provide a sound footing to the Fund, and to clarify purpose, basic principles on how the fund will operate, how contributions may be made, and principles of fiscal responsibility and transparency. A basic legislative framework for the Fund would provide security to potential contributors and would also serve to reinforce the notion that the Special Fund for War Victims is something special and unique – not merely another action line of a budget that competes for attention, resources and visibility alongside other priorities. The law need not be detailed or set out in full the operational structures of the Fund; these could be tabled separately in operating guidelines or regulations which, so long as they are aligned with the law could follow a more streamlined adoption process. Whilst there are clear advantages, the downside of a legislative framework is the potential for delays in the enactment process, yet hopefully this may be minimised if the law is restricted to the essentials.

ii. **What issues should the law address:**

- a. Purpose:** The law should set out the general purpose of the Fund, e.g. ‘aimed at the rehabilitation of the victims through the support of projects and programmes (social service packages) and symbolic measures which acknowledge the past and the harm done to victims and gives victims the opportunity to move on.’ [see para 23 of the Chap. IV of the TRC Final Report] or more simply ‘aimed at providing reparations to victims and their communities in accordance with the recommendations of the TRC’.
- b. Board of Trustees:** The law should establish a Board of Trustees consisting of stakeholders of the highest moral standing and to be chaired by the Commissioner of NaCSA. The Board of Trustees shall be responsible for setting the Fund’s policies, overseeing all projects and programmes. Details regarding numbers, profiles, decision-making, quorum, vetoes (if any) and other procedures of the Board could be set out in the operating guidelines or regulations.²
- c. Secretariat:** The law should specify that the Secretariat of the fund should be located within NaCSA, in accordance with the TRC’s recommendations. The broad responsibilities of the Secretariat should be outlined, e.g., it shall be responsible for implementing the policies and programmes set by the Board. Detailed principles regarding the Secretariat’s structure and positioning within NaCSA need not be set out within the law itself.
- d. Sources of Funds:** The law should specify that the Fund shall be supported by a variety of funding sources, to include, *inter alia*, Government contributions³ and other voluntary contributions from the widest possible array of sources. Specifying that the Fund will be supported financially by the Sierra Leone Government will give an important signal of the commitment of the Government to the process, and to the TRC recommendations which call specifically for this. This visible commitment will also be important to encourage foreign donor support. The precise details of where the contributions will come from could

² See Section III (e) for further guidelines on the Board of Trustees.

³ The TRC Report specifically refers to the prioritization of reparations within the government’s budget (Art. 227 of Chap. IV of the TRC report on reparations), and other Government sources may include proceeds generated from gold and diamonds (Art VII, clause 6 of the Lomé Accord; Art 227 of Chap IV of the TRC report on reparations); Debt-relief-for reparations-scheme (Art. 227, *ibid.*); A reparations or peace tax (Art 227, *ibid.*); a once off tax on local and foreign corporate entities operating in Sierra Leone (para. 506 of the TRC Recommendations). Seized assets from convicted perpetrators (227); Recovered assets and funds (para 429-430; 506 of the Recommendations); Voluntary in-kind contributions from ex-combatants (227); Other legal sources which become available (227).

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mirror the language of the TRC,⁴ or be dealt with more fully in the operating guidelines or regulations.

It would be advisable for the law to indicate that the Board of Trustees has the discretion to refuse any contribution which may negatively impact on the purpose of the Fund. Whilst it may be rare for the Board to have concerns about funds proffered, there may be occasions where contributions from certain companies or individuals, because of their actual or perceived role in the conflict might negatively impact on the symbolic importance of the Fund as a whole. There may also be instances in which potential contributors seek to earmark contributions in a manner that is discriminatory to certain individuals or classes of victims. This general proviso is therefore one way to ensure that such contributions can be refused, as necessary.

- e. **Receipt of Funds:** The law should specify that any and all contributions to the fund shall be recorded and entered into a dedicated banking instrument (e.g., separate from regular NaCSA accounts). The Board of Trustees may decide to open sub-accounts as necessary to receive funds that are dedicated to specific programmes or activities of the Fund, and to manage the disbursement process. A dedicated multi-donor funding instrument is required given the specificity and uniqueness of the reparations process and to avoid co-mingling with other projects and programmes within NaCSA. All contributions will need to be duly recorded in accordance with international accepted accounting principles. Detailed accounting principles should be appended to the operational guidelines or regulations.
- f. **Disbursements:** The Board of Trustees should approve disbursements or otherwise allocate funds in accordance with operating guidelines or Regulations to be subsequently adopted. It is recommended that until the detailed operating guidelines or regulations are adopted, the Board of Trustees should refrain from making any disbursements from the Fund. Whilst this will mean initial delays in the commencement of the disbursement process, it will ensure the transparency and legitimacy of all eventual decisions on disbursement (e.g. which groups or communities to prioritise and why; what projects to support and why...). The establishment of a strong conceptual and procedural framework prior to commencing with disbursements will also avoid bias or favouritism and the perceptions of same (victims and their communities not understanding why one group received something and not them, or didn't receive the same as them).
- g. **Reporting / Audit:** The law should stipulate that the Secretariat of the Fund shall make annual public reports on its activities and on the financial status of the Fund to Parliament. The law should also specify that the Fund will be audited using internationally recognised audit standards.

⁴ Ibid.

h. Coming into force: The law should enter into force on promulgation.

iii. The Banking Instrument:

It is recommended that the banking instrument be a stand-alone instrument unlinked to other NaCSA projects or programmes. The banking instrument should enable multiple sources of donations, national and international. In addition to a general account, there should be the possibility for additional sub-accounts to be added in the case of funds received for specific programmes which align with the overall purposes of the Fund. Further advice from appropriate financial institutions should be sought.

It is recommended that at the initial stage, the administrative costs borne by the Trust Fund Secretariat (NaCSA) be met out of funds that are separate from the banking instrument itself. This is particularly important as the fund builds its resources, to make certain to early contributors that their funds will not be aligned to early start-up costs instead of to the victims themselves.

Once the Fund's resources are sufficiently high (and it will be a policy decision to determine how high is sufficiently high) and a programme of disbursements is agreed, it would be appropriate to consider assigning a percentage of the annual expenditure of the fund to servicing the Secretariat. This should be capped (e.g. at 10%). Most international trust funds cap administrative expenditure (many of the UN trust funds cap at 13-15%).

B. Assessment of Beneficiaries

The TRC Recommendations on reparations have gone into great detail in identifying the classes of potential beneficiaries. An initial assessment of these classes to determine numbers, locations and priority needs is in order as this will assist in clarifying:

- Costs – the overall budget of the reparations programme
- Priorities – the classes of individuals or communities in need of urgent assistance, based on urgent medical or welfare needs, taking into account other programmes of assistance.
- Process – whether the classes are easily identifiable. With amputees this may be somewhat easier, but with other identified classes of victims such as victims of sexual violence, the process of identifying the numbers and nature of victimisation and needs may be more complex. Determining the numbers, available evidence to confirm eligibility and location of victims will help to determine the most suitable processes to put in place to reach these communities and to provide targeted and timed programmes of assistance. The TRC recommendations on reparations have gone to some length to suggest the process and serve as a useful starting point (paras. 229-232). Some areas will require particular attention: For example, a portion of the TRC recommendations on reparations relate to health benefits and in particular, free medical

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care. It will be a challenge to confirm eligibility of certain intended beneficiaries, particularly, victims of sexual violence in which the crimes took place between specific dates. It may be particularly difficult to prove affirmatively when the crimes occurred (whether during the conflict period and therefore eligible, or outside of the timeframe). If there was a detailed census undertaken immediately after the conflict, which captured precisely the categories identified by the TRC, then the task would be slightly simpler, but this is not the case.

An individualised evidentiary process to determine eligibility would be time-consuming, expensive and a quasi-judicial process, which was not the apparent intention of the TRC in devising its recommendations on reparations. Other alternatives will need to be explored, on the basis of the findings of the assessment of beneficiaries.

Once victims are properly identified, another issue is what is the best way to ensure their access to care, whilst minimising the opportunities for fraud.

In addition, an evaluation of completed or ongoing programmes of assistance will help to avoid duplication of services and synergy of response.

The assessment of beneficiaries should be premised on the following key steps:

i. Determining the Overall Framework of the Assessment

This first step would involve a review of the different classes of potential beneficiaries identified by the TRC as well as the recommended programmes of assistance with a view to establishing a standard set of quantitative and qualitative indicators to measure the data to be collected. The prongs of assessment should cover, *inter alia*, numbers of the victim population separated by classes, vulnerability criteria, location, existing programmes of assistance, and should record issues relating to identifying criteria (how to determine eligibility).

ii. Reviewing existing data sources, and incorporating existing data into a single beneficiary framework (database of war victims)

This would involve collecting data from the range of government and intergovernmental/nongovernmental data sources on the targeted beneficiary populations, and collating the data into a single framework. This process will be complex as each data source will have used different indicators and it may prove challenging to collate the data. The TRC itself used an electronic database system to collate and analyse data and a statistical review was prepared by the company Benetech Human Rights Analysis Group [see Appendix to the TRC Final Report]. This might serve as a useful starting point, however it is important to consider that the TRC's recommendations on reparations are not restricted to individuals who were in contact with the TRC, recognising the TRC's short timespan of operation and that many of the most vulnerable victims may not have had opportunity or means to be in contact with the TRC. And therefore, the TRC's data would need to be supplemented. Additionally, health and social service

ministries may also have vital statistics as well as national census information. Single sector organisations may have important qualitative and/or quantitative data regarding needs of beneficiaries in specific sectors (amputees, disappeared, orphans, etc.) or limited to certain regions of the country.

iii. Conducting further research on the basis of gaps in existing studies

Existing research may prove adequate for the identification of numbers and needs of certain classes of victims (e.g., amputees) though inadequate in other areas. The beneficiary assessment should be restricted to those areas where existing research is incomplete, and to spot-test existing research. The precise methodology for the research will depend ultimately on where the gaps lie, but ideally a centralised frame of quantitative and qualitative indicators would be prepared, and the actual conduct of the research could be contracted out to relevant partners such as NGOs or intergovernmental organisations with particular sectoral expertise. Whilst a rigorous analysis is needed, completeness must be balanced with time pressures; many of the victims are in urgent need of assistance and an overly long research phase would be counter-productive.

iv. Analysis of research

The overall goal of assessing beneficiaries is to assist in developing the operating frame for the reparations programme and the priority and staged interventions. Consequently the research analysis should enable the Secretariat and the Board to:

- Agree the **broad methodology** for identifying the most appropriate forms of reparations, how best to reach the intended beneficiaries and monitoring the reparations awarded in the key areas identified by the TRC: Health, Pensions, Education, Skills Training / Micro-Credits; Community and Symbolic Reparations.

- In respect of the bulleted paragraph above, determine whether there is a need for, and if so, what, are the **targeted methodologies** for each of the classes of victims identified by the TRC as deserving of specific measures of reparations [amputees, other war wounded, children, victims of sexual abuse, war widows] in each of the key five areas identified by the TRC.

- Determine whether there are any **other variables** resulting from the assessment of research, requiring **targeted or different methodologies**, e.g., how to ensure that women and children benefit in their own right and that their rights are not subordinated through family structures or other traditional biases; regional or tribal/ethnic differences; socio-economic, citizenship, ex-combatants, or other factors that require specific consideration.

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C. Set up the Skeletal Structure of the Unit

i. The Location of the Secretariat of the Fund within NaCSA

The TRC recommendations set out that “a sub-unit be created within NaCSA to deal specifically with the programme, to coordinate all activities relating to the programme and to govern the Special Fund for War Victims...” [para. 216]

The exact location of the unit is not specified, nor how it will relate to the administrative hierarchy within the institution or to other units and programmes within NaCSA. There are a variety of options on where to situate the Secretariat ranging from a fully independent arm of NaCSA, associated with the organisation solely through the Commissioner who should serve as chair of the Board of Directors of the Fund; as a Directorate of NaCSA, similar to other operational programmes of NaCSA, or as a sub-unit within an existing Directorate. Furthermore, there are a number of different permutations on the listed options which could include:

- a staged approach [e.g., one interim system set up for the pre-implementation phase, another when the fund is financed and operational];
- irrespective of the location, special rules to be established to govern how the head of the Secretariat relates to the Board, and how the financial arrangements of the Fund are managed.

In determining the most suitable option, several factors should be considered:

- i. The uniqueness and importance of the fund and the reparations process as something distinct and special and public perceptions in this regard;
- ii. Maximising administrative efficiency and keeping costs manageable and the perception of being seen to be doing so (avoiding unnecessary duplication of support personal and building synergy with ongoing programmes, ensuring sufficient flexibility and scalability of resources to build up or shrink operations as necessary);
- iii. Maximising transparency in terms of financial accountability (how best to ensure a dedicated financial structure that can be independently monitored) and substantive results;
- iv. The structure that is likely to be most conducive to fundraising.
- v. The structure that is best likely to ensure a direct channel between the Board of Directors and the Head of the Secretariat.

The Task Force met and discussed these possibilities in some detail and consensus emerged that a staged approach would be preferable, starting (where it is currently located) within the R&R

Directorate, but developing into an independent Directorate. A schematic organigram is set out in Annex C.

ii. The Internal Structure of the Unit

The internal structure of the Unit should reflect the different stages of pre-implementation and implementation. The pre-implementation phase would necessitate senior policy level personnel in 3 key areas: legal, finance and research/outreach, to be supported by external consultants or specialists to guide the work and help build the internal capacity of the Unit and a small administrative staff.

At the implementation phase, a more extensive field network would be required to complement the advisory/policy posts, together with more significant resources dedicated to fundraising and outreach. The implementation phase will require significant collaboration with civil society organisations, victims groups and other stakeholders as well as a variety of line ministries.

Several organigrams which set out a skeletal framework for the requirements are Annexed (Annex C). Primary responsibilities of post holders, person specifications and areas for external input are set out in Annex D.

D. Establish Advisory Bodies

The TRC Recommendations suggest that an Advisory Committee be established and that the Human Rights Commission perform this function. The TRC Recommendations also recommend the establishment of a separate Fundraising Board which would report to the Advisory Committee on all of its activities. Whilst there are merits to the TRC's recommendations, a slightly different structure is recommended in this Report: A Board of Trustees, which would have more direct oversight and control over the process, and two separate advisory bodies – one to ensure involvement of donors and other institutional partners, the other to ensure high level engagement of line ministries.

It is recommended that two advisory bodies are established: An Advisory Committee and an Inter-Ministerial Consultative Group.

i. The Advisory Committee

The Advisory Committee could include members of the international donor community and other supporters, and other key stakeholders of the process. The purpose of the Advisory

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would be to ensure a two-way dialogue with the Fund's supporters: to keep them apprised of the Fund's work, enable donors to express views and/or make suggestions about any aspect of the Trust Fund's mandate and thereby build donor confidence. Additionally, the Advisory Committee could include some of the key agencies and institutions already engaged in providing services to war victims to build synergy with other programmes affecting the same beneficiary groups and avoid duplication, and to learn from past challenges.

The initial members of the Advisory Board and Chair could be agreed by the Task Force and appointed by the Commissioner of NaCSA. The Chair of the Advisory Board could be invited to sit on the Board of Trustees. The number of members of the Board, frequency of meetings and its operating procedures could be determined by the Board itself at its first meeting.

ii. The Inter-Ministerial Consultative Body

The TRC recommendations identify a number of line ministries with specific social service mandates to implement reparations measures that are directed to those sectors. In particular, the Ministry of Health and Sanitation is tasked with reparation measures related to health; the Ministry of Land, Housing, Country Planning and the Environment is tasked with measures related to housing; the Ministry of Finance Accountant General's Dept. is tasked with implementing pensions; the Ministry of Education, Science and Technology is tasked with implementing education-related reparations; the Ministry of Labour together with NaCSA is tasked with skills training and micro-credit / micro-project; the Ministry of Development and Economic Planning together with the Ministry of Lands is tasked with community reparations and the Monuments and Relics Commission is tasked with symbolic reparations.

It is recommended that an Inter-ministerial consultative body be established (or that the already existing Cabinet Ministerial Sub-Committee) be utilised for this purpose, with each ministry representative serving as a focal point for that Ministry in the reparations process. The early engagement of line ministries through such a consultative body should ensure broader understanding of the reparations programme as it develops and greater engagement in and ownership of the process. Early engagement of line ministries will also assist in the early conceptualisation of the reparations programme itself, particularly in the beneficiary assessment process and the development of operational guidelines or regulations.

E. Draft and Agree Detailed Operating Principles of the Fund

What is the purpose of Operating Principles?

The breadth of the TRC's recommendations on reparations necessitate careful management and systematisation of the process. This will greatly assist in the implementation. Clear operating principles will also aid in ensuring legitimacy and transparency of a process which is inherently

sensitive and controversial. It will also avoid inconsistent decision-making, double awards and potential implementation gaps, and assist in setting interim benchmarks and timelines and managing staff responsibilities.

As indicated earlier in this Report, decisions on how best to structure the Operating Principles will benefit significantly from the analysis generated by the beneficiary assessment and by additional consultations, more broadly. This Report therefore does not consider the operating principles in detail and merely outlines some of the areas in which the principles should cover.

Key areas include the following:

i. Explication of the goals of the Fund

An explanation of the purpose of the Fund, followed by a more detailed policy statement on what the fund is seeking to achieve, listing the priority beneficiary groups as identified by the TRC and the main programme areas.

ii. Sources of Funds

The operating guidelines should specify the main sources of funding. A detailed explication of government contributions should be made,⁵ as well as more general reference to the other sources which will be sought: e.g., voluntary contributions from governments, international organizations, individuals, corporations and other entities; money and other property collected through forfeiture proceedings or other legal process.

iii. The Structure of the Fund

This section could detail the role of the Board of Trustees, Secretariat, Advisory Committee and Inter-Ministerial Consultative Body, and how they interact and how the costs of such bodies are financed. It should specify, for instance that Board members and members of the Advisory Committee and Inter-Ministerial Consultative Body operate on a pro-bono basis, and expenses will be regulated through the budget of the Secretariat.

iv. The Board of Trustees

This section could specify the characteristics that Board members should possess, including the highest possibly moral integrity, recognized expertise in dealing with war victims, key stakeholder representivity. It could also be specified that every effort should be made to ensure gender representivity. It should also be specified that Members of the Board act in their personal capacity on a pro bono basis for a renewable term of [2] years.

The section may also specify the appointment process (e.g., the initial Members of the Board should be agreed by the consensus of the Task Force and appointed by the Commissioner of NaCSA). Subsequent Board Member could be appointed by an absolute majority of the Board. Given NaCSA's mandate, it may be appropriate for the Chair of the Board to be the NaCSA Commissioner. The meeting structure of the Board should equally defined: the frequency of meetings and conduct of regular and special/extraordinary sessions. It might also be useful to

⁵ See fn 3 and associated text.

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specify the quorum for meetings, and that the Chair can determine the agenda, and can receive suggestions from members, from the Secretariat, and also, the Advisory Committee and Inter-Ministerial Body may refer issues to the Board for decision. Decisions of the Board should ideally be by consensus, and in the absence of consensus, by absolute majority of those voting. If necessary, the Chair should be entitled to take provisional decisions of an administrative nature between sessions in consultation with the Secretariat. Subsequently, the Chair should be required to submit the decision(s) to the Board for their approval.

The operational guidelines should also specify how the Board will deal with conflicts of interests, including the obligation to report any potential conflict and how any such conflicts would be determined and resolved.

v. The Secretariat

The operational guidelines should specify the role and functions of the Secretariat. In particular, that it implements the decisions of the Board and is responsible for the administrative and financial oversight and coordination of reparations programmes determined by the Board. The Secretariat would also prepare narrative and financial reports on programmes of allocations and disbursement of funds, and ensure that such grants are in conformity with the Fund's guidelines. In addition, the Secretariat deals with all financial matters of the Fund and carries out the recommendations of the Board of Trustees regarding the allocation and disbursement of funds.

vi. Fundraising and outreach

The operational guidelines should specify the role of the Board of Trustees in raising the profile of the Fund and contributing to fundraising efforts as appropriate.

vii. The receipt of funds

The operational guidelines should specify the process for receiving contributions into the Fund. This section should include procedures for recording contributions as well as principles regarding any donor specification of particular usages for the contributions. It would need to be considered carefully whether any earmarking of contributions should be allowed. On the one hand, one would want to avoid any potential for discrimination between classes of beneficiaries on the basis of available resources. On the other hand, certain potential donors may have restricted mandates which would only enable them to contribute to particular projects or programmes. A variety of approaches have been used by other trust funds: some outlaw all donor specifications; others specify that only specific types of donors may earmark funds; others still cap the percentage of any donation that may be earmarked.

viii. Deciding on allocations of funds

The operational guidelines should specify how decisions are taken on projects and programmes. The beneficiary assessment will be instructive to this, and on the basis of the analysis generated by the assessment, the Board of Trustees could ideally set some general criteria for each of the programme areas which would apply to all decision areas. Then, for each sector (health, education, etc.) a committee involving the line-ministries and other stakeholders (civil society

groups, victims' communities etc.) to be coordinated by NaCSA could be formed to propose priority and other staged interventions. The TRC recommendations specifically call for the relevant line-ministries to play a key implementing role in their areas. Also involving civil society groups and victims' association directly in the conceptualisation of the priorities will help build support for the decisions, and assist in their symbolic import. On the basis of the committee proposals, and also taking into account the available funds and the priorities of each sector, the Secretariat would prepare a draft implementation plan of staged interventions: first the priority areas, then the one-off allocations and systems of long-term interventions (e.g. pensions, health benefits). The draft implementation plan would be presented to the Board of Trustees for approval.

The operational guidelines will need to tackle how to deal with beneficiary groups that have already received support through development programmes and will also need to consider whether there are circumstances in which heirs are eligible.

The disbursement process, as set out in the implementation plan could include a range of measures, as has already been determined by the TRC recommendations. For instance, a call for proposals system inviting applicants to bid for funds to implement a particular project could be used, or particular implementing agencies could be identified directly in the implementing plan. The plan should also take into account any gaps in evidence and high processing costs. In addition to line-ministries, the Board of Trustees, on the advice of the relevant sectoral committee and/or the Secretariat may decide to use other intermediaries to facilitate the disbursement of reparation measures, as necessary, where to do so would provide greater access to the beneficiary group and would not create any conflict of interest. Intermediaries should include interested States, intergovernmental organizations, as well as national or international non-governmental organizations working in close proximity with the beneficiary groups.

The Secretariat shall ensure proper oversight of the implementation by intermediaries, subject to the overall oversight of the Board of Trustees. It should also put in place procedures to verify that awards were received by beneficiaries, following the implementation of a disbursement programme. Beneficiaries shall be required to acknowledge receipt of the award in writing or by other means of identification, and these acknowledgments shall be stored by the Secretariat. Additional spot checks and monitoring of the receipt of awards should be implemented to avoid unforeseen difficulties or the potential for fraud or corruption.

ix. Financial Accounting Principles

Detailed accounting and audit principles should be provided for in the operating guidelines. These should be specific to the Trust Fund, over and above the accounting principles already in operation for NaCSA's regular programmes. The accounting system should allow for the separation of funds to facilitate the receipt of earmarked contributions, where these are allowed, and where the Board of trustees has stipulated particular usages or programmes for funds received. A tracking system should be established to enable tracking of, inter alia:

PRELIMINARY OPTIONS REPORT

- * The sources of funds received, including the name of the donor, the date and the amount of the contribution;
- * All requests for earmarked contributions, including the nature of the request, and what was ultimately agreed upon and received;
- * All pledges received, the date and nature of the pledge, any follow-up by the Board of trustees, and the date on which funds were actually received;
- * Separation of funds within the Trust Fund on the basis of categories of restrictions on use and on the basis of actual restrictions;
- * All resources that have been attributed by the Trust Fund, sorted by sources of funds, by the nature of the attribution, and by beneficiary(ies);
- * Receipt by beneficiaries or implementing partners of attributed resources, by the date of the attribution, by the date of receipt by the beneficiary, where possible, or by the date of payment by the donor;
- * With respect to allocations, the named implementing partner or beneficiary group, the object of the grant, the amount of the grant, obligations under the grant contract, reporting deadlines, verification of completion and the accomplishment of results.

x. Public Reporting on Projects and Programmes

The Board of Trustees should submit a written annual report and financial statements on the activities of the Trust Fund to the Parliament and the External Auditor. The annual report should include the pledges and contributions received, the funds available as well as disbursements from the Fund.

Intermediaries which receive funding must submit narrative and financial reports yearly, answering all the questions in the Secretariat's reporting form showing precisely how the grant of the Fund was used. This includes the number of victims assisted with the grant. The Board should not consider new applications for which satisfactory reports were not submitted on time.

F. Determine any Legislative Reform Requirements

As part of the preparations for the implementation of the recommendations on reparations, requirements for legislative reform should be considered. The complexity and lengthiness of the law reform process necessitates swift consideration of the needs and timely drafting. The following are several areas for early consideration:

- i. The adoption of a Law Establishing the Special Fund for War Victims.⁶

⁶ See Section III (a), above.

- ii. Amending the regulations of the Ministry of Mines and the Government Gold and Diamond Office (GGDO) and/or other relevant provisions on mineral resources, to specify a percentage of the accrued resources to go directly to the Fund.
- iii. Establishing a reparations or peace tax and a once off tax on local and foreign corporate entities operating in Sierra Leone.
- iv. Considering whether amendments are necessary to the law establishing NaCSA, to determine whether special reference needs to be made to NaCSA's role in the implementation of the reparations programme.
- v. Pension, Health or Education eligibility regulations, to set out the category of beneficiaries entitled to the benefit and to set the amount or other distinguishing features, and to proscribe the procedure for claiming the benefits.
- vi. For certain permanent symbolic events, such as national commemoration days.

G. Develop Fundraising Strategy

It is recommended that a fundraiser be employed as soon as possible, and in advance of the adoption of the *Law on the Establishment of the Special Fund for War Victims*. The fundraising strategy should be broad in scope, focusing on national and international government contributions, intergovernmental and nongovernmental organizations, companies, particularly those involved in the mineral industry, and individuals within and outside of the country.

It is encouraged that a creative approach to fundraising is pursued, looking beyond some of the more obvious government or intergovernmental donors. The profile of the Sierra Leone conflict owed in part to the recent Hollywood film 'Conflict Diamonds' is a unique opportunity to draw greater attention to the plight of victims and communities in the country. This should be put to active use for fundraising. Furthermore, discussions should be entered with donor partners on how best to ensure the charitable tax status of the Fund in national contexts to facilitate contributions from individuals and other charitable trusts. It is encouraged that the Secretariat seek to engage Sierra Leoneans and other friends of Sierra Leone living abroad in order to set up funding-raising initiatives to increase funds coming into the Special Fund.

The Board of Directors should also conduct an annual appeal to promote and solicit contributions and pledges. Additionally, the Government should actively pursue contributions from certain individuals and countries bearing some of the responsibility for the conflict, using both political and legal channels.

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H. Develop Outreach and Communications Strategy

Given the importance and sensitivity of the reparations programme a good outreach and communications strategy is key. This is important to ensure that stakeholders are familiar with what the Fund's priorities and capacities are (and just as importantly, what they are not), which will ultimately assist with the public acceptance of the decisions. It is also important to ensure that civil society, victims' groups and other potential partners and intermediaries are kept well informed and feel included in the process so that they will want to engage with the Secretariat.

Some of the key messages to impart are as follows:

- i. What the Secretariat is doing and what it is not
- ii. Why it is doing what it is doing (e.g., to restore dignity to victims and their communities, promote transparency and accountability, to ensure input and collaboration, to promote reconciliation)

Who are the target audiences?

- i. Potential beneficiaries
- ii. Potential contributors
- iii. Potential collaborators (government departments, civil society, etc)
- iii. The society at large

IX. ANNEXES

A. Timeline

i. Preliminary Start Up Phase

TASK LIST										
Establish Banking Instrument	█									
Law on Establishment of Special Fund	█	█	█							
Set up Board of Directors	█	█	█							
Set up Advisory Committee and Inter-Ministerial Body	█	█	█							
Agree Structure and Placement of Unit	█									
Agree first staffing and consultant needs	█									
Agree Job Descriptions and Person Specifications		█								
Recruit		█	█							
Posts filled			█							
Induction			█	█	█					
Draft detailed operational regulations		█	█	█	█	█	█			
Beneficiary Study				█	█	█	█	█		
Agree operational regulations								█		
Agree 1st priorities and costings									█	
Fundraising	█	█	█	█	█	█	█	█	█	█
Months	1	2	3	4	5	6	7	8	9	

ii. Operational Phase

Year I

TASK LIST															
Priority Interventions	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
Monitoring & Evaluation	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
Outreach	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
Develop distribution plan for one-off interventions in each of the 5 main intervention areas			█	█	█	█									
One off interventions agreed					█										
Costings for one of interventions for year finalised and agreed					█	█									
Implementation of one-off interventions							█	█	█	█	█	█	█	█	█
Develop modalities for long-term benefits							█	█	█	█	█	█	█	█	█
Long-term benefit plan agreed															█
MONTHS	1	2	3	4	5	6	7	8	9	10	11	12			

PRELIMINARY OPTIONS REPORT

Subsequent years

TASK LIST													
Priority Interventions (evaluate results, determine/implement further plan of action as required)													
One off-interventions (evaluate year 1 and implement subsequent years programmes)													
One off interventions (evaluate results determine/implement further plan of action as required)													
Implement benefits scheme													
Monitoring and Evaluation													
Outreach													
QUARTERS	I	II	III	IV	I	II	III	IV	I	II	III	IV	

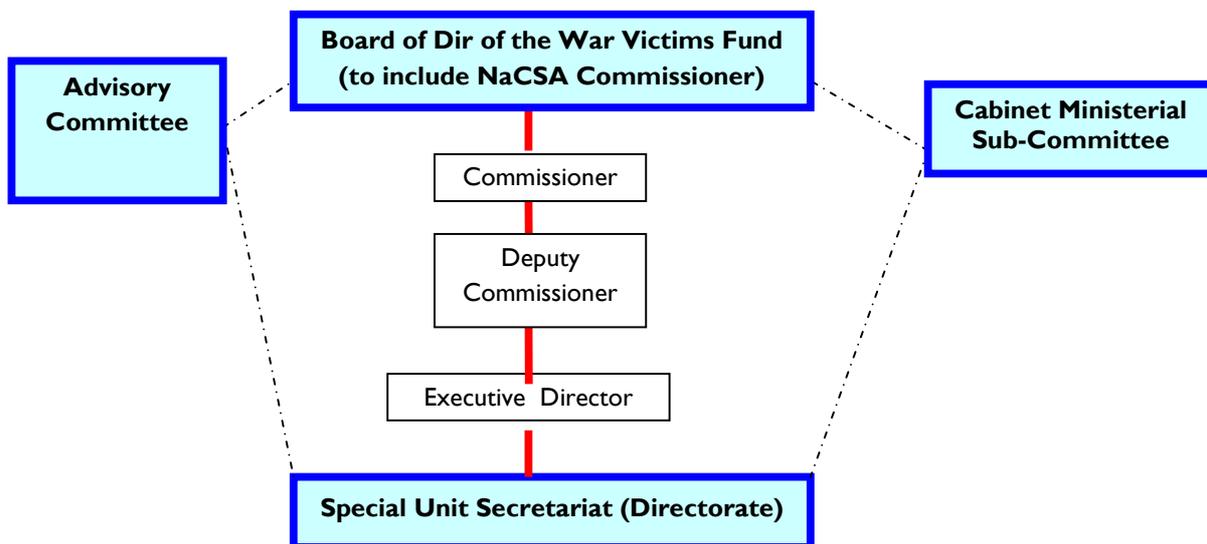
B. Special Unit Organigram

i. Placement within NaCSA

The Diagram below is the option preferred by the Task Force, with the proviso that at present, and until it is functioning and operational, the Special Unit Secretariat (Directorate) will be placed under the R & R Directorate.

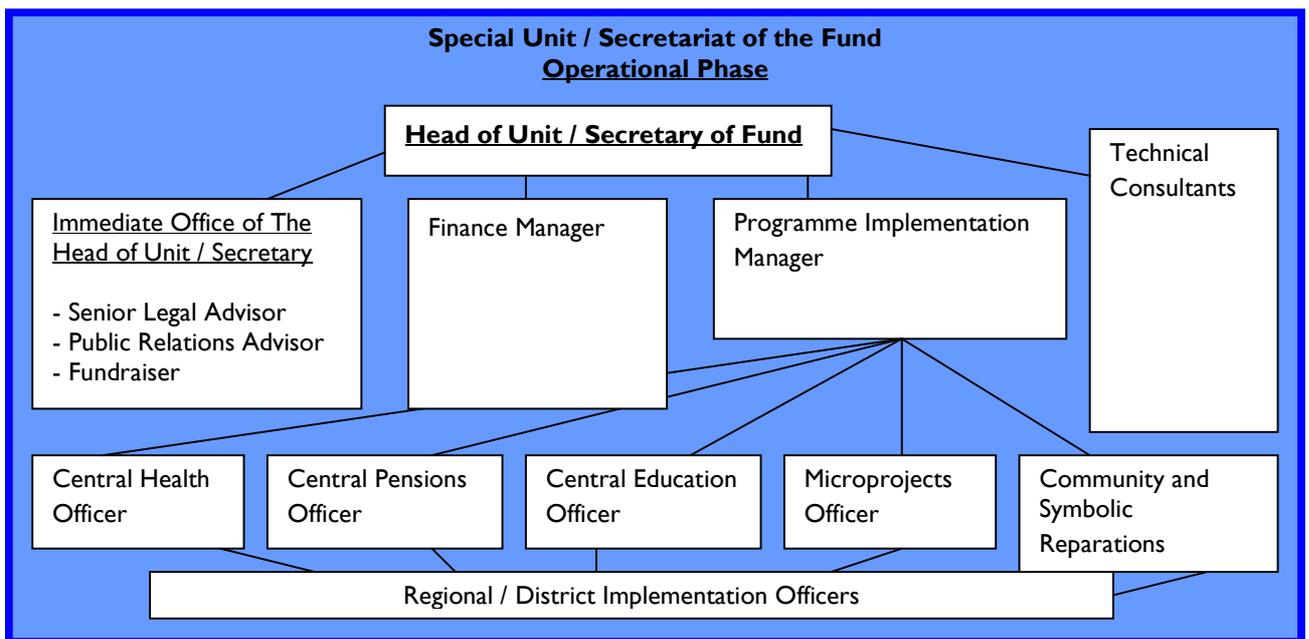
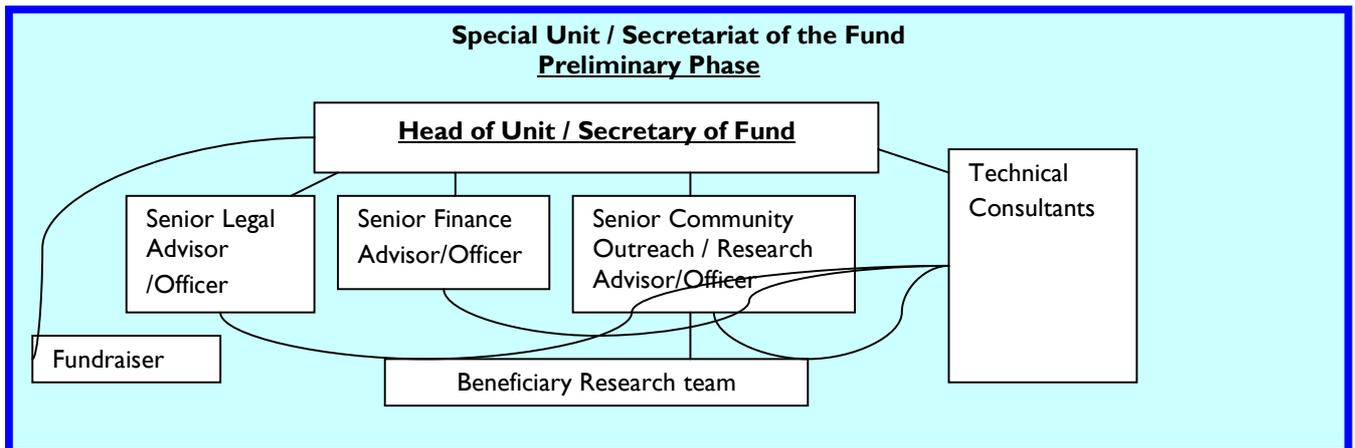
Financial oversight would be dealt with outside the regular structures insofar as the finances of the Fund would be managed in accordance with specific rules designed for the Fund (which may differ from NaCSA general rules).

The solid lines depict chain of command, the broken lines depict advisory input.



PRELIMINARY OPTIONS REPORT

ii. Internal Structure of the Unit



C. Job Descriptions and Person Specifications (staff and consultants)

Phase I

Job Title	Job Description	Person Specification	Capacity Building, Mentoring, Consultant Needs
Head of Unit/ Secretary of Fund	<ul style="list-style-type: none"> - Overall Management of the Unit, including personnel and finances - Overseeing and overall responsibility to produce a coherent phased strategy for reparations - Responsibility for the sound management of the budget - - fundraising, from a variety of sources (government, international donors, individuals, companies...) - Public Relations 	<ul style="list-style-type: none"> - Experienced senior manager in the social development sector (10 yrs exp. +) - Experience in managing international consultants and senior professional staff - Experience in managing and accounting for multi-donor funding and fundraising - Higher education (social sciences/development/management) <p><u>Personal Qualities:</u></p> <ul style="list-style-type: none"> - Highest personal integrity - Empathy, experience in dealing with victims - Strategic and visionary thinker - Excellent interpersonal skills 	<p>Yes –</p> <ul style="list-style-type: none"> -overall schematic assistance - fundraising plan (including asset recovery)
Senior Legal (Reparations) Advisor/Officer	<ul style="list-style-type: none"> - Ensuring compliance of the reparations programme with SL and international law - Coordinating the Drafting of the Operational Regulations of the War Victims Fund (seeking input from stakeholders, advisory support from consultants/experts) - Classification scheme of beneficiaries (ensure sound scheme and eventually that decisions on beneficiaries comply with scheme) - Ensuring that operational programmes comply with the Operational Regulations, once adopted 	<ul style="list-style-type: none"> - qualified lawyer (exp. 7+) -- experience in legal drafting - Experience in providing advice to institutions - familiar with international law, ideally human rights and transitional justice <p><u>Personal Qualities:</u></p> <ul style="list-style-type: none"> - Highest personal integrity - Creative problem-solver - Excellent interpersonal skills - Empathy, experience in dealing with victims 	<p>Yes –</p> <ul style="list-style-type: none"> - legislative and regulatory framework [reparations; claims processing experience] -training, mentoring and consultant all required - possible study tour

PRELIMINARY OPTIONS REPORT

Senior Finance Advisor / Officer	<ul style="list-style-type: none"> - Establishing the multi-donor fund and the financial regulations to accompany them; - Set up and manage, separate bank accounts and or systems to avoid commingling of restricted resources; - Ensure proper accounting of all funds incoming resources, amount, any restrictions on use (if these are permitted in regulations) - Ensuring that all outgoing funds comply with financial regulations (signatures, transparency trail...); - Prepare monthly financial management accounts and quarterly public financial reports; - Prepare annual accounts – Do financial reports to donors - Monitor the spend on subgrants to organizations - Prepare budget 	<ul style="list-style-type: none"> - Qualified accountant with experience in the financial management of multi-donor, multi-sectoral programmes - Familiarity with accounting software - Experience accounting to international donors 	<p>Yes – Mentoring / consultant on multi-donor funds; transparency protocols</p>
Senior Community Outreach / Research Advisor/Officer	<ul style="list-style-type: none"> - Coordinate the design of the initial research framework (develop list of comparable data questions, as well as the research methodology to fuel the research, and identify the staffing needs to conduct the research) - Train staff - Conduct research - Analyse findings 	<ul style="list-style-type: none"> - Experienced social science researcher with a background in community development; - Experience in a variety of research methodologies (quantitative and qualitative indicators, statistical sampling...) - Extensive experience conducting field assessments and research on the well-being of individuals/communities in Sierra Leone (preferably with a humanitarian NGO or international agency); - Understanding and experience of statistical sampling and population-based surveys; - Experience in project management - Excellent communicator to a variety of audiences 	<ul style="list-style-type: none"> - computer database expertise - statistical sampling expertise
Fundraiser	<p>Implement fundraising strategy to include: i) following up committed /</p>	<p>Experienced fundraiser (5 yrs +) - Experience in launching high profile fundraising campaigns;</p>	<p>- training</p>

REDRESS

Seeking Reparation for Torture Survivors

	<p>regular donations and pledges;</p> <p>ii) encouraging contributions from SL companies, organisations, individuals and those active in the country;</p> <p>iii) encouraging contributions from abroad (government, company, individuals)</p>	<ul style="list-style-type: none"> - Experience in developing multi-sectoral funding proposals for international donors and development agencies - Good communicator (written and oral) - Excellent interpersonal skills 	
PHASE II			
Public Relations Officer	<p>Develop and implement a public relations strategy to include:</p> <p>i) transmission of key messages:</p> <ul style="list-style-type: none"> - General Information on the reparations programme - Promote Transparency and Accountability - Ensure Input and collaboration - Promote Reconciliation <p>ii) Develop materials (brochures, flyers, audiovisual, radio, other) and communications strategies to target key audiences:</p> <ul style="list-style-type: none"> - potential beneficiaries - potential contributors - potential collaborators (gov't departments, civil society, etc) 	<p>Experienced communications and outreach specialist (5+ yrs), with experience in conveying messages to a variety of audiences – including rural communities and the general public</p>	
Central Health Officer			
Central Pensions Officer			
Central Education Officer			
Central Micro-credit officer			
Central Community and Symbolic Reparations Officer			
Regional Officers			