

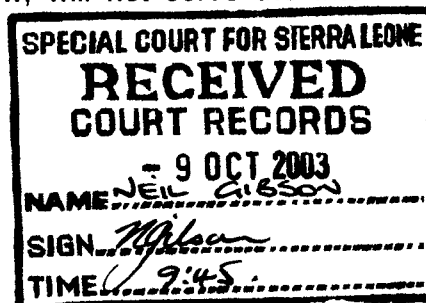
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REQUEST SHN 001 / SUBMITTED ON 07 OCTOBER 2003

BY THE TRUTH AND RECONCILIATION COMMISSION FOR SIERRA LEONE
TO CONDUCT A PUBLIC HEARING WITH CHIEF SAMUEL HINGA NORMAN JP
IN TERMS OF THE SPECIAL COURT FOR SIERRA LEONE PRACTICE DIRECTION
ADOPTED ON 9 SEPTEMBER 2003, AS AMENDED ON 4 OCTOBER 2003

INTRODUCTION

1. The Truth & Reconciliation Commission for Sierra Leone ("TRC" or "the Commission") hereby makes request to the Special Court for Sierra Leone ("Special Court") to conduct a public hearing with Chief Samuel Hinga Norman JP, currently held as an awaiting trial prisoner at the detention facility of the Special Court.
2. In making this request the TRC persists with its objections as set out in earlier correspondence and discussions with the Registrar of the Special Court, Mr. Robin Vincent, insofar as they apply to the revised Practice Direction. In particular we place on record that we are disappointed by the failure of the Special Court to respect the TRC's unique functions and mandate in establishing an impartial historical record of the entire conflict in Sierra Leone for the purposes of addressing impunity, and promoting national healing and reconciliation. In so doing the Special Court has set an unfortunate precedent which, in our respectful view, will not serve the interests of the people of



Sierra Leone and the wider region, nor indeed the interests of other societies involved in the difficult process of transition. Our specific objections will be addressed to the Special Court in a separate document.

DETAILS OF REQUESTING AUTHORITY

3. The Requesting Authority is the Truth and Reconciliation Commission for Sierra Leone. The TRC was established against the background of years of conflict and bloodshed in Sierra Leone which ultimately led to the signing of the Lomé Peace Accord on 7 July 1999. The signatories to the Lomé Peace Accord provided for the establishment of a Truth and Reconciliation Commission in Article XXVI in order to:

3.1. address impunity,

3.2. break the cycle of violence,

3.3. provide a forum for both the victims and perpetrators of human rights violations to tell their story,

3.4. obtain a clear picture of the past in order to facilitate genuine healing and reconciliation.

4. The Lomé Peace Accord required that the Commission shall, in the spirit of national reconciliation, deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991.

5. The Commission was created by virtue of the Truth and Reconciliation Commission Act of 2000. In terms of the Act the object of the Commission, contained at Section 6, subsection (1), is:

“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 Lome Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered.”

6. The functions of the Commission, contained at Section 6, subsections (2)(a), (b) and (c) of the Act, are:

“to investigate and report on the causes, nature and extent of the violations and abuses referred to in subsection (1) to the fullest degree possible, including their antecedents, the context in which the violations and abuses occurred, the question of, whether those 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;

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; and

to do all such things as may contribute to the fulfilment of the object of the Commission.”

7. The Commission is empowered to determine its own operating procedures and mode of work, which include, at Section 7, subsections (1)(a),(b) and (c) of the Act, the following three components :-

undertaking investigation and research into key events, causes, patterns of abuse or violation and the parties responsible;

holding sessions, some of which may be public, to hear from the victims and perpetrators of any abuses or violations of from other interested parties; and

taking individual statements and gathering additional information with regard to the matters referred to in paragraphs (a) or (b).

THE PURPOSE OF THE PRESENT REQUEST (REQUEST SHN 001)

8. The purpose of the present request is to facilitate the object and functions of the Commission contained in Sections 6 and 7 of the Act, as cited in paragraphs 5, 6 and 7 above.

9. The TRC perceives Chief Samuel Hinga Norman JP to have played a central role in the conflict in Sierra Leone. The Commission's report – insofar as it purports to present an impartial historical record – would not be complete without hearing from Chief Hinga Norman the particular details of his role in the conflict and his insights and views into its causes, course and character.
10. On 26 August 2003 Chief Hinga Norman stated in a letter to the TRC that he wishes to appear before the Commission in order to give testimony pertaining to the conflict in Sierra Leone. Since Chief Hinga Norman's letter, the TRC has sought to arrange such testimony under conditions satisfactory to all parties. The present request represents the Commission's unerring effort to secure such testimony.

DESCRIPTION OF OFFENCES TO BE CHARGED OR INVESTIGATED

11. This requirement is not of application to the present request since the TRC is not a law enforcement agency and consequently neither prefers charges nor investigates offences.

RELEVANT DATES OR GROUNDS FOR SPECIAL URGENCY

12. The Commission is operating under considerable time pressures. Section 5(1) of the Act provides for the operation of the TRC for a period of one year.

The period of one year expired on 4 October 2003, although agreement has been secured from the President of Sierra Leone to extend the period by virtue of the aforesaid section until the end of December 2003.

13. Funding for the TRC is provided only until the end of December 2003. In practice this means that the report of the Commission must be finalised and sent to the printers during November. This in turn means that the report itself should be completed towards the end of October or early November. All interviews and hearings should thus be concluded without delay.

14. Every day that passes without the commencement of interviews or hearings with the detainees held by the Special Court constitutes a potential denial of their rights under the Act. Moreover, any further delay in resolving this matter will severely undermine the ability of the TRC to complete its mandate under the Act.

15. In the circumstances the TRC has outlined a clear case to have this request expedited with the utmost urgency. The Commission requests respectfully that the Special Court make the necessary arrangements to hold a hearing of Chief Hinga Norman on Monday 13th October 2003 or as soon thereafter as is conveniently possible.

DETAILS OF ANY CAUTION

16. Chief Hinga Norman will be required to take an oath prior to making any statement before a hearing of the TRC and such an oath will be administered by a Commissioner of the TRC.

17. The TRC will respect Chief Hinga Norman's right to a fair trial and the hearing will be conducted in a manner that does not in any way undermine this right. Accordingly, his right to silence and his right not to incriminate himself will be respected at all times. He will be advised of these rights by the Chairperson of the hearing before the hearing commences. The TRC is in close liaison with Chief Hinga Norman's legal counsel. In consultation and agreement with his legal representatives the Commission will determine in advance the scope of the hearing and the ambit of the questions that will follow his initial statement to the Commission. Chief Hinga Norman's legal team will be at his side throughout the hearing and will be permitted to intervene at any time on their client's behalf.

LIST OF SUBJECT AREAS ABOUT WHICH QUESTIONS ARE TO BE ASKED

18. Following the wide-ranging personal narrative that Chief Hinga Norman (“the witness”) will provide in his initial oral statement before the Commission, the following subject areas will be probed (unless already covered in sufficient depth in his oral presentation):

- 18.1. The witness’ perspective on the causes of the conflict in Sierra Leone.
- 18.2. The state of the military in the years preceding the war.
- 18.3. Any knowledge the witness might have of Sierra Leoneans who were trained outside the territory of Sierra Leone.
- 18.4. Any direct knowledge the witness had, either at the time or subsequently, pertaining to the outbreak of hostilities in Sierra Leone.
- 18.5. The impact of the conflict on the Southern Province and its people in the years preceding 1995.

- 18.6. The witness' perspectives on the various civil militia groups and related organisations that existed in Sierra Leone prior to the formation of the Civil Defence Force (CDF) and the extent to which they complemented or conflicted with the national military.
- 18.7. The extent to which these civil militia groups might legitimately be considered as predecessors or early incarnations of CDF - and why?
- 18.8. Chief Hinga Norman's thoughts on the relationship between the RUF and the SLA; on this point, the Commission would intend to garner perspectives from the witness on the various allegations of collusion, connivance and the 'sobel' phenomenon that have been widely debated by the Sierra Leonean public.
- 18.9. A comprehensive explanation of the first attempts made by the witness himself to instil some form of co-ordination or organisational input into the civil militia groups of the Southern Province, including any and all setbacks the witness might have experienced in this regard.
- 18.10. A thorough narrative of the events leading to the conduct of elections in Sierra Leone in 1996 would be sought, including Chief

Hinga Norman's perspectives on the prevailing circumstances across the country with regard to provision of adequate state security and protection of civilians. A range of further questions will be asked under this heading pertaining to the role of civil militia in providing state security, the conferences held at the Bintumani Hotel and Chief Hinga Norman's involvement in any and all meetings and negotiations on this topic.

- 18.11. An exhaustive account of the origins of the Civil Defence Force (CDF) as an institutional, political and military role player in the Sierra Leone conflict.
- 18.12. The motivations and justifications, both on Chief Hinga Norman's part and on the part of other stakeholders, behind the formation of the CDF.
- 18.13. The dynamics of the formation of the CDF: how it was intended to operate; it's proposed areas of coverage; the proposed institutional relationship it was envisioned to have with the national military; and the means by which it was to be funded, organised and led.
- 18.14. Questions will be asked to gain Chief Hinga Norman's impressions on all of the following elements of the CDF's operations and

organisation. The questions will be primarily focussed upon, but not limited to, the Kamajors:

- 18.14.1. Structure and recruitment,
- 18.14.2. Ceremonies of initiation,
- 18.14.3. Leadership at national, regional, district and local level,
- 18.14.4. Codes of Conduct / Internal Discipline / Means of Enforcement,
- 18.14.5. Geographical spread and strategically-important locations including bases,
- 18.14.6. Unity / loyalty (or lack of these) among the rank and file,
- 18.14.7. How the CDF 'armed themselves' and with what type of weaponry,
- 18.14.8. Any and all directives issued on military or other 'operations', including the means and manner of issuance,

- 18.14.9. Organisational structure and the respective roles played by the organisational hierarchy,
 - 18.14.10. The role of women in the organisation and operations of the CDF, particularly insofar as the role of women differed from that of men.
 - 18.14.11. Perceived areas of weakness in the organisation or operations of the CDF.
- 18.15. A comprehensive historical record of the activities of the CDF from the perspective of its National Co-ordinator - stimulated by questions.
- 18.16. An account of the circumstances leading to the overthrow of the Government on 25 May 1997 and subsequent seizure of power by the AFRC. Questioning will cover how the response to the overthrow was managed by government, the subsequent efforts to oust the AFRC from power, and the repercussions suffered by individuals in the aftermath, as well as lessons learned.
- 18.17. An account of the January 1999 invasion of Freetown, including how the Government response was managed and the roles of various groups and institutions in repelling the attack.

- 18.18. A comprehensive historical record of the myriad perspectives on Government, military and society gained by Chief Hinga Norman during his time as Deputy Minister of Defence.
- 18.19. Chief Hinga Norman's experiences of, perspectives on and insights into violations and abuses of human rights and international humanitarian law since the beginning of the conflict in 1991.
- 18.20. Lessons learned from the eleven-year conflict in Sierra Leone.
- 18.21. Recommendations the witness may wish to make in the interests of promoting peace, unity and reconciliation in Sierra Leone, including his vision for a future Sierra Leone.

DESCRIPTION OF PERSONS TO BE PRESENT AND FACILITIES REQUIRED

19. The TRC is mindful of the fact that it is not possible to offer Chief Hinga Norman a public hearing of the manner typically held by the Commission. However, within the constraints of the available facilities at the Special Court, the TRC would suggest that the court house on site at the Special Court compound be used for the public hearing. We understand that this court house can accommodate approximately 30 persons.

20. The hearing will be presided over by five Commissioners (possibly six) who will be supported by the Head of Information Management, the Head of Investigations and two researchers. Chief Hinga Norman will be accompanied by his legal team.

21. Selected representatives of the public will be in attendance. We would suggest the following persons:

- 21.1. Accredited journalists from the largest circulating local newspapers;
- 21.2. An accredited journalist each from SLBS Public Radio and Radio UNAMSIL together with technical support staff;
- 21.3. One accredited journalist from SLBS-TV with technical support staff;
- 21.4. One representative each from UNAMSIL's Human Rights and Political Affairs Sections;
- 21.5. Observers from the Special Court;
- 21.6. Members of the Hinga Norman family, if space permits.

22. The TRC's public hearings are normally broadcast live. We accordingly request that two telephone line connections be made available to enable SLBS and UNAMSIL Radio to broadcast the hearing.

23. In terms of facilities the TRC will supply its own transcribing and video equipment and support staff who will manage the recording. The TRC will also employ a photographer for the purpose of taking still photographs of the hearing.

24. With regard to the time required to conduct this public hearing the Commission requests that two full days be reserved. It is envisaged that the first session on the first designated day will commence at 10.00 am and conclude by 5.00 pm including breaks for lunch and tea.



Submitted by:

**Franklyn Bai Kargbo
Executive Secretary
Truth & Reconciliation Commission for Sierra Leone**