REQUEST TO CONDUCT A PUBLIC HEARING WITH CHIEF SAMUEL HINGA
NORMAN 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 of 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, 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 disturbed by the apparent disregard of the Special Court for the TRC’s special functions and mandate in establishing the wider truth for the purposes of addressing impunity, national healing and reconciliation. In so doing the Special Court has set a highly regrettable precedent which, in our respectful view, will not serve the interests of the people of Sierra Leone, the wider region and indeed all societies involved in the difficult process of transition.
3. The Practice Direction imposes conditions which offend the spirit and purpose behind the TRC. In particular the Practice Direction purports to confer a discretion on the Special Court to determine whether to permit the TRC access to a detainee or not. The TRC is statutorily empowered and indeed is required to interview persons it has reason to believe will assist it in realizing its mandate. No person or body may obstruct or prevent the Commission from carrying out its lawful functions. The Practice Direction is, in our respectful view, manifestly dismissive of the Commission’s obligations and mission.

4. Certain conditions contained in the Practice Direction make it impossible for the TRC to conduct confidential interviews with witnesses who happen to be detainees in the custody of the Special Court. The Practice Direction constitutes an effective denial of the right of detainees under the Truth & Reconciliation Act of 2000 (the Act) to be interviewed on a confidential basis. The Act enjoins the TRC to conduct confidential interviews under appropriate circumstances and to maintain strict confidentiality of information gained in such circumstances. The TRC will not place in risk the rights of detainees under the Act, nor will it be party to the potential undermining of their right to a fair trial by engaging in a process in which the Commission cannot guarantee the confidentiality of information. The TRC will accordingly not make use of
the Practice Direction, as it is presently formulated, for the purposes of conducting confidential interviews or closed hearings.

5. This particular request involves a detainee who has not made a request to be interviewed on a confidential basis. Chief Hinga Norman has requested to appear before a public hearing of the TRC. We however reserve our rights to challenge certain conditions of the Practice Direction should a detainee approach us to be interviewed on a confidential basis and we deem such a request to be appropriate in the circumstances.

DETAILS OF REQUESTING AUTHORITY

6. The Requesting Authority is the Truth and Reconciliation Commission of Sierra Leone. The TRC was established against the background of years of war and bloodshed which ultimately led to the signing of the Lome Peace Accord in 1996. The signatories to the Lome Peace Accord provided for the establishment of a Truth and Reconciliation Commission in Article XXVI to:

6.1. address impunity,
6.2. break the cycle of violence,
6.3. provide a forum for both the victims and perpetrators of human rights violations to tell their story,
6.4. obtain a clear picture of the past in order to facilitate genuine healing and reconciliation.

7. The Lome 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.

8. 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 is to:

“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.”

Section 6(1) of the Act

9. The function of the Commission is to:

“to investigate and report on the causes, nature and extent of the violations and abuses referred ... 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 fulfillment of the object of the Commission.”

Section 6(2)(a), (b) and (c) of the Act

10. The Commission is empowered to determine its operating procedures and mode of work which includes 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).

Section 7(1)(a),(b) and (c) of the Act

THE PURPOSE OF THE REQUEST

11. The purpose of the request is to facilitate the object and functions of the Commission as in sections 6 and 7 of the Act as referred to in paragraphs 8, 9 and 10 above.
12. Chief Samuel Hinga Norman was a key role player in the conflict. The Commission’s report would not be complete without hearing from him the particular details of his role in the conflict and his views on its causes and character.

13. On 26th August 2003 Chief Hinga Norman made a written request to the TRC to appear before the Commission in order to give his version of the history of the conflict. The TRC agreed to this request for the reasons described above.

**DESCRIPTION OF OFFENCES TO BE CHARGED OR INVESTIGATED**

14. This requirement is not of application to this request as the TRC is not a law enforcement agency and consequently does not prefer charges or investigate offences.

**RELEVANT DATES OR GROUNDS FOR SPECIAL URGENCY**

15. 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 4th 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.
16. 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 then halt by no later than the second week of October.

17. Every day that goes by 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. Furthermore, any further delay in resolving this matter will severely undermine the ability of the TRC to complete its mandate under the Act.

18. In the circumstances the TRC has made out a clear case to have this request expedited by way of the utmost urgency. In the circumstances we would respectfully request that the Special Court make the necessary arrangements to hold the hearing of Chief Hinga Norman on 10th or 13th of October 2003.

DETAILS OF ANY CAUTION

19. Chief Hinga Norman will be required to take an oath before he makes any statement before a hearing of the TRC and such an oath will be administered by a commissioner of the TRC.
20. 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 team. In consultation and agreement with his legal representatives we will determine before hand the scope of the hearing and the ambit of the questions that will follow his statement to the Commission. The hearing will be conducted with the Chief’s legal team at his side who will be permitted to intervene at any time on his behalf.

LIST OF SUBJECT AREAS ABOUT WHICH QUESTIONS ARE TO BE ASKED

21. Following Chief Hinga Norman’s own personal narrative as contained in his statement to the TRC, the following subject areas will be probed (unless already covered in sufficient depth in his oral presentation):

21.1. His perspective on the causes of the conflict in Sierra Leone.

21.2. The state of the military in the years preceding the war.

21.3. Any knowledge he might have of Sierra Leoneans who were trained outside the territory of Sierra Leone.
21.4. The first direct knowledge he had of the outbreak of hostilities.

21.5. The impact of the conflict on the Southern Province and its people in the years preceding 1995.

21.6. His perspectives on the disparate civil militia groups 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.

21.7. The extent to which these civil militia groups might legitimately be considered as predecessors or early incarnations of CDF - and why?

21.8. Chief Hinga Norman's thoughts on the relationship between the RUF and the SLA; on this point, we would intend to garner his perspectives on the various allegations of collusion, connivance and the 'sobel' phenomenon that have been widely debated by the Sierra Leonean public.

21.9. A comprehensive explanation of the first attempts made by Chief Hinga Norman 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 he might have experienced in this regard.

21.10. 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 Bintu Mani Hotel and Chief Hinga Norman's involvement in any and all meetings and negotiations on this topic.

21.11. An exhaustive account of the origins of the Civil Defence Force (CDF) as an institutional, political and military roleplayer in the Sierra Leone conflict.

21.12. The motivations and justifications, both on Chief Hinga Norman's part and on the part of any and all other stakeholders, behind the formation of the CDF.

21.13. 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.

21.14. 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:

21.14.1. Structure and recruitment,

21.14.2. Ceremonies of initiation,

21.14.3. Leadership at national and local level,

21.14.4. Codes of Conduct / Internal Discipline / Means of Enforcement,

21.14.5. Geographical spread and strategically-important locations including bases,

21.14.6. Unity / loyalty (or lack of these) among the rank and file,
21.14.7. How the CDF ‘armed themselves’ and with what type of weaponry,

21.14.8. Any and all directives issued on military or other 'operations', including the means and manner of issuance,

21.14.9. Organisational structure and the respective roles played by the organisational hierarchy,

21.14.10. Perceived areas of weakness in the organisation or operations of the CDF.

21.15. A comprehensive historical record of the activities of the CDF from the perspective of its National Co-ordinator - stimulated by questions.

21.16. 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.

21.17. Lessons learned from the eleven-year conflict in Sierra Leone.
21.18. Recommendations he may have to promote peace, unity and reconciliation in Sierra Leone, including his vision for a future Sierra Leone.

DESCRIPTION OF PERSONS TO BE PRESENT AND FACILITIES REQUIRED

22.