

THE TRUTH AND RECONCILIATION COMMISSION ACT 2000

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IX. THE TRUTH AND RECONCILIATION COMMISSION ACT 2000

ARRANGEMENT OF SECTIONS

Section

Part I PRELIMINARY

1. Interpretation
Part II ESTABLISHMENT OF COMMISSION

2. Establishment of Commission
3. Composition of Commission
4. Remuneration of members
5. Duration of Commission

Part III FUNCTIONS OF COMMISSION

6. Functions of Commission
7. Mode of operation
8. Powers of Commission
9. Penalties for obstruction of Commission

Part IV ADMINISTRATIVE PROVISION

10. Committees of Commission
11. Office and staff of Commission
12. Funds and resources of Commission
13. Budget, accounts and audit
14. Independence of Commission

Part V REPORT AND RECOMMENDATIONS

15. Report of Commission
16. Publication of report of Commission
17. Implementation of recommendations
18. Body to monitor implementation of recommendations
19. Dissolution of Commission

Schedule [Subsection (1) of Section 3]

Being an Act to establish the Truth and Reconciliation Commission in line with Article XXVI of the Lomé Peace Agreement and to provide for related matters.

Enacted by the President and Members of Parliament in this present Parliament assembled.

PART 1 - PRELIMINARY

1. In this Act, unless the context otherwise requires -

"Chairman" means the Chairman of the Commission appointed under subsection (3) of section 3;

"Commission" means the Truth and Reconciliation Commission established by section 2;

"Lomé Peace Agreement" means the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone signed in Lomé on 7th July, 1999;

"Moral Guarantors" means the Moral Guarantors referred to in Article XXXIV of the Lomé Peace Agreement;

"Selection Coordinator" means the UN Special Representative of the Secretary-General in Sierra Leone;

"Selection Panel" means the selection panel of six persons referred to in subparagraph (iii) of paragraph (a) of the schedule composed of one member appointed by each of the following : - The President, the Revolutionary United Front of Sierra Leone, the erstwhile Armed Forces Revolutionary Council, the Inter-Religious Council, the National Forum for Human Rights and the National Commission for Democracy and Human Rights (or the Human Rights Commission, as set out in the Lomé Peace Agreement, if such a Commission has been inaugurated).

PART II - ESTABLISHMENT OF COMMISSION

2.(1) There is hereby established a body known as the Truth and Reconciliation Commission.

(2) The Commission shall be body corporate having perpetual succession and capable of acquiring, holding and disposing of any property, whether moveable or immovable and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairman and the Deputy Chairman or by any other members designated in that behalf by the Commission.

3.(1) The Commission shall consist of seven members, four of whom shall be citizens of Sierra Leone and the rest shall be non-citizens, all of whom shall be appointed by the President after being selected and recommended in accordance with the procedure prescribed in the schedule.

(2) The members of the Commission shall be -

persons of integrity and credibility who would be impartial in the performance of their functions under this Act and who would enjoy the confidence generally of the people of Sierra Leone; and

persons with high standing or competence as lawyers, social scientists, religious leaders, psychologists and in other professions or disciplines relevant to the functions of the Commission.

(3) The Commission shall have a Chairman and a Deputy Chairman both of whom shall be appointed by the President from among persons recommended by the Selection Coordinator and the United Nations High Commissioner for Human Rights.

(4) Where a vacancy occurs in the membership of the Commission because of the death, disability, resignation or dismissal of a member, the President shall appoint a replacement-

where the vacancy is in respect of a citizen of Sierra Leone, from among the short-listed persons considered by the Selection Panel in accordance with the Schedule, giving due consideration to the rankings and comments of the Selection Panel, if any; and

where the vacancy is in respect of a non-citizen, a person recommended by the United Nations High Commissioner for Human Rights.

(5) A member of the Commission may resign his office by written notice to the President and may be removed from office but only for inability to perform the functions of his office, whether arising from infirmity of body or mind or for a misconduct under this Act.

4. Members of the Commission shall work full-time or nearly as full-time as possible and shall, accordingly, be paid such remuneration as the President may determine, on the recommendation of the Selection Coordinator, acting on the advice of the United Nations High Commissioner for Human Rights.

5. (1) The Commission shall be inaugurated within two weeks of the appointment of its members and shall operate for one year. Provided that for good cause shown, the President may, by statutory instrument, extend the term of the Commission for a further six months.

(2) Before the commencement of the period of one year specified in subsection (1), the Commission shall have a preparatory period of three months during which it may undertake all tasks necessary to ensure that it is able to work effectively from the commencement of its operations.

(3) The tasks to be undertaken during the preparatory period shall include procurement of office space, preparing a budget, securing funds for the Commission, hiring staff, discussing questions of methodology, designing and undertaking a public education campaign for the purposes and procedures of the Commission, designing and putting in place a database, undertaking a preliminary background research, collecting supporting materials for its investigations and prioritising its work.

(4) Both during the preparatory period and after it commences operations, the Commission shall endeavour

to inform the public of its existence and the purposes of its work, and, when appropriate, shall invite all interested parties who may wish to do so, to make statements or submit information to the Commission.

PART III - FUNCTIONS OF COMMISSION

6. (1) The object for which the Commission is established 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 Lomé 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.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission -

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. (1) The Commission shall, subject to this Act, solely determine its operating procedures and mode of work with regard to its functions which shall include 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 or from other interested parties; and

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

(2) The Commission may seek assistance from traditional and religious leaders to facilitate its public sessions and in resolving local conflicts arising from past violations or abuses or in support of healing and reconciliation.

(3) 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.

(4) 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.

(5) Decisions of the Commission shall, as far as possible, be taken by consensus and in the absence of consensus, by the majority vote of members of the Commission and the Chairman shall cast the deciding vote where there is a tie.

(6) During the course of its operations, the Commission may provide information or recommendations to or

regarding the Special Fund for War Victims provided for in Article XXIV of the Lomé Peace Agreement, or otherwise assist the Fund in any manner the Commission considers appropriate but the Commission shall not exercise any control over the operations or disbursements of that Fund.

8. (1) The Commission shall have power generally to organise its work and shall, in its operations, have power -

to gather, by means it deems appropriate, any information it considers relevant, including the ability to request reports, records, documents or any information from any source, including governmental authorities, and to compel the production of such information as and when necessary;

to visit any establishment or place without giving prior notice, and to enter upon any land or premises for any purpose which is material to the fulfilment of the Commission's mandate and in particular, for the purpose of obtaining information or inspecting any property or taking copies of any documents which may be of assistance to the Commission, and for safeguarding any such property or document;

to interview any individual, group or members of organisations or institutions and, at the Commission's discretion, to conduct such interviews, in private;

subject to adequate provision being made to meet his expenses for the purpose, to call upon any person to meet with the Commission or its staff, or to attend a session or hearing of the Commission, and to compel the attendance of any person who fails to respond to a request of the Commission to appear and to answer questions relevant to the subject matter of the session or hearing;

to require that statements be given under oath or affirmation and to administer such oath or affirmation;

to request information from the relevant authorities of a foreign country and to gather information from victims, witnesses, government officials and others in foreign countries;

to issue summonses and subpoenas as it deems necessary in fulfilment of its mandate; and

to request and receive police assistance as needed in the enforcement of its powers.

(2) Failure to respond to a summons or subpoena issued by the Commission, failure to truly or faithfully answer questions of the Commission after responding to a summons or subpoena, or intentionally providing misleading or false information to the Commission shall be deemed equivalent to contempt of court and may, at the discretion of the Commission, be referred to the High Court for trial and punishment.

9. (1) All persons, including members and officers of the Government and political parties, shall cooperate with and provide unrestricted access for the Commission and its staff for any purposes necessary in the fulfilment of the Commission's mandate under this Act, as determined by the Commission.

(2) 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.

PART IV - ADMINISTRATIVE PROVISIONS

10. (1) To assist it in the performance of its functions, the Commission may appoint such committees as it

may consider necessary.

(2) A committee under this section shall include persons who are not members of the Commission but who are appointed, taking into account gender representation and regional participation in the work of the Commission.

(3) A member of a committee who is not a member of the Commission shall be paid such allowances as the Commission may determine.

11. (1) The Commission shall have such offices and may employ such staff, including citizens of Sierra Leone, as it may consider necessary for the efficient performance of its functions.

(2) Public officers may be seconded or otherwise render assistance to the Commission.

(3) The staff of the Commission shall be employed on such terms as the Commission shall, after consultation with the Selection Coordinator, determine.

12. (1) The operations of the Commission shall be financed by a fund consisting of moneys and other resources -

paid or made available to the Commission by the Government; and

obtained by the Commission as gift or donation from foreign governments, intergovernmental organisations, foundations and non-governmental organisations.

(2) In accordance with the Lomé Peace Agreement, the Commission shall seek technical assistance from the international community, as it deems appropriate.

13. (1) The funds of the Commission shall be utilized only on the basis of the budget prepared under subsection (3) of section 5.

(2) The Commission shall keep proper books of account and other records in relation to the operation of the Commission and shall prepare quarterly statements of accounts in a form designed to -

indicate monthly expenditures;

provide data for up-to-date budget control based on the management information system of the Commission; and

ensure correct use of the funds of the Commission.

(3) The accounts of the Commission kept under subsection (2) shall be audited by an auditor, being a professional accountant of high standing, appointed by the Commission and the statement of accounts together with the auditor's report thereon shall be submitted to the Government and other contributors to the funds of the Commission.

14. (1) Subject to this Act, the Commission shall, in the performance of its functions under this Act, not be subject to the direction or control of any person or authority.

(2) Each member of the Commission and member of staff of the Commission shall serve in his individual capacity, independent of any political party, government or other organisational interests, and shall avoid taking any action which could create an appearance of partiality or otherwise harm the credibility or integrity of the Commission.

(3) 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.

(4) No member of the Commission or staff of the Commission shall be held liable for any acts carried out within the scope of his duties.

(5) Any member or member of staff of the Commission who contravenes subsection (2) shall be guilty of misconduct and liable to be dismissed from the Commission.

PART V - REPORT AND RECOMMENDATIONS

15. (1) The Commission shall submit report of its work to the President at the end of its operations.

(2) The report 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.

16. (1) Immediately upon submitting the report to the President, the Commission shall publish the report in The Gazette by the insertion of the appropriate Government Notice and in such other publications as it may consider appropriate and shall, in collaboration with the Government of Sierra Leone, make copies of the report or summaries thereof, widely available to the public.

(2) The President shall -

immediately upon receiving the report of the Commission, submit a copy to the United Nations Secretary-General with a request that it be tabled before the Security Council of the United Nations within thirty days; and

within thirty days of receiving the report of the Commission, submit a copy to Parliament with a request that it be lodged in the archive of Parliament.

17. The Government shall faithfully and timeously implement the recommendations of the report that are directed to state bodies and encourage or facilitate the implementation of any recommendations that may be directed to others.

18. (1) The Government shall, upon the publication of the report of the Commission, establish a committee or other body, including representatives of the Moral Guarantors of the Lomé Peace Agreement, hereinafter referred to as "the follow-up Committee" to monitor the implementation of the recommendations of the Commission and to facilitate their implementation.

(2) The Government shall, during the period of eighteen months or such longer or shorter period after the establishment of the follow-up Committee as that Committee shall determine, provide quarterly reports to the follow-up committee summarizing the steps it has taken towards implementation of the recommendations of the Commission.

(3) The follow-up Committee shall publish the reports of the Government under subsection (2) in the appropriate form and submit quarterly reports to the public evaluating the efforts of the Government and the efforts of any other person or body concerned to implement the recommendations of the Commission.

19. (1) The President shall, not later than three months after the submission of the report of the Commission to him, dissolve the Commission by notice in a statutory instrument.

(2) Before it is dissolved, the members of the Commission shall, among the final administrative activities of the Commission -

organise its archives and records, as appropriate, for possible future reference, giving special consideration to -

what materials or information might be made available to the public of Sierra Leone, either immediately or when conditions and resources allow; and

what measures may be necessary to protect confidential information; and

organise the disposal of the remaining property of the Commission.

SCHEDULE - (Subsection (1) of section 3)

Procedure for the Selection of Nominees for Appointment to the Commission

To best ensure the Commission's independence and credibility, the members of the Commission shall be selected through a consultative process relying on both national and international expertise as follows:

(a) The four national members of the Commission shall be selected as follows: -

1. Nominations, which may be put forward by anyone within or outside Sierra Leone, should be submitted to the United Nations Special Representative of the Secretary-General in Sierra Leone, who will serve as Selection Coordinator.
2. With the assistance of an advisory committee, and after broad consultation with a cross-section of Sierra Leonean society and with the United Nations High Commissioner for Human Rights, the

Selection Coordinator shall draw up a list of 10 to 20 finalists. The advisory committee shall include a representative of the National Council of Paramount Chiefs, a representative of the Inter-Religious Council, and a member of the international community based in Sierra Leone, and perhaps others, at the discretion of the Selection Coordinator.

3. Each of the finalists will be interviewed by a Selection Panel of six persons, composed of one member appointed by each of the following: - the President, the Revolutionary United Front, the erstwhile Armed Forces Revolutionary Council, the Inter-religious Council, the National Forum for Human Rights and the National Commission for Democracy and Human Rights (or the Human Rights Commission, as set out in the Lomé Peace Agreement, if such a Commission has been inaugurated).
 4. The Selection Panel shall then rank and provide comments regarding each of the finalists to the Selection Coordinator on a confidential basis. Where possible, the Selection Panel should submit consensus views on finalists, though each panelist may submit comments individually if views differ. In addition, the Selection Panel should suggest a possible Chair for the Commission, especially if consensus can be reached on such recommendation. The Selection Coordinator shall assist the Selection Panel as needed and may establish a deadline for its submission.
 5. Based on the recommendations from the Selection Panel and the criteria established in subsection (2) of section 3, the Selection Coordinator shall recommend four citizens members for appointment to the Commission, and will suggest a possible Chair. Both the Selection Panel and the Selection Coordinator should take into account gender representation and regional considerations in making their selections. While the four members might not necessarily be from each of the four regions of the country, the Commission as a whole should represent the interests and perspectives of the country at large. If further regional representation is later desired, the Commission itself might co-opt representatives from each of the country's four regions.
- (b) Suggestions for non-citizen members may be submitted directly to the United Nations High Commissioner for Human Rights, or to the Selection Coordinator who will forward them to the High Commissioner. Giving due consideration to those suggestions, but not limited to those, the High Commissioner for Human Rights will recommend three persons who are not citizens of Sierra Leone for appointment to the Commission, including one person proposed as possible Chair. The High Commissioner for Human Rights shall first submit these recommendations to the Selection Panel, with an invitation to make comments, before submitting them to the President.

MEMORANDUM OF OBJECTS AND REASONS (attached to the Bill)

The object of this Bill is to establish the Truth and Reconciliation Commission proposed by Article XXVI of the Lomé Peace Agreement as part of the process of healing the wounds of the armed conflict, which began in 1991. By clause 2 of the Bill, the Commission is being established as a body corporate.

Section 1 of Article XXVI of the Peace Agreement envisaged the proceedings of the Commission as a catharsis for constructive interchange between the victims and perpetrators of human rights violations and abuses and from this catharsis the Commission is to compile 'a clear picture of the past'. Accordingly, by clause 6, the principal function of the Commission is to create an impartial historical record of events in question as the basis for the task of preventing their recurrence.

To best ensure the Commission's independence and impartiality, the members of the Commission are to be appointed after a selection process involving both national and international expertise as stipulated in the Schedule to the Bill and involving a Selection Panel on which all the protagonists to the conflict and other interested parties are represented; (clause 3). By clause 5, the Commission shall operate for one year preceded by a period of three months during which the Commission is to carry out all the groundwork necessary for its effectiveness when operations begin. For good cause shown, the President may extend the term of the Commission by statutory instrument for a period of six months.

Under clause 12, the Commission is required to raise the funds to finance its operations from both governmental and international non-governmental sources to which it is required to submit quarterly reports to account for the moneys donated (clause 13). Under clause 15, the Commission reports to the President who will then arrange to send copies of the report to the U.N. and Parliament. By clause 18, the

Government is required to set up a follow-up Committee to monitor and stimulate the progress of the implementation of the Commission's findings. Under clause 19, the President is required to dissolve the Commission by notice in a statutory instrument not later than three months after the submission of the Commission's report.

SOLOMON E. BEREWA

Attorney-General and Minister of Justice

Freetown, Sierra Leone

February 2000