



Confronting Covid-19 amidst disquiet: the undercurrents, leadership and citizen responsibility



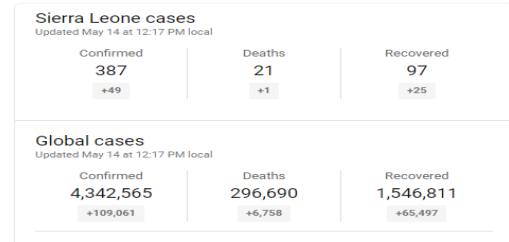
A position paper of the Centre for Accountability and Rule of Law on the recent acts of violence – May, 2020

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Introduction:

The Sierra Leone Government is currently confronted with the twin challenge of ending Covid-19 transmission and ensuring peace and order. Both seem to be arduous tasks, especially given the recent spate of violence in the country. Less than 6 weeks since the Sierra Leone government confirmed the first case of the Corona virus disease, the country has recorded at least 387 (as of 14th May) cases and 21 deaths, 97 recoveries, and nearly 1700 persons held in quarantine centers.



To help stem the spread of the virus, a State of Public Emergency has been declared along with a raft of measures: a 9:00pm to 6:00am curfew has been in force since 9th April; the president has proscribed large public gatherings, and ordered churches, mosques, and schools to close. The country's borders have been closed and regular commercial flights into the country banned. This has essentially restricted movement into and out of the country. Movement within the country is also restricted as people are barred from travelling between districts. These measures, whilst necessary in the current circumstances, have had serious and adverse impact on the local economy: the GDP has contracted; jobs have been lost, and businesses are folding up. As remittances into the country from family members living abroad drop, there's telling hardship on a good number of citizens. Managing response to Covid-19 amidst difficult economic circumstances and rising political tension requires tact, professional law enforcement and justice mechanisms, and good leadership across the board.

A week of shocking violence:

In the midst of the crisis, the country seems to have been gripped by disquiet, heightened by a recent wave of "politically-motivated" acts of violence mainly in the North and the Western Area. On May 1, for example, violent youth attacked and burnt down the Lunsar police station, the residence of the Local Unit Commander and the house of the Paramount Chief. A family member of the paramount chief was reportedly murdered by the angry youths.

In the same week, youths in the fishing community of Tombo staged a violent demonstration in protest over a Covid-related restriction on the number of fishing vessels allowed to go to sea per day. The protest resulted in the destruction of the only health care centre and the police station at Tombo. A police vehicle rushing off to the scene to help restore order crashed on the way, resulting in the death of one police officer. On 29th April, there was a riot and an alleged attempt by inmates to escape from the maximum security correctional center in Freetown. Security forces were reportedly brought in to suppress the plan, and at the end of the operations, it was reported that at least 12 persons, including one Corrections Service Officer, lost their lives. Several buildings in the prison were also reportedly burnt down.

At least eighty persons have so far been arrested and detained, and police investigations into the various incidents of violence are ongoing.

The government has also announced that an independent committee is investigating the alleged prison break, although the composition of the committee has not been disclosed. We fully applaud these initial efforts, even as we call on the government to be more open and transparent about the process.



Looking back on acts of violence since January 2020

The recent incidents of violence have attracted huge public interest, not least because of the resulting scale of destruction, but also because they seem to have happened in quick succession. Although last week's incidents were shocking, they were not necessarily surprising, as youth violence or politically-motivated violence has been on the rise in the last five months. Here's a brief reflection on the events of the last few months:

On 14th January 2020, there were reports of violent clashes between supporters of the ruling SLPP and opposition APC in the neighborhood of the headquarters of the APC. The clashes happened during a burial procession of a deceased member of the ruling SLPP. There were no fatalities, and no one was arrested.

On 26th January, 2020, two violent clashes occurred between supporters of the ruling SLPP and opposition APC at Malama Thomas Street, central Freetown. Some 27 persons were reportedly wounded, and property worth millions of leones destroyed. The police subsequently arrested 19 suspects and preferred charges against most of them. They were later released on bail and the matter seems to have either stalled or have been discontinued.

On 1st February, 2020, the residence of the Deputy Minister of Internal Affairs at the Juba, neighborhood of Freetown was allegedly attacked by some angry youths, prompting the police to shoot one of the alleged attackers. An Independent Police Complaints Board investigation into the incident absolved the minister and his security officer. The alleged perpetrators are currently being tried.

The president's reaction to the recent acts of violence

In a nationwide address on 9th May, 2020, President Julius Maada Bio called for "solidarity and cooperation from all well-meaning Sierra Leoneans across this great nation to join us in informing and mobilizing our communities to prevent, curtail, and protect against Covid-19".

He reflected on the various acts of violence since he assumed office, and laid the blame for the most recent acts of violence on some members of the APC. He warned of severe consequences for persons who participate in acts of violence, saying, "I have ordered the intelligence and security forces to use all available resources, and take all measures necessary within the laws of this country to deal promptly, decisively, and robustly with all acts of violence against the state". While the speech reflected his government's efforts to foster peace and national cohesion, its accusatory tone could further alienate the opposition and constrict the space for dialogue. The tone and tenor of the speech appealed to the base of his party, but it may have just further deepened the already intractable mistrust between the government and members of the opposition APC.



The government believes the recent acts of violence and the incendiary social media messages by persons linked to the opposition are part of a ploy to make the country ungovernable.

Looking beyond the symptoms; addressing some legitimate grievances in the country

Is there more to the recent acts of violence? And is there anything to learn from the prevailing sharp political divide in the country? Should the government simply respond to these acts of violence as an opposition ploy to disrupt governance, or are there legitimate grievances that need to be looked into? To be clear, the Centre for Accountability and Rule of Law - Sierra Leone condemns the recent acts of violence, and fully supports the ongoing efforts of the Sierra Leone Government to hold the alleged perpetrators accountable.

In the following section, we provide a brief context analysis that looks beyond the symptoms of violence to include some of the critical governance challenges and legitimate clusters of grievances in the country. We will offer some recommendations, which we hope will inform government policy in terms of addressing key governance and rule of law challenges and help address legitimate grievances and challenges faced by sections of the population, including members of the opposition All Peoples Congress. To be clear, we do not suggest that these grievances justify the recent acts of violence. On the contrary, we call for justice and accountability for the acts of violence. The recommendations are aimed at helping government, civil society and development partners understand why a multi-dimensional approach is required in addressing violence and other governance challenges in Sierra Leone.

Context analysis:

Political context:

Sierra Leone went to the polls in March 2018 to elect a president, Members of Parliament and local council leaders. The then-opposition Sierra Leone People's Party won the presidential

election, while a majority of the parliamentary seats were won by the now-opposition All People's Congress (APC). The APC won 68 out of 132 parliamentary seats as against 49 seats won by the Sierra Leone Peoples Party. Ahead of the election of the Speaker of Parliament, the High Court, which was hearing petitions filed against 16 Members of Parliament representing the opposition APC, granted an order restraining the concerned APC MPs from participating in the election. The order was enforced by the Sierra Leone Police, which ensured that the MPs were kept out of the well of parliament during the election. This resulted in days of protests by APC MPs in the well of parliament and on the streets of Freetown. APC members, like many observers, believe the injunction was ordered purely to give the ruling SLPP an advantage over the APC ahead of the election of a Speaker of Parliament. At the conclusion of the petition cases, the opposition APC's majority in parliament was significantly reduced. The courts overturned the election of 10 APC MPs on grounds of electoral malpractices, violence and breach of electoral laws. Nine of the seats automatically went to the SLPP candidates who filed the petitions, while a by-election was ordered for one seat - Constituency 110. Nearly one year since the judgment was handed down, the vacancy in Constituency 110 has not been filled, and opposition APC members believe the delay is meant to deprive their party the seat. It is nearly a year since the affected MPs filed an appeal, but little progress has been made.

It should be noted, though, that the APC also filed petitions against MPs of the ruling SLPP, but the petitions were either unsuccessful or have not been heard. To its credit, the Court of Appeal rejected an appeal filed by lawyers representing the ruling SLPP in respect of petitions seeking to overturn the elections of 9 APC MPs from the North.

The affected MPs, their supporters, and members of the APC generally remain dissatisfied about these decisions, and particularly with the delays in disposing of the appeals as well as conducting the by-election for Constituency 110 in Western Rural District of the country. These concerns cannot be wished away or ignored for they will continue to undermine genuine efforts for reconciliation and potentially make the 2023 elections even more chaotic and violent.

The economy:

In spite of the best efforts of the Government of Sierra Leone, the country's economy is struggling for a long time. Poverty and illiteracy levels are high in a country that is still grappling to combat corruption. The macroeconomic outlook is also challenging. The current account deficit, 11.7% of GDP in 2019, was projected to decline steadily to 10.3% of GDP in 2020 and 9.7% in 2021. These projected indicators are unlikely to be achieved. In addition, remittances from Sierra Leoneans living abroad to families have reportedly dropped significantly. Unemployment remains high, especially among the youth, and this has been exacerbated by the outbreak of the Covid-19. Two major mining operations in the north, Marampa and Tonkolili mines, have been closed. These companies worked through subcontractors, which makes the situation worse. Unofficial figures show that at least 550 staff

members were declared redundant after the closure of SL Mining Ltd. About 3,700 former employees of the Shandong Company are currently unemployed. Thousands of informal workers and beneficiaries of the operations of both companies have also been affected. The Covid-19 response measures have included a raft of restrictions, including restriction on inter-district travel, a ban on local trade fairs across the country, and a limit on the number of fishing vessels allowed at sea per day. No matter how effective these restrictions have been in reducing the spread of the virus, they have caused hardship for many. The incident at Tombo, for example, may very well be connected to the influence of incendiary messages on social media, but the violent youth seem to have used the restriction on fishing activity as an excuse for the unnecessary and unfortunate destruction of property in the community.

Also in Lunsar, violence was sparked off after the arrest of "Bulgur", a youth leader in the community. Believed to have been informed by the concerns of youth in his community, Bulgur released an "inciting and threatening" message against the Paramount Chief, who the youth accused of being unaccountable with respect to the use of chieftom funds. The youth appear to have blamed the paramount chief for the hardship they're currently facing.

Accountability, Justice and Rule of Law environment

Corruption remains a binding constraint on Sierra Leone's development aspirations. In spite of the best efforts of the Anti-Corruption Commission, especially over the last couple of years, corruption remains a major problem. A 2019 "Corruption Perception" study commissioned by CARL and the PFM consortium reported 80% of the respondents saying that corruption remains a major problem in Sierra Leone. The Auditor-General's annual report has consistently included huge sums of money that public institutions fail to account for. In the last two years, in particular, the Anti-Corruption Commission recovered large sums of money from corrupt officials. In 2018, for example, the Auditor-General reported that public institutions could not account for at least Le140bn (approximately \$14M). A study commissioned by CARL and the PFM consortium on the "Cost of corruption" to the Sierra Leone economy showed that Sierra Leone lost between Le10.5 trillion to 15 trillion (equivalent to \$1.47bn and \$2.18bn) to corruption in just three years - 2016, 2017 and 2018.

At the launch of the Governance Transition Team (GTT) Report in July 2018, Chief Minister David Francis described the Koroma-led administration as "an organized, criminal and racketeering enterprise", saying. "The GTT found that an astonishing level of rampant corrupt, politically-organized racketeering, mismanagement, graft and lack of fiscal discipline by the APC Government must be blamed for the economic mess and near-bankruptcy of Sierra Leone. Reckless spending, facilitated by the unrestrained use of the Government's overdraft privileges at the Bank of Sierra Leone, was the norm, leaving the economy substantially burdened by debt." These statements angered members of the opposition APC, who described the comments of the Chief Minister as meant to insult party members and unduly influence future investigations into economic and financial crimes.

The GTT Report recommended, among other things, the setting up of a Commission of Inquiry. The Commissions of Inquiry were eventually launched and their terms of reference included, among other things, to examine the assets and other related matters in respect of persons who were president, vice presidents, and ministers, ministers of state, deputy ministers; and heads and chairmen of boards of parastatals, departments and agencies within the period from November 2007 to April 2018. They were to inquire into and investigate whether assets were acquired lawfully or unlawfully and whether such persons maintained a standard of life above that which was commensurate to their official emoluments.

Shortly after the establishment of the commissions of inquiry was announced, the Sierra Leone Bar Association (SLBA) filed a suit with the Supreme Court challenging the legal basis of the commissions of inquiry without a set of rules of practice and procedure made by the Rules of Court Committee. Members of the opposition All Peoples Congress (APC) also filed suit for similar reasons. None of the suits was heard because the Chief Justice failed or refused to assign them or empanel a quorum of Justices. Members of the opposition APC have accused the Chief Justice of refusing to assign cases filed by them, thereby further undermining their confidence in the judiciary as a useful mechanism for resolving disputes.

The commissions finally presented final reports to the president in March 2020, a year after the inquiries started. The reports are believed to have found many members of the opposition APC and the previous administration liable for mismanagement of public funds. We do not know all the findings and recommendations of the report, but the snippets shared by one of the chairs of the commissions made several findings relating to misappropriation of Ebola response funds; huge unsecured loans approved by the commercial banks, and mismanagement of funds meant for youth programmes, among others. The report recommended that all misappropriated funds be refunded or paid back to the Consolidated Revenue Fund, or properties or monies standing to the credit of the named persons be confiscated by the state.

A presidential response to the reports is pending, but conspiracy theories abound. Many opposition APC members believe these anti-corruption efforts, especially through the Commissions of Inquiry, are meant to cripple their party and unfairly undermine its competitive ability ahead of the 2023 elections. A statement released by the party's Secretary-General Alhaji Osman Yansaneh shortly after the report was released described it as "unacceptable due to its lack of legal premises". Mr. Yansaneh's statement made reference to the failure of the Chief Justice to empanel a quorum of Supreme Court Judges. It said, "Strangely, it is now 15 months without the case being assigned for hearing by the Chief Justice". It added, "We continue to hold that until the Supreme Court makes a determination on the case against the establishment and powers of the CoI, the proceedings remain objectionable and the outcome unacceptable".

In another statement released by Alhaji Yansaneh on 1st May 2020, he warned the international community that the leadership of the APC could no longer restrain their supporters. Part of the

statement read as follows: "The APC leadership wishes to inform our development partners and the international community that the harassment and intimidation of the APC and its members has now reached a level that is unbearable. The leadership of the APC can no longer guarantee our partners that we can restrain our members that are seeking for justice and the protection of their fundamental human and basic rights". This statement probably muddied the water, which is why some have suggested it embolden the perpetrators of the acts of violence that followed this speech.

While we fully support the intent and work of the Commissions of Inquiry, it is our hope that the outcome would help build a strong foundation for transparent and accountable leadership in government. We, however, acknowledge and fully understand the legitimate grievances of opposition APC members in respect of the process. Specifically, the failure of the Chief Justice to assign the suit challenging the legality of the CoI does not bode well for respect for rule of law and administration of justice.

Conclusion and Recommendations

The recent acts of violence, particularly in Lunsar and Tombo are criminal acts and ought to be punished. There can be no justification for the recent acts of violence, which is why we applaud the government's efforts to hold the perpetrators accountable. Similarly, we welcome the setting up of a committee to investigate the alleged prison break with the view to bringing to justice those responsible for the loss of lives and destruction of properties. Dozens of persons, mostly young people, have been arrested and detained in police cells across the Western Area. We are concerned that they may not have been detained in a Covid-19 compliant manner, which is why speedy investigations must be conducted. While the political and economic context discussed above does not excuse violence, it seeks to explain why the government needs to review its current position, engage more actively and keep citizens informed and engaged.

We note that there have been several instances of violence since January, 2020 but unfortunately little has been done to punish them swiftly and address the underlying causes. And while we do not rule out the influence or role of political actors or incendiary social media messages in the recent acts of violence, there are political, social and economic undercurrents that explain youth anger and violence.

There is need for leadership at all levels. We acknowledge the government's efforts to hold perpetrators accountable. The president's nationwide broadcast on 8th May was effective to the extent that it sent a tough message to would-be perpetrators. While the speech also energized the base of the party, it has the potential of further reducing the space for dialogue and deepening mistrust between the government and the main opposition. In response to the presidential address, the APC issued a press release dated 10th May 2020 expressing umbrage at the reference to their party as a group of terrorists.

Individuals have a responsibility to themselves and their community. Genuine grievances or economic circumstances cannot justify violent conduct that leads to loss of lives and destruction of property. We acknowledge that many Sierra Leoneans are loyal to the two main political parties, which are invariably tied to ethnic groups and regions, and not so much to political stances. This is why the leadership of political parties, especially the ruling SLPP and opposition APC, have a responsibility to keep engaging and educating their supporters about duties and obligations to the country and their communities.

At the heart of good governance is respect for rule of law and accountability. Law enforcement and justice institutions, including the police and judiciary, play a critical role in building a culture of respect for rule of law. Ensuring a peaceful society based on rule of law and accountability requires increased public confidence in the judiciary and the police, among other institutions. The need for the police to swiftly and professionally investigate crimes cannot be overemphasized just as is the role of an independent judiciary that disposes cases in an expeditious and fair manner.

Recommendations

Violence is criminal and unacceptable, and it must be punished by all means. We support the ongoing efforts to punish those involved in the recent acts of violence. The president has addressed the nation; arrests for the recent acts of violence have been made and some changes in the security sector are underway. These steps may be helpful, but they will not, without more, address the key governance and rule of law challenges confronting the country. The government cannot, however, use a single-dimensional approach to addressing the problem of violence in the country. It has to lead in an inclusive and people-centred fashion, and broaden the space for dialogue with the opposition. There is need for good leadership across the board, including by the justice sector and political parties. Our challenges cannot be wished away or ignored; otherwise, efforts at reconciliation may be undermined and potentially make the 2023 elections more violent. By reason of the above, we make the following recommendations to:

A. THE PRESIDENT:

1. We acknowledge your government's decision to set up a committee to investigate the circumstances that led to the April 29 incident at the Pademba Road correctional facility. We, however, call for increased transparency and impartiality in the ongoing investigation. Accordingly, we urge your Excellency to cause the terms of reference of the committee and names of the committee members to be published. It is also important that a clear timeline is given to the committee.

2. While we applaud your government's pro-poor initiatives, including by supporting cash transfers to the poorest members of society, there is need to broaden the safety net and increase support to owners of small-scale and medium enterprises (SMEs) who are most affected by the restrictions of Covid-19. Too many people, including SME owners, have fallen on hard times, and given the limited opportunities for employment at the moment, we urge your government to consider increasing investment in SMEs as well as youth employment projects.
3. To help ease the uncertainties and apprehension relating to the Commissions of Inquiry (CoI) reports, ensure that a White Paper is released within the timeframe stipulated by the Constitution. It is important that the findings, recommendations and the content of the Whitepaper are widely communicated and in ways that help citizens to understand that the process was genuinely aimed at promoting accountability rather than unfairly targeting members of the opposition.
4. We urge your Excellency to expand - rather than constrict the space for dialogue with the main opposition. Do not shut the door on dialogue. The spirit and objective of Bintumani 3 must be kept alive. Whilst your speech on 9th May was partly meant to send a strong message to those who participate in or sponsor violence, its accusatory tone may have further deepened the suspicion between the government and the main opposition APC. We welcome the recent update on the process of setting up a nation peace infrastructure. While we look forward to the setting up of that body, we recommend the resumption of dialogue between your Excellency and leaders of opposition parties in the country, especially the main opposition APC.
5. There is need to reach out, engage more actively and keep citizens, especially the youth, informed and engaged on progress and challenges regarding governance. The Covid-19 related disruptions have had adverse impact on the economy, service delivery and employment levels. It is recommended that the government constantly be in touch with the citizenry regarding its plans and actions for addressing challenges of the day. The gap created by paucity of information is filled by rumours, misinformation and lies. This offers an opportunity for a strong partnership with local councils, civil society, the Civic Education Unit and the media to effectively engage the public.
6. Ensure that the required funds and adequate security are in place to conduct the elections in Constituency 110. It is unfortunate that members of that constituency have not had a representative for more than a year. This seriously offends the basis of our representative democracy, and robs residents of Constituency 110 an opportunity to hold government accountable through an elected parliamentarian.

7. We urge your government to hold individuals criminally accountable for their own conduct. Where there is evidence that a political party is funding or sponsoring criminal conduct, such evidence should be allowed to be tested by a competent court of law. The outcome of such judicial process may be referred to the Political Parties Registration Commission for appropriate action. In the interest of peace and cohesion and to harness the skills and resources of opposition parties, it is recommended that pejorative language that is likely to further widen the chasm between the government and the opposition be avoided.

B. THE POLICE AND DIRECTOR OF PUBLIC PROSECUTION:

- A. We understand the need to balance state responsibility to punish lawbreakers and ensure respect for the rights of suspects or accused persons. Both must be fiercely protected and respected. Many arrests have been carried out in the last two weeks, including dozens of suspects currently detained in various police cells in the Western Area. We are primarily concerned that the overcrowded nature of the detention facilities may further expose suspects to the risk of getting infected with Covid-19. Accordingly, we recommend that where there is unreliable or no evidence against a suspect, he or she must be released unconditionally while investigations continue. We note that some of the suspects have been detained for more than ten days; we respectfully recommend that you prefer charges against them without delay or release them on bail. A side-effect of the State of Public Emergency is that the government can claim to be able to hold the suspects indefinitely, but we respectfully disagree.
- C. The Sierra Leone police and the Office of Director of Public Prosecution must ensure that the ongoing investigations are conducted in an independent, expeditious and fair manner. We urge the police to exercise restraint and avoid making statements that may undermine public trust in ongoing investigations.

D. THE CHIEF JUSTICE:

A. While a State of Emergency has been lawfully declared, the government is under an obligation to respect its obligations under international law. Certain rights, such as the right to fair hearing, are non-derogable and cannot be violated under any circumstance. This right must be upheld at all times irrespective of the circumstance. This is based on the doctrine of presumption of innocence until proven guilty. This right to a fair hearing gives defendants a chance to defend themselves. To end, acknowledge your decision, following a presidential appeal, to re-open the courts so that persons facing various challenges can be arraigned. We urge you to ensure that logistics are provided for Judges and Magistrates to be able to hear the huge number of cases in their dockets.

B. Citizens should be willing to come to court, safe in the knowledge that justice will be served expeditiously and impartially. The refusal or failure to assign the suits filed by the Sierra Leone Bar Association (SLBA) and the opposition All People's Congress can only further undermine public confidence in the judiciary. CARL has received several complaints from private lawyers about delays in assigning files. It is even more worrisome that the appeals in respect of the election petition cases have not been concluded, nearly a year since they were filed. We acknowledge that the appeals have been assigned, and are currently being heard by a Court of Appeal. We urge your Lordship to provide effective supervision of the panel so that the matter can be expeditiously disposed of.

E. POLITICAL PARTIES

Political parties have a responsibility to help shape public opinion and promote civic responsibility. There is no doubt that a significant number of citizens are loyal to their political parties and political leaders. This is particularly true of supporters of the ruling SLPP and opposition APC. To this end, we urge political parties, especially the opposition APC, to actively support the ongoing Covid response efforts by engaging its supporters and the general public on prevention and protection measures. We also urge the leadership of the APC to do more in terms of denouncing violence, regardless of who the perpetrators are.

We urge both the APC and SLPP to undertake more regular engagement with their supporters on the need to eschew violence and behave responsibly. In particular, we urge the leadership of both APC and SLPP to dissociate themselves from incendiary messages shared on social media by persons believed to be their supporters. The government has referred to messages disseminated by a person going by the name of Adebayor ahead of the incidents at Pademba Road and Tombo to show the alleged links between APC and the perpetrators of violence at Tombo and the riot at the Corrections centre.

F. CITIZENS

We are a country of laws and institutions. Government has a mandate to govern, and a responsibility to provide basic services for citizens. On their part, citizens have a responsibility to conduct themselves within the confines of the law and use peaceful and established mechanisms to resolve disputes. We urge citizens, especially the youth, to work with community leaders and youth structures at town and chiefdom levels to resolve disputes. Acts of violence that lead to loss of life and destruction of property can only deepen the impoverishment that most communities face and further delay resolving the critical economic and social problems that our country faces.