CHAPTER TWO

Governance

Introduction

1. The Commission heard submissions from a variety of authoritative sources that the war in Sierra Leone was largely the result of failures in governance and government institutions. Successive regimes diminished the state’s capacity to meet such critical challenges as the security and livelihood of its citizens, let alone to provide for democratic participation in decision-making processes.

2. In this chapter, the Commission sets out to explore how unsound governance created a context conducive for the interplay of poverty, marginalisation, greed and grievances that caused and sustained the conflict. The Commission hopes its treatment of governance issues in its report – by identifying past distortions, evaluating the adequacy of current remedies and making recommendations to fill the gaps – will enhance efforts towards national recovery, stability and reconciliation.

3. The Commission understands governance to mean a system of laws, institutions, processes and practices that promotes and protects the fundamental rights and freedoms, as well as facilitating the development and advancement, of people living in any given territory. Accordingly, the instruments of good governance include equitable laws, efficient institutions, due processes and humane practices that lead to such desired ends as security, justice, enhanced livelihoods and democratic participation. People living in a particular territory include citizens and non-citizens, as well as majority and minority groups. Proper governance is therefore not only about serving citizens, but also about regulating and securing the rights of minorities, of which non-citizens constitute a significant component.

4. The perceptions adduced by the Commission during its hearings indicate that the people of Sierra Leone yearn for a principled system of governance. They want a system that upholds the rule of law over the rule of strong patrons and protects the people from the abuse of rulers through a system of checks and balances. They wish to see horizontal and vertical accountability through the effective operation of such institutions as the judiciary, the auditor general’s office, the electoral commission, the media and civil society.
5. The Commission has looked at the record of each administration in the post-independence period on the following critical 'indicators': separation of powers; deconcentration of public participation in democratic processes; the independence of the judiciary; the rule of law; and the existence and effective operation of oversight bodies and institutions of accountability.

6. The Commission has analysed approximations towards or deviations from proper governance on two levels. First, it has reviewed the basic legal documents of the land, such as Constitutions and the evolving body of laws, to assess whether 'indicators' of proper governance were enshrined and guaranteed. Second, it has assessed the manifestation of these 'indicators' in practice.

7. This methodical approach has enabled the Commission to draw conclusions about the extent to which each of the post-independence governments contributed to the structural and proximate causes of the conflict in 1991. The chapter ends by discussing the lessons of Sierra Leone’s past in the context of the obstacles to proper governance that still exist to the present day.

SEPARATION OF POWERS

8. For good governance to obtain, the three branches of government – the executive, the legislature and the judiciary must be separate and independent of one another, and each must have the requisite power to fulfill its functions. The constitutional provisions that ensure the separation of powers must not merely exist on paper; but rather must be developed and reaffirmed continuously in their application. A failure to respect this separation inevitably allows one branch of government – most often the executive – to act in an unaccountable fashion and to influence or undermine the work of the other two. A government that permits little or no restraint on its own powers is an authoritarian government, which epitomises bad governance. In analysing the pre-war period in Sierra Leone, the Commission regards authoritarianism, wherever it occurred, as a direct cause of injustice and, accordingly, as a cause of the conflict.

9. The Independence Constitution of Sierra Leone in 1961 created a parliamentary system in the Westminster mould, with apparently less than absolute separation of powers between the three branches of government. The Governor General delegated executive power to the Prime Minister and his cabinet, who were chosen from among Members of Parliament.

10. Promisingly, the Constitution created room for checks and balances in the relationship between the executive and the legislature. For example, every decision of the Prime Minister was subject to Parliamentary approval and the Governor General had to be notified in advance. Equally, the Governor General could not act on major issues such as the proposed dissolution of the

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2 Governor General is a post familiar to the constitutions of many former British colonies and members of the British Commonwealth. Its holder is the representative of the Queen of the United Kingdom of Great Britain and Northern Ireland. In the independence settlement of 1961, the Queen remained the monarch and Head of State, with the Governor General acting as her immediate representative in Sierra Leone.

3 See the Independence Constitution of Sierra Leone 1961 at Chapter V, Section 58. See also Public Notice No.78 of 1961.
Parliament\(^4\) without the approval of Prime Minister. Moreover, the Governor General could not remove the Prime Minister from office unless it appeared to him that the Prime Minister no longer commanded the support of a majority of the Members of Parliament.

11. However, at the practical level, parliament’s ability to hold the executive to account was restricted. At the time of independence in April 1961, Parliament comprised of a loose coalition of Members from various parties who had been brought together a year earlier by the Sierra Leone People’s Party (SLPP). In a spirit of compromise on the eve of independence, representatives with contrasting political beliefs had formed the cross-party United National Front to secure a smooth transition into self-rule. The main beneficiary of this arrangement was the SLPP, which managed to subsume most of its opposing parties by awarding Ministerial positions to their leaders in the first independence government. This crude exercise in coalition building by the SLPP marked the beginning of weakened party politics in Parliament, undermined the relationship of individual politicians with the executive branch and disabled Parliament’s capacity to check executive excesses in subsequent eras.

12. The independence settlement created two judicial tiers of contrasting character. The first, superior tier was set up to dispense English common law and its courtrooms modelled themselves on their English counterparts. There were three courts operating under English common law: the Supreme Court, the Court of Appeal and the High Court. They mainly served inhabitants of the capital Freetown and the surrounding Western Area.\(^5\) There were no Magistrate Courts until Act No. 31 of 1965 provided for their establishment.\(^6\)

13. This superior tier of the judiciary remained separate from the executive during the period from 1961 to 1964. It had control over its own financial resources, operating an autonomous ‘Judiciary Account’ into which all monies obtained from court fines or charges, as well as Government allocations, were deposited directly. The Chief Justice and all judges of the High Court had tenure of office until 62 years of age. They could only be removed in very limited circumstances, with the approval of the Judicial Service Commission.\(^7\) The Attorney General was not classified as a Ministerial Office\(^8\) but as a public one, to which non-politicians with the necessary legal qualifications would be appointed. The Commission found no evidence of any direct executive interference in the operations of the superior tier during Sir Milton Margai’s regime.

14. The second tier consisted of local ‘courts’ in the Provinces, where over 80% of the population lived. The ‘courts’ were a facet of the traditional system of customary law and depended on the moral authority of Chiefs and community elders. Act No. 20 of 1963, which formalised this second tier, contained no provision for legal practitioners to have audience before the local courts.

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\(^4\) See the Independence Constitution of Sierra Leone 1961 at Chapter III, Section 55.
\(^6\) See the Independence Constitution of Sierra Leone 1961 at Chapter VI, Part I.
\(^7\) See the Independence Constitution of Sierra Leone 1961 at Chapter V, Section 59.
During Sir Milton Margai’s regime, the executive abused the local court system to suppress the activities of the opposition All People’s Congress (APC) party at Chiefdom level.9

15. The death of Sir Milton Margai in 1964 and the assumption of the office of Prime Minister by his brother, Sir Albert Margai, brought about ominous changes in the checks and balances between the executive, Parliament and the judiciary. Using the ambiguous Section 58 (2) of the Constitution,10 the Governor General appointed Sir Albert Margai as Prime Minister without any formal procedure to ascertain whether he or any of the other contenders for the position commanded the support of the majority in the House. It was a classic case of imposed executive supremacy over Parliament.

16. Thereafter Parliament increasingly squandered its opportunities to curb executive excesses. It failed to block Prime Minister Albert Margai’s misuse of Government funds for personal gain because it hardly bothered to monitor public income and expenditure. For example, the opposition APC newspaper “We Yone” alleged that Sir Albert had used huge sums of money to buy buildings in Washington and London, which he then rented to the Sierra Leone Missions in those countries for private gain.11 Parliament failed to investigate these allegations, despite the need to transmit a clear message of accountability to the general public. This lapse precipitated a sense of resignation among Sierra Leoneans that corruption was an inevitable indulgence of government, in which Parliament was far more likely to acquiesce than to find fault or demand sanction.

17. Parliament failed to study or challenge effectively the Bills that could have made Sierra Leone a one-party State in 1966 and it supported the Absenteeism Bill, which led to the removal from Parliament of four members of the opposition in 1965. Similarly, there was no democratic dissent to the objectionable Public Order Act of 1965. The laws that came through Parliament in this period gave wide powers to the Executive to clamp down on opposition activities and dissent. The legacies of this regime would be used extensively in later years to bypass the judiciary and eliminate opponents of the government through arbitrary arrest and detention.

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10 See the Independence Constitution of Sierra Leone 1961 at Section 58(2), which included a clause that entitled the Governor General to appoint as Prime Minister “any Member of Parliament who appeared to him likely to command the support of the majority in the House”.

11 See the report in the ‘We Yone’ newspaper on 6 August 1966.
18. Other actions during Sir Albert Margai’s rule that set the trend towards increased executive dominance included the promotion of Chief Justice Bankole-Jones to Presidency of The Court of Appeal in order to replace him with the entirely unqualified Gershon Collier. The latter was a close associate of Sir Albert Margai and his role as Chief Justice would allow him to sit on election petition cases and manipulate them in favour of the ruling SLPP.

19. Sir Albert Margai also used the local courts and Chiefs to restrain the opposition party’s activities yet more severely. He acquired the power to appoint the President of Native Administrative Courts through the Local Court Act of 1963 and thereby completely robbed the local judiciary of its independence. The courts became practically an extension of the SLPP party machine, proceeding to harass APC stalwarts in places such as Koya Chiefdom and Makeni Town in 1965.

20. After the disgraceful election standoff, in March 1967 the constitution was suspended and all executive and legislative power was concentrated in the hands of the junta called the National Reformation Council (NRC), which ruled by decree. Thus there was no separation of powers nor checks and balances as the actions of the military council could not be challenged in any court of law.

21. Although democratic government was purportedly reinstated with the inauguration of Siaka Stevens and the APC, the separation of powers would in fact suffer a series of devastating reverses from 1968 onwards. The first fundamental blow occurred in April 1971 when Sierra Leone was made a Republic with an executive President. The manner in which this major constitutional change was effected seemed to confirm the demise of both Parliament and the judiciary as institutions capable of averting Stevens’ drive towards absolute power. Fewer than ten out of the sixty parliamentarians opposed the Republican Bill of 1971.

22. The Republican Bill made changes to the Independence Constitution, with the Chief Justice replacing the Queen as a ceremonial Head of State. Within 48 hours of the creation of the Republic and the swearing-in of Chief Justice Cole, however, Parliament adopted further constitutional changes, transforming this ceremonial Presidency into an executive one. The Chief Justice, who had just been sacked as ceremonial President, then swore in the Prime Minister, Siaka Stevens, as executive President. This extraordinary sequence of events represented a fatal complicity by the judiciary in its own subordination and manipulation by the executive.

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12 Sir Albert Margai’s imposition of executive power on parliament and the judiciary had an important nuance, however, according to testimonies before the Commission by important political observers. It arose in the fact that Sir Albert was hesitant on several occasions to follow through with particular paths of encroachment that he had started. See, for example: Francis Gabbidon, Ombudsman of Sierra Leone, Submission to TRC Thematic Hearings on Governance, Freetown, June 2003.


14 See the Local Court Act 1963 at Section 4(a). See also the Debates of the House of Representatives, 1965-66, Volume II (22 September 1965), at columns 308-99.

15 See the cited instances of these cases in Cartwright, Politics in Sierra Leone 1947 – 1967, at page 215.
23. With such a stranglehold on power, Stevens and his associates arranged for important court cases to be tried by their friends, tribesmen and loyal servants. In the notorious treason trial of Mohamed Sorie Forna and 14 others, from 1971 to 1973, a relative of the then First Vice-President, Sorie Ibrahim Koroma, served as a juror. According to memoirs published subsequently, the trial judge briefed the Vice-President about the progress of the case on a daily basis.\(^{16}\)

24. Inevitably, the term of the head of government (now the President) was to be extended without reference to the electorate, despite his original tenure as Prime Minister having been limited to a period of five years. Parliament became nothing more than a rubber stamp institution. In 1970 and 1972, without much debate or scrutiny, Parliament endorsed two decisions by the executive that have significantly hampered the development of the country. First the closure of the Sierra Leone railway, which served as a vital link between the capital and the Provinces, was endorsed by Parliament without reference to the potential economic consequences for the population. Second, in 1972, Parliament blindly approved the abolition of District Councils and elected Local Government. These were archetypal bad governance decisions, for they centralised power and influence in Freetown, whilst suffocating the delivery of resources and services to the majority population in the Provinces.

25. Court cases involving elections under the APC were decided in favour of the APC by a compliant judiciary. Violent by-elections conducted under a state of emergency between 1969 and 1970 led to the loss of 23 SLPP opposition seats. Thus by the time the Republican Constitution was passed in 1971, the APC commanded more than the two-thirds majority necessary to pass whatever bill it deemed necessary. With an executive President and an obedient legislature and judiciary, the creation of a dictatorial system and destruction of state institutions took hold.\(^{17}\)

26. The promulgation of a one-party constitution in 1978 unmasked all pretence to democracy and the principle of separation of powers from the Siaka Stevens regime. Chapter III, Section 21 (4) of the 1978 Constitution personalised the office of President - solely for Siaka Stevens - and extended his term of office to seven years.\(^{18}\) In the moment the Constitution took effect, the 11 SLPP members still in Parliament were given the stark choice of joining the APC or losing their seats.\(^{19}\) To their discredit, all of them joined the APC.

27. Powers vested in the President, in relation to both Parliament and the judiciary, were substantially increased under the One-Party Constitution. Chapter IV, Section 34 gave the President the power to appoint an Electoral Commissioner who would be responsible solely to him. Also, the central committee of the party, controlled by the President, was entitled to reject candidates for Parliament even where such people were the choice of the people in their constituencies.\(^{20}\)

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\(^{17}\) See Joe Opala, *Sierra Leone: The Politics of State Collapse*; an essay prepared for the conference on Irregular Warfare in Liberia and Sierra Leone, 30 July to 1 August 1998 (hereinafter "Opala, *The Politics of State Collapse*").

\(^{18}\) See the One-Party Constitution of Sierra Leone 1978 at Chapter III, Section 21(4).

\(^{19}\) See Sierra Leone People’s Party (SLPP), Submission to TRC Thematic Hearings on Political Parties, 2003, at page 6.

\(^{20}\) See the One-Party Constitution of Sierra Leone 1978 at Chapter IV, Section 38.
28. Constitutional provisions also simplified the procedures under which electoral candidates could be returned unopposed, \textsuperscript{21} a practice that was frequently invoked. Parliamentarians elected in the one-party state were only accountable to the president and the APC party machinery. There was essentially no check on the actions of the executive. In one example that became infamous across the continent, Parliament failed to scrutinise the budget outlay for the hosting of the OAU in 1980, allowing scarce national revenue to be wasted on the megalomania of President Stevens.

29. The Auditor General had been mandated by Constitutions since 1961 to oversee government finances and ensure their outlay in the manner provided for by parliament. However, whilst the institution worked relatively effectively during Sir Milton Margai’s regime, its capacity to ensure sound financial monitoring gradually diminished from the time of Sir Albert Margai through to the eve of the conflict. As government expenditure passed unregulated, corruption blossomed. The quality of service provision in the public sector plummeted across the spectrum, affecting security and justice just as it affected health and education. Meanwhile other oversight bodies such as the Electoral Commission and the Office of the Ombudsman were rendered equally redundant.

30. Yet perhaps the most flagrant breach of the separation of powers under President Stevens was reserved for the executive’s control of the judiciary. Section 113 of the One-Party constitution stipulated that the President would appoint the Chief Justice (the head of the judiciary). \textsuperscript{22} The President also had the right to suspend the Chief Justice or, acting in accordance with the advice of the First Vice-President, any other judge.

31. Judges abandoned their independence to preserve their jobs, as they faced the possibility of arbitrary removal or suspension if they incurred the displeasure of the executive. The provision in the 1978 constitution permitting the President to compulsorily “retire” judges who had attained the age of 55 \textsuperscript{23} was a potent weapon in the hands of the executive. It was especially so because most of the judges were well past the age of 55 at the time the Constitution came into effect. In its most abusive application the provision was cited to depose two successive Chief Justices of the country, namely Justice C. O. E. Cole and Justice Livesey Luke.

32. The financial autonomy of judges was also far from assured. The determination of their conditions of service was subject to the one-party parliament and any improvement of these conditions required prior approval from the President. The self-accounting system that enabled the judiciary to have control over its income was discontinued. The judiciary thus became wholly financially dependent on the Ministry of Finance. The Ministry provided inadequate resources and the arrangement precipitated the ascendancy of corrupt practices throughout the justice system. \textsuperscript{24}

33. Another act of contempt towards the separation of powers was the merger of the Office of Attorney General with that of Minister of Justice by the 1978

\textsuperscript{21} See the One-Party Constitution of Sierra Leone 1978 at Chapter IV, Section 39(5).
\textsuperscript{22} See the One-Party Constitution of Sierra Leone 1978 at Section 113, sub-sections (1) to (30).
\textsuperscript{23} See the One-Party Constitution of Sierra Leone 1978 at Section 115(1).
\textsuperscript{24} See Chief Justice Abdulai A. Timbo, Submission to TRC Institutional Hearings on the Judiciary, July 2003, at page 3.
constitution. The Minister, also a Member of Parliament, retained supervisory power over the judiciary, and gained discretionary power in the prosecution of cases. Thus the joint office of Attorney General and Minister of Justice became a fusion of executive, legislative, judicial and prosecutorial powers, and it remains just as problematic to the present day.

34. The ruling political class assumed absolute power and carved out a ‘legal position’ that deprived all its opponents of their basic rights as Sierra Leoneans. The outright supremacy of the executive and its domination of the other arms of government did not alter under President Momoh’s tenure of office between 1985 and 1992. The one party constitution that destroyed the doctrine of separation of powers was firmly in place, along with the devastating perception on the part of many opponents that only armed rebellion could bring it down.

DECENTRALISATION

35. The process of decentralisation is intended to ensure that political power and the activity of government should impact positively on all levels of the society. The rationale is that a decentralised system of government allows for better delivery of public services and facilitates constant interaction between politicians, administrators and those they govern. Over-centralisation generally translates into inequity, particularly due to poor service delivery to peripheral regions and the vulnerable sectors of society.

36. There were two main structures of local government at independence in 1961. The first was the traditional local government structure that revolved around Chiefdoms, paramount Chiefs and the hierarchies they formed. The second included district councils, town councils and the Freetown City Council.

37. With the exception of the Freetown City Council, which was created by the Freetown Municipality Ordinance of 1893, the councils owed their existence to laws passed between 1946 and 1950. The 12 district councils representing Sierra Leone’s 12 administrative districts were created in 1946. These councils were granted purely advisory roles. The system was expanded in 1950 by the District Council Ordinance to include promotion of the economic development of the district and of the welfare of its people, using funds at the council’s disposal. The town councils were situated in Bo, Kenema, Koidu and New Sembehun. All local government structures were under the control of the Ministry of Internal Affairs.

25 The joint office of Attorney General and Minister of Justice was originally created under the One-Party Constitution of Sierra Leone 1978, Chapter V, Section 88, sub-sections (2) to (4). This constitutional anomaly has been retained ever since.

38. Under Sir Milton Margai the councils and decentralised local government structures functioned efficiently and continued to deliver vital services in education, health and agriculture, as well as small-scale construction of community facilities. However the councils had a number of weaknesses that placed them at the mercy of officials of the central government. Primarily, since their very existence was not entrenched in the constitution, they depended on the passing mood of the executive and the central legislature. Moreover, their establishing laws subjected them to administrative and political dominance of the Minister and his officials in the Ministry of Internal Affairs. Thus they were ultimately accountable to the central government rather than to the people of their various local bases.

39. Other weaknesses included the reliance of the councils on central government for up to 70% of their operational costs, their sub-ordination by Paramount Chiefs and the ease with which district council finances could be mismanaged and misappropriated. These weaknesses were ripe for exploitation by the over-centralising tendencies of successive governments. Sir Milton Margai set a precedent with his incapacitation of the opposition-controlled Kono District Council by withholding its operational funds. Also, rather than reform district councils, Sir Milton Margai’s regime suspended several of them on grounds of alleged financial malpractice in 1962. There were to remain neglected until 1967, as Sir Albert Margai would make no attempt to review local governance structures.

40. Though the traditional tier of local government was entrenched in the constitution, its office-holders were in reality placed under administrative and supervisory control by officials of the Ministry of Internal Affairs. Chiefs could be suspended, dethroned or banished from their Chiefdoms by the central government. Chief Mbriwa of Kono, for instance, was unceremoniously banished from his Chiefdom by Sir Milton Margai.

41. When reform arrived, under the National Reformation Council (NRC) junta regime, it merely accelerated the demise of local government and decentralised administration. The NRC established a pivotal Commission of Enquiry led by Justice Bekou-Betts, which exposed rampant malpractice across government. Among the measures taken as a result were the arrests and detention of several Paramount Chiefs. It created public suspicion of Chiefs along with something of a power vacuum at the traditional local government level.

42. In 1972, the Siaka Stevens regime dissolved local governments all over the country. Whilst town councils were replaced by committees of management, the district councils were not to be revived during the entire rule of the APC up to the outbreak of conflict.

27 See Abraham, Development Issues in Sierra Leone, at page 62.
28 The Bekou-Betts Commission of Inquiry reported numerous acts of corruption and mismanagement on the part of public officials in several sectors. Most relevant to local government was the Commission’s document of 19 January 1968, which resulted in the arrest of Paramount Chief B. V. S. Kebbie of Mallen Chiefdom, Paramount Chief Alikalie Mordu III of Maforki Chiefdom and several other traditional rulers.
43. Governance was clearly over-centralised during the regime of Siaka Stevens. Provincial and rural areas were left to their own devices and their inhabitants became disenfranchised with the political system. In its submission to the TRC, the National Commission for Democracy and Human Rights (NCDHR) stated:

“The abolition of local government system and its replacement by officers appointed by the centre (Freetown) led to marginalisation of the rural people. This, coupled with the centre’s co-option of the traditional chiefs, increased the alienation. These two acts amounted to marginalisation and made many rural people to be receptive to the propaganda of the rebels and more tolerant to their presence.”

44. From 1972 onwards, socio-economic development in the Provinces was handled by central government agencies far removed from the people. The only alternative development assistance came from local or international NGOs who instigated their own activities at district level. Despite their many weaknesses, district councils had at least supplied water, roads, health care, agricultural services and rudimentary communal facilities during the 1960s. It would have been eminently more prudent to institute measured reforms of local governance rather than dissolving the councils outright.

45. As it was, the dissolution of district councils gradually stifled the flow of services to people in most of the Provinces. Riverine districts like Bonthe and Kambia, as well as remote ones like Koinadugu, Pujehun and Kailahun, received no electricity or pipe-borne water. Bridges and roads were in a state of disrepair and few schools or health centres survived. The whole of the North had neither running tap water nor electricity by the end of the 1970s. These were facets of regression rather than underdevelopment, as previous governments had apparently left several such facilities intact.

46. The management committee system introduced into towns and municipalities effectively ensured that appointed individuals were more accountable to their political patrons than to the people they served. The decline in services such as sanitation, as well as poor maintenance of roads, streets, markets, slaughterhouses, cemeteries, fire stations and public toilets were rooted in the abolition of elected municipal and town councils.

47. The dissolution of the councils also led to the emergence of members of the so-called “political elite” with no apprenticeship in governance at the local level being elevated to the national political stage. This trend, which has snowballed from 1972 right up to 2003, led to the installation of decision-makers whose actions were disastrously uninformed by the needs of ordinary people. Medical practitioners and teachers in the provincial communities were often the last to receive salaries. The provision of basic services in the Provinces collapsed long before it did in Freetown.

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29 See National Commission for Democracy and Human Rights (NCDHR), Submission to TRC Thematic Hearings on Governance and Human Rights, June 2003, at page 2. See also United Nations Development Programme (UNDP), Submission to TRC Thematic Hearings on the Causes of the Conflict, 7 May 2003, at page 2.

30 See Sierra Leone People’s Party (SLPP), Submission to TRC Thematic Hearings on Political Parties, 2003.
MASS PARTICIPATION IN THE POLITICAL PROCESS

48. Good governance necessarily encompasses democracy, with an opportunity for the general populace to express its voice through regular elections. People should have opportunities to establish and belong to political parties, which in themselves should have organised internal systems of electing and replacing leadership according to the wishes of the membership. Bad governance obtains where the governing party engages in anti-democratic practices to undermine its opposition, or where political parties are themselves undemocratic. Where decisions are taken by an elite few people without reference to a wider constituency, they are less likely to reflect the interests of the majority. In such a situation, exclusionary politics prevails and discrimination against particular groups or regions is likely.

49. Sierra Leone’s political scene has been dominated since independence in 1961 by two political parties - the Sierra Leone Peoples Party (SLPP) and the All Peoples Congress (APC). With the exception of the thirteen-month NRC military interregnum from 1967 to 1968, these two parties ruled the country for the 30 years between independence in 1961 and the outbreak of conflict in 1991. At the time of writing, the SLPP has ruled the country since the return of multi-party democracy in 1996. The APC, overthrown by the NPRC junta in 1992, is now the largest opposition party.

50. The increasing regionalism and undemocratic strategies employed by these two parties have impacted negatively on the political process in Sierra Leone. A string of alternative parties have mounted challenges in the past, often to address particular political crises, but have ultimately gone down as failed historical experiments. These included the National Council of Sierra Leone (NCSL), the People’s National Party (PNP), the United Progressive Party (UPP) and the Sierra Leone People’s Independent Movement (SLPIM) in the 1950s and early 1960s, as well as the National Democratic Party (NDP) in the early 1970s. As a result, outside the membership of the two mainstream parties, most Sierra Leoneans have felt excluded from the domestic political process that independence was supposed to bestow upon them.

51. The Independence Constitution of 1961 made provisions for the conduct of multi-party parliamentary elections every fifth year. Two other legal instruments that bolstered the conduct of elections in the immediate post-colonial period were the Franchise and Electoral Registration Act of 1961 and the Electoral Provisions Act of 1962. Section 37 of the independence constitution established an electoral commission comprising a chief electoral commissioner or chairman, plus between two and four other members to be appointed by the Governor General on the advice of the Prime Minister. The commission was classified not as an independent body but as a unit of the Ministry of Internal Affairs; its administrative staffers were members of the civil service seconded to the Commission through the Ministry. The Commission also lacked a self-accounting status; the Ministry of Finance handled its finances on its behalf.

52. Elections can be considered as three distinct time periods: the pre-election period; polling day itself; and the immediate post-election period. Exclusionary

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31 The SLPP increasingly became identified as the party of the South and East of the country, whereas the APC was associated with the Northern Province and the Western Area.
tactics were apparent in the pre-election period of the first post-colonial general
election, held in 1962. The SLPP under Sir Milton Margai deployed the
Chiefs against the opposition in Kono and many other parts of the country by
cleverly side-stepping the Electoral Provision Act 1962. This Act formally
debarked the Chiefs from interfering in political meetings, unless it had become
disorderly or appeared likely to lead to a breach of the peace. However, the
 provision in question applied only during the official period of election campaign
and not before its announcement. SLPP Chiefs therefore acted pre-emptively
to stop the opposition from campaigning in their Chiefdoms.

53. The District Council Elections of 1962 saw an extension of anti-democratic
policies. Many APC supporters were charged before the Native Administration
Courts for “incitement undermining the authority of the Paramount Chiefs.”
The perceived mistreatment of these APC supporters would invoke hostility to a
number of Chiefs after they resumed power in 1968. Some APC members
advocated that the Chiefs should be suspended or dethroned as retribution for
their repressive actions during the Milton Margai years.

54. Sierra Leonean politics in the 1960s also began to be undermined by the notion
of the ‘pa’, a tag of quasi paternal authority attached to the perceived ‘big man’
of any given political grouping. In addition to its connotations of deferential
respect, the title of ‘pa’ has always brought with it administrative, political and
financial power over other members of the group or party. In consequence it
represents a personalisation of politics, as was the case in the SLPP in the run-
up to the 1962 elections.

55. The sitting SLPP Members of Parliament allocated the party symbol for
 candidacy to themselves, contrary to the rules agreed on in January 1962. This
tactic prevented the selection of any candidates whose loyalty to the
leadership was not assured. Further pre-election manoeuvrings by the regime
also led to six SLPP candidates being returned completely unopposed. The
Commission however found no evidence of attempts to rig the elections on
polling day, which was relatively peaceful and orderly.

56. After his brother’s death, Sir Albert Margai inherited a party that was
over-reliant on Chiefs and split internally over his controversial selection by the

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32 The colonial authorities had staged two previous general elections in Sierra Leone, in 1951 and
1957. Both of them were won by the SLPP.
33 At the time of these charges, no magistrate courts had been established in the Provinces. The
Native Administration Courts were run by members of the traditional elite allied closely with the
SLPP.
34 The ‘pa’ figure determines the political career, the mobility and the level of influence of the other
members in his party, compensating political allegiance and blocking perceived rivals. Thus it has
always proven difficult to nurture a culture of debate or principled dissent within a political party.
Those who dare oppose the ‘pa’ risk a career in the political wilderness. Sierra Leone’s experience
of party politics is replete with examples of those who rebelled against the controlling elite and the
punishment meted out to them, directly or indirectly.
35 The SLPP had agreed in January 1962 that local committees would allocate the party symbol to a
candidate with the majority vote in each constituency, so that the field would be open to all
aspirants.
36 See All People’s Congress (APC), Submission to TRC Thematic Hearings on Political Parties,
April 2003, at page 4.
37 The election results of 1962 put the SLPP in government, albeit without an outright majority. The
SLPP won 22 elected seats, along with six unopposed seats, giving it a total of 28 seats. The APC
won 16 seats, plus four seats from a party associated with it, giving it a total of 20 seats.
Independent candidates won the 14 remaining seats.
Governor General to become Prime Minister in 1964. Sir Albert Margai restricted the participatory process by obstructing opposition activities in several ways. First he used the Public Order Act 1965, Section 24 abusively to prevent the opposition from campaigning in the Provinces.\textsuperscript{38} Paramount Chiefs chased out known APC members from their Chiefdoms allegedly on the instructions of the Prime Minister. Several Chiefs who appeared immune to this type of manipulation were simply removed from power.\textsuperscript{39}

57. Sir Albert Margai weakened the opposition inside Parliament by introducing the 1965 Absenteeism Bill, which stipulated that any member who absented himself for 30 days without reasonable excuse would forfeit his seat. Four APC Members of Parliament lost their seats after they had been convicted and jailed for riotous conduct. Thus Sir Albert hampered an important element of democratic good governance by reducing the voice of the opposition in Parliament.

58. Another example of restricted political participation was the denial of the opposition’s right to be heard over the national radio station operated by the Sierra Leone Broadcasting Service (SLBS).

59. Sir Albert’s ultimately vain attempt at creating a one-party state in Sierra Leone was a further example of the inherently exclusionary political tendency under his regime.\textsuperscript{40} He was only prevented from pursuing his plans by massive and sustained opposition from civil society.

60. Yet the SLPP’s lacking internal democracy manifested itself again in the way Sir Albert Margai distributed party symbols during the 1967 general election campaign. He is alleged to have given symbols only to those who pledged him their unflinching support,\textsuperscript{41} thus alienating party members who opposed his style of leadership. It was a classic case of personal interest being placed above party and national interests, as it forced a number of popular figures to stand as ‘objectionist’ independent candidates.\textsuperscript{42}

\textsuperscript{38} The Act empowered the Chiefs to forbid meetings or assemblies of more than 12 people within their Chiefdoms. See Public Order Act 1965, Section 24.
\textsuperscript{39} One notable example of a Chief ejected for political reasons was Gbwaru Mansaray of Koinadugu District.
\textsuperscript{40} See All People’s Congress (APC), Submission to TRC Thematic Hearings on Political Parties, April 2003, at page 8. See also Tucker, P., The SLPP at 50: 42 Years of Trials and Tribulations; originally printed in the Standard Times International, Vol. 1, No. 30; reprinted in West Africa magazine, 2 May 2003 (hereinafter “Tucker, The SLPP at 50”).
\textsuperscript{41} During the election campaign itself, Sir Albert Margai was also alleged to have used the main secret societies - Bondo (female) and Poro (male) - to force people to swear allegiance to the SLPP and vote for his preferred candidates.
\textsuperscript{42} See Tucker, The SLPP at 50.
61. The Prime Minister then allegedly instructed the civil servants who served as returning officers in the Provinces to rig the 1967 elections.\footnote{See Honourable U. S. B. Munu, Submission to TRC Thematic Hearings on Governance, April 2003, at pages 4-5.} The Government had the Sierra Leone Broadcasting Service (SLBS) announce the results over radio in such a manner as to appear as if the SLPP had won 32 seats and the APC 32. In fact the APC had won 32 seats and the SLPP had managed only 28 seats. A prolonged and damaging standoff followed, descending into farce when military officers hijacked the political process and a hastily convened National Reformation Council (NRC) was anointed.\footnote{For a comprehensive analysis of this period of political turmoil, see the chapter entitled ‘Historical Antecedents to the Conflict’ at Volume 3A, Chapter 1 of this report, specifically in the section headed ‘The 1967 Elections and their Aftermath’.} 62. The NRC junta was an aberration on the political scene. Having grabbed political power through a coup, the regime lacked legitimacy, which could only really be conferred on a regime through electoral success. The NRC was also extremely reluctant to implement the outcome of the 1967 elections, despite enormous popular pressure for the mass vote to be recognised. The regime neither represented nor encouraged broad-based political participation.

63. The first APC government under Siaka Stevens began deviating from the canons of free and fair elections and participatory politics almost immediately upon assuming power. Stevens disregarded the agreement of national unity between his party and the SLPP that had been set up in 1968 to heal a nation deeply divided by the elections of 1967.\footnote{See Sierra Leone People’s Party (SLPP), Submission to TRC Thematic Hearings on Political Parties, 2003; at page 8.} He orchestrated a series of legal challenges, which unseated 23 SLPP Members of Parliament and later his regime instigated widespread violence against SLPP supporters in subsequent by-elections between 1968 and 1970. The APC Government also proscribed a new political party, the National Democratic Party, set up by some of Stevens’ most outspoken opponents in 1970.

64. The Electoral Commission was a highly compromised institution during the regime of Siaka Stevens and was complicit in undermining the electoral process. It turned a blind eye to the immense violence of the by-elections in 1969 and 1970 and endorsed obviously flawed victories for the APC. In the 1973 polls, the Electoral Commission presided over numerous incidents in which SLPP candidates were violently prevented from entering nomination centres to certify their candidature, as was required by law. Thus by the close of the campaign on 24 March 1973, APC candidates were declared unopposed in 46 out of the 85 constituencies.\footnote{See the reporting in the \textit{Daily Mail} newspaper, 2 to 6 May 1973.} The SLPP was to withdraw from these elections as a result.\footnote{See Lavallie, A. M.; \textit{The SLPP: A Political History of the Sierra Leone People’s Party}, unpublished MA Thesis, University of Sierra Leone, 1983 (hereinafter “Lavallie, A Political History of the SLPP”), at page 224.}

65. The Electoral Commission became a dumping ground for the APC party faithful. Its credibility suffered immensely in the eyes of a populace that saw it as nothing but an agency of the ruling regime bent on maintaining it in power through violent and coercive tactics.
66. In 1977, widespread intimidation and thuggery again resulted in an election that was neither free nor fair. APC candidates were unopposed in all constituencies in the Bonthe, Koinadugu, Kambia, Tonkolili and Bombali Districts. SLPP candidates in these areas were arrested under the Public Emergency Act 1978 and detained.

67. The most devastating blow to a free, fair and participatory political process in Sierra Leone was the introduction of a one-party system of governance in 1978. In turning the country into a One Party State, the Parliament ruled that only members of the recognised party (the APC) could qualify for election to the Presidency. Moreover, only members of that party in a conference of national delegates were eligible to nominate a candidate for presidential elections.

68. The One-Party Constitution destroyed all constitutional pretences about an independent Electoral Commission. Chapter IV of the new Constitution stated that the Electoral Commission was to be appointed by the President and could be deposed by the President for inability to discharge its duty or for misbehaviour. The wide discretionary powers given the President in relation to the Electoral Commission ensured that its members held office only at the pleasure of the President and therefore could hardly perform their functions without being overtly or covertly biased in favour of the President or his preferred candidates. The notion of ‘government candidate’ took universal hold, denoting a candidate with the President’s support who would be elected as a formality, whatever the preferences of voters.

69. Members of Parliament in 1978 had to join the APC party or face expulsion. Despite this objectionable downturn in the governance of the country, there is no indication that the 11 remaining SLPP MPs made any protest at the deliberate robbing of the right to mass participation in the political process. The opposition political elite instead proved that it would rather be included in the one-party structure than stand up for the cardinal democratic right and responsibility of the populace to chose candidates of its choice. The SLPP politicians, like their APC counterparts, have always preferred individual short-term survival over sound ideology, doctrines of principle or good governance. Thus in 1978, the SLPP members abdicated their responsibilities to challenge bad governance, their major focus instead switching to means of reaping the loot of co-optation.

48 See Sierra Leone People’s Party (SLPP), Submission to TRC Thematic Hearings on Political Parties, 2003, at page 6.
49 The result was a large absolute majority for the APC and a crippling reduction in the strength of the parliamentary opposition. It was the consequent stranglehold on Parliament that enabled the APC to introduce the One-Party Constitution.
50 See Public Notice Numbers 39-50 of 31 August 1978, announcing the arrest and subsequent detention of 158 opposition members all over the country. Among this batch were four SLPP MPs who were to lose their seats in Parliament by the invocation of the 1965 Absenteeism Act.
51 See the One-Party Constitution of Sierra Leone 1978 at Chapter III, Section 22.
52 See the One-Party Constitution of Sierra Leone 1978 at Chapter III, Section 5.
70. The challenge of effecting change was left in the hands of students and marginalised youths. In its submission to the Commission, UNAMSIL directly linked the emergence of this ‘unofficial opposition’ to the causes of the war:

“The institution of a One Party system in 1978 and the suppression of freedom under that system suffocated the growth of democracy and good governance. This suppression also nurtured the rebellious attitude amongst the youth, making it easier for them to embrace demagogues like Foday Sankoh who had promised to overthrow the system violently.”

71. Exclusionary and violent electoral practices also blighted the conduct of the 1982 elections, the first such exercise under the One-Party Constitution. Many individuals who were distrusted or not favoured by the APC central committee were either excluded from the process by non-issuance of the party symbol, or looked on helplessly as their supporters were prevented from voting. Such blatant attempts at exclusion inevitably generated violence. Electoral violence occurred in Bombali between the supporters of Abdulai Timbo (mainly Fullah) and Thaimu Bangura (mainly Temne), as well as in Pujehun South, between supporters of Manna Kpaka and Solomon Demby. The conflict between Kpaka’s and Demby’s supporters spawned what was referred to as the ‘Ndorgboryosoi’, which is widely acknowledged as a forerunner of the localised conflict that erupted there as part of the insurgency ten years later. In Kagboro Chiefdom in Moyamba District, intense violence was waged on opponents by APC strongman, Harry T. T. Williams. In the Western Area, thuggery in the West One constituency led to the cancellation of the elections.

72. An especially ominous development was the emergence of ‘drugging’ as a means of preparing thugs to participate in electoral violence. The anti-democratic actions of drug-using youths, manipulated by politicians, foreshadowed similar practices in the conflict, often involving child combatants or forced recruits.

73. The narrowing of the participatory process did not end with the transfer of power from Siaka Stevens to his APC successor President J. S. Momoh in 1985. Indeed, the succession itself epitomised many of the deficiencies in the wider political process. Within the APC party structure, dubious means were adopted to exclude the former First Vice-President S. I. Koroma, who believed that he ought to have succeeded Siaka Stevens. The party selection process

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53 See UNAMSIL, Submission to TRC Thematic Hearings on Governance, 1 March 2003; at page 2. For further discussion of the use of thugs, see also Rashid, I., Subaltern Reactions: Lumpens, Students and the Left”, in African Development, Vol. XXII, 1997, at page 24.

54 See Revolutionary United Front, Submission to TRC Thematic Hearings on Political Parties, July 2003. For a comprehensive analysis of the ‘Ndorgboryosoi’, see the chapter entitled ‘Historical Antecedents to the Conflict’ at Volume 3A, Chapter 1 of this report, specifically in the section headed ‘Local Historical Antecedents’.

55 See Dr. Dennis Bright, Minister of Youth and Sports, Submission to TRC Thematic Hearings on Youth, June 2003. See also the submissions to TRC Thematic Hearings by the SLPP, the Ombudsman, the NCDDR and the Centre for the Co-ordination of Youth Activities (CCYA).

56 See Earl Conteh Morgan and Dixon-Fyle, M.; Sierra Leone at the End of the Twentieth Century: History, Politics and Society; Peter Lang, New York, 1999 (hereinafter “Dixon-Fyle, et al., Sierra Leone at the End of the Twentieth Century”), at pages 121-122.
contrived to present General J. S. Momoh, the Head of the Army, as the sole candidate of the party for the presidential elections.58

74. Since the Momoh regime was in many respects a continuation of Siaka Stevens’ rule, the APC party’s contempt for internal democracy was very much evident. Under Momoh, however, a small circle of members of the President’s ethnic group – Limba – came to dominate decision-making processes. As well as being Limba, all the most important individuals were alleged to belong to the tribalistic Ekutay society.59

75. Local government elections were never conducted under Momoh, thus continuing the exclusionary political trend he inherited from Siaka Stevens.

76. To Momoh’s credit, however, there were some improvements in electoral administration. The Electoral Commission conducted the 1986 elections in a relatively free and fair manner, devoid of violence. Shortly after those elections, the appointment of Max Bailor as Chairman of the Electoral Commission led to changes in its administration that improved its capacity to conduct elections. University graduates were recruited, a far cry from the usually poorly educated officers who staffed the neglected professional wing of the Commission. Amendments made to the voting methods in 1990 saw the reintroduction of ballot papers and a single box for candidates to replace the much abused marbles or tokens put separately in different boxes for each candidate. A process of computerisation of voters’ registration was also begun. Thus the electoral commission was able effectively to conduct a referendum that approved the reintroduction of the multi-party system in 1991.

77. Unfortunately these incremental improvements were all too little too late. The upturn in participatory mechanisms coincided with the start of the conflict in 1991. Unsurprisingly a conspiracy theory emerged to question the veracity of Momoh’s democratic credentials. It was alleged that instead of accelerating a return to democracy, his government wished to use the war as a pretext to delay multi-party elections, or to hold elections only in secure areas of the country where the APC enjoyed strong support.60

58 This contrivance was partly achieved through an enabling amendment of the One-Party Constitution 1978 on 24 July 1985.
60 See, inter alia, Alhaji Dr. Ahmad Tejan Kabbah, current President of the Republic of Sierra Leone; testimony before the TRC Thematic Hearings held in Freetown; 5 August 2003.
THE RULE OF LAW

78. The rule of law signifies a society in which law is supreme. The running of state institutions, the relationship between the rulers and the ruled, interactions amongst and between individuals or corporate bodies; they should all be done according to law. The rule of law opposes the arbitrary rule of powerful men and women. The basic principles of the rule of law include equality before the law of the land; an impartial and independent judiciary; an accessible justice system; irrevocable constitutional guarantees; and respect for human rights and fundamental freedoms. Other important components of the rule of law are due process and fair legislative mechanisms that do not discriminate against particular groups in the society.

79. Citizenship provisions in the 1961 Constitution discriminated against Sierra Leonean women in many important respects. The most telling unfairness was that whilst the provision automatically granted citizenship to descendants of male Sierra Leoneans, it denied citizenship to the offspring of female Sierra Leoneans where the father was not of African Negro descent. The citizenship provisions also excluded the Lebanese, a long-standing and important community in Sierra Leone, from becoming citizens. The discrimination against them was racial – they were not of African Negro descent.

80. In 1906, the laws created to govern land tenure discriminated on grounds of ethnicity. Different land laws were applied to Sierra Leoneans depending on whether they were “natives” (those originating from the Provinces) or so-called “non-natives” (those originating from the Colony of Freetown, who were predominantly Krios). “Natives” could hold an indefinite interest in land in the Provincial areas but “non-natives” could only acquire land and hold it on limited tenancy. The Provincial Land Act of 1906 stated that “no non-native shall acquire a greater interest in land in the Provinces than a tenancy for fifty years.” The same statute contained the further clause that “nothing in this Section shall prevent the insertion in any lease of a clause providing for the renewal of such lease for a second or further terms not over twenty one years.”

81. The Provincial Land Act of 1906 gave certain advantages and privileges to the Protectorate people by reason of their place of birth or origin, which were not extended to other Sierra Leoneans. The Chiefs could arbitrarily recover land sold to “non-natives” if they so desired, especially if the land was formerly communally owned. In this area, the rule of law was subverted.

82. Most Sierra Leoneans also lacked access to the superior courts of the land, which were located in Freetown. The English common law applied in these courts was not understood by ordinary Sierra Leoneans, the majority of whom were illiterates from the Provinces who could not speak English. The courts were administered mainly by people belonging to one ethnic group – Krio. Thus even members of other ethnic groups who resided in Freetown avoided

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61 Equality before the law means that everyone, notwithstanding status, is subject to and must abide by the ordinary laws of the State.

62 Human rights include the right to life, the right not to be subjected to torture or any form of cruel or inhuman treatment, the right not to be deprived of one’s liberty arbitrarily, the right to a fair trial and the right to a private life. Fundamental freedoms include freedom of expression, freedom of religion and freedom of association.

63 Both passages come from Section 4, Article 122 of the Provincial Land Act 1906, in the Laws of Sierra Leone.
these courts. They preferred courts based on the traditional system of customary law, which were set up especially by Tribal Headmen in Freetown and its environs. The ordinance establishing Tribal Headship in the Western Area made no provision for the establishment of these courts. They were therefore illegal.

83. As magistrate courts were not established in the Provinces until 1965, provincial inhabitants only had access to local courts run according to custom, which varied from Chiefdom to Chiefdom. Customary law was not codified, nor was there any uniformity of procedure or penalty. The room for arbitrariness was therefore too large.

84. Arguably the high point of Sir Albert Margai’s regime in terms of rule of law was the passage of the Courts Act of 1965, which created magistrate courts that could be accessed directly by inhabitants of the Provinces. However, the Criminal Procedure Act of 1965 lacked acceptable safeguards to protect criminal defendants and was littered with anachronistic provisions. In particular, judges and magistrates were afforded an undue degree of discretion, inviting arbitrariness and abuse of their discretionary powers.

85. Many provisions in the Public Order Act of 1965 undermined basic rights. Provisions relating to seditious libel and the grossly arbitrary powers of the government during a state of emergency were typical examples. Other measures that clearly undermined the tenets of the rule of law included giving control of public meetings in the Provinces to the Chiefs, which many Chiefs used in practice to ban APC meetings.

86. The APC under Siaka Stevens pursued the demolition of the rule of law to new and very violent levels. Stevens quickly declared a state of emergency using the deficient regime of the Public Order Act. Whilst Albert Margai had usually been hesitant in implementing some of the unfair laws passed by his regime to their full effect, Stevens became adept at utilising many of those laws in new and unimaginable ways. The Steven’s regime promulgated its state of emergency during the by-elections of 1969-70 and under its cover unleashed the army and police against the opposition SLPP.

87. The state of emergency met with clamorous political dissent. Yet ironically, the more its opponents protested, the more the screws of its legal mechanisms were tightened. Notably the vocal and burgeoning National Democratic Party (NDP) of Dr. John Karefa-Smart was banned outright. Another instance of misuse of emergency powers came in 1977, after students demonstrated against President Stevens at a graduation ceremony at Fourah Bay College. The security forces intervened with brutal effect, firing live ammunition on the crowd. In 1978-79, in the face of mounting labour unrest and a threatened nation-wide strike, President Stevens again used emergency powers to clamp down on union leaders.

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64 The Commission has expressed its grave concern with remnants of the legal regime established under the Public Order Act 1965 elsewhere in this report; in particular, see the chapter entitled ‘Recommendations’ at Volume 2, Chapter 2 of this report.
88. In the 1973 elections, APC thugs were hired by the APC specifically to operate above the law in kidnapping SLPP candidates until after nominations of candidates were closed. Laws passed during Sir Albert Margai’s rule required candidates to be present at the nomination grounds on nomination day. Thus the involuntary absence of SLPP candidates in effect meant that APC candidates were returned unopposed in a majority of constituencies.

89. The APC government’s failure to implement laws like the Non-citizenship Trade and Business Act of 1969 (meant to empower indigenous Sierra Leonean business people by excluding foreigners from certain sectors of the economy) convinced a lot of persons that it was not a government that cared about the law. Rather than assessing laws on their merits, most people believed that the government only did things according to the wishes of the highest bidders.

90. As the rule of law diminished, judgements in court cases were often decided on grounds other than those justified by law. Unethical practices were rampant among lawyers. It became common for lawyers to solicit bribes from their clients for judges, magistrates and court officials. Barristers and solicitors colluded with their clients to pervert the course of justice. Litigation proceedings were often reduced to a snail’s pace with the deliberate concurrence of the lawyers involved.

91. The legal profession contributed a great deal towards the massive abuse of human rights that took place before and during the war. Indeed the lawyers of today are just as responsible for the woeful state of human rights protection that persists in the country. It was not uncommon during the 1970s and 80s for members of the Sierra Leone Bar Association to act as spies for the regime of President Siaka Stevens. Barristers leaked decisions by the Bar Association to government, thereby forestalling planned protests against oppressive and unconstitutional government actions.

92. Law reporting was neglected during the regime of Siaka Stevens. Between 1920 and 1973, regular editions of the African Law Report (Sierra Leone Series) had been published. The reporting of judgements of the courts of Sierra Leone was abruptly halted without proper explanation in 1973. One direct consequence of this decision was the upsurge in inconsistencies in subsequent judgements. These inconsistencies have left many decorated lawyers, not to mention the general population, utterly confused as to what constitutes the laws of Sierra Leone. From the time of Stevens to the present day, the country has been denied an efficient system of recording and reporting the judgements of the courts.

85 The provision requiring candidates to be present at nomination grounds had been promulgated by the Albert Margai regime to destabilise the APC. It represented a clear case of bad and biased law making. Under Stevens the government used the provision to suppress a section of the population on political grounds. Thus the bad law was compounded by a clear case of bad and biased implementation.

93. Of equal concern has been the static nature of the laws of Sierra Leone. Without law reforms and revisions, the rule of law is gradually compromised because new challenges facing the state are not addressed satisfactorily. Although the APC government established a Law Reform Commission in 1975,\(^\text{67}\) it did not treat the commission with any respect or seriousness. Thus the country was left with laws that were outdated\(^\text{68}\) and largely irrelevant to the demands of development, growth and multi-faceted integration.

94. Local court officials lacked legal training. The Local Courts Act No. 20 of 1963 provided for their work to be supervised by judicial advisers or customary law officers. These officers were empowered to advise local courts in matters of law, train local court personnel and exercise judicial review over decisions of local courts. However, declining interest in the rule of law and poor conditions of service meant that few such customary law officers were appointed. Local courts’ personnel continued to act as they wished without heed to the integrity or the improvement of the law. Customary law was never codified.

95. There were no marked changes in the rule of law situation during the regime of Siaka Stevens’ successor, President Joseph Saidu Momoh. Though perceptibly less violent overall than the Stevens regime, the Momoh regime nonetheless hanged its own First Vice-President, Francis Minah, after he was implicated in an improbable coup. Minah was almost certainly a victim of political vendetta within the APC, but a compromised judiciary was not likely to acquit him of treason in a climate where political favours mattered more than legal justifications. Minah was convicted and condemned to death with a number of other party outcasts.

96. Momoh’s reign elevated members of a tribalistic clique within the APC party, known as Ekutay, to a position well above the ordinary laws of the land. As the economic situation worsened, the regime carried the promulgation of states of emergencies yet another step further by declaring a state of economic emergency. State officials used emergency as a pretext to seize people’s money and property without regard for the law. The economic state of emergency was itself a suspension of the rule of law and fundamental rights. Allegedly looking for ‘economic saboteurs,’ state officials invaded private homes, disrupted businesses and generally created a climate of economic mayhem.

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\(^\text{67}\) See Act No. 12 of 1975 in the Laws of Sierra Leone.
\(^\text{68}\) Due to its colonial history, most of Sierra Leone’s laws were either adopted or adapted from England. Section 74 of the Courts Act 1965 made pre-1880 laws of England automatically applicable to Sierra Leone. Examples of laws adopted pursuant to this section include the Statute of Frauds 1677, the Wills Act 1837 and the Common Law Procedure Act 1852. Post-1880 English statutes that were adopted additionally include the Conveyancing Act 1881, the Settled Land Act 1882, the Perjury Act 1911, the Forgery Act 1913, the Larceny Act 1916 and the Married Women’s Maintenance Act (Cap. 100) enacted in 1888.
THE MEDIA

97. At independence, Sierra Leone enjoyed a vibrant media tradition, which included the first newspapers, radio broadcasters and television stations in sub-Saharan Africa. The governments of the post-independence era were theoretically in an excellent position to consolidate the country’s proud heritage.

98. During the colonial period, newspapers like the West African Reporter (1876 – 1884) and the Sierra Leone Weekly News (1886 – 1951) had not only criticised the colonial authorities, but also created awareness about issues of common concern such as education, health and agriculture.66 During Sir Milton Margai’s three-year tenure, there was no deliberate attempt to gag the press by the regime.70 There was pluralism in relation to the print media, albeit that the government controlled the only radio and television stations, as was the case in many parts of the world in that era.

99. Sir Albert Margai introduced laws to curtail press freedom, however. For example, a directive was issued to the government-owned newspaper, ‘The Daily Mail’, and the state broadcasting agency, the SLBS, not to afford any publicity to APC activities. When the government lost a libel case against the APC-leaning ‘We Yone’ newspaper for attempting to expose corruption at the Sierra Leone Produce Marketing Board (SLPMB), the regime removed juries from seditious libel cases and introduced trial by judge alone.71 Journalists such as Ibrahim Bash Taqi, A. F. Thorlu Bangura, and Samuel Holist, who exposed corruption at the SLPMB through We Yone, were constantly harassed. A. F. Thorlu Bangura, who was the newspaper’s financial controller, was sentenced to a year in jail for defamatory libel of the Prime Minister. The Public Order Act 1965 criminalised defamatory libel and set the tone for suppression of the press by successive regimes up to the present day.

100. The Media was considerably suppressed under the NRC, despite its short tenure in power. The junta passed a decree which forbade publication of any mention of the overthrown SLPP regime, the opposition APC or any defamatory matter concerning the NRC or its individual members or any statement likely to stir up ill-will between the ethnic groups in the country.72 The press subjected itself to extreme censorship as a result.

101. The Siaka Stevens regime orchestrated violent attacks against the independent press. One of the reasons Dr. Mohamed Sorie Forna gave for his resignation as APC Finance Minister in 1970 was the looting and burning down of the offices of ‘Freedom Press’, during which a child was killed. In 1972, the opposition newspaper, ‘The People’ was ransacked; in March 1973, following threats to journalists by the President, the editor of the opposition ‘Unity’ newspaper was detained without trial. Within five years the press was thoroughly cowed through threats, detentions and violent attacks on their

66 Fyfe C.; A Short History of Sierra Leone, London, Longman, 1962 (hereinafter “Fyfe, A Short History of Sierra Leone”), at page 118. See also Tucker, The SLPP at 50.
70 See Ibrahim El-Tayyib Bah, President of the Sierra Leone Association of Journalists (SLAJ), Submission to the Truth and Reconciliation Commission, August 2003.
71 See Criminal Procedure Act 1965 at Section 144(3), amending the Criminal Procedure Act 1961 at Section 41(a), which had originally granted trial by jury.
premises. Those left alone were largely those that had metamorphosed into propaganda machines for the APC. Newspapers like 'We Yone', the 'Sierra Leone Daily Mail', 'The Nation' and 'Sunday Flash' became mouthpieces for the APC triumvirate of Siaka Stevens, S.I. Koroma and CA Kamara-Taylor.

102. A government news organ, the Sierra Leone News Agency (SLENA), was established in 1980 to clear all news items and other issues pertaining to the OAU conference. After the conference, the government agreed to a neutrality clause as a condition for continuous funding to SLENA from UNESCO and PANA (Pan African News Agency). The government steadily diverged from the ethos of this clause, however, and SLENA became another agency for government misinformation.

103. Radio and television broadcasting were monopolised by the tightly-controlled SLBS. There has never been a Freedom of Information Act in Sierra Leone and its absence allowed for much speculative journalism. People's freedom of speech was severely restricted by the tendency of the security forces to arrest people for what was known as 'careless talk' - essentially any criticism of the government. Newspapers that reported corruption or human rights violations were invariably admonished or attacked. In 1982, state security agents bombed the offices and printing facilities of the independent newspaper 'The Tablet'. The publisher, editors, and senior journalists fled into exile.

104. In 1980, Parliament passed the Newspaper Amendment Act, which increased the cost of newspaper registration to exorbitant levels. The Minister of Information received and approved all applications and also had the right to refuse registration.

105. President Momoh inherited a regime hostile towards press freedom. The government-controlled broadcast media retained the same monopoly over the dissemination of information. During Momoh's reign, the coverage of the SLBS was restricted to Freetown. Thus when the conflict broke out in 1991, the majority of Sierra Leoneans relied on rumour to determine its progress. The SLBS effectively promoted the government's version of the war until junior officers from the war front descended upon Freetown to overthrow the regime in April 1992. A culture of misinformation laid the foundation for gossip and popular myth to dominate people's impressions of the conflict – a phenomenon known as the 'den say' syndrome. Incongruously, Sierra Leoneans were over-reliant on the BBC World Service to keep up-to-date with events in their own country. Moreover, the dearth of accurate reporting contributed to propaganda successes on the part of the insurgent RUF, driving large numbers of people away from their villages in panic even when the threat of attack was in reality very distant.

73 See Professor Septimus Kaikai, Minister of Information and Broadcasting, Government of Sierra Leone, Submission to the Truth and Reconciliation Commission, 30 July 2003.
74 See Ibrahim El-Tayyib Bah, President of the Sierra Leone Association of Journalists (SLAJ), Submission to the Truth and Reconciliation Commission, August 2003.
75 Prominent RUF commanders became familiar contributors to news reports and radio broadcasts during the conflict years. Their trademark was boastful bravado and exaggerated claims of military prowess. Since there was rarely an objective view from the ground to contradict the RUF, its commanders spread fear and havoc among civilians and government forces alike by saying that an attack was imminent, when often their forces were not even close.
106. The continued attacks on the media drove many qualified and experienced people away from the profession, decimating the calibre and capacity of the so-called ‘Fourth Estate’. Nowadays, anyone with a secondary school leaving certificate could practice as a journalist. Many of the media houses, in particular print media, are owned by people who wear their political loyalties on their sleeves. Many of the newspapers have degenerated into political rags.

107. A culture of debate and principled reporting still remains unattainable for most media practitioners in Sierra Leone. In consequence the average Sierra Leonean has no confidence in the media, either for newsworthy stories or informed, objective editorial opinion. The poor financial state of most of the media houses implies that the journalists are only paid a pittance. Many journalists are therefore inclined to practice blackmail, whereby people about whom they have received unsavoury information are ‘compelled’ to pay them to prevent the information from being published. Public figures who have attempted to call the journalists’ bluff are rewarded with sustained negative press reporting. In order to protect their reputations, many people embark on criminal prosecutions for defamation against the erring journalists. Thus both press and public are ensnared in a vicious circle, which is all too often squared by the intervention of the ruling party.

108. The Sierra Leone Association of Journalists (SLAJ) needs to clean its house out in order to retrieve the reputation of journalism from its detractors intent on dragging it through the mud. SLAJ must clarify the criteria for admission to practise as a journalist. Only a small number of newspapers still remain true to the ideals of the profession. All other media practitioners must try to build upon the example these newspapers set and redeem the status of the media as valuable, regulated space for dialogue between all sectors, institutions and individuals in society.

CIVIL SOCIETY

109. Civil Society in the colonial era was mainly composed of elitist Freetown-based groups active in pressuring the colonial authorities to open up the political space between 1920 and 1947. By 1950, these groups had coalesced to form a political party – The National Council of the Colony of Sierra Leone (NCCSL) – dedicated to promoting the interests of the Krio ethnic group in the accelerated decolonisation process of the 1950s.

110. The two major civil society groups in the former Protectorate, the Sierra Leone Organisation Society (SOS) and the Protectorate Educational and Progressive Union (PEPU), also merged into a political party. It was the beginning of the Sierra Leone People’s Party (SLPP), established ostensibly to promote the interests of people in the provincial areas.

111. The NCCSL was not successful in reaching its objectives and the rancour at having lost out to the political thrust of Protectorate civil society, embodied in the SLPP, had still not evaporated by independence in 1961. The NCCSL’s enmity found new expression in the alliance forged between its constituent groups and the APC. The latter had grown out of splits within the ranks of the Protectorate representatives in the run-up to independence. The APC mainly represented one particular social category (people without ties to traditional rulers) and one Region of the country (the North). Like the Krios, however, its
members felt marginalised by the emerging dominance of the political scene by people from the South and those with strong ties to the Chiefs.

112. The support given by members of the Krio-dominated civil society in Freetown to the organisers of the 1955 riots foreshadowed their readiness in subsequent years to support any strong engagement with Protectorate elite as represented by the SLPP. The organisers of the strike, the Artisanal and Allied Workers led by Marcus Grant, were agitating for an increase in salaries and improvement in working conditions. It was alleged that the leader of the National Council of the Colony of Sierra Leone (NCCSL) instigated the riot as a last-ditch effort to undermine the inevitable dominance of the SLPP in the post-colonial period. Sir Milton Margai refused to talk to the workers and instead suppressed the riot after violent days, during which much destruction was done. Several strikers were killed and property belonging to some prominent cabinet ministers was destroyed. This clash set the tone for a difficult relationship between workers and the ruling elite. Workers’ demands were generally met with intransigence and force by the state.

113. Notwithstanding the Elections Before Independence Movement (EBIM), which later spawned the APC, there were to be no further confrontations between civil society and the Milton Margai regime. Civil society was largely bereft of a flagship issue with which to engage passionately between 1961 and 1964.

114. The situation was quite different during Sir Albert Margai’s tenure between 1964 and 1967. Freetown civil society discovered in Albert Margai’s overbearing political tendencies reasons to be afraid that their future was under threat. Thus Freetown-based civic groups like the Fourah Bay Academic Staff and Students’ organisations, the Sierra Leone Bar Association and the independent press actively engaged the regime on issues such as the proposed one-party state, harassment of the media and the introduction of a republican constitution. Civil society also challenged the regime on its alleged corruption and its appointment of mostly Southerners to public positions.

115. Civil society groups found a real focus, however, in their loathing of the NRC junta’s attempts to perpetuate itself in power. Despite the regime’s attempts at co-opting key members of civil society by appointing them into the Civilian Advisory Committee, the latter recommended a swift handover of power to civilians. Eventually junior military officers overthrew the NRC and set up the Anti-Corruption Revolutionary Council, which handed over power to a civilian government headed by the APC.

116. The return to civilian rule was basically a victory for the Freetown-dominated civil society groups, most of which were in reality aligned to the APC. These groups proceeded weakly to oblige the APC by turning a blind eye to the party’s increasingly autocratic practices.

76 See the observations made in this regard in the Shaw Report on the 1955 Riots, at pages 12–13.
77 See Tucker, P. (former Secretary to the Prime Minister, Sir Albert Margai), Submission to the Truth and Reconciliation Commission, November 2003, at pages 2-3.
78 Among the cabinet members whose property was destroyed in the 1955 riots were M. S. Mustapha, Albert Margai and Siaka Stevens.
79 The leaders of this Movement were to spend Independence Day, 27 April 1961 in jail, being held under emergency powers assumed by Prime Minister Milton Margai.
117. That civil society failed to challenge the APC’s brutal electoral practices in the by-elections of 1969-70 and the obviously doubtful legality of its proclamation of a republic in 1971 was symptomatic of a narrow-minded ethnic and professional fear of the SLPP political alternative. Civil society leaders were largely opportunistic and they saw in co-optation by the APC a better route to keeping their privileged positions that had been threatened under the SLPP.80

118. Even the Sierra Leone Bar Association, arguably the civil society group with the strongest potential voice, failed to stand up to the dictatorship of Siaka Stevens. Their meek submission to the One-Party Constitution in 1978 was a far cry from their vibrant protestations at the Albert Margai one-party initiative. In his submission to the Commission, a respected member of the Bar Association at that time lamented thus:

“We the people of this country must accept some of the blame, because we did not challenge the government then, as has been done in Ghana and Nigeria. We the middle class, the professionals and intellectuals failed the people of this country, because when similar circumstances arose in Ghana and Nigeria, we would see the Ghanaian middle class or Nigerian middle class and intellectuals and professionals take to the streets! Unlike us, they went the course, they were prepared to go to prison, they were prepared to die”81

119. Other groups within civil society lacked the financial or intellectual clout of the bar association and the academic staff association to mount a credible challenge to the APC. Other factors also contributed to their disinterest in engaging the APC in the early 1970s. First living standards had not yet deteriorated. Second the leaders of the unions shared ethnic ties with the leaders of the APC and were reluctant to act against the party.

120. However the foremost deterrent to opponents of the deteriorating governance situation lay in the violent methodologies deployed by the APC to crush dissent. Members of police units, the Special Security Division (SSD) and hired youths or thugs meted out brutality sanctioned by the state. In his submission to the commission, the Ombudsman stated:

“The SSD was the instrument of tyranny in this country. It was used to cow opposition leaders; it was used to cow the press, the citizens, students and people who tried to protest; It was used for killing people, maiming and to some extent armed robbery. But everybody kept silent because of the fact that we were scared that they could seek their revenge.”82

80 For more discussion of the opportunistic liaisons of members of Freetown civil society with the APC, see Squire, C. B., *Ill-fated Nation?*, Ro-Marong Limited, Freetown, 1995 (hereinafter “Squire, *Ill-fated Nation*”), at page 83.
81 See Francis Gabbidon, Ombudsman of Sierra Leone, Submission to TRC Thematic Hearings on Governance, Freetown, June 2003.
82 See Francis Gabbidon, Ombudsman of Sierra Leone, Submission to TRC Thematic Hearings on Governance, Freetown, June 2003.
121. The government’s ability to co-opt civil society leaders was markedly enhanced by the One-Party Constitution 1978 which in Chapter IV, Section 43 empowered the President to appoint seven members to Parliament by instrument under his own hand. Consequently, the Presidents of the Sierra Leone Teachers’ Union (SLTU) and the Sierra Leone Labour Congress were appointed as Members of Parliament. Also, key members of the Academic Staff Association were co-opted and given ambassdorial posts or made ministers.

122. Student bodies, in which leadership was necessarily transient, were left as the only organised civil society. Their youth worked in their favour, since the government did not consider it worth co-opting them and they were bold enough not to back off from confronting the regime. However, the brutal suppression of the nation-wide students’ demonstrations of 1977 muted student protest for a considerable period of time.

123. In 1982, deteriorating living conditions led to a regime-threatening strike organised by the Sierra Leone Labour Congress. The strike action was violently crushed in a manner that confirmed the government’s willingness to take extreme measures to preserve its position. Thus was extinguished the last major flourish of civil society in highlighting either the political or economic deterioration of the country during the Siaka Steven era.

124. Upon assuming office in 1985, President Momoh met a virtually lifeless civil society. Though a military man and an obviously incompetent administrator, the new president was not overtly violent, so civil society actors started to raise their voices. A group of parliamentarians formed the Backbenchers’ Association and they were complimented by such newspapers as the ‘New Shaft’ and ‘For di People’ in their call for an opening up of political discourse.

125. There were, however, members of President Momoh’s administration who were prepared to unleash violence on opponents of the regime. The leader of this violent clique was the Inspector General of Police, Bambay Kamara. The President lacked the authority to shackle such men; thus the APC in its last days swung between violence on the one hand and, on the other, the more subtle interventions of intellectuals like Dr. Abdulai O Conteh, the Attorney General and Minister of Justice. Conteh was to lead the APC’s thrust to become a multi-party constitutional regime. A new constitution was promulgated, but the untamed men of violence were allegedly planning to brutally rig the multi-party elections when war broke out.

126. The role of faith institutions in the period leading to the war also demands examination. It is indeed regrettable that faith institutions seem to have found common cause with the governments of the day and therefore took no stand on the issues that were tearing the country apart between 1961 and 1991. Faith institutions were content to be feted and revered by the respective Governments. They did not use the access this reverence conferred on them to engage in dialogue with the rulers and try to have them change their oppressive politics.
127. In this sense, the church men and imams were no different from their colonial forebears who encouraged the people to read their Bibles and Korans while their land and other resources were appropriated by the colonial government. The religious institutions have engaged the Government only once in public, when in 1993 an officer of the NPRC regime, Colonel Gabriel Mani, assaulted a notable religious figurehead, Bishop Keillie of Bo Diocese. Up to 1991 therefore, faith institutions in Sierra Leone buried their heads in the sand and intoned that everything was fine in the country, admonishing the faithful through their sermons to be loyal to constituted authority.

128. It took until the final throes of the conflict for the attitude of faith institutions to change in any significant way. One factor that accounted for the improvement was the establishment of the Inter-Religious Council of Sierra Leone (IRC/SL) in 1997. For the first time, an umbrella organisation that brought the leadership of all the faith institutions together was established. It became common for them to articulate unified positions on the burning issues of the day and to engage the unpopular junta government of the AFRC from a position of strength. Gradually the faith institutions were to play an important role in efforts at bringing peace, beginning with the Conakry Peace Plan and leading up to the Lomé Peace Agreement. Today, the churches and mosques are engaged in consolidating the peace through their work at community level, reintegrating and reconciling their followers whilst attempting to meet their developmental needs.
SECURITY INSTITUTIONS IN SIERRA LEONE

The Sierra Leone Army

129. The Sierra Leone Army at the time of independence was small and confined to the barracks. There were only four barracks, positioned at Daru in the Kailahun District, and at Wilberforce, Juba and Murray Town in Freetown.

130. When the British colonial authorities created the Sierra Leone Army, they used dual criteria for recruitment. In the South and East, where more people had undergone western type education, there was an insistence on educational qualifications. This requirement coupled with the fact that seven of the country’s 12 districts were in the South and the East led to a preponderance of Southerners and Easterners in the officer corps of the Army in the immediate post-colonial period.

131. In the North, a different criterion was used. Fitness and height were emphasised and educational qualifications were played down. Many Korankos, albeit uneducated because of the lack of western type educational facilities in their region, met these conditions. They were recruited in large numbers into the lower ranks. Some members of the other major ethnic groups in the North - the Temnes and the Limbas - also established themselves in the Army in this manner.

132. The Army inherited by Sir Milton Margai was therefore ethnically unbalanced. There were few Northerners in the officer corps, yet they were over-represented in the lower ranks. Upward mobility was limited, as a formal education and passing of professional examinations were standard requirements for promotion to the officer corps.

133. Terms of recruitment for soldiers included free medical and surgical services for their immediate families, a salary commensurate to the cost of living, an annual leave allowance, adequate travelling allowances, promotion through fair examinations, provision for overseas training and security of tenure for all serving officers. Arbitrary removal was deliberately rendered difficult by the Constitution.

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83 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003.
84 See Fyfe, A Short History of Sierra Leone, at page 74.
85 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003.
86 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003.
87 See the Independence Constitution of Sierra Leone 1961 at Chapter IV.
However, on the negative side, the space in the barracks was too small to house many soldiers’ families. Unhygienic bucket toilets were prevalent in almost all the barracks in the city of Freetown – a condition that has not changed up to the time of writing in 2004. Inadequate accommodation in the barracks led to many low-ranking soldiers moving outside the barracks and becoming much more susceptible to party politics right up to the time of the conflict.

Sir Albert Margai inherited a neutral, non-politicised Army headed by British Officers. The Commission found no evidence that the conditions of service in the Army deteriorated during Sir Albert’s regime. However, the regime’s ‘Africanisation’ of the force resulted in a lot of meddling in the hierarchies and inter-relationships between soldiers. The rapid promotion of Brigadier David Lansana, a compatriot of Sir Albert’s from the East who was closely affiliated to the Mende tribe, did not go down well with members of the officer corps from other ethnic groups. In his submission to the Commission, a member of the Army at the time, Major (Rtd.) Abu Noah stated:

“The fruit of such political largesse was given [to Lansana], I say, because he had not merited [such a rank] outside of the unnecessary need for Africanisation. It appeared then as if the programme were designed to put the most senior Sierra Leonean Officer in a position of trust as political insurance for the politician who introduced the scheme. In 1964, for example, the speech of the Governor General lauded the elevation of Lieutenant Colonel Lansana to the substantive rank of a Colonel and in 1965 he was promoted to the rank of Brigadier. Those were the salad days of Sir Albert Margai’s reign.”

When in 1967 the Deputy Head of the Army, John Bangura, and six other Northerners and Krios were arrested for an alleged coup plot, it left mainly Mende officers in the senior cadre. Of the seventeen cadets recruited in 1967, thirteen were Mendes.

The promotions that Sir Albert Margai effected and the overall domination of the officer corps by members of his Mende ethnic group paved the way for the Army’s political intervention in 1967. Disputes and depositions by members of the Army, rather than politicians, would eventually lead to the installation of the country’s first military regime, known as the National Reformation Council (NRC).

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88 Major (Retired) Abu Noah, Submission to TRC Thematic Hearings on the Sierra Leone Army, 22 July 2003, at page 6.
89 Dixon-Fyle, et al., Sierra Leone at the End of the Twentieth Century, at pages 26 – 52.
90 For a comprehensive analysis of the period of political turmoil preceding the NRC, see the chapter entitled ‘Historical Antecedents to the Conflict’ at Volume 3A, Chapter 1 of this report, specifically in the section headed ‘The 1967 Elections and their Aftermath’.
138. The NRC appointed the Head of the Police, William Leigh, as deputy chairman of their ruling council. This appointment represented the beginning of the politicisation of the Police Force, ironically instigated by the Army. Members of the NRC then promoted themselves to ranks that they did not merit. For example Colonel A. T. Juxon-Smith, the audacious Head of State, promoted himself to Brigadier. The actions of the NRC formed a blueprint for subsequent military regimes to distort ranks in the military by giving themselves unmerited promotions. The officer corps was still dominated by Mendes under the NRC, however.

139. Siaka Stevens ultimately came to power as a result of another military coup in 1968, which handed over power to Stevens on the basis that he was the rightful winner of the 1967 General Election. The Army was an unstable institution by the time Stevens took up office. Sir Albert Margai’s policies had driven a wedge down the middle of the Army and the growing rift had become irreversible by the time Stevens took over.

140. Stevens accelerated political interference in the military, enacting a variety of policies that decimated its worth to the state, including the following:

- When Brigadier Bangura was Head of the Army, a system referred to as “Tribal Returns” was introduced. All ranks were accordingly re-examined in terms of their tribal composition. Ranks containing large numbers of Mendes, whether duly qualified or not, were reduced in number by the removal of members of this ethnic group. Thus many Southerners and Easterners were dismissed from the Army arbitrarily with an accompanying note stating simply “Service no longer required.”

- Conversely, all those soldiers who had been declared redundant by Juxon Smith for abandoning the Army to join APC loyalists for training in Guinea were re-enlisted under a policy called ‘AWOL Recall’. These returning soldiers, most of them Northerners, were given the positions that had become vacant as a result of the “Tribal Returns Policy”.

- So-called ‘Specific Special Recruitment’ was carried out between 1968 and 1969 to target Northerners. The benchmark set for such recruitment was the ability to lift a bag of rice over one’s head. Such a baseless method of enlistment sapped the sense of professionalism from service and promotion in the Army, a trend that was never corrected in the decades preceding the conflict.

83 In the wake of the NPRC coup of April 1992, for example, all the members of the administration apart from the Head of State, Captain Valentine Strasser, awarded themselves rapid promotions. When the NPRC handed over power in 1996, the adjustment of such ranks by the civilian government to reflect service and experience would have required a problematic overhaul of military protocol. A similar scenario unfolded when the Armed Forces Revolutionary Council (AFRC) seized power in May 1997. When the AFRC was deposed by force and its main officers retreated into the hinterland, the military was confronted with the peculiar phenomenon of quasi-official “Bush Brigadiers”.


85 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003.
141. The APC regime deployed the Army against its political opponents. AMIPOL, a combined unit of the Army and the police force apparently set up to curb armed robberies, was used to put down supporters of the rival United Democratic Party (UDP). In addition, a new security agency – the Internal Security Unit (ISU) - accountable only to Siaka Stevens and the APC was created to serve as a check on the military whose loyalty the APC still doubted. Finally, the APC deliberately starved the military of supplies. An under-equipped Army would be no match for the generous firepower of the ISU in case of any attempt by the soldiers to once again take over the running of the state.

142. Senior officers quickly began to share in the spoils of corruption under the APC. For instance, senior officers were given 25,000 bags of rice per month to distribute to soldiers, even though the total number of members of the institution was less than 4,000. Finances allocated to the Army were not audited. The recruitment process also accommodated ‘favourites’ to powerful members of the regime. Recruitment cards were given to party bosses to enlist whosoever they wanted into the Army.

143. In 1978, the Army lost all semblance of political neutrality when the Head of the Military, Colonel Joseph Saidu Momoh, was appointed to a simultaneous seat in Parliament and made Minister of State. Momoh’s extraordinary move was made possible by a tailor-made provision in the One-Party Constitution 1978.

144. The APC put forward the following justification as the basis for its policies on security institutions:

“Since the APC was returned to power after the SLPP-led military interregnum in 1968, the ever-present threat to remove the party from office by force of arms forced successive APC governments into a self-defence and state defence posture. In the process, internal security and stability assumed a very prominent place on the government agenda, thus slowing down the full impact of our development strategies.”

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95 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003.

96 See All People’s Congress (APC), Submission to TRC Thematic Hearings on Political Parties, April 2003, at page 3.
145. Under President J.S. Momoh, the same patrimonial system, the same Northern dominance, the same card system and the same corrupt rice policy were continued. Thus the military, under-equipped, under-trained and with a leadership engrossed in chasing ill-gotten gains, was most ill-prepared to meet the challenge of defending the country at the start of the war in 1991.

The Sierra Leone Police Force

146. There is no evidence that Sir Milton Margai tried to manipulate the Sierra Leone Police force (SLP) based on partisan interests. The Police was largely under the control of British Officers for the transitional period around the country’s independence.

147. Similarly, there was no widespread use of the Police force to suppress popular opposition during Sir Albert Margai’s tenure. The only recorded attempt to deploy the police in this manner arose during the 1967 elections when the Prime Minister was alleged to have instructed the police officers not to grant police protection for opposition party meetings in the Provinces except where such authorisation came directly from the District Officer. The District Officers invariably refused to grant such permission, so Sir Albert’s instruction amounted to a prohibition. However, in cases where some officers initially provided protection at opposition meetings, there is no evidence that they were sacked, demoted or transferred by the Prime Minister.

148. The Police was first brought into politics when its head, Commissioner William Leigh, was appointed deputy leader of the NRC regime in 1967. Mr. Alpha Kamara, Assistant Commissioner of Police, also served as a member of the NRC’s Military Council.

149. Substantial political interference in police affairs took place during Siaka Stevens’ regime. Furthermore, the police became so incapacitated that it struggled to provide even the most basic of services to the general populace.

150. The APC regime recruited party activists to form the nucleus of a paramilitary wing of the police, the Internal Security Unit (ISU). Members of the rank and file of the ISU were mostly illiterates, drawn primarily from the Limba ethnic group. Their loyalty to the APC and Siaka Stevens was unflinching. They were deployed at key government locations and were very ruthless in suppressing political opposition. They wielded considerable political influence and some of them enjoyed accelerated promotions. The ISU was disloyal to Police Headquarters as its officers considered themselves as political appointees.

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87 See Lieutenant Colonel Sowa, current Commanding Officer at the Armed Forces Personnel Centre, Sierra Leone Army; TRC Interview conducted at private residence, Freetown; 13 December 2003, including the following quote: “We had to go and beg the SSD for support weapons”. The dearth of weaponry was corroborated by several other long-serving military officers, including: Brigadier (Retired) Kellie H. Conteh, current National Security Co-ordinator at the Office of National Security and former long-serving officer in the Republic of Sierra Leone Military Forces (RSLMF); testimony before TRC Thematic Hearings held in Freetown, June 2003.

88 See Alhaji Dr. Ahmad Tejan Kabbah, current President of the Republic of Sierra Leone; testimony before TRC Thematic Hearings held in Freetown; 5 August 2003.

89 See Brima Acha Kamara, Inspector-General of the Sierra Leone Police Service, Submission to TRC Thematic Hearings on the State Security Apparatus, May 2003, at page 2.
The presence and the operational approach of the ISU greatly undermined the cohesiveness of the Sierra Leone Police.

151. Political interference adversely affected relationships between those officers with high political profiles and those with none. The latter group, probably out of frustration, made no meaningful effort at improving the force, while the former concentrated on improving their own lot. Between 1970 and 1985, this divided force became increasingly incompetent and corrupt. Without security of tenure, the police tried constantly to please their political patrons. Recruitment, promotion and dismissal of police officers were all decided on arbitrary and secret grounds. Thus the SLP was shaped into a force that acted as a ready tool in the perpetration of state terror against dissenters and political opponents.

152. Large-scale corruption by Police Officers due to poor remuneration and conditions of service led to the exploitation of the very people they were supposed to protect. Deviant behaviour by police officers in turn created disdain on the part of the public towards the SLP.

153. The heavy-handed means and tyrannical attitudes of most senior officers towards their juniors also served to heighten tensions in the force. Junior officers were routinely bullied and had their rice rations, salaries and other entitlements seized unlawfully. Some dependants of these junior officers would later graduate into the force and swell the ranks of rebellion.

154. This appalling situation was further compounded by the unprofessional behaviour of police officers in handling and investigating reports made by the public, which remained their core function. There was widespread extortion of complainants, taking of sides in disputes and daily violation of basic human rights, especially those of suspects. The violations included unlawful incarceration, brutal torture in order to extract 'confessions,' violent suppression of anti-government demonstrations and the lethargic failure of senior officers to investigate complaints made against the police. All these factors served to widen the already existing gulf between the public and the police.

155. In 1978, the Police Force was further politicised under the One-Party Constitution when its head was appointed by the President to be a Member of Parliament. This destroyed the institutional autonomy of the police, just as the Army had been robbed of its own. When he acceded to the Presidency in 1985, the Head of the Army J. S. Momoh made no tangible effort to restore the reputation of the Sierra Leone Police Force as an effective, non-partisan protector and promoter of people’s lives, property and dignity.
SERVICE DELIVERY

156. Governance balances the right to rule with the responsibility to deliver services that enhance, rather than retard, people’s basic material requirements. Service delivery is dependent on the available natural and human resources, the willingness of the governing regime to use these resources to enhance economic viability and a distribution mechanism that caters for vulnerable groups like youths, workers, women, children and rural dwellers. The distribution of services should never be decided on political grounds, or be used to deprive any sector of society of its essential supplies.

157. Sir Milton Margai inherited an economy that was fuelled by the export of diamonds, iron ore, bauxite and cash crops like cocoa and coffee. The first post-independence government established the Sierra Leone Produce Marketing Board (SLPMB) to enhance the cultivation and marketing of ginger, cassava, palm oil, palm kernels, cocoa and coffee. A stabilisation fund was established by the SLPMB to compensate farmers against fluctuations in world prices for these commodities.106 Agricultural co-operatives were created all over the country to help farmers maximise their profits. The regime also established the Rice Corporation to ensure that the nation’s staple food was affordable. The SLPP failed however to promulgate laws to make the investment climate in the agricultural sector more attractive.

158. The administration founded the Njala University College near Bo for the training of agriculturists and teachers, along with Milton Margai Training College in Freetown to produce teachers for the Junior Secondary School level. There was free medical care for all students and there was pipe borne water and electricity for all District Headquarter Towns. The School of Nursing in Freetown was established during Sir Milton Margai’s rule.

159. The Government was able to negotiate with Sierra Leone Selection Trust (SLST) to reduce the latter’s lease of the country’s lucrative diamond fields from 99 years to 36 years. However, there was no arrangement to compensate the people of Kono District and Tongo for their diamondiferous lands. Instead the Paramount Chiefs of these localities were paid surface rents which they utilised for personal enrichment rather than community development.

160. Sir Albert Margai’s regime established the central Bank and set up the first buying and exporting offices for diamond and gold in Kenema, Bo and Freetown. However, the SLPMB was handled in a very patrimonial and corrupt manner,101 squandering the state funds required for service provision. It was also a case of members of the urban elite exploiting rural people to finance extroverted consumption patterns – the Prime Minister used monies obtained from the SLPMB to acquire properties abroad.102

106 See Mr. Kallon, Deputy Director-General of Agriculture and Forestry, Submission to TRC Thematic Hearings on Governance, May 2003, at page 3.
101 See the Bekou-Betts Commission of Inquiry Report on the SLPMB.
102 Sir Albert Margai was also alleged to have allowed his friends on the board of the SLPMB to appropriate the stabilisation funds. See the reports in We Yone newspaper, 14 November 1964 and 12 January 1965.
161. The APC under Siaka Stevens took two decisions in the early 1970s that proved disastrous for service provision in the country: the closure of the railway in 1970 and the dissolution of elected local government in 1972. These actions cut off efficient service delivery to people in the Provinces.

162. The economy of Sierra Leone depended heavily on the mining sector, especially diamonds. A sharp decline in official export rates of diamonds considerably reduced government revenue during the Stevens years. In 1970, two million carats of diamonds was the figure officially exported. By 1980, the export total had dwindled to 595,000 carats. Three years before the conflict, it had dropped to only 48,000 carats.103

163. The country’s woes were compounded by low producer prices for coffee and cocoa and an unrealistic foreign exchange rate. But it was corruption that totally ruined the economy. Corrupt acts104 during the APC regime included the disappearance of a 968 carat Diamond (the feted ‘Star of Sierra Leone’) in 1972 and the ‘Vouchergate’ scandal in late 1970s.105 $100 million was budgeted for the hosting of the OAU in 1980, yet in the event more than $200 million was spent on it.106 The Governor of the Bank of Sierra Leone, Mr. Sam Bangura, had opposed the expenditure perhaps too openly and was allegedly murdered.107

164. The APC oversaw a number a infrastructural construction projects including the following: the Youyi Building; the Police Headquarters; and the National Stadium; the Juba Bridge; Hill Cut Road; the Mange and Kambia Bridges; the Masiaka–Bo Road; the Makeni–Kono Road; the Makeni–Lunsar Road; the Bo–Kenema Highway; the Bo–Bandajuma Highway; and the Dodo Hydro Electric Power Project. Percentage distribution of these infrastructural achievements shows that 56% were in the Western Area, 30% in the North and 24% in the South and East. Barely a single infrastructural project was carried out in a financially sound fashion.

104 See Mrs. Olayinka Creighton-Randall, Campaign for Good Governance, Submission to TRC Thematic Hearings, 5 May 2003. See also Opala, The Politics of State Collapse. See also Colonel Komba S. M. Mondeh, Submission to TRC Thematic Hearings on Governance, June 2003.
105 ‘Vouchergate’ was the phrase coined to capture the scandal when civil servants stole millions of Leones from Government Revenue by cashing in counterfeit workers’ vouchers. The culprits of this devious scheme were initially dismissed but later reinstated. The Minister whose discovery exposed the scam, Mr. Alfred Akibo-Betts, was subsequently sacked.
107 For a discussion of the local dynamics associated with the death of Mr. Sam Bangura, see the chapter entitled ‘Historical Antecedents to the Conflict’ at Volume 3A, Chapter 1 of this report, specifically in the section headed ‘Local Historical Antecedents’.
165. Over-centralisation of Government service delivery negatively affected health services in the regions. Of the total number of between 250 and 300 medical doctors on the eve of the conflict, only 150 served the Provinces, where the vast majority of the population lived. Thus although the country’s aggregate infant mortality rate was amongst the highest in the world, the situation was far worse in the Provinces than in the Western Area. Sierraleoneans had a life expectancy of less than 40 years on the eve of the conflict.

166. The pipe borne water supply was also concentrated entirely in Freetown at the expense of the Provinces. Whereas throughout the colonial period up to the first half of the 1970s all District Headquarter towns and some Chiefdom towns had pipe borne water, none except Bo and Kenema had retained such facilities up to the eve of the conflict.

167. By 1991, the road network was also in ruins. The total length of roads in good condition was not more than 160 kilometres for the entire country. The depleted road network hampered troop movements for the Government’s conventional fighting forces during the conflict.

168. Education clearly did not rank as a priority for successive regimes prior to the war. A report by the present Government attributes a budgetary allocation of only 5% to education. The APC regime’s neglect for the education sector was exemplified in Krio sayings attributed to President Stevens, such as: ‘Nar sense mek book, nor to book mek sense.’ There were several “go-slow” strike actions, during which teachers went to school but refused to teach. As state provision deteriorated in the education sector, private schools grew, but they were unaffordable to most Sierraleoneans. Dropout rates escalated to alarming rates, while many children never went to school at all. School dropouts and others who never had an education were to provide easy recruits for the various armed factions during the war.

169. The Stevens regime created eight Integrated Agricultural development Projects (IDAs) in the country. Two factors however hampered their success: they were donor-created; and they had top to bottom conceptualisation, planning and implementation policies. All the IDA projects collapsed immediately after donor support was withdrawn. Thus government increasingly imported rice.

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108 The results of a 1977 survey carried out by Kandeh, B. and others revealed that under-fives mortality was 333.5 out of a thousand births in the Southern Province, 320.6 in the Eastern Province, 314.0 in the Northern Province and only 199.7 for the Western Area. Most of the premature deaths were due to Tetanus and fever-related diseases. The source for these statistics is the ‘Analytical Report 1985 Population and Household Census’ CSO, Freetown.


110 For commentary on Stevens’ popular sayings and their explicit or implicit meanings, see Opala, The Politics of State Collapse.

111 The IDAs included: Eastern Area Project located in Kenema; Northern Project located in Koinadugu; Magbosi Project; North Western Project located in Kambia; Southern Project located in Njala; IDA Port Loko Project located in Port Loko (created under President Momoh); IDA Moyamba Project located in Moyamba; and Bo-Pujehun Development Project.

112 For detailed analysis of these projects, see Abraham, Development Issues in Sierra Leone.

113 Other factors that contributed to the collapse of the IDAs included the inappropriate technologies used and the fact that the government paid extremely low prices for husk rice. The government’s failure to offer viable rates discouraged the farming communities from staying involved in the projects.
between 1980 and the eve of the conflict,\textsuperscript{114} draining scarce government resources. Due to dependence on imported rice, the commodity became a political weapon in the hands of the few politicians who had access to it. The Army was placated through the constant supply of rice quotas that were far below the market price. Politicians campaigned with rice and withdrew rice from Chiefdoms and communities that did not support them.\textsuperscript{115}

170. There was no improvement in the agricultural situation when President Momoh took over the reins of government. His much-vaunted ‘Green Revolution’ was more rhetoric than reality. Dependence on external sources of rice actually increased. With the general economic decline, high inflation and collapse of agriculture in the Provinces, the average Sierra Leonean family could hardly manage to eat one meal a day. While the rural and urban poor were getting hungrier, the political elite who controlled the import and distribution of rice became steadily richer.

171. President Momoh inherited an empty Treasury and huge foreign debts. Economic mismanagement continued unabated. Attempts to control prices in the first few months of the regime led to an acute shortage of goods. The government could not find the money to finance a restock. Prices subsequently rocketed when government rescinded the price control measures. In an attempt to arrest the dwindling economic fortunes of the state, the government declared a disastrous state of economic emergency in 1987. Far from remedying existing woes, the emergency obscured the regulatory climate and provided yet more opportunities for extortion of money and seizure of property by corrupt state officials.

**PRESENT CHALLENGES**

172. Proper governance is still an imperative, unfulfilled objective in Sierra Leone. Corruption remains rampant and no culture of tolerance or inclusion in political discourse has yet emerged.

173. Many ex-combatants testified that the conditions that caused them to join the conflict persist in the country and, if given the opportunity, they would fight again.

174. Yet, distressingly, the Commission did not detect any sense of urgency among public officials to respond to the myriad challenges facing the country. Indeed, the perception within civil society and the international community is that all efforts at designing and implementing meaningful intervention programmes, such as the National Recovery Strategy, the Poverty Reduction Strategy Paper (PRSP) or ‘Vision 2025’, are driven by donors rather than the national government. This is lamentable.

\textsuperscript{114} See table 1.1. in Abraham, Development Issues in Sierra Leone at page 23. \textsuperscript{115} President Momoh’s Vice-President, Francis Minah of Pujehun, was given the nickname “devuyama”, which means “life giver” in the Mende language. The moniker reflected the fact that he was the only one who sold rice per bag in the whole of Pujehun District in 1982. During electioneering, Minah’s campaign slogan was ‘Mbei, mbei, mbei’ meaning rice, rice, rice. See Paul Sengeh, UNICEF employee and former teacher in a school in Minah’s constituency in Pujehun, TRC Interview at private residence, October 2003.
175. The country has enjoyed peace for four years now. It is a credit to the government and the international community that Sierra Leoneans are beginning to sleep soundly again. Nevertheless a culture of silence, or murmured discontent, typical of the years of APC dictatorship still persists. The boundless energies of the people cannot be released for economic and social transformation if they perceive that they and their interests might be harmed if they hold ‘politically incorrect’ views or if they dare to be different. The Government needs to be active in promoting a culture of tolerance and good governance to convince Sierra Leoneans that the nation’s future consists of more than its past has offered.

CONCLUSION

176. The Commission concludes that all the post-colonial regimes contributed shamefully in creating the structural and proximate contexts that led to the conflict in 1991. While the administration of Sir Milton Margai was perhaps less more tolerable of dissent than his successors, Sir Milton also engaged in dictatorial and vengeful practices that undermined the unity and cohesion of his party and laid the foundation for polarisation in the body politic. Terrible practices of governance began in Sierra Leone’s honeymoon period and were encouraged by Sir Albert Margai, consolidated and then taken to new heights by Siaka Stevens.

177. The duality of the country’s administrative and judicial structures made them vulnerable to manipulation, which the regimes of Sir Milton Margai, Sir Albert Margai and Dr. Siaka Stevens duly utilised to their respective advantages. In the Provincial areas, for example, local courts and Chieftaincy structures were used to clamp down on opposition activities and to entrench the authority of whichever traditional ruling houses were allied to the party in power. Meanwhile the continual assault on the rule of law weakened the capacities of state institutions to perform.

178. The judiciary was subordinated to the executive, parliament did little more than ’rubber-stamp’, the civil service became a redundant state machine and the Army and police force became vectors of violence against the very people they were established to protect. Non-state bodies that ought to ensure accountability – like media houses or civil society groups – were thoroughly co-opted. Opposition political parties were suppressed and eventually banned by President Stevens’ One Party Constitution of 1978.

179. Since it appeared impossible to halt the decline of state institutions and processes through democratic means, a number of Sierra Leoneans became convinced that the structures of governance could only be changed through violence. The initial planning for a revolutionary enterprise coincided with the inauguration of a new APC government under President Joseph Saidu Momoh.
180. Momoh attempted to decelerate the economic and political decline through the promulgation of an economic state of emergency and a multi-party constitution. These measures were, however, managed in a dictatorial and abusive fashion, which rendered them ‘too little, too late’ to salvage the situation. Against this backdrop, Sierra Leoneans became increasingly disgruntled and aggrieved with the malaise in governance and their inability to do anything to alleviate it. Many citizens, particularly the poor, marginalised youths of the provinces, became open to radical means of effecting change: they would readily answer the call to arms when so-called ‘revolution’ began to enter the country in 1991.

181. Today the state is an abstract concept to most Sierra Leoneans and central government has made itself largely irrelevant to their daily lives. In order to correct this deficit in engagement, an overhaul in the culture of governance is required. The executive in the post-conflict period needs to prove that is different from its predecessors in the post-independence period. It needs to demonstrate ownership, leadership, imagination and determination in developing and implementing programmes for change. Strong and independent monitoring institutions must hold the government accountable in this exercise. Only then will Sierra Leoneans believe that the necessary lessons have been learnt from the decades of rotten governance that culminated in the tragedy of conflict.