The Need for Police Approval in Sierra Leone: A Gloss or a Loss to the right to protest?

Introduction

Section 17(1) of the Public Order Act (POA), 1965 (No. 46 of 1965) gives the Sierra Leone Police(SLP) the right to be notified in writing by any person who wants to take part in organizing or holding a procession in Sierra Leone, failure to notify the police will result to the person committing a criminal offense. This article will look at whether this need for police approval is a gloss or a loss to the right to protest looking at what a protest is, the right to protest in Sierra Leone, and whether the need for police approval is a gloss or loss to the right to protest.

What is a protest?

Merriam-Webster defines a protest as an act of objecting or a gesture of disapproval, which is usually an organized public demonstration of disapproval. The right to protest in Sierra Leone is mostly associated with the right to freedom of assembly as it is one of the human rights provided for in chapter three of the 1991 constitution of Sierra Leone.

The Right to Protest in Sierra Leone

Sierra Leone is a constitutional republic and has ratified and domesticated several regional and international human rights instruments that specifically deal with the right to freedom of assembly which are shortly discussed below -

1. International Right to Protest in Sierra Leone

Sierra Leone is a state party to the International Covenant on Civil and Political Rights (ICCPR) which it ratified on the 23rd August 1996. The ratification of this Covenant means that Sierra Leone recognizes the right to protest which is found in Article 21 of the ICCPR. Article 21 of the ICCPR explains that citizens have the
right to peacefully assemble subject to conformity with the law and the protection of public health or morality, national security and public safety, and the protection of the rights and freedoms of others. Thus, Sierra Leone recognizes the right to peacefully assemble in the form of a protest to express grievance.

To implement the above right, the First Optional Protocol to the ICCPR was entered into force on the 23rd March 1976. Sierra Leone ratified it on the 23rd August 1996. This protocol gives citizens the right to bring a case to the Human Rights Committee if they believe that the State has violated their rights to Freedom of Assembly or any other right found in the covenant.

2. **Regional Right to Protest in Sierra Leone**

Sierra Leone is a state party to the African Charter on Human and Peoples’ Rights (AFCHPR), 1981 which it ratified on the 21st September 1983. Article 11 of the AFCHPR gives individuals the right to freely assemble with others subject to certain public safety, morality, health, rights, and the freedom of others. Article 11 in the AFCHPR is in line with Article 21 of the ICCPR, Sierra Leone ratifying both treaties means that they assent to their citizens to freely assemble in the form of protest as a display of one of their fundamental human rights.

To implement the above right the Protocol to the AFCHPR on the establishment of an African Court on Human and Peoples’ Rights came into force on the 25th January 2004. The purpose was to create an avenue for individuals whose human rights have been breached to seek redress from the court.

Sierra Leone is yet to ratify this protocol as they haven’t recognized the right to individual petitions in the African Court.

3. **National Right to Protest in Sierra Leone**

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6 ibid.
8 First Optional Protocol to the International Covenant on Civil and Political Rights 1976.
10 ibid.
Sierra Leone has not only ratified the international and regional instruments we have explained above, but we have also incorporated them into our laws as can be seen in Section 26(1) of the 1991 Constitution of Sierra Leone which states that “Except with his consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade unions or other economic, social or professional associations, national or international, for the protection of his interests”\(^\text{12}\)

However, this right to freedom of assembly is limited in section 26(2) of the Constitution as it gives a power that no law shall be inconsistent with section 26(1) above if it is reasonably required for the interest of public safety, the freedom of other persons, the imposition of restrictions upon public officers or members of a defense force and which imposes the restrictions on the establishment of political parties.\(^\text{13}\)

Thus, section 17(1) of the POA is not inconsistent with Section 26(1) of the constitution. The police can retain their approval for a protest if it meets any of the limitations in section 26(2) of the 1991 Constitution. Nonetheless, it is important to discuss whether this law created for police approval is a gloss or a loss to the right to protest in Sierra Leone.

**Is the need for police approval a gloss or a loss to the right to protest in Sierra Leone?**

We think that the need for police approval is a loss to the right to protest in Sierra Leone because of the following reasons –

1. **It is used as a form of Political Protection** – there are several instances in Sierra Leone in which citizens have notified the SLP of their right to freedom of assembly which they have refused because the agenda was against the government of the day.

On the 18\(^{th}\) November 2016, the Renaissance Movement, a group of politically active professionals was not granted permission to hold their “walk to work”

\(^{12}\) Act No.6 of 1991.
\(^{13}\) ibid.
procession against austerity measures and fuel prizes propagated by the All People’s Congress (APC) which was the political party in power.\footnote{14}{A Force for Good? Restrictions on Peaceful Assembly and Impunity for Excessive Use of Force by the Sierra Leone Police - Sierra Leone | ReliefWeb’ (3 July 2018) <https://reliefweb.int/report/sierra-leone/force-good-restrictions-peaceful-assembly-and-impunity-excessive-use-force> accessed 13 September 2023.}

On the 2\textsuperscript{nd} July 2022, the police issued a ban against protests concerning the rise of fuel and costs of living. The following day the police arrested the Consortium of Progressive Political Parties (COPPP) leader Femi Claudius Cole because of a circulated video of her allegedly organizing protests.\footnote{15}{‘Sierra Leone: Stop Violence against Peaceful Protesters and Respect Democratic Rights of Citizens’<https://www.civicus.org/index.php/media-resources/news/5908-sierra-leone-stop-violence-against-peaceful-protesters-and-respect-democratic-rights-of-citizens> accessed 13 September 2023.} On the 4\textsuperscript{th} July 2022, the SLP arrested dozens of market women attempting to protest.\footnote{16}{ibid.} These bans on protests were done with the Sierra Leone People’s Party (SLPP) in power.

Government officials are against political demonstrations because it is seen as a vehicle for opposition-led political violence, however, even if this is true, we believe that in a democratic society, citizens should be allowed to express their views and the police should protect the citizens in directing them to have a peaceful demonstration instead of the political party in power.

2. \textbf{It is a colonial relic that needs to be reviewed} – The POA was enacted in 1965 by the Queen Most Excellent Majesty after Sierra Leone gained independence in 1961, thus, it has some colonial influence even though we had gained independence.

In the Ghanaian case of National Patriotic Party v Inspector General of Police, the Supreme Court of Ghana was asked to interpret whether the POA which gave the police power to approve of a protest was in contravention of Article 21(d) of the 1992 constitution which gives the right to freedom of assembly.\footnote{17}{The Fair Justice Initiative, ‘DO YOU NEED A PERMIT TO PROTEST?’ (The Fair Justice Initiative) <https://fairjusticegh.com/blog/do-you-need-a-permit-to-protest> accessed 19 September 2023.}

The court unanimously held that the provisions in the POA conflicted with Article 21(d) of the Constitution and as such its provisions are unconstitutional, void, and unenforceable. Chief Justice Archer in his judgment said that “\textit{police permits are colonial relics and have no place in Ghana in the last decade of the twentieth century}”\footnote{18}{New Patriotic Party vs Inspector-General of Police (1993) Volume 2 Ghana Law Report (Supreme Court).}
he explained that those provisions were made for yam festivals a century ago and they should not be allowed to conflict with their present constitution as such the law was reviewed that instead of the police granting permit, they should protect citizens who want to protest.

The law must be reviewed in Sierra Leone as Ghana has done. We are now an independent and democratic state, our citizens have a human right to express their dissatisfaction against the government or any other course through a peaceful protest.

3. **The power of approval given to the police for protest is excessive** – Section 17(1) of the POA explains that the Commissioner of Police (COP) should be notified by any person who wants to organize a protest, this is subject to section 17(2) in which he shall allow or disallow the protest “where in his opinion is in the interests of defense, public order, public safety or public morality so require”

Thus, the COP can allow or disallow a protest in Sierra Leone if he thinks that it is against the interest of public order, safety, or morality. These words aren’t clearly defined in the Act, so it is highly possible that the COP can use it to advance his/her course as the Act gave him the right to allow or disallow a protest based on his opinion.

We think that laws like these should not exist in a democratic society. In the United Kingdom, for instance, police permission is not needed for a protest, they however must facilitate a protest upon notification by the Human Rights Act.¹⁹

It is important to note that the United Kingdom who are our colonial masters have reviewed their laws in the grant for police approval for protest, it is expedient that we should give lesser powers to the police in terms of granting approvals for protest so we can thrive as a democratic society and that there won’t be a repetition of the August 10, 2022 incident which saw the loss of many lives.

**Conclusion**

This work has discussed that the need for police approval is a loss of the right to protest in Sierra Leone as the writers think that it is used as a form of political protection and a colonial relic that need to be reviewed and the power of approval given to the police is excessive.

We also discussed the right to protest in Sierra Leone looking at international instruments such as the ICCPR, regional instrument such as AFCHPR, and national instruments such as the 1991 Constitution of Sierra Leone and the POA of 1965.
Bibliography


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The Constitution of Sierra Leone 1991

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