

The indefinite suspension of Lara Taylor-Pearce is unconstitutional and yet another affront to our democracy!

Augustine Sorie-Sengbe Marrah Esq.

Lawyer and Pro-Democracy Activist

November 14, 2021

In my opinion, the suspension of Madam Lara Taylor-Pearce is the second most notorious constitutional ruckus of the last decade. The sacking of the former Vice-President Chief Samuel Samsumana whipped up constitutional frenzy. Leading constitutional and legal figures brooked no delay in labeling the action an overreach of executive power by the then President. The matter was eventually adjudicated by the Supreme Court but the angst against the sacking was even more inflamed after the unpopular decision of the highest court of the land. Six years later, here we are with the indefinite suspension of the head of the Audit Service Sierra Leone whom the SLPP government in their self-vaunted Government Transition Team report had acclaimed as “probably Sierra Leone’s most effective institution...led by the Auditor-General, the dynamic Lara Taylor Pearce”. Lara no doubt commands respect from both leading political parties, activists, journalists, and the public. Such respect she has earned from the quality and objectivity of her audit reports which would usually expose corruption and mismanagement within government. On Thursday 11th November 2021, the BBC journalist Umaru Fofana, broke the news of her indefinite suspension including that of one of her deputies Tamba Momoh. However, before her suspension the Auditor General had come under hailstorm of intimidation and harassment by state officials including some leaders of other integrity institutions. The saying that comings events cast their shadow cannot therefore be more apt.

As a governance and rule of law activist, the indefinite suspension of the Auditor is in my humble opinion unconstitutional, unlawful and yet another scandalous affront to our democracy. Let me explain the premise for such an opinion. Firstly, by section 119(9) of the Constitution of Sierra Leone, the procedural prescriptions for removal of a High Court judge from their office, also apply to the Auditor General. This evinces the intention of the framers of our Constitution to accord the very same protection against arbitrary executive removal of judges to the Auditor General. By this provision, the office of the Auditor General is insulated from normal executive superintendence. Section 137(4) provides that the Auditor General shall only be removed from office for inability to perform the functions of the office or for

misconduct. It should be noted that in either instance, the Judicial and Legal Service Commission (“JLSC” of which the Chief Justice is the head) would have to make representation to the President that a question of the removal of the Auditor General ought to be investigated. By section 137(5), after receiving a representation from the JLSC in regard the question of investigation, the President shall in consultation with the JLSC appoint a tribunal to investigate the complaint. As soon as the matter is referred to the tribunal, the Auditor General shall be suspended by the President pending the said investigation by the tribunal. At the conclusion of the investigation, the Auditor General shall only be removed on a recommendation for removal by the tribunal and an approval by two-thirds majority in Parliament. From the above-referenced provisions, the determination of a matter for investigation should be made by the JLSC. In other words, it is the JLSC that determines that a matter has reached for investigation threshold and not the presidency. In this case, noting from letter from Deputy Minister of Justice dated 8th November 2021 (I’ll stay away from who should have signed that letter, it is *de minimis* in relation to the unconstitutionality of the very reference) it is stated that several complaints have been made to the President concerning the Auditor General and her deputy. The signer of the said letter concludes without delay, maiming natural justice in the hurry, that such complaints amount to misconduct or lack of professional performance. It is clear from that correspondence and noting that no tribunal had been set up as at 11th November 2021, the president’s indefinite suspension of the Auditor General was ergo informed by those complaints and not a representation by the JLSC as the Constitution mandates. This therefore makes the indefinite suspension unlawful and an infraction of the Constitution. In essence, the Auditor General has been suspended just on receipt of complaints from unknown persons and not by any representation from the JLSC to the President and before even a tribunal is appointed by the President as the Constitution dictates.

There has been a flurry of condemnation or at the very minimum deep concerns by many interest or right groups and leading activists in Sierra Leone Institute for Governance Research describes the Auditor General as “the beacon of integrity in the field of Public financial management”. Members of the Budget Advocacy Network note in a statement that the indefinite suspension of the Auditor-General “undermines public accountability...further hampers efforts in maintaining fiscal discipline and accountable use of public resources.” 50-50, the leading women’s right group expressed fear that the suspension “negates the positive steps taken by the government with the recent formulation of the Gender Equality and Women’s Empowerment Policy (GEWE, 2020) and the Gender Empowerment Bill (2021).” While this government is taking legislative action to empower women in Sierra

Leone, they are in conduct attacking the woman has epitomised excellent female leadership in government for the last decade. I think that gender empowerment legislation would count for nought if the conduct of leadership towards women in top or decision-making positions remains galling.

How government treats the leadership of public integrity institution determines their degree of commitment to transparency and accountability. And for a government that campaigned on fiscal indiscipline and accountability, such move to suspend the Auditor-General in view of the antecedent harassment and intimidation by senior government officials, erodes confidence in such commitment. Also, if you consider this suspension in the light of the fact that the 2020 Audit is set to be released, it is even more perplexing. A senior female colleague remarked in a WhatsApp group that this conduct is akin to removing the Chief Electoral Commissioner on the eve of announcement of presidential election results or suspending supreme court judges just when they are about to deliver a judgment on a presidential election petition. This is the stark enormity of such suspension.

In my view, what President Bio has done by sacking the most trusted public servant in Sierra Leone is unconstitutional and a dereliction of his commitment to building good governance institutions.