



**Citizens'  
Barray**

# Analysis of the Report of the Tribunal on the Auditor-General and Deputy Auditor-General



**Mrs. Lara Taylor-Pearce**

*Auditor-General*



**Mr. Tamba Momoh**

*Former Deputy  
Auditor-General*

This analysis is written and compiled by the Budget Advocacy Network, the Sierra Leone Association of Journalists, (SLAJ), THE 50/50 Group, the Institute for Legal Research and Advocacy for Justice (ILRAJ), Eminent Women Peace Mediators-Sierra Leone (EWPM-SL), and the Citizens' Barray

# 1. Introduction

This document provides a comprehensive analysis of the Report of the Tribunal on the Auditor-General, Mrs. Lara Taylor-Pearce and former Deputy Auditor-General, Mr. Tamba Momoh.

This document begins by outlining the background and context of the Tribunal's proceedings and the public release of its report, followed by a brief explanation of the analysis methodology. The core of the document is a legal and technical analysis that examines the Tribunal's proceedings and its findings of serious misconduct and ethical violations concerning the Auditor-General and former Deputy Auditor-General. We highlight aspects of the proceedings and report that warrant further attention or raise concerns. The document concludes with recommendations for Parliament, the Judiciary, and the Constitutional Review Committee.

Through this analysis, we seek to provide clarity on the issues raised by the Tribunal's findings and to contribute to the public discourse on accountability, governance, and the integrity of public officials and institutions in Sierra Leone.



## 2. Background and Context

On 11th November 2021, one month before the planned release of the Annual Auditor General's Report which contained audit observations in relation to the Office of the President for the Financial Year 2020, then Auditor-General Mrs. Lara Taylor-Pearce and then Deputy Auditor-General Mr. Tamba Momoh were suspended by President Julius Maada Bio. **The reasons for their suspension were not disclosed to Mrs. Taylor-Pearce, Mr. Momoh, nor the public, prompting questions and concerns from national and international auditing bodies, civil society, the media, and the general public.**

On the 17th November 2021, invoking section 137(5)(a) of the 1991 Constitution of Sierra Leone, the Government announced the formation of a three-member tribunal to investigate the suspended Auditor-General and Deputy. The Tribunal eventually comprised retired Supreme Court Justice Nyawo Finda Matturi-Jones as Chair, Appeals Court Justice Ansumana Ivan Sesay, and retired Principal State Counsel Lahai Momoh Farma. The legitimacy of the Tribunal's establishment was challenged by legal scholars and the public.

**In December 2021, Mrs. Taylor-Pearce filed a case in the Supreme Court questioning the Tribunal's constitutionality and the Judicial and Legal Service Commission's authority to initiate an investigation without a third-party complaint.** She argued that the Tribunal's members lacked the necessary qualifications, and that due process was violated by not informing her of the specific allegations and by excluding her from the inquiry process. **However, a panel of the Supreme Court to which the matter would be assigned was not constituted until 2nd July 2024, two and a half years later, and only after the Tribunal submitted its report to the**

**President. To date, no hearings have been conducted on the matter.**

The Tribunal's investigative proceedings ran from 17 March 2022 to 19 December 2023. The hearings were conducted publicly. Despite challenging the Tribunal's jurisdiction—a challenge dismissed on 28 November 2022—Mrs. Taylor-Pearce and Mr. Momoh, the Respondents, participated in the proceedings with legal representation. During its proceedings, the Tribunal heard from witnesses presented by the State and the 1st Respondent, Mrs. Taylor-Pearce.

**The Tribunal submitted its report to the President on 12 June 2024, but no copies were made available to Mrs. Taylor-Pearce or Mr. Momoh, the latter of whom had resigned as Deputy Auditor-General on 31st July 2023.** A press release on 9th July 2024 announced the President's acceptance of the report's recommendations to remove both officials. Following public demand, the report was circulated on social media in late August 2024 after the Minister of Information shared it with a journalist. On 30 August 2024, the Deputy Minister of Justice presented the Tribunal's report to Parliament for debate and a vote on the recommendation for removal.

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### 3. Methodology

The following analysis is based on a comprehensive desk review of the Tribunal report, relevant legislation and legal documents, documents filed by the parties before the Tribunal, and official statements issued by Mrs. Taylor-Pearce and Mr. Momoh following the public circulation of the Tribunal's report, as well as observations made by some of the authors who witnessed all the Tribunal proceedings. This analysis considers relevant statutory frameworks, professional standards, and procedural fairness in assessing the legality and fairness of the Tribunal's conclusions. It also highlights key contrasts between the findings of the Tribunal and the press statements released by the Respondents.



## 4. Analysis of the Proceedings and Report of the Tribunal

### 4.1 Fundamental Principles of Natural Justice and the Rule of Law

Paragraph 9 of the Tribunal's report asserts that the Rule of Law guided its investigation of the Auditor-General and Deputy Auditor-General. Although the Tribunal demonstrated transparency in holding public hearings for anyone who could access the court building in Freetown, **it failed to adequately demonstrate the application of other rule of law principles, including fair and impartial legal processes; due process; access to justice; and equality before the law.**

For instance, the principle of fairness inherent in natural justice and respect for the rule of law, as well as the right to access justice, necessitated that Mrs. Taylor-Pearce's case filed in the Supreme Court be heard before any of the Tribunal's proceedings began. **This misstep casts a shadow on the credibility of both the Tribunal and its report.**

Akin to the concept of natural justice, due process – the procedural safeguards that guarantee fairness and protect individuals' rights – also requires that individuals are informed of specific allegations against them. The Tribunal's report fails to state the specific misconduct and performance issues it investigated. This mirrors **a due process violation that began when Mrs. Taylor-Pearce and Mr. Momoh were suspended in November 2021 without being informed of the allegations, and which continued until June 2022 (seven months after their suspension) when the State presented the written allegations three months after the Tribunal's proceedings had begun.**

It is important to note that the fundamental legal principles discussed here are relevant not only to the Tribunal's work, but also to any government body, such as Parliament, charged with addressing the issues and recommendations contained in the Tribunal's report.

### 4.2 Absence of Clearly Cited Legal and Professional Ethical Standards

The Tribunal report fails to specify the legal or professional standards applied to determine whether the Auditor-General and Deputy Auditor-General engaged in misconduct or acted unprofessionally. **After outlining its methodology and the functions of the Audit Service Sierra Leone (ASSL), the report moves directly to evidence without defining misconduct, let alone what amounts to "serious misconduct", nor outlining the standards for professional performance guiding its investigation.** Furthermore, there is **no legal standard cited in the report for the type of misconduct and/or inability to perform the functions of office that meet the threshold for removal from office under section 137(4) of the 1991 Constitution of Sierra Leone.**

**The Tribunal failed to adequately demonstrate the application of other rule of law principles, including fair and impartial legal processes; due process; access to justice; and equality before the law.**

Additionally, paragraph 13 of the Tribunal's report cites evidentiary standards for both civil and criminal proceedings without clarifying which was used to evaluate the allegations against Mrs. Taylor-Pearce and Mr. Momoh. This ambiguity undermines their right to equality before the law, as provided for in Article 3(1) of the African Charter on Human and Peoples' Rights and as clarified by the African Commission on Human and Peoples' Rights to mean that laws must be enforced consistently, without arbitrary application by judges or officials.<sup>2</sup> **The Tribunal's unclear standards of proof resulted in arbitrary findings without sufficient evidence.**

#### 4.3 Misapplication of the Audit Service Act and the 1991 Constitution

The Tribunal's finding of a breach of section 36(1) of the Audit Service Act 2014 is troubling because the offences created by that section of the Act can only be committed by persons from whom the Auditor-General seeks information or who are the subject of an audit. They clearly cannot be committed by the Auditor-General. **Therefore, for the Tribunal to find that the Auditor-General and her Deputy committed any of the offences listed in section 36(1) of the Audit Service Sierra Leone Act 2014 is an egregious misapplication of the law.**

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Furthermore, the Tribunal's investigation of Mr. Tamba Momoh, the Deputy Auditor-General, raises a fundamental issue concerning the proper legal framework for investigating misconduct. According to the Audit Service Act 2014, specific procedures are outlined for investigating allegations against the Deputy Auditor-General.<sup>3</sup> **However, the Tribunal seemingly bypassed this Act, relying on Section 171(2)(d) of the 1991 Constitution to improperly extend its mandate over the Deputy Auditor-General.**

The application of the constitutional provision appears to stretch beyond its intended scope, and the Tribunal's decision to proceed under the 1991 Constitution while disregarding the Audit Service Act 2014, raises concerns. **The Act provides clear provisions that were neither inconsistent with nor overridden by the Constitution. Therefore, the Tribunal's approach misdirected the legal framework governing Mr. Momoh's position, thereby undermining the procedural integrity of the investigation.**

#### 4.4 Incomplete Evidentiary Record and Perceived Partiality

Under section 137(5) of the Constitution of Sierra Leone, 1991, the Tribunal was tasked with reporting on whether the Auditor-General should be removed from office. However, observers of the Tribunal proceedings<sup>4</sup>, and the Respondents in statements published after the report was publicly circulated, have noted that the report fails to fully capture the facts and evidence from the inquiry. Both Respondents raised the issue of potential bias in their respective statements, highlighting

<sup>2</sup>Communication No 293/04, para 96. See also *Zimbabwe Lawyers for Human*

<sup>3</sup>E.g. *The disciplinary control and suspension and removal power of the Audit Service Sierra Leone Board provided in Section 3 of the Audit Service Act 2014. This provision should be read together with sections 18(a) and 19 of the Audit Service Act 2014 and contrasted with section 119(1) of the Constitution of Sierra Leone, 1991.*

<sup>4</sup>Budget Advocacy Network (BAN) witnessed all hearings of the Tribunal.

that important testimonies from defence witnesses were minimised or ignored. **In contrast, the report presents the State's evidence in detail, resulting in a skewed record of the inquiry.** A notable concern is the Tribunal's reliance on state witnesses, all under the employment of the State, who may have felt pressured to provide favourable testimony to the State to protect their jobs. The Respondents and observers also identified substantial discrepancies in the State's case that the Tribunal did not adequately address. This selective presentation of evidence undermines the credibility of the Tribunal's findings. **Since the report serves as the basis for Parliamentary and public debate, a complete record of evidence supporting its findings should be included as an annex.**

#### 4.5 Ethical Standards and Third-Party Confirmations

The Tribunal's conclusion that the Respondents breached ethical standards by seeking third-party confirmations during the audit without the consent of the Office of the President is concerning. It conflates two issues: third-party confirmations of account balances and third-party confirmations of document authenticity, mistakenly applying the former to the compliance audit of the Office of the President.

**“ The Act provides clear provisions that were neither inconsistent with nor overridden by the Constitution. Therefore, the Tribunal’s approach misdirected the legal framework governing Mr. Momoh’s position, thereby undermining the procedural integrity of the investigation. ”**

**This misunderstanding is reflected in its incorrect reference in paragraph 305 to an excerpt from Section 93(1) of the Public Financial Management Act 2016 pertaining to account audits.**

Furthermore, as documented in paragraph 229 of its report, the Tribunal based its conclusion primarily on witness testimonies without referencing any specific auditing standard or code of ethics, including the International Standards on Auditing (ISA) set by the International Organization of Supreme Audit Institutions (INTOSAI), of which Sierra Leone is a member.

In contrast, Mrs. Taylor-Pearce has clearly cited the applicable auditing standards, stating that under ISA 240/ISSAI 2240, auditors can accept documents as genuine unless they have reasons to doubt them, necessitating further investigation, which may include third-party confirmations. She also clarifies that ISA 505/ISSAI 505, relevant to account balance third-party confirmations—not the type sought in the Office of the President's compliance audit—does not make auditee consent mandatory. She further cited section 119(6) of the Constitution, which clearly states that in the exercise of his functions under this Constitution or any other law, the Auditor-General shall not be subject to the direction or control of any person or authority. This was supported during the Tribunal proceedings by expert witnesses Vidal Paul Coker and Aina Vivian Solomon Bell of the Institute for Chartered Accountants in Sierra Leone (ICASL) and Einar Gørrissen, Director General of the INTOSAI Development Initiative, who confirmed that professional auditing standards do not require auditee consent for third-party confirmations. **Despite this expert testimony and a State witness's acknowledgment (see paragraph 49 of the report) that the Auditor-General and Deputy are entitled to exercise professional scepticism, the Tribunal sided with the State without identifying breaches of internationally recognized standards. This**

**disregard for technical evidence suggests a misunderstanding and misdirection by the Tribunal, undermining the report's credibility.**

#### **4.6 Handling of Confidentiality and Transparency**

The Tribunal's conclusions regarding a breach of confidentiality further complicate the matter. According to the Tribunal, the Respondents disclosed confidential information by seeking clarification from third parties. However, under Section 11(2)(b) of the Audit Service Act 2014, the ASSL is empowered to carry out special audits and investigations, including those necessary for ascertaining dishonesty, fraud, or corruption. **It is reasonable to assert that the verification of documents suspected to be fraudulent falls well within the ASSL's mandate.**

Mrs. Taylor-Pearce and Mr. Momoh both argued that seeking third-party confirmation of receipts suspected to be forged does not violate confidentiality, as the information being sought pertained to the authenticity of documents. No specific sensitive information related to the auditee was disclosed.

The Tribunal's position, therefore, undermines transparency in the audit process, which risks diluting the effectiveness of independent auditing.

#### **4.7 Conflict of Interest**

The Tribunal's failure to state and apply a clear evidentiary standard is most evident in its findings on conflict of interest. The most glaring instance of arbitrary decision making by the Tribunal occurred when it found Mrs. Taylor-Pearce, the 1st Respondent, wanting for conflict of interest when that allegation was never raised during the Tribunal's hearings. A written allegation of conflict of interest was included in the State's Statement of Case and was responded to in writing by the 1st Respondent, but the allegation did not come up in the hearings and no evidence and witness was put forward by the State to substantiate the allegation. **The tribunal's findings undermine the essence of the rule of law and the premise of a fair and impartial legal process.**

The Tribunal's findings regarding Mr. Momoh's alleged conflict of interest, accusing him of leading private audit services while holding public office, are equally problematic. During cross-examination, the State's key witness, who testified that Mr. Momoh personally received remuneration for private audit services, was discredited when he failed to accurately identify Mr. Momoh and presented unconvincing evidence. Furthermore, the State failed to provide evidence that he breached the accountancy principle of objectivity in making or being part of a decision-making process that unfairly benefited the said private firm, which would have amounted to conflict of interest. **Yet the Tribunal found there to be conflict of interest without accounting for these discrepancies or the Respondent's successful rebuttal, pointing to a deeper issue of partiality and selective judgment in favour of the State.**

**Despite this expert testimony and a State witness's acknowledgment that the Auditor-General and Deputy are entitled to exercise professional scepticism, the Tribunal sided with the State without identifying breaches of internationally recognized standards.**



#### 4.8 Audit of Freetown City Council (FCC)

The Tribunal upheld the claim that the Respondents unprofessionally halted the audit of the Freetown City Council (FCC), asserting that the state's evidence was "uncontroverted and unchallenged." However, Mrs. Taylor-Pearce clarified in her written response to the written allegations that the audit did not fall under the mandate of the ASSL because the FCC projects were funded by donors, with management handled by external partners. These funds were not part of the consolidated revenue fund, and thus outside ASSL's auditing remit.

The Tribunal's failure to consider this clarification raises serious concerns about the fairness of the proceedings, suggesting that its conclusions may be flawed and one-sided. **Notably, no written, audio, or video evidence was presented during the hearings; only hearsay regarding the "Transform Freetown" project's alleged improper audit was mentioned.** Furthermore, International Public Sector Accounting Standards (IPSAS) Sections 2.1.78 and 2.1.79 state that disclosure of goods and services provided on behalf of an entity is encouraged only as a note to the financial statements. The donor-funded and managed projects in question fall within this category, being payments made on behalf of the FCC.

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**Yet the Tribunal found there to be conflict of interest without accounting for these discrepancies or the Respondent's successful rebuttal, pointing to a deeper issue of partiality and selective judgment in favour of the State.**

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## 5 Conclusion and Recommendations

The above analysis shows that the Tribunal's findings against Mrs. Lara Taylor-Pearce and Mr. Tamba Momoh are neither supported by law nor proof, nor reflect accurate representations of facts. In sum, each of the findings is faulty for the following reasons:

- a. **Inclusion of unjustified and unverified conclusions in the 2020 audit report of the Office of the President:** Apart from the **questionable credibility of the state witnesses** on this issue, evidence of unjustified or unverified conclusions is lacking. Instead, the evidence demonstrates the Respondents' professionalism, as **the conclusions in the final report were justified and verified based on third-party confirmation in line with international auditing standards.**
- b. **Improper third-party confirmation:** The Tribunal identified the **wrong type of third-party confirmation and ignored expert evidence** that confirmed that the relevant international auditing standards ISA240/ISSAI 2240 for third-party confirmation do not require an auditee's consent before seeking the third-party confirmation to authenticate a document.
- c. **Failure to conduct proper audit exercise on the Freetown City Council for Financial Year 2020:** Auditing donor funds for the FCC's projects that were held and managed by external partners **does not fall within the ASSL's remit.**
- d. **Conflict of interest:** This allegation against Mrs. Taylor-Pearce **was not even brought up during the Tribunal hearings and thus not proven.** This allegation against Mr. Momoh was based on a discredited witness who was unable to accurately identify Mr. Momoh.
- e. **Breach of confidentiality:** The information sought by the third-party confirmation pertained to the authenticity of receipts, **none of which contained nor disclosed sensitive information** belonging to the auditee.
- f. **Breach of section 137(1) of the Constitution of Sierra Leone, 1991:** Evidence of poor behaviour on the part of the Auditor-General and former Deputy Auditor-General **is lacking.**
- g. **Breach of sections 11(1) and (2) of the Audit Service Act 2014:** Evidence of the Auditor-General's or former Deputy Auditor-General's inability or failure to carry out the functions of their offices **is lacking.**
- h. **Breach of section 36(1) of the Audit Service Act 2014:** The offence created under this section of the Act **does not apply to the Auditor-General** or her Deputies.

The Tribunal's proceedings against suspended Auditor-General, Mrs. Lara Taylor-Pearce, and former Deputy Auditor-General, Mr. Tamba Momoh, **reveal serious procedural flaws, including non-adherence to the principles of natural justice and the rule of law, unclear evidentiary standards, unsupported conclusions, and perceived partiality by the Tribunal.** The Tribunal's inability to specify allegations against the Respondents, **misapplication of legal standards, reliance only on state witnesses while disregarding expert testimony from nationally and internationally recognized authorities,** and selective presentation of evidence in its report undermine the Tribunal's credibility and the integrity of its findings. Findings related to confidentiality, third-party

confirmations, and conflict of interest indicate partiality, as key evidence and testimonies were ignored or misrepresented, suggesting predetermined conclusions favouring the State. **In doing so, the Tribunal has compromised the independence of the Audit Service Sierra Leone and the professional integrity of Mrs. Taylor-Pearce and Mr. Momoh.** With this analysis showing that the Tribunal's bases for its finding of serious misconduct by Mrs. Taylor-Pearce and Mr. Momoh lack foundation or sufficient proof, and that the Tribunal has demonstrated partiality, the Tribunal's recommendations for removal of both persons from the ASSL and that they be investigated by the Anti-Corruption Commission cannot stand.

Based on these analyses and conclusions, we make the following recommendations to:

#### **Parliament:**

- Consequent to the glaring legal, procedural, and evidentiary deficiencies in the Tribunal's work, as well as the obvious discrepancies and gaps in the report, Parliament should either dismiss the Tribunal's recommendations or send the report back to the Attorney-General and Minister of Justice for clarifications and a full annex of the evidence presented to the Tribunal.
- Members of Parliament should wait to deliberate on the recommendations until they have all the information needed to debate and vote on the report and its recommendations in respect of Mrs. Lara Taylor-Pearce.

#### **The Judiciary:**

- The matter filed in the Supreme Court by Mrs. Lara Taylor-Pearce should be heard without further delay.

#### **The Constitutional Review Committee:**

- If the Constitutional Review Committee (CRC) chooses to consider the Tribunal's recommendation that it review Section 119(9) of the 1991 Constitution of Sierra Leone to provide a mechanism for monitoring and disciplining the Auditor-General, the CRC should ensure that the independence of the Auditor-General remains sacrosanct and is not compromised. Any monitoring or disciplinary measures included in a proposed constitutional amendment should remain limited to clarifying current procedures or closing any existing gaps.

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**In doing so, the Tribunal has compromised the independence of the Audit Service Sierra Leone and the professional integrity of Mrs. Taylor-Pearce and Mr. Momoh.**

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## About the Budget Advocacy Network (BAN)

BAN is composed of local and international organisations such as Christian Aid Sierra Leone (CASL), Campaign for Good Governance (CGG), Network Movement for Justice and Development (NMJD), Western Area Budget Education Advocacy Network (WABEAN), ActionAid Sierra Leone (AASL), Talking Drum Studio (TDS) and Transparency International Sierra Leone (TISL).

## About Citizens' Barray

Citizens' Barray promotes civic empowerment and active civic engagement to advance social justice in Sierra Leone.

## About the Eminent Women Peace Mediators–Sierra Leone (EWPM–SL)

The (EWPM–SL) evolved from The Women's Situation Room (WSR) that The Angie Brooks International Centre (ABIC) for Leadership and Women's Empowerment in Liberia, had set up in Sierra Leone in 2012 and 2018, to monitor, prevent and mitigate elections related conflicts. The EWPM–SL has worked through two election cycles (2018 and 2023) observing local and constituency elections and setting up a situation room to monitor the 2018 and 2023 general elections.

## About The Institute for Legal Research and Advocacy for Justice (ILRAJ)

An independent non-partisan public policy research and educational think tank established to explain, monitor and contribute to the protection of human rights and the rule of law.

## About the Sierra Leone Association of Journalists (SLAJ)

The Sierra Leone Association of Journalists (SLAJ) is the umbrella membership body for the media in Sierra Leone established to protect and promote free speech and a free press and hold public officials accountable.

## About the 50/50 Women's Group

The 50/50 Group Sierra Leone is a non-partisan organization advocating for equal rights and political participation of women in Sierra Leone.



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