

The Independent Media Commission Act 2020 and the Cyber Security and Crime Act 2021 provide necessary legal frameworks. Their implementation, however, must ensure that the digital space remains safe without becoming restrictive.

A strong democracy is not one where criticism is prevented, but one where citizens can express themselves responsibly and freely.

Lohé Issa Konaté v Burkina Faso (2014) Application No 004/2013, African Court on Human and Peoples' Rights. Media Rights Agenda and Others v Nigeria (2000) AHRLR 200 (ACHPR 1998).



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HUMAN RIGHTS DEFENDERS NETWORK-SL



FINDING THE CONSTITUTIONAL BALANCE

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THE RIGHT TO PROTEST AND POLICE POWERS
IN SIERRA LEONE:

**FINDING THE CONSTITUTIONAL
BALANCE**

ARTICLE ONE

THE RIGHT TO PROTEST AND POLICE POWERS IN SIERRA LEONE: FINDING THE CONSTITUTIONAL BALANCE

Introduction

The right to peaceful protest is a fundamental feature of democratic governance. It allows citizens to express concerns, challenge public decisions, demand accountability, and participate in national dialogue. A peaceful protest is not an act of hostility against the State; it is a legitimate means through which citizens engage with those who exercise public authority.

However, the right to protest exists alongside the State's responsibility to maintain public order, protect lives and property, and prevent violence. The challenge for any constitutional democracy is therefore to balance the protection of civic freedoms with the need to preserve public safety.

In Sierra Leone, this balance is governed by the Constitution of Sierra Leone 1991, the Police Act 1964, the Public Order Act 1965, and international human rights standards. The issue is not whether citizens have a right to protest, but how that right should

be exercised and how police powers should be applied without undermining fundamental freedoms.

Constitutional Protection of Protest Rights

Although the Constitution of Sierra Leone 1991 does not expressly mention the word "protest", the right is derived from the protection of freedom of expression, assembly, and association.

Section 26 of the Constitution guarantees freedom of assembly and association, thereby protecting the right of citizens to gather for lawful purposes. Peaceful protest is therefore an expression of constitutional freedom and an important tool for democratic participation.

However, constitutional rights are not absolute. Section 26(2) permits restrictions where they are reasonably required in the interests of public safety, public order, or the protection of the rights and freedoms of others. Such restrictions must be lawful, justified, and proportionate. The mere fact that a protest criticises government or causes temporary inconvenience cannot, by itself, justify interference.

Social media platforms are also used by journalists, activists, and citizens to discuss matters of public importance.

A broad interpretation of cyber offences may discourage people from expressing lawful opinions, particularly where criticism of public officials or institutions is involved. In a democracy, disagreement and criticism are not problems to be eliminated; they are part of public accountability.

International Human Rights Standards

Sierra Leone's approach to social media regulation must comply with international standards.

Article 19 of the Universal Declaration of Human Rights protects the right to freedom of opinion and expression, including the right to seek and share information. Article 19 of the International Covenant on Civil and Political Rights also protects expression and permits restrictions only where they are lawful and necessary.

Similarly, Article 9 of the African Charter on Human and Peoples' Rights guarantees the right to receive information and express opinions.

Cyber Security and Crime Act 2021 (Sierra Leone), s 44.

Universal Declaration of Human Rights (adopted 10 December 1948) art 19.

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19. African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) art 9.

These standards require that cybersecurity measures must not become unnecessary restrictions on freedom of expression.

Relevant Authorities

In *Lohé Issa Konaté v Burkina Faso*, the African Court on Human and Peoples' Rights held that excessive penalties for expression-related offences may discourage public debate and create a chilling effect.

In *Media Rights Agenda and Others v Nigeria*, the African Commission recognised that unjustified restrictions on expression weaken the role of the media in promoting accountability. These decisions confirm that while States may regulate harmful conduct, such regulation must not suppress legitimate expression.

Conclusion

Social media regulation presents Sierra Leone with the challenge of balancing online security with constitutional freedoms. The State has a duty to protect citizens from cyber abuse, but that duty must be exercised within the limits of the Constitution and international human rights law.

25(1) of the Constitution of Sierra Leone 1991, which guarantees the freedom to hold opinions, receive information, and communicate ideas. Section 25(2) also protects the freedom of the press and other media institutions.

Although these provisions were enacted before the rise of social media, they remain relevant because the Constitution protects the right to communicate, regardless of the platform used.

Social media has therefore become a modern avenue for exercising freedom of expression. It allows citizens to discuss public issues, question decisions of authorities, and participate in democratic processes.

However, freedom of expression is not absolute. The law may restrict speech that causes genuine harm, such as threats, harassment, or abuse. The challenge is ensuring that such restrictions do not extend to legitimate criticism.

Social Media Regulation and the Legal Framework

The Independent Media Commission Act 2020 provides a framework for promoting responsible media practice, professional standards,

and accountability within Sierra Leone's media sector. The importance of regulation cannot be denied. Responsible journalism and accurate information are necessary for a healthy democracy. However, regulation should not become a means of limiting public scrutiny or discouraging critical reporting.

The challenge is greater with social media because ordinary citizens now participate directly in public communication. Not every person expressing an opinion online is a journalist, but their contribution may still form part of democratic debate.

Cyber Security and Freedom of Expression

The Cyber Security and Crime Act 2021 was enacted to address offences committed through digital platforms. Section 44 of the Act provides for offences relating to cyber bullying and stalking.

These provisions serve an important purpose because online harassment can seriously affect individuals. Victims require protection and effective legal remedies.

However, cyber laws must be applied carefully.

Police Powers under the Police Act 1964

The Police Act 1964 provides the legal foundation for the functions of the Sierra Leone Police, including maintaining law and order, preventing crime, protecting life and property, and enforcing the law.

These powers must be understood within a constitutional framework.

The police are not only an institution of enforcement; they are also responsible for protecting citizens' rights. Their role during demonstrations is therefore not

simply to control gatherings but to facilitate peaceful assemblies while ensuring public safety.

Police intervention becomes legitimate where there is violence, criminal conduct, or a genuine threat to public order. However, peaceful criticism of public authorities cannot be treated as a security threat merely because it is unpopular or inconvenient.

The Public Order Act 1965: Regulation or Restriction?

The Public Order Act 1965 regulates public processions in Sierra Leone. Section 17 requires organisers of processions to notify the Commissioner of Police before

holding such events.

The purpose of notification is legitimate. It allows the police to make security arrangements, manage public spaces, and protect participants. However, notification should not be confused with permission. A constitutional democracy does not place fundamental rights at the discretion of administrative authorities. The police facilitate the exercise of the right; they do not create the right.

This principle was recognised by the Supreme Court of Ghana in *New Patriotic Party v Inspector-General of Police*, where the Court rejected the requirement for police permission before citizens could exercise their constitutional right to assemble. The Court held that police powers exist to maintain order, not to prevent lawful expression.

Although not binding in Sierra Leone, the decision is persuasive because of the shared common law tradition and similar constitutional commitment to fundamental freedoms.

Proportionality and Police Intervention

Police powers must always be exercised proportionately.

Constitution of Sierra Leone 1991 (Act No 6 of 1991), s 25(1).

Constitution of Sierra Leone 1991 (Act No 6 of 1991), s 25(2).

Independent Media Commission Act 2020

Public Order Act 1965 (Sierra Leone), s 17.

New Patriotic Party v Inspector-General of Police [1993–94] 2 GLR 459 (SC Ghana).

Any restriction on protest must have a lawful basis, pursue a legitimate purpose, and go no further than necessary.

In *Oya Ataman v Turkey*, the European Court of Human Rights held that authorities must tolerate a degree of inconvenience caused by peaceful demonstrations because such disruption is part of democratic society.

Similarly, in *Bukta and Others v Hungary*, the Court recognised that excessive procedural requirements should not undermine the substance of the right to peaceful assembly.

These principles reinforce the position that public order laws should regulate protests, not suppress legitimate civic participation.

International Human Rights Obligations

Sierra Leone's obligations under international law further support the protection of peaceful protest.

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) protects the right

of peaceful assembly and allows restrictions only where they are lawful and necessary in a democratic society.

The United Nations Human Rights Committee has emphasised that peaceful assemblies should generally be presumed lawful and that States have a duty to facilitate their exercise. Similarly, Article 11 of the African Charter on Human and Peoples' Rights protects the right to assemble freely with others.

Conclusion

The right to protest and police authority are not opposing principles. A democratic State must protect both public order and the freedoms that allow citizens to participate in public life.

The Police Act 1964 and the Public Order Act 1965 provide legitimate powers for maintaining peace and security. However, those powers must be exercised within constitutional limits and consistent with human rights obligations.

The true measure of democratic policing is not the ability to prevent protests, but the ability to protect peaceful expression while maintaining public safety

19 of the UDHR, provide a strong foundation for media freedom.

Going forward, cybersecurity regulation must be balanced with constitutional freedoms. Laws should address genuine online harm while preserving legitimate criticism, investigative journalism, and public debate.

A free press is not a threat to democracy; it is one of the institutions that makes democracy accountable.

Media Rights Agenda and Others v Nigeria (2000) AHRLR 200 (ACHPR 1998).
Lohé Issa Konaté v Burkina Faso (2014) Application No 004/2013, African Court on Human and Peoples' Rights.
Reporters Without Borders (RSF), World Press Freedom Index 2025: Sierra Leone.

ARTICLE TWO

Regulating the Digital Voice: Social Media Regulation and Freedom of Expression in Sierra Leone

Introduction

Social media has become an important part of public life in Sierra Leone. Platforms such as Facebook, WhatsApp, and X are now used for political discussions, journalism, civic advocacy, and sharing information on issues of public interest.

The growth of digital communication has created new opportunities for citizens to participate in national debates. At the same time, it has introduced challenges such as cyber bullying, online harassment, misinformation, and privacy violations.

The State has a legitimate duty to address these concerns. However, regulation must be carefully balanced to ensure that laws aimed at protecting citizens do not restrict lawful criticism, journalism, or public debate.

Constitutional Protection of Expression

Freedom of expression is protected under section

Oya Ataman v Turkey (2007) 45 EHRR 745.

Bukta and Others v Hungary (2007) 44 EHRR 27.