GOVERNMENT OF SIERRA LEONE

COMMISSION OF INQUIRY NO. 65

SPECIAL COURT COMPLEX

JOMO KENYATTA ROAD

FREETOWN

SIERRA LEONE

REPORT

OF

THE HON. DR. JUSTICE ROSOLU JOHN BANKOLE THOMPSON

CHAIRMAN AND SOLE COMMISSIONER

MARCH,2020

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I. INTRODUCTION

Several Commissions of Inquiry have been appointed in post-independent Sierra Leone to investigate the phenomenon of corruption under various administrations, so as to promote the twin concepts of transparency and accountability. The first of such Commissions was the Justice Beoku-Betts Commission of Inquiry which was set up in 1968 by the then Prime Minister, Dr Siaka Probyn Stevens to inquire into the management of the Price Maintenance Fund of the defunct Sierra Leone Produce Marketing Board (SLPMB) - a State-owned Enterprise - for the period covering 1st January, 1961 to March, 1967.

According to the Report of the Sierra Leone Truth and Reconciliation Commission, one of the main causes of the 11-year (March 1991 to February 2002) rebel war was the debilitating effects of rampant and unbridled corruption on the country's economy. It was for that same reason that, in 1992, the erstwhile National Provisional Ruling Council (NPRC) headed by the then Head of State, Capt. Valentine E. M. Strasser simultaneously set up three Commissions of Inquiry, namely, the Justice Sydney Beccles-Davies Commission, the Justice Lynton Nylander Commission and the Mrs Justice Laura Marcus-Jones Commission, to inquire into issues ranging from the manner in which assets were acquired by public officers to widespread allegations of financial malpractices perpetrated in various Ministries, Departments and Agencies (MDAs) within the period 1st June, 1986 to 22nd September, 1991.

It can be argued that the Commissions set up by the NPRC regime had widespread support from the general citizenry at the time. Sadly however, the politicians and public officers over the years, have learnt little, or nothing at all, from the experiences surrounding the earlier Commissions. Otherwise, there would have been no cause for a public outcry to establish public hearings to investigate the alleged instances of corruption and unexplained wealth by the political and administrative leadership of the country in the recent past. Hence, the circumstances culminating in the establishment of the Justice Bankole Thompson Commission of Inquiry pursuant to Constitutional Instrument No. 65 of 2018 (and the Justice Biobele Georgewill and Justice William Atuguba Commissions of Inquiry established along with it), as recommended in the Governance Transition Team (GTT) Report of April 2018, which was submitted to the President of the Republic, following the outcome of the General Elections of March 2018, for the purposes of examining the assets and other related matters in respect of persons who were President, Vice-President, Ministers, Ministers of State and Deputy Ministers, among others.

Cognizant of the endemic level of corruption in the country and the compelling need to combat it, the framers of the 1991 Constitution of Sierra Leone expressly provided in section 6 (5) of the said Constitution for the State to take necessary steps to eradicate all corrupt practices and the abuse of power. Further to the foregoing provision, Constitutional Instrument No. 65 of 2018 was also enacted pursuant section 147 (1) of the said 1991 Constitution.

As a matter of fact, it can be asserted that INTEGRITY and SELFLESSNESS still remain scarce commodities in public life in Sierra Leone today, and it would have to require a holistic and decisive approach to combat the phenomenon across all levels of society. It can be rationalized that the Justice Bankole Thompson Commission may well have been designed as a socio-economic imperative in unearthing public corruption and unjust enrichment emanating from it, rather than the fulfillment of some political or ideological agenda, by any means. It was particularly necessary because, although the Anti-Corruption Commission (ACC) has the statutory mandate to combat corruption and unlawfully acquired wealth, particularly in the public sector, yet its operations are mostly covert in execution, and so the general public does not have the opportunity to actively and regularly follow-up on most of its high profile investigations. Hence, the uniqueness of the approach of blending, in terms of procedural methodology, the inquisitorial with the adversarial approach of the Justice Bankole Thompson Commission of Inquiry.

On the other hand, section 5 (2) of Constitutional Instrument No. 65 of 2018 authorized the Justice Bankole Thompson Commission to hold its proceedings in public, unless where it was decided otherwise in the interest of public safety or public order. As such, the said proceedings were simultaneously broadcast live and streamed online by the Sierra Leone Broadcasting Corporation (SLBC) Television – a Public Broadcaster, and the Africa Young Voices (AYV) Television – a private-owned broadcasting station, in an open and transparent manner, for the benefit of both local and international audiences.

It is hoped that politicians, public officers and the general citizenry would be able to learn profound lessons from the combined investigative and adjudicative methodology, factual and legal findings and outcomes of the Report of the Justice Bankole Thompson Commission, as well as the other two Commissions mentioned hitherto. When that happens, then it should not be out of place to declare in prophetic terms, that Constitutional Instrument No. 65, or anything like it, will be the last in the history of Sierra Leone. Perhaps, this is the right time to make a gravitational shift towards a decisive culture of repudiation of corruption in public life in Sierra Leone. This is how Rwanda has been able to resurrect from its genocidal past to its transformational present; which has now made it one of the most enviable examples of post-conflict countries not only in Africa, but in the world at large.

II. COMPENDIUM OF THE LEGAL FRAMEWORKS AND PRINCIPLES GOVERNING IMPLEMENTATION OF THE COMMISSION'S MANDATE AND TERMS OF REFERENCE

A. NATURE AND SCOPE OF JURISDICTION OF COMMISSION OF INQUIRY NO. 2 - A METHODOLOGICAL DEPARTURE FROM INQUISITORIAL ORTHODOXY

I. INTRODUCTION

1. Unquestionably, the establishment of Commission of Inquiry No. 2 of Sierra Leone to investigate the assets and other related matters in respect of all persons who were President, Vice-

President, Ministers, Ministers of State, Deputy Ministers, Heads and Chairmen of Boards of Parastatals, Departments and Agencies within the period from November 2007 to April 2018 poses one familiar challenging and complex task confronted by Commissions of Inquiry. It is that of delineating clearly, if possible, the boundary line between the process of fact-finding and the process of applying the relevant law governing the facts designed to establish the evidence adduced to prove the matters in controversy arising from the Commission's mandate. It is my considered view that this issue has now assumed such critical dimensions for the legitimacy and credibility of commissions of inquiry, as instruments of public accountability, and it seems imperative to resolve it for the purposes of the functioning of Commission of Inquiry No. 2.

2. Hence, my decision to dispose of it, as a preliminary issue of judicial methodology in this Narrative, leaving no doubt as to the approach I would be adopting throughout the conduct of the hearings of Commission of Inquiry No. 2. In this regard, the crux of the matter is, as Schwober-Patel observes, that "The relationship between fact-finding and law is a complicated one", in that "in theory, fact-finding outfits should have no adjudicative function in that they are, historically, not supposed to test facts against possible violations of law." (2014). This is a highly contentious and nuanced issue from both the perspective of legal theory and that of jurisprudence. Henderson has gone even further to underscore this point with the observation that commissions of inquiry are "a mechanism of legal accountability in their own right." (2017). I hypothesize that such nuances have a high potential of generating legal fictions, reminiscent of the early times in the historical evolution of the law when legal fictions proliferated.

3. The presumed distinction has become so controversial that it has now crystallized in the emergence of two rival schools of thought as to the true nature and function of commissions of inquiry. The first is the orthodox or conventional viewpoint, best illustrated by a recent extract from the Report of Judge Nugent titled, "Report on Tax Administration and Governance by SARS." According to the Learned Commissioner:

> "Misconceptions that arise in relation to various aspects of a Commission of Inquiry have their source in likening it and its processes to those of a court of law. A Commission of Inquiry is not an adjudicative body. It is what the language conveys, which is a body conferred with authority to make inquiry, and then to report to the President on what its inquiries have shown, and to enquire, in ordinary language, to "search into, seek knowledge, investigate, examine," that means its process is proactively inquisitorial, in which the Commission seeks out information for itself, unlike a court in adversarial litigation that is reactive to material others place before it." (2018).

4. The opposing school of thought is exemplified by a statement from the Practitioner's Handbook, published by the Program on Humanitarian Policy and Conflict Research, a Harvard-based Research Project on "Monitoring, Reporting, and Fact-Finding). It is that:

> "The processes of gathering information and drawing legal conclusions are interrelated. The mission's decisions about planning the investigation, selecting

legal frameworks and adopting a standard of proof all inform one another and cannot be conducted in isolation." (2017).

II. NATURE AND FUNCTIONS OF COMMISSIONS OF INQUIRY: RECALIBRATING PROCEDURAL APPROACHES

5. The quest for a clear demarcation of the jurisdictional boundary line between the investigative function and the presumed 'forbidden adjudicative territory' of a Commission is a rationalization deducible from the contemporary scholarly trend demanding a recalibration of the modern procedural and judicial approaches to the execution of their mandates by commissions of inquiry, reflecting a juristic reality of modern commissions of inquiry consistent with what is now characterized as the 'judicialization of commissions of inquiry.' Such reasoning raises an issue with critical implications for the functioning of modern commissions of inquiry. It is whether in execution of their mandates, commissions should continue to keep separate the function of finding facts simpliciter from that of viewing and finding facts through, as it were, the focal legal lenses of the relevant substantive laws, to justify the process of drawing conclusions of law predicated upon the facts as found. Assuming the plausibility of the viewpoint that commissions of inquiry should find facts alongside the application of the relevant substantive laws (a viewpoint to which I unreservedly subscribe), it seems logical to contend that the functions of some modern commissions of inquiry are truly hybrid or amorphous, to wit: investigative and adjudicative.

6. It is of interest to note that the majority of Counsel who appeared on behalf of Persons of Interest who were involved with the Commission, subscribe to the view that Commission of Inquiry No. 2 is a hybrid tribunal.

7. In this regard, I am duly cognizant of the fact that a choice along "an adjudicative-investigative spectrum" would entail for my Commission a confrontation with the chain of challenges, so insightfully articulated by Hoole in this passage:

> "The more the commissioner chooses procedures that visibly reinforce his neutrality and detachment-allowing commission counsel and participants to "take the lead" in structuring the presentation and scrutiny of evidence- the more the commissioner constructs a process resembling a trial. By so doing, however, the commissioner cedes a measure of control over the investigation itself. Conversely, by strongly taking command of the investigation- for example, by directing the calling of witnesses, conducting direct examinations, or requiring participants to focus their examinations on issues defined by the commissioner- the commissioner may increase the perception that he or she has adopted a prosecutorial posture, or has formed factual assumptions that he or she is seeking to verify. This may be at odds with the standards of fairness traditionally associated with judicial oversight of a proceeding."

8. It is with these weighty considerations in mind that I have taken the bold judicial step to recalibrate the law selected to be adopted and applied for the purpose of executing the mandate

and terms of reference of Commission of Inquiry No. 2, given the penumbra of complexities and subtleties that has characterized this aspect of the procedural domain of commissions of inquiry.

9. Based on the foregoing analyses, I incline firmly to the viewpoint that Commission of Inquiry No. 2 is a hybrid body, designed to perform both investigative and adjudicative functions. Besides, being specifically empowered to investigate unjust enrichment by specified public officials who held public offices between November 2007 and April 2018, it is also statutorily authorized to exercise the powers of the High Court of the Republic of Sierra Leone, with its decisions subject to appeal to the Sierra Leone Court of Appeal. It is also authorized to adopt, adapt, and modify the rules of the High Court of Sierra Leone in the discharge of its mandate. Unquestionably, these are judicial attributes or indicia of an adjudicative organ.

III. AN AUTHORITATIVE JURISPRUDENTIAL GUIDANCE

10. In addition, in determining which judicial methodology to adopt in executing the mandate of Commission of Inquiry No. 2, against the background of the legal controversy over the fact-finding and mixed fact-finding and law approaches of commissions of inquiry, I have sought guidance from the persuasive reasoning in the landmark decision of the Canadian Supreme Court in the case of Canada (Attorney General v. Canada, Commission of Inquiry on Blood System (1997 3 S.C.R 440). In that case, the Supreme Court of Canada had to decide if certain misconduct notices issued by the Commission of Inquiry constituted an excess of jurisdiction on the part of the Commission. Specifically, the contention of the applicants was that the notices contained findings of criminal and/or civil liability. In developing their argument, the applicants contended that a Commission of Inquiry exceeds its jurisdiction if it makes a finding that would be considered by a reasonably informed member of the public to be a determination of criminal or civil liability.

11. Writing for a unanimous court, Justice Cory stated that while the public perception standard may be appropriate for certain types of commissions, it is not a rule of universal application. The Learned Justice emphasized that such a standard would be appropriate when a commission is investigating a particular crime, but not for one like contamination of Canada's Blood System. He stated that the purpose behind most commissions is the restoration of public confidence, and that commissions of inquiry achieve that purpose by educating the public why the particular tragedy or social problem occurred, and make recommendations to improve the situation or to prevent a future occurrence. By parity of reasoning, the Sierra Leone Commissions of Inquiry are mandated to investigate the social problem of corruption or unjust enrichment in the higher echelon of the public service of Sierra Leone by educating the public, accordingly, as to its causes and what can be done to combat it. Such an exercise inextricably entails establishing facts and determining general legal culpability. Failure to attribute general legal culpability would be tantamount to a legitimization of impunity for unjust enrichment.

IV. THE INADEQUACY OF THE PUBLIC PERCEPTION STANDARD

12. Guided further by the reasoning of the Canadian Supreme Court, I hold that the public perception standard or formula certainly would not be a satisfactory test for the subject matter

forming the conceptual bedrock of section 4 of Constitutional Instrument No. 65 of 2018 in the context of the determination of culpability for unjust enrichment (a social problem with grave repercussive effects for the Sierra Leone society and its institutions) on the part of the public officials listed in the section. To apply it would result in shielding from effective scrutiny those public officials who have indeed placed a high premium on personal aggrandizement or unjust enrichment as a priority over the collective welfare of the Sierra Leone populace.

V. CONCLUSION

13. In conclusion, I hold, that the investigative focus of Commission of Inquiry No. 2 established pursuant to Constitutional Instrument No. 65 of 2018 should not be restrictive in the sense of being limited to collecting and processing information aimed at educating the Sierra Leone public and simply making findings of fact about unjust enrichment among public officials who served in the Public Service of Sierra Leone from November 2007 to April 2018. Its mandate and function, in the purposive context of section 4, broadly extends to eliciting information about culpability for unjust enrichment on the part of the public officials specified in the aforesaid section 4, which part of the mandate entails performing an adjudicative function, quite properly so.

14. By parity of reasoning, I further opine that a restrictive investigative focus of a Commission aimed at uncovering unjust enrichment, without determining general legal culpability, would be nothing short of a forensic accounting exercise, a task for which Judges are not professionally equipped. Being thus convinced, I have, accordingly, decided to depart from the orthodox approach as to the modus operandi of commissions of inquiry. In short, I have shifted away from the simple inquisitorial paradigm to the hybrid or amorphous model incorporating the adjudicative focus, with emphasis on establishing culpability for unjust enrichment and the promotion of a culture of repudiation of corruption in public service.

In summary, I must emphasize that my selected methodology, as Chairman and Sole Commissioner of Commission of Inquiry No. 2 entailed not merely inquiring and examining: it also necessitated adjudicating on the issues in controversy when the occasion and the requirements of traditional justice dictated it. Hence, throughout the conduct of the hearings and proceedings, I felt compelled, consistent with judicial tradition of expounding the law, to advise myself on the relevant applicable legal principles regulating the various aspects of the matters in controversy before the Commission and the evidence adduced before it. This accounts for the Narratives (forming part of the Report) titled, COMPENDIUM OF THE LEGAL FRAMEWORKS AND PRINCIPLES GOVERNING IMPLEMENTATION OF THE COMMISSION'S MANDATE AND TERMS OF REFERENCE. The adopted approach accords with my support for the school of thought that commissions of inquiry are "mechanisms of legal accountability in their own right."

(B) JUDICIAL INDEPENDENCE: AN IMPERATIVE

I. Introduction

1. I opine that judges educated and trained in the common law tradition acknowledge and recognize judicial independence as a core value of the judicial culture. In effect, it is ingrained in them. It is

with this conviction that I contextualize in this Narrative the indispensability of the doctrine of judicial independence to the task of executing the mandate and terms of reference of Commission of Inquiry No. 2 in which I officiated as Chairman and Sole Commissioner, setting out how I conceptualized and applied the doctrine in the fact-finding and application of the law process in determining whether the evidence, in its totality, presented by the State in support of the allegations of unjust enrichment set out in section 4 of Constitutional Instrument No.65 of 2018, justified the findings of fact, severally and cumulatively, and the conclusion of law that the public officers falling within the investigative and adjudicative jurisdiction of the Commission did unjustly enrich themselves in the manner alleged during the period under review.

2. I also highlight the importance of the doctrine for two principal reasons. The first is that when administering the oath to the three Commissioners as Chairmen and Sole Commissioners of the Commissions, His Excellency the President of Sierra Leone expressly stated that, in discharging the mandate and responsibilities pursuant to the founding instruments of the Commissions, the Commissioners were guaranteed judicial independence as entrenched in the Constitution. I took that charge very seriously, as is my judicial custom. In that regard, I have deemed it appropriate, if not imperative, to underscore here the importance of the doctrine to the work done by my Commission. One interpretation I gave to this executive recognition and assurance of judicial independence for the Commissioners is that there is no expectation from the present Government that the Commissioners were to be agents of political reprisal vis-à-vis the immediately preceding government. Accordingly, I highly commend the President for his respect for judicial objectivity and impartiality as core values of the judicial process, whether in the inquisitorial or adversarial context.

II. Meaning of Judicial Independence

3. Judicial independence, in my appreciation of the doctrine, presupposes and requires judges to be free to decide matters before them impartially in accordance with their assessment of the facts and understanding of the law without any restrictions, pressures and other extraneous influences (Thompson 1997: 244). This is the universal acceptation of the notion, now recognized in most national law systems and by the international judiciary, enshrined in the Bangalore Principles of Judicial Conduct, which enjoin that judges shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source. I subscribe wholly to this ideal version of the doctrine.

III. Conclusion

4. My conclusion is that I held firmly to the tenet that commissions of inquiry must be politically impartial even at the cost of not delivering on the prevailing political or ideological expectations or other extraneous factor despite insinuations that the Commission was a ‘Kangaroo Court’ by legal representatives of Persons of Interest. By the same token, I did not allow my objectivity and impartiality, as a judge, to be influenced or compromised by professional collegiality or patronage from the Bar, and their deference to the Bench.

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(C) CONCEPTUALIZING, DEFINING, AND EXPLORING CULPABILITY FOR ALLEGED UNJUST ENRICHMENT IN SIERRA LEONE: SYNTHESIZING SCHOLARSHIP AND JURISPRUDENCE – NATIONAL AND INTERNATIONAL LAW PERSPECTIVES

I. INTRODUCTION

1. During my Opening Statement at the inauguration of the Commission, I briefly provided an overview of the law governing unjust enrichment as the jurisprudential context of the Commission's mandate and specific terms of reference. I was so motivated because I realized then, and remain so persuaded now, that the mandate and specific terms of reference of the Commission do confront us with the extremely delicate and enormous task of defining the extent to which there must be strict compliance with, and application of, the principle of legality. This cautious approach is dictated by my judicial recollection of alleged miscarriages of justice presumed, rightly or wrongly, to have resulted from confiscation of the properties of certain named public officers who were investigated by some previous commissions of inquiry especially during periods of breaches of constitutional legality. Such a recollection relates specifically to the Chaytor Review Committee. It is submitted here that one lesson that should be learnt from the experiences of those Commissions is the need for records as to what legal principles, for example, burden or standard of proof, were applied in the execution of their mandates and rendering of relevant findings of fact and conclusions of law. I strongly opine that commissions of inquiry cannot operate in a legal vacuum. Such an approach has the potential of undermining the legitimacy and credibility of an institution designed to be an effective instrument of public accountability, and being regarded as an agent of political or ideological expediency or reprisal.

2. Consistent with the foregoing, it is, also, my conviction that the terms of reference as set out in section 4 confront us, first, with the complex task of articulating the law governing high level corruption in Sierra Leone, allegedly manifested in diverse acts of public misfeasance. Another challenge is that of examining the state of fluidity of the existing law, reflecting the tension between the lex lata and the lex ferenda, that is the law, as it is, and the law, as it ought to be. Hence, in this Narrative, an effort has been made to conceptualize, define, and explore judicially the law proscribing corruption in the public service of Sierra Leone from both the national and international perspectives. The result is a synthesis of scholarship and jurisprudence, consistent with the position I have taken in my Narrative titled, NATURE AND SCOPE OF JURISDICTION OF COMMISSION OF INQUIRY NO. 2: A METHODOLOGICAL DEPARTURE FROM INQUISITORIAL ORTHODOXY.

3. In addition, I have meticulously examined the mandate of the Commission alongside its specific terms of reference, judicially and assiduously wrestling with the core issue as to which principle should guide the Commission's investigative and adjudicative process, being convinced that factual determinations in the context of the Commission's task cannot be undertaken in a legal vacuum. In effect, there must be a grundnorm or an overarching principle as the basis for evaluating the evidence and reaching ultimate findings of fact deducible from the totality of the evidence presented before the Commission. In the quest for such a principle, in a manner reminiscent of the Greek philosopher, Archimedes, I stumbled upon a doctrine of ancient common law pedigree, succinctly referred to as 'the doctrine of unjust enrichment.' What, then, is unjust enrichment? The answer is that, in ordinary language, it is simply deriving benefit unjustly at the expense of another individual. Its legal connotation is inclusive of its ordinary connotation. However, despite this semantic inclusiveness, it is an accurate judgment that the legal doctrine of unjust enrichment bristles with immense substantive and procedural complexities, especially when contextualized from the statutory perspective of section 4 of Constitutional Instrument No. 65 of 2018, the founding legislation of Commission of Inquiry No. 2. This Narrative seeks to examine, and articulate in academic and judicial terms, expansively, the legal framework for the culpability of public officers, generally, and explore its applicability specifically to those referred to in section 4 of the aforesaid statutory enactment.

4. The analysis in the foregoing seems reinforced by both the substantive and procedural provisions of the Sierra Leone Anti-Corruption Act, 2008 (repealing the Anti-Corruption Act, 2000). The subsequent legislation, appropriately and justifiably, domesticated and incorporated key provisions of the existing major international conventions proscribing high level corruption, bringing the domestic law of Sierra Leone into line with international law. They are the United Nations Convention against Corruption, adopted in New York in 2003 and the African Union Convention on Preventing and Combating Corruption, adopted in Maputo in 2003. This profile of the Sierra Leone law on the subject is an unambiguous affirmation that Section 4 of the aforementioned foundational instrument of the Commission is grounded both in Sierra Leone domestic law and international law. However, it seems necessary to undertake a combined scholarly and judicial analysis of unjust enrichment as a phenomenon under the proscriptive ambit of the law with a survey of its common law antecedents.

II. CONCEPTUALIZING AND DEFINING UNJUST ENRICHMENT

5. However, as a prelude to doing so, let me recall two relevant extracts culled from my Opening Statement during the inauguration of the Commission on the 4th day of February, 2019, conceptualizing and defining the notion of unjust enrichment based on an analysis from Kofele-Kale's book on economic criminality (2016). The first is this:

> "Historically in both common law and civil law systems, it has been long recognized that a person who has unjustly enriched himself at the expense of another must make restitution. In Anglo-American jurisprudence, the principle satisfied the requirements of a synthetic or classificatory principle for all doctrines of quasi-contracts and of constructive trust. In a nutshell, it can be asserted that the doctrine evolved in common law and in equity, that

where a person improperly acquires property, especially by fraudulent means, dishonesty, abuse of power, or through some other corrupt method, he is deemed to have unjustly enriched himself."

6. In the second extract, relying also on the exposition of the law by Kofele-Kale (2016), I opined thus:

"It is significant to note that inherent in the law of unjust enrichment is the legal nexus between the fiduciary relationship and the public trust doctrine. In the context of the mandate of the Commission, the crucial question is what is the relevant rationalization? The answer is that three propositions seem applicable. The first is that political leaders and other state public officials or public actors have a greater power, and therefore carry a greater moral or fiduciary obligation than ordinary citizens, as regards the wealth and resources of the state. The second is that the wealth and resources of a nation are presumed to pass down to the citizens, political authorities, state and public actors as a national legacy from previous generations. This is not legal fiction. The third is that, as a matter of law, it is imperative that the wealth and resources of the state are to be held in trust and preserved for the present and future generations of citizens. Implicit in this trust is the expectation that the political leadership or other state actors or public officials will not divert for their personal or private use, the national wealth which they hold in trust for the citizens."

III. THE LAW OF UNJUST ENRICHMENT: THE COMMON LAW HERITAGE

7. How, then, is unjust enrichment conceptualized? In the historical perspective of Lord Acton, the famous English historian, its conceptualization is that "power tends to corrupt, and absolute power corrupts absolutely" (1848), it does not take any stretch of legal logic to fathom that unjust enrichment is a phenomenon emanating from the corrupting effect of absolute power. Perceived from a moral or an ethical perspective, what Lord Acton was saying is that "where a person's power increases, their moral sense diminishes." Hence, the need to resist the temptation of conceptualizing unjust enrichment merely in the practical or materialist context. It should be put in its historical, moral, ethical, and legal context as a force corrosive of society and its institutions. And I do so forthrightly and unreservedly in this discourse, as a juristic road map for the discharge of my responsibilities as Chairman and sole Commissioner of Commission of Inquiry No. 2.

8. My researches disclose that efforts at articulating or expounding the common law of unjust enrichment have always been punctuated by both scholarly controversies and judicial subtleties from early times in both common law and civil law systems rendering it a priority sometimes to embark upon a synthesization of scholarly views and case-law principles on the subject. Today, there are legal skeptics who assert that this branch of the law has largely remained "ill-understood and unstable". This legal skepticism does find expression within some segments of the legal communities in some common law jurisdictions. For example, in the case of Banahene v. Shell Ghana Limited (J4/34/2016) (2017), it was observed that "the law of unjust enrichment is

like a lost child." In Sierra Leone, the doctrine has attracted both legal skepticism and political cynicism. It has, likewise, been succinctly observed that the law of unjust enrichment and the law of restitution differ from each other in the same way as the "butterfly will differ from the caterpillar." Hopefully, this Narrative will serve as a form of judicial pedagogy for those skeptics and cynics. Admittedly, the arcane and esoteric character of this body of law derives partly from the failure of the scholarly literature and the jurisprudence to always keep separate the lex lata and the lex ferenda.

9. What, then, is the common law definition of unjust enrichment? In common law terminology, the definition of unjust enrichment has varied. One classic formulation is that "when a person unfairly gets a benefit by chance, mistake, or another's misfortune for which the one enriched has not paid or worked that person should not morally and ethically keep such benefit. In effect, a person who has been unjustly enriched at the expense of another must legally return the unfairly kept money or benefits". In this regard, it is necessary to emphasize that the doctrine, in its orthodox common law context, operates in the domain of civil law, where the liability is primarily civil and in respect of which the common remedy is restitution. Judicially, I opine that, given the contemporary systemic nature and scope of high level corruption worldwide, there is no ground of principle or logic precluding the application of the doctrine in the corresponding domain of the criminal law, a school of thought now manifestly underscored by the extensive domestication and incorporation of unjust enrichment prohibitions in Sierra Leone's domestic law. What, then, are the common law antecedents to Sierra Leone's existing law of unjust enrichment? The question is addressed in the paragraphs below of this Narrative.

10. According to See (2013), historically about two-thirds of the law of unjust enrichment was of common law origins and fell under the rubric of quasi-contracts, dating back to the distinction in Roman law between those civil law obligations arising from contracts and those arising from wrongs. One historical consensus is that the doctrine is traceable back to Justinian's Digest (6th century AD) in two texts attributed to the Roman Scholar Pomponios. The Digest posits that for "this is by nature fair that nobody should be enriched by another's loss" (12. 6. 14). In a similar vein, Birks and Burrows (1985) have argued that although quasi-contractual obligations did not all arise from unjust enrichment, the bulk of them did. Anglo-American scholarly preoccupation with this aspect of the law dates back to the early era of English legal scholarship, notably, Holdsworth and Winfield. Legal research reveals that the first English scholar to use the language of 'unjust enrichment' was Holdsworth (1925). Winfield is also credited with being the first English legal scholar to have embraced the principle (1931). He wrote:

> "There must always be circumstances which make one man civilly liable to another on grounds reducible neither to contract nor tort. The principle that 'one person shall not unjustly enrich (preferably 'benefit') himself at the expense of another' must penetrate any system of law. That principle is at the root of all genuinely quasi-contractual relations."

11. It is a fair and accurate judgment that despite its varied historical common law developments, the doctrine of unjust enrichment has retained its quintessential substantive thrust, namely, that it is unconscionable on moral, ethical, legal or equitable grounds, to enrich oneself unjustly at another's expense. In an insightful analysis of the conceptual nexus between restitution and enrichment, Lodder reasoned thus:

> "Restitution is the reversal of the defendant's enrichment. Restitution is a gains-based response. It takes the form of a right or power to reverse the defendant's enrichment at the claimant's expense. Restitution is not restricted to giving that enrichment back to the claimant: it includes remedies that cancel or negate the enrichment received by the defendant".

Put more restrictively, restitution is an equitable remedy when the money or property wrongfully in the possession of the defendant is traceable i.e. can be tied to "particular funds or property. In such a case, restitution comes in the form of a constructive trust or equitable lien".

IV. UNJUST ENRICHMENT: THE CONTEMPORARY COMMON LAW JURISPRUDENCE

12. The law, in its contemporary context, as judicially recognized, finds one of its most articulate expressions in the well-developed and sophisticated jurisprudential setting of the English judiciary, underpinned by Lord Wright's exhortation that common lawyers must keep in mind that every civilized legal system must have a law of unjust enrichment. Expounding the law in Fibrosa Spolka Skcyjna v. Fairbarn Lawson Combe Barbour (1943) A.C. 32 of 61), the learned Law Lord emphasized that:

> "It is clear that any civilized system of law is bound to provide remedies for cases of what has been called unjust enrichment or unjust benefit, that is to say to prevent a man from retaining the money or some benefit derived from another which it is against conscience that he should keep. Such remedies in English law are generally different from remedies in contract or in tort and are now recognized to fall within a third category of the common law which has been called quasi-contract or restitution".

Prior to that, Lord Mansfield's contribution to the doctrine is that it is grounded in "equity and good conscience" (1760). Unquestionably, the State of Sierra Leone is a beneficiary of a "civilized system of law", namely, the common law. It is, accordingly, an accurate judgment that today the doctrine of unjust enrichment is part and parcel of the country's common law and statute law grounded as noted earlier, on a well-crafted and robust proscriptive international regulatory scheme for the prevention of high-level corruption.

13. The trend initiated by Lord Wright culminated in a major development in 1991 with the English judiciary transforming theory into reality with the acknowledgement and recognition of the law of unjust enrichment in the case of Lipkin Gorman v. Karpnale (1990) 2 A.C. 548). There, the House of Lords recognized a claim for restitution based on unjust enrichment. Today, however, England has adopted a new variation of the same theme with the use of the formula namely "the unjust factor". Instructively, the unjust factors" which have been recognized in the modern English

law of unjust enrichment are: (i) failure of consideration, (ii) mistake, (iii) misrepresentation, (iv) ignorance, (v) duress, (vi) undue influence, (vii) exploitation, (viii) legal compulsion, (ix) necessity, (x) illegality, and (xi) incapacity.

14. Lord Wright's exposition of the law received endorsement by the Canadian Supreme Court {per Justice Cartwright} in the case of Deglman v. Guaranty Trust Co. of Canada and Constantineau, (1954 SCR.725). In the case of First Bank of Nigeria v. Ozokwere (2013) 12(pt. 11) M.J.S.C. 60 at 77 78, the Nigerian Supreme Court recognized that unjust enrichment is a viable cause of action. Also, in Eboni Finance & Sec. v Wolfe-Ojo Technical Services (1996) 7NWLR (Pt. 461) 464 at 478, the court held that, in a proven circumstance where a party unjustly enriches himself at the cost of another, the duplicitous party must be "made to disgorge it."

15. Significantly too, under the civil law system, the contemporary jurisprudence reflects a unique convergence with the common law conception. Notably, the Belgian Court of Cassation has given several endorsements to the doctrine. The Cassation Court has ruled that unjust enrichment is a general principle of law. Reinforcing this judicial stance, the Court stated that the legal basis for unjust enrichment is equity. The court explained that the doctrinal elements of the concept are: (i) an enrichment; (ii) an impoverishment; (iii) a connection between the enrichment and the impoverishment; (iv) an absence of a cause of the enrichment; (v) the person trying to invoke the unjust enrichment cannot invoke the undue payment. (See Cass. 17 November 1983 RW 1983-84, 2982; Cass. 7 September 2001, 18; Cass. 19 January 2009, RCJB 2012, 69).

V. STATUTORY PROSCRIPTIONS OF UNJUST ENRICHMENT: THE SIERRA LEONE MODEL

16. As a model piece of national legislation on unjust enrichment, it is necessary to set out in this section the specific statutory provisions of the Sierra Leone Law proscribing unjust enrichment. It was stated earlier that the Sierra Leone grundnorm on unjust enrichment is the Anti-Corruption Act, 2008, the state's domestic model of both the United Nations Convention against Corruption, which was adopted in 2003 and the African Union Convention on Preventing and Combating Corruption, also adopted in 2003. It is noteworthy that the Act proscribes a very wide variety of acts of unjust enrichment by public officers and other state actors.

17. The first is "corrupt acquisition of wealth" (Section 26) which makes it a crime for "a public officer to be found to be in control or possession of any resources or property or in receipt of the benefit of any advantage which he may reasonably be suspected of having acquired or received corruptly or in circumstances which amount to an offence under the Act".

18. The second is "possession of unexplained wealth" (Section 27 (1)(a)) which makes it a crime "for a public officer or someone who has been a public officer to maintain a standard of living above that which is commensurate with his present or past official emoluments".

19. The third is "possession of unexplained wealth" (Section 27(1)(b)) which makes it a crime for a public officer or someone who having been a public officer to be in control of pecuniary resources or property disproportionate to his present or past emoluments.

20. The fourth is "offering, soliciting or accepting advantage" (Section 28 (1)) which makes it a crime for a person to give, or agree to give, or offers an advantage to a public officer as an inducement for such advantage."

21. The fifth is "soliciting, accepting, obtaining, or agreeing to accept or attempting to obtain by a public officer advantage for himself without lawful consideration or with inadequate consideration as an inducement to or reward for or otherwise on account" (Section 28(2) for the purpose of any of the acts specified in section 28(2)(a)(b)(c).

22. The sixth is using "influence for contracts" (Section 29(1)) which criminalizes the acts, "whether in Sierra Leone or elsewhere, of giving or agreeing to give or offer an advantage to a public officer as an inducement or reward."

23. Other kindred acts include "influencing a public officer" (Section 30); "peddling influence" (Section 31); "corrupting a public officer" (Section 32); "bribery of or by a public officer to influence decision of a public body" (Section 34); soliciting, accepting or obtaining advantage for a public officer" (Section 35); "misappropriation of public funds or property" (Section 37; "impeding investing" (Section 38); "corrupt transactions with agents" (Section 39); "deceiving a principal" (Section 40); "accepting advantage to protect offender from legal proceedings" (Section 41): "abuse of office" (Section 42); 'abuse of position" (Section 43); "public officer using his office for advantage" (Section 44); "conflict of interest" (Section 45); "treating of advantage" (Section 46); "receiving gift for corrupt purpose" (Section 47); "fraudulent or unlawful dealings with public property, revenue etc." (Section 48); dealings with suspect property" (Section 49); "liberty in relation to auctions: (Section 50); "soliciting or accepting gifts by public officers" (Section 51; and "transfer of proceeds of corruption" (Section 52).

24. Given the foregoing elaborate and extensive profile of proscriptions of acts of unjust enrichment depicted in the Sierra Leone legislative model, the inference is irresistible, as Kofele-Kale reminds us, that "official corruption is now recognized as a scourge to be eradicated at both the national and international levels", and that "what is now left is to declare official corruption/state theft as an international crime subject to the Nuremberg principles and universal jurisdiction in particular" (2016). Hence, it is undeniable that Sierra Leone's domestication of the international conventions on unjust enrichment is a constructive and progressive development in the country's national law system, worthy of commendation. In legal language, there is no lacuna in the domestic law on the subject.

VI. HIGH LEVEL CORRUPTION IN SIERRA LEONE: PREVIOUS COMMISSIONS OF INQUIRY PRECEDENTS

25. It is settled law that the doctrine of unjust enrichment is integrally part of the common law of Sierra Leone by virtue of section 190 (1) of the Constitution of Sierra Leone Act (No. 6) of 1991. What is not settled law is whether the findings of fact and consequential orders of earlier Commissions of Inquiry constitute binding legal precedents. I contend that, as a matter of law, they are of doubtful precedential value due to the invalidation of the confiscation of property orders

by the Chaytor Review Committee and the breach of constitutional legality that preceded their establishment.

26. Despite, as I reiterate, the questionable validity of these findings, I have decided, for the sake of the completeness of the historical records, to set them out extensively in the subsequent paragraphs. First, the Justice Beccles Davies Report found the following facts as evidence of unjust enrichment on the part of Ex-President Siaka Stevens:

(i) that during the aforesaid period, he acquired "an extensive portfolio of real estate holdings consisting of 16 houses including Kabassa Lodge valued at $5,850,000;"

(ii) that during the aforesaid period, he held shares in several local companies and cash deposits in several local and overseas banks.

27. In the case of Ex-President Joseph Saidu Momoh, Stevens' successor, the findings were:

(i) that from November 1985 to April 1992, he was found "to have been a millionaire several times over;

(ii) that during the period of seven years, he acquired a "sizeable collection of real properties including homes, farms, a fleet of 213 expensive vehicles of various makes and descriptions, Le12,950,000 in Treasury Bills, cash deposits in various banks in Sierra Leone totaling Le45,613,870.22, cash deposits in various banks abroad totaling 128,478.73 pound sterling, US$30,000 and much more.

28. Other findings included those of high-ranking public officials like Bambay Kamara, who was Inspector-General of Police during the presidency of Siaka Stevens. The findings of unjust enrichment in relation to him were:

(i) that he had substantial monies in several local banks and overseas banks;

(ii) that he owned 30 pieces of property in the country;

(iii) that he awarded a Le96 million contract to an uncle of Ex-President Momoh for the purchase of SSD Uniforms, which contract was never performed.

29. Aiah M'bayo, a former diplomat and government Minister, was found to have unjustly enriched himself in this respect: that the Algerian Government donated $4 million, 500 tons of fuel and a ship load of provisions, as Algeria's own contribution to the hosting of the Organization of African Unity Summit in Sierra Leone; contrary to the intentions of the Algerian government, the money was distributed among some of Sierra Leone's ambassadors, and he received $25,000.

30. Equally noteworthy for the historical records are some of the findings of fact of unjust enrichment engaged in by some other high-ranking members of the political elite who served in the Stevens and Momoh administrations. A former Minister of Foreign Affairs, Abdul Karim Koroma was another classic predator of the country's national wealth. He was found to have

"owned a huge mansion in an exclusive Freetown suburb, a BMW car bought in 1988 for 25 pounds sterling and a satellite dish bought in 1991 for $8000." The evidence as to how he came to acquire such wealth was that of "selling food aid meant for starving Sierra Leoneans and converting the money into his personal account". One such example was the sale of Italian food aid.

31. Also noteworthy are findings from the Report of Mrs. Justice Laura Marcus-Jones Commission of Inquiry (1993). The Report also highlighted the high level culpability of Ex-Presidents, Ex-Vice-Presidents, Ex-Ministers, Public Officers, Members of Boards and Employees of Parastatals and other state actors of unjust enrichment manifested through corruption, dishonesty, negligence, and abuse of office for private benefits. These included mainly:

(i) that Ex-Minister Harry Williams illegally acquired a Guest House at Tissana, and House H.S. 54B, Hill Station;

(ii) that the aforesaid Ex-Minister of State acquired illegally in 1989 and 1991 during the period under investigation whilst holding public office;

(iii) that Samuel Bismarck Deen maintained a standard of living above that which was commensurate with his past emoluments; that he was in control of pecuniary resources and property disproportionate to his in official emoluments;

(iv) that Joseph Patrick Abdulai Koroma, former Secretary to the Ex-President Stevens was a man "with huge Resources", having acquired such resources by abusing his office as Secretary to the President;

(v) that the said former Secretary Korma acquired 20 properties and substantial amount of investments which ran into "hundreds of millions of leones", and that he was in control of pecuniary resources disproportionate to his past official emoluments;

(vi) that Mr. Alim Jalloh-Jamboria "epitomizes that breed of professionals within the service who had made full use of government time, material and personnel for their own private ends"; and that it is possible that he may have engaged in tax evasion during his private practice;

(vii) that Mr. Chernor Bakarr Sesay "was not alive to his responsibilities in the Ministry of Agriculture and Forestry"; that he was "in control of pecuniary resources is disproportionate to his income over the period under investigation."

(viii) that Othman Solomon Jawara's activities as Area Engineer, Bo, did not serve the best interest of the nation; that plants, vehicles and machinery under his control at Bo were only used on non-governmental activities, and that he derived "substantial financial benefits from these illegal activities".

VII. THE ANALYTICAL FRAMEWORK FOR DETERMINING UNJUST ENRICHMENT: THE FACT-FINDING/LAW EQUATION

32. What is the factual/legal analytical framework for ascertaining whether there was incommensurability, lack of proportionality between assets and official emoluments on the part of each public officer or any other alleged act of public malfeasance or misfeasance as specified in section 4 of Constitutional Instrument No. 65 of 2018. The answer is that it must be resolved by conducting a mixed factual-legal inquiry, using the doctrinal yardstick of unjust enrichment, as follows:

a. Is the public officer enriched?

b. is it at the State's expense?

c. Is the enrichment unjust?

d. Is there rebuttal evidence showing lack of incommensurability or disproportionality between assets and official emoluments on the part of the alleged public officer or any other alleged public malfeasance or misfeasance?

e. Is there a legal defence to the allegation?

- If the answers to (a) - (c) are in the affirmative, the State will have established a prima facie case of unjust enrichment against the public officer under investigation, and the burden will then shift to the public officer to rebut that evidence. If he fails to do so, the right to restitution crystallizes into an absolute one (Birks and Burrows, 1985).

33. Suffice it to say that even though under the common law, the contours of misfeasance and malfeasance as brands of public wrongdoing remain opaque and ill-defined, the general principles applicable to them are relevant for the purpose of investigating and establishing culpability for high level corruption resulting in unjust enrichment under section 4 of Constitutional Instrument No. 65 of 2018. Evidently, on a plain reading of the section, there is a conceptual nexus between abuse of office arising out of public misfeasance or that of malfeasance and unjust enrichment. This reasoning is consistent with Lord Steyn's articulation of the rationale behind these wrongs, namely, "that in a legal system based on the rule of law, executive or administrative power may be exercised only for the public good and not for ulterior and improper purposes (See the case of three Rivers District Council v Bank of England (No. 3) 2003 2 AC.1 at pp. 190-192). Analogously, it is true that exercising executive, legislative, or administrative powers for private gain and benefit in the common law jurisdiction of Sierra Leone is patently an ulterior and improper motive which is tantamount to unjust enrichment. I opine that the common law thus articulated is consistent with the letter and spirit of section 4 of Constitution Instrument No. 65 of 2018. What, then, is the true interpretation and meaning of section 4?

34. It cannot be denied that section 4 of Constitutional Instrument No. 65 of 2018 does pose some intricate and complex problems of statutory interpretation. As to its true interpretation and meaning, controversy has revolved around whether the Commission should adopt a restrictive or strict constructionist approach in discharging its mandate or whether it should be guided by a broad or purposive approach. It has also been submitted that the interpretation of the provision should be in accordance with the mischief rule. It is trite law that principles of statutory interpretation have always been products of judicial formulation and have remained so until contemporary times within the common law jurisdictions.

35. Historically, three basic rules of statutory interpretation have been applied by courts in the common law jurisdictions. They are (a) the plain meaning rule, (b) the golden rule, and (c) the mischief rule. Which rule, then, should govern the interpretation of the provision? The State contends that section 4 should be interpreted in accordance with the mischief rule. Attractive though this contention may be, it is my considered opinion that in contemporary times, judges in the common law system have made a gravitational shift away from the mischief rule to the more progressive purposive rule, now acknowledged and recognized in some domestic law systems and the international justice system. It is noteworthy that the mischief rule was enunciated in Heydon's case (1584). Rep. Co. Rep 7a76 E R 637 436 years ago. It is not surprising that it has, as it were, been given a decent judicial burial in some common law jurisdictions, recently Ghana.

Other judges in the same jurisdictions have been inclined to treat legal submissions advocating the mischief rule as products of "fanciful academic peregrinations."

36. Predicated upon a considered analysis of section 4, it is my view that the rationale behind the provision is the unearthing of evidence of corruption in the higher eschelon of the public service of Sierra Leone during the period under review on the part of those named in the section and the assignment of culpability for unjust enrichment as the product of such corruption. It is my firm conviction that it is only by construing the provision purposively that the said objective would be achieved. There could have been no other legislative intent. There is clearly no ambiguity in the provision to warrant the application of any other rule of interpretation. I draw further support for this reasoning from the opinion of my learned Brother, Justice Atuguba in the Ghanaian case of Re Presidential Election Petition, Akuffo-Addo and 2 others (No.4) (Special Edition) v, Mahama and 2 others (No.4) 2013 SCGLR (Special Edition) page37 at 111 where he remarked:

> "The purposive approach has been enthroned in the Supreme Court as the dominant rule for the construction of the Constitution."

37. Let me, therefore, reinforce my choice of the purposive rule as the canon of statutory interpretation that comes closest to achieving the legislative intent and objective behind section 4 with the further observation that a restrictive approach to the construction of the enactment would thwart the public interest in safeguarding integrity in public service and fostering a culture of repudiation of corruption in public life in Sierra Leone, and thereby render inefficacious the progressive legislative action by the executive and legislative organs of the Government in incorporating and domesticating two major international conventions on the prevention of

corruption into the country's national law. Lord Mansfield once observed that unjust enrichment is doctrinally grounded in "equity and good conscience." By parity of reasoning, to shrink away from a purposive interpretation of section 4 dictated by equitable justice is to subvert the public interest, which is the suprema lex when the safety of the State is being imperiled by a social malady such as unjust enrichment.

38. Being thus persuaded, I postulate five propositions as to the jurisdictional scope of section 4, applying the purposive rule of interpretation, paying due regard to (a) the language of the provision, (b) the context in which the language is used, and (c) the purpose of the enactment.

39. The first is that of the challenge of implementing the existing domestic law of Sierra Leone and international legal norms on the subject of unjust enrichment so as to maintain the right balance between the rights of persons subject to the Commission's jurisdiction with the right of the Sierra Leone society to recover unjustly acquired wealth.

40. The second is that the section vests the Commission, generally, with jurisdiction to investigate and establish culpability for unjust enrichment on the part of the public officers specified herein during the stated period.

41. The third proposition is that by virtue of, or pursuant to, section 4 (a), (b), (c) and (d), (i), (ii), (iii) and (v), the Commission is vested with authority to investigate and establish, on the part of the specified public officers, culpability for unjust enrichment under the rubric of assets declaration and disclosure in these forms: (1) incommensurability between the public officer's assets and his official emoluments; (2) disproportionality between a public officer's ownership or control of pecuniary resources or property and his official emoluments, or evidence of corruption, dishonesty, or abuse of office for private benefit within the stipulated time frame; and (3) collaboration in respect of the said corruption, dishonesty, or abuse of power, again within the stated time frame.

42. The fourth proposition is that pursuant to subsection (iv) of the provision, the Commission is authorized to investigate and establish culpability on the part of the specified public officers for wilful or complacent financial loss or damage to the government, local authority or parastatal including a public corporation, which may have been occasioned during the implementation of a development project.

43. The fifth proposition is that by virtue of subsection (v), the Commission is empowered to investigate and establish culpability for unjust enrichment on the part of the specified public officers in the form of the direct or indirect acquisition of financial or material gains fraudulently, improperly or wilfully within the stated period, to the detriment of the government, local authority or a parastatal including a public corporation, statutory Commission, body or any university in Sierra Leone.

44. In summary, it can be deduced from the several analyses in this Narrative that the normative ingredients of unjust enrichment under Sierra Leone's domestic law and under international law

are: (a) persons of interest, (b) period of interest, (c) conduct of enrichment, to wit, significant increase in assets, (d) intent (including awareness or knowledge), and (e) lack of justification.

45. Finally, it is on the basis of the articulation and exposition of the law governing unjust enrichment in this discourse that, as Chairman and Sole Commissioner, I proceeded to make the necessary and logically deducible findings of fact and of specific legal culpability on unjust enrichment as regards the allegations set out in section 4 of Constitutional Instrument No. 65 of 2018. The attribution of such legal culpability is a matter of equity and good conscience. What, then, are the implications of a finding of legal culpability for unjust enrichment on the part of a specified public official or person of interest? The answer, in my judicial rationalization, is that the implications are, likewise, equitable. In effect, the public official or person of interest found culpable must, by virtue of a judicial order founded upon the doctrine of constructive trust, divest himself of the property acquired unjustly and make restitution of the same to the State for the benefit of the Sierra Leone citizenry. In the language of the Nigerian case referred to earlier, namely, Eboni Finance and Sec. v. Wolfe-Ojo Technical Services, where a party unjustly enriches himself at the cost of another, "the duplicitous party must be made to disgorge it."

VIII. UNJUST ENRICHMENT: INTERNATIONAL RATIONALES AND NORMS

46. To conclude this discourse, I have deemed it appropriate to underscore the global concern for corruption by reproducing herein the rationales and recitals embodied in the Preamble to the United Nations Convention Against Corruption referred to earlier in this discourse and to which the State of Sierra Leone is a Contracting Party. They are as follows:

> (i) The seriousness of problems and threats posed by corruption to the stability and securities of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,
>
> (ii) The links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,
>
> (iii) Cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion or resources of states, and that threaten the political stability and sustainable development of those states,
>
> (iv) Corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,
>
> (v) That a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

(vi) That the availability of technical assistance can play an important role in enhancing the ability of states, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

(vii) That the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

(viii) That there should be a global awareness to prevent, detect in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

(ix) That there must be an acknowledgement of the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings in adjudication property rights,

(x) That it must be borne in mind that the prevention and eradication of corruption is a responsibility of all states and that they must cooperate with one another, with the dipping and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective,

(xi) That the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption must be adopted.

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(D) EVIDENTIAL ISSUES: THE GUIDING PRINCIPLES

I. INTRODUCTION

1. Recent studies on the subject of high level corruption resulting in illicit or unjust or fraudulent enrichment have revealed that investigation of deviance of such magnitude and complexity is fraught with enormous evidential problems which, invariably, militate against successful investigations. The scholarly literature and the jurisprudential exposition on the subject are replete with such evidential issues. Generally, this is due to the basic norms of procedural orthodoxy, entrenching the presumption of innocence as a fundamental principle of the criminal law, as it operates nationally and internationally. What, then, are the applicable principles? This is what this Narrative seeks to explore for the purpose of the discharge of the mandate of Commission of Inquiry No. 2 whose hearings and proceedings I conducted.

2. As a prelude to ascertaining these principles, it is important to begin with a formulation of a basic analytical problem posed by the Commission's mandate. It is: How, as a matter of proof, given the constitutional primacy of the presumption of innocence secured under the Sierra Leone Constitution, are findings of fact and legal culpability to be made in respect of "persons who were President, Vice President, Ministers, Ministers of State, and Deputy Ministers;" and other named public officials (i) that" they acquired assets unlawfully", (ii) that "they maintained a standard of life above that which was commensurate to their official emoluments; "(iii) that" they owned or were in control of pecuniary resources or property disproportionate to their official emoluments or there are evidence of corruption, dishonesty or abuse of office for private benefit by them; " (iv) that" they collaborated with any person in respect of such corruption, dishonesty or abuse of office;" (v) acted willfully or complacently in such a manner so as to cause financial loss or damage to the government, local authority or parastatal including a public corporation;" (vi) "acquired

directly or indirectly financial or material gains fraudulently, improperly or willfully to the detriment of the government, local authority or a parastatal including a public corporation, statutory Commission, body or any university in Sierra Leone" without some initial presumption of culpability?

3. The uncomplicated answer is that the presumption should take precedence in resolving the issue. The implication here is that without proof of illegality of acquisition, every person resident in the country is entitled to peaceful and quiet possession of their property or properties. But the matter is more complicated than that, given the fact that the Commission is charged with uncovering what has been described as high-level corruption resulting in unjust enrichment on the part of highly placed public officials through abuse of office or other corrupt or improper methods. Hence, the challenge posed to the Commission assigned such a delicate task is how to legitimately attenuate the sacrosanctity of the constitution, as the fundamental law, in favor of the public interest in ensuring a society free from corruption in public service. Experience has shown that one problematical aspect of investigations of this type and magnitude is captured in a single and legally loaded word namely, 'proof.' Due to the enormous difficulty of proving such acts by direct evidence, the courts and, to some extent, the academic legal community have come up with some creative solutions to ease the inflexible application of the presumption of innocence in cases of unjust enrichment.

II. THE BURDEN OF PROOF ISSUE

4. As a Commission operating in a common law jurisdiction with statutory authority to apply flexibly the rules of evidence, it is the law that the state has the burden to show that the allegations made in section 4 of Constitutional Instrument No. 65 of 2018 in relation to the named office holders are factually accurate. The burden is to establish the case on a balance of probabilities.

5. The usual scenario is this: where the State has adduced evidence against the public official or officials under investigation, there arises a mandatory presumption of unjust enrichment, the effect of which is to shift the burden to the said public official or officials to adduce evidence in rebuttal of the said presumption. In the context of the aforesaid section 4, the implication is that the state will have to establish, by the evidence, the fact of incommensurability of the assets of the public official and his or her official emoluments, or that they are disproportionate. Hence, the burden is, accordingly, reversed by the 'reverse onus doctrine' placing the onus on the public official to prove the lawfulness of the acquisition of the assets in issue.

6. Significantly, an explicit acknowledgement of this principle in the operative context of Commission of Inquiry No. 2 was made by Ady Macauley, Esq., Counsel for Person of Interest, Madam Haja Kallah Kamara, former Commissioner- General of the National Revenue Authority, in his Written Closing Address submitted to the Commission. At paragraph 12 thereof, Counsel had this to say:

"The burden of proving that Madam Haja Kallah Kamara maintained a standard of life above that which was commensurate to her official emoluments, owned or was in of pecuniary resources or property disproportionate to her official emoluments is on the State. Once this is proved, it is

now the reverse burden on Haja Kallah Kamara to explain the source of her income that supports the life style she lived, control or ownership of properties or pecuniary interests."(2019).

7. The prevailing view is that the doctrine is not, in principle, incompatible with the presumption of innocence, and that there is no such incompatibility judicially from the perspective of the relationship between the doctrine and the presumption of innocence in the common law system. Some recent English case-law authorities, having persuasive authority within the Sierra Leone jurisdiction, do provide some guidance on how to interpret criminal provisions shifting the burden of proof. In R. v. Lambert {2002} 2 A.C. 545 (U.K.) the House of Lords held that the presumption of innocence was not absolute, but any departures from the presumption would have to be justifiable, reasonable, and proportional. Their Lordships opined that:

> "It is now well settled that the principle which is to be applied requires a balance to be struck between the general interests of the community and the protection of the fundamental rights of the individual."

By parity of reasoning, the House, in R .v. Johnstone {2003} 1 W. L. R. 1736 (U.K), found that the reverse burden provision of Article 9(2) Act of The Trade Marks Act of 1994 was compatible with the presumption of innocence because the prejudice that would have been suffered by the public interest justified placing a persuasive burden on the accused.

8. Relying on the foregoing English case-law principles, by way of persuasive authority, and applying them to the allegations of public misfeasance and malfeasance in the context of the various manifestations specified in the aforementioned section 4 of the Sierra Leone Constitutional Instrument No. 65 of 2018, the inference is irresistible that the prejudice or detriment that would be suffered by the public interest in failing to combat or eradicate high level corruption in the country justifies the application of the reverse burden principle and placing a rebuttal burden on those public officers being investigated to adduce evidence to rebut the factual presumption of high level corruption for and during the time frame stated in the Commission's terms of reference. This position is reinforced by the view that corruption as a social malady is inimical to society's health, corrosive of its fabric, and destructive of its institutional foundations. From an international law perspective, it is now recognized that "the right to a society free of corruption is inherently a basic human right because life, dignity and important human values depend on this right." Suffice to say that I steadfastly adhered to, and applied, this principle throughout hearings and proceedings of the Commission as the evidence was presented.

9. The clear position, as I understand it, as to the justification for the application of the reverse burden of proof in domestic penal law and international criminal law in respect of allegations of unjust, fraudulent, or illicit enrichment levelled against high-ranking public officials, is that it is only, in the context of either an adversarial or inquisitorial inquiry, the public official who can reasonably explain the alleged significant or extraordinary increase in his assets in comparison with his official emoluments. As it is technically stated in law, such a matter or matters would be one 'peculiarly within the knowledge' of the particular public official. It is, accordingly, my considered opinion that an insistence on, and slavish application of, the presumption of innocence

in such situations would be prejudicial to the interests of justice. In effect, such an approach would allow the presumption of innocence to be "an engine of injustice," thereby frustrating the effectiveness of commissions of inquiry as instruments of democratic accountability. Above all, it would jeopardize or undermine the interest of the Sierra Leone citizenry in combating corruption in the public service.

10. Further researches indicate that in modern constitutional democracies limited inroads on the presumption of innocence may be justified. The guiding judicial methodology was stated by the European Court of Human Rights in Salabiaku v. France (1988) 13 Eur. H.R. Rep. 379, 388) as follows:

> "Presumptions of fact or of law operate in every legal system. Clearly the Convention does not prohibit such presumptions in principle. It does, however, require the Contracting States to remain within certain limits in this respect as regards criminal law."

Postulating the 'balancing test 'as a guide in determining when limited inroads on the presumption of innocence may be justified, the Court in Allenet de Ribemont v. France, App.No.15175/89, 20 Eur. H.R. Rep. 557 (1995), 67-70 stated that:

> "[A]ccount must be taken of the specific circumstances of the case and a balance struck between the conflicting interests involved, namely the legitimate interest of the public and the press in being informed and the interest of the person suspected of an offence in safeguarding the presumption."

It can now be taken as settled law, based on domestic and international jurisprudence, that limitations will be compatible with the presumption of innocence if (a) it pursues a legitimate objective and (b) there is a reasonable relationship of proportionality between the means employed and the objective sought to be achieved.

11. It is now necessary to address briefly another aspect of the problem of the proof of unjust enrichment. It is the presumed doctrinal tension, in the context of alleged acts of public misfeasance and malfeasance as high-level corruption, between the right to remain silent or the privilege against self-incrimination and the reverse onus burden. Despite the juridical sacrosanctity attached to the privilege against self- incrimination or the right to remain silent in most domestic law systems and international criminal law systems, the prevailing view is that it is not an absolute right. Again, in this regard, investigative and adjudicative bodies, national as well as international, have not adhered inflexibly to the protection of the right in cases where the public interest justifies a departure from its application. Rather, they have recognized the need to place qualified limitations on the right. Consistent with this universal jurisprudential trend, I, accordingly, advised myself that it would not be inconsistent with the domestic law of Sierra Leone or the international lex lata, for the purposes of the exercise of the Commission's investigative/adjudicative jurisdiction, to require the targeted public officials to discharge the burden of presenting evidence to rebut the presumption of unjust or illicit enrichment on their part.

12. To allow the privilege against self-incrimination to operate inflexibly in the universe of the Commission's Rationale, Mandate and Specific Terms of Reference is, by the use of a legal technicality, to thwart the will of the people of Sierra Leone for democratic accountability in the conduct of public affairs by those to whom they have entrusted political authority.

13. In this regard, I have been guided throughout by the principle that it is now settled law that investigative bodies or courts are at liberty to draw inferences of fact and law from the silence of a public officer who is being investigated for, or charged with, unjust enrichment. At the international level, it is of significance to note that in the important case of John Murray v. United Kingdom, Application no.18731/91, Judgment of 8 February 2006, paras. 47, 51, the European Court of Human Rights ruled that a court may draw common sense inferences from the silence of the accused when it evaluates the evidence, provided the prosecution has made out a prima facie case. By parity of reasoning, the Court also ruled that there would be prohibitions against drawing adverse inferences from the silence of an accused where no prior access to legal counsel has been granted.

14. Suffice it to say that the majority of Persons of Interest summoned to testify before Commission of Inquiry No.2 did not avail themselves of the opportunity to do so, even though they were properly advised that they could appear in person or be represented by legal counsel, or could appear with counsel. Evidently, some of them opted to waive their right. In every such case, the Commission had no other legal or judicial recourse, weighing the evidence of the State on a scale or balance of probabilities than to draw the commonsense inference of admission of culpability for unjust enrichment, in respect of such Person of Interest. The legal effect of this option was to exclude the application of the dictum that 'silence is golden'. Some of them did avail themselves of the services of legal counsel, affording the Commission the opportunity of hearing their respective defences to the State's case against them, either through cross-examination of the witnesses for the State or examination-in-chief of their own witnesses, or tendering of documentary evidence (or by all three modes) in support of their own side of the story as the evidence of alleged unjust enrichment in the public service unfolded.

III. THE CIRCUMSTANTIAL EVIDENCE

15. Having articulated the law on the issue of proof of allegations of high level corruption by direct evidence, it is of interest to note that the other option open to the State, which it adopted, was to rely on a combination of documentary, oral and circumstantial evidence. Circumstantial evidence is defined as "evidence, which, if believed, proves the existence of a particular fact without inference or presumption required." It relates to a series of facts other than the particular facts sought to be proved. Reliance on circumstantial evidence is that the series of facts that are being relied on (by reason and experience) are so closely associated with the fact to be proved that they may be inferred simply from the existence of the circumstantial evidence. Admittedly, the State had the option of proving the case against a person of interest entirely by circumstantial evidence. The classic formula in cases in which exclusive reliance is placed on circumstantial evidence is that liability is deducible from the "totality of the facts and circumstances of the case".

IV. OTHER TYPES OF EVIDENCE ADMITTED

16. It is, at this stage, necessary to recall that by virtue of its founding constitutional instruments and related legislative enactments regulating the mandate and proceedings of commissions of inquiry in Sierra Leone, this Commission of Inquiry was authorized to apply flexibly the strict common law rules of admissibility of evidence in the conduct of its proceedings, and not to be strictly bound by them. Consistent with that authority, I faithfully adhered to this injunction, not insisting on the exclusion of, for example, hearsay evidence, and strict compliance with the original evidence rule in respect of the admission of documents.

17. It has been observed that evidence constitutes" the building blocks of the investigative process and for the final product to be built properly, evidence must be recognized, collected, documented, protected, validated, analyzed, disclosed, and presented in a manner which is acceptable to the court."(Introduction to Crime Investigation: Processes, Practice and Thinking). What, then, is the meaning of evidence for the purpose of an investigation within the Commission's mandate? The answer is that it covers a wide range of information sources that might eventually inform the Commission, in its capacity as an investigatory body, to prove or disprove matters in issue before the Commission as a finder of facts.

V. CONCLUSION

18. Finally, I must emphasize that throughout the entire hearings, the Commission was guided in collecting such information by the application of two basic rules of admissibility of evidence. The first is relevancy; the second is probative value. In effect, there was a stronger judicial disposition to adopting the adversarial paradigm, and simultaneously injecting flexibility into the receptivity of information presented to the Commission, a feature of inquisitorial inquiries.

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III. DETERMINATION OF FACTS RELATING TO MATTERS WITHIN THE MANDATE AND TERMS OF REFERENCE OF COMMISSION OF INQUIRY NO. 2

(A) THE MINISTRY OF AGRICULTURE, FORESTRY AND FOOD SECURITY: THE FERTILIZER SCHEME

(i) ISSUES IN CONTROVERSY

1. For the sake of clarity, conciseness and precision, the Commission deems it both logical and convenient to present, firstly, the grounds of controversy, and secondly, the findings of fact and conclusions of law, in respect of the poor management of the Fertilizer Scheme of the Ministry of Agriculture, Forestry and Food Security (MAFFS), predicated upon six major perspectives.

2. The first perspective is that of the Planning of the Implementation of the Fertilizer Scheme. The second is the Acquisition of Fertilizers. The third is the Management of the Fertilizer Stores. The fourth is the Distribution of Fertilizers. The fifth is Recovery of Fertilizers. The sixth is Records Management.

3. Summed up in paragraphs 3 and 4 is the State's profile of the issues in controversy: According to the State, the Government of Sierra Leone through the Ministry of Agriculture, Forestry and Food Security planned to purchase 94,500 bags of 50kg inorganic fertilizer to distribute to about 750,000 farmers in the 13 districts to foster increased agricultural productivity. During the period 2014-2016, the Ministry headed by Dr. Sam Sesay and later Professor Monty P. Jones received the sum of USD 22,367,500 for the purchase of 280,000 of 50kg bags of fertilizer. It was the responsibility of the MAFF to properly plan how to acquire, store and distribute the fertilizer to achieve the goal of enhancing agricultural productivity. This goal was not achieved due to a deliberate ploy by State/Public Officials who collaborated to divert public resources allocated for economic and social development for their private gains, thus retarding the aim of self-sufficiency in food. This amounted to mismanagement and misappropriation of the resources provided by several acts of mismanagement and irregularities, such as lack of a policy document, soil testing, overpricing, failure to insist on requirement for fertilizer to meet the contracted technical specification, poor management, and improper management of fertilizer funds.

4. The State further contended that those who served as Ministers of MAFF during the period under review were Dr. Joseph Sam Sesay and Professor Monty P. Jones. The former served from November 2007 to October 2015, the latter from January 2016 to April 2018. The State also contended that Mr. Alie B. Mansaray served as Deputy Minister I from November 2007 to January 2013; that Mr. Lovell Chandi Thomas served as Deputy Minister II from March 2009 to January 2013, and that Mrs Marie M. Jalloh served as Deputy Minister from January 2013 to April 2018. The Permanent Secretaries who served under these Ministers were Mr. Edward Kargbo and Mr. Abdulai Koroma. The Director General of the Ministry was Dr. Francis Abdul Rahman Sankoh, and the Chief/Principal Accountant who served under these Ministers was Mr. Edward Bassie Kamara; the organogram of the Ministry being: the Minister as Political Head, the Permanent

Secretary as Administrative Head, and the Chief Agricultural Officer/Director General as the Professional Head.

(ii) EVALUATION OF THE EVIDENCE: THE FACTS AS FOUND

5. In evaluating the totality of the evidence, the Commission wishes to emphasize that the judicial focus was mainly on Exhibit X 1 – 62. It is titled, "Performance Audit Report on the Management of Fertilizer Scheme by the Ministry of Agriculture, Forestry and Food Security (MAFFS), October 2018.

6. As a prelude to evaluating the totality of the evidence for and against the State's case on the implementation of the Fertilizer Project, the Commission was guided by some key principles and considerations. The first was that it is the duty of the State to prove the case against the Persons of Interest who were subjects of the investigation. The second was that the State must, in this type of case of alleged unjust enrichment, as distinct from conventional criminality, discharge the burden on a balance of probabilities; the proper question being, 'Is it more probable than not that the Person of Interest whose action is being called in question did actually enrich himself?' The third was that the State is not required to satisfy the Commission to a degree of proof approximating to certainty that the public officer did unjustly enrich himself. The fourth was that it is now settled law that where a person facing an accusation before a tribunal, whether inquisitorial or adversarial, chooses not to testify or to remain silent, the tribunal is entitled to draw common sense inferences from such a decision. The fifth was that in cases involving unjust enrichment, where the evidence shows that the State has established a case of illegal acquisition of extraordinary wealth, the reverse onus doctrine is applicable in shifting the burden to the defendant.

7. As already indicated, the most compelling and cogent piece of evidence adduced before the Commission on this subject is Exhibit X1-62 which is the Performance Audit Report on the Management of the Fertilizer Scheme, tendered in evidence by SW4, Morie Lansana. Other witnesses, namely, SW7, Mr Amara Idara Sheriff and SW8, Mr Mohamed M. Conteh corroborated the findings in Exhibit X1-62 in several material particulars as to the mismanagement of the fertilizer scheme, for example, the lack of a policy document, the failure to do soil testing as a precondition for guiding the Ministry as to the types of fertilizers necessary to ensure value for money, overpricing, non-compliance of supplier with required technical specification of fertilizers which were subject-matters of the contract, and poor management of fertilizers purchased.

8. On the soil testing deficiency, again Exhibit X1-62 is overwhelming and conclusive in its probative value, that it is an imperative before purchasing fertilizers to conduct soil testing. This is amply corroborated by SW7, Amara Idara Sheriff, an expert agriculturist. He testified to the effect that before one procures any fertilizer, professionally the right thing to do is to test the soil in order to ascertain the chemical composition in that the fertilizer requirements for crops differ, for example, some require more nitrogen, others require more phosphate. He explained further that "in a situation where you have more 'N' and less 'P' and less 'K' you can ask for NPK 0.20.20 to take care of that." Significantly, it is worth noting that Exhibit (D) D1-4, tendered by Learned

Counsel Dumbuya representing the Persons of Interest from the Ministry reinforces the requirement of soil testing as a precondition for the procurement of fertilizer in these terms:

"Soils of Sierra Leone have inherently low fertility and do not receive adequate nutrient replenishment, with many farmers applying insignificant amounts of fertilizer, coupled with continuous cropping, soil degradation and declining soil fertility continue to pose major threat to sustainable food production by smallholder farmers (MAFFS 2009)."

9. As regards overpricing, the mischief here, as revealed by Exhibit X1-62, corroborated by SW4, is that two of the three types of fertilizers, NPK 15.15.15 and Urea 46.0 percent purchased by the Ministry were in the sum of Le 66, 630, 940, 000. The evidence further disclosed that the overpricing per each 50kg bag of fertilizer in 2014 was 212 percent, that is, a difference of Le 371, 300 and in 2016 it was 201 percent, a difference of Le 321, 376 of the actual market prices for both NPK 15.15.15 and Urea which was Le 175, 000 in 2014 and Le 160, 000 in 2016. The probative value of this evidence is compelling and unimpeachable. The testimonies of SW10, Mr. Abdulai Koroma, Permanent Secretary, SW11, Mr. Henry Kargbo, Director of Crops, and Mr. Francis Kaikai, Procurement Officer did not rebut the evidence of overpricing. Regrettably, they sought variously to justify it on these grounds:

i. That prices were extremely high because of the mode used by the Government to pay its Contractors;

ii. That it is the National Public Procurement Authority that should advise the Ministry on pricing;

iii. That it is the responsibility of the Procurement Officer in the Ministry to conduct Price Survey and to advise the Ministry accordingly.

10. On the issue of the technical specification of the fertilizer which was the subject matter of the procurement, Exhibit (D) N 1-46 manifestly reveals that one of the fertilizer types supplied did not meet the required technical specifications as agreed. One critical issue about the Contract which was between the Government of Sierra Leone (represented by the then Minister, Professor Monty P, Jones) and Balsam Enterprises of No. 30 Edwards Street, Freetown (represented by the Manager, Mr Mohamed Harakeh) for the supply and delivery of 60, 000 (50kg) bags of fertilizers NPK 20.20.20 lot 1 to the Ministry of Agriculture, Forestry and Food Security (MAFFS) is that it was concluded on the basis of an executive clearance from the office of former President Koroma. The evidence overwhelmingly and compellingly demonstrates that SW11, Henry Kargbo, then Director of Crops, SW9, Francis Kaikai, then Procurement Officer, and SW10, Abdulai Koroma, former Permanent Secretary all under the political authority and supervision of then Minister, Professor Monty P. Jones did accept from Balsam Enterprises the wrong technical specification, NPK 0.20.20, contrary to what was agreed and paid for by the Government without an amendment to the contract.

11. Exhibits AH 1-54, AG 1-155, DN 1-46, severally and cumulatively, speak manifestly to matters of political and administrative malfeasance of a clandestine or suspicious nature grossly prejudicial to the public interest. Such acts of public malfeasance make the inference irresistible, in the submission of Counsel for the State, that the mismanagement of the fertilizer project was an organized ploy to defraud the Government and people, including the farming community, of Sierra Leone of their resources. What, in my judgment, as I evaluate the probative value of the evidence, seems also irresistible is the inference that the aforementioned public officers, individually and collectively, bear a high measure of culpability for the largely poor management of the fertilizer project, and the consequential pecuniary and related detriment to the Government of Sierra Leone.

12. Some ancillary pieces of evidence also reinforce my judicial conviction that the fertilizer scheme was mismanaged. In this connection, I point to the evidence of poor management of the fertilizer, such as missing fertilizer at the Kissy Store, poor storage facilities, and mismanagement of fertilizer funds. I attach much probative value to these pieces of evidence. Exhibit X1-62 again is cogent and compelling on these issues. This evidence was corroborated in material particulars by oral testimonies from SW4, Morie Lansana, for example, loss of 1,938 bags of fertilizer costing USD 234,498 at Kissy Store during the period 2014-2016. There is also irrefutable evidence that even though Dr. Sam Sesay and Professor Monty P. Jones, who were the respective Ministers, at the material times, were advised to investigate the missing fertilizers, they did nothing.

13. Also, attention must be directed to the compelling piece of evidence (to which I attach much weight) of the withdrawal of the sum of Le 1, 614, 618, 888 from the bank without supporting documents. Again, Exhibit X1-62 speaks, unambiguously, to this major discrepancy. Regrettably, the Chief Accountant and the Permanent Secretary who also testified on these matters could not produce any documents supporting the withdrawals despite the fact that, on their admission, they were signatories to the account. They could not account for the use of the said amount. This is a manifest contravention of section 73 (1) of the Financial Management Regulation, 2007 which enacts that "all disbursement of public monies shall be properly vouched for." From the state of the evidence, the inference is irresistible that the Ministers who served in that capacity during the period the monies were withdrawn, that is, from 28th May, 2015 to 19th February, 2016 collaborated, colluded or conspired together in a dishonest act with SW14, Edward Bassie Kamara, the Chief Accountant and SW10, Abdulai Koroma, the Permanent Secretary, which said act caused financial loss to the Government, in respect of which they should make restitution to the Government.

14. Underscoring and acknowledging such culpability, it is of interest to note that in Exhibit (D) A1-8, Dr Joseph Sam Sesay, one of the then Ministers, in accepting ministerial responsibility stated:

> "Let me hasten to remind everyone that the Ministers have the full responsibility to the President and the Nation for the success or failure in the delivery of our responsibilities in the Ministry. And usually, it is the political leadership that bears the brunt of the consequences: good or bad."

15. As a major preliminary point of evidential significance, let me straightaway indicate, with much emphasis, that the Ministers who were political heads of the Ministry at the material time did not appear before the Commission to testify, nor did they submit any affidavits to refute the State's evidence against them. I opine, with characteristic judicial forthrightness, that the failure of some of the Persons of Interest to present their defence, in the face of strong evidence of culpability established on a balance of probabilities for unjust enrichment, does imply per se admission of culpability.

16. They were not, like ordinary witnesses, compellable to testify (see my RULING dated 27th June, 2019). They were, however, represented by Counsel. Given their failure to adduce rebuttal evidence, in the face of the compelling and conclusive nature of the evidence of the State against them, determined to be highly relevant and probative of the State's case, the Commission had recourse to examination of their defences in the context of the application of two recognized principles set out in paragraph 11 of my Narrative titled, EVIDENTIAL ISSUES: THE GUIDING PRINCIPLES, especially that of the reverse onus doctrine, shifting the burden of disproving the allegations or rebutting the presumption of unjust enrichment to the named Persons of Interest. I also relied on my reasoning that, "to allow the privilege against self-incrimination to operate inflexibly in the universe of the Commission's Rationale, Mandate and Specific Terms of Reference is, by use of a legal technicality, to thwart the will of the people of Sierra Leone for democratic accountability in the conduct of public affairs by those to whom they have entrusted political authority. In this regard, I am guided by the principle that it is now settled law that investigative bodies or courts are at liberty to draw inferences of fact and law from the silence of a public officer who is being investigated for, or charged with, unjust enrichment. At the international level, it is of significance to note that in the important case of John Murray v. United Kingdom, Application no.18731/91, Judgment of 8 February 2006, paras. 47 and 51, the European Court of Human Rights ruled that a court may draw common sense inferences from the silence of the accused when it evaluates the evidence."

17. Applying those principles to the evidence adduced by the State, which the Commission found compelling and persuasive as to its probative value in proof of the matters in controversy between the State and the named Persons of Interest, and having considered the merits of the defences put forward by the Persons of Interest involved in this project, the Commission had no other judicial option but to infer that the said Persons of Interest bear culpability or responsibility for the very poor management of the Ministry of Agriculture Fertilizer Scheme; and are, severally and collectively, culpable for the financial, pecuniary and related losses suffered by the Sierra Leone Government as a result of their wilful or complacent acts in the mismanagement of the project. In this regard, I am reminded of the observation of Lord Steyn in the case of Three Rivers District Council v. Bank of England (No. 3) 2003, 2 AC 1 at pp. 190-192 that:

"In a legal system based on the rule of law, executive or administrative power may be exercised only for the public good and not for ulterior and improper purposes."

18. A conclusive and reasonable inference to be drawn from the manner in which they implemented the Scheme is that the named Persons of Interest did not perform their executive and administrative responsibilities in implementing and managing the Fertilizer Scheme in the public interest, but manifestly out of improper and ulterior motives, evidenced by, for example, in my judgment, the legitimization of the contractual breach on the part of the contractor, Balsam Enterprise. I accordingly rejected their defences as legally untenable in my Narrative titled, "Compendium of Defences put forward by Persons of Interest in Response to the State's Case," specifically under the rubric, "Rejoinder/Rebuttal to Principal Defence." In repudiating "The Individual Liability of Government Officers and Employees Doctrine" defence put forward by Professor Monty P. Jones, I adopted the scholarly viewpoint that the doctrine is essentially a relic from past centuries when Government was in the hands of a few prominent, independent substantive persons, so-called public officers, who were in no way responsible to Ministers or elected Legislatures…." I reiterate my rejection of their respective defences as tenuous and untenable. Public Officials holding political and professional positions are estopped from denying responsibility for the non-performance, or improper, wrongful or negligent performance of their constitutionally assigned duties and responsibilities, nor does it lie in their mouths to excuse themselves from responsibility by pleading that they acted on wrong or misguided professional advice.

(iii) FINDINGS OF FACT

19. As regards THE PLANNING OF THE IMPLEMENTATION OF THE FERTILIZER SCHEME, it is the Commission's finding that "a policy document that would have guided the process was not developed. Hence, the project was implemented without a guiding document." A related finding is that "there was no documentation" as to "the method and time that distribution, utilization and recovery of the said fertilizer will be done, neither were responsible persons or Departments that would have undertaken and monitored the above activities agreed upon." The Commission also found that the lack of a policy document "may have undermined the ability of the Ministry to efficiently monitor the project's progress." Furthermore, according to the evidence adduced before the Commission, "no re-distribution criterion was developed by the Ministry to guide the re-distribution process of seed rice recovered from the Fertilizer Scheme."

20. A close and meticulous analysis of Exhibit (D) K 1-20, titled, "National Fertilizer Policy, Ministry of Agriculture, Forestry and Food Security, Sierra Leone (February 2017), tendered, evidently, in rebuttal as a guiding policy document, reveals that it has no probative value in the sense that it falls far short of a comprehensive and rigorous policy guidance document for the implementation of the Fertilizer Scheme. It merely sets out, in generalities, certain key theoretical features of a Fertilizer Policy. It reads more like an academic treatise rather than a practical guide. By no objective reckoning can it be considered as a practical guide for the implementation and management of the Fertilizer Scheme.

21. In so far as the ACQUISITION OF FERTILIZERS is concerned, there is a four-fold major finding of fact. The first relates to overpricing of the purchase price of fertilizers. In this regard, the evidence shows, compellingly, that "a comparison of the unit price paid by MAFFS for the

specific quantity of fertilizer with the one paid by, for instance, the Rehabilitation and Community-based Poverty Reduction Project (RCPRP) for the same quantity and quality of fertilizer, in the same period reflected a variance in price between 201% and 212%." The evidence also shows, convincingly, "that this overpricing resulted in an additional cost on the Ministry of the sum of Le66,630,940.00 (Sixty-six billion, Six hundred and thirty million, Nine hundred and forty thousand Leones)"; hence, it is a significant finding of fact that "the additional cost would have been avoided if the fertilizer had been acquired at the same price as that paid by RCPRP."

22. The second major finding of fact in respect of ACQUISITION OF FERTILIZERS highlights delays in fertilizer delivery. The finding is that all of the fertilizers "were scheduled to have been delivered between 5 - 8 weeks after the signing of the contract. However, a comparison of the stipulated delivery dates in the contract with the actual dates of delivery revealed delays of between 26 to 56 weeks and 6 days." Here, the evidence revealed grave dereliction of duty on the part of MAFFS in not taking "any action against the defaulting suppliers." The evidence shows that MAFFS proceeded "to sign another contract with Okar Agency, one of the defaulting contractors, in 2016 for the supply of a new consignment of fertilizer." This is an improper and abusive exercise of power.

23. The third major finding of fact regarding ACQUISITION OF FERTILIZER is, critically, that "the Contract Agreement signed on the 6th of September, 2016 between MAFFS and Balsam Enterprise stipulated that NPK 20-20-20 fertilizer with a chemical composition of 20% Nitrogen, 20% Phosphorous and 20% Potassium should be the variety to be supplied to the Scheme."

"All the technical specifications stipulated in the Ministry's bidding documents in respect of the signed Contract Agreement were also done in respect of NPK 20-20-20." Equally crucial is the finding of fact that "physical inspection of the fertilizer delivered to MAFFS revealed that the supplier delivered NPK 0-20-20 instead of NPK 20-20-20," the implication being that "the fertilizer supplied had 0% Nitrogen, 20% Phosphorous and 20% Potassium. Simply put, the supplier did not meet the updated requirements in the contract." Again, this is another classic example of gross dereliction of authority. It is not simply, as the defence contends, a mistake.

24. A fourth key finding of fact deducible from the evidence on the theme of ACQUISITION OF FERTILIZER relates to the issue of damaged fertilizer not claimed from suppliers. The evidence in this regard is, unequivocally, that "during physical examination of MAFFS' Mechanical Stores at the Kissy Warehouse in Freetown," it was observed that 180 bags of fertilizer worth USD13,140 (Thirteen thousand, One hundred and Forty United States Dollars) were damaged"; and that no effort was made by the Vote Controller to ensure their "replacement" by "the suppliers". This portion of the factual finding was corroborated by SW12, the Acting Chief Store Keeper, Prince Kakpata.

25. The findings of fact deducible from the totality of the evidence adduced before the Commission in respect of THE MANAGEMENT OF FERTILIZER STORES are four-fold. The first is that of the missing fertilizers in MAFFS' Stores at Kissy. The main finding is that "a review of the Fertilizer Ledger maintained by MAFFS at their Kissy Stores revealed that the Opening Balance

of Fertilizer in Store for the Year 2014 was 9,976 bags (50kg each) and 30,000 bags were delivered in the period 2014 to 2016. Total distribution for the same period was recorded at 38,083 bags. "From" these "figures, the Closing Balance was expected to be 1,938 bags" and was indicated as follows: "period 2014 – 2016"; "Opening Balance (A) 9,976"; "Acquisition (B) 30,000"; Distribution (C) 38,038"; and "Closing Balance (D) = (A) + (B) – (C) 1,938."

26. A kindred finding is that "a physical inspection of MAFFS' Stores at Kissy on the 8th April, 2017 "revealed" that no fertilizers were brought forward from the Year 2016" and that the only ones available "in stores were those delivered in 2017."

27. The second major finding highlights "poor storage condition for fertilizer." Here, "physical inspection of MAFFS' Stores at Kissy, Freetown," "the District Stores in Kenema, Moyamba and Tonkolili" disclosed that they "were not conducive for the proper storage of fertiliser" due to leaky roofs, cracked walls, and insufficiency of pallets for the proper storage of the fertilizer, causing 2,087 bags of fertilizer worth USD279,798 (Two hundred and seventy-nine thousand, Seven hundred and ninety-eight United States Dollars) to perish." These were manifestly acts of political and administrative recklessness and irresponsibility.

28. A third major finding is that of inappropriate stacking of fertilizer. The position here is that "the awkward stacking of fertilizers, especially at the three locations reviewed made it impossible to do any effective stock-taking by Auditors or the Ministry of "120,700 bags of 50kg of fertilizers worth USD8,811,100 (Eight million, Eight hundred and eleven thousand, One hundred United States Dollars). In addition, it was found that awkward stacking of fertilizer created "a high risk of error or theft of goods occurring undetected."

29. A fourth key finding is that of unauthorized store issue. The finding is that "a review of the Store Ledger and Requisition Forms for 4,119 bags of fertilizer supplied to Kenema and Moyamba Districts in 2016 revealed that only 2,525 bags were authorized for release by DAOs.

The remaining 1,594 bags worth USD192,824 were released from store without the DAO's authorization." An equally clear finding is that there was "the risk that these 1,594 bags of fertilizer were misappropriated," a situation clearly bordering on criminality.

30. The fourth premise, grounding further findings of fact for the poor management of the Fertilizer Scheme is that of THE DISTRIBUTION OF FERTILIZERS. In this regard, three factual dimensions can be distinguished, namely: (i) Failure to prepare a Fertilizer Distribution Plan, (ii) Distribution of Perished and Unserviceable Fertilizer, and (iii) Fictitious Distribution of Fertilizers.

31. As regards (i) it was found as a fact that MAFFS had no Distribution Plan in place for the distribution of fertilizer to farmers in various districts for the period under review. This evidence was corroborated by SW7 Amara Idara Sheriff, the Chief Agricultural Officer and SW11 Henry Kargbo, the Director of Crops. Inferentially, one factual implication was that "lack of a plan meant that it was difficult for the District Agriculture personnel to know which fertilizer should be distributed, to whom, how and where it should be stored"; a related finding was the three-fold

consequence of delay in distribution to farmers, unfairness in the distribution, and duplication in distribution.

32. On (ii) the issue of distribution of perished and unserviceable fertilizer, the finding of fact is that "stock reads of MAFFS' Mechanical Store at Kissy Warehouse revealed that 1,819 bags of fertilizer were verified between the 6th of October, 2014 and the 29th of January, 2015 by Stock Verifiers of the Accountant General's Department and declared unserviceable." A kindred finding was that "the fertilizer were damaged because of "poor storage conditions" and that the consequential loss "to the Government and People of Sierra Leone" was "USD260,117" (Two hundred and sixty thousand, One hundred and seventeen United States Dollars).

33. Another related finding of fact concerned (iii) the issue of "fictitious distribution of fertilizer." The factual position related specifically to the quantity of fertilizer "supplied to farmers in Tonkolili"; they "did not receive the quantities that were due to them." It was found that "out of 2,192 bags of fertilizer reserved by MAFFS Headquarters for distribution to farmers in 2018 the difference between what "was reported as distributed as confirmed by FBOs and BESs revealed that 48 bags worth USD25,410 (Twenty-five thousand, Four hundred and ten United States Dollars) did not reach the farmers for whom" they "were reserved."

34. As regards RECOVERY, another major cause of the failure of the Fertilizer Scheme, three significant findings of fact emerged from the evidence adduced during the Commission's hearings. The first is that "a review of Store Ledgers and Store Issue Vouchers for the period 2014 and 2015" revealed that 21,813 bags of fertilizer (50kg each) were distributed to FBOs on a cost recovery basis at Le110,000 per 50kg bag"; and "that the total cash recoverable from the fertilizer was Le2,399,430,000 (Two billion, Three hundred and ninety-nine million, Four hundred and thirty thousand Leones);"contrastingly, it was found that "a review of the Fertilizer Bank Account Statement showed that only payments amounting to Le1,452,950,00 (One billion, Four hundred and fifty-two million, Nine hundred and fifty thousand Leones) representing 13,209 bags of fertilizer were recovered." Hence, the consequential loss was "8,604 bags valued at Le946,480,000 (Nine hundred and forty-six million, Four hundred and eighty thousand Leones) "being unrecovered, implying that the recovery rate of the cost recovery price of the said fertilizer stands at 61% as against 39% yet to be recovered."

35. The second important finding of fact in respect of RECOVERY concerns low recovery of in-kind basis proceeds. The finding here is that "6,311 bags of fertilizer were distributed to farmers in 2016" in Kenema, Moyamba and Tonkolili Districts" with the expectation of "total recoveries of 6,311 bags of seed rice (50kg bags each)", but that "only 1,374 bags of 50kg were recovered," representing "22% of the expected recovery from fertilizer distributed to farmers leaving 78% unrecovered."

36. The third important finding of fact on the aspect of recovery highlighted the problem of diversion of recovered fertilizer funds, namely, that "the 2014 – 2016 Bank Statements of the Fertilizer Recovery Account revealed that Le1,614,618, 888 (One billion, Six hundred and fourteen million, Six hundred and eighteen thousand, Eight hundred and eighty-eight Leones) was

withdrawn from the Account, but for which there was no supporting document" explaining "the reason either for the withdrawal or whether the money was expended on the Fertilizer Revolving Scheme for which the withdrawal was intended." A related finding of a subsidiary nature which concerns the diversion of recovered fertilizer funds is that of missing seed rice for fertilizer proceeds. The Commission's finding is that "a review of the recovery and re-distribution list from block extension supervisors of the three selected districts revealed that 1374 bags of seed rice (50 KG) were recovered for the period under review"; however, "only 104 bags were re-distributed from the stores, leaving 1281 bags of 50 KG undistributed." A kindred finding was that it was verified that there were no seed rice in the blocks and ABC stores that were visited, and that the "missing rice" in question represented 90% of seed rice recovered from the fertilizer.

37. Another major finding which emerged from the evidence is that the inadequate management of records militated strongly against the successful implementation of the Fertilizer Project. A threefold finding here is (1) the sparseness of written evidence of distribution of fertilizer; (2) lack of records of registered farmers; and (3) poor record management.

38. The foregoing findings of fact in their totality can be summed up in this conclusion, namely, that the scheme of the Ministry of Agriculture, Forestry and Food Security during the period under review was largely poorly managed; the major setbacks that hindered the success of the scheme were that (a) "there was no policy document to guide the implementation of the scheme"; (b) "extreme over pricing of the purchase price of the fertilizer"; (c) delays in the distribution and delivery of the fertilizer and the failure of MAFFS to ensure adherence to the technical specifications required for the quality of the fertilizer supplied; (d) misappropriation of both fertilizer and seed rice reserved from the fertilizer scheme; and (e) diversion of monies recovered from the fertilizer scheme.

39. Predicated upon Exhibit X1-62, as the major piece of evidence regarding the poor management of the Fertilizer Project of the Ministry of Agriculture, Forestry and Food Security, the Commission hereby adopts, adapts and integrates within its Report some of the Recommendations embodied in the said Exhibit.

(iv) GENERAL RECOMMENDATIONS

(i) The Ministry of Agriculture should formulate a policy that would guide the management of the fertilizer distribution program and which can also mitigate problems associated with acquisition, distribution and recovery of proceeds from the scheme.

(ii) The Ministry of Agriculture should endeavor to observe laws and regulations, and ensure compliance with procurement laws. It should further endeavor to be more transparent in its dealings by ensuring that the Fertilizers are purchased at the correct market price so as to ensure that value for money is achieved. The provisions of the Financial Management Regulations of 2017 related to the management of public stores should be observed and complied with to avoid the mismanagement of fertilizer.

(iii) The Ministry of Agriculture should ensure that contracts signed with suppliers are effectively managed and ensure adequate compliance in respect of the supply of the required quality of Fertilizer purchased as well as their timely delivery.

(iv) The Ministry of Agriculture should in future purchase Fertilizer in a transparent manner and at the correct market price so as to achieve value for money. Staff involved in the possible misuse of public resources should be held accountable.

(v) To avoid the risk of receiving the wrong quantity and specification of fertilizer, the Ministry of Agriculture should ensure that fertilizer are weighed and tested for both quantity and quality before receiving them from suppliers.

(vi) The Ministry of Agriculture should ensure that fertilizer procured must carry their expiry dates on the bags and this should be checked before their distribution to farmers.

(vii) As a matter of urgency, the Ministry of Agriculture should ensure proper storage conditions for fertilizer through the repair and maintenance of their current storage facilities to avoid damage to fertilizer in the future. Additionally, sufficient wooden pallets should be provided for the stores to keep fertilizer off the ground and to facilitate circulation of air in order to preserve the quality of GoSL Fertilizer.

(viii) The Ministry of Agriculture should regularly conduct stores inspection, conduct tests and make a comparison between physical stocks at hand and ledger balances to minimize the risk of unexplained differences between stocks at hand and ledger balances.

(ix) To ensure accountability over the management of stock, fertilizer should be stacked in a manner that allows for easy stock-take. This will also enable internal and external inspectors to carry out a proper stock-take that would make it easier to detect any form of irregularity and also ensure easier and quicker correction of errors if any arises.

(x) The Ministry should ensure that a hand over is done by outgoing storekeepers to their successors whenever they replenish their positions. This will facilitate a smooth transfer of records and responsibilities, and make it easier to attribute any fraudulent case of misappropriation of stock to the culpable person.

(xi) The Ministry of Agriculture should prepare a distribution plan which should spell out the list of beneficiaries and when and how fertilizer should reach the farmers.

(xii) The Ministry of Agriculture should work closely with all suppliers of fertilizer to ensure that the duplication of fertilizer allocation is avoided. This will allow many more farmers to benefit from the allocation.

(xiii) The Ministry of Agriculture should collaborate with other stakeholders involved in the development of agriculture in the country to develop IVSs at district level. Going forward, to avoid wastage of resources, MAFFS should only distribute fertilizer to farmers who have developed IVSs.

(v) SPECIFIC RECOMMENDATIONS

As to total consequential losses to the State of Sierra Leone resulting from the mismanagement of the Fertilizer Project, the Commission finds specifically, accordingly, as follows:-

1. That in relation to over-pricing the loss was Le66,630,940,000.00 (Sixty-six Billion, Six Hundred and Thirty Million, Nine Hundred and Forty Thousand Leones); and

(a) that Dr Joseph Sam Sesay, Minister of Agriculture up to early 2016 was culpable for the aforesaid over-pricing as indicated in (1) above in respect of 30,000 bags of Fertilizer; and

Consequentially recommends that he refunds to the State the sum of Le5,569,500,000.00 (Five Billion, Five Hundred and Sixty-nine Million, Five Hundred Thousand Leones) within a period of time to be determined by Cabinet;

(b) that Professor Monty Patrick Jones, Minister of Agriculture from 2016 to 2018, Mr Abdulai Koroma, then Permanent Secretary, Mr Henry Kargbo, then Director of Crops, and Mr Francis Kaikai, then Procurement Officer, are jointly and severally culpable for the loss sustained by the State of Sierra Leone as regards over-pricing; and

Consequentially recommends that they refund to the State the sum of Le61,061,440,000.00 (Sixty-one Billion, Sixty-one Million, Four Hundred and Forty Thousand Leones) within a period of time to be determined by Cabinet.

2. That the State of Sierra Leone lost USD4,380,000.00 (Four Million, Three Hundred and Eighty Thousand United States Dollars) as a result of the wrong technical specification of Fertilizer supplied to the Ministry of Agriculture, namely, NPK 0:20:20; and consequentially holds:-

(a) that Professor Monty Patrick Jones, then Minister, Mr Abdulai Koroma, then Permanent Secretary, Mr Henry Kargbo, then Director of Crops, and Mr Francis Kaikai, then Procurement Officer, are jointly and severally, culpable for such loss to the State; and consequentially recommends that they refund the said sum of USD4,380,000.00 (Four Million, Three Hundred and Eighty Thousand United States Dollars) to the State within a period of time to be determined by Cabinet.

3. That the State of Sierra Leone lost USD234,498.00 (Two Hundred and Thirty-four Thousand, Four Hundred and Ninety-eight United States Dollars) on missing fertilizers at the Kissy Store during the tenure of office of Dr Joseph Sam Sesay who was Minister of Agriculture; and consequentially holds him culpable for such loss; and recommends that he refunds the said sum to the State within a period of time to be determined by Cabinet.

4. As regards the issue of poor storage facilities, the inference is irresistible that there was manifest neglect on the part of the then Minister, Professor Monty Patrick Jones and the then Permanent Secretary, Mr Abdulai Koroma in failing to ensuring that the Fertilizer Stores were fit for the

purpose for which they were intended; the loss to the State being 2,087 bags of Fertilizer costing USD279,798.00 (Two Hundred and Seventy-nine Thousand, Seven Hundred and Ninety-eight United States Dollars); accordingly, the Commission holds Professor Monty Patrick Jones and Mr Abdulai Koroma culpable for the said loss; and recommends that each of them equally reimburse the State for the said amount within a period of time to be determined by Cabinet.

5. On the issue of Fertilizer Funds, the Commission finds that there were unauthorized withdrawals and lack of supporting vouchers in respect of, and for the total amount of Le1,614,618,888.00 (One Billion, Six Hundred and Fourteen Million, Six Hundred and Eighteen Thousand, Eight Hundred and Eighty-eight Leones);and accordingly holds Dr Joseph Sam Sesay, former Minister, Mr Edward Kargbo, former Permanent Secretary, and Mr Edward Bassie Kamara, former Chief Accountant, severally and jointly, culpable for the loss of Le1,159,205,643.00 (One Billion, One Hundred and Fifty-nine Million, Two Hundred and Five Thousand, Six Hundred and Forty-three Leones) of the aforesaid sum; the Commission accordingly holds Professor Monty Patrick Jones, former Minister, Mr Abdulai Koroma, former Permanent Secretary, Mr Edward Bassie Kamara, former Chief Accountant, severally and jointly culpable for the amount of Le455,413,245.00 (Four Hundred and Fifty-five Million, Four Hundred and Thirteen Thousand, Two Hundred and Forty-five Thousand Leones) each such amount to be refunded to the State within a period of time to be determined by Cabinet.

(B) THE MINISTRY OF AGRICULTURE: DIRECT CASH TRANSFER SCHEME

(i) ISSUES IN CONTROVERSY

1. In providing an overview of the State's case against the Persons of Interest who had supervisory roles in the implementation of the Direct Cash Transfer Scheme, it is necessary to identify its objectives and its ingredients as a Ministry of Agriculture, Forestry, and Food Security project.

2. Firstly, the rationale behind the scheme was to provide direct financial assistance to selected Farmer Based Organizations (FBOs) and individuals who have been involved in agricultural activities for at least two years. The scheme was spelt out in a policy document; secondly, it was specifically designed to help the beneficiaries or recipients of the funds boost production for agricultural consumption so as to reduce food insecurity; thirdly, the Government approved the sum of Le. 3 billion for its implementation, and an initial allocation of Le.1.5 billion for the said purpose by the Ministry of Finance to the Ministry of Agriculture; the then Minister of Agriculture, Professor Monty P. Jones had direct supervisory authority for the implementation of the project.

3. Summed up in this paragraph is the State's profile of complaints as to how the Scheme was implemented:

(i) That the Ministry officials disregarded certain procedures specified in the policy document, and the Evaluation Report;

(ii) That some organizations, contrary to the rationale of the scheme, benefited twice; others received more than the approved allotted sums;

(iii) That though the sum approved was Le3 billion, the Minister, Professor Monty Jones ended up distributing the sum of Le3,225,000,000, that is, in excess of Le225,000,000;

(iv) That only Le1.5 billion was released by the Ministry of Finance to the Ministry of Agriculture for the scheme's implementation; nevertheless, the Ministry of Agriculture officials, with the former Minister and his Deputies, without the consent and authority of the Ministry of Finance, unlawfully withdrew monies from another government account totaling Le1,755,000,000 to carry the activities of the scheme, contrary to financial management regulations;

(v) That blank cheques were signed by the then Permanent Secretary, Mr. Abdulai Koroma and the Principal Accountant, Mr. Edward Bassie Kamara, and given to the then Minister, Professor Monty Jones to take to the field who, together with other persons, amongst whom were the Director of Crops, Mr. Henry Kargbo, Director of Livestock Division, Mr Sorie Kamara and Mr. Khalil Jah, Consultant of the Strategic Advisory Unit to distribute the said cheques to non-farmers and also farmers of their choice rather than those recommended by District Agriculture Officers;

(vi) That the Cash Transfer Committee comprising the Director of Crops, the Director of Livestock, the Head of the Strategic Advisory Unit, and the Minister failed to file "returns" to the Ministry and are yet to account for funds alleged to have been distributed to farmers,

(vii) That no monitoring or accountable supervision was undertaken by the Ministry officials, with the Minister as the political head in respect of the scheme, thereby causing the Government huge financial losses and forestalling the much-needed production in agriculture, resulting in the continuing impoverishment of the people the country.

(ii) EVALUATION OF THE EVIDENCE: THE FACTS AS FOUND

4. Summarized in this paragraph are the facts as found based on the evidence adduced before the Commission against the Ministry of Agriculture officials who implemented the Direct Cash Transfer Scheme. The evidence clearly establishes certain key facts, namely: that even though the initial allocation from the Ministry Finance to the Ministry of Agriculture for the scheme was Le.1.5 billion, the Ministry officials withdrew, without the consent and authority of the Ministry of Finance, monies from another account totaling Le.1,775,000,000 for the purpose of carrying out unauthorized activities of the scheme; that there was lack of compliance with procedures stipulated in the policy document for the selection of recipients of the funds. There was evidence to the effect that blank cheques were signed by the then Permanent Secretary, Mr. Abdulai Koroma and the Chief Accountant, Mr. Edward Bassie Kamara, and then given to them to give the former Minister, Professor Monty Jones to take to the field who, together with other persons, amongst whom were Mr. Henry Kargbo, Director of Crops, Mr. Sorie Kamara, Director of Livestock, and Mr. Khalil Jah, Consultant, Strategic Advisory Unit to distribute the said cheques to non-farmers and farmers of their choice rather than those recommended by the District Agriculture Officers.

5. There was also failure on the part of the Direct Cash Transfer Committee of the Ministry, comprising the Director of Crops, Director of Livestock, Head of Strategic Advisory Unit to file" returns" to the Ministry and to account for the funds that were distributed to farmers. Finally, the evidence disclosed that no effective monitoring of the scheme's implementation was undertaken by the Ministry's officials under the Minister's supervision.

(iii) CONTRAVENTION OF THE LAW GOVERNING THE USE OF THE FORESTRY FUND

6. (By way of a legal commentary, the Commission deems it proper here to call attention to the fact, by way of an aggravating factor, that the use of the Forestry Fund by the Ministry's officials for the partial implementation of the scheme was patently unlawful. Section 4(1) and (2) of the Forestry Act, 1988 enacts that:

> (1) "There shall be a Reforestation Fund into which shall be paid all registration fees collected under section 17 and any other amount appropriated by an Act of Parliament or otherwise contributed to the Fund."
>
> (2)" The proceeds of the Fund shall be used to finance reforestation in Sierra Leone, through incentive payment and reimbursement of reforestation fees to any person or entity, and through defraying of reforestation expenses incurred by the Forestry Division."

7. It is significant to note that the 1988 statute is reinforced by Policy 7.1.1 of the Sierra Leone Forestry Policy of 2010, and also Regulations 73 (10) and 37 (3) of the Financial Management Regulations, 2007.

(iv) CONCLUSION

8. In the light of the foregoing findings, the Commission accepts the totality of the evidence adduced on this issue, especially, the most compelling pieces of evidence, to wit: Exhibit (CT) B 1-3: Statement of Mr. Henry Kargbo, Director of Crops; (CT) DR 1-50: Copy of Draft Management Letter on the Audit of the Ministry of Agriculture, Forestry and Food Security for the year 1st January to December 2017; (CT) DA 1-2: Minutes of Executive Management Committee Meeting of the Ministry of Agriculture, Forestry and Food Security dated 7th August, 2017; (CT) C 1-2: A Document of the Ministry of Agriculture, Forestry and Food Security on Diversified Economic Growth Policy for Financial Year 2018; (CT) DK: Request for Pre-financing Payment of Support Staff of the National Federation of Farmers of Sierra Leone (NaFFSL), dated 7th February 2017; DH 1-53: Copies of First International Bank (Sierra Leone) Limited Cheque Stubs of the Forestry Development Account for the period September 2017; (CT) DP 1-53: Copies of First International Bank (Sierra Leone) Limited Cheque Stubs of the Forestry Development Account for the period August/September 2017; (CT) DJ 1-27: A Statement of Account from the First International Bank (Sierra Leone) Ltd, dated 1st January to 31st December, 2017; (CT) DP 1-53: Copies of First International Bank (Sierra Leone) Limited Cheque Stubs of the Forestry Development Account for the period August/September 2017; and (CT) DQ 1-53: Copies of First International Bank (Sierra Leone) Limited Cheque Stubs of the Forestry Development Account for the period September/October 2017.

9. The Commission's assessment of the said exhibits is that they were highly relevant and of much probative value in establishing the alleged legal deficiencies and lapses (substantive and procedural) in the implementation of the scheme. In my evaluation of the totality of the evidence, I advised myself (i) that the State bears the burden of proving the case against the Persons of Interest, and (ii) that the burden must be discharged on a balance of probabilities. In effect, I was persuaded that it is more probable than it is not that the Direct Cash Transfer Scheme failed due to the identified lapses resulting from the acts and omissions of the named public officials. Suffice it also to say that the Commission was satisfied that the documentary evidence already highlighted was corroborated, in several material particulars, by some testimonies of some State Witnesses. For example, the practice of issuing blank cheques, reserving it as the Minister's prerogative to determine and identify who were to be the payees or beneficiaries was corroborated by the testimonies of some State witnesses. The Commission, accordingly, finds Professor Monty P. Jones, the then Minister, Mr. Abdulai Koroma, the then Permanent Secretary, and Mr. Edward Bassie Kamara, the then Chief Accountant to be severally and/or jointly culpable for the consequential loss to the State in respect of the mismanagement of the Direct Cash Transfer Scheme.

10. Given the totality of the evidence, and reminding myself of the applicable principles, namely: (a) that the State bears the burden of establishing the case against the Persons of Interest; (b) that the State must discharge the burden on a balance of probabilities; (c) that it is settled law that in cases of alleged unjust enrichment, where a person of interest fails to testify or chooses to remain silent, the adjudicating body may draw common sense inferences from such silence as it deems fit predicated upon the totality of the evidence before the said body; and (d) that in such cases (emphasizing the distinction between cases of unjust enrichment or economic criminality and allegations of ordinary or conventional criminality), the reverse onus doctrine pre-eminently applies, requiring the person of interest to adduce evidence in rebuttal of the State's evidence of illegally acquired wealth; the Commission is persuaded that the Direct Cash Transfer Scheme, under the political supervision of Professor Monty P. Jones former Minister of Agriculture, failed due to the identified lapses resulting from the acts of public misfeasance of, the named Persons of Interest in the Ministry. Accordingly, Professor Monty P, Jones, the former Minister, Mr. Abdulai Koroma, former Permanent Secretary, Mr. Edward Bassie Kamara, former Chief Accountant, are severally and jointly culpable for the financial losses to the State arising from the failed project.

(v) SPECIFIC RECOMMENDATION

Consequentially, the Commission hereby recommends, predicated upon the equitable doctrine of restitution, that the sum of Le1,775,000,000 (One Billion, Seven Hundred and Seventy-Five Million Leones) be jointly and/or severally refunded to the State by the then Minister, Professor Monty P. Jones, the then Permanent Secretary, Mr. Abdulai Koroma, and the then Chief Accountant, Mr. Edward Bassie Kamara within a period of time to be determined by the Cabinet.

(C) NATIONAL TELECOMMUNICATIONS COMMISSION (NATCOM) PROJECTS

(a) THE CONSTRUCTION OF THE NATCOM HEADQARTERS BUILDING

(i) Issues in Controversy

1. Concerning the matters that came before the Commission of Inquiry presided over by Hon. Dr. Justice Bankole Thompson involving the National Telecommunications Commission, it seems appropriate to characterize them in language reminiscent of Greek mythology as hydra-headed. In non-mythical vocabulary, it can be said that the dispute between the State and the Persons of Interest involved was multi-faceted in complexion.

2. For the sake of greater clarity and understanding of the said issues, the Commissioner has decided to highlight them in this paragraph, seriatim. In a shorter compass, the issues revolved around these themes: (i) the construction of the NATCOM Headquarters, (ii) the disbursement of funds for proposed national development, (iii) the management of the International Gateway Funds; (iv) the cancellation of the Slone Agreement, and the cost of retaining solicitors, and (v) the management of revenues. In an expanded or broader compass, the issues assumed these dimensions: (a) the decision to construct the NATCOM headquarters building, and breach of sections 41 and 42 of the Public Procurement Act, 2004, (b) termination of the Slone Contract constituting a breach of Part V of the Procurement Act, 2004, (c) support to national development, (d) support to Parliament, (e) support to the Ministry of Political Affairs, (f) support to the Ministry of Information and Communications, (g) support to individuals and youth organizations, and (h) Ministry of Information share of the International Gateway Revenue.

(ii) Evaluation of the Evidence: The Facts As Found

3. It is an accurate judgment that the unfolding of the evidence adduced by the State to establish their case was dominated by the same measure of complexity reflected by the nature of the issues in controversy. It is now necessary to set out the findings of fact evidencing the acts of public misfeasance and breaches of statutory laws and procedures on the part of the Persons of Interest alleged to be culpable for the impugned acts which form the bedrock of the investigation contemplated under the provisions of Constitutional Instrument No. 65 of 2018.

4. Beginning with the construction of the NATCOM headquarters building, the facts as they emerged from the totality of the evidence, led both by the State in examination in chief of State witnesses and by Counsel for the Persons of Interest through cross-examination of State witnesses, showed that a letter dated 11th June 2015 was addressed to the Public Procurement Authority seeking a "No Objection" for the use of the restricted bidding process for a new headquarters building project. Approval was granted on the 25th June 2015, with a caveat, requiring compliance with section 41 of the Public Procurement Act, 2004. The bidding process was put in operation. The Contract was eventually awarded to International Construction Company Ltd. (ICC). The cost was USD7,000,000.00 (Seven Million United States Dollars), the equivalent in Leones was Le39,616,720,264.00 (Thirty-nine Billion, Six Hundred and Sixteen, Million, Seven Hundred and Twenty Thousand, Two Hundred and Sixty-four Leones). The terms of payment and advance payment are embodied in Exhibit (NB) E1-12.

5. The facts further showed that a bidding process took place for the consultancy engineering services. The contract was awarded to TS and Co./TEDA as partners. The former was under the management of Thomas Koroma, the younger brother of the President of Sierra Leone, Dr. Ernest Bai Koroma. The consultancy fee was agreed to be USD700,000.00 (Seven Hundred Thousand United States Dollars) [Exhibit (NB)A1-9]. Testimony was given to the effect that the selection of TS and Co./TEDA was a result of political influence since, again as was testified to, the other bidders were technically in compliance with the criteria stipulated for consultancy services than those of TS and Co./TEDA.

6. (By way of legal commentary on this point, it should be noted that this injects into the bidding equation the critical question whether one can objectively and impartially draw an inference, without more, that the award of the consulting services contract was politically motivated; I resist the judicial temptation to do so, without more, especially having regard to the testimony of SW1, Mohamed Bangura, a former Director- General, that despite the pressure or representation from Frank Manja, a former Board member to favour TS & Co, he took the correct decision relating to the award of the contract to TS and Co.)

7. The facts, as found, revealed further, that significant amounts of variation and additional works of diverse dimensions and complexities were undertaken at the cost of USD2,123,767.63, equivalent to Le12,019,529,729.06. The second (Addendum) was one additional floor agreement made on 7th April, 2017 at the cost of USD 1,050,456.82, equivalent to Le5,945,093,426.76. The third was variation works agreement of 3rd November, 2017 costing USD6,124,665.23. In the overall context of the original contract in relation to the additional works agreements, the cost profile amounted to over 25 percent of the original contract sum. There were corresponding increases in the consultancy fees, effected without compliance with procurement procedures.

(iii) Breaches of Procurement Laws and Procedures

8. Having set out in detail the facts as they emerged from the presentation of the State's case, it is important now to highlight the breaches complained of by the State, which, in the submission of learned Counsel for the State, vitiated the original contract for the building project and additional agreements. My evaluation of the totality of the State's evidence alongside evidence adduced by or on behalf of the concerned Persons of Interest in the NATCOM Project demands the application of certain key evidential principles governing matters of such complexity, regardless of whether they are subjects of inquisitorial or adversarial investigations. Before alluding to them, I shall now provide an overview of the breaches of the law complained of, as they impacted the facts.

9. (By way of legal commentary, the Commission is of the opinion that, sections 41 and 42 of the Public Procurement Act, 2004 which stipulate that restrictive bidding may only be used in two clearly-defined instances, namely, (i) when the goods or services are only available from limited number of bidders; and (ii) when the time and cost of considering a large number to bid is disproportionate to the estimated value of the procurement, were breached. It is clear from Exhibit (NB) C1-4 that the justification advanced was contrary to the letter and spirit of the foregoing provisions. Secondly, the Commission takes the view that sections 40 (1), (2), and (3) of the same

Act were also breached in the sense that NATCOM utilized the National Competitive Bidding procedure as the estimated contract amount which was USD7,000,000.00 was higher than the value specified in the First Schedule of the Act. Reinforcing these breaches were certain revealing pieces of evidence impugning the quality of work done by TS and Co. For example, in their letter dated 23rd May 2016, the NPPA, at paragraph 5 had this to say:

> "However, we will be remiss in our duty if we fail to state that it would appear that comprehensively detailed plans were not formulated in relation to the construction as the need for the availability of a huge amount of water at all times should have been taken into consideration. A detailed feasibility study should have discovered that accessibility to water supply in that area is extremely difficult and the reservoir solution would have been included in the initial planning and bills of quantities. A professionally conducted Soil Analysis should have revealed the extent of the rocky substructure and proper surveying would have clearly shown the steeply sloping nature of the land and the potential impact on other neighbouring properties."

10. (Continuing the legal commentary, the Commission notes that despite some of these critical observations and expressions of misgivings about the quality of the consulting engineering services, apparently no remedial steps were taken to alleviate the financial losses resulting to the State. Due to such an eventuality, certain inferences as to culpability become irresistible, if not, inevitable (factually, logically, legally, or from a common sense perspective). It should be noted, too, that such inferences take on an even compelling dimension in the context of the issues in controversy here, where, from the nature of the evidence before the Commission, justice demands that the Persons of Interest whose official actions are being impugned provide some plausible explanations of their conduct. In effect, the rationalization, at this stage, takes the form of the legal inquiry: Who bears culpability for the financial and kindred losses to the State emanating from the official infractions that are being investigated within the ambit of the Commission's mandate?)

Conclusion

11. In resolving the issue judicially, as I am commissioned to do, I have been guided by certain key principles and considerations. The first is that it is the State that bears the burden of proving the complaints arising from the issues in controversy against the Persons of Interest who are the subjects of the inquiry; The second is that in cases of alleged unjust enrichment, as distinct from cases of conventional criminality, the required standard of proof is that of a balance of probabilities, the proper question being, 'Is it more probable than not that the Person of Interest whose action is being called into question did actually unjustly enrich himself or herself? The third is that the State is not required to satisfy the Commission to a degree almost approximating to certainty that the public official unjustly enriched himself or herself. The fourth is that it is now settled law that where the State has, on a balance of probabilities, adduced evidence of 'possession of unexplained or extraordinary wealth' on the part of the Person of Interest, the evidential burden shifts, by way of the reverse onus doctrine, to the Person of Interest to explain or rebut the presumption of unjust or illicit possession of such wealth. Finally, that it is an authoritative principle of law that where a person facing an accusation before a tribunal, whether inquisitorial

or adversarial, chooses not to testify or to remain silent, the tribunal is entitled to draw common sense inferences from such a decision.

12. Based on the foregoing considerations and principles, and recalling the testimony of Thomas Koroma of TS & Co. on his behalf in purported rebuttal of the State's evidence on the subject of the construction of the Commission's Headquarters Building, and applying them to the facts as regards the issue at hand, the Commission is satisfied that there is compelling and persuasive evidence, on a balance or scale of probabilities, of corruption and dishonesty on the part of Mr. Momoh Konteh, former Chairman of NATCOM, Mr. Victor Findlay, former Acting Director General of the aforesaid Commission, and Mr. Thomas Koroma, Managing Consultant Engineer of TS & Co./TEDA, and that they conspired and collaborated willfully and/or complacently in acts of public misfeasance to cause and thereby caused, losses to the State of Sierra Leone, in the amount of USD504,287.72, amount paid in excess to TS & Co./TEDA without any contract or agreement with the procuring entity thereby unjustly enriching themselves.

13. By parity of reasoning, the Commission is satisfied that there is compelling and persuasive evidence, on a balance or scale of probabilities, of corruption and dishonesty on the part of Mr. Momoh Konteh, former Chairman of NATCOM and Mr. Victor Findlay, former Acting Director General of the Commission regarding the implementation of the building project resulting in loss to the State in the sum of USD6,124,065.23.

14. Consequentially, reinforced by my understanding of the law that restitution is the most effective remedy for unjust enrichment; and guided by these considerations, namely: (i) that it is unconscionable on moral, ethical, legal or equitable grounds to enrich oneself unjustly at the expense of another; (ii) that an equitable remedy of restitution comes in the form of a constructive trust or equitable lien, especially where the targeted funds are traceable; (iii) that all State or Government funds and resources in Sierra Leone are, by virtue of the public trust doctrine, vested in the political authorities or leadership, public or state actors in trust for the entire citizenry of the country; and (iv) that the said funds and resources are not to be diverted by such public officials or any other category of persons for their private or personal benefit or gain.

The Commission hereby recommends as follows:

(i) that the then Chairman of NATCOM, Mr. Momoh Konteh and the then Vote Controller and former Acting Director General, Mr. Victor Findlay refund the sum of USD6,124.065.23 to the State of Sierra Leone within a period of time to be determined by the Cabinet;

(ii) that the then Chairman of NATCOM, Mr. Momoh Konteh, the then Acting Director General of the Commission, Mr. Victor Findlay, and the Managing Consultant Engineer of TS & Co./TEDA, Mr. Thomas Koroma refund the sum of USD504,287.72 to the State of Sierra Leone within a period of time to be determined by Cabinet.

(b) THE SLONE CONTRACT

(i) Issues in Controversy

16. The second issue in controversy between the State and the NATCOM Persons of Interest was that of the termination of the Slone Contract.

(ii) Evaluation of the Evidence: Facts As Found

17. The facts, as disclosed by the evidence, was that through its Director General, Mr. Senesie Kallon, NATCOM terminated a contract entered into with Slone Telecom Ltd. on the monitoring of the International Gateway. Exhibit (IG) DH embodied the agreement. A dispute thereby arose, which necessitated recourse by Slone Telecom Ltd to arbitration at the Secretariat of the International Court of Arbitration (ICC). Consequently, the services of law professionals to represent NATCOM were retained without use of the procurement procedures. The then Director General, responded to questioning before the Commission of Inquiry on the issue of advertisement for the procurement of the legal services, in these terms:

> "There was no advertisement for the procurement of legal services inside Sierra Leone. The selection of a legal firm… outside Sierra Leone was reported by the Chairman of the Board during one of its board meetings."

18. He further testified that at the time there were two in-house lawyers working with NATCOM and another who helped with litigation matters on behalf of the Commission. Inferentially, the evidence was that it was the former Board Chairman, Mr. Momoh Konteh who arrogated to himself the authority to select lawyers to represent NATCOM without going through the procurement process. The evidence also revealed that, in addition to the two in-house lawyers in NATCOM, there was an external lawyer who usually represented the Commission.

19. (By way of a brief legal commentary, I should point out that when the facts just outlined are considered alongside Section 1(c) of the First Schedule of the Procurement Act of 2004, it is elementary law that there was manifest non-compliance by NATCOM with the aforesaid provision which stipulates that):

> "Contract awards shall be published when the estimated value of the contract is as in (c) above in the case of contract for the procurement of services Le300,000,000.00."

20. In this regard, I am inclined to take judicial cognizance of a Ruling of the High Court of Sierra Leone involving Slone Telecom vs. NATCOM. After perusing the Ruling, I, as submitted by Counsel for the State, also, find it "incomprehensible" why these lawyers who represented NATCOM in that matter were not consulted to represent NATCOM, it being their statutory duty to represent the State of Sierra Leone. It is, therefore, a plausible inference that the huge amounts paid to the other national lawyers and international lawyers, by the authority of the former Board Chairman were an improper exercise of his authority amounting, in my considered view, to the public tort of misfeasance, for which the former Chairman is culpable. Most regrettably, the loss to the State of Sierra Leone, from the state of the evidence is USD1,548,454.17.

(iii) Conclusion and Specific Recommendation

21. Based on the facts, as found, and guided by the tenet that the equitable doctrine of restitution is an effective remedy for unjust enrichment, an inference which, in the context of this controversy between the State and NATCOM, the Commission finds irresistible, it is hereby recommended that Mr. Momoh Konteh, former Chairman of NATCOM Board refunds to the State the sum of USD1,548,454.17 (One Million, Five Hundred and Forty-eight Thousand, Four Hundred and Fifty-four United States Dollars and Seventeen Cents) within a period of time to be determined by Cabinet.

(c) SUPPORT TO NATIONAL DEVELOPMENT

(i) Issues in Controversy

22. Another major controversy in respect of which the State adduced evidence against NATCOM relates to the payment of huge sums of money in purported support of national development. The facts, as deduced from the compelling and overwhelming evidence, notably, Exhibit (SALCAB) A1-109, are that NATCOM paid huge sums of money to individuals, institutions, 'politically exposed' persons and political institutions under the huge guise or pretence of support for national development.

(ii) Evaluation of the Evidence: Facts As Found

23. The evidence, significantly, revealed that there was no Policy Document guiding the implementation and operation of the alleged national development scheme. Its factual profile revealed these negative features: (a) donations made without Board approval; (b) dispensation of physical cash, and in some cases cheques, to junior staff members at NATCOM and the House of Parliament; (c) cash given to politicians who refused to have their names written on cheques; and (d) there were no supporting documents for most of the donations. Pages 27-28 of Exhibit (SALCAB) A1-109 provide unimpeachable evidence that between January 2015 and May 2018 NATCOM irregularly expended the sum of Le4,350,058,814.50 plus USD237,105.12 on individuals, youth groups, Parliament, the Ministry of Political and Public Affairs, and the Ministry of Information and Communications.

(d) SUPPORT TO PARLIAMENT

(i) Issues in Controversy

24. The issue revolves around alleged support to Parliament.

(ii) Evaluation of the Evidence: The Facts as Found

25. The evidence adduced by the State demonstrated that Government monies were directly paid to Parliamentarians for unjustified reasons, as indicated in Exhibit (SALCAB) A1-109). Some of the recipients did testify before the Commission to receiving support for a variety of reasons and purposes. The lack of justifications for these payments and some of the irregularities preceding the disbursements, compounded by the absence of supporting documents to evidence withdrawal from accounts or payment vouchers, as it were, raise the general spectre of rampant public misfeasance, and specifically that of NATCOM's former Board Chairman's official propensity to collaborate or collude with others corruptly to misappropriate public money.

(iii) Conclusion

26. Based on the evidence, the Commission takes the view that Mr. Momoh Konteh, in his former capacity as Chairman of Board of NATCOM, wantonly abused his office by showing gross disregard for the principle of legality in so far as it imposes safeguards in respect of the use and disbursement of public funds. By such abuse of office, I strongly opine that he did enrich himself unjustly at the expense of the State.

(iv) Specific Recommendation

27. Being thus persuaded, and invoking equity as a guiding doctrine, the Commission hereby recommends that the aforementioned former Chairman of NATCOM, Mr. Momoh Konteh and the Vote Controller, Mr. Senesie Kallon, former Acting Director General of NATCOM, having been found culpable, severally and jointly, for irregular, reckless, and wanton expenditures of public funds purportedly to promote institutional support to Parliament, as part of a national development scheme, the said public officials refund to the State the sum of Le984,500,000.00 plus USD26,712.00 within a period of time to be determined by the Cabinet.

(e) SUPPORT TO THE MINISTRY OF POLITICAL AFFAIRS

(i) Issues in Controversy and Evaluation of the Evidence

28. The evidence on this issue is that, according to Exhibit (SALCAB) A1-109, a total of Le150,000,000.00 was given to individuals purportedly for and on behalf of the Ministry of Political Affairs rather than the said amount being paid and transferred into the Ministry. According to the Exhibit, there is no evidence to prove that the alleged payments of Le100,000,000.00 and Le50,000,000.00 were indeed utilized for the Ministry's activities. Additionally, evidenced was adduced to the effect that the sum of Le398,118,814.50 was used by the Administration of NATCOM to pay Salaries between July 2016 and March 2018 to three (3) Consultants allegedly employed by the Ministry of Political and Public Affairs, namely, Umaru Jogoh Barrie, Foday Labdie Kuyateh and Mohamed Kakay, in contravention of the Financial Management Act 2016.

(ii) Conclusion and Specific Recommendations

29. In the view of the Commission, this is a grave financial discrepancy, which, again, justifies the intervention of the equitable doctrine of restitution to compel a "duplicitous party" who has unjustly enriched himself at the expense of another, as was stated in the Nigerian case of Eboni Finance and Sec. v. Wolfe-Ojo Technical Services (1996) 7 NWLR (Pt.461) 464, "to disgorge it". To this end, the Commission, in a bid to compel the aforementioned former Chairman of NATCOM, Mr. Momoh Konteh to disgorge himself of the unjust benefit, hereby recommends that he refunds to the State the sum of Le150,000,000.00 within a period of time to be determined by the Cabinet.

30. By parity of reasoning, the Commission hereby recommends that the aforesaid former Chairman of NATCOM refunds to the State the sum of Le398,118,814.50 (Three Hundred and Ninety-eight Million, One Hundred and Eighteen Thousand, Eight Hundred and Fourteen Leones and Fifty Cents) within a period of time to be determined by the Cabinet.

(f) SUPPORT TO THE MINISTRY OF INFORMATION AND COMMUNICATIONS

(i) Issues in Controversy and Evaluation of the Evidence

31. The evidence presented by the State clearly indicate that the sum of Le73,000,000.00 and the amount of USD10,000.00 were given directly to politically exposed persons and staff of the Ministry without supporting documents. Exhibit (SALCAB) A1 - 109, page 28 is to this effect. This was during the ministerial tenure of Alhaji Alpha Kanu. The evidence clearly indicate that he received the amount of Le32,000,000.00 and USD10,000.00; that Mr. Paul Sandi received Le35,000,000.00 as support to this Ministry. None of the foregoing sums, according to the evidence, were paid into the Ministry's Account. There were no crossed cheques issued either. The evidence was that those amounts were paid directly to individuals.

(ii) Conclusion

32. It is the Commission's view, that the evidence unambiguously revealed serious breaches of established governmental disbursement policies and procedures for which Alhaji Alpha Kanu, former Minister of Information and Communications and Mr. Senesie Kallon, former Director-General of NATCOM are severally and jointly culpable.

(iii) Specific Recommendation

33. The Commission, accordingly hereby recommends that Alhaji Alpha Kanu, former Minister Information and Communications and Mr. Senesie Kallon, former Director-General of NATCOM refund, respectively, the sum of Le32,000.000.00 plus USD10,000.00 and Le35,000,000.00 to the State within a period of time to be determined by the Cabinet.

(g) SUPPORT TO INDIVIDUALS AND YOUTH ORGANIZATIONS

(i) Issues in Controversy and Evaluation of the Evidence

34. Under this rubric, the evidence clearly discloses that monies totaling Le2,380,000,000.00 were distributed to certain individuals by NATCOM between 2nd August 2016 and 23rd March 2018. Most of the monies, except for six recipients were cheques in the names of junior staff working at NATCOM. Page 28 paragraph 585 and Appendix 6, pages 69 to 71 of Exhibit (SALCAB) A1 - 109 provide unimpeachable evidence of this fact. Furthermore, there were no supporting documents, except one which shows that office furniture was delivered to the Office of the Ombudsman for the sum of Le150,000,000.00. During their testimonies to the Commission, some junior staff members of NATCOM stated that the monies from the uncashed cheques were given to their superiors in the Finance Department of NATCOM.

(ii) Conclusion

35. The Commission concludes that the then Chairman, Mr Momoh Konteh and the then Director-General, Mr Senesie Kallon from January 2015 to June 2017 are severally and jointly culpable for the loss of Le1,930,000,000.00 to the State; that the said Mr Momoh Konteh and the former Director-General, Mr. Victor Findlay from June 2017 to April 2018 are severally and jointly culpable for the loss of Le1,090,000,000.00 to the State.

(iii) SPECIFIC RECOMMENDATIONS

36. The Commission hereby recommends that the aforementioned public officials in leadership and management roles of NATCOM during the period under review refund to the State, within a period of time to be determined by Cabinet, the following amounts:

(i) That the former Chairman of NATCOM, Mr Momoh Konteh and the former Director-General and Vote Controller, Mr Senesie Kallon jointly and/or severally refund to the State the sum of Le1,930,000,000.00 (One Billion, Nine Hundred and Thirty Million Leones) being moneys unlawfully given to Youth Groups and individuals;

(ii) That the former Chairman of NATCOM, Mr Momoh Konteh and the then Acting Director General and Vote Controller, Mr Victor Findlay during the period covering the period June 2017 to April 2018 jointly and/or severally refund the sum of Le1,090,000,000.00 (One Billion and Ninety Million Leones) being moneys unlawfully given to Youth Groups and Individuals.

(h) MINISTRY OF INFORMATION SHARE OF INTERNATIONAL GATEWAY REVENUE

(i) Issues in Controversy

37. Under this rubric, the State adduced evidence to establish that ten percent of the International Gateway Revenue for 2016 and 2017 was supposed to have been paid to the Ministry of Information and Communications through its Bank Account, but was not.

(ii) Evaluation of the Evidence: The Facts as Found

38. The evidence is that the money was paid to individuals working at the Ministry, namely, Mr. Issa Donald Newman (former Accountant at the Ministry) and Mr. Paul Sandi (former Permanent Secretary at the Ministry). The amounts involved were USD194,363.12 and Le392,600,000.00. The facts unfolded with the disclosure that Issa Donald Newman was sent by the then Minister, Mr. Mohamed Bangura, to go to Zenith Bank to receive money on his behalf at NATCOM for the purpose of making an urgent trip to attend an ICT Conference aboard. Newman complied with the Minister's instruction and went to the Director of Finance at NATCOM. On arrival there, one Mr. Foday Konteh introduced himself and handed him a bank payment instruction. According to Newman, he was dismayed to see that the payment instruction was written in his name. He told the Commission that he protested the procedure; but the Minister responded with the statement that the trip was urgent and that if the money was lodged in the Ministry's Account, it would cause delay. He thereupon proceeded to the bank and received the amount of USD44,000.00 which he subsequently handed to the Minister. Paul Sandi also testified that on the 10th of August 2016 he received the sum of USD50,363.12 on the instruction of the same Minister to facilitate a travel to another ICT Conference; he testified that he received it and handed it over to the Minister. The evidence also revealed that the same Paul Sandi received the sum of USD100,000.00 from FIBank for the Minister, which according to Sandi he gave to the Minister.

39. In a purportedly robust rebuttal of the testimonies of the State witnesses, the former Minister Mr. Mohamed Bangura denied receiving the amount of USD44,000.00 from Issa Donald Newman and also USD50,363.12 from Paul Sandi.

40. (By way of a legal commentary, speaking judicially, and recalling what, in the theory and practice of the Law, is described as "similar fact evidence," there is clearly revealed a pattern of deceitful and fraudulent conduct on the part of the former Minister. Given the totality of the facts and circumstances; and weighing the case for the State on a balance of probabilities, alongside the Minister's defence, I attached no probative value to the testimony of the former Minister. In a nutshell, the Commission did not find his testimony credible).

(iii) Conclusion

41. Finding no merit in the defence put forward by the former Minister, the Commission concludes that the former Minister is culpable for unjust enrichment.

(iv) SPECIFIC RECOMMENDATION

42. The Commission, accordingly hereby recommends that the former Minister of Information and Communications, Mr Mohamed Bangura refund to the State the sum of USD194,363.12 (One Hundred and Ninety-four Thousand, Three Hundred and Sixty-three United States Dollars and Twelve Cents) being money he personally received from NATCOM for his personal benefit.

(D) THE SIERRA LEONE CABLE LIMITED (SALCAB)

(i) Issues in Controversy

1. The issues in controversy between the State and the Persons of Interest who were investigated from the Sierra Leone Cable Limited (SALCAB) by the Commission for acts of public misfeasance and unjust enrichment during the period under review revolved around what are described as "Sensitization Activities." Specifically, the State's complaints were:

(a) Non-compliance with procurement procedures for sensitization services;

(b) Non-performance of some contracts;

(c) Unsupported expenditures;

(d) Other withdrawals without supporting documents;

(e) Donations to government, individuals and private organizations.

(ii) Evaluation of the Evidence: The Facts as Found

2. In evaluating the evidence adduced by the State against the Persons of Interest involved in the SALCAB scheme, the Commission was guided by such basic principles as, that the burden of proving its case against the named Persons of Interest rests on the State; that in this type of case, the law requires that the State should discharge the burden on a balance of probabilities, and that

in cases involving unjust enrichment the State is not required to prove the case beyond a reasonable doubt.

3. Guided by these principles, the Commission found that, during the tenure of the Chairman of the Board of SALCAB and its Managing Director, there was evidence of what may accurately be described as a 'laundry list' of gross financial irregularities and flagrant abuse of public office, by persons entrusted with the political stewardship of their country, as set out below:

(i) During the period under review, the Chairman of the Board was Mr. Idrissa Yilla and the Managing Director was Mr. Mohamed Sheriff;

(ii) Under the Management of Mr. Idrissa Yilla and Mr. Mohamed Sheriff, things went awry resulting in the Chairman and the Managing Director running the affairs of SALCAB without a Board;

(iii) Procurement breaches in respect of sensitization activities and other serious financial irregularities became rampant;

(iv) With respect to sensitization activities, some were lawful; others were not;

(v) A request for quotation method was used to award a contract to Kabaka Multimedia even when the services to be offered exceeded Le60,000,000.00, contrary to section 44 (c) of the Public Procurement Act 2016;

(vi) The aforesaid contract was Le2,129,950,000.00 and both the Chairman and Director paid the sum Le 1,619,100,000.00 to Kabaka Multimedia and Entertainment;

(vii) There is no evidence that the services were delivered by Kabaka; Exhibit (SALCAB) AD, being a video clip of doubtful validity.

4. (By way of a legal commentary, the Commission is strongly of the opinion that the contract with Kabaka Multimedia and Entertainment was, in elementary contract law terminology, vitiated by three factors; namely:

(a) Lack or total failure of consideration;

(b) Non-performance;

(c) Fraud.)

5. Reverting to the Facts, it was discovered that:

(viii) the sum of USD2,493,842.92 and Le1,606,996,942.00 were withdrawn and transferred from January 2015 to May 2018 without being vouchered for;

(ix) the sum of USD1,000,458.25 was transferred from SALCAB account without any known recipients between January 2017 and February 2018, and without any supporting records;

(x) monies totaling USD236,822.49 were paid to certain companies by SALCAB without documentation indicative of what the payments were for;

(xi) the sum of Le1,606,996,442.00 was withdrawn from the Account in the name of the Administrative Manager, Mr. Mustapha Sillah without supporting documents;

(xii) the sum of Le151,000,000.00 caused to be paid to former Ministers of Information as farewell treat, validation and air tickets, without justification, plus a withdrawal of USD10,000.00 done in the name of Daphne Bangura, a staff member was made, which money she did not receive.

Her testimony before the Commission was quite revealing. She said:

"On a date that I cannot recall while in the Office, a lady banker from the Zenith Bank named Christina came into her office. After a while, Christiana went into the Office of the Managing Director, Mr. Mohamed Sheriff and came into the Reception/Secretary's Office holding papers in her hand and she asked me to sign on the papers. I asked why I should sign, she told me it was for my bosses and that there was nothing bad. Therefore, I had to sign even though I was given no time to read and did not know the content of the documents. I did not see any cheque nor did I ever know that the documents that I signed involved withdrawal of money as stated on this audit report of USD10,000,00. As far as I know I was tricked because I never knew what was going on.…"

(iii) CONCLUSION

6. Given the compelling and persuasive nature of the evidence in the SALCAB scheme, it is the opinion of the Commission that it was a financial scandal of such dimension as warrants the characterization, 'SALCABGATE'. The Commission emphatically concludes, applying the relevant and applicable principles to the facts and circumstances as disclosed by the evidence, that Mr. Idrissa Yillah, former Chairman of the Board of SALCAB, and Mr. Mohamed Sheriff, former Director-General of SALCAB are severally and jointly culpable for the huge losses inflicted by them on the State of Sierra Leone; and further, that their acts of public misfeasance, corruption and dishonesty do rise to the level of what has appropriately been described in some scholarly literature, as economic crimes against humanity.

(iv) SPECIFIC RECOMMENDATIONS

7. The Commission hereby recommends as follows:-

(1) That the former Chairman of Sierra Leone Cable Limited (SALCAB), Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff refund to the State the sum of Le1,619,100,000.00 (One Billion, Six Hundred and Nineteen Million, One Hundred

Thousand Leones) being money unlawfully paid to Kabaka Multimedia Entertainment Group within a period of time to be determined by the Cabinet.

(2) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of USD1,000,458.25 (One Million, Four Hundred and Fifty-eight United States Dollars and Twenty-five Cents) that was unlawfully transferred to unknown beneficiaries without supporting documents, within a period of time to be determined by the Cabinet.

(3) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of USD236,822.49 (Two Hundred and Thirty-six Thousand, Eight Hundred and Twenty-two United States Dollars and Forty-nine Cents) that was unlawfully paid to Companies (various corporate institutions) without supporting documents, within a period of time to the determined by the Cabinet.

(4) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of Le1,606,996,942.00 (One Billion, Six Hundred and Six Million, Nine Hundred and Ninety-six Thousand, Nine Hundred and Forty-two Leones) that was unlawfully withdrawn from SALCAB's Account and handed over to them without supporting documents, within a period of time to be determined by the Cabinet.

(5) That Mr. Mohamed Sheriff refund to the State the sum of Le2,626,397,000.00 (Two Billion, Six Hundred and Twenty-six Million, Three Hundred and Ninety-seven Thousand Leones) that was withdrawn from SALCAB's Account by the former Administrative Manager, Mr. Mustapha Sillah and handed over to him for use without supporting documents within a period of time to be determined by the Cabinet.

(6) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of Le151,000,000.00 (One Hundred and Fifty-one Million Leones) paid as disbursements to Staff of the Ministry of Information and Communications, SALCAB and other unknown persons without supporting documents, and that Mr. Mohamed Sheriff also refund the sum of USD10,000.00 (Ten Thousand United States Dollars) he received in the name of Daphne Bangura, within a period to be determined by the Cabinet.

(7) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of Le431,250,000.00 (Four Hundred and Thirty-one Million, Two Hundred and Fifty Thousand Leones) unlawfully given to the former Chairman of the Parliamentary Oversight Committee, Hon. Binneh Kamara, within a period of time to be determined by the Cabinet.

(8) That the former Chairman of SALCAB, Mr. Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the sum of Le55,000,000.00 (Fifty-five Million Leones) given as Christmas Gift to Mr. Babafemi H. Aaron-Johnson and Kabaka Multimedia Entertainment Group,within a period of time to be determined by the Cabinet.

(9) That the former Chairman of SALCAB, Mr Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff jointly and/or severally refund to the State the unexplained sum totaling Le490,000,000.00 (Four Hundred and Ninety Million Leones) made as Monthly Donations to the Fibre Optic Backbone Project from July 2015 to March 2018 within a period to be determined by the Cabinet.

(10) That the former Chairman of SALCAB, Mr Idrissa Yilla and the then Managing Director, Mr. Mohamed Sheriff refund to the State the sum of Le1,737,965,000.00 (One Billion, Seven Hundred and Thirty-seven Million, Nine Hundred and Sixty-five Thousand Leones) being moneys unlawfully given as Donations to Government, individuals and private organizations, within a period of time to be determined by the Cabinet.

(E) THE SIERRA LEONE TELECOMMUNICATIONS COMPANY (SIERRATEL) - NARRATIVE

(i) Issues in Controversy

The issues in controversy between the State and the Persons of Interest in the matter relating to the Sierra Leone Telecommunications Company scheme that came before Commission of Inquiry No. 2 for investigation centered around (as alleged by the State), the illegal extension of the continued monopoly of International Gateway by the former President Dr. Ernest Bai Koroma, and consequential financial discrepancies and losses to the State of Sierra Leone due to misguided policies. In essence the conceptual basis of the controversy emanated from three key features. The first was that of the Company's objective namely the management of International telecommunications and associated services. The second was that the Company was 100 percent owned by the Government of Sierra Leone, the commercial expectation being that it should make profit. The third was that prior to the establishment of International Gateway, SIERRATEL had a monopoly of the International call monitoring system. Given that state of affairs, it was the extension of the continued monopoly of the International Gateway that sparked off the controversy that became a justiciable issue for investigation and adjudication by the Commission.

(ii) Evaluation of the Evidence: The Facts as Found

The fact which emerged from the evidence were that the continued extension of the monopoly of the International Gateway was illegal and unleashed some disturbing and negative features namely; that of the way the former President and his Cabinet were instrumental in continuing the extension of the monopoly; that it was the former President and his Cabinet that effected the extension of the monopoly; that the aforesaid former President and his Cabinet manipulated the

Ministers of Information and Communications and the Chairman of NATCOM in fulfilling their objective; that extensions of the monopoly were made without the approval of Board or through fraudulent approvals by the Board; that the foregoing negative developments culminated in the decision of the World Bank, a donor institution, to preclude Sierra Leone from benefiting from donor funds. It also came out in evidence that persons who attempted to adopt the liberalization policy as opposed to the monopoly policy were victimized, either by being marginalized or removed from office by the former President.

There was also evidence to the effect that the contract for the monitoring of the International Gateway was awarded to TELTAC AFRICA, later called TELTAC Worldwide represented by an agent called TELTAC AFRICA. Exhibits (SIERRATEL) F1 - 31 and (SIERRATEL) A1 - 3 are to this effect. The Commission also heard evidence from one Mr. Rayan Elzein, an accountant in TELTAC. He said he was monitoring the International Gateway under the supervision of Mr. Alpha Sesay, the Managing Director and that he was responsible for preparation and reconciliation of Bank transfers and statements. The Company and the International Gateway had a joint Account operated by TELTAC and SIERRATEL.

Finally, the evidential profile as to the financial irregularities that prevailed was that a total amount of USD71,957,755.14 was paid to SIERRATEL from 2007 to 2016 for International Gateway, but only USD 58,318,820.15 was received by Mrs. S.B. Kilgore, Director of Internal Audit at SIERATEL. Exhibits (SIERRATEL) B1 – 22, (SIERRATEL) G1 – 88 are to this effect. According to her, most of the monies were used for payment of salaries, fuel, purchases of official supplies and equipment, travelling, payment of DSA, administrative repairs and maintenance. There were other discrepancies involving unaccounted monies allegedly spent on the purchase or repairs of vehicles.

(iii) Conclusion

From the nature of the evidence adduced before the Commission by the State and duly taking into account the fact that Mr. Alpha Sesay, former Director of SIERRATEL did not appear before the Commission to testify on such grave issues of alleged public misfeasance, gross financial improprieties and devastating losses to the State, the Commission is left with no other option guided by certain basic principles of adversarial justice, but to determine whether Mr. Alpha Sesay, a Person of Interest is culpable of unjust enrichment. Hence, specifically bearing in mind;

(i) that it is the duty of the State to establish a case against a Person of Interest under investigation;

(ii) that the burden has to be discharged on a balance of probabilities and not beyond a reasonable doubt;

(iii) that it is an authoritative principle of law that where a Person of Interest decides not to testify or to remain silent before a tribunal in the face of an accusation against him, the

tribunal is entitled to draw common sense inferences from such decision or silence, or refusal especially in cases of unjust enrichment

The Commission therefore, concludes that Mr. Alpha Sesay, former Managing Director of SIERRATEL is responsible for the losses to the State of the amount of Le2,230,844,526.12 (Two Billion, Two Hundred and Thirty Million, Eight Hundred and Forty-four Thousand, Five Hundred and Twenty-six Leones and Twelve Cents) being losses in respect of the purchase cost of vehicles that could not be accounted for. Hence the inference is irresistible that the said former Managing Director unjustly enriched himself at the expense of the State, Accordingly, predicated upon the equitable doctrine of restitution, justice demands that he refund the said amount to the State.

(iv) Specific Recommendations

The Commission, hereby, recommends as follows:

(i) that Mr. Alpha Sesay, former Managing Director of SIERRATEL, refund to the State the aforesaid sum of Le2,230,844,526.12 (Two Billion, Two Hundred and Thirty Million, Eight Hundred and Forty-four Thousand, Five Hundred and Twenty-six Leones and Twelve Cents) within in a period of time to be determined by the Cabinet.

(ii) that the Anti-Corruption Commission be directed to investigate SIERRATEL in respect of Incomes and Expenditures of the International Gateway funds, and particularly the unexplained disbursements of USD13,578,934.99 (Thirteen Million, Five Hundred and Seventy-eight Thousand, Nine Hundred and Thirty-four United States Dollars and Ninety-nine Cents), within a period of time to be determined by the Cabinet.

(F) THE MINISTRY OF WATER RESOURCES – PROCUREMENT OF 14 WATER BOWSER TRUCKS

(i) Issues In Controversy

The central issue in controversy between the State and the Person of Interest, on record in this matter, revolved around certain related matters concerning the Ministry of Water Resources during the tenure of office of Hon. Momodu Elongima Maligi III, as Minister of Water Resources. It was essentially a dispute about breaches of procurement procedures for the purchase of fourteen (14) water bowser trucks and 1500 drums of chlorine to augment the rapid response preventive measures of the Ebola Disease. For the sake of greater clarity and conciseness, the particulars and specifics of the breaches are highlighted in the succeeding paragraphs.

The first is that an initiative was taken by the Hon. Momodu Elongima Maligi III, then Minister of Water Resources, during the period under review, to address a Minute Paper, without a Concept Paper and notification to the Secretary to the former President of Sierra Leone, Dr. Ernest Bai Koroma, seeking approval for the purchase of fourteen (14) water bowser trucks and 1500 drums of chlorine to augment the rapid response preventive measures of the Ebola Disease.

The second is that, according to the Minutes Paper, Messers West Stars General Supplies were identified as the supplier; and the purchase price for each truck stated to be USD396,000.00 (Three Hundred and Ninety-six Thousand United States Dollars).

The third is that the foregoing was done before the identified supplier had submitted their Proforma Invoice dated 11th August 2014.

The fourth is that on the 8th August 2014, the former President gave his approval for the purchase to be made.

The fifth is that on the same 8th August 2014, the Procurement Committee of the said Ministry held a meeting presided over by the Permanent Secretary, Mr. Charles Kamanda, where it was communicated to the Committee that the former President had approved the Minister's Minutes Paper under reference. Thereupon, the Committee agreed for a letter of "No Objection" for the use of the "Restricted Bidding Method "to be sent to the National Public Procurement Authorization Office (NPA). The Committee agreed to comply with section 41 of the Public Procurement Act, 2004 (now repealed).

The sixth aspect of the alleged breaches was another unsatisfactory development, namely, that subsequent to the Procurement Committee meeting, the Minister sent another Minutes Paper dated 24th September 2014 to the former President seeking his approval of the purchase. This time, a new supplier, PCS Holdings SL. Ltd. was identified by the Minister for the procurement of the 14 water bowsers trucks at a unit cost of USD310,000.00 (Three Hundred and Ten Thousand United States Dollars). This Minutes Paper was again approved by the former President.

Finally, on the 22nd August 2014, another meeting of the Procurement Committee, referred to as "SOLE-SOURCE BID OPENING FOR THE SUPPLY OF 14 BRAND NEW WATER BOWSERS," was held. After that an Agreement between the Ministry of Water Resource represented by the Permanent Secretary and the supplier PCS Holdings SL. Ltd was signed on the 30th September 2014. It was agreed that the goods would be delivered within 3 to 5 weeks after 30 percent advance payment. The goods were delivered in March 2015. On the issue of the agreed contractual time of delivery and the time that the goods were actually delivered , there was a breach of the fundamental obligation or a fundamental term of the contract, the State's complaint is that this goes to the core of the breaches of the procurement procedures in respect of this governmental purchase, and may well reinforce the contention that the possibility of delay in delivery of goods contracted for by the 'restricted bidding process' militates against the justification for recourse to such a bidding process.

(ii) Evaluation of the Evidence: Facts As Found

Summarized in this paragraph are the facts as found, based on the evidence presented by the State against the Hon. Momodu Elongima Maligi III, former Minister of Water Resources. They are that on the 8th of August 2014, the named former Minister addressed a Minute Paper to the former President of Sierra Leone, Dr. Ernest Bai Koroma seeking approval for the purchase of 14 water bowsers trucks and 1500 drums of chlorine to augment the rapid response preventive measures of

the Ebola Disease. The said former Minister did not submit a Concept Paper along with the request. He also did not inform the then Permanent Secretary, Mr. Charles Kamanda about his action. The Minute Paper was tendered in evidence as Exhibit (WR) 1-5. The said exhibit indicated that the supplier was Messrs. West Stars General Supplies. According to the exhibit, the purchase price for each truck was USD396,000.00. The evidence revealed that the selection of a supplier and the indication of the purchase price for each truck were done prior to the submission by the named supplier of their Proforma Invoice dated 11thAugust 2014. The former President, on the same date of the Minute, gave his approval for the purchase to be effected. Furthermore, on the 8thAugust 2014, the date on which Exhibit (WR)1-5 originated, a meeting of the Ministry's Procurement Committee was convened and presided over by Mr. Charles Kamanda, the Permanent Secretary. The minutes of that meeting are Exhibit (WR) B1-3); it was written by Mr. Michael Swarray, Secretary of the Committee, who testified as SW1. The meeting was informed that the former President had approved the Minute addressed to him by the former Minister on the subject of the purchase of the water bowsers trucks.

Thereupon, the Committee agreed for a letter of "NO OBJECTION" for the use of the 'Restricted Bidding Method' to be sent to the National Public Procurement Authorization Office (NPPA). The letter is Exhibit (WR) C1-2 sent to the Chief Executive, National Public Procurement Authorization Office. The letter was sent. A response came; it is Exhibit (WR) D. The meeting agreed to comply with section 41 of the Public Procurement Act of 2004 (now repealed). Subsequent to the meeting of the Procurement Committee held 8thAugust 2014, the former Minister addressed another Minute dated 24th September 2014 to the former President seeking approval in respect of the same purchase, but this time, (as indicated in Exhibit (WR) G1-4) identifying another supplier, PCS Holdings SL. Ltd. as the new supplier for the 14 water bowsers trucks at a unit cost of USD 310. 000. 00. The Minutes were again approved by the former President. On 22nd August 2014, another meeting of the Procurement Committee was held referred to as Sole-SOURCE BID OPENING FOR THE SUPPLY OF 14 BRAND NEW WATER BOWSERS. Subsequently, on 30th September 2014, an agreement between the Ministry of Water Resources, represented by the Permanent Secretary and the supplier PCS Holdings SL. Ltd. Exhibit (WR) J 1-8 was signed, providing for the goods to be delivered within 3 to 5 weeks after a 30 percent advance payment. The goods were delivered in March 2015; curiously, there were two different delivery dates on Exhibit (WR) K1-3, the delivery note. Evidently, there was a 19 weeks' delay period in delivering the goods, in breach of the agreement.

(By way of a concise legal commentary on this finding, I opine that legal scholars and judges who belong to the school of thought that in contract law, there may sometimes not be much difference between what terms in the contract are characterized as "fundamental obligations" or "merely fundamental terms", a reasonable inference may be that the delay in delivering the goods rendered inefficacious or invalid the justification for making use of the restricted bidding option. Admittedly, given the humanitarian priorities prevailing at the time, it is equally reasonable to avoid taking what may be described as a cynical position).

Reverting to the facts as they emerged from the evidence, it is noteworthy that the testimonies of the Permanent Secretary, Charles Kamanda, who was also Chairman of the Procurement Committee when the Procurement Officer reflected their administrative and professional dissatisfaction with what they perceived as ministerial disregard for proper procedures. (Due to my expressed reservation during cross-examination of some aspects of the credibility of the latter's testimony, I hereby attach very little weight to the said testimony due to much prevarication on his part; without derogating from my judicial discretion to examine the credibility of evidence of other witnesses on the same or similar issues).

The evidence also revealed two other disturbing features of the procurement of the goods. One was overpricing. Exhibit (WR) H, the certificate of approval from the Financial Secretary, showed that the goods were purchased for a total cost of USD4,991,000.00 (Four Million, Nine Hundred and Ninety-one Thousand United States Dollars). The Procurement Officer, in Exhibit (WR) N1-3, stated that he had "initially done an independent market survey on the internet and got a price that was far below the identified supplier's market price."

Corroborating this evidence is the testimony of the Permanent Secretary that the then Minister "in the minutes had already selected the supplier with the cost embedded into the minutes". The second disturbing feature disclosed by the evidence relates to the issue of exchange rate. Exhibit (WR) P1-438 revealed that the Ministry used the selling rate of the United States Dollar for the payment of the goods instead of the midrate of the Central Bank resulting in the loss of funds to the State of Le769, 172, 992 (Seven Hundred and Sixty-nine Million, One Hundred and Seven-two Thousand, Nine Hundred and Ninety-two Leones).

Furthermore, the evidence showed, from the contents of the Proforma Invoices that there were other available suppliers; that other suppliers were not invited to bid; that there were suitable alternative suppliers, and that no publication was done of the invitation to bid.

(Again , by way of a legal commentary on this aspect of the evidence leading to the findings of fact, it is my firm judicial view that these procedural deficiencies and irregularities constituted serious contraventions of sections 41(1) (a) and (b); 42 (1) and (2); 46 (1) and (2); 47 (1) and (2) ; and 48 of the Public Procurement Act, 2004, which provisions were repealed by the 2016 Act, and are ipsissima verba with the repealed provisions.)

The former Minister did not give evidence in rebuttal of the State's case. On his behalf, Counsel Ady Macauley put forward certain legal submissions in his defence. One was that the Commission is "akin to criminal trials in the High Court of Sierra Leone, and, therefore, must hold the state to the highest degree of proof, which is the criminal standard, beyond all reasonable doubt, as laid down by Lord Sankey in the case of Woolmington v. DPP." Denying all the allegations of the State, Counsel concluded in these terms:

> "From the facts presented by the State and the applicant laws, it is my considered opinion and inescapable conclusion that the State has failed to prove that the Hon. Momodu

Elongima Maligi breached procurement laws, overpriced the value of the 14 water bowsers and was involved in exchange rate manipulation."

(iii) Conclusion

In the light of the facts as found , as unfolded by the evidence adduced before the Commission, in its totality, including the case for the Person of Interest, I find the case against former Minister Momodu Elongima Maligi III proven , guided by (a) the principle that the State bears the burden of establishing the case against the Person of Interest, (b) that the State must discharge the burden on a balance of probabilities, (c) that it is settled law that in cases of alleged unjust enrichment, where a person of interest does not testify or chooses to remain silent, the adjudicating tribunal may draw common sense inferences from such silence; and (d) that in such cases, the reverse onus doctrine becomes applicable. The Commission, accordingly, finds former Minister, Momodu Maligi III, culpable for the losses caused to the State by reason of abuse of office through manifest contraventions of the Public Procurement Act, 2016 and breaches of procurement procedures, as a public officer, during the period under review.

(iv) Specific Recommendations

Consequentially, the Commission hereby recommends, predicated upon the equitable doctrine of restitution, as an effective remedy for unjust enrichment, as follows:

(1) That the former Minister of Water Resources, Momodu Elongima Maligi III refund to the State the sum of USD3,176,082.00 (Three Million, One Hundred and Seventy-six Thousand and Eighty-two United States Dollars) at the current official Exchange Rate, which was unlawfully expended for the purchase of fourteen (14) Water Bowser Trucks, within a period of time to be determined by the Cabinet.

(2) That PCS Holdings refund to the State the sum of Le769,172,992.00 (Seven Hundred and Sixty-nine Million, One Hundred and Seventy-two Thousand, Nine Hundred and Ninety-two Leones) being the inflated amount on the wrong Exchange Rate used in computing; a refund of the amount is still outstanding as per a previous Cabinet decision on the subject, such refund to be made within a period of time to be determined by the Cabinet.

(G) NATIONAL REVENUE AUTHORITY - OTHER RELATED MATTERS

A. (i) Issues in Controversy

1. In the interest of clarity, conciseness and precision, the Commission has focused on five key areas of controversy on "other related matters" involving the National Revenue Authority (NRA) falling within the investigative ambit of sections 4 and 5 of Constitutional Instrument No. 65 of 2018. They are allegations of financial improprieties and contraventions of statutory provisions on financial governance on the part of certain public officers who were employees of the NRA during the period under review. These improprieties are documented in the National Revenue Internal

2. The first allegation in controversy complained of by the State is that huge extra-budgetary expenditures were made by the Management of the National Revenue Authority. Specifically, the State alleged that the sum of Le 3.5 billion was spent without budgetary authorization and Board approval. It was claimed to have been used to purchase vehicles and furniture. It was also claimed that Le1.28 billion out of that was spent on buildings; and that Le2.322 billion was spent on motor vehicles. The State further contended that no voucher was available to substantiate these claims, and that the expenditures were not traced. A second issue was that total the sum of Le8, 342,616,000 was used for Sensitization, Workshops, and Donations. According to the State, this was not accounted for in the budget, and no Board approval given in respect of the amount, and that there were no identified payees or recipients of the said amount.

3. It was further alleged that the authority's payroll was excessively "over bloated". The State also complained of the payment of "acting allowance" to then Commissioner-General of the NRA while she was simultaneously holding the substantive position.

4. The final issue in controversy between the State and the Authority arose out of the procurement contract for the supply of stationery to the Authority by the Suppliers, known as Office World. The gravamen of the State's complaint is summed up as follows:

The Internal Audit Report, Exhibit (NRA) B1-108, page 40 indicates that an agreement for the supply of goods to wit, stationeries, were to be supplied to the National Revenue Authority to the tune of Le1.2 billion. The Authority made advance payment totaling Le708,704,698.58 to the Supplier. There is no evidence that the said stationary items were supplied; no delivery to that effect.

(ii) Evaluation of the Evidence: The Facts as Found

5. The Commission now proceeds to determine, from the totality of the evidence adduced, whether the State established their case against the Persons of Interest involved in the matters being investigated. In my considered view, weighing the totality of the evidence put forward by the State, including that put forward by the Persons of Interest in this matter, meaning all the evidence elicited through examination-in-chief, cross-examination, and re-examination, on a scale or balance of probabilities, the Commission did significantly finds as follows:

6. That the sum of Le3.5 billion was expended by the Management of the National Revenue Authority without budgetary authorization or Board approval; that there was no evidence to substantiate the claim that the said amount was used for the purchase of vehicles and furniture; that there were no vouchers to substantiate the claim that the amount of Le1.28 billion was expended on buildings; that there were no vouchers to substantiate the claim that the amount of Le2.322 billion was spent on motor vehicles; that there was no approval by the Board of the Authority for the sum of Le8,392,616,000.00 to be expended on Sensitization, Workshops, and Donations; these amounts were unaccounted for in the budget; that there were no documents to

identify who the recipients or payees of the funds for Sensitization, Workshops and Donations were; that the Authority engaged in the fraudulent practice of bloating its payroll, showing "variances and fluctuations in the payments of salaries for staff on a monthly basis; that, in this regard, details were lacking in respect of "about 223 payments made as salaries;" that the request for payment made by the Human Resource Department was Le25,925 billion as payroll cost for the year January to December 2017, but that the actual release made by the Bank on the instructions of the Director of Finance was Le28.988 billion, that is in excess of Le3.06 billion; that the Commissioner-General, Haja Isata Kallah Kamara fraudulently and dishonestly received the total amount of Le130,895,760.00 as acting allowance during the period January to December 2017 when she was the substantive holder of the position ; that the Authority entered into an agreement for the supply of stationary for the amount of Le1.2 billion; the Authority made an advance payment of Le708,704, 698.58 to the supplier; that there is no evidence that the goods were supplied; there were no delivery notes.

7. Suffice it to say that the above findings are based upon certain compelling pieces of evidence, to wit: Exhibits (NRA)B 1-108), (NRA) A1-3, (NRA) DV 1-18, (NRA) DU 1-7, (NRA) DF1-78, (NRA) DP1-7, and (NRA) DG 1-178, corroborated in several material particulars by the oral testimony of the Authority's Internal Auditor. Suffice it also to say that in evaluating the totality of evidence, the Commission applied three key principles, namely, (a) that the State bears the burden of proving the case against the persons of interest on a scale or balance of probabilities; (b) that where a Person of Interest facing an accusation does not testify before a Tribunal or decides to remain silent, it is settled law that the Tribunal is entitled to draw common sense inferences from such failure; one such common sense inference being an admission of culpability; (c) that in cases where the issue is one of unjust enrichment, it is settled law that the doctrine of reverse burden applies, requiring the person of interest to rebut the State's evidence. Applying those principles, the Commission's further finding was that there were no plausible answers in rebuttal of the State's case.

(iii) Breaches of Finance Governance Laws: Analysis

8. (By way of a legal commentary, the Commission notes with grave concern the flagrant disregard by governmental agencies bodies and units, of public finance laws and procedures. The Commission highlights in this section some relevant provisions of the PUBLIC FINANCIAL MANAGEMENT ACT, 2016 that were infringed by the Authority in relation to the issues in controversy between the State and the Authority.

9. The first is section 11(d) which enacts that it is the responsibility of the Head of any budgetary agency pursuant to section 11(d) and (e) of the Public Financial Management Act, 2016 to "allocate and manage resources of the budgetary agency through his decision on, among others, appropriation allotment and virement of a provision under the Estimates; 11 (e) "oversee, and provide instructions and directions on, the performance of responsibilities by the vote controller of the budgetary agency…."

10. The second is Section 12 (2). It vests the Head of the budgetary agency with authority as Vote Controller.

11. The third is Section 13 (1) and (2) (a)-(m). It outlines the responsibilities of a Vote Controller of budgetary agencies; and subsection (3) provides for delegation of such responsibilities; Section 13(1) further enacts most importantly, that:

"The Vote Controller of a budgetary agency'' shall be responsible for prudent, efficient and transparent use of the resources of the budgetary agency."

12. Reverting to the facts, the Commission takes the view that considering the nature and quality of the evidence adduced by the State in proof of the matters in controversy, which evidence was compelling and convincing, both in terms of relevance and probative value, the Commission did not entertain a scintilla of doubt that the Commissioner- General's performance of her responsibilities as Vote Controller fell appallingly short of "prudent, efficient and transparent use of the resources" of the Authority, as "a budgetary agency, "and constituted a breach of statutory duty.

13. By parity of reasoning and relying on the persuasive nature of the evidence, the Commission holds that her official conduct, in her capacity as a public officer in respect of all the issues in controversy between the State and her, as Person of Interest, within the legislative ambit and meaning of section 4(d)(ii) and (iii) of Constitutional Instrument No. 65 of 2018, evidences corruption and dishonesty resulting in financial loss to the State of Sierra Leone in the amount of Le15,738,216,458.58.

(iv) Conclusion

14. The Commission hereby concludes that Haja Isata Kallah Kamara former Commissioner-General of the NRA is culpable of unjust enrichment. By this, is meant that, in the ordinary legal acceptation of the term, she derived benefit in the said amount unjustly at the expense of the State of Sierra Leone, the Government being the agent of the State. The Commission also holds culpable Mr. Abdulai Conteh, former Director of Finance of the Authority, as a collaborator of the Commissioner-General in respect of the said act of corruption and dishonesty, thereby unjustly enriching himself.

(v) Specific Recommendations

15. Consequentially, as Judge Commissioner, reinforced by my understanding of the law that restitution is the most effective remedy for unjust enrichment; and guided by these considerations (i) that it is unconscionable on moral, ethical, legal or equitable grounds to enrich oneself unjustly at the expense of another; (ii) that, an equitable remedy comes in the form of a constructive trust or equitable lien, especially where the targeted funds or property are traceable;(iii) that all State or Government Funds in Sierra Leone, by virtue of the public trust doctrine, are vested in the political leadership or other state actors or public officials in trust for the entire citizenry of the country and;(iv) that the said funds and properties are not to be diverted by such public official or others for their private or personal benefit; the Commission, hereby, recommends as follows:

(1) That the former Commissioner-General and Vote Controller of the National Revenue Authority (NRA), Haja Isata Kallah Kamara refund to the State the sum of Le 3,500,000,000.00 (Three Billion, Five Hundred Million Leones) which amount was to have been expended on the purchase of vehicles, but purportedly spent on the renovation of the NRA Office Building, without any documentary or physical evidence of such renovation of any building or any vehicles, within a period of time to be determined by the Cabinet.

(2) That the former Commissioner-General and Vote Controller of the NRA, Haja Isata Kallah Kamara and the then Director of Finance, Mr. Abdulai Conteh with whom she collaborated, refund to the State the sum Le8,392,616,000.00 (Eight Billion, Three Hundred and Ninety-Two Million and Sixteen Thousand Leones);within a period to be determined by the Cabinet.

(3) That the former Commissioner-General and Vote Controller of the NRA, Haja Isata Kallah Kamara and the then Director of Finance, Mr. Abdulai Conteh refund to the State the sum of Le3, 006,000,000.00 (Three Billion and Six Million Leones) which amount was misappropriated through the fraudulent practice of bloating the NRA payroll, within a period of time to be determined by the Cabinet.

(4) That the former Commissioner-General and the Vote Controller of the NRA, Haja Isata Kallah Kamara refund to the State the sum of Le130, 895,760.00 (One Hundred and Thirty Million, Eight Hundred and Ninety-five Thousand, Seven Hundred and Sixty Leones) which amount she dishonestly received as Acting Allowance when she was the substantive Commissioner-General of the NRA, within a period of time to be determined by the Cabinet.

(5) That the former Commissioner-General and Vote Controller of the NRA, Haja Isata Kallah Kamara refund to the State the sum of Le708, 704,698.58(Seven Hundred and Eight Million, Seven and Four Thousand, Six Hundred and Ninety-eight Leones and Fifty-eight Cents) which amount was allegedly paid for the supply of Stationeries to the NRA, within a period of time to be determined by the Cabinet.

(H) THE MINISTRY OF SOCIAL WELFARE: THE ALLEGED ABUSE OF OFFICE DIMENSION AND THE INTERNATIONAL LAW DIMENSION

(i) Introduction

1. In her Oral Presentation of her Closing Address to the Commission on the 3rd day of February 2020, Dr. Sylvia Olayinka Blyden, former Minister of Social Welfare, Gender and Children's Affairs, began with an Objection to the jurisdiction of the Commission of Inquiry in these terms:

"My Lord, I wish to raise an objection to the jurisdiction of the Commission in respect of the matter for which I am appearing before this Commission. I will begin by referring Your Lordship to the 'Explanatory Memorandum of Constitutional Instrument No. 65 of 2018. (Reads

Explanatory Memorandum). It is my submission, My Lord, that the object of this Commission does not relate in any shape or form to me in so far as the incident of the 28th of December 2016 is concerned. When the Memo is read in consonance with GTT Report. It is absolutely clear that I have no business being before you as to the incident referred to. Again, my Lord, there is no interpretation of section 4 that can justify including investigation of allegations by children against a Minister in this Commission. If Your Lordship agrees with my submission as to jurisdiction, I respectfully request that Your Lordship grants me leave to depart from here."

2. Following her objection to the jurisdiction and supporting legal submissions, I delivered an interim Ruling in these terms:

"Having carefully considered the jurisdictional issue raised by Dr. Sylvia Blyden to the Commission's jurisdiction, I rule that it would be legally proper, expedient and tidy to reserve a final determination of the merit of the jurisdictional point, for the period of deliberation preceding the writing of the Report. For greater clarity, my Ruling is that the determination of the merits will be combined and joined with the substantive issues to be addressed in the Report, and without prejudice, if there is merit in the objection, to a declaration to that effect being made".

(ii) A Two- Dimensional Perspective of the Matter-in-Controversy

3. It may be recalled that, according to the State's presentation, the matter in controversy between the State and Dr. Sylvia Blyden, a former Minister of Social Welfare, Gender and Children's Affairs arose out of an incident that, allegedly, took place at the Ministry of Social Welfare compound, New England Ville on December 28, 2016. The evidence adduced before the Commission was that on that day, the former Minister recruited a group of "thugs", described as "able-bodied men dressed in black" to beat up some children belonging to the Children Forum Network (CFN) Eight young persons, whom the State submitted were at the time of the alleged incident, children testified that the incident did happen. The former Minister strenuously defended herself against the allegation, through vigorous cross-examination of the complainants, and forceful submissions of a political complexion.

4. As indicated in my interim Ruling, I shall now examine the merits of the jurisdictional issue in the context of the overall substantive thrust of the investigative and culpability mandate of the Commission from a two-dimensional perspective, to wit: the Sierra Leone domestic law perspective, and the international law perspective.

(a) The Sierra Leone Domestic Law Perspective

5. From the Sierra Leone domestic law perspective, in order to dispose of the merit of the jurisdictional issue raised by Dr. Sylvia Blyden, it is of utmost importance to discover the true interpretation and meaning of section 4 as regards its investigative scope and culpability dimension relating to "the assets and other related matters of "the public officials specified in the said section 4. The pith and substance of Dr. Blyden's jurisdictional objection is that, given the rationale, and purport of the Governance Transition Team Report and the general mandate and specific terms of reference set out in section 4 of Constitutional Instrument No. 65 of 2018, she is not culpable in respect of any of the matters specified in the said section.

6. In resolving this issue, a two-stage judicial analyses of the legislative language, context, object, and purview of section 4 as the legislative centerpiece of the founding instrument of Commission Inquiry No. 2 seem necessary. The first is congruent with my exposition as to the true meaning and interpretation of the aforesaid section 4 in the main legal narrative in this Report herein titled, CONCEPTUALIZING, DEFINING, AND EXPLORING CULPABILITY FOR ALLEGED UNJUST ENRICNMENT IN SIERRA LEONE: SYNTHESIZING SCHOLARSHIP AND JURISPRUDENCE - NATIONAL AND INTERNATIONAL LAW PERSPECTIVES. That Narrative exhaustively explored and expanded on what I perceive as the true jurisdictional scope of section 4 to be, applying the purposive rule of interpretation. In this regard, I hereby adopt the analyses and reasoning embodied in paragraphs 38 - 41 (pages14 - 15) of the aforesaid Narrative for the purpose of determining the merit of the instant jurisdictional point.

7. The second level analysis here entails a determination of the reasonableness of an expansive interpretation of section 4 to cover or include alleged assault on children as constituting "abuse of power" or "abuse of office" in an enactment whose investigative focus is pivoted on unjust enrichment. This analysis requires further elaboration. One is that the critical question for determination, in relation to the complaint against Dr. Blyden, as a former Minister of Social Welfare, Gender and Children Affairs, is whether it is reasonably clear from founding enactment that the Sierra Leone legislature intended that section 4 thereof should expansively extend the focal universe of investigative acts beyond culpability for unjust enrichment, to include matters unrelated to or unconnected with it. In effect, is it reasonably clear that the said legislature intended that the second conjunct "and other related matters" should be interpreted expansively to include or cover matters that are not paria materiae with "assets", that is not of the same subject matter as "assets"?

8. The Commission now addresses this issue. It is trite law that, as a rule of statutory interpretation, the ejusdem generis rule teaches that where a class of things is followed by general wording that is not itself expansive, the general wording is usually restricted to things of the type as enumerated. By way of an illustration from everyday life, Driedger, a noted scholar, once suggested that "ordinarily a husband who authorized his wife to purchase a hat, coat, shoes and 'anything else you need' would not expect her to buy anything else but clothes". Hence to resolve the jurisdictional issue raised, I opine that the ejusdem generis rule should apply. To this end, I rely on the authoritative statement of Cockburn, CJ in R v. Cleworth (1864), 4 B & S 927, to wit:

> "According to well established rules in the construction of statutes, general terms following particular ones apply only to such persons or things as are ejusdem generis with those comprehended in the language of the legislature."

(b) The Sierra Leone Domestic Law Perspective: The Ruling

9. Guided, generally, by the purposive rule of statutory interpretation as to the true meaning of section 4 of Constitutional Instrument No. 65 of 2018, the Commission hereby determines that an expansive interpretation of the section to include the issue in controversy between the State and Dr. Blyden arising out of the alleged incident of December 28, 2016, under the rubric of 'abuse of

power' or abuse of office' (unrelated to unjust enrichment) is not reasonable or permissible. Hence, it is not an episode cognizable by a Commission of Inquiry mandated to investigate and establish culpability for political corruption and unjust enrichment. The Commission, accordingly, rules as follows:

> (A) That in the context of the Sierra Leone domestic law perspective, it is reasonably clear from the language, context, scope and purview of Constitutional Instrument No. 65 of 2018, that the legislature intended that section 4 of the aforementioned enactment should not encompass, within its focal universe of acts amenable for investigation and culpability, acts unrelated to, and unconnected with, unjust enrichment.
>
> (B) That it is also reasonably clear, in the context of the Sierra Leone domestic law perspective, from the aforesaid enactment that the legislature, did not contemplate an expansive interpretation of the second conjunct , to wit, "and other related matters" in section 5, to include acts associated with the alleged incident of December 28, 2016.

10. Accordingly, it is the considered view of the Commission that from the Sierra Leone domestic law perspective, this Commission is not properly seised of the issue in controversy between the State and Dr. Sylvia Blyden, as a former Minister of Social Welfare, Gender and Children's Affairs. The Commission firmly opines that the domestic criminal justice system to which recourse was initially had for action by the Criminal Investigation Department, albeit ineffectively, is the proper forum for a complaint of this nature.

(c) The International Law Dimension: Analysis and Conclusions

11. However, as earlier indicated, the issue in controversy, may well have some international law dimensions or implications, given the fact that the former Minister's portfolio covered the rights of children, a subject of considerable global concern, of which internationally, Sierra Leone has taken a leading role in the Africa Region. From this perspective, the Commission now deems it appropriate to determine whether the former Minister's alleged conduct constituted a breach or attempted breach of international law, customary or treaty law, or might reflect adversely on the country's commitment to international.

12. I argue that it may now be taken as settled international law principle that promoting, protecting, and enforcing the rights of children in our contemporary world are moral and legal imperatives universally.

13. In the international law context, the contention of the State is that the former Minister's conduct of inciting "thugs" or "able-bodied men dressed in black" on the 28th of December 2016 to inflict violence or threaten to inflict violence on members of the Children's Forum Network (CFN) in the compound of the Ministry of Social Welfare constituted physical abuse or threat to use violence upon children who were under her ministerial jurisdiction. The State submitted that such conduct was in contravention of the letter and spirit of the United Nations Convention on the Rights of the Child, 1989, an international Treaty to which the State of Sierra Leone is a Contracting Party, and incorporated into its domestic law in 2007. Based on that formulation of the State's complaint

against the former Minister of Social Welfare, one aspect of the issue for determination, from the international law perspective, is whether the December 28, 2016 incident calls into question the political or ministerial judgment or suitability of the former Minister for the supervision of a Ministry vested with jurisdiction to implement nationally a major international treaty of such magnitude and complexity.

14.One inference deducible from the State's witnesses' testimonies against the former Minister is that the complaints were in no way motivated by any sinister or vindictive desire to attribute criminality to her in the discharge of her ministerial functions. On the contrary, although there was a veiled acknowledgement, on their part, of her as a disciplinarian and a person of integrity, it would seem that they perceived her as an authoritarian figure, despite her maternal image.

15. On the assumption that it is probable that conduct of such a nature could have an adverse effect on the country's commitment to international treaty obligations, and guided by relevant treaties proscribing incidents of that nature, to wit: the United Nations Convention on the Rights of the Child, 1989, the African (Banjul) Charter on Human and Peoples' Rights, 1986, the Sierra Leone Child Rights Act, 2007. It is my judgment that the Convention's provision which is dispositive of the issue is Article 19(1). It provides that:

"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other who has the care of the child."

The evidence adduced before the Commission was that the children involved were subject to violence or threatened violence in an atmosphere where armed security officers were on duty as personal guards to the former Minister, with the potential of an outbreak of hostilities. This, in the State's submission, was an abuse of authority.

By parity of reasoning, Sections 23 (1) and 33 (1) of the domestic law of Sierra Leone, the Child Rights Act, 2007 are on point on the issue Section 23 (1) enacts:

"Every child has the right to life and to survival and development to the maximum extent possible."

Section 33(1) enacts:

"No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanizes or is injurious to the physical and mental welfare of a child."

16. Of some collateral relevance are two themes of customary law significance recognized by sections 43 and 44 (1) of the Act that must be alluded to here for the reason that evidence was adduced before the Commission, illustrative of the cultural tension between global norms and local or customary norms. It is that of the uncle of one of the complainants. He told the Commission

that at some stage following the incident complained of, he took his nephew for a reconciliation meeting with Dr. Blyden. He testified that under their tribe's customary culture and tradition, children were expected to show respect for their elders, and that the former Minister should be perceived as a mother-figure. The uncle affirmed the existence of this tradition, and said that he insisted that his nephew should apologize to the former Minister. However, there was an indication from the testimony that there was an element of duress applied. It is clear that this piece of evidence exemplifies the thematic thrust of the aforementioned statutory provisions. Section 43 provides that:

> "A person entitled by custom or tradition to render appropriate direction and guidance and make provision for the needs of the child shall not be prevented from offering such services to the child if the services are in the short- and long-term best interests of the child."

Section 44 (1) states:

> "The guidance of a child from parents, relatives and service providers shall include the use of tradition and cultural standards to foster the development of a sense of responsibility in the child, subject to his evolving capacities."

17. Provisions of these nature reflect the perennial cultural tension between western values (now globalized) and the entrenched customary law culture of developing democratic countries (previously under colonial domination). Evident in the formulation of those treaty provisions is the negotiating compromise between the two cultures as to what constitute the best interests of a child as the formula is to be applied to eliminate the cultural tension. . It is extremely doubtful whether those in political leadership positions who propose and implement national policies based on international convention for the protection and welfare of children are sensitive to those cultural nuances, especially in the overall context of what is in the "best interest of the child", which, must vary with the particular facts and circumstances of each case.

18. The Commission notes that there has been a plethora of scholarly studies in various forms on the subject of the rights of the child since the adoption, signing, ratification, entry into force, and incorporation of the Convention into national laws. I will highlight two samples of them in so far as they are relevant to the Articles of the Convention and the provisions of the Sierra Leone Child Rights Act cited in the previous paragraphs. Lansdown, an expert on the subject, enumerates certain quintessential values for the protection of children's rights and their human development. They are: (a) that children have a right to respect and their human dignity; physical and psychological integrity; (b) that participation in activities for the promotion of their welfare contributes to personal development; (c) that participation serves to protect children; and (d) that participation contributes to preparing children for civil society development, tolerance, and respect for others (2011). Further, in an Article titled "The Child's Rights Act: The Sierra Leone Model" published in The Chronicle, First Edition, 2012, I wrote with much optimism on this unique development in the promotion and protection of the rights of children. These were my words:

"However, the inference is irresistible that by adopting the bold and progressive initiative of incorporating the Convention's norms and principles into its municipal law, the State of Sierra Leone has become one of the leading principled defenders of children's rights in the African Region, thereby enhancing its commitment to the rule of law, nationally, regionally, and globally. By this unique legislative model, the State of Sierra Leone has demonstrated its ability, willingness and determination to be the regional pace-setter in Africa in the global effort to establish international standards for children's rights." (p. 19).

19. Given the incident of the 28th of December, 2016, it can, quite pertinently be inquired whether the said incident did tarnish Sierra Leone's image as "the regional pace-setter in Africa in the global effort to establish international standards for children's rights". One answer is that probably it did.

20. However, judicial speculation must be tempered with judicial restraint in such matters. As Judge Commissioner, I am inclined to adopt such restraint, I will, however, make some appropriate findings. The first is that the incident that took place on December 28th 2016 attributed to Dr. Sylvia Blyden, in her capacity as former Minister of Social Welfare, Gender and Children Affairs does not rise to the level of a breach of international law, customary or treaty law, I take this position because all the complainants, in their testimonies, stated that they had no direct knowledge of recruitment of "thugs" by the former Minister. Each of them said they learnt of this from one another. They also said that they had knowledge that Dr. Blyden had indeed promoted the welfare of children in the country for which she has received several accolades notably, that of National Goodwill Ambassador for Children.

21. It is a fair judgment, too, that the former Minister was flawed in her judgement in handling such a situation, involving armed personal security guards of the Minister and police officers on the scene that could have escalated into something dangerous with children, with the probability of affecting Sierra Leone's commitment to, and progress in promoting, international law. But, what did she say in her defence? The answer is there are two categories. The first is;

"My Lord, I submit that this matter is part of a political agenda to stop my presidential ambitions in Sierra Leone. I have broken a few glass ceilings as is not common in this country, politically and otherwise. It is no secret. I have that my ultimate said several times in 1994 that my ultimate ambition is to be President of Sierra Leone."

22. The second category can be gleaned from this list:

> (i) "That when I took over as Minister of MSWGCA, I uncovered a series of serious and egregious corruption issues to the tune of millions of dollars and sadly, revolving around United Nations local agencies especially UNICEF."
>
> (ii) "That one such issue of apparent corruption uncovered by me involved what appeared to be money laundering…."

(iii) "That the motive for such recruitment of children was for the children to be used as pawns in a desperate plot to have me sacked as Minister."

(iv) "There is Evidence that operatives of British Government such as Mr. Chris Gabelle and Mr. Richard Carter of DFID were aware of a very nefarious act of certain employees of Her Majesty's Government of Britain who had UNLAWFULLY published an international bidding advertisement for a Six Million Pounds Sterling project around Female Genital Mutilation (FGM) in official name of Government of Sierra Leone's Ministry of Social Welfare, Gender & Children's Affairs (See Exhibit (MSW) DBE 1-13); all done after I, as the then MSWGCA Minister, had expressly stated to the British Government that the FGM Project, as then drafted, was not feasible as it will threaten peace and social cohesion in Sierra Leone."

(v) "There is Evidence that the United Nations on December 20th 2016 sent a letter to the then Minister of Foreign Affairs with a barely veiled ultimatum for Sierra Leone Government to choose between either UNICEF's support to Government or my continued retention as Minister of MSWGCA; [See Exhibit (MSW) DAL1-4]."

23. The Commission's response to these defences is that they are "all sound and fury, signifying nothing!" (Macbeth, William Shakespeare).

(iii) Conclusion

24. In formulating the conclusion in respect of this episode, the Commission takes the cue from the submission of the State that the conduct of the former Minister in relation to the CFN demonstrated a considerable lack of empathy for welfare of children. In this regard, as Judge Commissioner, I take a broad perspective: one can invoke the relevance of the Hippocratic Oath in this context, the professional guidepost of Dr. Sylvia Blyden as a Medical Doctor. The implication, here, is that her judgment in responding to the episode of December 28th, 2016 could have reflected the two cardinal values of her profession: compassionateness and empathy. Admittedly, this is not to be oblivious of the fact that one of the formidable challenges confronting Sierra Leone as a nation today is youthful indiscipline and lawlessness.

(iv) Specific Recommendation

25. The State called for a recommendation that Dr. Sylvia Blyden be banned from holding public office for a specified period of time. Predicated upon my reasoning and findings herein, justice dictates that I issue no such injunction.

(I) ASSETS DECLARATION AND DISCLOSURE: GENERAL PRINCIPLES

A. (i) Introduction

1. Contemporary research studies, national, regional, and international reveal that corruption is endemic in the public sector in most countries of the world. This finding is predicated upon anecdotal as well as empirically- based evidence. It is a plausible viewpoint that where assets of public officials are declared upon assumption of public office, officials could be more effectively amenable to public scrutiny. Studies also show, compellingly and persuasively, that the assets of public officials in developing countries, to use familiar legislative terminology, are often found to be incommensurate or disproportionate to their official emoluments', or that the public official 'owned or was in control of pecuniary resources or property disproportionate to his official emoluments' These findings frequently do raise much speculation as to how such assets were acquired.

2. There is, also, widespread consensus among the experts on the subject that asset declarations of public officials do constitute an effective deterrent against corruption, illicit enrichment, and conflict of interests. According to the World Bank, more than 150 countries have introduced asset declaration provisions for their public officials.

3. This is underscored by the OECD (the Organization for Economic Co-operation and Development) which is one of the leading advocates of asset declaration and disclosures as an imperative for good governance globally. In a leading publication titled Asset Declarations for Public Officials- A Tool to Prevent Corruption, 2011, the OECD enunciated its policy perspective on the subject in these terms:

> "Corruption is a key threat to good governance, democratic processes and fair business competition. Fighting corruption and promoting good public governance are among the main priorities of the OECD. In addressing corruption and governance, the OECD takes a multidisciplinary approach which includes fighting bribery of foreign public officials, combating corruption in fiscal policy, public and private sector governance and development aid and export credits. The OECD is a leader in setting and promoting anti-corruption and good governance policies. It ensures their implementation through peer reviews and monitoring of member states and by providing domestic anti-corruption and good governance efforts by fostering sharing of experience and analysis and through regional programmes."

(ii) General Principles

4. This Narrative provides an overview of the general applicable principles of assets declaration in the public service, globally and, with specific reference to Sierra Leone.

5. The first principle relates to the scope of the asset information to be declared. The scope of the information to be declared depends on the purpose of the declaration. In this regard, conflict of interest control requires information about specific interests that have the potential of unduly influencing the discharge of official duties rather than a necessarily all-encompassing profile of all

incomes, assets, outside businesses, and other activities. On the other hand, proper wealth monitoring is possible only when the declared information truthfully and accurately reflects all substantial income and assets, and fluctuations thereof.

6. The second principle concerns whether the information should be disclosed to the public. The position is that there is a global trend towards greater disclosure, and striking the right balance between public disclosure and protection of privacy rights remains an acutely contentious issue. The pith of the contention is whether the right to privacy, even though now universally recognized as a human right, is an absolute right. The judicial and academic insights reveal that a consensus has now emerged that the right is not absolute. The United Nations Convention against Corruption, 2003 affirms this position.

7. The third principle is that of the legal basis for assets declaration and disclosure by public officials. In this regard, it is noteworthy that several types of legislation can serve as the legal basis for public officials' declaration of assets. Usually assets declarations are regulated by key benchmarks. They are as follows:

i. written laws (constitution and legislation) requiring public office holders to declare their assets and liabilities;

ii. the categories of officials covered, namely, elected and appointed public officials and public and civil servants;

iii. the requirement that the declaration cover spouses and dependent children;

iv. variations with regard to verifiability, accessibility, coverage, content, and sanctions for non-compliance;

v. declaration to be made at regular intervals, for example, yearly, and at the end of the term of office.

8. The fourth principle specifies the nature of disclosable assets. They encompass real estate income, assets, gifts, expenses, pecuniary and non-pecuniary interests, various types of movable property (e.g. vehicles, vessels, valuable antiques, works of art, construction materials, shares, and other securities, extended loans, savings in bank deposits, and cash).

9. A fifth principle is that the law requires that an effective and credible assets declaration regime should spell out with clarity what assets, liabilities and pecuniary interests public officials must declare.

(iii) Jurisprudence

10. The legal requirement to disclose assets can always be challenged. The jurisprudence shows this. The major ground for challenge is that of invasion of private rights. At the international law level, there is a very authoritative decision by the European Court of Human Rights on the issue. It is Wypch v. Poland (October 25, 2005). That was an application by a Polish Local Council Member who brought a complaint on the issue of assets declaration and disclosure. He had refused

to submit his asset declaration, claiming that the obligation to disclose details concerning his financial situation and property portfolio imposed by legislation was in contravention of Article 8 of the European Convention on Human Rights.

11. The Court found that the requirement to submit the declaration and its online publication were indeed an interference with the right to privacy, but that it was justified and that the comprehensive scope of the information to be disclosed was not found to be excessively burdensome. The Court enunciated the principle that "the general public has a legitimate interest in ascertaining that local politics are transparent."

12. Relying partly on the reasoning in that case, I had occasion to rule, in disposing of an objection by Counsel Joseph F. Kamara Esq., representing the former President of Sierra Leone, Dr. Ernest Bai Koroma, a person of interest, on the 20th day of November 2019, that "the contemporary jurisprudence strongly supports the school of social science thinking that the right of privacy is not an absolute right, and that it is a qualified right that may sometimes have to give way to some superior value or interest, applying the proportionality and rationality test as to the objective to be served." I further ruled that, in the context of the objection taken by Counsel, "the former President's privacy right in respect to Exhibit (AI) B 1-40 must, in the instant situation, yield to the overriding value or the interest of the public in the disclosure of assets of persons specified in section 4 of Constitutional Instrument No. 65 of 2018, an investigative framework for uncovering unjust enrichment."

(iv) The Sierra Leone Framework for Assets Declaration and Disclosure

13. It is common knowledge that across the world, most countries expect political leaders to make assets declaration and disclosure. This is now a mandatory requirement of law. The legal authority imposing this obligation on public officials in Sierra Leone is section 119 (1) of the Anti-Corruption Act No.12 of 2008. The provision enacts that:

"Every public officer shall, within three months of becoming a public officer, deposit with the Commission a sworn declaration of his income, assets and liabilities and thereafter not later than 31st March in each succeeding year that he is a public officer, deposit further declarations of his income, assets and liabilities and also while leaving office."

Furthermore, the use of assets declarations as evidential tools for adjudicative or investigative purposes is provided for in section 119 (13) supra, as follows:

"Subject to this Act, the Commissioner, Deputy Commissioner, Directors and other persons having official duties under this Act, or being employed in the administration of this Act, shall deal with all documents and information, and all other matters relating to a declaration under this Part, as secret and confidential, except where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or inquiry in respect of a declarant under this Act, or before a commission of inquiry."

14. From the regional perspective, it is also noteworthy that Sierra Leone is a Contracting State Party to the Economic Community of West African States (ECOWAS) Protocol of 2001 on the

fight against corruption. It defines "property of any kind whether moveable or immoveable, tangible or intangible and any document or legal instrument demonstrating, purporting to demonstrate, or relating to ownership or rights pertaining to such assets." Again, a similar obligation is imposed on public officials whose member States are Contracting Parties to the African Union Convention on Preventing and Combating Corruption, adopted in Maputo in 2003. Sierra Leone is one such Contracting Party.

15. At the global level, of much significance is the United Nations Convention against Corruption (UNCAC), adopted in New York in 2003, which has been ratified by 166 countries. According to Article 8 (5) of the aforesaid Convention:

"Each State Party shall endeavor, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, outside activities, employment investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials."

Sierra Leone is also a Contracting Party to the said Convention. It was on the bases of the foregoing several guidelines as to the applicable principles and criteria regulating assets declaration and disclosure on the part of public officials who served in Sierra Leone during November 2007 and April 2018 that Commission of Inquiry No. 2 proceeded to carry out its assignment of investigating the assets of the various persons of interest subject to its jurisdiction, regardless of whether they appeared in person or through Legal Counsel at the Commission's proceedings.

(v) Conclusion

16. One problematic aspect of the evolving body of law is that, from the law enforcement perspective, lack of reliable data, poor record management systems, close family affinities and sheer reticence (otherwise referred to as "the culture of silence") on the part of members of the public to provide relevant information, do impede and frustrate credible investigation of assets that are proceeds of predicate offences, including corruption, in Africa, and indeed in Sierra Leone. This situation is also exacerbated by instances wherein Investigators are subjected to threats, intimidation, physical attacks and verbal abuse by friends, relatives and associates of persons whose assets are being investigated. This was exactly the kind of difficult and hostile environment that the Investigation Team which formed part of the Secretariat of Commission of Inquiry No. 2 had to operate in during the course of the Assets Investigation.

17. Another major challenge that has been identified with efforts at investigating assets relates to the bureaucratic hurdles that have to be surmounted in the process of seeking legal assistance from countries that have supposedly provided a safe haven for corrupt public officials, or played host to their corruptly acquired wealth. As a matter of fact, Commission of Inquiry No. 2 was especially limited by time and resources in the bid to investigate any of the assets declared abroad. It is, therefore, the Commission's position that assets which will subsequently be identified or discovered through various sources available to the relevant institutions of government could

properly be investigated pursuant to the ECOWAS Protocol, the African Union Convention, or the UNCAC, as the case may be.

B. EXAMINATION OF THE ASSETS OF NAMED PERSONS OF INTEREST

The Commission's Factual Findings on the Assets Investigation are as follows:

1. Dr Ernest Bai Koroma, Former President of the Republic of Sierra Leone

Dr. Ernest Bai Koroma served as President of the Republic of Sierra Leone for the period November 2007 to April 2018. On the 5th of August 2008, he declared his assets as shown in Exhibit (AI) AB1-40, particularly pages 28 to 40. In the said declaration, his assets were as follows: -

A. 1. Cash at hand Le 5,000,000

2. Cash at Bank the Sierra Leone

a. Sierra Leone Commercial Bank – Account No. 011002185.01

Amount Le 8,781,898.45

b. EcoBank Sierra Leone Ltd – Account No. 5001021110118

Amount Le 54,509.527.00

Total Amount at Bank in Sierra Leone = Le62,291,727.45

3. Bank outside Sierra Leone

a. National West Minister Bank – Account No. 48452246

Amount €12,660.00

B. Landed property in Sierra Leone

1. Building

a. Land and house at Femi Turner Drive acquired in 1990, total value Le400,000,000 (residential)

b. Hotel under construction in Makeni acquired in 2000 valued Le600,000,000

2. Farm Land

a. Rotham – Makari Gbanti acquired in 2005 valued Le200,000,000.

3. Vacant Land

a. Baoma Fakai, Goderich acquired in 1998 valued Le117,200,000

b. Robureh, Makeni acquired in 2009 valued Le200,000,000

With regard to the buildings, he stated that he acquired them through loan and investment incomes, whilst the farm land and vacant land were acquired through savings and investment incomes (see pages 31 of Exhibit (AI) AB1-40.

His movable assets were declared as follows: -

1. Vehicles

   a. Toyota Sequoia Acquired in 2004 registered No. ABY 644 valued at $22,000

   b. Toyota Land cruiser acquired in 2006 registered No ADE 492 valued $25,000

   c. Toyota FJ cruiser acquired in 2007 registered No. ADS 002 valued $35,000

   d. Toyota Land cruiser acquired in 2006 registered No. ACF 201 valued for $25,000

   e. Toyota Prado acquired in 2007 registered No. ADB 870 valued as $40,000

Total value of vehicle owned by the former President then was $147,000

2. Machinery

   He declared a Generator acquired in 2006 costing Le80,000,000.

He also declared Furniture and Fittings acquired from 2002 to 2007 worth Le200,000,000 the moneys according to him for these acquisitions were from:-

a. personal savings

b. gifts for 2007 campaign

c. loan

d. proceeds from investment

The former President stated that he had a Life Assurance Policy, received pension from NASSIT and acquired Treasury Bearer Bonds, although no specific value was placed on these declarations.

He also declared that he is a shareholder in the following institutions:

a. Reliance Insurance Trust Corporation with 63,391,191 shares

b. First Discount House with a share of 117,299 shares

c. National Agricultural Development Company (NADECO) with a share of 1,250,000

During his tenure as President, his official emoluments for 124 months totalled Le2,740,439,563.00 see Exhibit (AI) AY.

Within the period 27th June 2011 to 29th August 2018 the former President received the total sum of Le213,908,082.20 as Government NASSIT Pension [see Exhibit (AI) BD1-42]. The former President also received the sum of Le573,373,323.00, Le333,754,621.00, Le342,312,432.00 and Le273,849,943.00 totalling Le1,523,289,322.00 from RITCORP presumably as dividend on shares [see page 4 of Exhibit (AI) BD1-42 and (AI) BE 1-8, pages 4, 5 and 9].

In his subsequent declaration of assets as President, i.e. between 2008 and 2018 the President did not declare receipt of gifts from anyone as required by Section 5 (4) of the Anti-Corruption Act No. 12 of 2008.

The legitimate income of the former President between the period November 2007 and April 2018 was found to be thus: -

a.	Salaries	–	Le2,740,439,563.00
b.	NASSIT Pension	-	213,908,082.20
c.	Income from Investment	–	1,523,289,322.00
	Total	**–**	**Le4,477,636,967.20**

This legitimate amount of Le4,477,636,967.20 plus the amount declared in (AI) AB1-40, page 32 totalling Le5,000,000 as cash at hand plus Le 8,781,098.45 cash at Sierra Leone Commercial Bank plus Le54,509,529.00 representing cash at EcoBank totalled Le4,545,927,594.65 plus £12,000 being money at the foreign bank.

The former President submitted an Exit Declaration to the Anti-Corruption Commission dated 27th February 2019, which was admitted in evidence as Exhibit as (AI) AB 1-40 in which he declared that he owned a landed property on a 1 acre land at Femi Turner Drive, Goderich, Freetown and a retirement house and residential house on a 15 acre land at Robureh, Makeni Town, Bombali District, Northern Province of Sierra Leone. No value was indicated in respect of these properties.

He also declared the sum of Le558,000,000.00 in Account No. 102185100981 at the Sierra Leone Commercial Bank, and the sum of $26,484.46 at Sierra Leone Commercial Bank Account

No.00283 and the sum of Le5,000,000.00 at the EcoBank Account being declared as salary received.

He further declared movable assets including Nissan Patrol valued at Le200,000,000.00; Mercedes Jeep valued at Le 250,000,000.00; Toyota Land cruiser valued at Le150,000,000.00; and Rambo Ruber valued at Le 200,000,000.00. The total value of the vehicles is Le800,000,000.00.

Again, he declared that he had shares of 380,347 at RITCORP valued at 8000 per share and shares of 413,086 at Yaicare valued at $1.50 and 60 percent shares at NADECO.

He stated that his liabilities included an overdraft of Le858,600,000 at the Sierra Leone Commercial Bank and outstanding payment to contractors for building under construction. During the investigation it was evident that the former President currently owns several properties at Femi Turner Drive, Goderich, Freetown.

It is also evident from the Exit Declaration that the land in question increased in size from 0.5216 initially to 1 acre, with an indication that the additional land was acquired during his tenure as President, precisely between 2012 and 2016 [see Exhibit (AI) BD 1-7].

According to the testimony of Mr. Haysam Raad, the Executive Director of EACON, an Engineering and Construction Company, the former President contracted his Company to "…look at his existing house at Marjay Town, to demolish the existing building and come up with a design of a new house. EACON also received an instruction from His Excellency that EACON should build the carcass at the proposed structure, as His Excellency will provide all finishing materials. The total cost to do the design and to build up the structure to roof height was negotiated for Le887,729,500.00 (Eight Hundred and Eighty-seven Million, Seven Hundred and Twenty-nine Thousand, Five Hundred Leones). The design work and building was made and payments were made." [see Exhibit (AI) AZ 1-36, pages 2-3].

The facts were that the existing structure he had acquired prior to becoming President was demolished, and a new structure constructed on the land during his tenure as President. Exhibit (AI) BD 1-10 relates to No. 11 Femi Turner Drive, and Exhibit (AI) BP 1-7 relates to Nos 6 & 8 Femi Turner Drive valued, respectively, at $4,484,000.00 equivalent to Le35,872,000,000.00 and $585,000.00 equivalent to Le4,680,000,000.00.

The total value of the property at Femi Turner Drive as evidenced in the said Exhibit (AI) AB 1-40 amounts to $5,069,000.00 equivalent to Le40,554,000,000.00.

Further in the statement of Mr. Haysam Raad exhibited as (AI) AZ 1-36 at pages 3 and 4, it is disclosed that the former President constructed a structure at Makeni and the project was directly negotiated with the former President himself in 2015. He stated that the concept of the project was for EACON to build the main house only, whilst other contractors will do the external work, but EACON was later engaged to do the retaining wall. He had this to say in respect of the cost for work done by his company, "The total cost of the house only was USD2,522,930 (Two Million, Five Hundred and Twenty Two Thousand, Nine Hundred and Thirty United States Dollars) whilst

the cost of the extra work was USD1,209,500 (One Million, Two Hundred and Nine Thousand, Five Hundred United States Dollars).

The witness further stated that, "The method of payment for this project was made through a Chinese Company called Xinlin Mining (SL) Ltd. We were instructed by His Excellency's Personal Assistant, Mr Brian Gilpin to produce Invoice to the aforesaid Company…." Exhibit (AI) BQ 1-3 is a Valuation Certificate in respect of the structure at Robureh in Makeni. The said structure was valued at USD7,000,000, which is the equivalent of Le56,000,000,000. The former President indicated in his Asset Declaration of 2008 that the value of an empty land he owns at Robureh in Makeni was Le200,000,000.

On the 26th of June 2015, the former President purchased a piece and parcel of land at Disiya Road, Mahera, Lungi, Kaffu Bullom Chiefdom in the Port Loko District at a purchase price of Le20,000,000 [see Exhibit (AI) BR 1-11, pages 7-10]. Development works were carried out on the said land, including fencing work amounting to Le700,000,000. He, however, did not declare the said property in his Exit Declaration of 27th February 2019.

Also presented before the Commission was a Valuation Certificate in respect of a property situate and being at Sylvanus Road, Timbo Avenue in Makeni, which is known as Starlet Hotel Estate owned by the former President [see Exhibit (AI) BS 1-2]. This property was valued at USD897,500 equivalent to Le7,180,000,000.

As is the case with the undeclared property in Lungi, so were there other properties identified and suspected to be owned by proxy on behalf of the former President.

They are as follows:-

a. Property situate, lying and being at Gbangba Yilla, Hill Station, Freetown suspected to be owned by the former President. The said property is undeveloped and valued at USD200,000 equivalent to Le1,600,000,000 [see Exhibit (AI) BT 1-3]. Despite efforts by the Commission to trace any opposing claimant to this property, nobody showed up.

b. House and land situate and lying at Blue-Bell Drive, Off Spur Road, Freetown [see Exhibit (AI) BV 1-20]. This is a modern dwelling house unoccupied by any family, and in respect of which the Caretaker on site refused to disclose the owner. The said property is valued at USD252,000 equivalent to Le2,016,000,000. Despite communications with Solicitor Roland A. Nylander acting for the purported owner, Mr. Mohamed Koroma, inviting him to appear in person, the said Mr Mohamed Koroma never surfaced.

The history of the land showed that it was initially owned by the Government of Sierra Leone and granted to the Ministry of Works, Housing and Infrastructure and a Company known as Zhong-Gi-Style Development Ltd, for the purpose of an affordable Housing Project. The land eventually ended up in the name of one Mohamed Koroma for his personal use and benefit, and in breach of the intention of the Government of Sierra Leone.

c. House and land situate, lying and being at Jeremiah Drive, Regent, Freetown. The evidence indicates that this property is suspected to have been constructed by the former President, Dr. Ernest Bai Koroma [see Exhibit (AI) BU 1-11]. The property was investigated and a Title Deed dated 27th January 2015 was submitted by Solicitor Ady Macauley representing one Ramatu Kamara and Enoch Bai Koroma. The said property was valued at USD1,700,000 which is equivalent to Le13,600,000,000.

d. House and land situate and being at Port Loko District known as Buya Hotel valued at USD9,731,250 equivalent to Le77,850,000,000. The said property is suspected to be owned by the former President. However, Counsel for the Defence, Mr. Joseph Fitzgerald Kamara disclaimed ownership of the property by the former President, claiming instead that the property belonged to somebody else, although no one else appeared before the Commission to claim ownership of same. The said property therefore lacks legitimate ownership.

The mathematical calculations show that the value of assets acquired by the former President during his tenure as President far exceeds his total emoluments and legitimate earnings.

Furthermore, there is evidence in Exhibit (AI) AW 1- 4 to show that the former President deposited the sum of USD100,000 into his Account at the Sierra Leone Commercial Bank, Siaka Stevens Street Branch. This deposit was made by Mr. Alhassan Samura, one of the security personnel attached to the former President [see page 2 of the said Exhibit]. The said Mr Alhassan Samura testified as a witness before the Commission. The evidence contained in Exhibit (AI) BB 1-12, pages 1, 10 and 11 also shows that the former President, during his tenure in office, obtained seven (7) vehicles, none of which were indicated in his Asset Declaration of 2008. Six (6) of the said vehicles were not captured in the Customs Management System database and no value could be placed on them. Two (2) of the said vehicles were mentioned in the former President's Exit Declaration of 2019 to the Anti-Corruption Commission. A vehicle with Chassis No. JTMHB01J5E4150704 (NEW) T. Land Cruiser Jeep CH which went through the ASYCUDA system was valued at USD56,608.07 equivalent to Le281,283,366.00. The value of the remaining vehicles as stated in the said Exit Declaration is Le950,000,000. The Commission could not place monetary value on some of the vehicles because they could not be traced, and they include those with the following Vehicle Registration Numbers (VRN): AFJ 710, AFJ 791, AFV 200 and AHE 022.

The former President, Dr. Ernest Bai Koroma did not appear in person before the Commission to contest the evidence put forward by the State, nor was any reasonable explanation preferred by the Defence concerning his assets, the total value of which were found to be disproportionate to his official emoluments or legitimate sources of income. The Commission hereby concludes that the former President was in control of pecuniary resources or property disproportionate to his official emoluments and also maintained a standard of life above that which was commensurate to his official emoluments.

Recommendations:

The Commission hereby recommends as follows:

(A) That property registered in the Office of the Administrator and Registrar General as No.1253/2014 at page 103 in Volume 729 conveyed by the Ministry of Works, Housing and Infrastructure and Zhong Ji Shiye Development Company Ltd to Mohamed Koroma on the 30th May 2014 situate, lying and being at Off Spur Road, Blue Bell Drive, Freetown in the Western Area of Sierra Leone be confiscated and forfeited to the State, as ownerless property (bona vacantia).

(B) That property situate, lying and being at Gbangba Yilla, Hill Station, Freetown suspected to be owned by the former President, Dr. Ernest Bai Koroma, but in respect of which he denied ownership be confiscated and forfeited to the State on the grounds that it is bona vacantia, that is ownerless property.

(C) That property situate, lying and being at Port Loko District in the Northern Province of Sierra Leone be confiscated and forfeited to the State on the grounds that it is bona vacantia, that it is ownerless property.

(D) That property situate at Nos. 6 and 8 Femi Turner Drive, Goderich in the Western Area of Sierra Leone, in the name of Dr. Ernset Bai Koroma, registered on 12th May 2016 at Page 144 in Volume 767 in the Books of Voluntary Conveyances kept in the Office of the Administrator and Registrar General be confiscated and forfeited to the State on the grounds that they were (i) purchased during the former President's tenure of office, (ii) he failed to disclose them in his Assets Declaration, and (iii) the structures are worth thousands of dollars, without any explanations proffered for such unexplained or extraordinary wealth evidencing incommensurability and disproportionality between the former President's assets and official emoluments.

(E) That property situate, lying and being at Robureh, Makeni, Bombali District in the Northern Province of Sierra Leone belonging to Dr. Ernset Bai Koroma be confiscated and forfeited to the State on the grounds that the property evidences compellingly (i) the incommensurability between the standard of life of the former President and his official emoluments during the period under review, (ii) the disproportionality between the former President's ownership and control of property and his official emoluments, (iii) failure on the part of the former President to disclose the said property in his Exit Declaration of Assets, contrary to section 122 of the Anti-Corruption Act, 2008; and (iv) failure to explain such extraordinary wealth.

(F) That, predicated on prima facie evidence proffered before the Commission, there was some questionable financial relationship between the former President and a Chinese Company known as Xinlin Mining (SL) Limited, bearing some nexus to the property at Robureh in Makeni which, in the Commission's view, may justify investigation by the Cabinet. It is so recommended.

2. Dr. Kaifala Marah, Former Minister of Finance and Economic Development

Dr. Kaifala Marah served as Minister of Finance and Economic Development, Chief of Staff in the Office of the President and Governor of the Bank of Sierra Leone. His emoluments from 2013 to 2018 totalled Le574,328,464.00. See Exhibit (AI) HF. He swore to an Affidavit which was tendered as Exhibit (AI) HM 1-76, pages 36-49 as part of his Asset Declaration Form dated 20th October, 2010. The evidence indicates that all the assets of Dr. Kaifala Marah, with the exception of vehicles, are declared as jointly owned by he and his wife. The evidence further indicates that he acquired the assets in question prior to his appointment into office in 2010.

In his Exit Declaration marked Exhibit (AI) HE 1-6 dated 1st of April 2019, he declared as Cash at Hand the sum of Le2,500,000.00

Cash at Bank personally owned as follows: -

Sierra Leone Commercial Bank	Savings	Le2,050,956.49
Sierra Leone Commercial Bank	Current	Le1,698,989.93
Commonwealth Secretariat Staff Credit Union		€2,086.80

He and his wife jointly constructed a House at Taiama, Moyamba District at the cost of Le100,000,000.00.

He declared the following Vehicles as part of his movable assets:

a. Lexus Jeep registered as AMQ 121 valued at Le35,000,000 acquired in 2016;

b. Jeep registered as AMS 169 valued at Le28,000,000 acquired in 2017.

However, Exhibit (AI) HN 1-4 indicates that he bought an additional nine (9) vehicles during his term in office, apart from the two (2) vehicles he declared. Exhibit (AI) HH 1-4 is a Title Deed of property in Koinadugu District jointly acquired by Dr. Kaifala Marah and his wife in 2014 at the cost of Le99,000,000.

Exhibit (AI) HK 1-4 is a witness statement of one Madam Toma Elias who testified to the joint ownership of the property in Koinadugu District owned by Dr. & Mrs Kaifala Marah, supported with a copy of a Title Deed which she produced to the Commission.

It is the view of the Commission, that Dr. Kaifala Marah produced sufficient evidence of his sources of income in respect of the assets acquired during his tenure in public office.

After a meticulous judicial examination and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Dr. Kaifala Marah, former Minister of Finance, the Commission hereby concludes as follows:

(A) That Dr. Kaifala Marah did not maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That Dr. Kaifala Marah did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

3. Dr. Samura M. W. Kamara, Former Minister of Finance and Economic Development/Former Minister of Foreign Affairs and International Cooperation

Dr. Samura M. W. Kamara served in the Government as Minister of Finance and subsequently as Minister of Foreign Affairs from 2009 to 2007. His emoluments during this period totalled Le1,237,241,840.00 [see Exhibit (AI) EF]. He declared his assets in 2009, which is marked as Exhibit (AI) EA 1-15 dated 20th July 2011. Prior to that, he served as the Governor of the Bank of Sierra Leone.

He declared his assets as follows: -

(i) a house in London costing £84,000 which was mortgaged in 1991.

He declared the following immovable property acquired in Sierra Leone: -

i. Farmland at Kamalo valued Le120,000,000 which he said is a family Farmland acquired in 2004.

ii. House at Levuma, Goderich, Freetown valued at Le400,000,000 built in 1991/1993.

iii. Story building at Freetown valued at Le150,000,000 built in 2008

iv. House in Freetown valued at Le600,000,000 built between 2000 and 2008.

v. Store/house in Kamalo valued at Le60,000,000 built between 2008 and 2011.

6. Farmland at Kamalo valued at Le70,000,000 built in 2011 from loan acquired.

He declared Accounts in the following Banks: -

i.	Sierra Leone Commercial Bank	-	Le30,000,000
ii.	Rokel Commercial Bank	-	Le5,000,000
iii.	First Discount House	-	Le2,263,053

Foreign Bank Accounts:

i.	HSBC London	-	£15,110
ii.	Sun Trust USA	-	USD87
iii.	Bank Fund CU	-	USD15,671

He declared three (3) Vehicles:

i. Mercedes Benz Car 230E/1994 registered as AAX 931 valued at £4000

ii. Toyota 4Runner registered as ABD 417 and valued at USD500 acquired in 2007

iii. Toyota Land Cruiser registered as AEB 159 and valued at USD12,000 acquired in 2008

He a Treasury Bearer Bond at the valued of Le1,900,000,000 and NASSIT Contribution.

He has 25,000 shares at Rokel Commercial Bank valued at Le1.11 million. He received a total sum of Le48,201,888 as Annual Salary and Le31,680,000 as pension from the International Monetary Fund (IMF) as Annual Income.

He subsequently declared his assets in the following Years:

2011 marked Exhibit (AI) EE 1-16,

2012 marked Exhibit (AI) EB 1-5,

2014 marked Exhibit (AI) EC 1-4,

2017 marked EXHIBIT (AI) ED 1-8.

Photographs of two of the houses he owned were tendered as Exhibits (AI) EH and (AI) EJ 1-4. Exhibit (AI) EG 1-3 is a list showing the number of vehicles owned by Dr. Samura Kamara.

In his asset declaration, Dr. Samura Kamara indicated that he had worked in several institutions since 1972, before he was appointed as Minister in 2008, including the Bank of Sierra Leone, the Commonwealth Secretariat, and Financial Secretary in the Ministry of Finance of the Government of Sierra Leone.

However, Exhibit (AI) EG 1-3 indicated that Dr. Samura Kamara owned thirty-one (31) vehicles between July 2008 and January 2018. No explanation was advanced by Dr. Samura Kamara in respect of the said vehicles which were not declared in any of his Asset Declaration Forms. This issue remains unexplained.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Dr. Samura Kamara, former Minister of Foreign Affairs, the Commission hereby concludes as follows:

(A) That Dr. Samura Kamara owned or was in control of property, to wit, thirty-one (31) vehicles between July 2008 and January 2018 disproportionate to his official emoluments; thereby unjustly enriching himself at the expense of the State of Sierra Leone;

(B) That the aforesaid Dr. Samura Kamara failed to declare the said vehicles (a mandatory requirement of law), such failure constituting an act of dishonesty;

(C) That by reason of such failure as stated in (B) above, Dr. Samura Kamara is in contravention of section 122 (a) of the Anti-Corruption Act 2008 and accordingly liable to prosecution under the said statute.

Recommendation

The Commission hereby recommends that the case of Dr. Samura Kamara be referred to the Anti-Corruption Commission for investigation and other law enforcement action.

4. Mr. Momodu Lamin Kargbo, Former Minister of Finance and Economic Development

Mr. Momodu Lamin Kargbo served as Minister of Finance. He declared his assets on the 13th day of January, 2009. This was exhibited as (AI) EL 1-14. In the said Exhibit he declared as follows: -

1. No Cash at Hand

2. It is ineligible to read

3. Immovable Property

a. A two-apartment house at Cockerill valued at Le600,000,000 constructed in 1989.

b. House under construction at Cockerill which is a leasehold interest from Government valued at Le75,000,000

c. Land at Wilkinson Road bought in 2010. No valuation stated of the land.

d. Land at Lungi valued at Le40,000,000

Exhibits (AI) EL 1-10 is his Asset Declaration Form for 2011, (AI) EM 1-10 is his Asset Declaration Form for 2017 and an Exit Declaration Form produced as Exhibit (AI) EN 1-7.

The information in all the said Asset Declaration Forms are almost the same with changes indicated in his Bank Balances only.

In his Exit Declaration, he stated that he owns a Carpentry Workshop at PWD Compound worth Le90,000,000 and a Potable Water Packaging business at Pyke Street, Freetown worth Le120,000,000.

He declared ownership of nine (9) vehicles of which five (5) were registered as private vehicles.

His emoluments for the period he served in Government totalled Le1,059,027,095.00 [see Exhibit (AI) EP.

The Report of the Financial Intelligence Unit (FIU) which was produced as Exhibit (AI) ER 1-3, contains his banking transactions, and indicates that his entire deposits from salaries during the period under review totalled Le1,192,324,138.38, which is within his emoluments. Most of his assets were obtained before he was appointed as Minister.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Momodu Kargbo, former Minister of Finance Affairs, the Commission hereby concludes as follows:

(A) That Mr. Momodu Kargbo did not maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That Mr. Momodu Kargbo did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

5. Mrs Zainab Hawa Bangura, Former Minister of Health and Sanitation/Former Minister of Foreign Affairs and International Cooperation

Mrs. Zainab Hawa Bangura served as Minister for the period 2007 to 2013. She submitted her Assets Declaration Forms exhibited as (AI) EY 1-15 in February 2009.

She declared the following: -

Cast at Bank:

-	UNFCU	New York	Savings	USD6,519.32
-	UNFCU	New York	Current	USD500
-	HSBC	London	Savings	£1,073.57
-	HSBC	London	Current	£814.97
-	HSBC	London	Bonus Savers	£6,101.76
-	HSBC	London	Current	£ 3,573.85
-	EcoBank	(SL)		Le1,000,000
-	Rokel Commercial Bank (SL)			Le11,420,000
-	Rokel Commercial Bank (SL)			USD3,931

Immovable Property:

- Land at Mile 6 valued at Le19,500,000 acquired in 2005
- House at Yonibana – Family Gift
- Land at Hill Station valued at Le1,500,000 acquired in 2004.

Movable Property:

- Nissan ADK 576 cost USD 27,000 purchased in 2007
- Peugeot ACE 029 valued at USD15,000 purchased in 2008

She declared her Jewellery as follows:

-	Jewellery	USD10,000	for the last 10 years
-	House furniture	USD20,000	Last 10 years
-	Electricals appliances	USD15,000	Last 10 years
-	Clothing	USD50,000	Last 5 years
-	Household items	USD6,000	Last 10 years

She declared that the source of her finances included salaries from her UN job and Non-Governmental Organizations. Copies of her Employment Records were attached to her Assets Declaration Forms.

She also declared her assets dated 24th November, 2011. The Declaration Form was exhibited and marked (AI) E2 1-8. There were changes in her Banks Balances and she also declared that she owns a house at Yonibana valued at USD50,000. She further declared a farm land at Yonibana purchased for Le20,000,000 between 2008 and 2009.

The following documents were tendered: -

- Conveyance for land at Hill Station dated 23rd August 2011, and at Six Mile purchased for Le6,500,000 marked Exhibit (AI) FC 1-4

- Site Plan of land at Yonibana Village marked Exhibit (AI) FF.

- Conveyance from Government of Sierra Leone dated 29th September, 2016 for land at Aberdeen purchased for Le10,000,000 marked Exhibit (AI) FG 1-7

- Exhibit (AI) FJ and (AI0 FK are plots of land at Six Mile and Gbangbayilla.

Exhibit (AI) FL indicates emoluments earned by Mrs. Zainab Bangura for the period she served totalling Le321,994,048.00

Exhibit (AI) FN 1-2 is the Financial Intelligence Unit Report analyzing her Account status at the Rokel Commercial Bank.

Exhibit (AI) FA 1-5 indicates that she registered only one (1) private vehicle.

She filed in an Affidavit where she stated she lawfully acquired all her property with the legitimate income commensurate with her source of earnings.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, “Assets Declaration and Disclosure in respect of Mrs Zainab Bangura, former Minister of Health and later Foreign Affairs, the Commission hereby concludes as follows:

(A) That Mrs Zainab Bangura, former Minister of Health and later Foreign Affairs did not maintain a standard of life above that which was commensurate to her official emoluments during the period under review;

(B) That the aforesaid Mrs Zainab Bangura did not own or control pecuniary resources or property disproportionate to her official emoluments during the period under review.

6. Mr. Momoh Vandi, Former Deputy Minister of Finance and Economic Development

Mr. Momoh Vandi served in the Ministry of Finance as Deputy Minister for the period under review from 2016 to 2018 and his official emoluments for the entire term was Le456,732,817 [see Exhibit (AI) FT].

He Asset Declaration Form dated 30th March, 2017 was tendered and marked Exhibit (AI) FR 1-8 and he declared the following: -

Cash at Bank:

a.	Sierra Leone Commercial Bank	-	Le33,144,800
b.	Foreign Bank Account USA	-	USD6,300

He declared two (2) plots of land; one (1) at South Ridge, Hill Station, Freetown valued at Le60,000,000 and another at Babadorie Phase III valued at Le30,000,000.

He also declared a private vehicle, Nissan Murino valued at USD10,000. He further declared that he owns a business in the United States.

His Exit Declaration Form was tendered as Exhibit (AI) FS 1-4, and his assets were merely the same as those declared in his earlier declaration when he took up office.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Momoh Vandi, former Deputy Minister of Finance, the Commission hereby concludes as follows:

(A) That Mr. Momoh Vandi, former Deputy Minister of Finance did not maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That the aforesaid Mr. Momoh Vandi did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

7. Mr. Sulaiman Kabba-Koroma, Former Board Chairman, National Revenue Authority and later National Commission for Privatization

Mr. Sulaiman Kabba Koroma was the Chairman, National Revenue Authority from 2013 to 2016 and later appointed Chairman, National Commission for Privatization from 2017 to 2018. He declared his assets on the 13th March 2017 which was marked Exhibit (AI) BY 1-7. He declared the following in the said Exhibit: -

1. Cash at Hand - Le 2,000,000

2. Cash at Bank: -

    a. Zenith Bank - USD350,908.82

    b. Zenith Bank - Le158,000,000

Immovable property: -

1. House at Wellington, Freetown valued at Le92,000,000 acquired in 2007

2. House at Aberdeen, Freetown valued at USD32,000 acquired in 2013

3. House at Lumley, Freetown valued at USD36,000 acquired in 2016.

He declared the following vehicles: -

1. Toyota 4Runner QUE 756 valued at USD42,000 acquired in 2016

2. Range Rover Evoke valued USD30,000 acquired in 2012.

Exhibit (AI) BZ 1-7 was also a declaration done in 2018. The same declarations were made as in the Exhibit (AI) BY 1-7.

Exhibit (AI) CA was his salary slip from the Assistant Accountant General for the period March 2017 to May 2018 during the period he served as Chairman of the National Commission for Privatization amounting to Le701,785,271 after tax.

However, the Executive Secretary of the National Commission for Privatization forwarded a letter to the Commission marked Exhibit (AI) 1-2 detailing his total emoluments as Le623,580,891.79.

A letter marked Exhibit (AI) CQ 1-15 was tendered to which the following documents were attached: -

a. Bar Final Certificates

b. Conveyance for property at Lumley Beach Road, Aberdeen, Freetown purchased in 2013.

A Valuation Report was also tendered as Exhibit (AI) CD1-2 and the property was valued at USD453,750.

Exhibit (AI) CC1-8 was a Report from the Financial Intelligence Unit analyzing the financial transactions of Mr. Sulaiman Kabba Koroma. It showed significant inflows and outflows of cash from his Account at the Sierra Leone Commercial Bank.

Mr. Sulaiman Kabba Koroma's Solicitor filed two Affidavits dated 27th November 2019 and 3rd December 2019, respectively. In his Affidavit of 27th November 2019, he deposed that he had been a Legal Practitioner in Sierra Leone since 2003 and had been working in the Firm of Eddie Turay and Associates. He stated that he had a lucrative practice before he was appointed as Chairman of the National Revenue Authority and subsequently the National Commission for Privatization.

He stated that the huge sum of money in his Account was his Clients' money for an Estate matter in which the property was sold by an Order of Court. The Court Order was exhibited. He also stated that he had been making money from his legal practice, and narrated the various sources of all the income in his Accounts.

In the affidavit of 3rd December 2019, he tendered a Valuation Report in respect of the property at Lumley Beach Road, Freetown which was valued at Le2,041,106,400.

In his Solicitor's Address to the Commission, he submitted a defence as put forward in the Affidavits filed therein.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Sulaiman Kabba Koroma, former Board Chairman, National Revenue Authority, and later National Commission for Privatization, the Commission hereby concludes as follows:

(A) That Mr. Sulaiman Kabba Koroma did not maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That the aforesaid Mr. Sulaiman Kabba Koroma did not own or was in control of pecuniary resources or property disproportionate to his official emoluments during the period under review.

8. Haja Isata Kallah Kamara, Former Commissioner General, National Revenue Authority

Haja Isata Kallah Kamara served as Commissioner General of the National Revenue Authority from 2009 to 2018. She submitted an Asset Declaration Form in November 2016. She declared the following: -

Cash at Hand: -

Le173,725,065.69

£230.98

USD 80,470.78

Cash at Bank

Sierra Leone Commercial Bank	Current	Le 173,725,065.63	Salaries & Rent

Sierra Leone Commercial Bank	Deposit	Le 15,363,953.75	Salaries
Lloyds Bank	-	£ 230.98	Salaries
Lloyds Bank	-	£ 24,854.12	Salaries
Lloyds Bank	-	£ 24,854.12	Salaries
Lloyds Bank	-	£ 30,106.63	Salaries

Landed property:

- House in London valued at £250,000 acquired in 2008
- Land at Adonkia, Freetown valued at Le40,000,000 acquired in 2010
- Land at Baw-Baw, Freetown valued at Le1,000,000 acquired in 2013
- Land at Gloucester, Freetown valued at Le1,000,000 acquired in 2014
- House in Makeni - inherited.

She declared her Security interest as thus:

Shares 11,239.45 at Lloyds Bank (Equity)	-	£ 31,545.99	Salaries
Investment Bonds	-	£ 2,250	Salaries
Treasury Bonds (SLCB)	-	Le 1,200,000,000	Salaries

She declared her liability as a mortgage in the United Kingdom which is valued at £ 37,960 (2015), with a repayment sum of £ 2,856 made annually.

She tendered two Affidavits declaring her assets sworn to on 9th August 2019 and 9th December 2019, which were marked as Exhibit (AI) FV 1-2 and (AI) GV 1-137, respectively.

In Exhibit (AI)FV1-2 she declared assets acquired when she worked as Commissioner General: -

- A piece of land at Baw-Baw, Freetown acquired in 2013 for Le 1,000,000
- A piece of land at Adonkia, Freetown acquired in 2010 for Le 40,000,000

- A piece of land at Gloucester, Freetown acquired in 2013 for Le 1,000,000
- A piece of land at Sussex, Freetown acquired in 2016 for Le 200,000,000

Other assets acquired:

One Range Rover Evogue purchased in 2017 for USD 12,000

- Cash at Lloyds Bank (UK Isa Investment) £ 50,140.64

- Balance at Current account at Sierra Leone Commercial Bank Le 65,983,774.06

- Balance Savings Account at the Sierra Leone Commercial Bank with Le 1,502,415,502.55

She submitted in Exhibit (AI) GV 1-137, page 132, a document explaining her Income and Expenditure for the period she served as Commissioner General. She also stated that her Income totalled Le 6,187,824,089 and her Expenditure was Le 4,535,207,385. The Commission did not receive a Financial Intelligence Report and a Summary of her emoluments from the Accountant General's Department.

It was further noted that she claimed to own a house in the United Kingdom. However, there was no document tendered to ascertain the year of acquisition and the value of the property in question.

The Commission hereby concludes as follows:

That there is no sufficient evidence before the Commission at this stage to make these determinations: (1) whether Haja Isata Kallah Kamara, former Commissioner General of the National Revenue Authority maintained a standard of life incommensurate with her official emoluments during the period under review; (2) that she owned or was in control of pecuniary resources or property disproportionate to her official emoluments during the period under review.

9. Dr. Joseph Sam Sesay, Former Minister of Agriculture, Forestry and Food Security

Dr. Joseph Sam Sesay served as Minister of Agriculture from 2007 to 2016 and then as Special Adviser to the President from 2016 to 2018. There is no asset declaration form tendered neither did he submit any to the Commission. He only tendered an Asset Exit declaration form dated the 29th March 2019 in which he made the following declarations: -

That he owns bank accounts at the Rokel Commercial Bank both Leones and foreign currency account but the bank balances were not declared. He also owned a foreign account in the United States of America. The amount in the account was also not declared.

He further attached the Commission's declaration of asset form to his exit declaration form and declared his landed property as thus: -

1. Three story house (Seven bed rooms)- built 1996 to 2006 at 19 Hill slope Drive, Freetown – value unknown

2. Two story house (Eight bed rooms) - built 2013 to 2016 in Madina Town, Kambia District – value unknown. He said it is owned by his children.

3. Two flats (Five bed rooms) constructed 2009 to 2011 at Kamasassa, Kambia District – Value unknown.

4. Two flats constructed 2009 to 2011 at Makeni-Magburaka Highway, Makeni – value unknown.

Undeveloped land was declared as follows: -

1. Five town lots at Devil Hole, Freetown bought in 2011 – no value stated
2. Half acre land at Royeima, Lungi – no value stated.

He stated that he also owns an oil palm and cashew farm since 1996 at Kamasassa, Kambia and 50-acre farmland since 2008 at Ngarahun, Waterloo, Western Area with no value stated for both it.

Vehicles declared

Toyota Jeep – AFK 095 acquired in 2009 cost USD 9,000

Toyota Land cruiser – AFQ 175 acquired in 2012 cost USD 10,000.

He further declared that he has accounts at the following banks.

1. Le 100,000 at the Rokel Commercial Bank being salaries & pension payment
2. USD 45.57 at the Rokel Commercial Baknk being salaries and consultancy fees.
3. Le 46,000 at Rokel Commercial Bank being savings and
4. USD 50.26 at New York being UN salaries and gratuity

The Cash at hand was Le 250,000

Securities, bonds, shares, stocks, debentures

He owns shares in the following institutions: -

Pendembu Community Bank - Le 2,000,000

Madina Community Bank - Le 5,000,000

Financial Services Association (FSA) - Le 1,950,000

Financial Services Association (FSA) - Le 990,000

See Exhibit (AI) HN 1-36 which in his submission of Exit assets declaration form and conveyances.

Exhibit (AI) HO was tendered which evidenced that the sum of 1,220,818,989.00 was received by Dr. Sam Sesay as emoluments throughout the term he served as minister.

The following valuation reports were tendered as thus: -

1. Property at Madina Town, Kambia valued at USD 1,418,750 see exhibit (AI) HU 1-4.

2. Property at Waterloo-Masiaka exhibited (AI) HV 1-2 valued at USD 150,000

He tendered a valuation certificate in respect of the property at Madina (i.e. above) and valued same at USD 147,704.80.

The Financial Intelligence Unit submitted financial report of Dr. Sam Sesay as Exhibits (AI)HQ 1-36 and (AI)HR 1-30. It is evidenced in the report that high value transfers of moneys were made by Dr. Sam Sesay into accounts overseas for which the purpose are unclear.

It is also my submission that Dr. Sam Sesay constructed three houses whilst he was Minister without explaining the source of his funds. He further refused to disclose the value or cost of these houses. The smallest is a Five bed room house.

His solicitor filed in a document titled 'Analysis of Income and Expenditure' of Dr. Sam Sesay. It was not marked as exhibit as it was submitted after the hearings. An analysis of the income was given but without supporting documents to verify these sources of income as claimed.

The bank statements submitted from Rokel commercial bank is also not supportive of the figures cited as source of income. He claimed that Dr. Sam Sesay during the period under review that is 2007 -2018 received the following as income

1. Government payment (salaries etc.) is Le 2.4 billion

2. Bank transfers from UN Account to Rokel Commercial Bank USD 175,000

3. International Consultancies USD 99,000

All totaling USD 274,000 plus Le 2.4billion

Exhibit HR1-30 indicate that at Rokel Commercial Bank Account No. 1701175393901shows that a total of USD121,989.94 was credited to his account. He then transferred by swift USD 103,117.64.

At EcoBank account no 005113480395901 that he deposited USD498.

His Leones account at Rokel Commercial bank indicates that Le3,005,871,670.77 of which he was granted a loan of Le.10,000,000.

His salaries amounted to Le,1,490,621,949.00

His swift transfer amounted to Le486,432,913.67

My Lord, the bank details are factual and supported by statements but the illustration or information coming from Dr. Sam Sesay is untrue and a deliberate attempt to mislead the tribunal.

I therefore submit that he has been living a life style above his official emoluments and owns property disproportionate to his official emoluments.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Dr. Joseph Sam Sesay, former Minister of Agriculture, the Commission hereby concludes as follows:

(A) That Dr. Joseph Sam Sesay did maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That Dr. Joseph Sam Sesay owned or was in control of pecuniary resources or property disproportionate to his official emoluments during the period under review;

(C) Predicated on (A) and (B), that Dr. Joseph Sam Sesay is culpable of unjust enrichment.

Consequently, guided by the principle that the equitable doctrine of restitution is a universally recognized and effective equitable remedy for unjust enrichment, the Commission, invoking the jurisdiction of equity, hereby recommends as follows:

(i) That the Eight (8)-Bedroom, Two (2)-Storey House in Madina Town, Kambia District, acquired by Dr. Joseph Sam Sesay when he was Minister and built during 2013 to 2016, be confiscated to the State of Sierra Leone, as the entity at whose expense Dr. Joseph Sam Sesay has been unjustly enriched.

10. Professor Monty Patrick Jones, Former Minister of Agriculture, Forestry and Food Security

Professor Monty P. Jones was a former Minister of Agriculture from 2016 to 2018. An examination was done in respect of his asset. An asset declaration in his name was tendered and marked exhibit (AI) GQ 1-5 dated 14th March, 2015.

He declared as follows:

Cash at Ecobank	-	USD 35,415.22
		Le 125,272,684
Ecobank	-	Le 18,155,812

He had a house at Goderich, Regimanuel Gray Estate costing Le 1,628,750,000. The second and third houses are declared to be family houses costing Le1,190,750,000 and Le 389,700,000 situate at Handel Street, Kingtom, Freetown.

He had two vehicles for private use see exhibit (AI) GS 1-3.

His emoluments for the period he served as Minister i.e. from 2016 to 2018 was Le 1,016,875,144 see Exhibit (AI) GR

There is no further evidence that he has acquired any property as he explained that he has worked for International organizations before becoming a Minister.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Sulaiman Kabba Koroma, former Board Chairman, National Revenue Authority, and later National Commission for Privatization, the Commission hereby concludes as follows:

(A) That Professor Monty P. Jones, former Minister of Agriculture did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That the aforesaid Professor Monty P. Jones did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

11. Mr. Lovell Chandi Thomas, Former Deputy Minister of Agriculture, Forestry and Food Security

Mr. Lovell Chandi Thomas served as Deputy Minister of Agriculture from 2009 to 2018. He only tendered an exit declaration form marked as exhibit (AI) FZ 1-4. He only declared that he has movable asset as thus: -

Vehicle:

Toyota AKQ 979 purchased in 2014. He did not state the cost.

He also owns a Greenhouse worth USD 25,000 acquired 2014 – 2016.

A generator costing Le 60,000,00 acquired in 2016

One Tricycle costing Le 19,000,000 acquired in 2017

One Kayoi Machine costing USD 3,000 acquired in 2003 – 2004.

He did not declare that he owns any immovable property.

He also did not declare that he owns any money or holds bank account.

Exhibit (AI) GA states that his emoluments for the period he served totaled Le 1,279,576,251.00

Exhibit (AI) GC 1-94 is the Financial Intelligence Unit report. It shows that Mr. Thomas opened accounts at Zenith Bank, First International Bank, Sierra Leone Commercial Bank which he failed to declare.

However, there is no evidence that he lived a life style above his official income nor does he own property disproportionate to his official emoluments.

However, he has breached Section 122 (a) of the Anti- Corruption Act and must be investigated by the said entity.

The Commission hereby concludes as follows:

(A) That Mr. Lovell Chandi Thomas, former Deputy Minister of Agriculture did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That the aforesaid Mr. Lovell Chandi Thomas did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

12. Alhaji Ibrahim Ben Kargbo, Former Minister of Information and Communications

Alhaji Ibrahim Ben Kargbo served as Minister of Information from 2007 to 2016. He declared his asset in 2011. It is tendered as Exhibit (AI) BF 1-12. His declaration was thus: -

Cash at hand in Le 2,000,000

Cash at Bank - Sierra Leone Commercial Bank - Le 30,000,000

Immovable Property

House at Makeni - acquired in 1983 -value - Le 30,000,000

House at Kissy - no date of purchase - value- Le 10,000,000

House at Makeni - 1988 - value - Le 60,000,000

House at Makeni - 1986 - value - Le 30,000,000

Farm at Makeni - 1986 - value - Le 30,000,000

building at Wellington Street- acquired 1983 -value- Le 3,000,000,000

Movable assets were: -

1. Mercedes benz acquired in 2010 ABT 226 value USD 2,000 or 8,000,000
2. Acura acquired in 2007 AND 346 value USD 12,000

His household furniture were declared to cost Le 20,000,000 bought in 2006.

He had a majority shares in the New Citizen Publication a print media which he valued at Le 3,000,000,000 owned since 1983.

During the investigation valuation report for real property of house and land being at Kowa Drive, Motormeh, Regent was submitted. The total value for the property therein was USD 665,500 equivalent Le 5,300,000,000. However, no document of title was submitted identifying the actual owner of the property. It was suspected to be the property of Alhaji Ibrahim Ben Kargbo. It was not declared in his asset declaration form. It was also disclosed that Alhaji I. B. Kargbo owned six vehicles.

The emoluments of Alhaji Ibrahim Ben Kargbo for the period he served was Le 845,542,461.00

He submitted details of his previous employment prior to him becoming Minister as thus: -

Senior Assistant Teacher, St. Andrews Secondary School, Bo	1971 – 1973
Vice Principal, St. Andrews Secondary School, Bo	1973
Principal, Schelenker Secondary School, Port Loko	1973 – 1979
Assistant Editor Tablet Newspaper	1979 – 1981
Deputy Editor Flash Newspaper	1981 – 1983
Part Time Tutor (IPAM)	1992 – 1993
Member Board of Directors, NDMC	1984 – 1988
Member of Parliament	1986 – 1991
Managing Editor New Citizen Publications	1983 – 2007
Member of Council Statistics, Sierra Leone	2004 – 2007

The Commission hereby concludes as follows:

(A) That Alhaji Ibrahim Ben Kargbo, former Minister of Information and Communications, did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That the aforesaid Alhaji Ibrahim Ben Kargbo did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

13. Mr. Mohamed Bangura, Former Minister of Information and Communications

Hon. Mohamed Bangura served as Minister from April 2016 to April 2018. Tendered in evidence is his Asset Declaration Form marked exhibit (AI) BG 1-7. The asset declaration form is dated 1st November 2016. The following assets were declared: -

Cash at Hand - NIL

Cash at Bank Leones account

002104202101 - Saving Account	-	HFC	-	Le 25,000,000
Savings account	-	UBA	-	Le 14,000,000

				Le 39,000,000

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Foreign Currency Account

0021042022017 - HFC USD 288,000

- UBA USD 6,000

USD 294,000

==========

Real Property

House and land at Yams Farm costing - Le 600,000,000

House and land at Regent costing - Le 500,000,000

House and land at Waterloo costing - Le 60,000,000

Vehicles

	Cost	Year
AEH 783	USD 50,000	2011
AHL 416	USD 16,000	2007
AHF 203	USD 15,000	2013

He did not further declare anything.

A valuation was done on the property declared by Hon. Mohamed Bangura at Yams Farm, Waterloo Highway. The current value is USD 3,675,000. However, this property was owned before he became a Minister see exhibit (AI)

The salary of Mr. Mohamed for the period he served Le 506,450,010.00.

His statements of Account 2104202103 from HFC bank was tendered as exhibit (AI) BM 1-8. His bank statement never indicated that he had up to Le 25,000,000 in this account.

His declaration made on the 1st of November 2016 reveals that he had USD 288,000 at the HFC bank account 21042022017. The bank statement in respect of that account was tendered as exhibit (AI) BL 1-3 and nowhere was it disclosed that Hon. Mohamed Bangura has ever had the sum of USD 288,000 in the said account he lied under oath.

He did not own any known property disproportionate to his official emoluments. He was however dishonest in the declaration of his assets to the Anti-Corruption Commission by making a false

declaration of his asset contrary to Section 122 (b) of the Anti-Corruption Act 2008. He must be prosecuted for same

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Mohamed Bangura, former Minister of Information and Communications, the Commission hereby concludes as follows:

(A) That the said Mr. Mohamed Bangura did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review;

(B) That he made a false declaration in his Asset Declaration dated 1st November, 2016 to the effect that he had the sum of USD288,000 in his HFC Bank Account No. 21042022017.

The Commission, hereby, recommends that Mr. Mohamed Bangura be prosecuted for making a false declaration.

14. Mr. Sheka Tarawalie, Former Deputy Minister of Information and Communications

Mr. Sheka Tarawalie was a former Deputy Minister of Information and Communications. He served in that capacity from the 23rd December, 2010 to April 2018. As serving Minister he declared his asset on 31st March 2011 but commissioned by a Commissioner of Oath on the 30th May 2011. The declaration is tendered as Exhibit (AI) AK 1-13.

In that declaration the following were stated: -

He did not declare that he has any money at hand.

Cash at bank were declared as follows: -

Union Trust Bank	-	Le 5,972,498
Halifax, UK	-	£90
Sierra Leone Commercial Bank	-	Le 1,569,745

His immovable asset was a house at Makeni costing Le 400,000,000 which was acquired in 2010.

He did not own any property outside Sierra Leone.

The business he owned was the Torch Light Communication acquired in 1996 and the estimated market value Le 600,000,000.

No further declaration was done.

During the term he served as Deputy Minister his emolument totaled Le 790,692,081.00. See exhibit AL

In Exhibit (AI) AM 1-2. It was disclosed that he owned three vehicles two private and one commercial.

He did not appear at the Commission nor did he file an Affidavit in respect of his assets. There is no Exit Declaration in his name.

He sent in a letter dated 25th June, 2019 to the Chairman and Sole Commissioner of the Commission with derogatory remarks for his non-attendance. He has been very discourteous and treated the Commissioner with contempt and ridicule, and is therefore unfit to hold public office of responsibility.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Sheka Tarawalie, former Deputy Minister of Information and Communications, the Commission hereby concludes as follows:

> (A) That Mr. Sheka Tarawalie, was in contempt of the Commission by reason of the derogatory letter sent to the Commission. His conduct is clearly indicative of the culture of disrespect prevailing among some members of the political elite/leadership in some countries for the rule of law, borne out of the misconception that they are above the law.

Specific Recommendation:

The Commission hereby recommends that by reason of such aforementioned contempt for the rule of law, the overarching norm, national and global, the aforesaid Mr. Sheka Tarawalie be banned from holding any public office of responsibility, political, statal, or otherwise for a period of ten (10) years.

15. Mr. Theophilus Nicol, Former Deputy Minister of Information and Communications

Mr. Theophilus Nicol was a former Deputy Minister in the Ministry of Information and Communications from January 2013 to March 2016. He declared his asset when he took up office and the Asset Declaration Form is tendered as exhibit (AI) 1-9 totalling Le 20,000,000.

He stated that he had cash at hand amounting to Le. 20,000,000

Cash at bank were declared as follows: -

Sierra Leone Commercial Bank	-	Le 60,000,000
Union Trust Bank	-	Le 20,000,000

He owns a family property in 2007 costing Le 600,000,000 in Freetown and another property at Wellington costing Le 50,000,000 bought in 2005.

No further declarations were made.

Mr. Nichol's emoluments for the period he served as Deputy Minister totaled Le 580,182,443. See exhibit (AI) AT.

This Statement of Account from Guaranty Trust Bank was tendered as Exhibit (AI) AU 1-7.

Mr. Theophilus Nicol swore to an Affidavit declaring his asset. He stated that all the asset he had were inherited. He had a Mercedes Benz Jeep bought in 2015 and a fore runner Toyota Jeep bought in 2013.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Sheka Tarawalie, former Deputy Minister of Information and Communications, the Commission hereby concludes as follows:

> (A) That Mr. Theophilus Nicol, former Deputy Minister, Ministry of Information and Communications did not maintain a standard of life incommensurate with his official emoluments during the period under review;
>
> (B) That the said Mr. Theophilus Nicol, did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

16. Mr. Cornelius Deveaux, Former Deputy Minister of Information and Communications

Mr. Cornelius Deveaux was the former Deputy Minister of Information and Communications. He served as minister within the period 2016 to 2018.

Tendered in evidence is Exhibit (AI) AN 1-3 which is an asset declaration form dated 26th October, 2016 when he was Deputy Minister of Communications. He declared that he has the sum of Le 14,000,000 at the First International Bank current account No. 10166174-01 which was acquired through salaries, allowances and Le 8,000,000 at the First International Bank savings Account No. 10166174-02 derived from sale of farm.

He owns a Mercedes Benz 190 ABK 234 costs Le 7,000,000 bought in 2014 and a Block making machine bought for 3,000,000 in 2012. No other asset was declared.

There was no change in his asset declaration form of 2017 see Exhibit (AI) AAO 1-7.

He filed an Exit Declaration on the 29th March, 2019. Nothing was declared just that he had land and unfinished house.

His emoluments for the period he served as Minister as stated in Exhibit (AI) AQ is Le 486,010,725.00.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Cornelius Deveaux, former Deputy Minister of Information and Communications, the Commission hereby concludes as follows:

(A) That Mr. Cornelius Deveaux did not maintain a standard of life above that which was commensurate to his official emoluments during the period under review;

(B) That Mr. Cornelius Deveaux did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

17. Mr. Momoh Konteh, Former Board Chairman, National Telecommunications Commission (NATCOM)

The former Chairman of National Telecommunications (NATCOM), Mr. Momoh Konteh served from January 2015 to April 2018. It was only on the 20th of June 2016, the former Chairman declared his assets. His asset declaration form is tendered as Exhibit (AI) CF 1-4. In his declaration he stated the following: -

Bank Accounts:

Zenith Bank	-	USD 49,000	-	Business/Salary
PHB Bank	-	USD 50,000	-	Business
PNC Bank – Washington	-	USD 150,000	-	Business
Wallsfayo – Washington	-	USD 200,000	-	Business
Cash at hand was	-	Le 5,000,000		

He said he owned joint account at Guaranty Trust Bank and property in the United States.

He specified that he owned the following land and houses: -

Fort Street	-	bought for USD 120,000	-	2006
House at Hill Station	-	worth USD 450,000	-	2005
House at Kabala	-	worth USD 100,000	-	2005
House at Bango Farm	-	bought for USD 120,000	-	2016
Jointly owned house at				
Washington DC	-	bought for USD 300,000	-	2013
Jointly owned house at				
Delaware	-	bought for USD 40,000	-	2005

Vehicles owned by him were declared as thus; -

Lexus jeep	-	Cost USD 20,000	-	2012
Land Rover Discovery	-	Cost USD 17,000 – 1,500	-	2015

He said he owned a stock at MacDonald of 2,500 with a yearly interest of USD 11,000.

He said he also owned a company in Liberia and another in Ivory Coast.

In 2017 he also declared his asset which is tendered as Exhibit (AI) CG 1-4. It was the same declaration done in 2016. There was no change. In 2019 he did an exit declaration dated 25th February 2017. This is tendered as Exhibit (AI) C1-5.

His bank statements are as thus: -

Zenith Bank - Le 38,000,000

PH Bank - Le 20,000,000

House and Land

The only addition to the existing ones were a house at Off Leicester, Tree Planting which he said cost him USD40,000 and estimated current market value is USD 70,000 and 8 Robert Street which no cost was declared.

Vehicles declared where; -

Toyota	-	AND 713	-	Costing USD 20,000	-	2017
Toyota	-	ALG 472	-	Costing USD 18,000	-	2017
Dog Face	-	ADD 939	-	Costing USD 15,000	-	

Infiniti

He declared that he owned stocks at Macdonald with no disclosed value and Cisco with no disclosed value.

Mr. Momoh Konteh swore to an affidavit on the 5th December 2019, declaring his assets. He deposed therein that he received in excess of Le 1,000,000,000 for the duration he served at NATCOM as Chairman same being salaries, rent allowances and travelling per diem.

He further stated that he had appeared before a parliamentary committee before taking appointment where he declared that he owns property at: -

1. Ataya Base, Hill Top being lease from Government – Hill Station
2. House at 68 Fort Street acquired in 2009 costing Le 525,000,000
3. House at No. 91 Ismael Road, Kabala acquired in 2017 valued Le 528,000,000
4. Stocks in Macdonald valued $210,000

   Stocks at Cisco valued $275,000

5. Stocks at Papa John Pizza worth Le 1,750,000,000

6. Shares Optimum Global owns 90% shares

Shares of 85% at Transtech International, operating in Sierra Leone, Ivory Coast and Liberia

7. Franchise at Sign-A-Rama, West Africa

8. Stocks in Apple, United States

He said he had not in any way unlawfully acquired wealth.

The following exhibits were tendered before the Commission as thus: -

1. Valuation report of land at 8 Robert Street bought on 15th December 2017, for the sum of Le 1,200,000,000. The Conveyance is thereto attached marked as exhibit (AI) CN 1-5.

2. Land leased to him but started house construction in July 2015 according to the bills of quantities tendered as Exhibit (AI) CM 1-80 page 5. The total bill submitted was USD 445,913.93. The witness Mr. Zainald I. Dillect said there were variation for the external works, land scaping, fence, boys' quarters etc that costs USD 242,192. The total cost of the work was therefore USD 688,123.93. See exhibit (AI) CM 1-80 pages 3-4 and CM 1-56. He said that International Construction Company did the construction of the house to completion. The valuation certificate exhibit (AI) CO 1-12 indicates the exact cost of the construction which is USD 688,123.93.

3. Exhibit (AI) CP 1-9 is a house and land purchased at USD 120,000 at Off Peninsular Circular Road, Adonkia Village, Goderich purchased on 18th January 2017.

Exhibit (AI) CL 1-7 is the Financial Intelligence Unit report dated 28th October 2019, and Exhibit (AI) CK is the salaries for former Chairman of NATCOM.

A perusal of the Financial Audit Report of Mr. Momoh Konteh did not produce before the Commission that the moneys used for the purchase of these properties within his term of office were from his business. Save for a transfer from Transtech International as stated in exhibit (AI) CL 1-7 which is the Financial Intelligence Unit Report, nowhere in the bank statement is there shown any bank transactions made to him from these entities he claimed to have had shares or stock or as dividend. He has further not produced any evidence of stocks and interest held in the several business entities mentioned with the exception of Transtech International and Sign-A-Rama (SL).

From Exhibit (AI) CK it was disclosed by NATCOM that Mr. Momoh Konteh received the sum of Le 705,000,000 for the entire period he served as Board Chairman. The affidavit filed lacks

proof of sources of income. He has also failed to produce any evidence of the property and interest, etc., he claimed to have owned in the United States.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Momoh Konteh, former Board Chairman, National Telecommunications Commission (NATCOM), the Commission concludes as follows:

(A) Mr. Momoh Konteh, former Board Chairman of NATCOM did maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) Mr. Momoh Konteh, aforesaid, did own or was in control of pecuniary resources or property disproportionate to his official emoluments during the period under review;

(C) That by reason of (A) and (B), Mr. Momoh Konteh unjustly enriched himself at the expense of the State of Sierra Leone;

(D) That aforementioned Mr. Momoh Konteh, by reason of his failure to explain the lawfulness of his acquisition of property at No. 8 Robert Street, Freetown as delineated in Survey Plan L.S No. 2506/17 dated 29th September 2019 attached to Conveyance dated 15th September 2017 registered as No. 3618/17 in Volume 801 at Page 75 is culpable of unjust enrichment;

(E) That aforementioned Mr. Momoh Konteh, by reason of his failure to explain the lawfulness of his acquisition of house and land at Hill Top, Hill Station, Freetown as delineated in Survey Plan LoA 8648 of 4th August 2011and/or lying and being at Ataya Base, Hill Top, Hill Station, Freetown is culpable of unjust enrichment;

(F) That aforementioned Mr. Momoh Konteh, by reason of his failure to explain the lawfulness of his acquisition of property at Off Peninsular Circular Road, Adonkia, Freetown delineated in Survey Plan L.S No. 2474/16 dated 4th November 2016 attached to Conveyance dated 18th January 2017 registered as No. of 331 at No. 782 at Page 24 of the Record Books of Conveyance is culpable of unjust enrichment;

Based on the foregoing conclusions, and guided by the doctrine of equity that restitution is the recognized and effective remedy in law for unjust enrichment, the Commission hereby recommends that the properties mentioned in (D), (E) and (F) above be confiscated to the State as the Certificate Beneficiary of properties acquired unlawfully.

18. Mr. Senesie Kallon, Former Director General, National Telecommunications Commission (NATCOM)

Mr. Senesie Kallon works as Director General at NATCOM for the period March 2015 to June 2017. He deposed to an affidavit about Assets acquired during his tenure in office as Director General. The affidavit is marked (AI) CY.

1. A 2002 model Range Rover Sport,

2. house at Hamilton,

3. House and Boys' Quarter in Kenema,

4. Land at Bo-Kenema Highway

5. and a 4WD Toyota 4Runner 2002 model.

No value was put on any of these assets.

He also tendered his Exit Declaration form marked (AI) AH 1-7. He disclosed that he had a

Current account at Lloyds Bank with the sum of £ 2,500

Sierra Leone Commercial Bank with a bank balance of Le 177,042.

He owned the following Real estate and declared their value.

- House at Hamilton costing Le 15,000,000 plus – acquired in 2012
- House in Kenema costing Le 1,000,000,000 – acquired in 2016
- Land in Bo costing Le 20,000,000 – acquired in 2014
- House in Kenema costing Le 6,000,000 – acquired in 2015.

Mr. Senesie Kallon did not disclose his Asset Declaration Form when he took up office or when he was in office, nor did he disclose his emoluments for the period he served as Director General of NATCOM. However, it is obvious that he acquired two property from 2015 to 2016 when he was Director General both according to him costing Le1,000,000,000 and Le.6,000,000.

The Commission, hereby, concludes as follows:

> (A) That despite the failure of Mr. Senesie Kallon, former Director General of NATCOM to disclose his Asset Declaration on taking up office or during his tenure, and failure to disclose his official emoluments for the period he served as Director General of NATCOM, there is evidence to the effect that he acquired two properties from 2015 to 2016 during his tenure as Director General;

Consequently, the Commission recommends that the aforesaid, Mr. Senesie Kallon, submit to the Anti-Corruption Commission documentary evidence of his emoluments for the period he served as Director General of NATCOM within a time period to be determined by Cabinet.

19. Mr. Idrissa Yilla, Former Board Chairman, Sierra Leone Cable Limited (SALCAB)

Mr. Idrissa Yilla was the Board Chairman of Sierra Leone Cables (SALCAB) from the 4th of July 2013 to June 2018. His emoluments as submitted by him was Le 2,675,884,751. See exhibit (AI) AD 1-2. He submitted to the Commission an Asset declaration form prepared by the Commission

and a summary of Assets to which are attached supporting documents. He claims to own the following property: -

1. Land at Allen Town jointly owned in 1985.
2. Land and house at Macdoland, Kotopema Village bought in 1990 solely owned.
3. Land and house at 51 Byrne Lane solely owned and acquired in 1995
4. Land at Macdoland, Koto Pema Village, bought in 1995
5. Land at Juba Hills deed of gift.

Title deeds of these documents were submitted.

His Bank accounts were as follows: -

		Leones Account	US Dollar Account
Guaranty Trust Bank	-	Le 5,955,813.93	$ 4,010.39
Access Bank	-	Le 1,067,792.65	$ 1,545.00
Rokel Commercial Bank	-	Le 25,000,000	NIL
Sierra Leone Commercial Bank	-	NIL	NIL

Foreign Accounts

Wells Forgo Current - 4,005.00

Wells Forgo Savings - 2,300.00

Vehicles owned by him are : -

1. Nissan Frontier AMO 036 registered 2017 – no costs
2. Toyota 4Runner Jeep ABW 856 purchased in 2004.
3. Mercedes Benz 230 bought 12 November 2008.
4. Perkins 30KVA Generator purchased in 2015.
6. Used 40KVA Generator purchased in 2018.

He tendered all relevant documents.

He had investment as thus:

a. 100,000 Shares worth Le 100,000 at the Sierra Leone Insurance Company bought in 1992

b. 5,000,000 shares valued Le 5,000,000 at the Sierra Leone Insurance Company bought in 1994

c. 81.648 shares at the Rokel Commercial Bank bought in 2002

d. 408.240 shares Rokel Commercial bank bought in 2006

e. 489,888 shares Rokel Commercial bank bought in 2007

f. 220,450 shares Rokel commercial bank bought 2011

g. 220,450 Rokel Commercial bank bought 2012

h. Le. 5,000,000 Bank of Sierra Leone for Maze insurance Brokers

He submitted all certificate of shares for these shares.

He also submitted exhibit (AI) AD 1-2 which is his emoluments for the period he served as Chairman which amounted to Le2,675,884,751.00

From the above, there is no evidence that Mr. Idriss Yilla acquired any property at the time he served as Chairman of SALCAB neither has it been shown that he acquired any after he left office.

There is no evidence that he was living a life style above his official emoluments or own property disproportionate to his official emoluments.

The Commission hereby concludes as follows:

(A) That Mr. Mr. Idrissa Yilla, former Board Chairman of SALCAB, did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That Mr. the aforesaid Mr. Idrissa Yilla, did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

20. Mr. Mohamed Sheriff, Former Managing Director, Sierra Leone Cable Limited (SALCAB)

Mr. Mohamed Sheriff served as Managing Director at Sierra Leone Cable Ltd. (SALCAB) from 2013 to 2018. Though according to Exhibit (AI) AC 1-4 he is one of those that declared his assets to the Anti-Corruption Commission, his asset declaration form was not available.

However, Mr. Mohamed Sheriff deposed to an affidavit on the 8th August 2019 marked exhibit (AI) AE declaring his landed property as thus: -

- Liya Wo, Kpaka Chiefdom, Pujehun District costing Le 7,440,000
- Liya Wo, Kpaka Chiefdom, Pujehun District costing Le 4,476,00
- Manjama Layout, Kpanga Chiefdom, Pujehun District costing Le 20,608,000

- Sulima New Site, Sorogbema Chiefdom, Pujehun District costing Le 19,313,000
- Kpetewoma Layout, Kpanga Chiefdom, Pujehun Distict costing Le 4,049,500
- No. 4 Council Road, Pujehun Town costing Le 50,000,000
- Yonni-Kaikai Street Costing Le 4,007,500
- Yonni Town, 30 Kaikai Street costing Le 3,035,000

He stated that he built a house at No. 1 Sheriff Drive, Borderline, Off Mammah Lane, Gloucester Village rom 2013. It is being constructed by his wife and himself.

H also said a house was jointly constructed by himself and his brother for their mother at Yonni Town, Kpanga Chiefdom, Pujehun District.

No value was attached to the said property.

He also tendered exhibit (AI) AG 1-2 which is his emoluments for the period he served which totaled Le 1,915,316,717.85. He did not disclose any bank details.

The Financial Intelligence Unit report is tendered as exhibit (AI) AF 1-7. It only reveals the financial statements of his account and Commerce and Mortgage Bank up to the time he started working at SALCAB in 2013.

The Commission, hereby, concludes as follows:

> (A) That Mr. Mohamed Sheriff, former Managing Director of Sierra Leone Cable Ltd, did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

21. Mr. Alpha Sesay, Former Managing Director, Sierra Leone Telecommunications Company Limited (SIERRATEL)

Mr. Alpha Sesay served as Managing Director of SIERRATEL for the period under investigation. He did not submit any asset declaration to the Anti-Corruption Commission. See Exhibit (AI) CW 1-4 which is the list of Persons of Interest who did not declare their assets for the period under review. The Commission was unable to reach Mr. Alpha Sesay and he did not appear before the Commission, nor was there any Affidavit from him.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Alpha Sesay, former Managing Director of the Sierra Leone Telecommunications Company Limited (SIERRATEL), the Commission concludes as follows:

> (A) That Mr. Alpha Sesay, former Managing Director of SIERRATEL did not submit any Asset Declaration to the Anti-Corruption Commission;

(B) That Mr. Alpha Sesay, former Managing Director of SIERRATEL failed to submit a Declaration of Assets Form to the Anti-Corruption Commission.

Recommendation:

That by reason of his failure to submit a declaration to the Anti-Corruption Commission, it is hereby recommended that he be referred to the Anti-Corruption Commission for investigation.

22. Mr. Edward Sesay, Former Managing Director, Sierra Leone Telecommunications Company Limited (SIERRATEL)

Mr. Edward Sesay served as Managing Director of Sierra Leone Telecommunications (SIERRATEL) from 2016 to 2018.

The asset declaration submitted is marked as Exhibit (AI) AA 1-6 dated 30th June 2014 in which he declared as follows: -

Cash at Bank:

Sierra Leone Commercial Bank - Le 250,000,000

Standard Chartered Bank - Le 340,000,000

Immovable Property:

He declared that he has three buildings and a plot of land. An amount was only disclosed in respect of one, purchased for Le 95,000,000.

He declared a vehicle costing Le 36,000,000

Other source of income disclosed: -

Annual rent paid to him for two houses in the sum of Le 130,000,000 and Le 59,000,000.

His leave allowances Le 53,000,000

Travelling per diem

He also forwarded to the Commission Exhibit (AI) Z which he referred to as an asset declaration.

He disclosed the following: -

- Unfinished building at Makeni acquired in 2014
- Two apartment building in Freetown acquired in 2000
- Two apartment building in Freetown acquired in 2005
- Used Nissan Pathfinder bough in 2013 costing USD 5,000

- Used 4Runner Toyota bought in 2015 costing USD 10,000

- Used Toyota Corolla car bought in 2016 costing USD 3,000.

He had the following amounts in his bank accounts: -

Sierra Leone Commercial Bank	-	Le 2,000,000
Ecobank	-	Less than a Million Leones
Zenith Bank	-	USD 47,460
Ecobank	-	USD 30,000

There is no evidence that he lived a life style above his official emoluments or he owns property disproportionate to his official emoluments.

The Commission hereby concludes as follows:

> (A) That Mr. Edward Sesay, former Managing Director of SIERRTEL (a) did not maintain a standard of life incommensurate with his official emoluments, and (b) did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

23. Mr. Sidi Yayah Tunis, Former Minister of Tourism and Cultural Affairs

Mr. Sidi Yayah Tunis served as Minister from April 2016 to April 2018. He declared his asset on the 22nd March 2017 as thus:

1. House - Old SLBC Compound, Goderich valued Le2,000,000,000 which was under construction.

   Land at Old SLBC Compound, Goderich valued Le100,000,000 acquired in 2013.

   Cash at Bank:

2. Current Account – Rokel Commercial Bank Le28,000,000

   Cash at Hand Le500,000

   See Exhibit (AI) CR 1-8

Exhibit (AI) CS indicate his emoluments for the period he served which amounted to Le487,711,092.00. He owns three vehicles as stated in exhibit (AI) CT 1-3 which were not declared.

Exhibit (AI) CU 1-3 is a valuation report which estimated the value of his property at Le9,600,000,000 or USD 1,200,000.

His Counsel tendered an affidavit sworn to on the 6th December 2019.

He said the land on which the house is built was a Government lease of which he later acquired a freehold interest from the government. He said the fence is incomplete.

He stated in exhibit GV 1-34 at page 23 that his total income for the period under review was Le1,174,554,344 which includes other sources of income such as, rent allowances, DSA for oversea trips and end of service benefits.

Exhibit (AI) CV 1-32 is a Financial Intelligence Unit report. It stated the total amount of Le2,192,78,034 was deposited into his account from 2007 to 2018.

The Commission, hereby, concludes as follows:

That Mr. Sidi Yayah Tunis, former Minister of Tourism and Cultural Affairs did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

24. Dr. Dennis Sandy, Former Minister of Lands, Housing and the Environment and later Minister of Social Welfare, Gender and Children's Affairs

Dr. Dennis Sandy served as Minister of Land and subsequently Minister of Social Welfare, Gender and Children's Affairs from 2009 to January 2012. He submitted his assets declaration dated 20th March 2009 which was tendered as exhibit (AI) A 1-13. He declared that he had the following before he was made Minister: -

Cash at hand was	-	Le 20,000,000
Cash at Bank	-	Le 43,382,848.27
Landed property		
House in Bo	-	550,000,000 built in 2006
House in Bo	-	350,000,000 bequest to him by his father
Land in Bo	-	16,000,000 bought in 2007

He purchased some of the property from savings of his salaries as lecturer, consultancy fees and scholarship savings.

He had two vehicles purchased before he became Minister a Mercedes Benz and a Toyota Jeep. He tendered exhibit (AI) C 1-6 which is a conveyance in the name of his wife Mary Kai Koroma. His emoluments for the period he served totaled Le 134,585,352.00 this he tendered as exhibited (AI) F.

Dr. Dennis Sandy appeared and testified at the Inquiry. There is no further evidence before the Commission to show that Dr. Dennis Sandy lived a life style above that of his official emoluments when he served as Minister and no evidence of unjust enrichment. He has been able to show his

sources of income as a lecturer, consultant and his wife who then works at the United Nations office in Abidjan.

The Commission hereby concludes as follows:

(A) That Dr. Dennis Sandy, former Minister of Lands and later Social Welfare, did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That Dr. Dennis Sandy did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

25. Mr. Momodu Elongima Maligi III, Former Minister of Water Resources

Mr. Momodu Elongima Maligi III served as Minister of Water Resources. He defaulted in declaring his assets to the Anti-Corruption Commission and had no Exit Declaration. He did not appear before the Commission to testify and there are no known assets owned by him with the exception of vehicles. He had three (3) vehicles all registered as private vehicles in 2013 and 2017. Exhibit (AI) FX 1-3 is a copy of the list of his registered vehicles with the Sierra Leone Road Safety Authority. He is in breach of the Anti-Corruption Act for not declaring his assets whilst he was a Public Officer.

After a meticulous judicial evaluation and scrutiny of the evidence proffered by the State before the Commission under the rubric, "Assets Declaration and Disclosure in respect of Mr. Momodu Elongima Maligi III, former Minister of Water Resources, the Commission concludes as follows:

(A) That there is no evidence before the Commission upon which a determination as to incommensurability or lack thereof, between his life style and official emoluments or ownership or control of pecuniary resources or property can be made since the former Minister defaulted in declaring his assets to the Anti-Corruption Commission, nor did he testify before the Commission.

The Commission accordingly recommends that he be investigated by the Anti-Corruption Commission.

26. Dr. Soccoh Alex Kabia, Former Minister of Health and Sanitation and later Social Welfare, Gender and Children's Affairs and finally Fisheries

Dr. Soccoh Kabia served as Minister from 2007 to 2013. He declared his asset on the 20th February 2009. Exhibit (AI) H 1-14. His assets were declared as follows: -

Cash at Bank

1.	Sierra Leone Commercial Bank	-	Le 42,359,096.04
2.	Sierra Leone Commercial Bank	-	USD 20.23
3.	Wachovia Bank	-	US$ 14,500

He stated that he had a land and house at Regent Road, Hill Station valued for USD 400,000. it is a deed of gift from his parens. He also own land at Spur Road valued USD 45,000 and another land at Sawanneh Street, Moyamba Town, costing Le 500,000.

He is a medical practitioner and stated that he lived by his income from salaries as Minister and later sold his Medical Practice in the United State for USD 100,000 for which he was paid over 2 to 3 years. His housing allowance as Minister was USD 10,000 annually and derives rent from his property at 4 Regent Road, Hill Station at USD 8,500 yearly.

He deposed to an affidavit in which he stated that he purchased one BMW X5 car in August 2011 costing USD 18,000. He also stated that he acquired no landed property during his service as Minister in or out of Sierra Leone.

Exhibit (AI) J evidence the emoluments of Dr. Soccoh Kabia for the period he served amounting to Le 338,292,401.00.

The Commission hereby concludes as follows:

(A) That Dr. Soccoh A. Kabia, former Minister of Health and Sanitation, and later Social Welfare and finally Fisheries, did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That Dr. Soccoh A. Kabia, did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

27. Alhaji Moijueh Kaikai, Former Minister of Social Welfare, Gender and Children's Affairs

Alhaji Moijueh Kaikai served in the capacity as Minister of Social Welfare, Gender and Children's Affairs and Resident Minister South. His asset declaration is tendered as exhibit (AI) V 1-7. He declared his asset as thus: -

Cash at hand Le 10,000,000

Cash at Bank:

Access Bank Le 1,781,646.00

Immovable property:

Portion of land on Kaikai Family land in Pujehun.

He declared his other assets as follows: -

Chairs costing Le 1,250,000

Settee costing Le 1,000,000

Bed costing Le 250,000

Television costing Le 500,000

2 Laptops costing Le 5,000,000

Nothing further was declared.

Exhibit (AI) W 1-3 show that he owns two vehicles purchased in 2012 and 2014.

Exhibit (AI) X 1-17 are documents of Access Bank relating to account opening of Mr. Moijueh Kaikai.

His emoluments for the period he served totaled Le 852,249,983.00 as detailed in exhibit (AI) Y.

The Commission hereby concludes as follows:

(A) That Alhaji Moijueh Kaikai, former Minister of Social Welfare, Gender and Children's Affairs, did not maintain a standard of life incommensurate with his official emoluments during the period under review;

(B) That Alhaji Moijueh Kaikai did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

28. Dr. Sylvia Olayinka Blyden, Former Minister of Social Welfare, Gender and Children's Affairs

Dr. Sylvia Blyden served as Minister of Social Welfare, Gender and Children's Affairs from March 2016 to 2017. She did produce an asset declaration form for the period she served as Minister dated 28th October, 2016, tendered and marked (AI) EU 1-16 see pages 11-16.

She declared as follows: -

Cash at Hand USD 20,000

Cash at Bank:

First International Bank	Current Account	Le 72,740.27
First International Bank	Current Account	Le 1,242,392.15
First International Bank	Current Account	Le 93,626.54
First International Bank	Current Account	USD 12.80
First International Bank	Current Account	Le 131,118.80
First International Bank	Current Account	Le 780,000.00
First International Bank	Current Account	Le 1,283,683.23
First International Bank	Savings Account	Le 1,153,421.82

Standard Chartered Bank	Current Account	USD 232.60
Standard Chartered Bank	Current Account	Le 2,410,685.44
Ecobank	Current Account	83,368.01
Guaranty Trust Bank	Current Account	Le 24,311.57
Rokel Commercial Bank	Current Account	Le 609,902.47
Rokel Commercial Bank	Current Account	USD 479.85
Bank of America	Current Account	USD 2,514.56
HSBC UK		£ 939.99
HSBC UK		£ 839.94
HSBC UK		£ 100.59
HSBC UK		£ 90.26
Barclays UK		£ 226.18
Lloyds UK		£ 79.00

Movable Assets:

She owns a total of twelve (12) vehicles and five (5) motorbikes all purchased before 2016.

She declared that she owns various types of machines including generators to carry out her business. All purchased between 2007 and 2014.

Immovable Assets are declared as follows: -

- House and land at No. 8 Ndoeka Drive, Freetown which she says was a gift acquired in 2006.
- Building and land, Lumley Beach Road valued Le 300,000,000 acquired in 2003.
- Building at Hamilton Village which was a gift acquired in 2004.

She declared that she had the following shares: -

Income and Liability: -

- Tatuba Company Ltd - 98% shares
- Compiled debtors owed at

  Closure of Awareness Times

Proprietorship - Le 800,000,000

- Stake in the Estate of the Late Mrs.

  Avril Miatta Adegayeba in

  London - £ 145,000

A further declaration was made on 31st March 2017 exhibited and marked EV 1-16 pages 7-10. There was no change in her declarations as made in 2016.

She also tendered her exit declaration which is marked (AI) 1-16 pages 1-7 dated 19th November, 2018.

The assets remain the same save for foreign accounts held at HSBC and Lloyds bank which have been closed and she now declared a land at Cockle Bay which she says is a gift to her.

Exhibit (AI) EX 1-6 is the Financial Intelligence Unit report.

She deposed to an affidavit marked exhibit ES sworn to on the 8th August 2019. She stated therein that during, the time she served as Minister she did not open any new account or acquire any property.

Her emoluments for the period she served as Minister totaled Le403,244,989.00.

The Commission hereby concludes as follows:

(A) That Dr. Sylvia O. Blyden, former Minister of Social Welfare, Gender and Children's Affairs, did not maintain a standard of life incommensurate with her official emoluments during the period under review;

(B) That Dr. Sylvia O. Blyden did not own or control pecuniary resources or property disproportionate to her official emoluments during the period under review.

29. Haja Musu Kandeh, Former Minister of Social Welfare, Gender and Children's Affairs

Haja Musu Kandeh served in the Ministry of Social Welfare from 2007 to 2009. Tendered in Exhibit is her declaration of asses form marked (AI) 1-27.

She declared her asset as thus: -

Cash at hand was Le 1,000,000

Cash at bank:

Sierra Leone Commercial Bank	Savings Account	-	Le 728,500.14
Treasury Bearer Bond		-	Le 0,275,000
Foreign Currency Account		-	USD 810,000

Immovable property was declared as thus:

1. Incomplete building at Rogbaneh, Makeni – no date of acquisition of the land, value Le 20,000,000

2. Land and building at Rogbaneh, Makeni – no date of acquisition of the land, value Le 25,000,000

3. Land at Allen Town – no value stated, no date of acquisition.

She states that she owns no property outside of Sierra Leone.

Movable property were: -

- Vehicle – Toyota 4Runner Jeep ACJ 248 bought in 2005 cost Le 30,000,000

- furniture

She outlined the cost of her furniture as follows: -

a.	Set of exercise chairs	cost	Le 1,500,000	2004
b.	Television and dish	cost	Le 2,000,000	2004
c.	Freezer	cost	Le 1,200,000	
d.	Trinkets – gold chains & earrings	cost	Le 1,000,000	1972

Securities were stated as thus: -

1. Investment at Sierra Leone Commercial Bank Le 10,275 done in 2002.

2. NASSIT pension 5% since 2002

Exhibit (AI) T 1-14 is another declaration of asset form dated 31st May 2011. The declarations made are the same with that of the 2009 declarations with the exception of changes in bank statements and a narration of her previous employments.

Her emoluments for the period she served as Minister totaled Le 37,858,533.00. See exhibit (AI) U.

The Commission hereby concludes as follows:

(A) That Haja Musu Kandeh, former Minister of Social Welfare, Gender and Children's Affairs, did not maintain a standard of life incommensurate with her official emoluments during the period under review;

(B) That Haja Musu Kandeh did not own or control pecuniary resources or property disproportionate to her official emoluments during the period under review.

30. Madam Rugiatu Neneh Turay, Former Deputy Minister of Social Welfare, Gender and Children's Affairs

Rugiatu Neneh Turay was a former Deputy Minister of Social Welfare from 2016 to 2017. She declared her asset on 14th October 2016. The asset declared were: -

Cash at Bank: -

a.	Sierra Leone Commercial Bank	Savings	Le 5,000,000
b.	Sierra Leone Commercial Bank	Current	Le 7,000,000

She declared other asset/investment such as operating a Schools in Sierra Leone and Guinea. She operates a local Non-Governmental Organization.

She further stated that she has liabilities of Le 5,000,000 and Le.8,000,000 which are loans obtained in 2016 and making has been making payment as thus a monthly payment in lieu of settlement of Le 3,000,000 and Le.800,000 respectively.

She did not declare any real property.

She made a further declaration on the 24th March 2017. Her bank account varies by Le 1,000,000 and other declarations remain the same. Same is marked as (AI) M 1-7.

Exhibit (AI) P is evidence of her salaries received for the period she served as Deputy Minister which amounted to Le 401,872,037.00.

There is also an exit declaration tendered by her marked Exhibit (AI) O 1-4 dated 14th March 2019.

Nothing new was declared. She declared that she has a House at Port Loko valued at LE400,000,000 acquired in 2015 and a land at Port Loko valued at Le 20,000,000 acquired in 2019.

The Commission hereby concludes as follows:

(A) That Madam Rugiatu Neneh Turay, former Deputy Minister of Social Welfare, Gender and Children's Affairs, did not maintain a standard of life incommensurate with her official emoluments during the period under review;

(B) That Madam Rugiatu Neneh Turay did not own or control pecuniary resources or property disproportionate to her official emoluments during the period under review.

31. Dr. Mohamed Gibril Sesay, Former Minister of State 2, Ministry of Foreign Affairs and International Cooperation

Dr. Mohamed Gibril Sesay was a former Minister of State II in the Ministry of Foreign Affairs and International Cooperation. He served from 2016 to 2018 and his official emolument was Le543,202,920.00. See Exhibit (AI) GY.

Exhibit (AI) GW 1-7 is his asset declaration deposed to on the 24th October 2016.

He declared that his cash at hand at the time of declaration were: -

1. USD 10,000

2. Le 5,000,000

Cash at Bank:

Sierra Leone Commercial Bank	Current	-	Le 15,000,000
United Bank of Africa (UBA)	Current	-	Le 2,000,000
United Bank of Africa (UBA)	Savings	-	Le 40,000,000
Guaranty Trust Bank	Current	-	Le 2,541,132

			Le 57,254,132
			==========

Foreign Account:

United Bank of Africa (UBA)	-	USD 7,000
New York	-	USD 2,300

		USD 9,300
		=========

His immovable property were: -

1.	House at Lakka	3 Town lots	valued	Le 1,000,000,000
2.	House at Aberdeen	3 Town lots	valued	Le 1,200,000,000
3.	House at Aberdeen	3 Town lots	valued	Le 500,000,000

He did not state the year of purchase

His movable asset were

1.	Nissan Pathfinder	ALB 429	costing	Le 60,000,000
2.	Toyota Corolla	ALB 946	costing	Le 20,000,000

3.	Nissan Altima	costing	Le 30,000,000

In Exhibit GX 1-14 the said assets were declared with variance in bank balance and the year of purchase of the property stated as 2003, 2013 and 2015.

Tendered in evidence is exhibit (AI) GZ 1-6 which is a letter of offer of state land at Aberdeen and a title deed granting freehold interest on the land to Mohamed Gibril Sesay. There are two houses in the property valued at USD 1,675,000 and USD 560,000.

Dr. Mohamed Gibril Sesay deposed to an affidavit on the 28th day of November 2019. It was tendered and marked as exhibit (AI) HD 1-9. In his affidavit he narrated his employment records before becoming Minister to wit: being a lecturer at the University, Consultant for various academic researches and programmes, among others, since 1998.

Exhibit HC 1-4 evidenced the vehicles owned by Mr. Mohamed Gibril Sesay which are twice that are disclosed in his asset declaration.

Dr. Mohamed Gibril Sesay though he did not appear was able to present evidence of assets acquired before he became Minister and nothing has been disclosed that he acquired when he served as Minister.

The Commission hereby concludes as follows:

> (A) That Dr. Mohamed Gibril Sesay, former Minister of State 2, Ministry of Foreign Affairs, did not maintain a standard of life incommensurate with his official emoluments during the period under review;
>
> (B) That Dr. Mohamed Gibril Sesay did not own or control pecuniary resources or property disproportionate to his official emoluments during the period under review.

IV. COMPENDIUM OF DEFENCES PUT FORWARD BY PERSONS OF INTEREST IN RESPONSE TO THE STATE'S CASE

(A) INTRODUCTION

1. In this Section of the Report, the Commission has decided to outline the various defences put forward by those Persons of Interest who decided to file defences, directly or through counsel, in answer to, or purported rebuttal of, the evidence adduced by the State before the Commission in proof of the issues in controversy between the State and the said Persons of Interest. I have advised myself to divide them into two main categories: (a) principal and (b) subsidiary. The logic behind the categorization is that the principal defence seems to feature, like a common thread running throughout the web of factual and legal submissions, written and oral, of those Persons of Interest who defended themselves in a ministerial or deputy ministerial capacity whereas the subsidiary defences are more individualistic in nature.

2. Even though every such defence was considered and evaluated, as to its merit, in the context of the totality of the evidence adduced during the Commission's hearings, it seems necessary to provide a complete record of such defences, in a compendium to this Report in conformity with traditional justice.

(B) PRINCIPAL DEFENCE

3. The records show that most of the Persons of Interest of ministerial and deputy ministerial rank seem to be under a misconception that by reason of their political headship within their ministries, they enjoy some immunity from culpability for wrongful conduct done in their official capacity. The gist of their defence is that they cannot, in law, be deemed culpable for any wrongful act done, or omission, by their subordinates, for example, a Permanent Secretary, or professional staff performed in the course of their administrative or professional duties, even in respect of matters involving the execution of policies relating to schemes and projects that fall within the political, administrative, and professional compass of the Ministry, as an important unit of government. My judicial calculation is that these high-ranking Persons of Interest are contending that in such situations, culpability attaches only to, for example, the permanent secretary or the professional expert, like the Head of the Strategic Advisory Unit, or the Procurement Officer, even though they were acting under ministerial guidance and supervision.

4. A classic example of this defence posture featured prominently throughout the oral submissions of Counsel Dumbuya during the presentation of his Closing Address to the Commission. On behalf of his client, Professor Monty Jones, former Minister of Agriculture, Counsel argued:

"My Lord, it is my submission that it was the EMT that gave the go-ahead for the purchase of the 250,000 bags of fertilizers. The Minister, Professor Monty Jones is only the political Head in the Ministry. Although he works with the Permanent Secretary and other heads in the Ministry, he has no business of taking over the responsibilities of those senior officers in the ministry such as the Permanent Secretary and others. It is in that vein that once the decision has been taken at the executive management level for the purchase of 250,000 bags of fertilizers and handed over to the professionals of the ministry, his responsibility with regards to procurement and implementation and other things is extremely limited because the responsibilities of these officials are enshrined by statute. Therefore, the issue of the policy with regards to how fertilizers are managed, purchased, distributed, safeguarded, or whether there was a policy is not his responsibility. This misunderstanding is why he is being called to question in this Commission. For example, My Lord, the position Your Lordship has been appointed as a Commissioner does not mean that Your Lordship is responsible for all conduct by officers working for the Commission. That should fall on the Coordinator. It is, therefore, my final submission that once the Minister had taken a policy to purchase fertilizers, it becomes the responsibility of the Permanent Secretary and all other professionals within the Ministry to ensure that the policy is implemented, be it purchase of fertilizer or otherwise."

5. It is evident that such a defence coming from the sophisticated political elite calls for a scholarly and jurisprudential rebuttal.

(C) REJOINDER/REBUTTAL TO PRINCIPAL DEFENCE

6. In formulating such a judicial rejoinder or rebuttal, it is important to highlight one cogent and compelling piece of evidence to which I attach much probative value. It is a document tendered by Counsel Dumbuya on behalf of his client, Professor Monty Jones, former Minister of Agriculture. It is designated Exhibit (D) A 1-8 titled" Policy Directives on the Management of the Ministry of Agriculture, Forestry, and Food Security. It is dated 24th February 21, 2014. Page 1 paragraph 2 is to this effect:

"Let me hasten to remind everyone that the ministers have the responsibility to the president and the nation for any success or failure in the delivery of our responsibilities in the ministry. And usually it is the political leadership (the minister) that bears the brunt of the consequences: good or bad."

At paragraph 2.1.1, it is stated that:

"The minister shall "spearhead resources mobilization, ensure proper utilization, accountability, and transparency for the use of such resources and promote cordial donor relations."

7. A close comparative analysis of the gist of the legal submissions advanced by Counsel Dumbuya on behalf of his client and the ordinary and legal contexts of the text of Exhibit (D) A 1-8 leads irresistibly to the conclusion of an unambiguous admission, on the part of the political leadership during the time specified in section 4 of Constitutional Instrument No.65 of 2018, of political and ministerial culpability for "failure in the delivery of ministerial responsibilities." It is also an unequivocal acknowledgment of ministerial liability for any adverse consequences flowing from such admission.

8. In my considered judgment, for Professor Monty Jones, as a Person of Interest, to contend that he is not accountable or culpable for the acts of public misfeasance which arose out of the mismanagement of the fertilizer project is not only logically untenable but is, in law, tantamount to approbating and reprobating, a response customarily frowned upon judicially. It is clear from the evidence that the implementation of the fertilizer scheme exemplifies a series of policy aberrations, procedural deficiencies, and statutory violations that fit legally into the proscriptive frame of that administrative wrong that, in the scholarly literature, has been described as "Misfeasance in Public Office: A Very Peculiar Tort", unquestionably known to the common law. In the broader framework of the Rule of Law, in determining culpability for the tort, the crucial question is whether the exercise of the power was for the" public good". In this regard, it is my firm judicial conviction that wrongs done by public officials, with the requisite mental states, in the exercise or performance of their functions and responsibilities do constitute the common law tort of misfeasance in public office. By parity of reasoning, I further opine that unjust enrichment is, within the investigative framework of section 4 of Constitutional Instrument No. 65 of 2018, also public misfeasance, though also a crime under the Anti-Corruption Act 2008. I am fortified in this viewpoint by some well-articulated scholarly insights and well-reasoned jurisprudence on the issue.

9. Is public misfeasance known to the laws of Sierra Leone? My researches disclose that the answer is categorically in the affirmative. It is elementary law that the common law is part of the laws of Sierra Leone by virtue of section 170(1) (c) of the Sierra Leone Constitution Act No. 6 of 1991. The tort's historical antecedents date back to the case of Ashby v. White (1703 2 Ld. Raym 938). In that case, Holt C.J awarded substantial damages against a public official who had maliciously prevented the plaintiff from casting his vote at a general election, even though the plaintiff had sustained no loss. Two and a half centuries after that decision, Lord Diplock, speaking for the Judicial Committee of the Privy Council, pronounced "it to be a well-established tort" in Dunlop v. Woollahra Municipal Council (1982) A.C 158, acknowledging one of its key elements to be 'abuse of power'. Despite the fact that the tort's "boundaries and contours" remain controversial, I opine that it is settled law that it is a public wrong under the common law of Sierra Leone. It is also settled law that, as Lord Steyn observed in Three Rivers District Council v. Bank of England (No.3) (2003) A.C.1, that a public officer who exercises his political, executive, administrative, or professional powers improperly or in a manner not consistent with the rule of law does not act in the public interest. This is the gravamen of the tort of public misfeasance.

10. On very close scrutiny, it does not take much judicial imagination to conclude that Professor Monty Jones is relying on what has been described as 'the individual liability of government officers and employees doctrine'. In essence, the former Minister is contending that his subordinates should be individually culpable for the alleged public misfeasance arising out of the mismanagement of the fertilizer project. In other words, he contends that he cannot be vicariously liable for the said tort.

11. My judicial rejoinder to this rationalization is that the exclusive liability of the public officer in the context of the democratic governmental framework of Sierra Leone, providing for executive, legislative, and administrative powers and functions, is of decreasing legal value and utility today. In poignant terms, James, a noted scholar on the subject, insightfully reminds us that the doctrine is:

"Essentially a relic from past centuries when government was in the hands of a few prominent, independent substantial persons, so-called Public Officers, who were in no way responsible to ministers or elected legislatures or councils; and that such a doctrine is utterly unsuited to the twentieth-century, in which the Public Officer has been superseded by armies of anonymous and obscure civil servants, acting directly under their superiors, who are essentially responsible to an elected body."

12. Accordingly, I find the defence advanced by Professor Monty Jones, in his former capacity as Minister of Agriculture, to be completely devoid of legal merit. I make the same finding in respect of other persons of interest who, as regards similar schemes or projects, raised similar defences of attempting to shift culpability for any act of public misfeasance to their subordinates.

(D) SUBSIDIARY DEFENCES

13. The defences put forward by the Persons of Interest who elected, either in person or through counsel, to defend themselves against the case presented by the State against them, fall roughly into these types:

(1) Jurisdictional submissions that the Commission lacked jurisdiction to investigate either the issues in controversy between the State and the persons of interest or the persons of interest (not belonging to the category of those specified), given the interpretation and meaning of section 4 of Constitutional Instrument No. 65 of 2018, for example, Dr. Sylvia Blyden, former Minister of Social Welfare, and Abdulai Conteh, Finance Director of the NRA, and Dr. Kaifala Marah, former Minister of Finance and Economic Development and former Governor of the Bank of Sierra Leone.

(2) The basic defence known to the criminal law (usually characterized as a fundamental principle of the criminal law), namely, the State failed to discharge the legal burden of proving the allegations against the person or persons of interest beyond a reasonable doubt.

(3) The now fashionable defence that the State" woefully failed" to prove the allegations against the said person or persons of interest.

(4) That the Prosecution should have called, in support of its case, certain witnesses, but failed to do so (a sort of didactic defence).

(5) That the former President, Dr. Ernest Bai Koroma, before his election to the office of President of Sierra Leone "was a person of no mean resources, meaning he was financially solvent and lived within his means".

(6) (i) That the former President, Dr. Ernest Bai Koroma is being wrongly and illegally attributed ownership of property not owned by him.

(ii) That the entirety of the former President's Declaration Forms acknowledged ownership of only two houses (Femi Turner- Freetown and Roburreh Makeni, and a joint proprietary interest in Starlet Hotel Estate and Timbo Avenue, Makeni.

(7) That the State failed to establish an iota of evidence that the person or persons of interest being investigated (a) maintained a standard of life above that which was commensurate to his official emoluments, and (b) owned or was in control of pecuniary resources or property disproportionate to his or official emoluments.

(8) That the evidence led by the State is so tenuous that no independent and fair-minded arbiter will reach an adverse conclusion against the person of interest in question.

(9) That a person of interest is entitled to remain silent, that being his right and his choice.

(10) That as regards the allegations of lack of accountability and good governance, a comparison between the former President's performance profile and that of the present administration as

regards the Monthly Wage Bill is that the Wage Bill for March 2018 when the former President handed over power, was Le 160.4 billion; and that, as of 14th January, 2020, the Monthly Wage is well over Le235.2 billion evidencing a 47 percent increase; that the Wage Bill in 2018 was lower by Le74.8 Billion under the former President; and that the State should, in gratitude, "give to Caesar what is due to Caesar, and give credit where it is due."

(11) (i) That the State failed woefully to prove that the award of the consultancy contract in respect of the NATCOM building project to the Consulting Engineer of T.S. Company was politically motivated because of the blood relationship between Thomas Koroma and the former President; the evidence of blood relationship not being sufficient.

(ii) That the State failed to prove the allegation of inflation of the consultancy cost, given the fact there were additional works.

(iii) That the consultancy fee for the T.S. Company contract was not excessive, being 15 percent of the contract sum, that is, seven million US dollars.

(iv) That section 144 of the Procurement Regulations is inapplicable to the T.S Company consultancy contract.

(12) (i) That there was no direct linkage between the Fertilizer project and the Direct Cash Transfer scheme of the Ministry of Agriculture to render Professor Monty Jones, a former Minister, culpable under the assets declaration rubric.

(ii) That there was no proof of incommensurability or disproportionality between assets or other resources, pecuniary or otherwise, of former Minister, Professor Monty Jones and his official emoluments.

(iii) That the former Minister was not involved in any financial improprieties in respect of the Fertilizer project to render him culpable for any losses to the government resulting from the mismanagement of the project.

(13) That, as regards the allegation of "unexplained wealth" levied against former President Koroma, it is contended that in such cases, the legal burden does not shift. According to section 27 of the Anti- Corruption Act 2006, it is for the prosecution to establish that the person of interest has maintained a standard of living incommensurate with his official emoluments; the burden never shifts; what shifts is the burden on the person of interest to explain how he was able to maintain that standard of life.

(14) (i) That under the rubric "acting allowance paid to the Commissioner-General of National Revenue Authority 2017", the allegations levied against the Commissioner-General imply liability under section 30 (1) of the Anti-Corruption Act, 2006 by the use of the word "dishonestly;" bringing in the notion of the criminal law. "On that premise, it is lopsided of the law to say that even though the Commissioner-General is being accused of a crime, the case against her should be proven on a 'balance of probabilities."

(ii) That the State called only one witness to prove the alleged irregularities of (a) receiving acting allowances while holding the substantive position of Commissioner-General (b) purchase of 8 vehicles without Board approval, (c) unauthorized over-spending of Le8.3million on sensitization, (d) fluctuations in payment of staff salaries on a monthly basis, (e) wrongful procurement of supply of goods and services from Office World; that the evidence of the Auditor-General of the National Revenue Authority in respect of these matters is flawed and should be given no probative value, as the Judge Commissioner himself, during one of the hearings of the Commission, did express his frustration with the lack of candour on the part of the witness. (It should be mentioned that, indeed, the Judge Commissioner did not attach any probative value to the witness's oral testimony; however, reliance was placed on the documentary evidence which was relevant and persuasive as to issues in controversy).

(15) That the Prosecution has woefully failed to establish an iota of evidence to substantiate any claim of liability exposure against Dr. Ernest Bai Koroma, either in civil or crime, that will support a finding of culpability.

(16) From the facts presented by the State and the applicable laws, it is my considered opinion and inescapable conclusion that the State has failed to prove that the Hon. Momodu Elongima Maligi III breached procurement laws, overpriced the value of the 14 water bowsers and was involved in exchange rate manipulation.

(17) That the State has not made any case in which the Commission can safely make a finding that Dr. Marah unlawfully or illegally acquired wealth during his service to Sierra Leone; that he acquired his said property during the period of his employment with the government of Sierra Leone lawfully and the said property is commensurate with his means.

(18) That due to the lack of a minimum threshold for "unexplained wealth" in Sierra Leone, the Commission should not be inclined to infer impropriety of acquisition of property when the value of such property is well within the means and capacity of the person of interest.

(19) That the amounts allegedly paid to Haja Kallah Kamara, as Commissioner-General of the National Revenue Authority at the time she was substantive holder of the position, were not acting allowances, but were made up of: (i) entertainment allowance, which was 10 percent of her monthly basic salary of USD9,500, (ii) utility bills and domestic allowance of Le 3 million per month.

(20) That the case brought by the State against Dr. Sylvia Blyden, former Minister of Social Welfare, Gender and Children Affairs was part of a political and international conspiracy to remove the holder from office, and also to thwart her presidential ambition in Sierra Leone; hence the State's submission for a recommendation from the Commission that, if found culpable, she should be banned from holding public office.

(E) EVALUATION OF MERITS OF SUBSIDIARY DEFENCES

All of the several subsidiary defences have been evaluated as to their merits in the totality of the context of the evidence presented by the State against the respective Persons of Interest during examination-in-chief, re-examination, and also in the context of evidence adduced or elicited by Counsel for Persons of Interest during cross-examination of State witnesses, by the said Counsel during examination-in-chief of their own witnesses. Each such defence has been found to lack any merit as a rebuttal to the State's case, applying the relevant principles.

(F) BIBLIOGRAPHICAL REFERENCES

Aronson, Mark. "Misfeasance in Public Office: A Very Peculiar Tort" [2011] Melbourne University Law Review 1(2011), 35 (1).

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V. CONCLUSION OF REPORT

1. Writing in a different context sometime, in 1997 in an academic capacity, I examined the constitutional development of Sierra Leone from 1961 to 1995, from three perspectives, namely:

> (a) the country's experience with one of constitutional law's most fundamental and enduring problems - the relationship between its legal and political components;
>
> (b) the complex interactions between constitutional standards and values, on the one hand, and institutional and societal forces, on the other;
>
> (c) Evolution of the application of the fundamental principles regulating relations between the Government and the Citizens of Sierra Leone.

2. In that context, I asserted that Sierra Leone's future constitutional evolution revolved around several complex and unresolved questions of constitutional significance. One of those questions that I identified was whether "effective institutional mechanisms and sound empirical guidelines can be evolved to ensure against corruption in public life, abuse of power and conflict of interest on the part of government and other government officials". It is evident that it remains an open

question whether, since I wrote on that theme Sierra Leone has developed effective institutional mechanisms to combat corruption in public life.

3. Consistent with my reasoning, it can be rationalized whether, by way of outcomes or the work products of the three Commissions of Inquiry, they represent effective institutional mechanisms to bring about a meaningful transition from a society that accepts corruption as a norm to one that acknowledges the need for the promotion of a culture committed to a repudiation of corruption, an idea that can only be realized meaningfully through education for which Sierra Leone was historically renowned and described as "The Athens of West Africa".

4. However, it cannot be denied that to all patriotic Sierra Leoneans, the establishment of the Commissions of Inquiry, as effective instruments of democratic accountability, may well be perceived as salutary development in democratic governance. Only time will tell whether such a development will contribute to ridding Sierra Leone of a moral delinquency that has been described in international law circles as an economic scourge on humanity.

1. Thompson, Bankole. The Constitutional History and Law of Sierra Leone (1961-1995), University Press of America Inc, Maryland, 1997

SUBMITTED BY: _____

HON. DR JUSTICE ROSOLU JOHN BANKOLE THOMPSON
CHAIRMAN AND SOLE COMMISSIONER,
COMMISSION 65

DATED THIS 25TH DAY OF MARCH, 2020

APPENDICES

APPENDIX A: Constitutional Instrument No. 65 – Supplement to the Sierra Leone Gazette Vol. CXLIX No. 65 dated 1st August, of 2018.

APPENDIX B1: Practice Directions relating to Constitutional Instruments Nos 64, 65 & 67 of 2018 dated 31st January, 2019.

APPENDIX B2: Supplementary Practice Direction Promulgated by the Chairman and Sole Commissioner of Commission of Inquiry No. 2, Hon. Dr Justice Rosolu John Bankole Thompson dated 6th June, 2019.

APPENDIX C: Opening Statement of the Hon. Dr Justice Bankole Thompson delivered at the Opening Session of the Commissions of Inquiry on Monday 4th February, 2019.

MAJOR RULINGS DELIVERED DURING PROCEEDINGS OF COMMISSION NO. 2

1. Ruling on Jurisdictional Issue Raised before the Hon. Dr Justice Bankole Thompson Commission of Inquiry dated Monday 14th February, 2019.
2. Ruling on Objection Raised by Mr Lansana Dumbuya, Counsel for Persons of Interest dated 15th February, 2019.
3. Standard Ruling on Admissibility of Objections (February 2019).
4. Ruling on the Application of the State for the Adoption and Adaptation of Certain Provisions of CAP 54 of the Laws of Sierra Leone dated 14th March, 2019.

5. Aide-Memoire: Guidelines as to New Procedure in Substitution for the Practice of Permitting Witnesses or Persons of Interest to Read Statements made to the Commission's Secretariat dated 2nd April, 2019.

6. Ruling on the Issue of Personal Appearance of "Persons of Interest" pursuant to Constitutional Instrument No. 65 of 2018, dated 27th June, 2019.

7. Brief Ruling on the Absence of Dr Sylvia Olayinka Blyden at the Hearing on the Ministry of Social Welfare, Gender and Children's Affairs held on Thursday 5th September, 2019, dated 5th September, 2019.

8. Ruling on the Application of Dr Sylvia Blyden, Person of Interest, for the Recusal of Patrick L. Williams, Esq., State Counsel dated 11th September, 2019.

9. Ruling on Objection taken by Learned Counsel Joseph F. Kamara, Esq., Representing His Excellency, the Former President of Sierra Leone, Dr Ernest Bai Koroma, A Person of Interest in the Proceedings before Commission of Inquiry No. 2, relating to a Question put to State Witness SW2, Dauda Kaikai dated 20th November, 2019.

10. Ruling on Objection taken by Learned Counsel Joseph F. Kamara, Esq., Representing His Excellency, the Former President of Sierra Leone, Dr Ernest Bai Koroma, A Person of Interest in the Proceedings before Commission of Inquiry No. 2, relating to a Question in respect of a Piece of Land at Baoma Fakai, acquired by the Former President in 1998, dated 25th November, 2019.

11. Ruling on Objection taken by Learned Counsel Joseph F. Kamara, Esq., Representing His Excellency, the Former President of Sierra Leone, Dr Ernest Bai Koroma, A Person of Interest in the Proceedings before Commission of Inquiry No. 2, relating to the Admissibility of a Document and Attachments, sought to be tendered by SW5, Christopher Olu Campbell, testifying as a Quasi-Expert Witness in Property Valuation Matters dated 27th November, 2019.