

## **GREEN SCENERY**

The Country's Natural Resources Are Nature's Gift To Us

What We Make Of Them Are Our Gift To Posterity

# **Report on the incident of police arrest and highhanded measure of fifty seven citizens in Malen Chieftdom, Pujehun district.**

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## **Introduction**

On the 9<sup>th</sup> of December 2013, in the early morning hours, Green Scenery office in Freetown received a call from Malen chiefdom stating that a squad of Operations Special Division (OSD) from Bo have arrested and manhandled an unspecified number of people at a location called Libby junction, en route to Sahn Malen, the chiefdom head quarter town. Upon receipt of the information the Research and Information gathering Officer was detailed to take over and plan for a fact finding trip to the region. This report looks at the incident from all possible perspectives based on our field investigation of the incident as it happened on the 9<sup>th</sup> of December, 2013 and onwards.

Green Scenery notes that there are a lot of versions of stories on the incident and we have been very careful to get the facts. Facts were corroborated and triangulated to make sense of the trends in the activities of that unfortunate situation.

### **Research and Information Officer's (RIO) brief:**

The research and information gathering officer was to travel to Malen Chiefdom via Bo and assemble as much information as possible regarding the police incident and any related information that should give a deeper insight into the incident.

Document all necessary information; video, audio, script and write and present a report to Green Scenery staff for validation.

The RIO left Freetown on 11<sup>th</sup> of December 2013 was to travel to Bo to see firsthand all those that were arrested from Malen and taken to Bo who were in police custody, if permissible have interviews with some of them before proceeding to Malen chiefdom.

### **11:12:13 – Bo city**

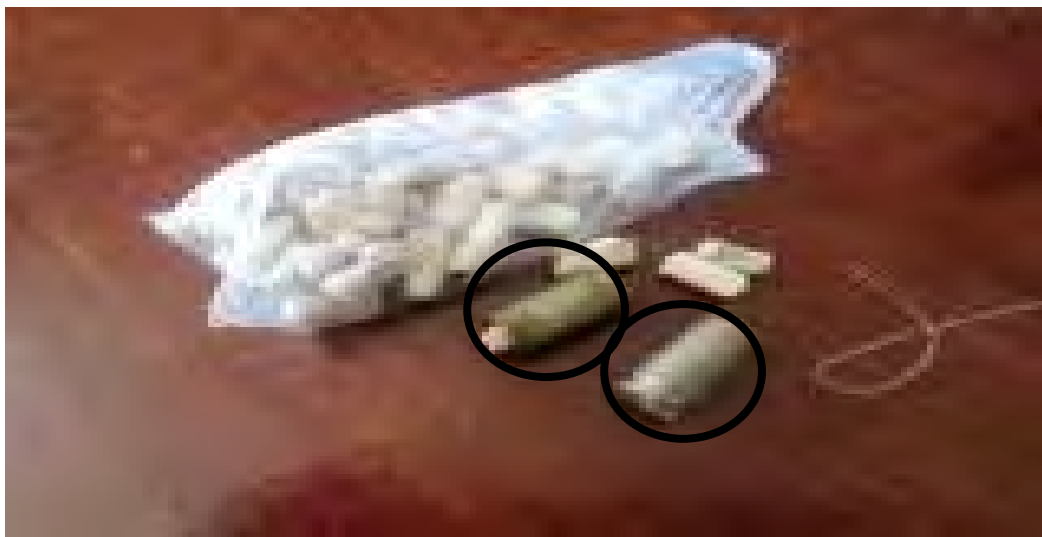
The researcher learnt that a number of arrested persons were held at the Eastern Police station is located along the Bo – Kenema highway in Bo. The RIO in a team with a staff from Peace and Reconciliation Movement organization went to the Police station where they head counted 25 inmates in police cells arrested in Malen. Seven of the inmates had blood stains and inflicted wounds. Information received from inmates was that there were more detained people in police custody than their number as counted. Police sources confirmed that 50 persons were arrested but 25 were released after screening and the rest were still been investigated.

### **11:12:13 – Pujehun city.**

Information gathered by Green Scenery in Pujehun city was that the first arrest took place at Libby junction and because Green Scenery wanted to know the cause of the arrest and the

fallout from it, Green Scenery went to speak to the police authorities and was given audience by the Local Unit Commander (LUC) Mr. Brewah in Pujehun city. The LUC said that they got report from the OSD commander in Sahn on December 1<sup>st</sup> that a group of young men barricaded the highway at Taninahun village en-route to Sahn. The LUC said he went there to assess the security situation and discovered that the secret society has been initiated by some people in the area.

The LUC informed that he was able to meet a large number of people estimated at 500 in a thick forest on 2<sup>nd</sup> December who belong to the secret society and dialogued with its leaders for several hours. In his engagement with the leaders he was informed that the company, SOCFIN which they are resisting from taking over their land has plans to start surveying land up to the Bundem stream. According to the spokesman of the group that stream should be the boundary between where SOCFIN should stop with their survey and operations. The rest of the remaining territory now belongs to the secret society as an embargoed land for the company.



*Empty bullet shells picked from the scene in Malen*

According to the LUC the reason for the initialization of the secret society was to stop the continued advancement of the company into new territory of the Malen chiefdom. Other police sources informed us that the company manager Philip Tonks narrated that some of their surveyors have been confronted by community people regarding this issue. On the matter relating to the use of live bullets by the police, the LUC admitted that the police used live bullets in order to disperse the huge crowd that was marching into Sahn. According to the LUC the police intention was not to kill but to scare the crowd away. He told Green Scenery that the police got intelligence report that the crowd marching to Sahn was to take over the Police post and get hold of arms available in the post.

## **In Sahn Malen the Chiefdom Headquarter**

Information gathered from various sources in Sahn recounted that a number of suspects amounting between 7 – 14 people were brought into Sahn police station by an OSD team from Pujehun on Monday 9<sup>th</sup> December, 2013. All of those arrested appeared ruffled and manhandled. Eye witnesses recount that some of those arrested and brought to Sahn were humiliated by letting them run a distance back and forth many times.

The Community Health Officer in Sahn informed Green Scenery that he was out of station when the incident occurred but was told that the nurses treated a number of people with wounds. He said one of them with a severe wound was the individual who was alleged to have sustained a bullet wound in the neck. He was asked whether he can confirm if the wound was in fact caused by a bullet.



*The victim with the alleged bullet wound on the neck*

The CHO said he was not sure. Green Scenery learnt that the victim of the alleged gunshot wound lived in Ngandorhun village. Further investigation in Sahn Malen revealed how certain company workers in the survey team, the Chiefdom Speaker, Robert Moiguah and members of a vigilante group –MAYODO formed by the Paramount Chief were engaged in intimidating and harassing peaceful residents in Malen on that very day and subsequent days. Green Scenery was made privy to a letter dated 9<sup>th</sup> December 2013 the day of the incident from the Chiefdom Speaker Robert Moiguah to the District Officer (D.O.) accusing the MALOA group of invoking “PORO SOCIETY” in four sections of upper Malen, Moiguah in his letter requested “immediate action” from the D.O. This letter was copied to other authorities including the Assistant Inspector General (AIG), Bo.<sup>1</sup>

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<sup>1</sup> Others included in the CC are: Provincial Secretary, Bo; Resident Minister Bo; Chairman – P.D; LUC Pujehun; ONS Pujehun, Human Rights Commission, Bo; General Manager, Socfin; MALOA, MAYODO.

### **11:12:13 – Libby**

Green Scenery engaged a number of people (names on file) in Libby village to recount the unfortunate event of that day. According to them a male by the name of Samba Sinjo and the Chiefdom Clark delivered a verbal message to residents that the Paramount Chief wanted to meet with the communities resisting land lease on Monday 9<sup>th</sup> December 2013. Residence of communities agreed to meet with their Chief on that day. According to those Green Scenery spoke to, they had gathered at the junction to wait for the arrival of the Paramount Chief but to their surprise instead of the chief they were confronted by a squad of OSD Police carrying guns. They said the police arrested a number of their brothers and took them away. This sad event they said prompted community members to organize themselves to do a peace march to Sahn Malen to inform the chiefdom authorities about the incident and to request the release of their compatriots. All confirmed that none in the crowd carried any harmful weapon. This fact was corroborated by eye witnesses in Sahn Malen.

Recounting to story from the community people, in Sahn as the crowd moved towards the police they were shot at with live bullet and tear gas. This police action took all by surprise as none thought the police will use such a high handed means “rather than listen to us”. There was a stampede as all ran in the bid to safeguard their lives. This stampede was the cause of many people sustaining injuries although they claimed that some were wounded by the police as they affected arrests. They also claimed that at least one man sustained a bullet wound in the neck. The police arrested many more persons in that incident they claimed.

They further narrated that in the early hours between 1:30am and 2:30am of Tuesday 10<sup>th</sup> December, 2013 a police vehicle entered Libby community and started sporadic firing. Villagers were rudely woken and ran for their lives in the bushes abandoning their homes. They claimed that the police broke into their homes and took away property, goods and money. Some people recounted losing palm oil stashed away for sale. They pointed to broken doors and scattered rooms (pictures on file). Some persons, Massah Ndowai, Kullah Kallon and the head teacher claimed they were seriously beaten by the police as they carted away their household items, chickens and money. Massah alleged she lost in the looting spree of the OSD operation five containers of oil palm, the head teacher alleges that all the World Vision books supplied to him recently were vandalized and some carted away. One man alleged that since that night of the police raid, a commercial motor bike went missing.



*A door kicked off its hinges in Libby – a woman lamenting*

In the period of investigation Green Scenery witnessed some women with bundles on their heads returning from their hideouts in the bushes they informed Green Scenery that more people were still in hiding. A returning woman told Green Scenery that “the police which should be protecting us and our property are now the cause for us running from our homes like the war days and losing our hard earned property.”



*Returnees from the bush*

“This is unbelievable. We thought those days are gone,” she lamented. A worker in an international organization expressed fears of the development in Malen chiefdom and said they have suspended their operations for now there.

### **11-12-13 Ngandorhun**

Green Scenery tried to locate the individual who was said to have sustained a bullet wound in the neck during the incident. While it was difficult to locate the person, Green Scenery gathered information from a credible source who claimed to have interviewed the man in Ngandorhun. The man Baimba Koroma (pictured above) our source said Baimba and a carpenter, Mustapha both in Sahn Malen were heading to buy materials for the construction of a new bed for the victim. They had scarcely reached the football field in Sahn when they heard in a distance poro chants. Within minutes the source said recounting the victim’s story they also saw a squad of OSD personnel by the chiefdom speaker’s residence firing at the teeming crowd approaching from the Upper Malen section. Our source said that shortly during the shooting the victim felt something hit his neck and he immediately went unconscious and was later taken to the clinic by Mustapha, the carpenter.

In Ngandorhun an eye witness (name on file) narrated that the crowd did not carry any form of weapon/instrument that warranted such aggressive behavior from the police. He said all the people were doing was chant the poro slogan and asking why “Yeatay-Yeatay”, the regional OSD boss would arrest their compatriots. Similar story was narrated in Taninahun by community people interviewed.

### **Other pertinent information**

CSO sources in Bo city confirmed that 57 persons were arrested by police in Pujehun and taken to Bo where they were held in custody. Twenty five were later released who they claimed were screened and had no case to answer. The rest 32 persons were allowed police bail and to be reporting to the police every day until investigations were concluded.

Further information was that the thirty two persons were charged to the magistrate court on Monday December 16<sup>th</sup> they were remanded and not allowed bail amidst civil society intervention in Bo. Their matter was adjourned to Monday 23<sup>rd</sup> December, 2013. On the 23<sup>rd</sup> the 32 in custody were allowed to be bailed on the following terms:

- Persons allowed to bail the accused should be a very responsible person
- Additionally the persons should be worth 10 million Leones and over
- Each arrested person is allowed one bail surety.

Information received from MALOA sources claims that President Koroma held a meeting with MALOA's spokesman, Hon. Sharka Musa Sama during which he promised to do something about the release of the 32 persons. On January 9<sup>th</sup>, 2014 the 32 suspects were released after spending one month in police custody. Their matter was adjourned to February 14<sup>th</sup> 2014. Strangely a letter of apology materialized from unknown sources requesting the 32 suspects to sign implicating them with offences they were charged with.<sup>2</sup> It is reliably learnt that none of the arrested 32 appended their signatures to the document.

## **Green Scenery's synthesis of the issues investigated:**

### **Invoking secret society.**

The question of whether it is lawful to invoke a traditional and or cultural practice can be a legal discourse which Green Scenery declines to engage in. What as an organisation we want to raise is whether it is permissible? The constitution of 1991 does recognise cultural and traditional practices insofar as the fundamental principles of state policies are ascribed in chapter 2. Information gathered from the police mentioned that the Secret Society was a measure to protect the remaining land belonging to the people of Malen Chiefdom. This is a desperate measure applied by community people since their call for justice, and the protection of their rights are either ignored or actions taken are too slow and uncertain. In the same vein the Paramount Chief and his Chiefdom Speaker continue to forcefully take land away from communities and hand over same to the SOCFIN Company. The company equally complacently ignores international good practices set in the RSPO by accepting these wrongfully acquired land as it expands its operations. These people; be they MALOA or none MALOA members are still citizens of Sierra Leone whose rights and interests must be protected as dictated by the constitution and international human rights law.

The secret society would not have been an option if the authorities/duty bearers were listening and engaging the communities, the company and chiefdom authorities in a dialogue where solutions are genuinely sort.

### **The Peaceful nature of the crowd**

The police have hardly exemplified good policeman-ship when it comes to dealing with crowd. In all of the instances where they faced angry but unarmed crowd, the police fails to apply good policing tactics but rather have used wrong rules of engagement that would lead to unwarranted deaths, injuries and a degenerating relationship between the public and the police force. This trend has repeated itself in Malen. While there is no reported case of death in Malen, community people who are resisting the unlawful takeover of their land are constantly

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<sup>2</sup> This unsigned letter is in our files.



subjected to intimidation, harassment and arrests by the police, mandated under the constitution of Sierra Leone to protect lives and property of citizens irrespective of their status. Should not the police have listened to the crowd when the crowd was unarmed? The former LUC did the same during a peaceful protest march by citizens over the land grabbing issue. The crowd dialogued with the LUC and later dispersed with anyone getting hurt. What was then wrong with this one? Is the change in the police leadership in Pujehun and the increase in police presence in Sahn a strategy to inflict high handed measures to peaceful but resisting land owners? The crowd was peaceful and “had no evil plan to attack Sahn,” according to a press release from civil society in Pujehun, which monitored the incident. The civil society press release alleges that the police (OSD) used excessive force to disperse the crowd.

### **The night raid by the OSD and the looting of property**

Many citizens in Libby alleged that their village was raided in the early hours of Tuesday the 10<sup>th</sup> of December, 2013. They alleged that this was done by the police who fired gun shots and gave cause to peaceful citizens including women and children to take to their heels for the bush. A strong indicator that the incident of raiding with gunshot took place in Libby was when women and children were seen returning to their village with bundles on their heads a scene only reminiscence of the rebel war in Sierra Leone. If the police were loathed by citizens in the pre-war years it was due to such behaviors. No doubt many became targets in the years of the conflict. This is a serious development ugly enough for the police to have introspection about their claim to professionalism.

### **The suppression of dissenting voices**

This is the 21<sup>st</sup> century where dialogue is the order not intimidation. The show of viciousness to suppress dissenting voices can only meet with resistance and counter resistance and ultimately to an all out violence. The Malen issue has reached what we would refer to as the uncomfortable stage during which aggrieved persons would only express their concerns to the stage of resentment. The resentment stage must be rigorously managed noting how deep the frustrations have gone without attending to them, and how much land owners are suffering either silently or at the hands of the police and the chiefdom authorities.

### **The company’s continuous takeover of the Malen territory**

The SOCFIN Company leased from the Government a total of 6,500ha. While the communities/land owners and users challenge the manner in which it was done, SOCFIN has been able to assert its hold on this land area and has planted if not all with palm trees. Socfin’s operation affects an estimated population of 9,000 people and 22 villages within this area.

But SOCFIN's insatiable desire for more land continues to drive the company in taking over more land even over the agreed lease agreement. It is confirmed by company authorities that the company is now in control of 7,100ha of land an area in excess of 600ha in breach of its agreement with the government. There are now over forty communities affected by its operations and a total population in excess of 10,000 people and in spite of all of the conflict the land takeover is causing, SOCFIN continues to endure working with the Paramount Chief and his Speaker to forcefully take land from land owners and pass it on to the willing company.

Information from the Police indicates that there is a problem with the way land is taken from the residence of Malen. The fact that the PORO SOCIETY is now putting an embargo on the remaining land in Malen implies that community people are getting desperate and sending message to those bent on taking their land away. The Socfin company should know that cardinal principles in the RSPO such as principle one: commitment to transparency, principle two: compliance with all applicable local, national and ratified international laws and regulations and principle six: responsible consideration of employees and of individuals and communities affected by growers and millers must be adhered to and not ignored, or act ignorantly as a bystander even where there is ample nexus between the Paramount Chief's action and the company's action. Nexus such as the survey team working for the company and surveying grabbed land from Malen citizens.

### **The problem of governance in the land sector**

Perhaps one of the problems in the land sector has to do with governance, the foundation of which is the law. While the law; cap. 122 may be seen as a law with a good interpretational spirit for not allowing land in the provinces to be sold to none citizens and vesting the land in the Tribal Authorities (chiefdom council) which head is the paramount chief, it has a lacuna which is being exploited and misused. This misuse is giving rise to the present instability in regions affected by land grabbing such as Malen. One key lacuna is the entrusting of land in the Chiefdom Council on behalf of the communities. Ostensibly, the law entrusting the land to the care of chiefdom authorities authenticates the customary law practice of land disposal/acquisition in many parts of the country. This customary law practice of land tenure is enshrined in collective/consensual decision making wherein all land owners should agree to the disposal of land to persons requesting it otherwise a process of discussion on land disposal should restart until the dissenting voices all consent to the land disposal. In his analysis of the lease agreement between GOSL and the Malen tribal Authorities as well as the sublease agreement between GOSL and SOCFIN Agricultural Company, Patrick Johnbull Esq. asserts that "customary Law regulates our native institutions of marriage, Divorce, Succession and most importantly the Land Tenure system." According to him all land in the provinces is governed by Customary Law. Cap 122 is seen to complement the Customary Law on land tenure in the provinces by offering regulation and process of how none citizens should acquire land in the

provinces. The challenge however with the law is that it is been abused by certain chieftom authorities, government authorities and agents due to its looseness and ill-explicit definition of the role of trusteeship. In recent times the term “custodian” emerged and is now been used even in the present draft land policy. It is very important that in this period of constitutional review the issue of land ownership and tenure-ship as well as problematic phrases or words that are causing confusion and tension around land would be addressed.

### **The constitutional rights to assemble and demonstrate peacefully**

Chapter 3 of the 1991 constitution guarantees the right to belong to an interest group, political party or association. This same constitution further guarantees the right to assemble and to peacefully seek interests. In Malen Chieftom the center for this report, the direct opposite has occurred. Land owners who are not in favour of leasing their land have organized themselves into an interest group known as Malen Affected Land Owners Association (MALOA). The group is formally registered with the highest legal authority in the country – The Registrar General. This implies that the group can function anywhere in the country. Yet in Sahn Malen the Chieftom Speaker Moiguo continuously refer to them as illegal group, refusing to even register them in the chieftom even when they applied. On the flip side the Paramount Chief has constituted another group whose legal registration is yet to be ascertained. This group from our investigation is intended to attack MALOA anywhere they have their meetings. In the recent Malen debacle there was strong pointer to elements of this group working with the OSD police. The setting up of this group to fight a government recognized group can only be tantamount to what one of the MALOA members referred to as setting up a vigilante group to cause conflict. The irony that one group has the right to associate and meet in the chieftom while the other is labeled as illegal and not given the opportunity to meet and by proxy to associate completely defeats the fundamental human rights and freedoms of the individual as enshrined in the constitution of Sierra Leone. Section 26 of the 1991 constitution is very clear on the right to assemble and associate “Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade unions or other economic, social or professional associations, national or international, for the protection of his interests.”

### **Problem with good policing**

There is a history in recent times of problems associated with good policing. There are many instances where the police have used severely high handed measures that have lead to very unpleasant outcomes causing the institution to regret over the manner its forces behave when faced with minor challenges. The police must know that they are obliged to uphold international standards of policing. There is the UN “International Human Rights Standards for Law Enforcement” which should be the dictionary of every police officer. This standards guide the behavior of the police officer to efficiently affect her/his duties.

## **The value of the human being**

In chapter 2 of the Constitution of Sierra Leone 1991 section 8 (2)(a,b) lay emphases on equal rights to all citizens while recognizing, maintaining and enhancing the sanctity of the human person as well as the dignity of the human being. The state policy further in section three states that “the State shall direct its policy towards ensuring that every citizen, without discrimination on any grounds whatsoever, shall have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment...” The choice of those who wish not to lease their land must be respected as they take the land as the source of both their employment and livelihood. Usurping this right especially in the absence of a free prior and informed consent indicates that the state is faltering on the principles on which it was established.

## **The stakes**

In conflict management there are different levels of intensity in conflict, which can range from mild disagreements: to serious disputes; to deep-rooted conflict; to protracted conflict; and to violent conflict. As we examine the stakes we continue to observe the trend in the intensity of the conflict in Malen. As we continue to monitor land grabbing in Sierra Leone we note this observation for Malen that the conflict has graduated from one of mild disagreement to serious dispute and each time no proactive action is taken to genuinely deal with the Malen problem and keeping it the problem under the mat hoping it will solve itself lays the risk of moving into the next stage. The situation at this stage requires frank dialogue by all Malen citizens, whether or not they are land owners. It requires taking decisions humane enough to respect rights of citizens, recognizing the need for investment that does not hurt and ensuring that people decide their own destiny.

## **Green Scenery’s position and recommendation**

Green Scenery strongly believe that affected land owners and land users in Malen Chieftdom are unnecessarily vilified, unfairly treated and quite often subjected to mal-treatments by the police and chieftdom authorities without justification. Authorities in government are stock in the same trap with negative perception about the affected land owners, this perception can only be cleared if a thorough and objective investigation is carried out in the chieftdom regarding the land issues.

## **Green Scenery therefore recommends that:**

1. The Malen incident of December 9<sup>th</sup> be thoroughly investigated by independent investigators and the report of that investigation made public,
2. The mediation role of the Human Rights Commission of Sierra Leone appears to have failed, therefore an alternative approach to the land problem in Malen be thought out by the commission,

3. The Paramount Chief and his loyal chieftain authorities should desist from taking participatory space from communities and allow freedom of expression, association and the freedom to seek interest to prevail in the Chieftain. At the moment what Green Scenery observe is happening in the chieftain is blind dictatorship that is unhealthy in a teething democracy like ours.
4. Those who have been unjustly arrested be released and allowed to join their families,
5. Government puts a stop to the continuous expansion of Socfin in the Malen chieftain, noting strongly that there is level of tendency towards "chieftain capture" by the company.
6. Government places emphases on dialogue and allow all interest groups to be able to meet and discuss issues of their interest.
7. Socfin should endeavour to respect aspects of Principles 2, 4, 6 and 7 enshrined in the RSPO as they claim to be founding members of the guidelines.
8. Use of live bullet by the police at a peaceful demonstration should be suspended while the use of live bullets should be brought into public debate whether or not it is necessary to apply live bullet at peaceful demonstrators.
9. Good policing based on international human rights standards must be cultivated by the police force and this should transcend the entire police leadership.