



The Black April Students' Unrest in The Gambia

Gambiya'daki Kara Nisan Öğrencilerinin Huzursuzluğu

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Abstract

Two isolated incidents in The Gambia spurred a student demonstration on April 10, and 11, 2000. The Gambia Students' Union felt the government handled the issues which involve their members with levity. A futile attempt by the student body to engage the authorities to redress the grievances compelled its members to vent their anger in the streets against a society they felt treated their colleagues unjustly. However, government's highhanded reaction to the student's resolve escalated the demonstration to a full-blown riot which resulted in unprecedented casualties. Through qualitative method, the undercurrents which propelled the highhanded measures in quashing the riot constitutes the subject of this paper. Viewed against the background of the protracted inherent security situation of the country, the article examines the entrenched causes of the riot. It also questions, within the legal framework of Vicarious Liability the motives propping the recommended punitive measures against some key law enforcement and other public officers, a decision for which the conclusion of the article recommended adjudication. In conclusion, the underlying causes is ascribed to misunderstandings instigated in the politically polarized society in which the students' Union and law enforcement agents got themselves entwined in societal class struggle.

Keywords: The Gambia, Student Riot, Security, Riot Control, Vicarious Liability.

Paper Type: Research

Öz

Gambiya'da münferit iki olay, 10 ve 11 Nisan 2000'de bir öğrenci gösterisine yol açtı. Gambiya Öğrenci Birliği, hükümetin üyelerini ilgilendiren meseleleri ciddiyetle ele aldığını hissetti. Öğrenci birliğinin şikayetleri gidermek için yetkililerle bağlantı kurmaya yönelik beyhude bir girişimi, üyelerini, meslektaşlarına haksız davranıldığını düşündükleri bir topluma karşı öfkelerini sokaklarda dile getirmeye zorladı. Bununla birlikte, hükümetin öğrencinin kararlılığına sert tepkisi, gösteriyi tam anlamıyla bir isyana yükseltti ve bu da benzeri görülmemiş kayıplarla sonuçlandı. Nitel yöntemle, isyanı bastırmak için sert önlemleri iten gizli akımlar bu makalenin konusunu oluşturmaktadır. Ülkenin uzun süredir devam eden doğal güvenlik durumunun arka planına karşı bakıldığında, makale isyanın yerleşik nedenlerini incelemektedir. Ayrıca, Dolaylı Sorumluluk yasal çerçevesi içinde, bazı kilit kolluk kuvvetleri ve diğer kamu görevlilerine karşı önerilen cezai tedbirleri destekleyen saikleri sorgulamaktadır; Sonuç olarak, altta yatan nedenler, Öğrenci Birliği ve kolluk kuvvetlerinin kendilerini toplumsal sınıf mücadelesinin içine soktukları, siyasi olarak kutuplaşmış toplumda kıskırtılan yanlış anlamalara atfedilmektedir.

Anahtar kelimeler: Gambiya, Öğrenci İsyanı, Güvenlik, İsyan Kontrolü, Dolaylı Sorumluluk.

Makale Türü: Araştırma

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Introduction

Two isolated incidents which The Gambia Students' Union (GAMSU) felt the government handled with levity sparked off April 10 and 11, 2000, student demonstrations in The Gambia. The first case pertains to the vicious assault and ultimate death of a 15-year-old technical school student who was manhandled by personnel of The Gambia Fire Service. A provincial female student who travelled to the city to participate in an annual Inter Secondary School Sports competition was raped by a security officer at the venue, that was the second incident. The Students' Union unsuccessful endeavour to engage the government to seek redress culminated in its members take matters into their own hands to vent their anger. They resolved to converge at the front of The Gambia Technical Training Institute to launch a peaceful protest. At a preparatory meeting for the picketing, news filtered through that the Secretary of State for Local Government and Religious Affairs is au-fait with the Union's resolve to take over the streets. The said Secretary informed them of an arranged meeting for the Union to have a tête-à-tête conversation with the Vice President of the republic to resolve the impasse caused by the death of the student and the defilement of the female student. However, for undisclosed reasons, the meeting was scuttled (Truth, Reconciliation and Reparation Commission Report. TRRC, 2022, p. iii-3)

On April 10, 2000, a body of students congregated at the designated arena to vent their annoyance. Consequently, a combined team of the Police and Armed Forces personnel received orders to keep the peace. The Army Commander, the Deputy Inspector General of Police and the Secretary of State for Interior were present at the scene obviously to superintend the combined effort of the security personnel in inhibiting the situation from spiralling out of control. Apparently, despite whatever preparation they made, the intervening forces seems to possess no adequate blueprint to manage the situation, hence warning shots were sporadically fired in the air, understandably to scare the students. In reaction, the students dispersed helter-skelter in various directions while assailing the Force men with stones in retaliation. As news of the unfolding events permeated the adjacent settlements, non-participating students and their sympathizers elsewhere started converging in solidarity to express their anger, many of whom received thorough beating and some were shot with live rounds of ammunition. Consequently, twelve students and a Red Cross volunteer, alongside a toddler, were gunned down while the wounded were hospitalized (TRRC Act, 2022, p. 1-2).

Another batch of security personnel inundated Banjul to stem an envisaged violence by cells of angry students from engulfing the capital city. The situation progressed into a riot, whereby hoodlums eventually had a field day throughout the city which was engulfed by a considerable disregard for law and order and complemented by massive vandalism. Inside Saint Augustine's High School, invading armed security officers who were firing live ammunitions intermittently manhandled a teacher and amid the mayhem, shattered windowpanes injured three students.

On the following day, April 11, 2000, news of the unfolding events had already infiltrated the provincial settlements resulting in students taking over the streets in sympathy with their beleaguered city colleagues. Security officials deluged the rioting towns in their effort to curb the escalating situation. Students received the same treatment meted on their city colleagues, and those apprehended were detained at Georgetown Prison facility and Armitage High School compound besides, those that sustained bullet wounds were hospitalized. Subsequently, after a commission of enquiry investigated the mayhem, the Indemnity (Amendment) Act of 2001 absolved all civil and military officers that infringed on human rights. Seventeen years afterwards, The Truth, Reconciliation and Reparation Commission (TRRC) Act 2017 was passed to address diverse national issues (TRRC Act, 2017). Subsequently, a finalized thematic work and investigation plan encompassing 25 assorted themes was composed. Volume 6 of the 16 volume reports was dedicated to hearings from August 19 to October 3, 2009, which addressed detailed testimonies of what transpired during the April student demonstration that metamorphosed into an unprecedented student riot.

While the crisis was unfolding, the President was on a state visit to Cuba. In the morning of April 10, 2000, the Vice President alerted him on telephone of the deteriorating state of affairs that was fast sliding into anarchy during which, according to the President's aide-de-camp (ADC) who was with him in Cuba, the President ordered that "they should take care of the bastards in whichever way and whatever form" before making repeated calls to unknown persons to fashion modalities on appropriate lines of action. The TRRC interpreted the alleged statement credited to the President to connote an order to shoot at the students (TRRC, 2020:45). However, the Vice President, in her testimony at the TRRC, denied ever receiving such orders from the President. According to her, she at no time issued any command to either the police nor the military besides, she knew of the casualties two or three days after the incident (TRRC, 2020:45).

A broad spectrum of recommended sanctions contained in a government White Paper Report on findings and recommendations of the Commission gyrates around the application of excessive force which resulted in a total of fifteen deaths countrywide. Among the wide ranging proffered sanctions were the prosecution of the President and his Vice over various allegations. The report also recommended that the President and his Vice should be barred from holding public office for life, and ten years respectively. A ten-year prohibition from holding public office was placed on two named security officers, one of whom should be prosecuted in addition to the ban. Furthermore, sanctions were recommended against a number of military and police officers for their roles in quelling the riot. (TRRC, 2020, p. 51).

1. Objective

While the anticolonial struggles united the African people, the organizations of civil society, and the political leadership under the umbrella of freedom, these same segments of the body politic are now in a precarious balance with each other because of active hostility between social classes, rulers and the ruled (Ewoh, 2000, p. 1). The political development of The Gambia reinforced a long established datum that the necessity to attain and retain power remains a prime factor that breed conflicts in societies. The fashion in which GAMSU reacted to the maltreatment of its members, viewed against the background of political developments of the country, pitched the body on a 'war path' with the state. This paper whose focus hinge on the findings of the TRRC, highlights the remote causes of the highhanded tactics deployed by the security forces to quell the riot. It also addressed the rationale propping the recommended punitive measures to be meted on some public officers. Furthermore, within the legal framework of Vicarious Liability, it questions the essence of the recommended punitive measures against some key law enforcement officers as contained in the TRRC report; a decision for which the conclusion of the article recommended adjudication. The objective is to ascertain how GAMSU and the state security officers got themselves entangled with political and class intrigues and how the ruling class, in two separate political dispensations, tried to sustain their dominant roles in society by ostensibly manipulating the law through inaugurating what appears to be retributive commissions of inquiries to reprimand their predecessors.

2. The Protracted Inherent Insecurity That Pervaded the Country

A prime solution to riots and other social disorders is a substantial amelioration of social tensions in society. Schoedinger (1969, p.152). Inhibition, Schoedinger further asserts, is vital, but experiences have shown that failure to prepare is imprudent and can only compound the anguishes of civil outbreaks. Combative approaches to riot control, having recourse to experience, sparingly yield desired results hence, well thought out strategies should be fashioned if the purposes and effects of the control measures are far-sightedly scrutinized (See Marcus, 2023). The April demonstration that deteriorated into a riot represents an emotional eruption of hatred and utter disappointment the students harboured against a society they felt treated then unjustly. Virtually all of the students that partook in the mayhem can be adjudged to be right-minded before the outburst. There was massive turnout for the reason that "acts of rioting are irresistible elements

of contagious action rooted in commonly shared and generally expressed feelings of frustration and rage (Schoedinger, 1969, p. 152).” The riot was unique because the protesters did not take to the streets with premeditated motive to cause pandemonium. However, government was up against the enraged students by confronting them with live ammunitions, as if they were insurrectionists, rather than treating the demonstration grounds as integral parts of the country harbouring displeased citizens expressing their discontent with what they perceived to be an unjust society (Schoedinger, 1969, p. 152). The authorities glossed over the certitude that the stone throwing students represent a microcosm of the citizenry.

In analysing incidences of riots in the United States, Schoedinger (1969, p.154) outlined four consecutive stages of riot development. The triggering event which is often an innocuous confrontation between the police and a member of the aggrieved community marks the commencement. The incident often goes unnoticed except that it occurs at a time and place when members of the community are present. Stage two ensues as the people congregate with others who have recorded the rapidly spreading word of the incident. This stage marks the showdown between minority agitators and the more respectable minority leaders. The aggrieved group denounces and mutter obscenities at the minority group, while they try to remain calm. If the demonstrators fail to disperse peacefully, the third stage which is characterized by vandalism, stone throwing, and looting commences. At this stage, should the security forces resort to re-exercising excessive force, the disorder develops into the fourth stage which requires the declaration of curfew, an inevitable move to keep most of the non-participating population off the arena.

The modus operandi the Force men deployed in quelling the uprising has to be an integral component of the riot control planning mechanisms that ought to augment the existing laws which provide the authority and the control procedures to be deployed in arresting a crisis of this nature. However, the arrival of the operatives at the riot scene accelerated its progression from a demonstration to a full-blown riot.

Student demonstration is not a novelty in The Gambia, though incidences are far asunder. The tenure of the first female cabinet minister, Angela Louis N’jie in 1985 in the Ministry of Youth, Sports, and Culture was tainted with students’ protests against their welfare in 1987 (Hassoum Ceesay, p. 2014). Furthermore, students and ex-students of Yundum College performed pivotal roles at various times in radical protests against the Peoples’ Progressive Party (PPP) led government that ended in 1994. On January 11, 1969, the Senegalese President, Leopold Sedar Senghor, accused the Gambian government of economic aggression. Consequently, on February 6, Gambian students staged a demonstration against Senghor during his state visit to The Gambia (Hughes & Perfect, 2008). The Gambia Workers’ Union in February 1960 and January 1961 organized a one and two days strikes respectively for better conditions of service. Forty students of Armitage Senior Secondary School were suspended indefinitely for their alleged involvement in a strike on May 29, 2002, over the issue of chancellorship, during which two classrooms were damaged and some students sustained injuries (Gambia Daily Observer, June 10, 2002). These and other isolated instances in various high schools on virtually innumerable occasions went unsung.

In 1843 The Gambia became a British Colony before attaining independence in 1965 during which the apparatus of state administration inherited from the colonial authorities was honed to ensure a continuum of the democratic dispensation. However, in 1968, there were wild talks of some members of the state security forces plotting an overthrow of the state. This raised concerns as that was a period of coups in West Africa during which Nigeria, Togo, Ghana, and Sierra Leone experienced violent overthrow of civilian dispensations Omasanjuwa & Tarro, 2001, p.7). (Notwithstanding the prevalent rumours, the meticulous investigations conducted by the Inspector General of Police, Harry Evans, proved otiose. Government, however, kept an ear to the ground. In the 1970s, the ‘bush telegraph’ was rife with talks of an imminent coup. The security forces were, as a precautionary measure, placed on high alert. A Gambian named Zakaria

Conteh who was recruited in The Gambia to work in a factory in Libya, ended up in a paramilitary camp to receive training which will enable him to play a part in the overthrow of the Gambian government. On his subsequent return, he alerted the government of what was lurking. In 1980, the security forces High Command terminated a live firing exercise at a firing range. Rumours had it that the Commander had the intension of transforming the occasion to effect a change of government. On October 27, 1980, security personnel named Mustapha Danso standing in "Order Arm," without perceptible cause opened fire and assassinated the Deputy Field Force Commander, Ekundayo Mahoney, who was driving into a barrack. Fearing that the incident could degenerate into a coup, on the behest of the Gambian government, a Senegalese company of paratroopers, augmented with a platoon of Gendarmerie, arrived the country to restore order. (Omasanjuwa & Tarro, 2001). From July 30 to August 6, 1981, an insurgency overthrew the government tentatively while the President was in the United Kingdom attending the royal wedding of Prince Charles and Lady Dianna Spenser. Senegalese forces, on the bidding of The Gambia once again arrived and restored the constitutional order. In their own fashion, the rioting students were unwittingly reacting against the social ills that have been engineering the political instability.

There are various causes of *coup d'état* in Africa as expounded by Irene Omo-bare (1990). These include political, economic, crumbling public institutions and infrastructures, regime failure, lack of legitimacy, foreign influence, cultural pluralism, and personal factors. Thompson (2010) is of the view that the organizational ability of the military, coupled with patriotism, discipline and cohesion at the heart of the service, often prompt military juntas to rescue the state from collapse at the hands of inept corrupt governments. Thompson further categorized the enunciated causes into guardian coups executed to save the state from collapse, veto coups, and breakthrough coups which sweep away traditional and autocratic regimes.

The forces at play in The Gambia of 1981 are what Iren Omo-bare (1990) denoted as cultural pluralism. Like-minded members of the public concurred with the coupists who accused the dethroned President of ethnic chauvinism, among other acrid denunciations (Sallah, 1990, pp. 621-648). Ethnic relations in the country were appalling to the extent that certain ethnic groups remain virtually inconsequential in the scheme of things. Among the *Jola* ethnic group, as a case in point, over thirty years after independence, only thirteen men received university education, with the support of Christian missions, no female among them. Indeed, like most other disadvantaged members of some other social groups, there was however no official design making the *Jolas* underlings. (Omasanjuwa & Tarro, 2021, p. 15. Under such desultory master servant relationship, the zeal to change the status quo fuelled the resentment which the marginalised class harboured against the privilege class.

In 1968 the Inspector General of Police investigated rumours of a coup and in 1980 the Field Force Deputy Commander was assassinated for imperceptible reasons. The following year a foreign intervention botched an attempted overthrow the state. In a span of 13 years, these events primed the country for a violent change of leadership. Though the propertied class clung unto power amid rampant corruption and tactless mismanagement of state resources, 26 years after the 1968 coup gossips, the regime succumbed to a military takeover on July 22, 1994. These were among the clavages in the political space that the students' action unwittingly tried to address.

Consequent to the successful coup, The Justice Alghali Commissions of Inquiry which was established to probe diverse aspects of infractions committed by public officials against the state discovered that after the failed 1981 coup, good-willed countries donated over \$30 million to the country in support of reconstruction, virtually all of which was mismanaged (Arnold & Perfect, 2008). Squandering, pilfering, and pillaging of state resources remained the norm. Investigations revealed that the erstwhile President's 40 overseas trips from 1989-1994 cost \$1,813,460 besides the missing records of 610 first class air tickets for which the Finance Ministry, Personnel Management Office, Office of Accountant General, and the Secretary General (Head of Service) evaded responsibilities. The Office of the President spent 80% more

on overseas trips than on education for a whole year and foreign travels exceeded the annual budgetary allocations for education and health combined. The Gambia Ports Authority specifically was a citadel of assorted improprieties where businessmen and public officials had a field day; cheques issued in settlement of duties were intentionally either mis-signed or misstating the figures or deliberately writing the face value to mismatch with the figures quoted on the cheques. The inquiries revealed that, in contravention of the constitution, for almost a decade the Auditor General failed to present audited annual public accounts to Parliament (Barata et al., 1998, pp. 18-21).

The military junta which toppled the government retained power till the 1997 presidential elections which transformed the regime into a democratic dispensation. The Alliance for Patriotic Reorientation and Construction (APRC), the party under which the junta contested and won three other presidential elections consecutively (2001, 2006, 2011) retained power till it was voted out in the December 2016 presidential poll. The main opposition party, the United Democratic Party (UDP), a conglomeration of politicians of the 1965-1994 era, teamed up with six other parties to wrestle power from the junta.

Preceding the presidential election of December 2016, thirty-nine opposition party members predominantly of the pre 1994 class, on July 20, 2016, were arrested for breaching the Public Order Act No 5 of 2009 having engaged in a protest march without permit. They were arraigned and sentenced to three years' imprisonment apiece. The judgment exacerbated the 22-year-old political acrimony the country had been contending with since the military takeover of 1994. Superficially, the essence of the protest cantered on the antipathy of the long serving President to concede to the opposition parties' call for electoral reforms to precede the forthcoming December 16 presidential poll. The ruling party that had retained power for 22 consecutive years eventually lost the election to a coalition of seven parties. Ultimately, the convicts were granted bail in anticipation of the aftermath of their appeal against the sentence before the defeated president relocated to exile. The President-elect took the oath of office on January 19, 2017, and on January 30, 2017, he pardoned the convicts (The Gambia Gazette, 2017). On February 1, 2017, the leader of the pardonees, a longstanding legal practitioner and a perennial presidential candidate became the Foreign Minister and later ascended the Vice Presidency in June 2018.

The dawn of the new dispensation, similar to what ensued in 1994, occasioned the setting up of commissions of inquiry to investigate, *inter alia*, the activities of the ousted President, an action some analysts construed as a reprisal measure resorted to by members of the rejuvenated 1965-1994 political class who were subjected to the draconian penalties recommended by the Justice Alghali Commission. That, observers inferred, necessitated the inauguration of the TRRC which give the impression of being a vengeance commission.

3. Theoretical Perspective: Principle of Vicarious Liability

An agency agreement entails a tripartite contract among a principal, an agent, and a third party. Ordinarily, it might seem bizarre that situations could arise whereby an 'innocent' person is liable for the negligence of another merely for some contractual relationship. Commonly, in compliance with rules defined by the principal, an agent completes tasks for his master by executing contracts. However, the concept of vicarious obligation which imposes liability on a person for another person's tortious acts deviates from tort principles. An agency association typically precedes the invocation of vicarious liability. The concept is routinely applied where the tortfeasor is either an employee or an agent of the respondent. However, this excludes independent contractors who are "*persons or entity engaged in a work performance agreement with another entity as a non-employee*" (Investophobia Team, 2022). In the course of an employment, a thoughtless selection or a faulty observation of an employee could compromise *the legal responsibility of an individual*. In essence, while it is the employee that commits a tortious action, the legal responsibility is shouldered by his employer, provided the tortious action is encompassed

by the terms of the employment. Vicarious responsibility is conceivable if the negligible conduct of an employee is reasonably linked with the employment in question. If a third party files a suit for damages, the negligence of an employee acting within the terms of an employment is attributed to the employer. Besides employment relationships, vicarious liability is also applicable to a partnership for the tort of a partner. (Baskin, Osborne, Roach, 2018, pp.156-157).

A principal is bound by the transactions his agent entered into provided the latter acted within either: (a) the scope of the authority conferred upon him by the principal prior to the transaction or by subsequent ratification; or (b) the ostensible scope of his authority. A principal may also be vicariously liable for the acts of his agents which, though unauthorized, are sufficiently connected with the employment is not criminally liable for their acts. Succinctly, a principal cannot exonerate himself from the actions of his agent.

Respondeat superior (Latin for vicarious liability) is justifiable under certain conditions: (a) It is the responsibility and right of an employer to control the conduct of his employee within the scope of the employment. The physical conduct of the principal's service must be either controlled or amenable to the right of control. (b) Incidence of accidents can be reduced if employers are liable through safety education curricula and chances. (c) Inheritable losses of a business caused by accidents should be borne by the business or its owner. (d) Fairness demands that the costs of accidents associated with a business is shouldered by those who profit from its returns. (e) The employers are in a better position to purchase liability insurance and as a consequence foot the bills of accidents. (f) As the employer reaps the benefits and profits of the enterprise, justice demands that he should bear the liability. It is noteworthy that it is the control and rights that goes with it, not necessarily compensation, that is the fundamental benchmarks for vicarious liability (Dobbs, 2000, pp. 905-969).

Generally, an employer of an independent contractor is not liable for the latter's negligence in the course executing his task (Todd, 1997, p. 1148). The applicability of vicarious responsibility connote that an employee executes tasks subject to the control of his principal. Hence, an employee and an 'independent contractor' are mutually exclusive for the purposes of vicarious responsibility. As an employer cannot be liable for the liabilities of an independent contractor, relationships unambiguously belong to either employee or independent contractor category based on the right of control exercised by the principal over the agent. "The test for employment is the entitlement to control" (Steel, 2010, p. 580). The scope of employment pertains to acts and allied tasks that the employee is hired to execute, such that they may be classed as logically subsidiary to executing the goals of the employment. So, vicarious liability is enforceable when either a principal consent to his agent's inappropriate act or if the principal sanctions an improper mode of performing a task. Hence, a principal is legally responsible for any task he has sanctioned as long as it is connected with acts which he has approved that may rightly be construed as an approach, although inappropriate approach, of executing the task (Steel, 2010, p. 572-600).

4. Political Situation of The Gambia

The problem posed by the April demonstrators requires more than the application of kinetic force; the underpinning causes needs attention as the TRRC, during its hearings, did not adequately tackle the causes of potential conflicts whose causes are historical. Post-independence Gambian history encompasses the polarity of its political class. Hitherto, there have been three post-independence political dispensations, 1965-1994, 1994-2016, and 2016-present. The Justice Alghali Commission Report explains the nature of pecuniary atrocities politicians of the 1965-1994 class perpetrated. These explains that in its history there are intrinsic social conflicts to the extent that the imperceptible desire to effect a violent change which materialized in 1994 is likely to persist amidst the cleavages in the system.

The ruling Peoples' Progressive Party (PPP) (1965-1994) that led the country to independence was by all means quasi-authoritarian in governance. Similar to the True Whig Party which ruled Liberia for over a century on strict party loyalty basis and membership of the Masonic Lodge (Omasanjuwa & Junisa, 2020, p. 10), only their elite members and allies profited from the system that was harsh on dissenting voices. As the first republic politicians were ill-disposed to enlighten the underprivileged class, the country had no television house until after the fall of the regime in 1994, three decades after independence. Harassment of journalists over the exposure of noxious practices in government was a commonplace. "The country's shoestring economy sustained the ostentatious display of wealth by the ruling class, compounded by the regime's unwillingness to reprimand those making public choices to their personal advantage (Sallah, 1990, p. 637). Rampant corruption among the ruling class was so eye-catching that the perpetrators were nicknamed 'The Banjul Mafia', a caption that captures the 'means' employed by those who control a substantial portion of the country's wealth in their pursuit of various personal sinecures (Sallah, 1990, pp. 643-644). While perpetuating its grip on power, the ruling class ensured that "the chief electoral officer was the Minister of Local Government, a member of the ruling party, an appointee of the President who doubles as Head of the ruling party." The party waxed formidable to the extent of being in secured control of all government machinery, parliament, justice, and finances.

These and more situations characterized the misunderstandings that fashioned the political, social, economic, legal, and other spheres. Hence, it is power tussle to either repossess or preserve it gave rise to the misunderstandings in the society. Essentially, the keenly contested December 2016 presidential election was a struggle between the coalition of seven parties representing the 1965-1994 (PPP) class and those of the 1994-2016 (APRC) class. From independence in 1965 till the close of the PPP regime in 1994, key government positions. were their exclusive reserves. However, the change in dispensation in 1994 was revolutionary as members of the previously disadvantaged groups were opportune to man exotic positions, a novel and previously inconceivable development. The number of high schools ballooned from 8 in 1994 to 171 (both private and public) in 2017 (Gambia Bureau of Statistics: Number of Schools Providing Secondary Education). A television house and a full-fledged university were established in 1995 and 1999 respectively.

Discussion and Deduction

After the 2016 general elections, allegation of human rights abuses against the erstwhile APRC led government appears to be a smokescreen behind which the TRRC was inaugurated to 'discipline' members of the post 1994 (APRC) class and to retaliate the disciplinary measures recommended by the Justice Alghali Commission.

In disregard of the Common Law precept: Vicarious Liability, the TRRC punitively censored the security forces for protecting a 'reprimandable' class during the April demonstration. The relationship bonding the security personnel, the government, and the assignment they performed during the demonstration should be viewed against the background of vicarious liability. The government is the principal because the security agencies remain integral components of its instrumentalities. It implies that an agency relationship exists between the government, the security personnel, and the public. Government asserts the right of control over the police and the military, going by the vicarious liability control test, hence the physical conduct in executing the task of handling the riot was presumably organized hence, three top ranking public officers, particularly the Secretary of State for Interior, were present at the scene apparently to oversee the unfolding events. As earlier asserted, vicarious liability is enforceable when a principal approves his agent's wrong act or sanctions an unsanctioned fashion of executing a task.

The scope of the duty is expected to be clearly spelt out at the preparatory stage otherwise; the fault lays with the principal, not the agents. If the state agents acted beyond the expected constitutional mandate, it is the state that should be vicariously liable. Lastly, the fashion in which

the operation was executed permits the invocation of vicarious liability as generally, decisions for its imposition are within the ambit of negligent tasks performed by agents for which the principal should be liable.

§ 199 (6) of the South Africa Constitution comes to mind: "No member of any security service may obey a manifestly illegal order." Notwithstanding the injunction, should a security officer execute a transparently illegal order in his line of duty, that does not exculpate the principal from its vicarious liability because the legality or illegality of an agent's action, executed within the scope of terms of employment, does not count in invoking vicarious liability in a case involving a third party. So, if a South African law enforcement agent execute an order to open fire, on unarmed stone throwing school children, on the orders of a superior officer, the fact remains that the principal cannot exonerate himself from the outcome of the task simply for being either wrongful or authorized notwithstanding § 199(6). The order not to obey such a command relates to the principal and his agent, not a third party, hence an injured student should be compensated by the state, not he that pulled the trigger. It is noteworthy that a principal/agent relationship is an internal arrangement. However, the principal's relationship with a third party, and that between the agent and a third party remain external issues. Hence, as long as an external dimension is involved in the tasks performed, the issue is therefore within the ambit of vicarious liability if the third party is aggrieved. "The vicarious liability rule whereby a firm is legally held liable for torts committed by its agents could not be put in place through the contracting of private parties simply because the parties typically maintain no relationship prior to the tort" (Rauterberg, 2020, p. 643).

A fundamental concern the TRRC glossed over is: Who issued the order to shoot the stone throwing students. The directive attributed to the President that they should act in whichever manner is open to an infinite spectrum of interpretations. No witness at the TRRC corroborated either the evidence of the ADC to the President or the denial of the Vice President. The Vice President who held the fort for the President during the unfolding crisis refuted ever either receiving directives to order the shootings nor ever issued such directives to either the police or the military. She knew of the casualties, according to her, after the incidents have been committed. The TRRC did not corroborate the veracity or fallacy of the purported order from the President.

Arguably, the exiled President and the class he represents belonged to a materially disadvantaged social class. As stated earlier, only a handful of his kinsmen received university training as of 1994, three decades after independence. None of the womenfolk had the opportunity (Omasanjuwa & Tarro, 2021, p. 21). His ascendancy to power through a military coup in 1994 discomfited the previously privileged (PPP) class; a clique that called the shots long before the closing years of colonialism. Those that constituted the APRC dispensation right from its onset in 1994, commenced policies designed to address the issue of social inequalities. At the close of the administration in December 2016, the gap of social disparity was substantially bridged to the displeasure of the previous ruling class. Key public service positions that were previously manned by the disadvantaged, include Heads of Immigration Service, Police, Prisons, Military, foreign missions, ministerial appointees, Secretary to Cabinet, Secretary General and Head of Service, directors of parastatals, party stalwarts, Ports and Airport Authorities, the Central Bank, etc. were opened to all. Successive university convocation lists reflect a cross section of the social, particularly ethnic, composition of the country. Although the April demonstration erupted during the sixth year of the APRC administration, those of the ousted privileged class who were calling the shots envisaged their relegation to the background in the scheme of things while those of the lower class ascend higher rungs of the social ladder.

A control measure adopted by the state intelligence officers during the riot was, a crackdown on some opposition party figures suspected to be surreptitiously hand in gloves with the students. "After the April demonstration the whole affair was politicised and the UDP was accused of using the student's as a tool to foment the disturbances. Consequently, many of their leaders were arrested because some UDP militants were linked to the demonstrations. Alagie

Darboe testified that after the incident Jammeh (the President) himself made a statement about not allowing themselves to be used by the opposition after the demonstrations at a meeting in Kanilai when he tried to gain some influence over the affairs of Gambia Students' Union" (TRRC, 2022, p. 46). To substantiate the suspicion, it was alleged that some of the student demonstrators displayed placards with the inscription 'SOPI' which in a local dialect connote change (TRRC, 2022, p. 50). Additionally, the ousted administration (1994-2016 APRC) highhandedness and human rights violations, and in some instances, its utter disregard for normal standard procedures in addressing rights related issues received local and international denunciations. However, its supporters ascribed the infamy to moves designed to curtail sabotage and suspected subversive activities of the ousted PPP class. From the look of things, the April demonstration received the covert support of opposition politicians who were bent on undermining the APRC administration thereby necessitating the application of excessive force. To save the APRC administration from infamy, the security forces who were predominantly of the lower class, were highhanded as the overthrow of the government would facilitate the reinstatement of the PPP oligarchy, a fear that came to pass in 2016 when the APRC lost the election to a coalition of seven political parties. Those of the erstwhile PPP dispensation, in their bid to avenge the punitive recommendations of the Justice Alghali Commission, were believed to have capitalized on the students' predicament to settle scores with the administration. The crux of the matter is: the underlying forces at play evidently mirrored internal squabbles in the society.

An indispensable antidote for stemming demonstrations is the unqualified support and coordination required of all and sundry. The support base should encompass the residents of the demonstration neighbourhood, prevailing legislation, intelligence gathering, onlookers, opposition and ruling political parties, and various government instrumentalities charged with law enforcement. The active participation of state agencies is obligatory as efforts initiated by individuals that are out of tune with those of the riot controllers could complicate matters. Schoedinger (1969, p. 153) opined that a quick extreme method for justifying excessive police powers is a declaration of martial law leading to the suspension of fundamental rights. Also, iron fist measures could generate public resentment. As it is the state that possesses the monopoly of violence, it is empowered to spearhead initiatives that guarantees safety and security of lives and properties. Hence in consonance with existing laws, a permit must be sought by potential demonstrators partly to capacitate deployment of appropriate modalities to facilitate emergency service providers to collaborate in anticipating potentially precarious situations, such as likely medical and other exigencies.

Emergency crowd management before, during and after an event is often challenging while concurrently providing emergency services during a demonstration as it requires "real-time interaction and communication between the staff as well as real-time decision-making." A review of crowd disasters at mass gathering events by Soomaroo & Murry (2012) shows that there is a poor response time for emergency services in most cases. The knowledge of crowd behaviour during this stage can significantly improve real-time decision making and reduce emergency service response times (Ngo, Haghghi, Burstein, 2015). The safety of demonstrators and the general public rest squarely on crowd control. Crowd management encompasses pre-emptive strategies adopted to regulate the activities of the protesters and ensure that their actions harmonizes with the law. Whereas crowd control are reactive measures resorted to should the demonstrators become unruly or when an incident/incidents ensues. Crowd monitoring, which is the link between crowd management and crowd control helps to spot potential critical situations and stages during a demonstration and administer suitable security or other responses (Schoedinger, 1969, p. 153)

The draconian crowd control tactics deployed during the demonstration precipitated pandemonium in the affected neighbourhoods while fired tear gas fouled the air amidst the firing of live ammunitions. The highhandedness which alienated the residents from the travails of the riot controllers eroded the support base of the latter. The intelligence officers anticipated the

events hence the Secretary of State for Local Government and Religious Affairs endeavoured to forge a common ground to avert the incidence. However, what appears to be inadequate preparation misled the security officers to assume that innocent onlookers were troublemakers of the same stamp. However, the outcome of their exertions negates the assertion as bystanders equally suffered during the clampdown. Militarization of forces during protests should be a last resort as it often gravely compromises the safety and security of the demonstrators, onlookers, demonstration vicinities, innocent onlookers and that of the security agents. Indeed, it is the militarization of the operation that incited the violence which the security agents were trying to curtail by generating a backlash of retaliation from the students (Schoedinger, 1969, pp. 162-163). The April riot controllers had the opportunity of imposing a dawn to dusk curfew before the commencement of the incident, a strategy they ignored.

Curfew imposition is among the bests of tactic as it capsulate demonstration areas from mischief-makers thereby enabling only authorized security personnel and the neighbourhood residents on essential missions to be outside. Vehicular traffic and pedestrians that would have strayed into the arena unintentionally would have sought detours. Also, it will bar pressmen identified to be disseminating mutinous messages from the arena, inhibit the spread of the riot and prevent the infiltration of hoodlums. Unsuspecting passers-by on essential missions would have received adequate protection thereby eliciting much needed public empathy. However, the measures adopted by the security forces enticed the initially non-participating students in adjacent neighbourhoods to escalate the disorder (Schoedinger, 1969, p. 161).

Professionally, the application of kinetic force proved counterproductive as there was no iota of threat to life or mortal bodily harm to the security personnel. Schoedinger (1969, pp. 162-163) averred that under common law, security officers are permitted to enforce lethal force to effect arrests of persons reasonably believed to have committed felony. However, excessive force may never be employed in the arrest of a suspected misdemeanant. Militarization provoked the students in Banjul and some provincial towns to escalate the level of the anarchy. At least one toddler was killed by gunfire that ricocheted from a fired shot as errant shots do not have precise targets.

Fundamentally, smouldering political acrimony exacerbated the demonstration which galvanized the security personnel to trample on fundamental rights. § 25 (d) of the 1997 Gambia Constitution which ensures the protection of fundamental rights and freedom states that "Every person shall have the right to freedom to assemble and demonstrate peaceably and without arms" (The Gambia Constitution 1977). This is a threshold for the law enforcement officers in ensuring that riot control measures are not tyrannical as to enflame rather than extinguish anarchy. However, control mechanisms are not the solution to the problem of riot control. The varied conditions and situations security officers contend with on the field while extinguishing riots cannot be adequately regulated by legislation alone thereby making nipping the causes of riots in the bud inevitable. No amount of homework on riots will suffice as a substitute. While the Secretary of State for Local Government and Religious Affairs had a shot at forging peace, it is expected that intelligence gathering should augment efforts of other security officers in working out modalities on subsequent lines of action, should negotiations fail.

Indeed, "when a society generates a social problem it cannot resolve within its own existence, policies for controlling the population are devised and implemented" (Geoghagan, 2007, p. 56). The pre 1994 ruling oligarchy entrenched enduring structures to perpetuate caste-like practices which the disadvantaged members of society, both students and the marginalised, have relentlessly assailed since independence. A society that classed persons by their station rather than by their actions remained unrefined to ensure the immutability of power control. Bansa (2015, p. 8) is of the opinion that "In the aftermath of colonialism, the attempt to institute democracy [in Africa has been fraught] with conflicts, most of which had ethnic undertones. Democracy, in Western context, has been the creator or escalator of new ethnic conflicts, especially given the rate at which civil wars result from multiparty democratic elections in

Africa.” Taking cognizance of the forgoing comments it is glaring that the adopted riot control mechanisms were fashioned to shield the ruling class in power, to which most top ranking security officers who belonged to the previously disadvantaged class now owed moral allegiance for personal reasons, not necessarily in the interest of the country. One of the defects of Western democracy in The Gambia is the inability of the ruling class to appreciate issues from a national perspective hence public choices, in most instances, are made to political actors personal advantage. Western democracy rest on the assumption that power is a continuum thus implying immutability, irrespective of the class of people in power. However, developments demonstrate that class interests do not necessarily equate that of the nation while making public choices.

Either implicitly or explicitly, GAMSU and the security agencies were enmeshed in intriguing societal political squabbles. This brings to the fore the concept of vicarious liability. Covertly or unambiguously, the tortious actions of the security forces precipitated substantial damage to lives and properties. However, as long as the security personnel were not independent contractors, their action falls within the realm of full liability which frequently arises due to employer negligence that provoke the grievances of employees or third parties (Morros, 2001). Negligent control of personnel remains a cause for liability devoid of resort to vicarious liability. The security agents were under the observation of three top ranking public officers besides failing to fashion strategy for the operation believed to be instigated by disgruntled politicians. Hence, this write up recommends that the TRRC proposition to discipline some ‘erring’ officers on a state assignment should be adjudicated. The same applies to the recommended action against the erstwhile President and his Vice who were public employees. Their Offices are distinct legal entities from their personal identities.

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