

Transparency International - Sierra Leone



REPORT

ON THE

NATIONAL INTEGRITY SYSTEM SURVEY (NIS)

OF THE

PILLARS OF INTEGRITY

IN

SIERRA LEONE

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LIST OF ABBREVIATIONS

ACC- Anti Corruption Commission

APC- All Peoples Congress Party BAN- Budget Advocacy Network

CBO- Community Based Organization

CDIID- Complaints, Discipline, and Internal Investigations Department

CGG- Campaign for Good Governance

CPI- Corruption Perception Index

CPIA- Country Performance and Institutional Assessment

CSO- Civil Society Organization

DfID- Department for International Development

DBOCs-District Budget Oversight Committees

DFID- Department for International Development

DPP- Director of Public Prosecution

EMB- Electoral Management Body

EU- European Union

FSU- Family Support Unit

HRMO- Human Resources Management Office

IMC- Independent Media Commission

JSDP- Justice Sector Development Project

MDAs- Ministries, Departments and Agencies

MP- Member of Parliament

NACE- National Advocacy Coalition on the Extractives

NCD- National Commission for Democracy

NCP- National Commission for Privatisation

NEC- National Elections Commission

NEW - National Election Watch

NGO- Non-Governmental Organization

NIS- National Integrity System

NPPA- National Public Procurement Authority

NMJD- Network Movement for Justice and Development

PRSP- Poverty Reduction Strategy Reduction Paper

PPRC- Political Parties Registration Commission

SLAJ- Sierra Leone Association of Journalists

SLANGO- Sierra Leone Association of Non-Governmental Organisations

SLIEPA- Sierra Leone Investment and Export Promotion Agency

SLPP- Sierra Leone People's Party

TI- Transparency International

TI-SL - Transparency International Sierra Leone

UNDP- United Nations Development Programme

THE NATIONAL INTEGRITY SYSTEM (NIS) SURVEY REPORT

About the NIS

The NIS Assessment Approach used in this report provides a framework to analyse the effectiveness of a country's institutions in preventing and fighting corruption. A well-functioning NIS safeguards against corruption and contributes to the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. When the NIS institutions are characterised by appropriate regulations and accountable behaviour, corruption is less likely to thrive, with positive resultant effects for the goals of good governance, the rule of law and protection of fundamental human rights. Strengthening the NIS promotes better governance across all aspects of society and, ultimately, contributes to a more just society.

The Sierra Leone NIS Country Report addresses 13 "pillars" or institutions believed to make up the Integrity System of the country.

Government	Public Sector	Non Government
Legislature Executive Judiciary	Public Administration Law Enforcement Agencies Electoral Management Bodies Ombudsman Office of the Auditor General Anti Corruption Commission	Media Civil Society Political Parties Business

Each of these 13 institutions was assessed along three dimensions that are essential to its ability to prevent corruption: First and foremost, its overall **capacity** in terms of resources and legal status, which underlies any effective institutional performance. Secondly, its internal **governance** regulations and practices focusing on whether the institution is transparent, accountable and acts with integrity; all crucial elements to preventing the institution from engaging in corruption. Thirdly, the extent to which the institution fulfils its assigned **role** in the anti-corruption system, such as providing effective oversight of the government (for the legislature) or prosecuting corruption cases (for the law enforcement agencies). Together, these three dimensions cover the institution's ability to act (capacity), its internal performance (governance) and its external performance (role) with regard to the task of fighting corruption.

Each dimension is measured by a common set of indicators. The assessment examines both the legal framework of each pillar as well as the actual institutional practice, thereby highlighting discrepancies between the formal provisions and the reality on the ground.

Dimension	Indicators (Law and Practice)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within the governance system	Between 1 and 3 indicators, specific to each pillar

The Assessment does not seek to offer an in-depth evaluation of each pillar. Rather, it seeks breadth, covering all relevant pillars across a wide number of indicators in order to gain a view of the overall system. The Assessment also looks at the interactions between institutions to understand why some are more robust than others and how they influence each other. The NIS presupposes that weaknesses in a single institution could lead to serious flaws in the entire system. Understanding the interactions between pillars also helps to prioritize areas for reform. In order to take account of important contextual factors, the evaluation of the governance institutions is embedded in a concise analysis of the overall political, social, economic and cultural conditions, the *foundations*, on which these pillars are based.

Methodology

The NIS Assessment is a qualitative research tool based on a combination of desk research, and in-depth interviews. A final process of external validation and engagement with key stakeholders ensures that the findings are as relevant and accurate as possible before the assessment is published.

The Assessment is guided by a set of “**Indicator Score Sheets**” developed by Transparency International (TI) Secretariat. The sheets consist of a “**Scoring Question**” for each indicator, supported by further guiding questions and scoring guidelines for the minimum, mid-point and maximum scores. For example:

Sample Indicator Score Sheet	
Capacity – Independence (Law)	
Scoring Question	To what extent is the legislature independent and free from subordination to external actors by law?
Guiding Questions	Can the legislature be dismissed? If yes, under which circumstances? Can the legislature recall itself outside normal session if circumstances so require? Does the legislature control its own agenda? Does it control the appointment/election of the Speaker and the appointments to committees? Can the legislature determine its own timetable? Can the legislature appoint its own technical staff? Do the police require special permission to enter the legislature?
	Scoring guidelines
Minimum score (0)	There are no laws which seek to ensure the independence of the legislature.
25	
Mid-point score (50)	While a number of laws/provisions exist, they do not cover all aspects of legislative independence and/or some provisions contain loopholes.
75	

Maximum score 100	There are comprehensive laws seeking to ensure the independence of the legislature.
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In total the Assessment includes over 150 indicators with approximately 12 indicators per pillar. The guiding questions for each indicator were developed by examining international best practices, existing assessment tools for the respective pillar as well as using TI's own experience, and by seeking input from international experts on the respective institution. The indicator score sheets provide guidance to the researcher, but where appropriate Transparency International-Sierra Leone (TI-SL) has provided additional information or left some questions unanswered, as not all guidance is relevant to the Sierra Leone context. Due to the broad scope of the NIS Assessment, the analysis of each pillar is necessarily brief (approximately 10-12 pages) and in some cases the research reveals a need for further in-depth research on specific issues which are beyond the scope of the NIS Assessment.

To answer the guiding questions, the lead researcher relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts. Secondary sources included trusted reports by national civil society organizations, international organizations, governmental bodies, think tanks and academia.

A minimum of two key informants were interviewed for each pillar – at least one representing the institution under assessment and one expert external to it. A full list of interviews is contained in the bibliography. Full citations are included in footnotes rather than endnotes, to be as transparent as possible regarding the sources of information used to justify the conclusions and scores.

The Assessment represents the current state of integrity institutions in Sierra Leone, using information cited from the last two to three years. It reflects all major legislative changes as of January 2012.

The Scoring System

While the NIS is a qualitative assessment, numerical scores are assigned in order to summarise the information and help to highlight key weaknesses and strengths of the integrity system. The sheer length of the report (130 + pages) can obscure a holistic perspective. Thus the scores are a way to see all 13 institutions, each assessed according to 12 or more indicators, as if from an aerial viewpoint. They prevent the reader from getting lost in the details and promote reflection on the system as a whole, rather than focusing only on its individual parts.

The scores are assigned by an in-country researcher on a 5-point scale in 25-point increments (0, 25, 50, 75, 100), validated by an in-country multi-stakeholder advisory group and finally vetted by TI Sierra Leone. An aggregate score for each dimension is calculated (simple average of its constituent indicator scores) and the three dimension scores are then averaged to arrive at the overall score for each pillar. The difference in practice versus law can also be calculated at both dimension level and for an institution as a whole.

While the scoring methodology uses best practice standards in terms of expert selection, comparative anchors, transparency and validity checks, it gives the country teams the ultimate say about the scores. This fits also with the overall purpose of the assessment, to build momentum for anti-corruption policy change in the individual country. Since there is no international board which reviews and calibrates all scores to ensure that the same information, methodology, and judgment process have been used across countries, we do not produce any country rankings and do not recommend using the raw scores for cross-country comparisons.

Consultative Approach and Validation of Findings

The NIS Assessment process in Sierra Leone had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate valid evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives. The consultative approach had two main parts: a high-level Advisory Group and a National Stakeholder Workshop.

Advisory Group of the NIS	
Name	Affiliation

Mr. Sonnia B. Jabbie	Statistics Sierra Leone
Mr. Abraham John	Registrar, Political Parties Registration Commission
Mr Isaac Massaquoi	Head of Department Mass Communication FBC
Mr. Elvis G Hallowell	Director General, Sierra Leone Broadcasting Cooperation
Mr. Joshua Nicol	Editor-in-Chief, Cotton Tree News
Mr. Elizabeth A.Turay	Assistant Inspector General of Police
Ms. Valnora Edwin	Coordinator Campaign for Good Governance

The members of the advisory group met twice on January 19, 2011 and May 10, 2011. The second meeting was entirely dedicated to the discussion of the key findings of the draft report and indicator scores. The meeting resulted in a number of further adjustments to scores and evidence. Final discretion over scores remained with Transparency International–Sierra Leone.

On 19th February 2013 Transparency International–Sierra Leone presented the methodology and emerging findings of the assessment at a National Stakeholder Validation Workshop. The draft report was available in advance to participants and the workshop drew significant attendance from representatives of public and key governance institutions. The second half of the workshop was dedicated to working groups, where participants interacted with Transparency International–Sierra Leone’s research team members to provide feedback on each chapter and to discuss the overall scores. These working groups were also well attended. The workshop helped to further refine the report, particularly by adding and prioritising recommendations.

Finally, the full report was reviewed and endorsed by the TI Secretariat, and an external academic reviewer provided an extensive set of comments and feedback.

Background and History of the NIS Approach

The concept of a “National Integrity System” originated within the TI movement in the 1990s as TI’s primary conceptual tool of how corruption could be best fought, and, ultimately,

prevented. It made its first public appearance in the TI Sourcebook, which sought to draw together those actors and institutions which are crucial in fighting corruption, in a common analytical framework, called the “National Integrity System”. The initial approach suggested the use of ‘National Integrity Workshops’ to put this framework into practice. The focus on “integrity” signified the positive message that corruption can indeed be defeated if integrity reigns in all relevant aspects of public life. In the early 2000s, TI then developed a basic research methodology to study the main characteristics of actual National Integrity Systems in countries around the world via a desk study, no longer using the National Integrity Workshop approach. In 2008, TI engaged in a major overhaul of the research methodology, adding two crucial elements – the scoring system as well as consultative elements of an advisory group and reinstating the National Integrity Workshop, which had been part of the original approach.

While the conceptual foundations of the NIS approach originate in the TI Sourcebook, they are also closely intertwined with the wider and growing body of academic and policy literature on institutional anti-corruption theory and practice.¹ The NIS research approach is an integral component of TI’s overall portfolio of research tools which measure corruption and assess anti-corruption efforts. By offering an in-depth country-driven diagnosis of the main governance institutions, the NIS’s main aim is to provide a solid evidence-base for country-level advocacy actions on improving the anti-corruption mechanisms and their performance. It is complemented by other TI tools, which are more geared towards raising public awareness of corruption and its consequences via global rankings (e.g. Corruption Perception Index, Bribe Payers Index) or via reporting the views and experiences of the public (e.g. Global Corruption Barometer). In addition, the NIS approach fills an important gap in the larger field of international governance assessments, which are dominated by cross-country rankings and ratings (e.g. Global Integrity Index, Bertelsmann Transformation Index), donor-driven assessments (which are rarely made public) or country-specific case studies, by offering an in-depth yet systematic assessment of the anti-corruption system, which is based on a highly consultative multi-stakeholder approach. This unique combination of being driven by an independent local civil society organisation, involving consultations with all relevant stakeholders in-country, and being integrated into a global project architecture (which

¹See Rose Ackerman, Susan Corruption and Government: Causes, Consequences, and Reform, Cambridge: Cambridge University Press, 1999; OECD Public Sector Integrity: A Framework for Assessment, Paris: OECD publishing, 2005; Head, Brown and Connors (eds) Promoting Integrity, Surrey: Ashgate, 2008; Huberts, L. W. J. C., Anechiarico, F., & Six, F. Local integrity systems: world cities fighting corruption and safeguarding integrity. Den Haag: BJu Legal Publishers, 2008.

ensures effective technical assistance and quality control), makes the NIS approach a relevant tool to assess and, ultimately, further anti-corruption efforts in countries around the world.

To date, more than 90 assessments using the new methodology have been published across the globe, and a further 10 are expected to be complete within the next year. These are available at www.transparency.org.

EXECUTIVE SUMMARY

Corruption in Sierra Leone has been a persistent problem both in the past and present day national development efforts. This has seen the country being mostly ranked among countries where corruption is prevalent in the world. In 2011 and 2012 Transparency International ranked the country 134 and 124, scoring 2.4 and 3.1 respectively out of 182 countries surveyed in the Corruption Perception Index.² Within the last decade, there has been an increase in the range of institutions and legislations to fight corruption. These includes: the establishment (2000) and strengthening (2008) of the Anti Corruption Commission, the establishment of the National Public Procurement Authority, and the Office of the Ombudsman; and the passage of new Acts such as the Government Budgeting and Accountability Act of 2004, also significant efforts were made to strengthen corporate governance and public financial management. Global Integrity agreed in its 2009 Annual Report that Sierra Leone recorded modest improvements in the fight against corruption; although the country was ranked amongst those classified as “weak”.³ Another international corruption watchdog institution, Freedom House, cites Sierra Leone as a country at the crossroads; with citizens relatively confident in their government’s anti-corruption efforts. Since 2009 however the ranking of Sierra Leone’s anti-corruption performance has not changed significantly to warrant a new positive or negative classification. Unequal relationship between the three branches of government, insufficiency and lack of effective enforcement of laws, lack of adequate political will and commitment across the board in the public sector, low resources of state institutions, decline in moral standard and values, a business sector disinterested in anti-corruption work, and a weak Media and Civil Society mostly characterized by lack of capacity and professionalism, continues to account for the Sierra Leone’s poor anti corruption performance.

In the unequal relationship between the branches of government, Parliament and the Judiciary are weak in checking the excesses of the Executive. Parliament has powers to

²archive.transparency.org/policy-research/surveys-indices/cpi/2009/cpi-2009-table(accessed August 28, 2012)

³ www.globalintegrity.org/report/Sierra-Leone/2009 (accessed August 16, 2012)

summon ministers and officers of public offices to demand explanation for perceived wrong doing; and Government Departments and Agencies are required by law to table annual reports before Parliament for scrutiny. In these and other areas of scrutiny of the executive branch of government, Parliament's capacity to meet its mandate is weak. Resources are not sufficiently available to Parliament. A constitutional provision which grants powers to the head of a political party to remove someone from Parliament particularly makes parliamentarians in a ruling party pliable by the President.

Although experts agree that there is no significant executive interference with the judiciary in the last ten years, the judiciary is however burdened with many problems that demean its efficiency and credibility. The Judiciary does not have the capacity for quick trials. The Judiciary is seen by most citizens as corrupt, according to expert opinion. Public confidence in the integrity of the courts is low. Experts also point out that combining the office of Attorney General and Minister of Justice conveys some level of control of the Judiciary by the Executive branch of government.

Many State Anti-Corruption institutions lack the resources to deploy all over the country, employ and retain qualified staff, and carry out its duties efficiently. Ministries, Departments and Agencies do not produce annual reports for public consumption. Most state-owned enterprises have not had their financial accounts regularly audited by the Auditor General. The office of the Ombudsman operates mostly in the capital city and is not accessible to most citizens. Nearly every State Anti Corruption institution has insufficient resources to do its work. Even the Anti-Corruption Commission (ACC) and the National Electoral Commission (NEC) which are benefiting from international funding are fraught with funding challenges. Corruption and inefficiency persist in the Public Service also partly due to wages that are not commensurate to the cost of living.

Across all state institutions the provisions for ensuring the integrity and accountability of officials are not extensive. Legislations for individual institutions hardly contain detailed provisions for integrity, accountability, transparency, and reporting to the public. Adoption of Codes of Conduct by national integrity institutions remains piecemeal. This study reveals that many issues that impact the fight against corruption remain to be provided for in law or policies.

The capacity of Non-State Actors to effectively engage in the anti corruption fight is restrained on many fronts. The country's laws guarantees press freedom, and private ownership of media businesses. There are over two dozen privately owned radio stations and a dozen privately owned newspapers across the country. However, the small subscription base of newspapers and low advertising revenue means that most media businesses often depend on

public officials for advertising revenue or bribery, according to a 2005 study.⁴ Thus private newspapers and radio stations are often reluctant to expose corrupt public officials. Also corruption among journalists is reportedly endemic. Many journalists are poorly trained and unprofessional and do not follow ethical codes. The infamous seditious and libel laws are still in operation.

Civil society is vibrant in Sierra Leone, and there are no legal impediments to formation or operation of associations. Civil Society Organizations (CSOs) have in the last decade started to take onboard initiatives to exert accountability of public officials. A number of studies however show that Civil Society organizations are afflicted with problems that dissipate their capacity to influence the fight against corruption. The vast majority of Civil Society organizations exist only through international funding assistance. Many studies conclude that CSOs in Sierra Leone lack coherent mandate, functional boundaries, and autonomy. Civil Society Organizations are unaccountable and are most times not transparent or accountable themselves.

Recommendations:

In bolstering the National Integrity System in Sierra Leone for higher returns in the fight against corruption the following actionable recommendations are made:

It is recommended firstly, that the unequal relationship between the branches of government be addressed to give Parliament more room to check the excesses of the executive. Section 77k of the constitution should be expunged so that Parliamentarians are able to debate and vote without fear of their party bosses' powers to remove them from Parliament.

All constitutional provisions that confer powers on the Attorney General and Minister of Justice to supervise any aspect of the work of the Judiciary should be expunged. It is further recommended that the resource gaps that State institutions face be incrementally addressed with purposive tact. The institutions at frontline in the fight against corruption must be given resource allocation priorities. At the minimum, resources should allow such institutions to deploy nationwide, and institute adequate measures to employ and retain qualified staff, and carry out its duties efficiently.

⁴ Mohamed G. Sesay and Charlie Hughes, *Go Beyond First-Aid: Democracy Assistance and the Challenge of Institution Building in Post-conflict Sierra Leone.*(Clingendael 2005)

It is also recommended that action be taken to address the gaps in the laws for both individual and State institutions pertaining to information flow, accountability and integrity. This should include the effective application of the recently passed Freedom of Access to Information Law, the repeal of official secrecy laws and the development and adoption of Codes of Ethics for all State Institutions.

It is recommended that the Corporate Affairs Commission provided in the Companies Act 2009 be established to deal with integrity and transparency issues in the business sector. It is further recommended that the business sector be encouraged to play transformative roles in the fight against corruption. It is suggested that the business community through representative associations like the Chambers of Commerce adopt multi-year programmes for involvement in the anti corruption fight. It is also recommended that adequate support and incentives be given to the Media and Civil Society for proper involvement in anti corruption work. Such incentives would include assisting CSOs with multi-year funding for multi-year work on social accountability issues and the pegging of funding to the quality of the organization's internal democracy and accountability. A more robust Code of Media Practice that holds incentives for professional growth should also be introduced.

COUNTRY PROFILE

Political- Institutional Foundations

Foundation score: 50/100

Sierra Leone gained independence from Britain in 1961. After a brief period of parliamentary democracy, corruption, repression, and violence became the order of politics in the country. In 1978 Sierra Leone became a one-party state. The economic decline and social dislocations that followed the one-party dictatorship led to civil war in 1991. Sierra Leone held multi-party elections in 1996; putting an end to three decades of one-party and military rules. The country has since held periodic multi-party elections in 2002, 2007 and 2012.

Sierra Leone is a constitutional democracy with separation of powers between the Executive, Legislature, and the Judicial branches of government. The Constitution and the Political Parties Act mandate the practice of democracy by political parties. The laws of Sierra Leone protect freedom of assembly and expression. There are no legal barriers or practical obstacles to the formation of parties. Sierra Leone's score on civil and political liberties in a number of international indexes has been fair. Since 2003 Freedom House has rated Sierra Leone as a

“partly free nation”.⁵ The Mo Ibrahim Governance ranked Sierra Leone 30 out of 53 countries surveyed in 2010.⁶ Between 2006 and 2010 Sierra Leone improved in all categories of the Mo Ibrahim Index (Safety and Rule of Law, Participation and Human Rights, Sustainable Economic Development, and Human Development).⁷

The President is Head of State and Head of the Executive branch of government. A President is elected for a term of five years and cannot serve more than two terms. There is a Parliament of representatives directly elected by the people. The formal court system constitutes the Judiciary of Sierra Leone which is headed by the Chief Justice.

There is a system of Checks and Balances between the branches of government. In addition to its legislative functions Parliament approves such categories of appointments as Cabinet Minister, Judges, Ambassadors, Members of Commissions, and heads of public corporations made by the President. Parliament also approves public expenditures and taxation proposed by the Executive branch. Parliament has powers to summon ministers and heads of public institutions to answer for any perceived wrong doing. Subject to the approval of Parliament the Head of State appoints the Chief Justice and all the Judges of the superior courts. Judges tenure of office is guaranteed in the Constitution.

In 1972, the Local Government System was proscribed in Sierra Leone. In May 2004, it was reinstated and is in its third tenure (2004, 2008 and 2012). There are nineteen elected local government councils. Local Governments have responsibilities for local community development in the areas of basic infrastructure, human settlement and environment, and social services. The councils also perform functions devolved to them from central government. With the exception of Freetown and the Western Rural District, all councils have two types of members, Paramount Chief Members selected by their peers, and ordinary members elected directly by the people. Independents as well as party candidates are eligible to contest for council seats. Local Councils are financed from their own collected revenues, they also receive payments from central government for devolved functions, and loans and grants from other sources.

The Public Sector in Sierra Leone is plagued with low wages, insufficient infrastructure and mostly personnel with inadequate capacity. There has been efforts geared towards Public Sector Reform and some reform initiatives have been implemented. In general these include: procurement reforms, the decentralization process, reform of tax administration and public expenditure processes which are contributing to improvements in the public sector. However

⁵ www.freedomhouse.org/report-types/freedom-world (accesses July 24, 2012)

⁶ www.moibrahimfoundation.org/en/media/get/20111005-sierra leone (accessed 23rd, June 2012)

⁷ Ibid

areas that are critical in ensuring a very efficient public sector remain unattended to; including unattractive conditions of service and lack of opportunities for regular training. Old Civil Service rules compromise accountability to the public. Equipments and tools to enhance effective performance are quite inadequate in the public sector.

Socio-Political Foundations

Foundation score: 50/100

The two historical parties that have dominated politics in the country enjoy the support of each of the country's two largest ethnic groups. The All People's Congress Party (APC) has relied on the support of the Temnes and other groups in the North. The Mende and other groups in the South and East of the Country mostly support the Sierra Leone Peoples Party. Although no party has espoused purposive ethnic mobilization, writers on Sierra Leone's politics and society agrees that patronage more than anything else accounts for the intensity of political competition in the country. Political competition in Sierra Leone easily assumes a fight for control of the state's resources. The outcomes of elections determines which political party privileges which ethnic groups in the queue for government contracts, students' access to government scholarship, and public sector employment. Although many people's main political allegiance is based on social networks tied to particular places, ethnic politics is however relatively muted because so many people are of mixed ethnic heritage; according to a report by The Department for International Development (DfID).⁸

The 1991 Constitution grants the National Electoral Commission (NEC) the mandate to conduct all public elections and referenda. NEC's Commissioners are appointed by President after consultations with political parties, and subject to the approval of Parliament. Beyond this, the Constitution grants independence to NEC. In practice NEC is largely seen as independent and credible. NEC has conducted three multiparty elections (2002, 2007 and 2012). All the three elections were conducted with heavy reliance on international financial and technical support.

Between 2002 and 2006 the Police Force enjoyed support from international development partners in the areas of logistics, management training, expatriate personnel, human rights and re-organization. New systems of policing have emerged as a result of institutional reforms brought into the Police by a Commonwealth Community Safety and Security Project in

⁸ Sierra Leone-European Union. Country Assistance Strategy and National Indicative Programme for the Period 2008- 2013

2002/2003. These new systems included the establishment of Police Partnership Boards with community representatives in every policing precinct to address areas of frictions between the police and the community; and a Complaints, Discipline and Internal Investigation Department (CDIID) as a process for addressing complaints against the police brought by members of the public. In general, the Police force is fairly respected. Petty corruption in the force remains a huge concern. Support from international sources in areas such logistics is no longer forthcoming and is a critical challenge. Resources provided for the force by Government does not go beyond salaries, which are quite low, logistics, and operational needs.

The Office of the Ombudsman has come as key addition to institutions for human rights protection in the last ten years. The Ombudsman is mandated to investigate complaints of administrative injustice, or maladministration that citizens suffer from the hands of public officials and public institutions; and also advise government on laws that hinder the proper functioning of public institutions. In Law and Practice the office has a high degree of independence. However the lack of adequate resources is a major challenge facing the institution. It is only in the capital city that the office has a major presence.

Socio-Economic Foundations

Foundation score: 75/100

Sierra Leone is most times ranked among the poorest countries in the world with a GNI per capita estimated at US\$200.⁹ Seventy per cent of the country's population live below the poverty line.¹⁰ Life expectancy is currently 41 years, one of the lowest in the world.¹¹ Sierra Leone is largely an agriculture based economy, with the sector accounting for 70% of employment.¹² With formal sector employment at less than 10%, the informal sector remains the main arena of economic activity for the vast majority of the people.¹³ A National Social Security Scheme (NASSIT) was set up in 2004 and covered no more than 150, 000 persons at the time of writing this report.

⁹ United Nations Human Development Report 2006 ranked the country as the poorest in the world.

¹⁰ Living below one dollar a day is used by World Bank, UNDP and the PRSP for this assessment.

¹¹ Sierra Leone-European Union Country Strategy Paper and National Programme for the Period 2008-2013

¹² These figures are from the World Bank's Improving Opportunities for Sustainable Youth Employment.

¹³ Government of Sierra Leone. An Agenda for Change: Second Poverty Reduction Strategy Paper 2008- 2012, page 38

Economic growth has averaged 7.5% in the last five years; supported by increase in agriculture, mining, construction and service sector activities.¹⁴ The mining sector accounts for 90% of GDP.¹⁵ Economic development continues to be hampered by inadequate/poor infrastructure, lack of adequate and sustainable energy supply, and a low-skilled labour force.¹⁶ Only 8% of roads in Sierra Leone are paved, and electricity production is among the lowest in Sub-Saharan Africa.¹⁷

In February 2004, Government adopted a Poverty Reduction Strategy Paper (PRSP), with three pillars: Governance, Security and Peace; Pro-Poor Growth, Food Security and Job Creation; and Human Development. This has since been followed by a second PRSP called *Agenda for Change* which prioritises the enhancement of national electricity, development of the national transportation network, enhancing productivity in agriculture and fisheries, and sustaining human development. The second PRSP is for the period 2008-2012. This has also been followed by the PRSP 3 called the Agenda for Prosperity.

Government has undertaken a number of efforts to modernize the economy. In efforts to bring the private sector to lead economic activities, government in 2002 established the National Commission for Privatization (NCP) to bring State Owned Enterprises under private control.¹⁸ In 2007 the Sierra Leone Investment and Export Promotion Agency (SLIEPA) was established to promote export oriented agricultural production and manufacturing through advisory, and technical assistance, trade and relationship facilitation between locals and internationals, research on investment among others other efforts.¹⁹ A number of laws in respect of addressing money laundering, operation of companies, and regulation of insurance and banking business have been passed in the last ten years. In 2007 Sierra Leone began efforts to reduce administrative barriers, streamline investment procedures, and increase the transparency of business transactions. The World Bank in its 2009 and 2010 noted improvements made by the country its annual Ease of Doing Business Report. In a 2011 Doing Business Report Sierra Leone ranked among the world's 10 most-improved economies for entrepreneurs.²⁰ The State however, still plays the dominant role in economic activities. At the time of writing this report not a single State Owned Enterprise has been fully privatized by the NCP.

¹⁴ Government of Sierra Leone. An Agenda for Change: Second Poverty Reduction Strategy Paper 2008- 2012, page 41

¹⁵ Sierra Leone Country Profile at www.dfid.gov.uk

¹⁶ Sierra Leone EU

¹⁷ Government of Sierra Leone. An Agenda for Change: Second Poverty Reduction Strategy Paper 2008- 2012

¹⁸ The National Commission for Privatisation Act, 2002.

¹⁹ The Sierra Leone Investment and Export Promotion Act, 2007

²⁰ Ministry of Trade and Industry Press Release, Awoko newspaper October 24, 2011

Socio-Cultural Foundations

Foundation score: 50/100

A new addition to the Civil Society sphere in the country are the range of membership and non-membership, non-profit voluntary organizations involved in work that directly seek to impact good governance and democracy. These organizations work on issues such as civic education, Human Rights protection, integrity of public elections, public office accountability, conflict resolution, and public services delivery advocacy among others. Civil Society has been participating in public policy formulation, independent budget analysis, public expenditure tracking, and monitoring and evaluation of public services. Their coalitions have been involved in monitoring elections, condemning violence, and advocating peaceful elections.

Many problems however subtract from what Civil Society can deliver for good governance and development in Sierra Leone. Studies on Civil Society in post-conflict Sierra Leone have highlighted a number of weaknesses. One study concludes that most Civil Society organizations are not institutions; but fronts for the sole purpose of accessing aid.²¹ Again, many Civil Society groups struggle to stay afloat for lack of financial resources; recent studies and Expert opinions concede. Local NGOs and citizens associations involved in work around governance issues rely almost entirely on grants from external donors.²²

The media has also been instrumental in promoting transparency in elections highlighting electoral violence and advocating peace. Access to the Media by political parties is also relatively equitable. However, the print media is increasingly divided along partisan lines, and constrained by weak revenue bases and seditious libel provisions in the Public Order Act of 1965.

Corruption Profile

Institutions like the World Bank and Freedom House agree that Sierra Leone has made progress in governance generally. In the last ten years Freedom House has consistently ranked Sierra Leone as a “Partly Free Nation”. The World’s Bank’s country data on Sierra Leone for the period 1996 - 2010 show progress in such areas as the rule of law, government effectiveness, and regulatory quality.²³

²¹ Sesay and Hughes 2005

²² Sesay and Hughes, 2005

²³ [Info.worldbank.org/governance/wgi/pdf/c196.pdf](http://info.worldbank.org/governance/wgi/pdf/c196.pdf) (accessed March 16, 2012)

Sierra Leone however still ranks among the most corrupt countries in the world. In 2008 Transparency International gave Sierra Leone a Corruption Perception Index (CPI) score of 1.9. In 2009 Sierra Leone's CPI moved to 2.2 and ranked 146 out of 180 countries surveyed. To date (2012) the country ranks 124 and scores 31. Although the country ranks amongst those with very low scores in the corruption fight, international Global Integrity in 2009 noted modest gains made by Sierra Leone. Global Integrity gave Sierra Leone "very weak" integrity scores of 56 and 58 over 100 in 2006 and 2007 respectively. In 2009 the country moved from "very weak" to "weak" with a score of 69.²⁴ In 2011 Global Integrity gave Sierra Leone an integrity score of 63 over 100.²⁵ According to Global Integrity the country demonstrated improvements in its overall anti corruption performance; particularly in the areas of whistle-blowing, strengthening of prosecution laws, and the establishment of mechanisms for internal reporting of public sector corruption.²⁶

There is no study that suggests that corruption in Sierra Leone seeks to systematically reward ethnic, religious, social group, political ideology or such other identities. What Kpundeh (1995), and Reno (1995) and Sesay (1999) agree on is that corruption is embedded across all strata of society and all spheres of economic and social life. The capacity of the political class in illegally appropriating the bigger chunk of State resources is noted by all writers on corruption in Sierra Leone. Beyond this, Global Integrity noted in 2006, that Sierra Leoneans live with the reality of paying or soliciting bribes for everything.²⁷ The report cites such examples as the fact that people pay illegal fees every day to court officials to secure bail, or nurses' handbags being used as illegal pharmacies from where prescription drugs are sold to patients, or extra payments to officials at government departments to facilitate faster processing of passports or drivers' licenses applications.²⁸

Anti-Corruption Activities

By the Anti-Corruption Act, 2002, the ACC was set up to investigate cases of public office fraud, and prevent corruption through public education and administrative, financial and related reforms.²⁹ The Commission has a wide range of powers to search premises, access documents, call witnesses, and develop corruption prevention measures and processes. In 2008, Government enacted a new and tougher Anti-Corruption Act which provided the

²⁴ www.globalintegrity.org/report (accessed March 15, 2012)

²⁵ www.globalintegrity.org/report/Sierra-Leone/2011/scorecard

²⁶ Ibid

²⁷ www.globalintegrity.org/report (accessed March 15, 2012)

²⁸ Ibid

²⁹ The Anti-Corruption Commission Act, 2000

Commission independent prosecutorial powers. Amongst other provisions in the new Act were inclusion of offences on illicit enrichment, abuse and misuse of office, protection for whistleblowers and informers, and compulsory declaration of assets for all civil servants. In addition, all employees in the public service sector are now required to declare their assets. Before now only the President, cabinet ministers, heads of public corporations and other categories of high-ranking officials were required to declare assets and on an annual basis. However, this has been reviewed to be done on assumption of office, then periodically especially in the situation of a significant increase in asset. In addition to acting patriotically, Whistle blowers are now rewarded with 10 percent of the proceeds recovered by the ACC from corruption cases that they report.

In addition to routine investigation and prosecution, the ACC has been undertaking studies and strategic planning to guide its overall work. In 2002 the ACC carried out a Governance and Corruption Perception Survey and thereon made recommendations to some ministries and departments on issues of periodic audit exercises, record keeping, monitoring and oversight.³⁰ In 2005 the ACC published a National Anti-Corruption Strategy in which several recommendations pertaining to changes to administrative, financial and other procedures were made for some public agencies. Another National Anti-Corruption Strategy was launched in 2008 in which the ACC sought to reinforce procedures in government offices to eliminate loopholes that facilitate corruption. This was revised in mid-term leading to the National Anti-Corruption Strategy 2011-2013. Efforts are currently underway to develop a new Strategy.

Until 2002 when the ACC was established in Sierra Leone, the work of the Auditor General, Police investigations and prosecutions of financial crimes and special commissions of enquiry constituted the institutional framework for tackling corruption. Other institutions in the changing landscape of anti-corruption institutions since 2002 include the National Public Procurement Authority and the Office of the Ombudsman.

In the circumstance of decades of bad governance and the March 1991-January 2002 civil war, the Office of the Auditor General like public administration was greatly weakened. Demonstrating the extent of deterioration in government accountability systems, the Auditor General did not lay before Parliament Audit Reports for 2000, 2001, 2002, 2003.³¹ It was not until late 2006 that backlog audit reports for four years were laid before Parliament.

Leveraging citizens' voices and action to ensure the accountability of public institutions has been a core consideration in governance reform since Sierra Leone's return to multi-party politics. Civil Society has responded with supply-side initiatives aimed at improving

³⁰ Anti Corruption Commission 2003 Annual Report

³¹ www.dai.com

accountability in service delivery and development; with projects around budget analyses and advocacy, public expenditure monitoring, and transparency tracking in the extractives industry, among others.

DfID has been the key supporter of government's anti corruption institutional reforms. The DfID has been funding the ACC from its inception. DfID has also been supporting the Audit Department. In 2004 DfID began a programme of support to the institution to strengthen such areas as staff development, financial management information system, and resources. DfID has also established a programme to increase the capacity of representative Civil Society to participate in, influence, and monitor the Poverty Reduction Strategy and Local Government Policy, Planning and Implementation. Many CSOs are receiving small grants from Western non-profit organizations to implement governance programmes with a focus on social accountability.

LEGISLATURE

Summary

Parliament makes the laws in Sierra Leone. Parliament has some resources provided entirely through government's annual appropriation. Parliament however, has huge resource deficit which negatively impact the effectiveness of its activities in many areas. These include a lack of support for infrastructure and equipment and an ill equipped library and research facilities among others. Since 2002 Parliament has passed a number of legislations for the fight against corruption. Parliamentary debates are open to the media and the public; although Committee Meetings may be closed to the public as the situation may warrant.

A major problem that Parliament faces in the exercise of its duties is the domination by the executive branch of government. One source of this dominance is Section 77K of the 1991 Constitution. A Parliamentarian cites that Section 77K of the Constitution places limitations on the ability of Parliamentarians to vote according to their conscience. All bills passed by Parliament in the last ten years are generated by the executive branch of government. All members of the party in power vote in favour of the government's legislative proposals. Members of Parliament (MPs) believe that failure to do so could be interpreted as disloyalty and taken as grounds from expulsion from the party. The Head of State is the leader of the governing party, making it difficult for the party's members of parliament to outrightly oppose the actions of the executive.

Transparency and Accountability are other areas where Parliament is weak. Voting records are not kept for the public to use in determining individual MPs' responsibilities for the passage or

non-passage of a law or policy. Verbatim records of the floor session are not available to the public. This makes it difficult for the ordinary man to know how decisions concerning him are made by the legislature. On account of low resources Parliament does not produce reports about its activities and there are no provisions that mandate the legislature to consult with the public at stipulated schedules. There are no constitutional review systems in place for legislative activities. In law and practice Parliament scores low on integrity. Section 97 of the Constitution of Sierra Leone simply obliges MPs to maintain the dignity and image of Parliament and to desist from any conduct by which they seek improper enrichment. MPs are bound by the anti-corruption law of the country. Beyond that there is no Code of Conduct. In practice there have been many instances of MPs faltering on integrity.

Legislature			
Overall Pillar Score: 25/100			
	Indicator	Law	Practice
Capacity 50/100	Resources	75	50
	Independence	75	25
Governance 25/100	Transparency	25	25
	Accountability	25	25
	Integrity mechanisms	25	25
Role 25/100	Executive oversight	25	
	Legal reforms	25	

Structure and Organization

Sierra Leone has a single-chamber Parliament consisting of elected members, the Speaker of Parliament, and the President as the Legislative branch of government. 124 members of Parliament are elected directly by the citizens at general elections every five years. There are twelve Paramount Chief Members of Parliament; each representing one of the twelve districts in the country. There is no limit on how many terms one could serve as an MP. Paramount Chief Members of Parliament are elected through an Electoral College system during general parliamentary and presidential elections. The Speaker and Deputy Speaker of Parliament are

elected by members of Parliament. However, this is currently being reviewed. Parliament is organized around Parliamentary Committees. At the moment there are 33 Committees in Parliament. The Constitution of Sierra Leone names some of these including the Committees on legislature, public accounts, finance, foreign affairs, privileges, and appointments and public offices as Standing Committees.³²

Assessment

Resources (Law)

To what extent are there provisions in place that provide the Legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

Score: 75

Every year the Ministry of Finance and Economic Development prepares an Annual Budget known as the Appropriation Bill; which is an estimate of revenues and expenditures of Government for Parliament's approval. Salaries, gratuities and other allowances of members of Parliament and funds for utilities, logistics and related expenditures of Parliament are provided for in the annual Appropriation Bill. Government's annual appropriation is the only revenue source for meeting Parliamentarians' salaries, gratuities and allowances.

Resources (Practice)

To what extent does the Legislature have adequate resources to carry out its duties in practice?

Score: 50

The resources of the Legislature are insufficient for effective work according to one Parliamentarian.³³ According to one expert, Parliament has a huge resource deficit to the extent that there is ineffectiveness in its activities on many fronts.³⁴ Parliamentarians consider the local currency equivalent of USD 1,250 as monthly salary to be low. In 2009 Parliamentarians threatened that they will not approve the Appropriation Bill unless it provided for an increment in their salaries and allowances.³⁵ Though the salaries were slightly increased, it was far less than the four thousand dollars initially demanded by Parliamentarians. In 2009 government gave each legislator the sum of USD 10,000 for the purposes of strengthening link between them and their constituents.

³² The 1991 Constitution of Sierra Leone. Section 93

³³ Interview of Honourable Philip Tondoneh, MP with author, Freetown, June 23, 2011

³⁴ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone with author, Freetown, June 23, 2011

³⁵ Interviews of MPs with the author, Freetown, June 23-25, 2011

Other problems of the legislature include a lack of support infrastructure, equipment and working environment that facilitate consultations with constituents, research and informed debate. The library facility at Parliament is very poor. Legislators say that they are not assigned support staff that would help with research and communication.³⁶

Since 1999 Parliament has received resource support from international democracy promoting organisations and friendly countries in the forms of trainings and equipment. One of the biggest of such supports was the \$700, 000 United Nations Peace Building Fund's project for "Capacity building for Sierra Leone Parliament for enhanced performance of its core functions of representation, oversight and legislative enactment", in 2009.³⁷ The Chinese government has put up an administrative building for Parliament as infrastructure support. In 2010 the British Westminster Foundation began a programme of support that included provision of training and equipment to Parliament.

Independence (Law)

To what extent is the Legislature independent and free from subordination to external actors by law?

Score: 75

In the exercise of its functions as the supreme law making body in the country, the Sierra Leone Constitution grants that Parliament shall not be subject to the direction of any other authority. In giving effect to this independence, the Constitution grants Parliament a number of safeguards including the sole right to determine the periods at which Parliament meets, or situations of emergency at which Parliament can extend its existence, or quantum of sittings in a year and the days and time of such sittings. These are not subject to any other authority. The Constitution provides that a bill must be taken to the President for assent become it becomes law. The executive can use this power to negotiate the content of legislation, one expert says.³⁸ However, where the President refuses to sign a bill, such bill is taken again to Parliament and if it secures another vote of no less than two-thirds of members it becomes law without the assent of the President.

A couple of provisions in the Constitution of the country however hold opportunities for compromise of the independence of the legislature. For instance, Section 77k of the Constitution allows the leader of a Party to write to the Speaker of Parliament informing him that an MP is no longer a member of his Party. In that instance, the parliamentarian would lose his/her seat. There is also a legislative process that allows Parliament to speedily enact laws through the use of Certificate of Urgency.

Independence (Practice)

³⁶ Ibid

³⁷ Sierra Leone Peace Building Fund- Summary of Pipeline Projects

³⁸ Interview of the Dean of the Faculty of Political Science and Law with author, Freetown, November 16, 2011

To what extent is the legislature independent and free from subordination to external actors in practice?

Score: 25

The independence of the legislature is sometimes compromised in two major ways. Parliamentarians concede that on account of Section 77k of the Constitution they are always inclined to tow a Party line when voting for a bill; instead of risking the wrath of their Party leaders.³⁹ One Parliamentarian cited three instances from 2002-2007 when members of his then ruling Party voted against their conscience on the instigation of the Party leader.⁴⁰ In one instance the Party was to nominate somebody to the Economic Community of West African States' Parliament. The MPs chose someone who was not their choice but choice of the Party leader. In 1999 the Party leader had also instigated the MPs to choose a Speaker of Parliament who was not of their choice. In the last parliament and the present one, the President is also leader of the governing party, making it difficult for members of parliament to counter the actions of the executive.

One expert warns that frequent recourse to the use of Certificate of Urgency compromise the integrity of bills and the independence of Parliament.⁴¹ It places a limitation on parliamentary scrutiny of legislation or proposals from the executive, in his opinion. In 2010 when the ruling Party attempted to pass legislation on oil exploration bill opposition MPs walked out of Parliament, stating disapproval of the use of a Certificate of Urgency.

Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the Legislature?

Score: 50

Parliamentary debates at the level of the full house or at committee levels are open to the media and the public. The 1991 Constitution specifically provides that no person shall be under any civil or criminal liability in respect of the publication of parliamentary papers, reports, votes or proceedings among other things.⁴² According to one expert, meetings of committees may, by Standing Orders be closed to the public as the subject matter under

³⁹ Interviews of MPs with the author, Freetown, June 23-25, 2011

⁴⁰ Interview of Honourable Chief Francis Hindowa with author, November 18, 2011

⁴¹ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone with author, Freetown, June 23, 2011

⁴² The Constitution of Sierra Leone. Section 103

discussion may warrant.⁴³ The Constitution of Sierra Leone is silent on whether voting records of MPs are kept in secrecy or could be made public. Standing Orders currently in operation provide that the agendas for legislative sessions and committee hearings be published ahead of time.⁴⁴ Draft bills for discussion by legislators are required to be made available to the public through publication in the Gazette.⁴⁵ The law does not require verbatim records of the floor session to be made available to the public. The Anti-Corruption Act, 2008 require legislators among other public officials, to annually disclose their assets to the Anti-Corruption Commission.⁴⁶ The Anti Corruption Act, 2008 provides that assets disclosed by public officials including parliamentarians in Sierra Leone are confidential information.⁴⁷

Transparency (Practice)

To what extent can the public obtain relevant and timely information on the activities and decisions-making process of the Legislature in practice?

Score: 25

The public can access information on the organization and functioning of Parliament by directly attending parliamentary sessions or accessing reports by the media. Parliamentary debates at the level of the full house or at committee levels are open to the media and the public. Committee meetings are also open to members of the public. The public broadcaster airs live sessions of Parliament from time to time without charging fees for doing so. Draft bills for discussion by legislators are always published for sale to members of the public.⁴⁸ The agendas for legislative sessions and committee hearings are also published ahead of time. It is difficult and cumbersome however, for members of the public to know how decisions concerning them are made by the legislature. This difficulty arises from the fact that voting records are not kept for the public to use in determining individual MPs' responsibilities for the passage or non-passage of a law or policy. The fact that verbatim records of the floor session are not available to the public makes it difficult for the ordinary man to know how decisions concerning him are made by the legislature, in the opinion of one expert.⁴⁹ As a matter of proper practice of representative democracy the legislature or individual MPs can receive complaints from members of the public; according to one expert.⁵⁰ The expert however, says that citizens generally do not take complaints to the legislature to seek

⁴³ Interview of Andrew Lavalí of the Access to Security and Justice Project with author, August 20, 2012

⁴⁴ Ibid

⁴⁵ The Constitution of Sierra Leone. Section 106 (4 and 5)

⁴⁶ The Anti-Corruption Commission Act, 2008, Section 119

⁴⁷ The Anti-Corruption Act, 2008, Section 14

⁴⁸ Interview of Clerk of Parliament with author, Freetown, November 17, 2011

⁴⁹ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone with author, Freetown, June 23, 2011

⁵⁰ Interview of Andrew Lavalí of the Access to Security and Justice Project with author, August 20, 2012

redress.⁵¹ “It is generally the tradition here that people see MPs as people who make laws for government or seek development assistance for their constituencies”, another expert opined.⁵² The legislature does not produce and publicise reports about its activities. The budget of the legislature is also not published in full; detailing allocations for various programmes.

Accountability (Law)

To what extent are there provisions in place to ensure that the Legislature has to report on and answerable for its actions?

Score: 25

There are no provisions in place that expressly seek to secure the accountability of the legislature. The constitutionality of Acts of Parliament can be challenged in a court of law. Beyond that, the Constitution grants MPs immunity from prosecution for anything done in Parliament in furtherance of their legislative and oversight duties. The Government Gazette publishes a list of all bills and Acts of Parliament. The Gazette is sold to members of the public. There are no constitutional review systems in place for legislative activities. There are no provisions that mandate the legislature to consult with the public at whatever time schedule. There is no law that specifically articulates the accountability of MPs for either their actions in Parliament or in elections processes. Accountability obligations of MPs or Parliament as a whole are generally provided for in the country’s anti-corruptions legislations that cover all public officials. Legislators are included in the definition of public officials in the Anti-Corruption Commission Act, 2008.⁵³ There are no mechanisms to handle complaints against the decisions of the legislature or its members. The legislature is not required by law to produce and publicise reports about its activities.

Accountability (Practice)

To what extent do the Legislature and its members report on and answer for their actions in practice?

Score: 25

⁵¹ Interview of Andrew Laval of the Access to Security and Justice Project with author, August 20, 2012

⁵² Interview of the Dean of the Department of Political Science and Law with author, Freetown, November 16, 2011

⁵³ The Anti-Corruption Commission Act, 2008

Despite the lack of expressed legal provisions for it, the activities of Parliament are regularly communicated to the public by the media. The Media reports Parliamentary debates including contributions to debates by individual members are highlighted. Parliamentarians also mostly use the media to showcase their activities either as a way to promote themselves, says one expert.⁵⁴ It is not common for the media or civil society groups to seek to hold Parliament or individual members accountable for legislative or other policy decisions; an expert inferred.⁵⁵ The media regularly force to answer for specific activities. These however are largely activities that are related to happenings outside Parliament, he says. Parliament itself does not provide information by way of newsletter or journal or annual report.⁵⁶ Parliament does not have a website. There are no constitutional reviews of legislative activities. The media reports from time to time that a parliamentarian has behaved improperly to a member of the public or a community. There are no mechanisms to handle such complaints. There is no regular use of immunity from prosecution to prevent members of parliament from being held accountable. Cases hardly ever come up requiring prosecution of an MP. This in the opinion of one MP is due to the fact that attention is not been paid by the media or civil society to members conduct in Parliament that may warrant prosecution.⁵⁷ In 2008 the constitutionality of the Public Order Act of 1965 was challenged in a court of law.

Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the Legislature?

Score: 25

The provisions for ensuring the integrity of members of Parliament are not extensive. Section 97 of the Constitution of Sierra Leone obliges all members of Parliament to maintain the dignity and image of Parliament during the sittings in Parliament as well as in their acts and activities outside Parliament. Under Section 97 Parliamentarians are obliged to desist from any conduct by which they seek improper enrichment. The law provides that any member speaking on a subject in which he/she has interest should declare that interest prior to speaking. Under the country's anti-corruption law, MPs are required to declare their assets. The Committee of Privileges provided for in the Constitution deals with issues of ethics. There is no Codes of Conduct for MPs. Parliamentarians are not required to disclose contact with

⁵⁴ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone with author, Freetown, June 23, 2011

⁵⁵ Interview of lecturer at the Department of Mass Communication, Fourah Bay College, with author. November 17, 2011

⁵⁶ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone with author, Freetown, November 23, 2011

⁵⁷ Interview of Honourable Chief Francis Hindowa with author, November 18, 2011

lobbyists. There is no law that regulates Parliamentarians' contact with lobbyists. There are no rules on gifts and hospitality specifically for legislators. The provisions on gifts and hospitality in the Anti Corruption Act, 2008 however covers Parliamentarians as public officials. The Constitution of Sierra Leone does not cover legislators' post-employment restrictions.

Integrity Mechanisms (Practice)

To what extent is the integrity of Legislators ensured in practice?

Score: 25

In the absence of Codes of Conduct, disciplinary bodies outside Parliament, and regulations on gifts and hospitality, the integrity of MPs can best be judged by reflections in the media and expert opinion. Parliamentarians are generally not satisfied with their remunerations, according to one Member of Parliament.⁵⁸ On account of low wages, legislators regularly seek contracts to procure goods and services for government. The expert says that there have been instances where the media has reported a legislator's default in implementing a government contract. In many instances, hospitality extended to members of Parliament by big businesses can be said to be improper, according to one expert.⁵⁹ The media hardly frowns on improper hospitality and gifts; and there is hardly a debate of the issue in Parliament itself. Scandals do occur from time to time about MPs involving in acts of political violence, intimidation of community, and misbehaviour against journalists, the expert says.⁶⁰

Role: Executive Oversight (law and practice)

To what extent does the Legislature provide effective oversight of the executive?

Score: 25

While Parliament is somehow active in seeking to hold the executive to account, the effectiveness of its actions is limited, MPs agree.⁶¹ Parliament has power granted by the constitution to appoint committees from among its members to inquire into the activities of any ministry, department or agency. In providing oversight parliamentary committees have powers, privileges and rights as vested in the High Court in respect of enforcing the attendance of witnesses and accessing documents. In its role to provide oversight of the executive, certain categories of high office appointments made by the President must be subjected to the approval of Parliament. Such appointments include those of cabinet ministers, judges, ambassadors, heads of public corporations, and members of commissions,

⁵⁸ Interview of Honourable Chief Francis Hindowa with author, November 18, 2011

⁵⁹ Author interview with the Programme Manager, Westminster Foundation for Democracy-Sierra Leone. Freetown, June 23, 2011

⁶⁰ Ibid

⁶¹ Interviews of MPs with author, Freetown, June 23-25, 2011

among others. It has been very rare for Parliament to reject a Presidential nominee. Parliament scrutinizes and approves public expenditures and taxes laid out in an annual appropriation bill. Parliament has powers to initiate investigations, summon public officials, including ministers to demand explanation for any suspected wrong doing. This happens in practice. It is common for Parliamentary Committees to summon heads of State-owned corporations and agencies to account for alleged wrongdoings. In the opinion of one expert, this is however not always done in good faith. A Permanent Secretary opines that individuals in such Parliamentary committees often use such investigation opportunities to demand kickbacks or seek financial favours.⁶² The annual reports of Commissions, public corporations, and other government departments and agencies are required by law to lay annual reports before Parliament for scrutiny. It is the opinion of some members of Parliament interviewed for this report that most public corporations, and other government departments and agencies fail to meet this obligation.⁶³

Parliament uses its oversight powers, but in a limited way. Many times Parliament's scrutiny of Presidential nominees for appointments are mere formalities.⁶⁴ Equally, debates of the budget hardly ever lead to demands for changes by the legislatures. Extreme partisanship in Parliament means that the executive always gets the support of his party in Parliament.

Role: Legal Reform (law and practice)

To what extent does the Legislature prioritise anti-corruption and governance as a concern in the country?

Score: 25

The Legislations for the fight against corruption since 2000 include those establishing the Anti Corruption Commission and National Public Procurement Authority, the Government Budgeting and Accountability Act, 2005; the Public Procurement Regulations and Act, 2004; and the Anti-Corruption Commission Act, 2008. Parliament has also passed laws in respect of securing transparency and accountability in public financial management and corporate governance, and addressing money laundering. All the legislations dealing with corruption passed from 2000 to date have been generated by the executive branch of government. There has been no private member anti corruption bill brought before Parliament.

⁶² Interview of Permanent Secretary, Ministry of Tourism and Culture with author, November 18, 2011

⁶³ Interviews of MPs with author, Freetown, November 18- 20, 2011

⁶⁴ Interview of the Programme Manager of the Westminster Foundation for Democracy-Sierra Leone With author, Freetown, June 23, 2011

THE EXECUTIVE

Executive			
Overall Pillar Score: 50/ 100			
	Indicator	Law	Practice
Capacity 75/100	Resources	-	50
	Independence	100	100
Governance 50/100	Transparency	50	50
	Accountability	75	50
	Integrity Mechanisms	50	50
Role 50/100	Public Sector Management	50	
	Legal System	50	

Summary

The Executive has some resources, but insufficient to provide for effectiveness in its activities. Ministries, departments or agencies (MDAs) cannot attract the most qualified persons as a result of low wages. Other problems that the executive face include a lack of support infrastructure, equipment and training programmes for workers. The Executive functions freely without interference by other actors. Parliament however provides oversight of the Executive actions in areas such as making high profile appointment, and spending State funds, among others. Sierra Leone's economy is still heavily dependent on donors; meaning that the Executive sometimes act with considerations for their concerns or interests.

While a limited number of provisions exist to ensure transparency in the activities of the Executive there are a number of claw-back areas that makes it difficult for the public to know what government in doing. The activities of government are recorded but not held in a government information system. All members of the Executive Arm of government are required to disclose their assets to the Anti-Corruption Commission; however such disclosures are not available to the public. It is generally the case that government does not translate procedures and regulations to be easily understood by the average person.

Structure and Organization

The President, the Vice President, and Cabinet Ministers constitute the Executive Arm of Government. The Executive which is headed by the President is the supreme administrative organ of Sierra Leone. The President is appointed for a term of five years. The President cannot serve more than two five year terms. There is no limit on the number of terms that a Vice President can serve. Cabinet Ministers are hired and fired at the discretion of the President. Parliament however must approve any person appointed as a Cabinet Minister. In a system of separation of powers, the executive branch of government implements law and policies in respect of every aspect of the state's obligations to the citizenry. The Executive works through various structures such as ministries, departments, agencies and commissions created under statute.

Assessment

Resources (Practice)

To what extent does the Executive have adequate resources to effectively carry out its duties?

Score: 50

The executive has some resources but not to the extent that would provide for efficient delivery of services. The executive levies all taxes and charges payable to the State. The executive is responsible for appropriating all State resources including taxes and charges collected for service delivery and development. Since the end of the war in early 2002 government has continued to rely in good measure on funds and other support from the international community to carry out its duties. The war had devastated mining and agriculture; the key sources of national income. At its highest points between 2002 and 2005, International financial support accounted for no less than 70% of total resources available to government every year to meet its duties.⁶⁵ Between 2005 and 2007 stabilization of the agriculture and mining sectors resulted in GDP growths that averaged 7% annually.⁶⁶ Further stabilization of the economy has meant that the contribution of donors to the total resources available to government every year to meet its duties has dwindled. Sierra Leone however has continued to be ranked as one of the poorest countries in world.⁶⁷ It means that the resources are not sufficient in the hands of the executive branch of government for the effective running

⁶⁵ www.worldbank.org and www.dfid.gov.uk

⁶⁶ Government of Sierra Leone. Agenda for Change: Second Poverty Reduction Strategy Paper 2008- 2012

⁶⁷ www.worldbank.org

of the State. One expert point out that as a result of low wages MDAs cannot attract the most qualified persons in the country.⁶⁸ Other problems in the Civil Service include a lack of proper job descriptions for civil servants, support infrastructure, equipment and working environment that help to retain staff, he says. Lack of training, low wages and neglect has resulted in an inefficient Civil Service that cannot help the Executive deliver basic services.⁶⁹

Independence (Law)

To what extent is the Executive independent by law?

Score: 100

Section 53 of the country's Constitution provides that executive power in Sierra Leone is vested in the President. The President may exercise such powers directly, or through cabinet ministers and public officials subordinate to him.⁷⁰ Apart from making laws or interpreting them, the executive has responsibility for all matters of the state of Sierra Leone. The independence of the executive however has limitations in a number of areas. The 1991 Constitution of Sierra Leone provides the appointment of key public officials such as cabinet ministers, ambassadors, and judges of the superior court by the President must have the consent and approval of Parliament.⁷¹ Section 40 of the Constitution equally provides the raising of taxes, declaration of war, and entry into treaties by the President must be with the approval of Parliament.

Independence (Practice)

To what extent does is the Executive independent in practice?

Score: 100

There is no evidence that there are forces within Sierra Leone that curtail the ability of the Executive to be independent.⁷² The Executive operates and functions freely without interference by other state or non-state actors. The security forces do not interfere in the work of the Executive. Parliament checks the work of the Executive only as it relates to making laws, approving certain categories of appointments or approving public expenditures and taxes. The media report, analyse and explain policies of the Executive. Civil Society have not

⁶⁸ Interview of Mohamed Gibril Sesay, Lecturer of Sociology at the University of Sierra Leone with author, Freetown June 25, 2011

⁶⁹ Joint EC/DfID Country Strategy for Sierra Leone- 2007-2012

⁷⁰ The Constitution of Sierra Leone 1991

⁷¹ The Constitution of Sierra Leone 1991, Section 152

⁷² Interview of the Chairman of the National Commission for Democracy with author, Freetown, November 17, 2011

espoused an agenda to control or give directives to the executive, according to one expert.⁷³ Sierra Leone's economy is still heavily dependent on donors; meaning that the Executive sometimes act with considerations for their concerns or interests. This is evident in executive's approval of recommendations by the International Monetary Fund (IMF) for the removal of subsidies on petroleum products and rice in 2011. The donor community is however showing greater willingness to adhere to government's thinking in the delivery of assistance to Sierra Leone. The Country Assistance Strategies of the major donors in 2012 all claim to be in support of government's development strategy framework- the Agenda for Change.⁷⁴ Presently the focus has now shifted to the new Agenda for Prosperity.

Transparency (Law)

To what extent are there regulations in place to ensure transparency in relevant activities of the Executive?

Score: 50

The provisions to ensure transparency in the activities of the Executive are limited. The activities of government are recorded. The Government Budgeting and Accountability Act, 2004 provides for the existence of District Budget Oversight Committees (DBOCs) as mechanisms by which citizens participate in budget making discussions, among other things.⁷⁵ A DBOC consisting of between 10 and 16 persons, and chosen by the Ministry of Finance in consultations with communities, exists in every administrative district.⁷⁶ The Anti-Corruption Commission Act, 2008 requires members of the Executive branch of government, among other public officials to disclose their assets to the Anti-Corruption Commission. Declared assets of members of the Executive Arm of government are however not made public. The provisions of the Public Procurement Laws ostensibly seek, among other things to bring transparency in the procurement of public services.⁷⁷ In 2008 government began an "Open Government Initiative" by which it seeks to bring information on the work of government to ordinary people through town-hall meetings. The Freedom of Information Bill that was drafted has been passed recently.

This allows members of the public to obtain relevant information from the Executive Arm of government. On the contrary, the Civil Service's General Orders holds secrecy provisions that restrict the provision of information to members of the public.⁷⁸

Transparency (Practice)

⁷³ Interview of Mohamed Gibril Sesay, Lecturer of Sociology at the University of Sierra Leone with author, Freetown June 25, 2011

⁷⁴ Joint EC/DfID Country Assistance Strategies 2007-2012

⁷⁵ Government Budgeting and Accountability Act, 2005, section 21

⁷⁶ Ibid

⁷⁷ The Public Procurement Act, 2004

⁷⁸ Government of Sierra Leone, The Civil Services' General Orders

To what extent is there transparency in relevant activities of the Executive in practice?

Score: 50

While a limited provisions exist to ensure transparency in the activities of the Executive there are a number of drawbacks that make it difficult for the public to know what government in doing. The activities of government are recorded but not held in a government information system. There is no government information system. Government budget, before and after approval by Parliament is made available for sale to the public. One expert says that the Civil Service's General Orders infringe on citizens' access to information about the functioning of the Executive in every area. The secrecy provisions are of such a general nature that officials of the Executive branch of government can arbitrarily deem every piece of official information as sensitive, the expert says.⁷⁹

Government holds hearings to bring budget information to members of the public during budget preparation, an official of the Ministry of Finance claims.⁸⁰ However, once the budget is approved by Parliament, only printed copies are made available to the public through sale in the capital city. This means that only people who can read and write would find such means of disclosure of budget information useful. According to one expert, it is also generally the case that government does not translate procedures and regulations to be easily used by non-literate people.⁸¹ In his opinion, this can be considered a big drawback on transparency in a country where only 30% of the population is literate.⁸² The "Open Government Initiative" began in 2008 to bring information on the work of government to ordinary people through town-hall meetings has limited utility as its' town-hall meeting are very infrequent, according one expert.⁸³

Accountability (Law)

To what extent are there provisions in place to ensure that members of the Executive have to report and be answerable for their actions?

Score: 75

By the 1991 Constitution, the accountability of the Executive begins with the President who is required by procedure to address Parliament on the day it resumes sittings every year. The President's address is left to be debated by Parliament. Although the President cannot be

⁷⁹ Interview of Mohamed Gibril Sesay, Lecturer in Sociology at the University of Sierra Leone with author, Freetown, November 10, 2011

⁸⁰ Interview of Deputy Director of Budget with author, Freetown, November 10, 2011

⁸¹ Interview of Mohamed Gibril Sesay, Lecturer in Sociology at the University of Sierra Leone with author , Freetown, November 10, 2011

⁸² Ibid

⁸³ Interview of Mohamed Gibril Sesay, Lecturer in Sociology at the University of Sierra Leone with author, Freetown, June 25, 2011

sued during this tenure; impeachment actions could be brought against him by Parliament to account for violation of the laws of the land. The Constitution of the country also provides that a minister can be called to stand before by Parliament to answer for his/her actions. Parliament equally has the powers to call heads of MDAs to account for actions. Statutory departments and agencies are required by law to annually lay before Parliament reports on their activities for scrutiny. Equally, all MDAs are required by law to have their accounts audited annually by the Auditor General. In making policies, the Executive is not obliged in law to consult with the public or special groups.

Accountability (Practice)

To what extent is there effective oversight of the Executive's activities in practice?

Score: 50

Existing provisions are effective in a limited way in getting the Executive to report and be answerable for certain actions. Every year the President addresses Parliament. Parliament debates the address and offer criticisms or recommendations. It is common for ministers to be called to stand before Parliament to answer for their actions. It is equally common for Parliament to call heads of MDAs to account for certain actions. Although there are no requirements in law that the Executive consults with the public, key governance framework documents have captured government's intentions for policy dialogue with citizens.⁸⁴ For instance, a development policy framework expressed in 2002 that "Government's essential counterpart must be Civil Society, which has a fundamental participatory role to play in support of reconciliation, security, promoting good governance and policy development".⁸⁵ One expert agrees that the executive consulted public opinion in the articulation of the Poverty Reduction Strategy Paper (PRSP), and the National Youth Council as two examples.⁸⁶ In his opinion many MDAs do not have their accounts annually audited; and they do not produce annual reports. Even where members of the Executive branch of government have been prosecuted in matters involving fraud, concerns are still high that the accountability of the Executive remains problematic.⁸⁷

Integrity (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the Executive?

⁸⁴ See the National Recovery Strategy, 2002-2003, and the Poverty Reduction Strategy Paper 2004

⁸⁵ Government of Sierra Leone. National Recovery Strategy, 2002-2003, p12.

⁸⁶ Interview of the head of Integrated Projects Administration Unit with author, Freetown, July 16 2011

⁸⁷ African Confidential Report Volume 52 Number23

Score: 50

The key regulations in place to ensure the integrity of members of the Executive are the provisions of the Anti-Corruption Act, 2008, and the Public Procurement Act, 2004. The rules on gifts in the Anti-Corruption Act, 2008 obliges public official to report gifts or personal benefits exceeding 500, 000 Leones (USD 120). Failure to do so constitutes a criminal offence. There is protection for whistleblowers in the Anti-Corruption Act, 2008; including non-disclosure of identity for any purpose; and immunity from civil and criminal prosecution. Both the Public Procurement Act, 2004 and the Anti-Corruption Act, 2008 hold provisions for the Executive's avoidance and management of conflict of interest. The Public Procurement Act, 2004 obliges public officials to avoid conflict of interest or the appearance of it at all times. Public officials shall not take bribe or indulge in corrupt practices; and are obliged to report any offer of it. Public officials who contravene the Public Procurement Act, 2004 are liable to administrative and civil sanctions as well as prosecution.⁸⁸ There are no Codes of Conduct for members of the Executive, and no restrictions on post-ministerial appointments or on "revolving door" appointments.

Integrity (Practice)**To what extent is the Integrity of members of the Executive ensured in practice?****Score: 50**

Integrity is a serious problem at various levels of the Executive. An expert says that without a Code of Conduct, certain conducts create confusion over what constitutes a crime, what is unethical and what is permissible.⁸⁹ He says that such problematic conducts include the use of official vehicles for private matters, and recruitment of close relatives.⁹⁰ Regulation that gifts exceeding 500,000 Leones (USD \$120) be reported is largely ignored.⁹¹ In 2009 the then Minister of Health and Sanitation was found guilty of Corruption.⁹² On June 10, 2010, a Magistrate was convicted of misappropriation of public funds. In 2010 the then female minister of Fisheries and Marine Resources was found guilty of Corruption. Among the charges against her, was that she had employed her two sons at her Ministry without proper procedure. As a result of the conviction the Minister paid the sum of Leones 300,000,000.

⁸⁸ Public Procurement Act, 2004

⁸⁹ Interview of Mohamed Gibril Sesay, Lecturer in Sociology at the University of Sierra Leone with author, Freetown, June 25, 2011

⁹⁰ Ibid

⁹¹ Interview with Permanent Secretary who asked not to be named, Freetown, July 18, 2011

⁹² Anti-Corruption Commission. Annual Report 2010

(USD\$87, 000) to the ACC as fine.⁹³ A couple of days later a Permanent Secretary was also convicted of misappropriation of public funds.⁹⁴

Role: Public sector management (Law and Practice)

To what extent is the Executive committed to and engaged in developing a well-governed public sector?

Score: 50

The Executive is somewhat active, but rather unsuccessful in developing a public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness. A number of reforms have since taken place including the establishment of the Human Resource Management Office (HRMO), and preparations for the introduction of a Senior Executive Service in the Civil Service. A Strategy and Policy Unit has been in existence in the office of the President since 2002; providing policy coordination role. Also a few ministries including Finance, Education, Health, and Trade and Industry have monitoring and evaluation units. A Medium Term Expenditure Framework was introduced 2001 to improve overall planning and policy process in financial management and service delivery of MDAs. Beyond these, critical gaps remain. A senior official in the HRMO agrees that there are no financial incentives, scorecard and related systems that seek to reward transparency, integrity and inclusiveness in the public sector.⁹⁵ A senior government official fears that there is increasing politicization of the public service that may undo planned efforts of government to bring transparency, accountability, and integrity.⁹⁶ The Opposition (SLPP) Party has repeatedly pointed that the ruling government has much ethnic, regional and party considerations in making appointments in the public service.⁹⁷

Role: Legal System

To what extent does the Executive prioritise Public Accountability and the fight against Corruption as a concern in the country?

Score: 50

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Interview of Ansu Tucker, HRMO, with author, Freetown, November 14, 2011

⁹⁶ Interview of Permanent Secretary with author, Freetown, November 12, 2011

⁹⁷ Monthly Press Releases of the opposition Sierra Leone People's Party

The legal and administrative reforms initiated and promoted by the Executive to counter corruption and promote integrity have been piecemeal efforts with mixed results. Administrative reforms aimed at addressing corruption have been limited to Best Practice Guides introduced in few MDAs through the collaboration of the ACC. In its 2003 Annual Report the ACC attributed improvements in the management of grants to students and increased revenue from health service delivery and public auctions as the result of Best Practice Guides it published in these areas. Similarly, the ACC in 2005 published a National Anti-Corruption Strategy in which it made several recommendations on changes to administrative, financial and service delivery procedures for various public institutions. These largely constitute the range of non-statutory administrative reforms by the ACC aimed at fighting corruption.

In the 2007 Presidential elections, the leader of the opposition lampooned the then ruling party as lacking commitment to the fight against corruption. He promised zero-tolerance on corruption. Upon assuming office in 2008, his government promulgated a new anti-corruption Act; seen by experts as more robust in the fight corruption.⁹⁸ While, the President continues verbal attacks against corruption, the country has not seen further legal and administrative reforms beyond the Anti-Corruption Commission Act, 2008, and the administrative reforms in the few instances cited earlier.

THE JUDICIARY

Summary

Since 2000 the Judiciary has relied on international donor funds to cushion its resource base; illustrating government's resource limitations to tend to the needs of the Judiciary. There are major problems regarding physical access to courts. Perceptions persist that the judiciary is corrupt. Since 2008 the ACC has indicted three High Court Judges on corruption-related offences lending further credence to the perceptions about corruption in the judiciary. There is no significant interference of the Executive with the judicial process; save for a few instance where the Attorney General's has used the right to stop prosecutions. Provisions for ensuring the integrity and transparency of the Judiciary are grossly inadequate.

⁹⁸ Interviews of Mohamed Gibril Sesay, Lecturer in Sociology at the University of Sierra Leone and of the Head of the Campaign for Good governance with author, Freetown, June 25 and June 26.

A 2002 National Corruption and Governance Survey on Sierra Leone revealed that 70 percent of respondents thought that the Judiciary was manipulated by economic interests, and over half of them reporting that the Judiciary was influenced by the Executive.⁹⁹

Judiciary			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity 50/100	Resources	50	50
	Independence	75	75
Governance 50/100	Transparency	50	75
	Accountability	50	50
	Integrity mechanisms	25	50
Role 25/100	Executive oversight	50	
	Corruption prosecution	25	

Structure and Organization

The Judiciary is the branch of government that interprets and enforces the laws of Sierra Leone. The Judiciary comprises of the Magistrates Courts, the Court of Appeal, and Supreme Court. The Chief Justice is the head of the Judiciary. A Judicial and Legal Services Commission provided for in the Constitution advises the Chief Justice in the performance of his/her administrative functions among other duties prescribed in law. The President appoints the Chief Justice and all the Judges of the Superior Courts. The President does this on the advice of the Judicial and Legal Services Commission and with the approval Parliament. Tenure of the Chief Justice and Judges of the Superior Courts is guaranteed in the country's Constitution. Until a Judge attains the retirement age of retirement, he/she could only be removed from office for reasons of ill-health or misconduct.

The country's legal system is based on the English Common Law, and indigenous Customary Law which is only applicable in the rural areas. The English Common law is the remit of the Judiciary. The Judiciary have jurisdiction in all civil and criminal matters; and such other matters for which Parliament may confer jurisdiction. The Supreme Court has four core

⁹⁹ Anti Corruption Commission. 2002 National Corruption and Governance Survey

functions- has original jurisdiction in all constitutional matters; handles appeals from the lower courts; supervises the various court divisions, and interprets court rules and procedures. The Appeals Court has appellate jurisdiction over all civil and criminal matters coming from the inferior courts and tribunals. The High Court has original jurisdiction over all criminal and civil matters; and appellate and supervisory jurisdiction over all inferior courts and tribunal.

Assessment

Resources (Law)

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the judiciary?

Score: 50

Existing laws which seek to ensure appropriate judicial salaries, working conditions and tenure of office leaves many issues unattended. The Judiciary is funded from the Government's Consolidated Fund through annual appropriation. There is no law providing for how the budget for the Judiciary is apportioned. The Justice Ministry prepares an estimate of the judiciary's financial needs for inclusion in government's annual budget. The officials of the Judiciary take part in determining budget estimates for the Judiciary for government's appropriation.¹⁰⁰ The amount asked for could be adhered to by the Ministry of Finance or the amount could be negotiated downwards, reflecting government's financial position. The Constitution provides that the salaries, allowances, privileges and other conditions of service are not to be varied to the disadvantage of a Judge of the Superior Courts. There is no mechanism for salary adjustment to reflect inflation trends. The Judicial and Legal Services Commission in consultation with the Public Service Commission and with prior approval of the President may make statutory instrument prescribing the terms and conditions of service of officers and other employees of the court and the Judicial and Legal Services Commission. All fees, fines or other money taken by the Courts are paid to into the Consolidated Fund.

Resources (Practice)

To what extent does the Judiciary have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

¹⁰⁰ The Government Budgeting and Accountability Act, 2005

Score: 50

Huge gaps exist in the human, financial, and infrastructural resource of the judiciary. Since 2000 the Judiciary has relied on international donor funds to cushion its resource base. It clearly illustrates government's resource limitations to wholly and solely provide for the needs of the Judiciary. "At the height of the war the Judiciary had collapsed to the point that it had relevance only in Freetown."¹⁰¹ A USD 3.8 million law development project began in 2000 sought to address such range of issues as acquisition of court building, residences for Judges, vehicles, computers and stationery among others. Technical support under the project included training for various levels of judicial personnel and placement of expatriate staff. In 2005 under a larger Justice Sector Development Project (JSDP) DfID continues support to the Judiciary in all of the aforementioned areas and more. Wages in the Judiciary remain unattractive. It means that the Judiciary it is not attracting highly qualified personnel.¹⁰² A number of vacancies have only been filled by recruitment of "Contract Judges" paid by donors. The Judiciary equally has an expatriate Master and Registrar under contract.

There are major problems regarding physical access to courts. At the time of writing this report there were no Magistrate Courts in the three of the country's 14 judicial districts-Kailahun, Kabala, and Pujehun. There were only three High Court Judges resident outside the Capital City to serve the rest of the country. Magistrates and Judges at district headquarter towns are often too far away from villages to be easily accessed.

Independence (Law)**To what extent is the Judiciary independent by law?****Score: 75**

The 1991 Constitution provides for the courts that constitute the judiciary of Sierra Leone including the highest court. The 1991 Constitution provides that the Judiciary shall be free from the control or direction of any authority other than the Constitution or other laws. The Constitution also provides Judges immunity from prosecution in the discharge of their official functions. Acting on the advice of the Judicial and Legal Services Commission, the President appoints the Chief Justice and all the Judges of the Court of Appeal, and Supreme Court. The appointments are subject to Parliament's approval. The Constitution of Sierra Leone guarantees Judges' tenure of office. A Judge holds office until attainment of the retirement age of sixty-five. A Judge can only be removed from office for reasons of misconduct or ill-health. Where a Judge is to be removed on grounds of misconduct, the President consults

¹⁰¹ Jeroen De Zeeuw and Krishna Kumar (editors), *Promoting Democracy in Post Conflict Societies*. (London: Lynne Rienner, 2006)

¹⁰² Interview of lawyer with author, Freetown. June 27, 2011

with the Judicial Services Commission to appoint a tribunal to look into the matter. The tribunal must consist of persons qualified to be Judges. A recommendation by a tribunal to remove a Judge on grounds of misconduct must be approved by a two-thirds majority in Parliament to take effect. The Constitution provides that a Judge of the Superior Court shall not be liable to any action or suit for any matter done by him/her in the performance of his/her judicial functions.¹⁰³

Section 66(4) of the Constitution and 46(1) of the Criminal Procedure Act of 1965 gives the power to the Director of Public Prosecution (DPP) to initiate and terminate criminal proceedings at any stage before judgment in any criminal case. However, Article 66(6) of the Constitution makes all constitutional and legal powers of the DPP subject to the “general or special direction” of the Attorney General and Minister of Justice. The power of Nolle Prosequi granted to the Attorney General by Section 44(1) of the Criminal Procedure Act of 1965 also allows the Attorney General and Minister of Justice to terminate proceedings at any stage before judgment is delivered. It means in reality that the DPP cannot independently bring an end to a matter in court without instructions from the Attorney General and Minister of Justice. The Attorney General who is also a member of the Executive branch of government ultimately holds influence over the fate of prosecutions without prospect of judicial review of his/her decisions.

Independence (Practice)

To what extent does the Judiciary operate without interference from the government or other actors?

Score: 75

A number of opportunities exist in law for interference of the executive into the work of the judiciary. There is argument that having an Attorney General and Minister of Justice in one office problematic for the Judiciary. An expert opinion has suggested that this provision makes it difficult for the Attorney General as Minister of Justice to exercise his prosecutorial authority without bias for the Executive branch of government.¹⁰⁴ A few cases have been unilaterally discontinued in court by an Attorney General through the use of Nolle Prosequi. Acknowledging this argument, the Minister of Justice said at a press conference on July 29, 2011 that the issue of separating the two offices was actively occupying government attention.

¹⁰³ The 1991 Constitution of Sierra Leone, sections 120-145.

¹⁰⁴ Interview with Mohamed Gibril Sesay, lecturer Department of Sociology, University of Sierra Leone, Freetown, June 25, 2011.

On the whole however, the Executive generally respects the constitutional provisions for the independence of the Judiciary.¹⁰⁵ The Judicial and Legal Services Commission is effective according to one senior lawyer.¹⁰⁶ There are no cases of judges being demoted or transferred as a result of the Executive's displeasure with a ruling. The lawyer agrees that in general there is stability in judges tenure of office, save for one or two judges who have been removed or suspended on corruption charges.¹⁰⁷

Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision making processes of the Judiciary?

Score: 50

There are very limited provisions in law which facilitate the public's access to relevant information on the organization, functioning, and decisions of the Judiciary. The Constitution of Sierra Leone stipulates that all proceeding or hearings of the court are to be in public.¹⁰⁸ The Constitution however also provides that the courts may exclude a persons or parties from hearings or sittings in the interest of defence, public morality or safety; or in circumstances where publicity would be prejudicial to the interest of justice.¹⁰⁹ Court rules provide that every court shall deliver its decisions in writing to all parties to a matter.¹¹⁰ The rules further provide that written judgements be archived by the Registrar of the court. Court decisions in the archives are available to any member of the public upon payment of fees.¹¹¹ There is no provision that compels the Judiciary to provide judicial statistics, court hearing records and transcripts and other relevant activities to the public.

Transparency (Practice)

To what extent does the public have access to judicial information and activities in practice?

Score: 75

¹⁰⁵ United States Department of State Country Report on Human Rights in Sierra Leone 2010

¹⁰⁶ Interview of Lawyer Michaela Serry with the author October 20, 2011

¹⁰⁷ Interview of Lawyer Michaela Serry with the author October 20, 2011

¹⁰⁸ The Constitution of Sierra Leone 1991, Section 120 (6)

¹⁰⁹ 1991 Constitution of Sierra Leone, Section 120 (7)

¹¹⁰ Interview of Lawyer Michaela Serry with author, June 20, 2012

¹¹¹ Ibid

All proceeding or hearings of the court are held in public; and decisions of the court are delivered in writing to all parties. Equally, the public can obtain relevant information on the organization and functioning of the judiciary in such areas as judicial statistics, administrative information, and reports on developments projects. A Justice Sector Development Project (JSDP) began in 2005 has a website and a Justice Sector Resource Unit that bring together all relevant documents on the justice sector in Sierra Leone. These documents are available to the public on the project's website and in printed publications at a Resource Unit in the capital city. Such information provided by JSDP covers judicial statistics, administrative information, and reports on development projects. There is a resource center at the Law Courts building in the capital city which is open to members of the public to access certain categories of court documents. The Judiciary does not publish annual reports on its activities. Equally the Judicial and Legal Services Commission does not publish regular reports. According to one legal practitioner members of the public however no problem with entering court premises to witness court proceedings.¹¹²

Accountability (Law)

To what extent are there provisions in place to ensure that the Judiciary has to report and be answerable for its actions?

Score: 50

The legal provisions that exist do not cover all aspects of judicial accountability. The country's Constitution provides that in addition to other roles, the Judicial and Legal Service Commission exercises disciplinary control over officers and other employees of the judiciary, including judges.¹¹³ The Constitution provides that a Judge of the Superior Court shall not be liable to any action for any matter done by him/her in the performance of his/her judicial functions.¹¹⁴ This however, does not apply to matters of corruption and criminal offences for which Judges can be censured, reprimanded, fined suspended or removed from office.¹¹⁵ Judges are required by law to give reasons for their decisions. A member of the public aggrieved by a Judge's action can seek redress through the Ombudsman or the Judicial and Legal Services Commission.¹¹⁶

Accountability (Practice)

¹¹² Interview of Lawyer Michaela Serry with author , Freetown, April 2, 2012

¹¹³ The Constitution of Sierra Leone 1991, Section 141

¹¹⁴ The Constitution of Sierra Leone 1991, Section 120

¹¹⁵ The Constitution of Sierra Leone 1991

¹¹⁶ The Ombudsman Act, 1997 and The 1991 Constitution of Sierra Leone

To what extent do members of the Judiciary have to report and be answerable for its actions in Practice?

Score: 50

In the opinion of one expert existing provisions are effective in some measure in ensuring that members of the Judiciary have to report and be answerable for their actions in practice.¹¹⁷ Judges always provide reasons for their decisions. Newspapers regularly reproduce judgments in high profile matters. At the time of writing this report three Judges of the High Court stood suspended pending investigations by the ACC into their alleged misconduct. The expert adds however that in the absence of judicial review processes and law reporting mishaps or misdemeanours in the judiciary may be going on without notice.¹¹⁸ A private legal practitioner agrees with this conclusion.¹¹⁹

Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the Judiciary?

Score: 50

The Constitution only holds a few legal provisions to ensure the integrity of members of the judiciary. The Constitution of Sierra Leone provides that a Judge of the Superior Court of Judicature shall not while he continues in office, hold any other office of profit or emolument, whether private or public directly or indirectly.¹²⁰ The Anti-Corruption Commission Act, 2008 also require Judges as public officials to disclose their assets to the ACC. By law the ACC is obliged to maintain confidentiality and secrecy of any matter, document, report and other information relating to disclosed assets.¹²¹ A citizen who is a party to a matter in a court can challenge the impartiality of a Judge by writing to the Chief Justice before the commencement of a matter.

There is no Code of Conduct for Judges covering issues of conflict of interest, gifts and hospitality. As public officials they are however bound by the provisions of the Anti Corruption Act, 2008 in respect of conflict of interest, gifts and hospitality. There are no restrictions on Judges entering private or public sector after leaving the Judiciary.

¹¹⁷ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

¹¹⁸ Ibid

¹¹⁹ Interview of Lawyer Michaela Serry with author, Freetown, April 2, 2012

¹²⁰ The Constitution of Sierra Leone, 1991 Section 138

¹²¹ The Anti Corruption Act, 2008

Integrity Mechanisms (Practice)

To what extent is the integrity of members of the Judiciary ensured in Practice?

Score: 50

From 2010 to present, Transparency International's Global Corruption Barometer found that the Judiciary in Sierra Leone was perceived as prone to corruption. The Judiciary received a rating of 3.5 on a scale of 1.5 where 1 is not corrupt at all and 5 is extremely corrupt.¹²² 2001, a Judge was prosecuted and convicted of accepting a bribe to deliver a light sentence. In 2010, a Magistrate was found guilty of misappropriation of public funds.¹²³ Two Judges were serving suspension on charges of corruption at the time of writing this report. In the opinion of one expert many Sierra Leoneans hold the belief that the integrity of members of the Judiciary is highly questionable.¹²⁴ He accepts that the conviction of judges and magistrates illustrates the challenge of integrity of members of the Judiciary in Sierra Leone.¹²⁵ A United States of America State Department report has acknowledged that in corruption has influenced outcomes of certain cases in the judiciary.¹²⁶

Role: Executive Oversight (Practice)

To what extent does the Judiciary provide effective oversight of the Executive?

Score: 50

The Supreme Court has original jurisdiction in all matters pertaining to the enforcement and interpretation of the provisions of the Constitution. The Supreme Court can declare that a law is in contravention of the Constitution and therefore invalid. An action of the executive, where it bothers on constitutionality can be challenged by a citizen in the Supreme Court. In 2008, two cases were brought to the Supreme Court questioning the actions of the executive or seeking an overturn of a law. In one instance, the Sierra Leone Association of Journalists (SLAJ) brought a case before the Supreme Court seeking a decision on the constitutionality of the Public Order Act of 1965. In another other case the opposition Party went to the Supreme Court seeking to overturn a decision of the government to close its radio station. In both cases, the court ruled against the complainants. In the opinion of one expert, the judiciary has not overturned a law on grounds of it being unconstitutional in the last decade or more.¹²⁷

¹²² http://www.transparency.org/policy_research/surveys_indices/gcb/2010/result

¹²³ Anti Corruption Commission. Annual Report 2010

¹²⁴ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

¹²⁵ Ibid

¹²⁶ United States' State Department Report on Human Rights In Sierra Leone 2010

¹²⁷ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

Also, in his opinion, the Judiciary does not exercise routine review of the actions of the executive.¹²⁸

Role: Corruption Prosecution (Law and Practice)

To what extent is the Judiciary committed to fighting corruption through prosecution and other activities?

Score: 25

The Judiciary is not proactive in the fight against corruption. The Judiciary only prosecutes corruption cases as they are received from either the ACC or the office of the Attorney General. Most corruption cases prosecuted have led to convictions. The Judiciary does not provide statistics on corruption cases. The Sierra Leone Courts have not handled corruption cases involving cross-border elements. It is therefore difficult to gauge the willingness of the courts to cooperate with foreign judicial authorities. The Judiciary has not been involved in suggesting reform ideas in the fight against corruption. One senior lawyer says that the judiciary has not made any suggestions by way of legal or process reform to enhance the fight against corruption in decades.¹²⁹ This opinion buttressed by an official of the ACC who suggested that the judiciary has never made a point of legal or process recommendation to the ACC.¹³⁰

¹²⁸ Ibid

¹²⁹ Interview of Lawyer Michaela Serry with the author October 20, 2011

¹³⁰ Interview of ACC's head of Policy and Ethics with author, Freetown, November 24, 2011

THE PUBLIC SECTOR

Summary

The public service is beset with problems in many areas. There are no laws which seek the independence of the public sector. Interference by the state is best demonstrated by the manner in which the highest officials in the Public Service are change at the behest of a new government. Although all vacancies in the Public Service are publicly advertised, it is generally the practice that heads of public departments and agencies are recruited without recourse to open competition. Inadequate resources undermine the effectiveness of the Public Service in many areas. Across the public sector in the country capacity is a very big problem. There are no programmes for continued training for workers. Wages are low, and infrastructure and skilled personnel insufficient.

Other problems of the Public Service reflect weaknesses in laws and systems. There are provisions for ensuring transparency in the public sector. Provisions for accountability and integrity of public officials are contained in the Anti-Corruption Act, 2008, the Government Budget and Accountability Act, 2004, and the National Public Procurement Act, 2004 among others. Otherwise, there are no Codes of Conduct for members of the Public Service, or restrictions on post-ministerial appointments, or on “revolving door” appointments.

Public Sector			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity 50/100	Resources	-	50
	Independence	50	50
Governance 50/100	Transparency	75	75
	Accountability	50	50
	Integrity mechanisms	75	50
	Public education		50
	Cooperate with public institutions, CSOs and private agencies in		25

Role 25/100	preventing/addressing corruption		
	Reduce corruption risks by safeguarding integrity in public procurement	75	

Structure and Organization

The Public Sector in Sierra Leone consists of all MDAs, Judiciary, law enforcement establishments, Prisons, Local Councils, any institution set up by statute, and institutions set up wholly or partly using public funds. The Constitution of Sierra Leone provides for the existence of the Public Service.¹³¹ The Constitution also provides for the existence of the Public Service Commission. The Public Service Commission oversees recruitment, transfers, dismissals and disciplinary control in the Public Service. The remit of the Public Service in respect of recruitment, transfer, dismissals and disciplinary control however does not cover Judges, the office of the Director of Public Prosecution, the office of the Auditor General, the offices of Permanent Secretaries, the Police, and the office of ambassadors. The Public Service Commission consists of a Chairman and not less than two and not more than four other members. All the members of the Public Service Commission are appointed by the President, with the approval of Parliament. The colonial Civil Service essentially evolved today’s Public Service in Sierra Leone. Today the Civil Service constitutes roughly 25% of Sierra Leone’s public employment, with a total size of about 16,000 workers in 2007.¹³² Teachers and the Police account for 43% and 19% respectively of public service employment.¹³³

Assessment

Resources (Practice)

To what extent does the Public Sector have adequate resources to effectively carry out its duties?

Score: 75

¹³¹ The Constitution of Sierra Leone 1991, Section 151-164
¹³² International Records Management Trust, Sierra Leone Case Study 2008
¹³³ International Records Management Trust 2008

The Resource gap is quite huge to the extent that public services are not been delivered effectively. This has been acknowledged in key development policy framework documents that the public service is poorly resourced, operates inefficiently and lacks basic facilities to allow it to deliver adequate services to the majority of citizens.¹³⁴ As a result of low wages the public service cannot attract and retain the most qualified persons in the country. A Senior Assistant Secretary in the HRMO acknowledges that attraction and retention of appropriately qualified and experienced staff was a problem in the Public Sector.¹³⁵ There is no purposive strategy for making better use of talent, local or from the Diaspora. There are no systematic programmes for continued training for workers. Workers mostly rely on their own resources and motivation to continuously improve their skills. Other problems afflicting the public service include non-performance-based remuneration, and salaries that do not provide a living wage.

A Governance Reform Programme that seeks to reform the public service has existed in the Office of the President since 2003. Government's Poverty Reduction Strategy Paper (PRSP) published in 2004 agreed that "an efficient public service and an enhanced institutional capacity for the delivery of public services were critical for addressing the country's development challenges."¹³⁶ The Government thus made commitment to public service reform programme that would focus on human resource management and functional reviews of key ministries; review of central policy making; establishment a new personnel management office and new personnel regulations, a review of civil service grading and pay structure and the development a new training policy and performance assessment system.¹³⁷ The Governance Reform programme articulated Civil Service pay and training policies, and a public-sector reform strategy. The reform programme in a report in 2004 recommended the introduction of a merit-based recruitment scheme for a Senior Executive Service.

In a project that ran from 2008 to 2012 UNDP sort to address such problems as pay and incentives, civil servants training and appropriate systems and tools for improved public service delivery.¹³⁸ In May 2012 the World Bank announced a US\$17 Million support to undertake pay reforms, support recruitment and staffing, and improve performance management in the public sector.¹³⁹ The World Bank support will run from 2012 to 2015¹⁴⁰ Sierra Leone's Country Performance and Institutional Assessment (CPIA) quality, ranked 3.00

¹³⁴ EC/DfID Country Assistance Strategy 2007-2012

¹³⁵ Interview of Senior Assistant Secretary-Planning and Budgeting Directorate with Research Assistant, Freetown.

¹³⁶ Government of Sierra Leone. Poverty Reduction Strategy Paper 2004

¹³⁷ Ibid

¹³⁸ www.sl.undp.org/publicsector.html (accessed July 2, 2012)

¹³⁹ Public Sector Reform Unit, Press Release, Freetown, 2 May 2012

¹⁴⁰ www.worldbank.org/external/projects/main (accessed July 2, 2012)

in 2009 according to a 2010 World Bank Report.¹⁴¹ The CPIA which includes measures of the implementation of reforms to improve public sector management has a scale of 1 to 6, with 1 being the lowest and 6 the highest.

Independence (Law)

To what extent is the independence of the Public Sector safeguarded by law?

Score: 50

In doing its work, the Public Service is subject to the control or supervision of the President in many areas. For instance, the Public Service cannot make regulations by constitutional instruments for the effective and efficient performance of its duties without the prior approval of the President.¹⁴² The President can remove a member of the Public Service Commission on grounds of infirmity or misconduct without recourse to any review process.¹⁴³ Also the public services' powers to make certain appointments and transfers of personnel for certain offices are subject to the President's approval.¹⁴⁴ There is no institution dedicated to safeguarding the public sector from political interference; but some laws seek to protect the independence of the public sector. The 1991 Constitution provides guarantees for job security in the public sector. The Civil Service Code bars Civil Servants from taking part in politics.¹⁴⁵ Although the 1991 Constitution holds non-discriminations provisions, there are no laws specifically regulating the partiality of public sector workers. Heads of public sector departments and agencies however do not enjoy unrestricted power to appoint and sack workers. Section 152 (9) of the 1991 Constitution of Sierra Leone provides that no member of the Public Service shall be dismissed or removed from office, or reduced in rank without just cause.

Independence (Practice)

To what extent does is the Public Sector free from external interference in its activities?

Score: 50

There is extensive interference by the state in the Public Sector. In the opinion of one Permanent Secretary, interference by the state is amply demonstrated in the manner in which the highest cadre of officials in the Public Sector changes when a new party comes to

¹⁴¹ www.tradingeconomics.com/sierra-leone/cpia-quality-of-public-administration-rating

¹⁴² The Constitution of Sierra Leone 1991, Section 152 (10)

¹⁴³ The Constitution of Sierra Leone 1991, Section 151 (6)

¹⁴⁴ The Constitution of Sierra Leone 1991, Section 151-152

¹⁴⁵ Civil Service Codes, Regulations and Rules

power.¹⁴⁶ The heads of all public sector departments and agencies change. Public Sector workers are not supposed to engage in politics. They however do, in the opinion of one expert. It is common for public sector individuals to be seen around political events such as Party conferences and conventions.¹⁴⁷ The expert agrees that there is a certain level of acceptance that changing public sector bosses is inevitable in a “politics of winner takes all”.¹⁴⁸ This phrase is recurrently used in Sierra Leone to acknowledge the fact that a party in power sees all public offices as their entitlement. Although the 1991 Constitution provides guarantees for job security in the public sector, unfair dismissals or some form of job insecurity are still being perpetuated. An Amnesty International Report claims that since coming to power in 2007, the current government has dismissed about 200 Public Sector workers who were perceived as sympathisers of the opposition party.¹⁴⁹ Although entry into the public service is not supposed to be a discretionary activity of heads of public sector departments and agencies, it is very common for nepotism and corruption to influence recruitment of officials.¹⁵⁰ Sierra Leone’s first Ombudsman says that unfair dismissals in public institutions were amongst the most recurring cases he dealt with.¹⁵¹

Transparency (Law)

To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the Public Sector?

Score: 75

While a number of provisions related to transparency exist, they do not cover all aspects of related to the transparency of the public sector. The activities of government are recorded in print as there is no e-government infrastructure in place. The Government Budget and Accountability Act, 2005 provides for the existence of DBOCs, made up of community people of note who are not public servants. A District Budget Oversight Committee generally “serve as an intermediary between government and the people concerning all budget allocations for their district”.¹⁵² Public servants are required by law to annually disclose information on their personal income, assets and financial interests to the ACC. The ACC provides a generic form which public sector workers fill. The Government Budget and Accountability Act, 2005 provides regulations for records management in respect of expenditures, procurement and related issues. The Public Procurement Act, 2004 also addresses these issues. There are no

¹⁴⁶ Interview of Permanent Secretary with author, Freetown July 18, 2011

¹⁴⁷ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

¹⁴⁸ Ibid

¹⁴⁹ Amnesty International Report 2011

¹⁵⁰ Interview of Permanent Secretary with author, Freetown, July 18, 2011

¹⁵¹ Interview of Francis Gabbidon with author, Freetown, May 24, 2012

¹⁵² The Government Budget and Accountability Act, 2005, Section 21

provisions however, stipulating access to public office records by members of the public. There is no law in Sierra Leone requiring that vacancies in public departments and agencies be publicly advertised to ensure fair and open competition. There are secrecy provisions in the Civil Service's General Orders that place obligations on public servants to protect official information.

Transparency (Practice)

To what extent are there provisions for transparency in financial, human resource, and information management in the Public Sector effectively implemented?

Score: 75

Largely on account of secrecy provisions in the Civil Service's General Orders, the public is not able to obtain relevant information on the activities of the public sector, on decisions that concern them and how these decisions were made. In the opinion of one state official also, public servants have always been unwilling to disclose official information to members of the public or be open about their work to the public.¹⁵³ This attitude of public officials to be opaque is captured in studies of state-citizen relations in Sierra Leone.¹⁵⁴ Every year public servants declare their personal income, assets and financial interests to the Anti-Corruption Commission; and all programmes are transacted in the Public Sector on the basis of the Government Budget and Accountability Act, 2005, and the Public Procurement Act, 2004. The state official suggest that the large number of corruption offences however, that continue to be committed by public officials indicate great falter on transparency in Public Sector.¹⁵⁵ All vacancies in the public departments and agencies are publicly advertised in the government Gazette primarily. However, Sierra Leone's first Ombudsman generally agrees that nepotism, political consideration and favouritism have huge influence in determining who gets a job in the Public Service.¹⁵⁶

Accountability (Law)

To what extent are there provisions in place to ensure that Public Sector employees have to report and be answerable for their actions?

Score: 50

¹⁵³ Interview of Strategy and Policy Unit's official, State House with author, Freetown, November 25, 2011

¹⁵⁴ Alice Jay, Paul Richards, and Tennyson Williams, "A Framework for DFID Support to Civil Society." (DFID 2003).

¹⁵⁵ Interview of Strategy and Policy Unit's official, State House with author, Freetown, November 25, 2011

¹⁵⁶ Interview of Sierra Leone's first Ombudsman with author, Freetown, November 22, 2011

The provisions that exist they do not cover all aspects of accountability of public sector employees. Public departments and agencies are required by the 1991 Constitution of Sierra Leone requires public department and agencies to annually lay before Parliament reports on their activities for scrutiny. Public departments and agencies are also required by law to have their accounts audited every year by the Auditor General. The accountability provisions of the Anti-Corruption Commission Act, 2008, the Government Budget and Accountability Act, the Public Procurement Act, and related laws cover public sector employees. The key mandate of the Ombudsman is to receive and look into complaints of administrative injustice brought by individuals against public entities.¹⁵⁷ Administrative injustice, according to the Act, includes bias, unfair discrimination, high-handedness, using power for the wrong purpose and withholding salient information, among others.¹⁵⁸

Accountability (Practice)

To what extent do Public Sector employees have to report and be answerable for their actions in practice?

Score: 50

While the legal and institutional framework has expanded for public sector employees to report and be answerable for their actions, critical challenges remain. An official of the ACC says that so far the whistle-blowing policies for effecting accountability are effective.¹⁵⁹ The Ombudsman regularly receives complaints from members of the public who suffer administrative injustice in the hands of public officials. One expert agrees that the Ombudsman's sanctioning of misbehaving public officials is largely effective.¹⁶⁰ The expert also noted there was an increased willingness of people today to take complaints against public offices to the Human Rights Commission; citing it as progress in Public Service accountability.¹⁶¹

Many public departments have not produced annual reports for more than a decade, according to one MP.¹⁶² Equally, he added that many public departments have not had their accounts audited for years. In these circumstances, it easy to claim that many public departments are simply not accounting for their actions.

Integrity Mechanisms (Law)

¹⁵⁷ The Ombudsman Act, 1997

¹⁵⁸ Ibid

¹⁵⁹ Interview of ACC's head of Policy and Ethics with author November 24, 2011

¹⁶⁰ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

¹⁶¹ Ibid

¹⁶² Interview of Honourable Philip Tondoneh with author, Freetown, November 18, 2011

To what extent are there provisions in place to ensure the integrity of the Public Sector employees?

Score: 75

The provisions in the 1991 Constitution of Sierra Leone does not directly cover issues of integrity in the governing, organization and functioning of the Public Service.¹⁶³ Provisions in place to ensure the integrity of public sector employees are those that are generally applicable under the anti-corruption, public procurement, government budgeting and related Acts that have been cited earlier. The rules on gifts in the Anti-Corruption Act, 2008 obliges public official to report gifts or personal benefit exceeding Le. 500, 000 (USD 120). Both the Public Procurement Act, 2004 and the Anti-Corruption Act, 2008 hold provisions for the pursuit of integrity, and avoidance of corruption and conflict of interest. There are no Codes of Conduct for members of the Public Service. There are no restrictions on post-public service appointments, or on “revolving door” appointments. There is protection for whistles blowers in the Anti-Corruption Act, 2008; including none disclosure of identity for any purpose; and immunity from civil and criminal prosecution. (Public procurement will be dealt with in detail in another section)

Integrity Mechanisms (Practice)

To what extent is the integrity of Public Sector employees ensured in practice?

Score: 50

Integrity is seriously compromised in the public sector. The integrity of public sector employees is compromised at a number of levels. One Permanent Secretary accepts that the rules on gifts in the Anti-Corruption Act, 2008 which obliges public official to report gifts or personal benefit exceeding Le. 500,000 (USD 120) is not respected.¹⁶⁴ Public sector employees continue to constitute the bulk of the people prosecuted by the ACC for corruption offences. The absence of a Code of Conduct poses challenges for interpreting ethics around issues of use of official property, use of official travel, and employment of family members. According to a senior Civil Servant, conversion or use of official property for other purposes and petty fraud around official travel is a norm that nobody pays attention to.¹⁶⁵ The Transparency International Global Corruption Barometer found that public officials in Sierra

¹⁶³ The Constitution of Sierra Leone 1991, Section 151-154

¹⁶⁴ Interview with Permanent Secretary who asked not to be named. July 18, 2011

¹⁶⁵ Interview of Permanent Secretary, Ministry of Tourism and Culture with author, Freetown, November 18, 2011

Leone are perceived as highly prone to corruption, receiving a rating of 3.3 on a scale of 1-5 where 1 is not corrupt at all and 5 is extremely corrupt.¹⁶⁶

Role: Public education (practice)

To what extent does the Public Sector inform and educate the public on its role in fighting corruption?

Score: 0

The public sector is not informing and educating the public on its role in the fight against corruption in ways that are very visible or prominent. There is no evidence of public education campaigns undertaken by a public institution around corruption purposively in the last five years or more. In radio programmes aimed at enhancing relations with communities, the Sierra Leone Police has touched on corruption issues. An expert agrees that other examples like this are extremely hard to come by.¹⁶⁷ Education and information programmes around corruption issues in Sierra Leone are almost exclusively being undertaken by the ACC, the media and civil society.

Role: Cooperate with Public Institutions, CSOs and Private Agencies in preventing/addressing corruption (practice)

To what extent does the Public Sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

Score: 25

The public sector works with the ACC on initiatives that aim at preventing or addressing corruption. In 2003 the Ministry of Health worked with the ACC on administrative reforms in respect of increasing revenue from health service delivery.¹⁶⁸ The Ministry of Education also worked with the ACC on processes to improve the management of grants to students that year.¹⁶⁹ In 2005 the ACC published a National Anti-Corruption Strategy with a number of recommendations on changes to administrative, financial and service delivery procedures for various public institutions.¹⁷⁰ The National Anti Corruption Strategy 2011- 2013 had an objective to promote a public service that is effective in preventing and confronting corruption.¹⁷¹ Implementation of the National Anti Corruption Strategy 2011- 2013 started

¹⁶⁶ http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

¹⁶⁷ Interview of Sierra Leone's first Ombudsman with author, November 25, 2011

¹⁶⁸ Anti-Corruption Commission Report 2003

¹⁶⁹ Ibid

¹⁷⁰ National Anti-Corruption Strategy, 2005

¹⁷¹ Anti Corruption Commission Public Notice in Standard Times newspaper, March 16, 2012

with the establishment of Integrity Committees across government ministries, departments and agencies.¹⁷² These largely constitute the extent of collaboration between the public sector and the ACC in the fight against corruption. It is worth noting that these collaborations are initiated and pushed by the ACC. The public sector is not known to collaborate or work with civil society organizations or private agencies in preventing or addressing corruption.¹⁷³

Role: Reduce Corruption Risk by safeguarding integrity in Public Procurement (law and practice)

To what extent is there an effective framework in place to safeguard integrity in Public Procurement Procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaints mechanisms?

Score: 75

The provisions in place to ensure that the public sector performs its public procurement responsibilities in a lawful and ethical manner are mostly contained in the Public Procurement Act, 2004. The Act which established the NPPA seeks to regulate and harmonize public procurement processes in the public service, promote capacity building in the field of public procurement by ensuring value for money in public expenditures and the participation in public procurement by qualified suppliers, contractors, consultant and other qualified providers of goods, works and services.¹⁷⁴

The Public Procurement Regulations Act of 2006 stipulates the rules, regulations and procedures for procurement activities involving MDAs. The laws provide for standard bidding documents, open bidding as a general rule, objectivity in the contractor selections process, and sharing of clarifications and amendments among all bidders during the bidding process. Procurement award decisions are made public. The procurement laws do not provide for civil or social control mechanisms to monitor the control processes of public contracting. The laws regulate that staff in charge of offering evaluations must be different from those responsible for elaboration of the terms of the bidding documents.

Although the laws require open bidding as a general rule, provision is made for “restricted bidding” where resources are considered limited or there is a time limitation or constraint affecting the successful procurement of the related services. According to the Secretary General of the Sierra Leone Contractors Union, public officials are still getting illegal money

¹⁷² Ibid

¹⁷³ Interview of the Executive Director of the Center for Accountability and the Rule of Law with author, Freetown, November 24, 2011

¹⁷⁴ The Public Procurement Act, 2004

from contract awarding activities.¹⁷⁵ He says that for civil works contracts a contractor pays up to 15% of the total cost of the contract as bribes.¹⁷⁶ A businessman who has undertaken a number of supply and civil works contracts says that corrupt practices around procurement include improper performance bonds, improper recourse to restricted bidding, and disclosure of confidential information to a favoured business entity by the procuring agency.¹⁷⁷ In its 2010 Annual Report, the Country Office of the African Development Bank pointed out that procurement misbehaviours were posing challenges to their work in Sierra Leone.

LAW ENFORCEMENT

Summary

The Police force has enjoyed a range of support from international sources in this respect to augment government funds. Since international support ceased in 2006, government resources for the Police have not been able to go beyond covering salaries, logistical, and operational needs. This means that needs such as expansion of infrastructure and recurrent training of higher personnel are being neglected. Other actors occasionally interfere in the activities of the Police although of a non-severe nature. While there has not been any rancour over promotions in the Police, it has been the practice that every President appoints as Inspector General of Police a person that are deemed as pliable.

There are no provisions in law which mandates law enforcement agencies to make available to the public information on their activities. The provisions for Police accountability and community relations in Sierra Leone are not extensive. In general the Police is fairly respected. A country-wide perception survey undertaken in 2007 revealed that the public was largely satisfied with the police in such areas as Police visibility in localities, and Police relationship with communities. The survey however, also showed that citizens were most worried about misconduct that bordered on corruption in the Police Force.¹⁷⁸

Law Enforcement			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity 50/100	Resources	-	50

¹⁷⁵ Interview of Secretary General of Sierra Leone Contractors Union with author, March 31, 2012

¹⁷⁶ Ibid

¹⁷⁷ Interview of Osman Forna of Polly Enterprises with author, March 31, 2012

¹⁷⁸ British Council, Justice Sector Survey Report 2008

	Independence	50	50
Governance 50/100	Transparency	50	50
	Accountability	75	50
	Integrity Mechanisms	50	25

Structure and organization

The Sierra Leone Police was established in 1964 as the primary law enforcement agency in the country. The organization of the Sierra Leone Police conforms to traditional command structures in Police forces inherited from British colonial rule. There is an eight-member Police Council chaired by the Vice President. Other civilian representations on the council include the chairman of the Public Service Commission, the Minister of Internal Affairs and two persons appointed by the President. The council generally advises the President on matters relating to the Police. The council also makes regulations for the force with the approval of the President. The Police Force is headed by the Inspector General, who is appointed on the advise of the Police Council, and subject to the approval of Parliament. An additional structure created in 2002 called the Police Partnership Board seeks to give voice to local communities as to how they want to be policed.¹⁷⁹ At least one Police Partnership Board exists in each of the 26 command units.¹⁸⁰ The boards are chaired by civilians.

Assessment

Resources (Practice)

To what extent do Law Enforcement Agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

Score: 50

Government's annually appropriates funds for Police Force's salaries, logistical, and operational needs. However, significant gaps remain that affects the effective operation of the institution. The Sierra Leone Police emerged from war lacking basic resources including Police infrastructure and equipment. Since the achievement of peace in 2002, re-organization of the Police became a critical element in re-establishing governmental authority throughout the

¹⁷⁹ British Council, Justice Sector Survey Report 2008

¹⁸⁰ Ibid

country.¹⁸¹ The Police force has enjoyed a range of support from international sources in this respect. These include logistics, expatriate personnel, human rights and management training.¹⁸² In 2003 one newspaper wrote that the legacy of international donor support to the Police had considerably bolstered efficiency in the force.¹⁸³ But even at that time senior officials were warning that the force can never achieve the highest ethical and professional standards in circumstances of extremely low wages and poor living conditions.¹⁸⁴ The major donor support to the police was the Commonwealth Community Safety and Security Project, funded by the DfID. This project ended in 2006. Resources for the Police have since then not been able to go beyond government's provisions for salaries, logistical, and operational needs. The down-sizing of international support is now affecting the Police's ability to replace worn-out equipment or do repairs to facilities and meet infrastructural expansion and recurrent training needs particularly.¹⁸⁵ According to a United States Department of State report on human rights in Sierra Leone, the Police Force remains poorly equipped and lacks effective investigative, forensic, and riot control capabilities.¹⁸⁶ One expert adds that low wages and poor living conditions persist in the Police at levels where one cannot hope for integrity and professionalism.¹⁸⁷

Independence (Law)

To what extent are Law Enforcement Agencies independent by law?

Score: 50

The Constitution of Sierra Leone provides for the establishment of the Police Force.¹⁸⁸ The Constitution provides that the Police Force be headed by the Inspector General of Police.¹⁸⁹ The Constitution also provides for a Police Council consisting of the Vice President, the Inspector General of Police, the Deputy Inspector General of Police, and the Minister of Internal Affairs among others as members.¹⁹⁰ The powers to appoint or to make promotions and dismissals from the rank of Assistant Superintendent of Police and above, excepting for the Inspector General, is vested in the Police Council.¹⁹¹ In respect of making regulations for

¹⁸¹ Government of Sierra Leone, National Recovery Strategy 2002-2003

¹⁸² Jeroen de Zeeuw and Krishna Kumar. Promoting Democracy in Post-Conflict Societies. Boulder: Lynne Rienner 2006

¹⁸³ de Zeeuw and Kumar, 2006

¹⁸⁴ de Zeeuw and Kumar, 2006

¹⁸⁵ Interview of senior Police Officer with author November 15, 2011

¹⁸⁶ United States Department of State: 2010 Country report on Human Rights in Sierra Leone.

¹⁸⁷ Interview of the Governance Officer, Actionaid with author, November 18, 2011

¹⁸⁸ The Constitution of Sierra Leone 1991, Section 155

¹⁸⁹ Ibid

¹⁹⁰ The Constitution of Sierra Leone 1991, Section 156

¹⁹¹ The Constitution of Sierra Leone 1991, Section 157 (2)

the Police, the Police Council must have the prior approval of the President.¹⁹² The President appoints the Inspector General of Police on the advice of the Police Council and subject to the approval of Parliament.¹⁹³ There are no laws expressly seeking to prevent political interference in the Police. Members of the Police force are barred from serving as parliamentarians.¹⁹⁴ Members of the Police force are barred from belonging to political parties.¹⁹⁵

Criminal matters in Sierra Leone are prosecuted under the direction of the Director of Public Prosecutions (DPP). However, Article 66(6) of the Constitution makes all constitutional and legal powers of the DPP subject to the “general or special direction” of the Attorney General and Minister of Justice.

Independence (Practice)

To what extent are Law Enforcement Agencies independent in practice?

Score: 50

Members of the Executive occasionally interfere in the activities of the Police although of a non-severe nature. According to one expert, it is common for people of political and social standing to seek to influence the Police to make arrests or deal with a matter at their own discretion.¹⁹⁶ A senior Police officer agrees with this observation.¹⁹⁷ A Civil Society activist adds that the Executive has great influence and control over the Police Force.¹⁹⁸ The activist believes however, that the general climate of human rights awareness means that the Executive is less inclined today to influence arrests and prosecutions by the Police.¹⁹⁹ Police can resist such behaviour without dire consequences. While there has not been any rancour over promotions in the Police, it has been the habit of the Executive to appoint as Inspector General of Police a person that is deemed as pliable or more politically convenient to work with, one expert adds.²⁰⁰

The Attorney General ultimately holds influence over the fate of prosecutions without prospect of judicial review of his decisions. A number of cases mainly involving political

¹⁹² The Constitution of Sierra Leone 1991, Section 158 (2)

¹⁹³ The Constitution of Sierra Leone 1991, Section 157 (1)

¹⁹⁴ The Constitution of Sierra Leone 1991, Section 71 (1b)

¹⁹⁵ Political Parties Act, 2002, Section 15

¹⁹⁶ Interview of the Executive Director, Center for the Coordination of Youth Activities with author, Freetown, November 18, 2011

¹⁹⁷ Interview of senior Police Officer with author, Freetown, November 15, 2011

¹⁹⁸ Interview of the Governance Officer, Actionaid with author, Freetown, November 18, 2011

¹⁹⁹ Interview of the Governance Officer, Actionaid with author, Freetown, November 18, 2011

²⁰⁰ Interview of the Executive Director, Center for the Coordination of Youth Activities with author, Freetown, November 18, 2011

opponents have been unilaterally discontinued in court by an Attorney General under Article 66(6) of the Constitution which makes all constitutional and legal powers of the DPP subject to the “general or special direction” of the Attorney General and Minister of Justice. One prominent matter in 2008 involved the discontinuation of a matter brought against a serving Deputy Minister by a female publisher of the Awareness Times newspaper on the orders of the Attorney General.

Transparency (Law)

To what extent are there provisions in place to ensure that the public can access the relevant information on Law Enforcement Agencies?

Score: 50

There are no provisions in law which mandates law enforcement agencies to make available to the public information on their activities. On the contrary, the Treason and State Offences Act, 1963 which greatly on the work of Law Enforcement agencies, prohibits the disclosure of certain types of information hinges.²⁰¹ There are no provisions for victims of crimes to access their case files. As public officers, law enforcement agencies are covered by the transparency provisions of the anti-corruption, public procurement, and Ombudsman Acts. Police officers can be prosecuted for all of the categories of offences dealing with transparency under the ACC, Public Procurement and Ombudsman Acts.

Transparency (Practice)

To what extent is there transparency in the activities and decision-making processes of Law Enforcement Agencies in practice?

Score: 50

In spite of the limited provision of information, the public can obtain information on the activities of law enforcement agencies. Such information however, mostly covers administration news, community relations stories, crime news, and official archival documents. Statistical records management in the Police has been the focus of international support to the Police between 2002 and 2006.²⁰² The Police force publishes an Annual Crimes Report. Certain relevant information on the activities of the Police can be accessed from the Police website, or from its newsletter, or from the JSDP official sources. The Police also have a

²⁰¹ The Treason and State Offences Act, 1963

²⁰² de Zeeuw and Kumar, 2006

media division that regularly gives out information to the public via Media Interviews, Press Conferences and Press Releases.

It is extremely difficult for members of the public to access information on how decisions that concerns them were made. An expert says that the Police force has not inculcated the culture yet to give members of the public access to information on how decisions that concern them are made.²⁰³ A senior Police Officer says that it is extremely rare for members of the public to demand documented information on how decisions that concern them were made.²⁰⁴

Accountability (Law)

To what extent are there provisions in place to ensure that Law Enforcement Agencies have to report and be answerable for their actions?

Score: 75

Provisions for accountability of law enforcement are limited. Prosecutors are not required to give reasons to relevant stakeholders regarding their decisions to prosecute or not to prosecute. There are a number of mechanisms for citizens to complain about Police misconduct. Within the Police there is the Discipline and Internal Investigation Department (CDIID) which receives complaints involving brutality, corruption, or unfair treatment brought by members of the public against the policemen.²⁰⁵ Citizens can equally go to the courts to seek redress for wrong-doings by the police. Among its many roles a Police Partnership Board addresses issues of frictions between police and the community.²⁰⁶ The Police Partnership Board and the CDIID were new institutional reforms brought into the Police by a Commonwealth Community Safety and Security Project in 2002/2003.²⁰⁷ It is also within the remit of the Ombudsman to receive complaints of law enforcement officers' misconduct. The Police Council also has responsibilities for discipline, among other things, in the Police Force. According to a United States Department of State report, the Police Council accepted written complaints against senior police officers in 2010.²⁰⁸

²⁰³ Interview of Dr. Hindowa Momoh with author, Freetown, April 2012.

²⁰⁴ Interview of senior Police Officer with author, Freetown, November 15, 2011

²⁰⁵ Justice Sector Development Project, Justice Sector Survey 2008 Report.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ United States Department of State: 2010 Country report on Human Rights in Sierra Leone.

Accountability (Practice)

To what extent do Law Enforcement Agencies have to report and be answerable for their actions in practice?

Score: 50

The provisions for Police accountability in Sierra Leone, while not extensive, are fairly effective. In 2010 the CDIID received 1,623 complaints according to a United States' State Department Report on Human Rights in Sierra Leone.²⁰⁹ According to the report, the CDIID heard more complaints against police officers during the year than in the previous year, largely due to greater public awareness of and trust in the organization. The report stated that the CDIID facilitated all hearings and trials related to complaints against junior police officers with appeals process available and often used. After disciplinary measures were issued against an officer, the officer was also subject to the civilian court if criminal action was involved. According to the report CDIID handling of complaints either led to dismissals, demotions, suspension, or official warnings. The most common complaints lodged against police were petty corruption, unfair treatment, lack of professionalism, and assault, the report says.

Results of CDIID investigations into complaints against Police and misconducts are communicated to the public by Press Releases or as news.²¹⁰ Police misconduct bothering on undue use of force is not common according to a 2007 survey by the Justice Sector Development Project.²¹¹ A Human Rights activist suggests that while the Police personnel may get away with instances of petty corruption, they can hardly do so for serious abuses.²¹²

Integrity Mechanisms (Law)

To what extent is the integrity of Law Enforcement Agencies ensured by law?

Score: 50

Provisions for ensuring the integrity of the Police are generally found in the legislations covering integrity of public officials. There is also a Code of Conduct for Operations of Local Community Police Board LCPB. It covers issues of bribery, conflict of interest, gifts and hospitality. There is no Code of Conduct for Police Prosecutors. There are no post employment restrictions on members of the Police.

²⁰⁹ United States Department of State: 2010 Country report on Human Rights in Sierra Leone.

²¹⁰ Interview with officers at the Police Media Department, Freetown, June 18, 2011.

²¹¹ British Council, Justice Sector Survey 2008 Report.

²¹² Interview of the Executive Director with author, Center for Accountability and Rule of Law, March 30, 2012.

Integrity Mechanisms (Practice)

To what extent is the integrity of members of Law Enforcement Agencies ensured in practice?

Score: 25

In a 2010 National Public Perception Survey on Corruption, Sierra Leoneans ranked the Police as the most corrupt institution in the country.²¹³ The survey however also showed that misconduct in the Police Force bothering on corruption was what citizens were worried about most.²¹⁴ A United States' State Department report on human rights in Sierra Leone says that Police corruption exacerbated by low salaries remains a serious challenge.²¹⁵ Members of the Police force are very rarely prosecuted for corruption and the public feels their misconduct everyday, says one expert.²¹⁶ According to a United States' State Department Report, Police Officers were asking for bribes at checkpoints, falsely charging motorists with violations, and impounding vehicles to extort money.²¹⁷ The report says that the Police were also accepting bribes from criminal suspects in exchange for dropping charges or for having their rivals arrested and charged with crimes. It says that in numerous instances, the police, in exchange for kickbacks, refused to make arrests when warranted, or they arrested persons without charge for civil causes such as alleged breach of contract or failure to meet a debt obligation.²¹⁸ The 2010 to 2013 Transparency International's Global Corruption Barometer finds the Police to be the most entity prone to corruption in Sierra Leone.²¹⁹

ELECTORAL MANAGEMENT BODY

Summary

²¹³ National Public Perception Survey on Corruption 2010

²¹⁴ British Council. Justice Sector Survey 2008 Report.

²¹⁵ www.state.gov/g/drl/rls/hrpt/20101/af/154368. Accessed November 30, 2011

²¹⁶ Author interview with Dr. Osman Gbla, Department of Political Science, Fourah Bay College June 17, 2011

²¹⁷ United States Department of State: 2010 Country report on Human Rights in Sierra Leone.

²¹⁸ United States Department of State: 2010 Country report on Human Rights in Sierra Leone.

²¹⁹ http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

The 2012 Elections were the National Electoral Commission's (NEC) third general elections. Generally, NEC is considered credible and independent. There have not been serious concerns that the NEC's independence is being compromised by any other Arm of government; and the institution largely has the confidence of the citizens and government. The NEC is largely perceived to be impartial, efficient and accountable in every aspect of the electoral process. On the negative side, NEC has poorly played its role in ensuring political parties' equal access to radio. NEC does not enforce its role in this area. There are also concerns over NEC's huge reliance on international resources. All three elections conducted by NEC have been done with heavy reliance on international financial and related support. Experts and NEC staff worry about what may obtain when international funding is not forthcoming.

Electoral Management Body			
Overall Pillar Score: 75/100			
	Indicator	Law	Practice
Capacity 75/100	Resources	-	50
	Independence	100	75
Governance 75/100	Transparency	100	75
	Accountability	100	75
	Integrity	100	75
Role 75/100	Campaign Regulation	50	
	Election Administration	100	

Structure and Organization

The National Electoral Commission (NEC) is mandated by the 1991 Constitution to conduct all public elections and referenda. Public elections in Sierra Leone are Presidential, Parliamentary and Local Government Elections. In respect of conducting elections, NEC is vested with powers to register voters, demarcate constituencies, and make regulations for the efficient performance of its functions. The Constitution provides for the independence of NEC. NEC's commissioners are appointed by President after consultations with political parties, and subject to Parliament's approval. The Board of Commissioners is the oversight and policy-making body, responsible for the overall supervision and control of the processes of elections.

NEC has a decentralized management system with a Commissioner for each of the country's four geographic regions.

Assessment

Resources (Practice)

To what extent does the Electoral Management Body (EMB) have adequate resources to achieve its goals in Practice?

Score: 50

The Sierra Leone government is required by law to fund all Presidential, Parliamentary, and Local Government elections.²²⁰ Since 1996 the Sierra Leone government has not been in a position to meet statutory obligations to fund all public elections in the country. Sierra Leone has simply lacked the resources to fund elections. International community's financial, logistics and technical support was the backbone of for the 1996, 2002, 2007 and 2012 Presidential, Parliamentary, and Local Councils elections. For instance, in the 2008 Local Government elections, the international community covered 87.7% of the total elections cost of US\$21, 375,023.²²¹

International support means that the NEC has always had timely and sufficient funds for its operations, especially during elections. The NEC also has adequate operational structures, systematised archive, and personnel.²²² The NEC staff is appropriately qualified and have sufficient experience.²²³

Independence (Law)

To what extent is the Electoral Management Body independent by law?

Score: 100

The laws seeking to protect the independence of the NEC are comprehensive. Sub-section 11 of section 32 of the Constitution of Sierra Leone specifically states that the National Electoral Body (NEC) is an independent body. The 1991 the Constitution guarantees independence of the NEC in the performance of its functions by stating that it "shall not be subject to the direction or control of any person or authority."²²⁴ NEC's commissioners including the

²²⁰ The Electoral Laws Act, 2002

²²¹ National Electoral Commission Annual Report, 2008 page 11

²²² Interview of Commissioner Western Area with author, Freetown, November 29, 2011

²²³ Ibid

²²⁴ The Constitution of Sierra Leone 1991

chairman are appointed by the President in consultations with the opposition parties in Parliament. Other members of staff are appointed by the Chairman and the institutions Human Resources department. The National Electoral Commission Act, 2002 provides for an Executive Secretary to be responsible for the NEC's day-to-day administration. The Executive Secretary and other staff are appointed by the Commission. The 1991 Constitution provides that no Commissioner shall be removed from office except for inability or misbehaviour. Where a Commissioner is to be removed from office on grounds of misbehaviour, the matter must be investigated by a tribunal. The NEC has a Board of Commissioners with responsibility for oversight and policy-making, and overall supervision and control of elections processes.

Independence (Practice)

To what extent does the Electoral Management Body function independently in practice?

Score: 75

International and local elections observers have declared elections conducted by NEC as free, fair and highly credible.²²⁵ There have not been serious concerns that the NEC's independence is being abused by the Executive or any other arm of government. A leading individual in elections observation in Sierra Leone holds the view that NEC largely has the confidence of the citizens and government.²²⁶ He adds that NEC is largely perceived to be impartial, efficient and accountable.²²⁷ The application of provisions in the Constitution regarding the appointment of NEC's Commissioners has however been the subject of confusion. The constitution stipulates that NEC's Commissioners are appointed by the President after consultations with political parties. There are no guidelines as to how these consultations should take place. In 2010 the main opposition Sierra Leone People's Party (SLPP) expressed serious queries that the President had appointed Commissioners without consultations with other political parties. Despite such queries, Parliament approved the President's appointments.

Fears have been expressed that international community's resource support to NEC holds possibility to compromise local ownership of elections processes. A former Executive Secretary at NEC confirms that in the 2007 elections for example, supporters of the then ruling SLPP party accused the international community of plotting a regime change agenda in connivance with the UN technical personnel attached to the NEC.²²⁸ An expert agrees with the suggestion that while the 2007 elections were largely considered to be free and fair, such

²²⁵ National Democratic Institute, 2007 Elections Observation Report and National Elections Watch Elections Observation Report.

²²⁶ Interview with the Executive Director, Center for the Coordination of Youth Activities with author, Freetown November 18, 2011

²²⁷ Ibid.

²²⁸ Interview of former NEC Executive Secretary Dr. Hindowa Momoh with author, Freetown, April 30, 2012

contestations indicated that not everyone was satisfied with the international community's extensive intervention in the conduct of the elections.²²⁹

Transparency (Law)

To what extent are provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the Electoral Management Bodies?

Score: 100

The Electoral Laws Act, 2002 stipulates the processes for registration of voters, obligations to publish voter registration, nomination and related electoral processes information.²³⁰ Among others the electoral laws obligate the NEC to publish and make available to the public notices of claim for registration, provisional list of electors, notices of sittings to revise provisional list of electors, polling stations, list of person nominated as presidential candidates, and elections results. Procedures for redressing omissions, objections and making revisions are all provided for in the same Act. General powers lay with the NEC in respect of redressing queries regarding electoral processes. Section 24 of the Electoral Laws Act, 2002 and the Constitution provides for citizens to make final recourse to the courts where they are dissatisfied with NEC's redress decisions.

The NEC does not regulate political party funding. Political party funding and related political party operational issues are handled by the Political Party Registration Commission.

Transparency (Practice)

To what extent are reports and decisions of the Electoral Management Body made public in practice?

Score: 75

The NEC does not renege on any of its reporting obligations in respect of electoral processes. Notices of claim for registration, provisional list of electors, notices of sittings to revise provisional list of electors, list of polling stations, list of person nominated as presidential candidates, and elections results are published in the time and manners provided for by the

²²⁹Interview of the Executive Director, Center for the Coordinator of Youth Activities with author, Freetown, November 18, 2011

²³⁰The Electoral Laws Act, 2002

electoral laws. This conclusion is deduced from the fact that NEC has never reneged on date-lines set for the publication of notices and related information pertaining to elections processes; and the Commission has not generated any political quarrel over its obligation to publish information.²³¹ The NEC provides information to the public regularly, using its website, Media Programmes, Press Releases and Press Conferences. The website however, holds only scanty information including news of NEC activities, events and some reports. Relevant statistical data cannot be sourced from the website. There is also no established system in place by which citizens can ask questions of the NEC and get answers.²³²

Accountability (Law)

To what extent are there provisions in place to ensure that the Electoral Management Body has to report and be answerable for its actions?

Score: 100

Accountability of the Commission starts with provisions in section 32 (12) which require the Chief Electoral Commissioner to submit an Annual Report to the President. The Constitution of Sierra Leone also provides that the Annual Report be tabled before Parliament. The books of Account of the NEC are to be annually audited by the Auditor General or an independent auditor chosen by the Auditor General. Classified as a public sector institution, the NEC is subject to all other statutory accountability instruments such as the Anti-Corruption Laws, the Government Budgeting and Accountability Act, 2004, and the National Public Procurement Act, 2004.

The electoral laws provide for timely and enforceable review of the NEC decisions. The Electoral Laws Act, 2002 and the recent Public Elections Act 2012 give precise number of days for such issues as disclosure of certain categories of electoral information, filing objections and claims; and the NEC responding thereto. Processes by which citizens and political parties can seek redress for electoral irregularities or the NEC's decisions are provided for in law. Section 111 (5) and (7) of the Electoral Laws Act however provide for no right of appeal in election petition cases. Where a citizen or political party is dissatisfied with NEC's actions in electoral matters, the Electoral Laws Act, 2002, the recent Public Elections Act 2012 and the 1991 Constitution allows for recourse to the courts.

Accountability (Practice)

²³¹ Interview of Commissioner Western Area with author, Freetown, November 29, 2011

²³² Interview of the Executive Director, Center for the Coordinator of Youth Activities with author, March 29, 2012

To what extent does the Electoral Management Body have to report and be answerable for its actions in practice?

Score: 75

Every year the NEC has submitted an Annual Report to the President which has also been laid before Parliament for scrutiny. The NEC also produces reports whenever it completes a specific assignment like constituency demarcation. NEC's accounts are annually audited by the Auditor General. NEC's Annual Reports are however not widely available to the public. NEC's annual activities reports and audited financial reports are not available on its website. According to one expert however, the NEC satisfactorily interacts with the media, civil society, political parties and elections observers to exchange information through regular meetings.²³³ In the opinion of one expert, most dissatisfaction expressed by citizens and political party have been resolved without recourse to the courts.²³⁴ There has been only two serious wrangling over an electoral process that required recourse to the courts. That was when the Sierra Leone Peoples Party lost the Presidential Elections in the 2007 and 2012 Elections. They had disputed NEC's powers to cancel ballots cast in 2007 and disputed NEC's failure to cancel ballots cast in controversial areas, and had taken the issue to court.²³⁵

Integrity (Law)

To what extent are there mechanisms in place to ensure the integrity of the Electoral Management Body?

Score: 100

The legal provisions covering the integrity of NEC officials are spread across a number of Acts. Section 32 of the Constitution of Sierra Leone provides that a member of the NEC may be removed from office among other things, for misbehaviour. The NEC is also covered by all the Acts providing for integrity of public officials and public institutions in areas of procurement, corruption and financial management. The comprehensive provisions in place to ensure the integrity of workers are however in the Electoral Laws Act, 2002 and the recent Public Elections Act 2012. Under electoral offences, the Act details omissions and commissions covering fraud, misrepresentation, bribery, falsification, misrepresentation, and impersonation among other integrity issues for NEC officials. There is a Code of Conduct which covers issues of conflict of interest, gifts and hospitality, and other improper conducts. There is no law that imposes post-employment restrictions on the Chairman and Commissioners of

²³³ Interview of Dr. Osman Gbla, Department of Political Science, with author, Freetown, June 17, 2011

²³⁴ Interview of the Executive Director, Center for the Coordinator of Youth Activities with author, Freetown, November 18, 2011

²³⁵ Ibid

NEC. All workers at are required to sign a contract promising to withhold principles of independence, integrity, impartiality and transparency.²³⁶

Integrity (Practice)

To what extent is the integrity of the Electoral Management Body ensured in practice?

Score: 75

There is a comprehensive approach to ensuring the integrity of members of the NEC, including unbiased enforcement of the terms of the Code of Conduct and terms of employment. There are pro-active inquiries into alleged misbehaviour; and culprits are sanctioned, in the opinion of one Commissioner.²³⁷ Following the 2007 presidential and parliamentary elections, a handful of members of the NEC were dismissed on grounds that they had breached terms of their employment and the terms of the Code of Conduct. Such dismissals however, are very infrequent according to a senior NEC official.²³⁸ One former official who was affected said that his dismissal was a mere cover up for mal-administration that NEC could not own to.²³⁹

Role: Campaign regulation (Law and Practice)

Does the Electoral Management Body effectively regulate candidate and political party finance?

Score: 50

The National Electoral Commission is not directly charged with responsibilities for regulating campaign financing. The responsibility for regulating campaign financing lies with the Political Party Registration Commission (PPRC). However, the laws governing elections specifically oblige the NEC to guarantee political parties equal access to the mass media and no citizen shall suffer discrimination by virtue of his membership of a political party.²⁴⁰

All elections in the country since 1996 have been fraught by accusations of abuse of state resources by incumbents. In the 1996 elections there were widespread reports of diversions of state resources to the campaign activities of the junta affiliated the National Unity Party. Abuses of state resources were reported for the 2002, 2007 and 2012 General Elections.²⁴¹

²³⁶ Interview of former NEC Executive Secretary Dr. Hindowa Momoh with author, Freetown, July 6, 2011

²³⁷ Interview of NEC Commissioner Miatta French with author, Freetown, November 29, 2011

²³⁸ Interview of NEC Commissioner Miatta French, July 3, 2011

²³⁹ Interview of former NEC Executive Secretary Dr. Hindowa Momoh with author, Freetown, July 6, 2011

²⁴⁰ The Electoral Laws Act, 2002

²⁴¹ Final Report of the European Union Elections Observation of the 2007 elections.

The European Union Elections Observation Mission highlighted the use of government vehicles for partisan purposes by the incumbent party in the 2007 and also the 2012 Elections.²⁴² The local elections observation body-the National Elections Watch (NEW) - reported similar abuse of state resources in the 2004, 2008 and 2012 Local Government Elections²⁴³. NEC however has no direct responsibility in law to deal with such abuses. Issues of political parties' finances and resources are the remit of the PPRC.

One expert agrees with suggestions that NEC has poorly played its role in ensuring political parties' equal access to radio.²⁴⁴ In the period leading to the 2007 general elections both the ruling and opposition parties established their own radio stations. These stations were closed down in mid-2008 by the Independent Media Commission for fear of degenerating into hate mongering. Although political parties are guaranteed equal access in law to public radio, political parties were largely inclined to use private radio stations during the last elections. One expert agrees that there is perception that the incumbent party gets more airtime on state controlled media than opposition parties.²⁴⁵ There is opinion from the expert who was involved with elections observation that in the last presidential and parliamentary elections NEC made very little effort to enforce the provisions in law regarding equal access to the media.²⁴⁶

Role: Election administration (law and practice)

Does the Electoral Management Body ensure the integrity of the electoral process?

Score: 100

The NECs provision of timely information on every aspect of the electoral process is satisfactory according to one expert.²⁴⁷ Everybody knows where to go to register. Provisional lists of eligible voters are published and displayed so that people can check if their names have been omitted or registered correctly. People whose names are not included in a provision list or whose names have been entered incorrectly can have timely redress. There has not been any wrangling in the past two elections about omission of names from the electoral list. Since the return to multi-party politics, there has not been an incidence where a large number of voters have been unable to vote for any reason.

²⁴² Ibid.

²⁴³ National Elections Watch Report on the 2008 Local Government Elections

²⁴⁴ Interview of the Governance Officer, Actionaid with author, Freetown, November 18, 2011

²⁴⁵ Interview of the Executive Director, Center for the Coordinator of Youth Activities with author, Freetown, November 18, 2011

²⁴⁶ Ibid

²⁴⁷ Interview of Dr. Osman Gbla, Department of Political Science, with author, Freetown, June 17, 2011

Voter education activities are undertaken by the NEC across the country. Sensitive electoral materials carry security features and are accounted for. The NEC allows political parties and independent observers to observe of every stage of an election. In all three elections since 1996, the opinions of elections observers have indicated that NEC has been largely efficient in aggregating, and validating elections result. In 2007 and also in 2012 however, the NEC had cause to invalidate results from 477 polling stations where over-voting had allegedly taken place. In the opinion of the expert, over-voting at 477 polling stations tells that NEC has serious problems to attend to regarding polling day activities. The fact that over-voting took place means that there were lapses on side of polling officials and security arrangements in general; the expert added.²⁴⁸

THE OMBUDSMAN

Summary

Established in 2002 the Ombudsman is a vital addition to the accountability architecture in Sierra Leone. The Ombudsman is generally very active and successful in dealing with complaints from the public; and the procedures for lodging complaints are very easy. The independence of the institution is respected. Resource constraints however face the Ombudsman. As a result observers of the office say that the Ombudsman is known and useful mostly in the capital city. The Ombudsman is largely reactive; and public campaigns are limited. The Ombudsman has not published ideas and principles on issues bothering on the work of the office.

The Ombudsman			
Overall Pillar Score: 75/100			
	Indicator	Law	Practice
Capacity 75/100	Resources	-	50
	Independence	100	75
Governance 50/100	Transparency	75	50

²⁴⁸ Ibid

	Accountability	50	75
	Integrity Mechanisms	25	75
Role 25/100	Investigation	50	
	Promoting Good Practice	25	

Structure and Organization

The 1991 Constitution of Sierra Leone provides for the establishment of the Office of the Ombudsman. In 1997, the Ombudsman Act number 2 was passed into law. Sierra Leone's first Ombudsman was appointed in 2002. The Ombudsman's principal role is to investigate complaints of administrative injustice that members of the public suffer in the hands of public institutions and public officials. The Ombudsman Act number 2 also provides that the Ombudsman may advise government on policies that negatively impact the proper working of government ministries, departments and agencies. By law the proceedings of the Ombudsman in an investigation are generally of an informal nature; and in particular not governed by the rules of evidence and procedures applicable in court. A person must have held office as judge of the High Courts or is qualified to hold office as a Judge of the High Courts to qualify for appointment as Ombudsman. The Ombudsman has a centralized office in the capital city.

Assessment

Resources (Practice)

To what extent does the Ombudsman have adequate resources to achieve its goals in practice?

Score: 50

The Ombudsman does not have adequate human, financial, material and infrastructural resources to carry out its functions effectively. A former Ombudsman says that the challenge of limited resources was communicated to government every year during his tenure.²⁴⁹ There was admission in the 2010 annual report that the number of complaints that the office of the Ombudsman was dealing with outside of the capital was not impressive.²⁵⁰ The report attributed the unimpressive performance to a lack of transportation to facilitate the movement of officers around the country.²⁵¹ The lack of resources explains why the

²⁴⁹ Interview of Sierra Leone's first Ombudsman with author, Freetown, November 31, 2011

²⁵⁰ Office of the Ombudsman 2010 Annual Report, page 29

²⁵¹ Ibid

Ombudsman has had presence only in the Capital city since establishment of the office. The Ombudsman has inadequate personnel and there are no career development opportunities, says a former Ombudsman.²⁵² The Ombudsman categorically accepts that the office has serious constraints. Capacity and resource mobilization have been earmarked as one of five priority areas for the period 2009-2013.²⁵³ A study on human rights protection in Sierra Leone after the 2002 war concluded that the Ombudsman was effectively an institution serving only capital city residents.²⁵⁴ Up to this day persons living outside of the capital city find it extremely difficult to access the Ombudsman. In an interview for this report, Sierra Leone's first Ombudsman says that enforcing decisions of the Ombudsman was a big challenge.²⁵⁵ In the absence of supporting laws, the Ombudsman has mostly relied on persuasion to enforce decisions, he adds.²⁵⁶

Independence (Law)

To what extent is the Ombudsman independent by law?

Score: 100

There are extensive laws seeking to ensure the independence of the Ombudsman. The Ombudsman is appointed by the President, subject to Parliament's approval. The Ombudsman is appointed for a term of four years; and cannot serve more than two four-year terms. The Ombudsman can only be removed from office on grounds of ill-health or misdemeanour.²⁵⁷ The Ombudsman is protected from the manipulations of the President in two key ways. Firstly, Parliament approves whoever is chosen by the President as Ombudsman. Secondly, the tenure of office of the Ombudsman is guaranteed in law.²⁵⁸

The law establishing the office provides that the Ombudsman is not subject to the control or direction of any authority or person.²⁵⁹ The law grants the Ombudsman authority to determine procedures for investigating complaints. Proceedings of the Ombudsman cannot be questioned in any court of law. Equally, no legal proceeding can be brought against the Ombudsman or his/her staff in respect of anything done in good faith and falling within the Act establishing the office. The law grants the Ombudsman the same power as the High Court in respect of securing the attendance of witnesses or accessing documents. The Secretary to the office of the Ombudsman is appointed by the President in consultation with the Ombudsman. All other members of staff are appointed by the Ombudsman. There are no provisions for the Ombudsman to appeal directly to the courts to powers granted him/her.

²⁵² Interview with Francis Gabbidon, former Ombudsman August 3, 2011

²⁵³ Office of the Ombudsman. Strategic Plan for Office of the Ombudsman Covering the Period 2009-2013

²⁵⁴ Sesay and Hughes, 2005

²⁵⁵ Interview of Francis Gabbidon, former Ombudsman with author May 24, 2012

²⁵⁶ Ibid.

²⁵⁷ The Ombudsman Act, 1997

²⁵⁸ Interview of Sierra Leone's first Ombudsman with author, Freetown, November 31, 2011

²⁵⁹ Ibid

However, on the failure of any public office to adhere to recommendations of the Ombudsman on a matter, the Ombudsman can make a report to the President. If no action is taken by the President after ninety days, the Ombudsman can file a report to Parliament.

The Ombudsman is entitled to salaries, allowances, and privileges as determined by Parliament. The Ombudsman Act, 1997 provides that the Ombudsman's salaries and privileges are not to be altered to his/her disadvantage.

Independence (Practice)

To what extent is the Ombudsman independent in practice?

Score: 75

In the opinion of one expert the Ombudsman operates without inference from other actors, particularly the executive or ruling party.²⁶⁰ The Ombudsman is not engaged in any political or other activities that may compromise his independence. Sierra Leone's first Ombudsman was clearly involved in activities that demonstrated partisan leaning. He was the Chairman of the ruling Party's delegates conference in 2006 that choose a flag-bearer for the Presidential elections the following year. Prior to his appointment as Ombudsman, he was a radio host for a weekly security issues discussion program that were pro-government. It was therefore easy to see his appointment as politically influenced. The then Opposition Party clearly saw him as been partisan. An MP who was in the opposition at the time agrees with this assessment of his party's position.²⁶¹ In the course of the tenure of the Sierra Leone's first Ombudsman however, there were no cases that accorded opportunity for the exertion of political influence on the Ombudsman. Nearly all of the cases that the Ombudsman dealt with in the period involved issues of wrongful dismissal from office, withholding of service benefits and so forth.²⁶² People took cases to the Ombudsman without fear of retaliation.

In the opinion of experts, the circumstances of the appointment of Sierra Leone's second Ombudsman in 2008 did not portray overt political favouritism.²⁶³ The expert further agrees with suggestions that while still in office the Ombudsman has not engaged in activities that could be described as political or partisan.²⁶⁴ People could continue to take cases to the Ombudsman without fear of retaliation. No official of the Ombudsman's office has ever been sacked because of his/her political affiliation.

²⁶⁰ Interview of the Governance Officer, Actionaid with author, November 18, 2011.

²⁶¹ Interview of Honourable Ibrahim Bundu with author, Freetown, November 21, 2011

²⁶² Office of the Ombudsman 2003 Annual Report

²⁶³ Interview of the Governance Officer, Actionaid with author, November 18, 2011

²⁶⁴ Ibid

Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain information on the activities and decision-making processes of the Ombudsman?

Score: 75

The provisions pertaining to the transparency of the Ombudsman are contained in the Ombudsman Act, 1997. The Act obligates the Ombudsman to produce half yearly reports for submission to the President and Parliament. The Act provides that the books of Account of the Ombudsman are to be annually audited by the Auditor General or an independent auditor appointed by the Auditor General. The Act sets the conduct of proceedings and investigation by the Ombudsman in ways that allow for information sharing between complainant and defendant institutions. The mode of sharing information is explicitly stated. In addition to the Ombudsman Act, 1997 the Ombudsman is subject to all other statutory accountability instruments such as the anti-corruption laws, the Government Budgeting and Accountability Act, 2004, and the National Public Procurement Act, 2004. There is no clause requiring the Ombudsman to maintain confidentiality of complaints. There are no laid down laws describing the obligations of the Ombudsman to report to the public. Equally, the laws do not provide for public involvement in the work of the Ombudsman by way of public consultations or advice committees.

Transparency (Practice)

To what extent is there transparency in the activities and decision-making processes of the Ombudsman in practice?

Score: 50

The public does not readily obtain relevant information on the organization and functioning of the Ombudsman, and on decisions that concern them and how these decisions were reached. Although the Ombudsman is required by law to produce half yearly reports for submission to Parliament, the office has not been able to do so according to a former Ombudsman.²⁶⁵ The Ombudsman has only been able to produce annual reports. In fact, it was not until December 2011 that the Ombudsman produced a second annual report since inception of the office.²⁶⁶ The annual reports are quite detailed in terms of number and types of cases received, time taken to complete cases, and related issues.²⁶⁷

In addition to the annual report, the Ombudsman has a website that carries information on the office's activities. The website has an interactive space. The Ombudsman does not

²⁶⁵ Interview of Sierra Leone's first Ombudsman with author, Freetown, March 27, 2012

²⁶⁶ Office of the Ombudsman 2010 Annual Report, page 31

²⁶⁷ Office of the Ombudsman, 2008/2009 and 2010 Annual Reports

recurrently use independent experts or NGOs in his activities. According to one expert there is no medium by which members of the public are regularly informed about the Ombudsman's work.²⁶⁸

Accountability (Law)

To what extent are there provisions in place to ensure that the Ombudsman has to report and be answerable for his/her actions?

Score: 50

The provisions in place for the Ombudsman to report and be answerable for his/her actions are very limited. The Ombudsman is required by the Ombudsman Act, 2004 to produce reports of the work of the office for the attention of the President and Parliament. All accountability provisions in laws such as the ACC, the Public Budgeting and Accountability, and procurement Acts cover the Ombudsman's office as a public office. Beyond that there is no law that provides for judicial or other reviews of the Ombudsman's decisions; or mechanism for complaints against the Ombudsman. Equally, the Ombudsman Act, 1997 grants the Ombudsman immunity from prosecution for anything done in good faith and within the remit of the office. There are no laws that allow political parties or citizens to challenge the President's nomination for the position of Ombudsman.

Reports submitted by the Ombudsman are subject to debate by Parliament. By law, upon completion of an investigation the Ombudsman makes a recommendation to the concerned public entity. Where in the opinion of the Ombudsman satisfactory action is not taken by the concerned entity, the Ombudsman may inform the President accordingly in writing. Where action is not taken upon such a report to the President in ninety days, the Ombudsman shall forward copies of the report to the Speaker of Parliament for consideration by Parliament.²⁶⁹ A former Ombudsman agrees that the scope of the Ombudsman's accountability activities is limited and could be extended.²⁷⁰

Accountability (Practice)

To what extent does the Ombudsman report and is answerable for his/her actions in practice?

Score: 75

The Ombudsman has to report and answer for his/her actions. The accountability of the Ombudsman mainly covers an obligation to report to the President and Parliament. According

²⁶⁸ Interview of the Executive Director with author, Center for Accountability and Rule of Law, March 30, 2012

²⁶⁹ The Ombudsman Act, 1997

²⁷⁰ Interview of Sierra Leone's first Ombudsman with author, March 27, 2012

to a former Ombudsman, the office has not reneged on this obligation.²⁷¹ The Ombudsman's annual reports mostly cover cases dealt with in terms of types, outcomes, challenges and related issues. Institutional progress, challenges and plans are also highlighted. The annual reports also carry news about events involving the Ombudsman's office. One expert considers the scope of the Ombudsman's accountability activities as narrow.²⁷² The expert says that the Ombudsman does not account for how he/she reaches decisions on complaints handled by the office, for instance.²⁷³

Integrity Mechanisms (Law)

To what extent are there provisions in place to ensure the integrity of the Ombudsman?

Score: 25

There are no provisions in place to ensure the integrity of the Ombudsman beyond the general accountability and integrity provisions in the laws around fiscal management, corruption and public procurement, which are applicable to his office. There is no code of conduct or code of ethics for the Ombudsman and his staff. In respect of integrity the Ombudsman Act, 1997 only specifically provides that a person must be of proven "conspicuous probity" to be appointed Ombudsman.

Integrity Mechanisms (Practice)

To what extent is the integrity of the Ombudsman ensured in practice?

Score: 75

Although the provisions for ensuring the integrity of members of the office of the Ombudsman are limited, a senior media executive holds the view that since a new Ombudsman took over misconducts by members of the office of the Ombudsman are not known.²⁷⁴ The expert adds that the current Ombudsman has generally performed his duties beyond reproach by the media, the ruling government or the opposition party.²⁷⁵ There have not been claims of corruption, impartiality or political bias against the current Ombudsman in

²⁷¹ Ibid

²⁷² Interview of the Executive Director with author, Center for Accountability and Rule of Law, March 30, 2012

²⁷³ Ibid.

²⁷⁴ Interview of the Secretary General of SLAJ with author December 1, 2011

²⁷⁵ Ibid

the press. While agreeing with this assessment, another expert is of the opinion that the office of the Ombudsman is yet to earn the full confidence of the public.²⁷⁶

Role: Investigation (law and practice)

To what extent is the Ombudsman active and effective in dealing with complaints from the public?

Score: 50

The Ombudsman is effective in dealing with the cases that come to the office. The procedures for lodging complaints with the office are very easy, according to a former Ombudsman.²⁷⁷ A complainant only needs to submit his/her complaints in writing. Persons in detention can equally make complaints in writing. The Ombudsman recommendations are generally respected and accepted. There have not been pro-active investigations by the Ombudsman in the past five years. In the opinion of one expert, the Ombudsman is generally very active and successful in dealing with complaints from the public within the limits of the resources provided the office.²⁷⁸ In 2010 the office received 501 complaints and successfully concluded 380 of them. 39 cases were transferred to appropriate institutions.²⁷⁹ 82 cases were still under investigation by the end of the reporting year.²⁸⁰ Public perception of the Ombudsman is good as could be gauged from the media and the opinions of civil society leaders.²⁸¹ One expert however believes that the Ombudsman is known mostly in the capital city and mostly among the educated.²⁸² Figures from the office's 2010 report show that half of all the cases that the Ombudsman dealt with in the year were from the capital city. Out of 501 cases, 262 were from the capital city.²⁸³

Role: Promoting Good Practice (Practice)

To what extent is the Ombudsman active and effective in raising awareness within government and the public about standards of ethical behaviour?

²⁷⁶ Interview of the Executive Director with author, Center for Accountability and Rule of Law, Freetown, March 30, 2012

²⁷⁷ Interview of Sierra Leone's first Ombudsman with author, Freetown, November 31, 2011

²⁷⁸ Interview of Valnora Edwin, Coordinator Campaign for Good Governance with author, Freetown, June 28, 2012

²⁷⁹ Office of the Ombudsman 2010 Annual Report, page31

²⁸⁰ Ibid

²⁸¹ Interview of the Secretary General of SLAJ with author, Freetown, December 1, 2011

²⁸² Ibid.

²⁸³ Office of the Ombudsman 2010 Annual Report, page31

Score: 25

The office of the Ombudsman is inactive in raising awareness within government and the public about standards of ethical behaviour. Institutions under the jurisdiction of the Ombudsman include all government ministries, departments and agencies; statutory corporations and institutions partly or entirely with public funds. The Ombudsman is not proactive in investigating ethical practices in these offices. The Ombudsman has not noticed an ethical flaw in any administrative system and taken proactive measure to make corrections. The office's work is restricted to investigating complaints brought by members of the public. There are no public campaigns by the Ombudsman. The Ombudsman is not known to publish ideas and principles on issues bothering on the work of the office. Findings and recommendations of the Ombudsman are published in an annual report as public information. In this way the Ombudsman can highlight issues of good practice or ethics. There is acknowledgement that there is a challenge that many people are not aware of the existence of the office.²⁸⁴ Consequently, the Office of the Ombudsman has as a key objective the raising of awareness and accessibility of the office.²⁸⁵

AUDIT SERVICE

Summary

The Audit Service has the full authority to oversee all public financial operations and always presents the reports of Audits to Parliament. The Audit Service operates freely without interference in its activities by other actors; and has never shown any partisan biases. As a result of resource constraints however, the Audit Service can only undertake a limited number of audits. The Audit Service does not detect and investigate misbehaviour by public officials. The Audit Service generally does not make recommendations on how to improve financial management. The Audit Service provides some information on its activities through postings on the Audit Services' website or newspaper announcements. Outside of these two forums it is very difficult for a member of the public to directly obtain information from the Audit Services' offices.

<p>Audit Service Overall Pillar Score: 50/100</p>

²⁸⁴ Office of the Ombudsman. Strategic Plan for Office of the Ombudsman Covering the Period 2009-2013

²⁸⁵ Office of the Ombudsman. Strategic Plan for Office of the Ombudsman Covering the Period 2009-2013

	Indicator	Law	Practice
Capacity 75/100	Resources	-	50
	Independence	100	75
Governance 50/100	Transparency	50	50
	Accountability	75	50
	Integrity Mechanisms	50	75
Role 25/100	Effective Financial Audits	25	
	Detecting and Sanctioning Misbehaviour	25	
	Improving Financial Management	25	

Structure and Organization

The Office of the Auditor General is established by the 1991 Constitution of Sierra Leone. The Auditor General has responsibilities conferred by the Constitution to audit the accounts of Sierra Leone and of all public offices, including accounts of the central and local government administration, any statutory institutions or body established by Parliament or partly established out of public funds. The President appoints the Auditor General after consulting the Public Service Commission. The appointment is subject to Parliament's approval. The Audit Act 1998 established the Audit Service with the Auditor General as head. The Audit Service has an Audit Service Board generally advises the Auditor General in the running of the Audit Service.

At present the Audit Service has the Auditor General, and three Deputy Auditor Generals; each responsible for Public Enterprises, Specialist Audit and Ministries and Local Authorities respectively. Audit Service has offices in two regional headquarter towns in addition to the headquarter office in the capital city.

Assessment

Resources (Practice)

To what extent does the Audit Service have adequate resources to achieve their goals in practice?

Score: 50

The provisions in law for making resources available to the Auditor General's office for effective work are not extensive. The Constitution of Sierra Leone provides for expenses of the office of the Auditor General including wages, operational costs, pensions and gratuities to be met from the Consolidated Funds. Section 15 of the Audit Service Act, 1998 obligates Parliament to ensure that any Appropriation Bill passed into law makes adequate provision for the budgetary requirements of the Audit Service. Government has however not been able to meet all of its financial obligations to the Audit Service.²⁸⁶ The Office of the Auditor General has been under-funded for the last decade. Consequently the Office of the Auditor General lacks adequate staff and equipment. A public financial management official agrees that it is on account of lack of resources that the Audit Service has been very slow in compiling and presenting audit reports.²⁸⁷ In 2004 DFID began a programme of support to strengthen the Office of the Auditor General. As a result of this support the Auditor General was able to submit audit reports for 2000, 2001, 2002, and 2003 to Parliament towards the end of 2006. Since then the Audit Service has produced annual report for every year.²⁸⁸

Independence (Law)

To what extent is there formal operational independence of the Audit Service?

Score: 100

The Audit Service Act, 1998 established the Audit Service with the Auditor General as head. The Audit Service has an Audit Service Board with a Chairman and members appointed by the President for a term not exceeding three years. Their appointments which are subject to the approval of Parliament may be renewed as necessary. The President has powers to remove the Chairman and any member of the board on grounds of ill-health or misconduct. Such removal must be approved by a two-thirds majority of members of Parliament. Recruitment in the service is on a merit basis. The Audit Board generally advises the Auditor General in the administration of the Audit Service.²⁸⁹ The Audit Board also appoints persons other than the Auditor General to hold offices in the Audit Service. The Audit Board is responsible for disciplinary control of such category of employees.

²⁸⁶ Interview of Deputy Auditor General with Research Assistant, Freetown

²⁸⁷ Interview of Head of Public Financial Management Reform Unit with author, Freetown, March 24, 2012

²⁸⁸ www.auditservice-sl.org (accessed July 2011)

²⁸⁹ Audit Service Act, 1998. Section 16

The Auditor General is appointed by the President after consulting the Public Service Commission. The appointment is subject to Parliament's approval. The Auditor General's security of tenure is guaranteed by section 119 (10) of the Constitution of Sierra Leone. The Auditor General can only be removed from office on grounds of infirmity or misconduct. Procedures for removal of the Auditor General are the same as that provided for in section 137 of the Constitution relating to the removal of a Judge of the Superior Court of Judicature. Section 119 (6) of the Sierra Leone Constitution guarantees the independence of the Auditor General, by providing that in the exercise of his duty he shall not be subject to the direction or control of any other person or authority. The President or Parliament may however request the Auditor General to audit a specific public office.

Independence (Practice)

To what extent is the Audit Service free from external interference in the performance of its work in practice?

Score: 75

The Audit Service operates freely without interference in its activities by other actors. The Audit Service has never been accused of showing any partisan tendencies or biases.²⁹⁰ Equally, appointments in the Audit Service have not portended partisan manipulations or interest.²⁹¹ An Auditor General of Audit Sierra Leone has not been known to be involved in politics or hold positions in political parties. There has not been any case of removal or of arbitrary removal of officials of the Audit Service.²⁹² An expert says that there has been no case of removal of an Auditor General on political grounds in the last ten years²⁹³. It is common for the Auditor General to be re-appointed.

Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions of the Audit Service?

Score: 50

²⁹⁰ Interview of Chief Executive of FJP Partners (Development and Management Consultants) with author Freetown, December 5, 2011

²⁹¹ Ibid

²⁹² Ibid

²⁹³ Interview of Chief Executive of FJP Partners (Development and Management Consultants) with author Freetown, December 5, 2011

There are some provisions in place for ensuring that the public can obtain relevant information on the activities and decisions of the Audit Service. Section 119 (4) of the Sierra Leone Constitution requires the Auditor General to submit to Parliament an annual report of its work. Annual reports to the President and Parliament are to be submitted within 12 months of the end of the immediately preceding financial year.²⁹⁴ Parliament deliberates the Auditor General's report, and where necessary appoints a committee to deal with any matters arising. The Audit Service is also required to produce a report of any individual audit exercise completed. There are no laws that specifically place an obligation on the Audit Service to make available these reports or report on its activities to the public. There are no provisions detailing what other types of information or reports the Audit Service is obligated to provide the public.

Transparency (Practice)

To what extent is there transparency in the activities and decisions of the Audit Service in practice?

Score: 50

The Audit Service endeavours to provide some information on its activities to the public. Information that Audit Service provides is mostly reports of audits undertaken. Information sharing with the public is however, restricted to postings on the Audit Services' website or newspaper announcements. In May 2011 the Audit Service launched its maiden newsletter. Outside of these three forums, it is very difficult for a member of the public to directly obtain information from the Audit Services' offices. Information provided by the Audit Service has been limited to news and audit reports. This means that the Audit Service can only provide limited information in respect of audit of institutions under its remit. The Deputy Auditor General pointed out in an interview that the Audit Service was only obligated in law to report to Parliament and the President.²⁹⁵

Accountability (Law)

To what extent are there provisions in place to ensure that the Audit Service has to report and be answerable for its actions?

Score: 75

²⁹⁴ The Constitution of Sierra Leone 1991, Section 119 (4)

²⁹⁵ Interview of Deputy Auditor General with Research Assistant

Section 119 (4) of the Sierra Leone Constitution requires the Auditor General to submit to Parliament an annual report of its work. Annual reports to the President and Parliament are to be submitted within 12 months of the end of the immediately preceding financial year. Parliament deliberates the Auditor General's report, and where necessary appoints a committee to deal with any matters arising. By law, the accounts of the Audit Service itself are to be audited every year by an independent external auditor appointed by Parliament.²⁹⁶ There are no laws stipulating the right of public institutions to appeal against audit results.

Accountability (Practice)

To what extent does the Audit Service has to report and be answerable for its actions in practice?

Score: 50

While the Audit Service has to report and be answerable for certain actions of theirs, existing provisions are only partially effective. According to one expert the Audit Service has not been providing information to the public on the sort of issues that Parliament has raised and how these issues are resolved.²⁹⁷ In principle Audit results can be challenged; but in the opinion of one public financial management official, the public does not get the opportunity and hardly gets to know what Audit results have been challenged by public institutions and how they are resolved.²⁹⁸ The accounts of the Audit Service are subject to audit by an external auditor appointed by Parliament.²⁹⁹ According to the institutions Public Relations Officer, independent annual audit of the Audit Service takes place for every year.³⁰⁰

Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of the Audit Service?

Score: 50

The mechanisms in place to ensure the integrity of the Audit Service are largely the provisions of the anti-corruption and public procurement laws in respect of matters of conflict of interest, hospitality, receipt of gifts and bribes among others. The Audit Service Act, 1998 provides for declaration of interest by members of the Audit Service in contracts undertaken by the Audit Service. The Act also makes it a crime for any official of the Audit Service to take

²⁹⁶ The Audit Service Act, 1998, Section 16.

²⁹⁷ Interview of the Coordinator Campaign for Good Governance with author, Freetown, March 27, 2012

²⁹⁸ Interview of the Head of Integrated Project Administration Unit with author, Freetown, March 24, 2012

²⁹⁹ Audit Service Act, 1998. Section 16

³⁰⁰ Interview of Public Relations Officer Martin Sandi with author, Freetown, July 6, 2012

or demand a bribe or reward for the performance or non-performance of his/her work. There are no post-employment restrictions on officials of the Audit Service.

Integrity Mechanisms (Practice)

To what extent is the integrity of the Audit Service ensured in practice?

Score: 75

The Audit Service's approach to ensuring the integrity of its members is robust, according to the Public Relations Officer of the institution.³⁰¹ Auditors are governed by the ethical standards and codes of conduct of the professional accounting bodies to which they belong, and national laws bothering on integrity, he says.³⁰² Another senior official of the Audit Service adds that the institution inquires in to investigate allegations of professional misconduct by its officials and sanctions are applied as may be necessary.³⁰³ The official claims that cases of misbehaviour by members of the Audit Service requiring prosecution are very rare.³⁰⁴ According to the Public Relations Officer of the organisation, no anti-corruption trial has been brought against any member of the Audit Service in the last five years.³⁰⁵ One expert says public discontent with the integrity of officials of the Audit Service is very rare.³⁰⁶

Role: Effective financial audit (law and practice)

To what extent does the Audit Service provide effective audit of public expenditure?

Score: 25

The Audit Service has the full authority to oversee all public financial operations and always reports the results of audits to Parliament. As a result of resource constraints, the Audit Service can only undertake a limited number of audits. Audits are not regular. The Audit Service does meet a huge percentage of its audit obligations. For instance, it was not until late 2006 that the Audit Reports for 2000, 2001, 2002, and 2003 were submitted to the President and Parliament. The exercise discovered weaknesses in control and management of finances, with managers failing to comply with financial regulations and general principles of good accounting.³⁰⁷ The Audit Service claims that its audits are conducted in accordance with the

³⁰¹ Interview of Public Relations Officer Martin Sandi with author, Freetown, July 6, 2012

³⁰² Ibid

³⁰³ Interview of Deputy Auditor General with Research Assistant, Freetown

³⁰⁴ Ibid.

³⁰⁵ Interview of Public Relations Officer Martin Sandi with author, Freetown, July 6, 2012

³⁰⁶ Interview of the Coordinator Campaign for Good Governance with author, Freetown, March 27, 2012

³⁰⁷ Press Release by Audit Services July 25, 2011

International Organization of Supreme Audit Institutions Auditing standards. This includes assessing or examining on a test basis, evidence supporting amounts in the financial statement as well as assessing presentations and relevant disclosures.³⁰⁸

This is however disputed by one expert. The expert says that many fundamentals such as risk assessments and resource allocation decisions are hardly addressed.³⁰⁹ It is precisely to address the challenge of instituting international best auditing practice that the private sector has set up the Council for Standards of Accounting, Auditing, Corporate and Institutional Governance.³¹⁰

Role: Improving Financial Management (practice)

To what extent is the Audit Service effective in improving the Financial Management of the government?

Score: 25

The Audit Service always makes recommendations on how to improve financial management generally. An audit report would carry recommendations on redressing faulty accounting and related procedures in a particular agency. It is difficult to know the extent to which such recommendations are ever acted upon. One commentator says that the effectiveness of the Audit Service in improving public financial management is hampered by Parliament.³¹¹ The Public Accounts Committee of Parliament is supposed to seek answers from any public office whose financial management is faulted in an audit report by the Audit Service. The commentator says that the Public Accounts Committee of Parliament has never given the Auditor General's report the seriousness it deserves.³¹² An international consulting firm that worked with the Audit Service between 2004 and 2008 had admitted that "a weak Parliament constrained the ability of the Auditor General to act as an independent assessor of government financial activities."³¹³

ANTI-CORRUPTION COMMISSION

Summary

³⁰⁸ Audit Services Press Release of July 25, 2011

³⁰⁹ Interview of Chief Executive of FJP Partners (Development and Management Consultants) with author, Freetown, December 5, 2011

³¹⁰ Ibid.

³¹¹ Auditor General's Report- Do the Authorities Care? (Global Times newspaper, April 23, 2012)

³¹² Ibid

³¹³ www.dai.com/our-work/projects/sierra-leone (assessed June 27, 2012)

Government's annual appropriation which is augmented by donor funds provides the ACC adequate resources to carry out its work. The ACC has a steady human resource pool of sufficiently qualified and experienced persons. The laws under which the ACC operates are adequate. Experts hold the opinion that the prosecution of high profile public officials and politicians demonstrate the efficacy of the laws under which the ACC operates and the independence the institution enjoys. Experts equally see the ACC's public education endeavours and corruption prevention as impressive. The ACC's track record in detecting, investigating and prosecuting corruption is mixed. The ACC' focus on high profile cases is good, but the reality is that citizens live daily with petty corruptions like paying bribes to public officials for public services.

Anti-Corruption Commission			
Overall Pillar Score: 75/100			
	Indicator	Law	Practice
Capacity 75/100	Resources	75	75
	Independence	75	75
Governance 75/100	Transparency	75	75
	Accountability	75	75
	Integrity Mechanisms	100	75
Role 50/100	Prevention	50	
	Education	75	
	Investigation	75	

Structure and Organization

The ACC was established in 2002 with a mandate to investigate cases of serious frauds in public offices, prevent corruption through public education, and the reform of administrative, financial and service delivery procedures. As an independent institution, the ACC orders and carries out its own investigations of corruption; with extensive powers to access documents, search premises, and call witnesses. The ACC is headed by a Commissioner appointed by the President. There is a Deputy Commissioner appointed by the President. There is also a seven member Advisory Board on Corruption appointed by the President with the approval of Parliament. The Advisory Board on Corruption advises the ACC on all aspects of its work and

mandate, among other roles. The ACC has a number of departments as the Commissioner may determine. These are the Public Education and Outreach Department, Finance Department, Support Services Department, Systems and Process Review Department, and Intelligence, Investigations and Prosecution Department.

Assessment

Resources (Law)

To what extent are there provisions in place to provide the ACC with adequate resources to effectively carry out its duties?

Score: 75

The Anti Corruption Commission Act, 2008 provides that the administrative expenses of the Anti-Corruption Commission (ACC), including salaries, gratuities, pensions and allowances are charged on the Consolidated Fund.³¹⁴ The Consolidated Fund is the sum total of all monies raised by government. The Anti-Corruption Act, 2008 also allows the ACC to accept donation, grants and bequests for its work. The ACC makes annual estimates of its funding needs and submits it to Parliament for approval.³¹⁵ There is no formal guarantee of fiscal stability for the ACC over time. There is no objective indicator for determining budgetary changes such as performance-based or problem-based. The Anti-Corruption Act, 2008 provides for the ACC to also acquire funding from its activities.³¹⁶ According to the Head of the institution, the Anti-Corruption Act, 2008 permits the ACC to withhold 10% of monies from settlement of corruption related cases.³¹⁷

Resources (Practice)

To what extent does the ACC have resources to achieve its goals in practice?

Score: 75

The ACC has adequate resources to effectively carry out its work. Government's annual appropriation for the ACC has been augmented by donor funds since the institution was established. Regular resource support from international partners since the establishment of

³¹⁴ The Anti-Corruption Act, 2008, Section 16

³¹⁵ The Anti-Corruption Act 2008, Section 18

³¹⁶ The Anti-Corruption Act, 2008, Section 17

³¹⁷ Anti-Corruption Commission. Annual Report 2010, Page 3

the ACC has allowed the institution to expand its office presence outside the capital city into three regional headquarter cities.

The ACC has a human resource pool of sufficiently qualified and experienced persons. There is stability of human resource. Staff strength has grown from 110 in 2005 to 132 in 2010. Successful job applicants complete an Induction and Orientation sessions before starting work. Ethics screening during recruitment is limited to acquisition of Police Records to ascertain whether a potential employee has or does not have a criminal record. The Head of the ACC is a political appointee. The appointee however faces a Parliamentary Committee to attest academic, ethical and attitudinal fitness. The ACC offers adequate career development training opportunities to its staff. The 2010 Annual Report carried a list of 14 training programmes attended by various ACC staff members.³¹⁸

Independence (Law)

To what extent is the ACC independent by law?

Score: 75

The Anti-Corruption Commission Act, 2008 states that the ACC is an independent statutory body. The President appoints the ACC's Commissioner and Deputy Commissioner. These appointments must be approved by Parliament. Both the Commissioner and Deputy Commissioner hold office for a term of five years; and are eligible for re-appointment for another five year term only. The Commissioner or Deputy Commissioner may be removed from office where an investigation by a special tribunal into the removal so recommends to the President.³¹⁹ The Anti-Corruption Act, 2008 provides that Parliament may also, by two-thirds majority vote to approve the removal of the Commissioner or Deputy Commissioner.³²⁰

The Commission has powers as that of a High Court to search premises, call witnesses, and access documents. The Anti-Corruption Act 2008 provides that the Commission shall not be subject to the control or direction of any authority or person in carrying out its work.³²¹ Under Sierra Leone's laws, the Attorney General prosecutes all matters on behalf of the State. An amendment to the Constitution in 2008 granted the ACC powers to independently prosecute corruption cases and held protection for whistleblowers and informers.³²²

Independence (Practice)

³¹⁸ Anti-Corruption Commission. Annual Report 2010

³¹⁹ The Anti-Corruption Act, 2008, Section 4

³²⁰ Ibid

³²¹ The Anti-Corruption Act, 2008, Section 9

³²² The Constitution of Sierra Leone (Amendment) Act, 2008

To what extent is the ACC independent in practice?

Score: 75

Upon assuming office in 2008 as head of the ACC, Mr. Abdul Tejan-Cole secured additional powers for the ACC, including the power to prosecute cases directly instead of going through the office of the Attorney General. Mr. Tejan-Cole resigned in 2010 and a new ACC boss was appointed in the person of Mr. Joseph Fitzgerald Kamara. The new ACC boss said that the powers to prosecute cases without going through the Attorney General's office has been a boost to the independence of the ACC.³²³ Under both Mr. Tejan-Cole and Mr. Kamara, high profile state functionaries including two ministers have been tried and found guilty of corruption. Relationship between the ACC and other law enforcement agencies has not generated controversy.

In the opinion of one expert, the ACC operates today freely without interference from other actors particularly the executive and the ruling party.³²⁴ An African Confidential Report on Sierra Leone has however disputed such claims.³²⁵ The report says that political and ethnic affinity were major considerations in the appointments of both the head and deputy head of the ACC in 2010.³²⁶

Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ACC?

Score: 75

The ACC is required by law to submit to the President an Annual Report of its work. The ACC equally has obligations by law to lay before Parliament the same report. The report to the President and Parliament is accessible to the public. The anti corruption legislation specifies the areas an Annual Report of the ACC should cover. The law specifically provides that an Annual Report include number and details of cases investigated in a year, investigations discontinued, number and status of matters pending, key prevention measures initiated in a year, key educational and community relations activities in the year, and a report of audit undertaken. The Commission is however generally obliged to maintain confidentiality and secrecy of any matter, document, report or other information relating to the administration of

³²³ The Anti-Corruption Commission Report 2010

³²⁴ Interviews of Valnora Edwin, Campaign for Good Governance with author, Freetown, August 3, 2011.

³²⁵ African Confidential Report Volume 52 Number 13

³²⁶ Ibid

the Anti Corruption Act, 2008.³²⁷ The ACC is also required by the Anti-Corruption Act, 2008 to keep assets disclosure information confidential.³²⁸ In the opinion of one expert, however, provisions for non-disclosure of certain information including information on assets declared by public servants is not good for transparency.³²⁹

Transparency (Practice)

To what extent is there transparency in the activities and decision-making processes of the ACC in practice?

Score: 75

The ACC produces an Annual Report which is made available to the public. All Annual Reports by the ACC have adhered to providing information as per guide in the Anti-Corruption Act, 2008. Annual Reports are usually available not more than three months following the end of the year been reported on.³³⁰ The ACC also has a website on which it publishes information on on-going and concluded cases, documents published by the ACC, Service Charters of a number of MDAs, announcements, and news among others.³³¹ One expert is of the opinion that the amount of information provided on the ACC's website is satisfactory.³³² The ACC always announces via the media any arrests, indictments and completion of prosecution.

Accountability (Law)

To what extent are there provisions in place to ensure that the ACC has to report and be answerable for its actions?

Score: 75

The Anti Corruption Act, 2008 obligates the ACC to submit Annual Reports to the President and Parliament.³³³ The accountability obligations of the ACC are also generally covered in other laws applicable to all public institutions. These include constitutional provisions for annual audit of the institution by the Auditor General's office, the Government Budgeting and Accountability Act, 2004 and the Public Procurement Act, 2004. The Advisory Board on Corruption which advises the ACC on all aspects of its work is also considered as an accountability mechanism. The ACC is required to file reports on their investigations but only

³²⁷ The Anti-Corruption Act, 2008, Section 14

³²⁸ The Anti-Corruption Act, 2008, Section 119 (13)

³²⁹ Interview of the Coordinator Campaign for Good Governance with author, March 27, 2012

³³⁰ Interview of Head of Policy and Ethics with author, Freetown, November 24, 2011

³³¹ www.anti-corruption.gov.sl (accessed June 20, 2012)

³³² Interview of the Coordinator Campaign for Good Governance, Freetown, June 22, 2011

³³³ The Anti Corruption Act, 2008, Section 19

to the Attorney General's office for decisions on prosecution. There are no specific legal provisions regarding whistle-blowing against misconduct within the ACC. The ACC or its members cannot face legal proceeding for any act done or omitted to be done in good faith in the performance of their duties.³³⁴ There are no judicial review mechanisms for the ACC's work.

Accountability (Practice)

To what extent does the ACC have to report and be answerable for its actions in practice?

Score: 75

The ACC reports and is answerable for its actions in respect of financial, administrative and programme management.³³⁵ Since establishment of the institution, the ACC has produced annual reports for the scrutiny of the President and Parliament every year. The ACC's annual reports adhere to providing such information as instructed in the Anti-Corruption Act, 2008. The ACC's 2010 annual report however went further to give details of monies recovered, convictions and acquittals, files examined, and outreach meetings among others.³³⁶ According to one official of the institution, indictments made by the ACC are always communicated to the public by way of a Press Release and posting on the Commission's website.³³⁷

The ACC makes its annual report available to the public. The ACC's website carries annual reports and other specific reports of other activities undertaken. According to a senior official of the institution, whistle-blowing policy is effective and complaints can be filed without fear of retaliation.³³⁸ The ACC listed five methods by which it received corruption reports, namely hotlines, "in person", letters, "via emails", and newspapers; on all whistle blowing methods. According to its 2010 Annual Report, the ACC received 175, 387, 279, 13, and 26 cases through hotlines, "in person", letters, "via emails", and newspapers respectively.³³⁹

Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the ACC?

Score: 100

³³⁴ The Anti Corruption Act, 2008, Section 20

³³⁵ Interview of Head of Policy and Ethics with author, Freetown, May 31, 2012

³³⁶ Anti-Corruption Commission. Annual Report 2010

³³⁷ Interview of the Head, Policy and Ethics, Freetown, May 31, 2012

³³⁸ Interview of the Head, Policy and Ethics, Freetown, March 23, 2012

³³⁹ Anti-Corruption Commission. Annual Report 2010

The ACC has a Code of Conduct and Behaviour, and an Ethics department to monitor and enforce compliance with it. The Code of Conduct and Behaviour covers issues of conflict of interest, gifts and hospitality. Before appointment, a prospective member of staff declares his/her assets in accordance with the Ant-Corruption Act, 2008.³⁴⁰ The provisions in the Anti-Corruption Act, 2008 on issues of conflict of interest, gifts and hospitality fully apply to the members of the ACC.

Integrity Mechanism (Practice)

To what extent is the integrity of members of the ACC ensured in practice?

Score: 75

There is a comprehensive approach to ensuring the integrity of members of the ACC consisting of effective enforcement of the code of ethics, proactive inquiry into alleged misconduct, application of sanctions for misbehaving members of staff, and training on issues of integrity and ethics. There have been incidences where members of the commission have defaulted with respect to ethics and integrity. In those instance sanctions have been effectively applied according to the Head of Policy and Ethics.³⁴¹ He says that the ACC has dealt with a couple instances of its officials trying to influence the course of an investigation for pecuniary rewards. In such instances, where the actions of an official constituted a crime, the matter was prosecuted. One or two individuals have been demoted or suspended where their behaviours were ethically faulty but commission of crime could not be proven.³⁴² The ACC official emphasises however that instances of personnel of the institution falling short on accountability were rare. According to one expert also, it is not common for members of staff to engage in acts such as seeking bribes or gifts.³⁴³

Role: Prevention (law and practice)

To what extent does the ACC engage in preventive activities regarding fighting corruption?

Score: 50

The ACC is somewhat active in corruption prevention activities. The Systems and Processes Review Department largely handles the Commission's corruption prevention work.³⁴⁴ Here, the ACC can advise or issue instructions to public institutions for change of practices or

³⁴⁰ The Anti Corruption Act, 2008, Section 13 and Section 119

³⁴¹ Interview of the Head, Policy and Ethics, Freetown, August 3, 2011

³⁴² Interview of the Head, Policy and Ethics, Freetown, March 23, 2012

³⁴³ Interview of the Coordinator Campaign for Good Governance, Freetown, August 3, 2011

³⁴⁴ Ibid.

procedures which are necessary to reduce or eliminate corruption. The ACC can recommend legislative reforms. The Anti-Corruption Act, 2008 specifically requires that work on prevention issues be reported on in the annual report of the commission.³⁴⁵ The Anti-Corruption Act, 2008 was entirely the legislative reform work of the ACC.³⁴⁶ In its 2003 Annual Report, the ACC attributed improvements in the management of grants to students and increased revenue from health service delivery and public auctions as the result of best practice it recommended in respect of administrative, financial and service delivery procedures.³⁴⁷ In 2010, the ACC's systems and processes review covered the Ministry of Agriculture, the Ministry of Local Government, and the Public Auction. These systems reviews unearthed loopholes that were prone to corruption exploitation for which corrective recommendations were advised.³⁴⁸ In 2002 the ACC carried out a Governance and Corruption Perception Survey. The ACC had published a National Anti-Corruption Strategy in 2005 and 2008 respectively. The Commission is currently implementing the 2011- 2013 National Anti-Corruption Strategy.

Role: Education (law and practice)

To what extent does the ACC engage in educational activities regarding fighting corruption?

Score: 75

The ACC is generally very active in educating the public on corruption and how to fight it. The Commission has a Department of Public Education and Outreach. Its core function "is to raise public awareness on corruption, mobilise citizens to report and refrain from corrupt practices and demand integrity in public service delivery".³⁴⁹ The Anti-Corruption Act, 2008 specifically requires that work on public education be reported on in the annual report of the commission. In its public education activities the ACC uses community meetings, schools anti-corruption clubs, radio and television, and meetings with institutions. The ACC puts anti-corruption messages on outdoor billboards, leaflets and car stickers and such other media to educate the public about corruption. The ACC works with Civil Society through the Civil Society Monitoring Groups. Civil Society Monitoring Groups were created by the ACC as a framework through which the institution undertakes joint monitoring of projects funded from public finances. The ACC has provided training to the Civil Society Monitoring Groups in areas

³⁴⁵ The Anti-Corruption Act, 2008. Section 19 (e)

³⁴⁶ Interview of the Head, Policy and Ethics, Freetown, March 23, 2012

³⁴⁷ Anti Corruption Commission Annual Report 2003

³⁴⁸ Anti Corruption Commission Annual Report 2010

³⁴⁹ Anti Corruption Commission Annual Report 2010

such as ethics, fiduciary management, and reporting.³⁵⁰ In the 2010 annual report the ACC detailed a number of education and community outreach activities undertaken in the year.³⁵¹ According to one expert the ACC's education and outreach efforts are quite good; although, improvements could be made.³⁵² The ACC accepts that more work needs to be done in the area of public education and outreach.³⁵³ The ACC holds dialogue sessions with various MDAs, of which education on corruption is always a part, according to the Head of Public Education.³⁵⁴

Role: Investigation (law and practice)

To what extent does the ACC engage in investigations regarding alleged corruption?

Score: 50

The ACC's track record in detecting, investigating and prosecuting corruption is mixed. The ACC has the competencies and resources to detect, investigate and prosecute corruption. A Civil Society leader involved in anti corruption work says however, that the ACC largely focuses on high profile cases, ignoring the petty corruptions like payment of bribe to public officials that citizens live with daily.³⁵⁵ The last four years has seen the investigation and prosecution of corruption cases involving high ranking government officials and stalwarts of the ruling party. On the front page of its 2010 annual report the ACC boasts that in the two years it has overseen the conviction of two government ministers. Other high profile prosecutions include that of the Head of the country's National Revenue Authority. In March 2010 a Magistrate, a Major in the military, a Permanent Secretary, and the Secretary General of the country's football association were all convicted on corruption charges. One expert believes that this is proof of effective investigations been done by the ACC.³⁵⁶

There is a greater emphasis of the ACC on reactive investigation and prosecution of corruption that on pro-active prevention of corruption. Firstly, the majority of investigations are opened following whistle-blowing reports. Out of 880 reports of incidences of corruption that the ACC received in 2010, only 26 were provided by newspaper leaks. The rest of the case came by a way of direct reports by individuals' whistle-blowing efforts. According to one expert, whistle-blowing leads are what prompt nearly all of the ACC's investigations.³⁵⁷ In the area of pro-

³⁵⁰ The Anti Corruption Commission Report 2010

³⁵¹ The Anti Corruption Act, 2008, Section 19

³⁵² Interview of the Coordinator Campaign for Good Governance with author, Freetown, March 27, 2012

³⁵³ Interview of Head, Policy and Ethics with author, Freetown, August 3, 2011

³⁵⁴ Interview of the Koloneh Sankoh (Ms) with author, Freetown, August 16, 2012

³⁵⁵ Interview of the Coordinator Campaign for Good Governance with author, Freetown, August 3, 2011

³⁵⁶ Interview of lecturer in Political Science Dr Michael Kargbo with author, Freetown, December 4, 2011

³⁵⁷ Ibid

active process reforms to forestall corruption, the ACC’s work has been minimal and mostly unknown, the expert adds.³⁵⁸

POLITICAL PARTIES

Summary

Since the return to multi-party democracy, the Sierra Leone People’s Party (SLPP) and the All Peoples Congress (APC) have dominated politics in the country. The two parties are indistinguishable in terms of their ideological platforms. Rather both parties enjoy ethno-regional support bases. While the two dominant parties attempt to adhere to democratic principles in internal party politics, newer parties emerge and vanish on the dictates of the founding leader. All political parties in Sierra Leone fall foul of the law in respect of independent elections financing accountability. The ruling party has not delivered fresher ideas in the anti-corruption fight beyond the passage of the anti-corruption Act in 2008. Equally, the opposition has not postured newer ideas and proposals in the fight against corruption.

Political Parties			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity 75/100	Resources	100	50
	Independence	100	75
Governance 25/100	Transparency	75	25
	Accountability	50	25
	Integrity	25	25
Role 25/100	Interest Aggregation and Presentation	50	
	Anti-Corruption Commitment	25	

³⁵⁸Interview of lecturer in Political Science Dr Michael Kargbo with author, Freetown, December 4, 1011

Structure and Organization

The Constitution of Sierra Leone recognises political parties as the principal vehicles through which citizens exercise political will. Section 35 of the 1991 Constitution empowers Political Parties to participate in shaping the political will of the people; and to sponsor candidates for presidential, parliamentary and local government elections'. The constitution provides extensive guarantees for parties to operate freely and propound their policies as they seek power. In principle, political parties are to be equal before the law. The Political Party Registration Commission's (PPRC) Act of 2002 provides that no political party should be organized on the basis of race, tribe, gender, region, or religion. 17 Political Parties contested the 2007 presidential and parliamentary elections. Two parties have however dominated the political landscape in Sierra Leone since independence. One of them, the Sierra Leone Peoples Party was established by the early generation of the educated elite from the interior of the country. The other-the All People's Congress was founded by union workers, trades men and similar folks.

Assessment

Resources (Law)

To what extent does the legal framework provide an environment conducive to the formation and operation of Political Parties?

Score: 100

The 1991 Constitution of Sierra Leone, section 15(b) grants freedom of assembly and association, and section 26(1) protects the right to associate freely and form political parties, trade unions and such other organizations. The Constitution elaborates these freedoms by asserting the rights political parties have to participate in shaping the political will of the people, and sponsor candidates for presidential, parliamentary and local government elections.

The Political Parties Act, 2002 provides that only persons who are qualified to be voters in Sierra Leone can make donations to political parties in cash or kind.³⁵⁹ The Political Parties Act, 2002 only mentions donations, contribution and membership dues in the provisions on party funding. The Act is silent on the other procedures for levying and releasing resources.³⁶⁰ The

³⁵⁹ The Political Parties Act, 2002, Sections 19

³⁶⁰ The Political Parties Act, 2002, Sections 19-23

Act provides that Parties shall have national character, be internally democratic, and financially accountable.³⁶¹ In respect of promotion of national character, the Political Parties Act 2002 prohibits the formation of parties for ethnic mobilization.³⁶²

Where a Party is refused registration, the Party can go to the Supreme Court for redress. However, instead of doing this, a party is allowed to re-apply for registration to the PPRC. A Party that is de-registered can equally go the Supreme Court to seek redress. The state does not provide financial subsidies or incentives to Parties. This can only be done on discretion. There are no provisions in any law in Sierra Leone under which state funds are provided to parties for political activities.

Resources (Practice)

To what extent do the financial resources available to Political Parties allow for effective political competition?

Score: 50

The Secretary General of the opposition party agrees that the legal framework pertaining to the existence and operation of political parties is conducive.³⁶³ While the two traditional and major parties enjoy relative security of resources, newer parties struggle to survive because of lack of funds. The principal sources of Party funding are membership dues and donations from patrons. In the opinion of the head of the National Commission for Democracy, the share of resources of the traditional parties that have dominated politics in Sierra Leone since independence far outweighs that of other Parties.³⁶⁴ Whether in government or opposition, the two dominant Parties always have sufficient resources for their activities, he says.³⁶⁵ Another expert holds the view that all the other Parties in the country rely highly on their founding leaders for financing.³⁶⁶ Once an election is over, the activities of these Parties cease. Whenever a founding leader of a party withdraws from politics, the party simply dies. This is why parties appear and disappear frequently since the return of multi-party politics in 1996. The expert suggests that it is parties that are built around the personality and resources of one individual that mostly disappear after losing an election.³⁶⁷

³⁶¹ The Political Parties Act, 2002

³⁶² Ibid

³⁶³ Interview of the Secretary General of the SLPP, Freetown, August 3, 2011

³⁶⁴ Interview of the Head of the National Commission for Democracy with author, Freetown, August 4, 2011

³⁶⁵ Ibid

³⁶⁶ Interview of lecturer in political science Dr Michael Kargbo with author, Freetown, December 4, 2011

³⁶⁷ Interview of lecturer in political science Dr Michael Kargbo with author, Freetown, December 4, 2011

Out of the 17 Parties that contested the 2007 presidential and parliamentary elections, only four were still considered to be in existence in November 2011 by PPRC.³⁶⁸ Political competition is clearly biased in favour of the two traditional Parties who can mobilize funds from a large membership base and large number of patrons.

Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of Political Parties?

Score: 100

There are legal safeguards to prevent unwarranted external interference in the activities of political parties. The PPRC is the sole state body responsible for registering parties and monitoring their conduct in respect of financial accountability, internal democracy, and non-violence obligations. The Political Parties Act, 2002 provides that the PPRC is not subject to the control or direction of any person or authority in the performance of its functions.³⁶⁹ There are no regulations for mandatory state attendance at party meetings. There are no laws that allow any sort of surveillance of parties. No other State authorities can order the ban of a political party apart from the PPRC. Where the PPRC seeks the banning of a political party, it makes first an application to the Supreme Court. The Supreme Court will sit on the matter and make a ruling within thirty days of receiving the filing.³⁷⁰ It is the Supreme Court that finally decides the banning of a political party.

Independence (Practice)

To what extent are Political Parties free from unwarranted external interference in their activities in practice?

Score: 75

Between 2007 and 2009, however there were two attacks on the headquarters of the main opposition party. The Secretary General of the affected opposition party believed that these attacks were orchestrated by supporters and thugs working on behalf of the ruling party.³⁷¹ The attacks were impartially investigated by the United Nations' country team. Violence has also broken out from time to time during a couple of bye-elections between 2009 and 2011.

³⁶⁸ Newspaper advert by PPRC, November 2011

³⁶⁹ The Political Parties Act, 2002, Section 3

³⁷⁰ The Political Parties Act, 2002, Section 27

³⁷¹ Interview of the Secretary General of the SLPP, Freetown, August 3, 2011

Harassment and attacks on opposition outside elections related violence is not common. An expert says that political party leaders are not arrested for statements they make; political party offices are not searched by law enforcement or security agencies.³⁷² Beyond elections related violence, political parties largely operate freely and are subject only to reasonable oversight linked to clear and legitimate public interest, the Head of the National Commission for Democracy (NCD) asserts.³⁷³ Since the return of multi-party politics in Sierra Leone in 1996, no party has been banned. Also, no party has been refused registration leading to a Supreme Court case. The head of the NCD agrees with the suggestion that there has been no example of state interference into the activities of political parties; and arrest and detention of political members because of their work is unknown.³⁷⁴

Transparency (Law)

To what extent are there regulations in place that require Political Parties to make their financial information publicly available?

Score: 75

While a number of provisions exist, they do not cover all aspects of political party financing. All political parties are required by the Political Party Registration Act, 2002 to make a disclosure of income, assets, and liabilities to the PPRC three months after the end of every year. The PPRC is required by the Political Parties Act, 2002 to make regulations that set limits on the amount of contribution or donation that could be made to a political party as well as the disclosure of information on the source of funds; as way to limit the influence of money in the political process.³⁷⁵ The Political Party Registration Act, 2002 also prohibits foreign or external funding of party activities. It is also a requirement in law that the finances of parties are to be audited annually. The Political Parties Act, 2002 stipulates that within sixty days following the end of every public election, political parties are to submit statements of expenditures of the party and fielded candidates. Every member of a political party or member of the public upon payment of a fee prescribed by the Commission is entitled to inspect copies of the audited accounts of a party filed with the Commission.³⁷⁶

Transparency (Practice)

To what extent can the public obtain relevant financial information from Political Parties?

Score: 25

³⁷² Interview of lecturer in Political Science Dr Michael Kargbo with author, Freetown, December 4, 1011

³⁷³ Interview of Head of the National Commission for Democracy with author, Freetown, August 4, 2011

³⁷⁴ Ibid

³⁷⁵ Political Parties Act, 2004

³⁷⁶ The Political Parties Act, 2002, Section 19-21

All political parties in Sierra Leone fall foul of the law in respect of disclosure of financial information. According to the Registrar of the Political Parties Registration Commission, Political Parties submit financial reports very late and always do so after serious pressure.³⁷⁷ According to the Registrar of the PPRC, the institution has never made regulations setting limits on the amount of contribution or donation that could be made to a political party, for the purpose of limiting the influence of money in the political process, as required by law.³⁷⁸ Equally, no regulations have been made for political parties' disclosure of sources of donations and contributions, he says. Smaller parties simply disappear after elections, without meeting their obligations to submit financial statements to the PPRC, the Registrar says.³⁷⁹ One expert endorses that political parties flout all transparency rules around party funding during elections.³⁸⁰

Accountability (Law)

To what extent are provisions governing financial oversight of Political Parties by a designated state body available?

Score: 50

The designated state body with responsibility for financial oversight of political parties is the PPRC; to which all disclosures of income and income sources, expenditures, assets, and liabilities are made. Parties make these disclosures for registration purposes, when they are about to take part in an election, and within sixty days after the passing of an election in which they took part. There are no standard formats for making financial reports to the Political Parties Registration Commission.

Parties are required by law to submit their audited financial reports to the PPRC.³⁸¹ Where the Commission feels dissatisfied with the audited accounts of a party, it notifies the office of the Auditor General for remedial action. The Political Parties Act, 2002 provides that every member of the public is entitled to inspect the audited accounts of any political party at the office of the PPRC upon the payment of fees set by the PPRC.

The Political Parties Act does not establish administrative sanctions for contravention of financial reporting obligations, and the PPRC has no authority to sanction such contraventions.³⁸² The PPRC concludes that the financial reporting provisions are essentially

³⁷⁷ Interview of the Registrar, PPRC with author, Freetown, August 4, 2011

³⁷⁸ Ibid

³⁷⁹ Ibid

³⁸⁰ Interview of the Coordinator, Campaign for Good Governance with author, Freetown, August 4, 2011

³⁸¹ Political Parties Act, 2002, Section 19

³⁸² Political Parties Registration Commission, Recommendations for Legal Reform Workshop 5th – 6th September 2011

unenforceable.³⁸³ There are no laws specifically or directly imposing penalties for failure in financial reporting. Generally, where a party contravenes the provisions of the Political Parties Act, 2002, the PPRC has powers to go to the Supreme Court and ask that the party's registration be cancelled.

Accountability (Practice)

To what extent is there effective financial oversight of Political Parties?

Score: 25

The Registrar of the PPRC asserts that all political parties in Sierra Leone fall foul of the law in respect of accountability.³⁸⁴ Smaller parties in fact simply disappear after elections. He states that parties have often been very reluctant to present credible, transparent and regular information about their financing.³⁸⁵

No political party has been penalised for violating financial reporting stipulations.³⁸⁶ One expert accepts that the Commission does not have the institutional strength yet to enforce parties' compliance with financial reporting.³⁸⁷ Every year the Political Parties Registration Commission resorts to naming and shaming of political parties as a way of enforcing their compliance with the law.³⁸⁸ This has not proved to be effective in ensuring parties' compliance with financial reporting laws.³⁸⁹

Integrity (Law)

To what extent are organizational regulations available regarding the democratic governance of the main Political Parties?

Score: 25

The regulations for democratic governance within political parties in Sierra Leone are very limited. Both the 1991 Constitution and the Political Parties Act, 2002, stipulate that the internal organization of political parties must reflect the democratic principles in the Sierra Leone constitution. The Political Parties Act, 2002 states that the internal democratic

³⁸³ Ibid

³⁸⁴ Interview of the Registrar PPRC with author, Freetown, December 2, 2011

³⁸⁵ Ibid

³⁸⁶ Ibid

³⁸⁷ Interview of lecturer in Political Science Dr Michael Kargbo with author, December 4, 2011

³⁸⁸ Ibid

³⁸⁹ Ibid

principles of a political party must include provisions for the free and fair election of the leadership at regular intervals. The Political Parties Act, 2002 requires political parties to submit two copies of its constitution to the PPRC when seeking to register. The 1991 Constitution and the Political Parties Act, 2002, have no other provisions detailing how parties' structure must demonstrate commitment to democratic principles. Equally, no other law exists to elaborate how parties' internal organization should demonstrate commitment to democratic principles.

Integrity (Practice)

To what extent is there effective internal democratic governance of political parties in practice?

Score: 25

The Political Parties Act, 2008 requires every political party in Sierra Leone to have a party constitution.³⁹⁰ According to the Act, the internal organisation of every party must conform to the democratic principles enshrined in the Constitution of Sierra Leone.³⁹¹ According to the Registrar of the PPRC however, the majority of political parties do not follow provisions for internal democratic governance.³⁹² Whilst some parties, particularly recently formed ones have had their founders assumed leadership positions without primaries, only the major parties have had members of the national executive elected at regular party conferences or conventions.³⁹³ The two main parties have always elected their leaders and presidential candidates at regular party conferences, while newer parties have had leadership positions filled by their founders without primaries. Since the return to multi-party politics, only in 2007 did a party resort to primaries to field candidates for parliamentary elections. The practice generally is that persons who wanted to contest under a party's symbol would indicate their intentions by application. A special committee of the party's executive would vet the applicants and decided who would contest under the party's symbol.

Party elections of executive and presidential candidates have been rocked by allegations of fraud and rigging since the return to multi-party democracy in 1996. An expert pointed at such wrangling as evidence that political parties are still struggling with internal democracy.³⁹⁴

³⁹⁰ The Political Parties Act, 2002, Section 11

³⁹¹ Ibid

³⁹² Interview of the Registrar PPRC with author, Freetown, December 2, 2011

³⁹³ Interview of lecturer in Political Science Dr Michael Kargbo with author, Freetown, December 4, 2011

³⁹⁴ Interview of Mohamed Gibril Sesay, Lecturer in Political Sociology at the University of Sierra Leone, with author March 27, 2012

Another expert however suggested that despite these challenges, however, the principle of elections as the basis for choosing party officials and presidential candidates is becoming the norm in the two major political parties.³⁹⁵

Role: Interest aggregation and representation (practice)

To what extent do Political Parties aggregate and represent relevant social interests in the political sphere?

Score: 50

In general political parties are based on narrow interests. The two older parties that have dominated politics in Sierra Leone evolved around certain distinct social groups. The SLPP was founded by people from chieftaincy backgrounds, and educated at the premier schools at the time. The APC was founded by people from less privileged social and educational background. As a result of this history the SLPP is charged as being elitist, and the APC is seen as grassroots. Again, the two parties draw their numerical strengths from distinctly two different parts of the country. However, the two parties do not articulate positions or pursue programmes that demonstrate attempts at aggregating the interest of particular social groups. Parties' programmes and manifestos generally capture or aggregate the whole range of interests in the country.

Client–patron relationship exists between individuals and political parties.³⁹⁶ It is the case however that an individual can easily switch client allegiance from one party to another. One expert agrees that no interest group exercises influence over any party in the country.³⁹⁷ He equally agrees that there are no linkages between political parties and civil society.³⁹⁸ All political parties are considered legitimate by the population.

Role: Anti-Corruption Commitment (law and practice)

To what extent do Political Parties give due attention to public accountability and the fight against corruption?

Score: 25

The manifestos of all political parties that took part in the 2007 and 2012 Presidential and Parliamentary Elections include statements of commitment to the eradication of corruption.

³⁹⁵ Interview of the Coordinator, Campaign for Good Governance with author, Freetown, August 4, 2011

³⁹⁶ Alice Jay and Momoh Taziff Koroma. From Crying and Clientilism to Rights and Responsibilities. Study for the Government of Sierra Leone/EC on Accountability in Sierra Leone. 2004.

³⁹⁷ Interview of the Executive Director, Center for the Coordination of Youth Activities with author, Freetown, November 24, 2011

³⁹⁸ Ibid

Statements of commitment to the eradication of corruption are a key element in speeches by all leaders of all the political leaders.

The APC which is the party in government and the opposition political party are talking about corruption. The party is quick to point at the cases being pursued by the Anti-Corruption Commission as demonstrating its commitment to the fight against corruption. The opposition SLPP is also always pointing out lapses in the fight against corruption.³⁹⁹ Beyond highlighting lapses however, opposition party in opposition has not elaborated fresh ideas as to how the fight against corruption could be pursued. In the opinion of the out-gone Secretary General of the opposition SLPP, it is not the business of the opposition to design solutions to corruption for the ruling government.⁴⁰⁰ Equally, beyond the passage of a stronger anti-corruption law in 2008, the government has not elaborated fresh ideas as to how the fight against corruption could be pursued.

MEDIA

Summary

The media is plural in Sierra Leone; and press freedom is largely respected. The media is however constrained on a number of fronts. Firstly, the majority of newspapers are either pro-government or pro-opposition. In this sense, many newspapers' editorials and analyses of issues are echoes of either government or opposition positions. Freedom of the media is also compromised by the State's seemingly incapacity to protect journalists from physical harm. Journalists' access to official information is constrained by Official Secrecy provisions in the Treason and State Offenses Act of 1965 and in the Civil Service's General Orders. The Freedom of Access to Information Law has recently been passed. More importantly, the weak financial bases of media businesses predispose media professionals to unethical and unprofessional practices that are inimical to the anti-corruption fight.

Media			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity	Resources	75	75
75/100			

³⁹⁹ Interview of out-gone Secretary General of the SLPP with author November 30, 2011

⁴⁰⁰ Ibid

	Independence	75	75
Governance 25/100	Transparency	25	25
	Accountability	25	50
	Integrity Mechanisms	50	25
Role 50/100	Investigate and Expose Cases of Corruption Practice	50	
	Inform Public on Corruption and its Impact	50	
	Inform Public on Governance Issues	50	

Structure and Organization

The laws in Sierra Leone guarantee freedom of expression and private ownership of media businesses. There are dozens of radio stations run by individuals, companies, non-profit organizations and communities. There are equally more than a dozen non-government owned newspapers. One public broadcaster runs a television stations; and another television is owned by a private business entity. There is no government owned newspaper. The ruling and opposition parties each have a newspaper. The Independent Media Commission guides media practice and operation. There is also a Media Code of Practice developed and adopted by the Independent Media Commission in 2005. A member of the public aggrieved by the actions of a media house would either go the court to seek redress, or go to the IMC for redress.

Assessment

Resources (Law)

To what extent does the legal framework provide an environment conducive to a diverse Independent Media?

Score: 75

The key legislation regulating media practice is the Independent Media Commission Act, 2000. The Act established the Independent Media Commission (IMC) as the state agency that registers and regulates radio and television stations and newspaper. The functions of the Commission as specified in the Act are among other things, to promote a free and pluralistic

media throughout Sierra Leone.⁴⁰¹ It is also a function of the Commission to promote fair competition among media institutions and persons engaged in the provision of media services.⁴⁰² There is also a Media Code of Practice developed and adopted by the Sierra Leone Association of Journalists (SLAJ) in 2005 which backs the Media Code of Practice (2007) of the Independent Media Commission. The Independent Media Commission (IMC) oversees adherence to both the Independent Media Commission Act and the Media Code of Practice Act of 2007. Media businesses are required to obtain licenses. An application for a radio or television license can be refused on grounds of public interest namely national security and public safety.⁴⁰³ An application for a newspaper license can be refused where it contains false particulars or is in breach of the Independent Media Commission Act, 2000. A refusal to grant a license for a print media or radio business can be appealed in the courts.⁴⁰⁴ In Sierra Leone, the Public Order Act of 1965 criminalises libel and holds accountable not only journalists, but also vendors, printers and publishers.⁴⁰⁵

Resources (Practice)

To what extent is there a diverse independent Media providing a variety of perspectives?

Score: 75

There is plurality of media sources covering the entire political and social spectrum in Sierra Leone. In the opinion of the international organisation, Freedom House, however, the existence of the Public Order Act of 1965 renders press freedom in Sierra Leone illusory.⁴⁰⁶ The editor of a leading newspaper in the country says that while the Public Order Act is a problem, the legal framework is still very conducive to the existence and operations of plural and independent media.⁴⁰⁷ According to another senior journalist there are no regulatory requirements that could be considered inhibitive to setting up a print media or radio, or television business.⁴⁰⁸

Media coverage of society and politics is open, free and lively and political debate in the media is not censored; although some media houses are sometimes subject to official pressures and restriction.⁴⁰⁹ According to the expert the challenges the media face in Sierra

⁴⁰¹ The Independent Media Commission Act, 2000, Section 8

⁴⁰² Ibid

⁴⁰³ The Independent Media Commission Act, 2000, Section 17

⁴⁰⁴ The Independent Media Commission Act, 2000, Section 27

⁴⁰⁵ www.freedomhouse.org/report/freedom-press/sierra-leone (accessed June 23, 2012)

⁴⁰⁶ www.freedomhouse.org/report/freedom-press/sierra-leone (accessed June 23, 2012)

⁴⁰⁷ Interview with Sorie Fofana, editor of Global Times newspaper with author, Freetown, June 22, 2012

⁴⁰⁸ Interview of the Vice President of SLAJ with author Freetown, November 26, 2011

⁴⁰⁹ United States' State Department Report on Human Rights In Sierra Leone 2010

Leone have to do with the size of media businesses.⁴¹⁰ Newspaper and radio businesses in Sierra Leone are largely small businesses. For instance no newspaper in the country has a daily circulation of more than three thousand copies. It is the case in fact that the majority of newspapers have a daily circulation of between 500 and 2000 copies. Job vacancies advertised by government departments and agencies, and NGOs constitute the largest advertising revenue stream for newspapers. There are about six profit-oriented radio stations in the Capital City. In the rest of the country radio stations are largely community-owned FM stations oriented primarily to service regardless of profit. Apart from small payments that they would receive for private announcements by individuals and payments from NGOs for programmes, these stations have little advertising revenue base. What all these mean according to the expert is that, radio and newspapers are under-resourced to meaningfully afford the personnel, equipment and consumables costs necessary for robust media.⁴¹¹

Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the Media?

Score: 75

The country's laws guarantee freedom of expression, and private ownership and operation of media businesses. The 1991 Constitution of Sierra Leone enshrines "Protection of freedom of expression and of the press". In particular, the Constitution guarantees that the press, radio, television and other agencies of mass media shall at all times be free to highlight the responsibility and accountability of the Government to the people.⁴¹² Journalists are not required by law to disclose their sources of information. The regulations on broadcasting in the Independent Media Commission Act, 2000, deal only with technical aspects of broadcasting and do not regulate content and programmes.⁴¹³ There are no rules that allow the government to control information disseminated by the media. The Treason and State Offences Act, 1963 prohibits the publication and dissemination of certain categories of information. Equally, the Civil Service's General Orders has secrecy provisions for the handling of official information by Civil Servants.

Independence (Practice)

⁴¹⁰ Interview with Abdul Rahman Swaray, lecturer Department of Mass Communication, University of Sierra Leone, with author, Freetown, August 4, 2011

⁴¹¹ Ibid

⁴¹² The Constitution of Sierra Leone 1991, Section 11

⁴¹³ The Independent Media Commission Act, 2000, Section 15-23

To what extent is the Media free from unwarranted external inference in its work in practice?

Score: 75

The IMC does not interfere in the work of media houses beyond issuing licenses and adjudicating complaints brought by members of the public against media houses. The IMC generally demonstrates independence from government influence.⁴¹⁴ The IMC has, however, on few occasions cautioned newspapers over the manner of certain debates; one expert said. One such time he says, was when a debate ensued over the military past of the opposition party's presidential candidate for the 2012 elections. The IMC had to issue an appeal to the media to show restraint.⁴¹⁵ The independence of the media however is compromised by partisanship. The majority of newspapers are either pro-government or pro-opposition.⁴¹⁶ Agreeing with this view a newspaper publisher says that many newspapers editorials are echoes of either government or opposition party positions.⁴¹⁷

Transparency (Law)

To what extent are there provisions to ensure transparency in the activities of the Media?

Score: 0

There are no regulations or legal provisions for transparency in the activities of media institutions. There are no laws that mandate disclosure of staff, reporting and editorial policies. The Media Code of Practice developed and adopted by the IMC in 2005 largely covers issues of ethical behaviour in respect of correcting erroneous reports, copyright, privacy, children, granting members of the public the right to reply, and avoidance of corruption, among others.⁴¹⁸ The Media Code of Practice does not cover issues of transparency in media work.

Transparency (Practice)

To what extent is there transparency in the Media in practice?

Score: 25

⁴¹⁴ Ibid.

⁴¹⁵ Interview of the Vice President with author November 26, 2011

⁴¹⁶ United States' State Department Report on Human Rights In Sierra Leone 2010

⁴¹⁷ Interview of the publisher of the Democrat newspaper with author, Freetown, August 3, 2011

⁴¹⁸ Independent Media Commission. Media Code of Practice

The ownership of every media business is disclosed during applications for license. It is not a practice in Sierra Leone for media houses to disclose information on staff, reporting and editorial policies. According to the one senior media executive, owners of media houses equally do not share information on staff, reporting and editorial policies media houses when demanded by a member of the public.⁴¹⁹ One newspaper publisher suggests that he has never had a request from anybody or institution for disclosure of staff, editorial and reporting policies.⁴²⁰ The utilization of new media technologies is also expanding media including on-line and using mobile phones in interactive radio programs where listeners could text or phone in their opinions. New technology allows multiple voices to exchange ideas, opinions and stories; rather than listeners and readers getting stuck with what journalists tell the public.

Accountability (Law)

To what extent are there legal provisions to ensure that Media outlets are answerable for their activities?

Score: 25

The provisions in place to ensure that media outlets are accountable for their activities are very limited. The mandate of the regulatory body is to grant licenses to newspapers, radio and television businesses to operate. The IMC also provides redress to members of the public who are wronged by media publications and broadcasts. The Media Code of Practice provides that “a fair opportunity to reply to inaccuracies must be given to individuals or organizations when reasonably called for”.⁴²¹ The Media Code of Practice equally commits media outlets to correct erroneous information in a timely manner, and with sufficient visibility. Media outlets are not required by law to submit reports to the IMC on their work or any other issues

Accountability (Practice)

To what extent can Media outlets be held accountable in practice?

Score: 50

The IMC adjudicates complaints by members against the media with speed and fairness according to one newspaper publisher.⁴²² The publisher accepts that there is very little complaint about the IMC’s handling of cases brought by members of the public against media

⁴¹⁹ Interview of the Vice President of SLAJ with author, Freetown, November 26, 2011

⁴²⁰ Interview of the publisher of the Democrat Newspaper with author, March 29, 2012

⁴²¹ Independent Media Commission. Media Code of Practice.

⁴²² Interview of the publisher of the Democrat Newspaper with author, Freetown, November 14, 2011

businesses.⁴²³ A senior media executive says that he was not aware of a member of the public going to court or issuing Press Statements to express dissatisfaction with the IMC over a complainant brought against a media institution. Equally, expression of dissatisfaction with the IMC by media houses over the institution's decisions is infrequent.⁴²⁴ Media outlets however, are always reluctant to grant individuals or organizations the right to reply to inaccuracies or unfair criticisms, he suggests.⁴²⁵ Many times erroneous information is not corrected in a sufficiently visible manner. Often erroneous information is only corrected after the threat of court action by the party aggrieved by the publication. Another publisher of a leading newspaper concludes that the IMC is not effective in checking professional misconduct in the media.⁴²⁶

Integrity Mechanisms (Law)

To what extent are provisions in place to ensure the integrity of Media employees?

Score: 50

The Media Code of Practice holds regulations pertaining to the integrity of media practitioners specifically. The Media Code of Practice prohibits media practitioners from securing information through harassment, misrepresentation, intimidation or subterfuge. The Media Code of Practice requires that materials from other publications or sources used by media practitioners are acknowledged or credited. The Code preserves people's right to privacy. The Code says that "journalists have a moral obligation to protect confidential information."⁴²⁷ The Code bars the media from naming victims of sexual offences and other cases involving minors.

Integrity Mechanisms (Practice)

To what extent is the integrity of Media employees ensured in practice?

Score: 25

The Media Code of Practice is flouted on a daily basis according to one newspaper publisher.⁴²⁸ The publisher says that the journalists association is not active in sanctioning

⁴²³ Ibid.

⁴²⁴ Interview of the Vice President of SLAJ with author, Freetown, November 26, 2011

⁴²⁵ Ibid.

⁴²⁶ Interview with Sorie Fofana, editor of Global Times newspaper with author, Freetown, June 22, 2012

⁴²⁷ Independent Media Commission. Media Code of Practice

⁴²⁸ Interview of the publisher Democrat newspaper with author, Freetown, August 3, 2011

members of the profession who misbehave.⁴²⁹ Provision in the Media Code of Practice pertaining to reporting sexual offences and other cases involving minors is regularly breached according to him. Articles are culled from other sources and published verbatim without due credit to the original author or source. It is common to see journalists claim authorship of articles that are culled from other sources. Bribe taking by reporters and editors is the rule rather than the exception; and gifts and hospitality offered them are nothing to frown on. As a result of poor working conditions and unethical practices many journalists hardly bother to properly source their stories.⁴³⁰ Journalist can be hired at any time to defend or tarnish someone's character or course.⁴³¹

Role: Investigate and expose cases of corrupt practice (law and practice)

To what extent is the Media active and successful in investigating and exposing cases of corruption?

Score: 50

According to one expert, investigative journalism is not a key component of the media's work in Sierra Leone.⁴³² He says that front page stories in newspapers or on radio are usually news pieces handed out by government agencies, business houses or non-governmental organizations. News items that seek public relations returns for individuals or a political party also feature greatly on the front pages of newspapers and in radio newscast headlines. Investigative stories and features in newspapers and on radio are very rare, the expert says.⁴³³ Radio stations almost completely avoid investigation of corruption, one journalist agrees.⁴³⁴

Role: Inform public on corruption and its impact (law and practice)

To what extent is the Media active and successful in informing the public on corruption and its impact on the country?

Score: 50

While media outlets pay some attention to informing the public on corruption and its impact, reports are often of poor quality or carry extortion intents. The newspapers in Sierra Leone

⁴²⁹ Ibid

⁴³⁰ United States' State Department Report on Human Rights in Sierra Leone 2010

⁴³¹ Sesay and Hughes. 2005

⁴³² Interview with Abdul Rahman Swaray, lecturer Department of Mass Communication, University of Sierra Leone, with author, Freetown, August 4, 2011

⁴³³ Interview with Abdul Rahman Swaray, lecturer Department of Mass Communication, University of Sierra Leone, with author, Freetown, August 4, 2011

⁴³⁴ Interview of Gerald Sesay of Radio Maria with author, Makeni, March 22, 2012

are mostly interested in covering politics. Radio stations focus on community news, entertainment, human interest stories, and official news from government agencies and development organizations. The vast majority of newspapers and radio stations do not carry editorials. One expert believes that media houses are not carrying programmes specifically designed to convey education on corruption and its impact.⁴³⁵ The expert suggests that when media house do broach the issue of corruption it is often done in a limited, biased, partisan, and amateurish ways.⁴³⁶ One journalist agrees to suggestions that the media in Sierra Leone is not sufficiently prioritising a role in informing the public on corruption and its impact on the country.⁴³⁷

Role: Inform public on governance issues (law and practice)

To what extent is the Media active in informing the public on the activities of the government and other governance actors?

Score: 50

The media pays some attention to informing the public on governance issues; but reports are mostly biased and of poor quality.⁴³⁸ The newspapers in Sierra Leone regularly cover and report the activities of government. Such coverage mainly comes in the form of telling directly what government is doing or has done; without any analyses. According to a newspaper publisher, newspapers and radio stations do not have journalists with specialist training to reports on such complex issues as law, science, medicine, environment, commerce, and many other areas.⁴³⁹ The vast majority of newspapers and radio stations do not even carry editorials which would offer opportunities for analyses and evaluation of government actions and policies. The publisher agrees that there is very little effort on the part of intellectuals to put opinion pieces in the media.⁴⁴⁰ When journalists hold different positions on a governance issues, it easily degenerates into a battle where insults can be traded. There is hardly any debate. In a debate two sides take opposing positions on an issue and make factual and logical arguments in favour of their position. One expert opines that in Sierra Leone the media do take opposing positions on issues, but instead of proffering arguments in support of their positions, journalists largely trade insults, lies, and spinning.⁴⁴¹ In an interview for this report,

⁴³⁵ Interview with Abdul Rahman Swaray, lecturer Department of Mass Communication, University of Sierra Leone, with author, Freetown, August 4, 2011

⁴³⁶ Ibid

⁴³⁷ Interview of Gerald Sesay of Radio Maria with author, Makeni, March 22, 2012

⁴³⁸ Interview with Abdul Rahman Swaray, lecturer Department of Mass Communication, University of Sierra Leone, with author, August 4, 2011

⁴³⁹ Interview of the publisher of the Democrat Newspaper with author, Freetown, August 16, 2012

⁴⁴⁰ Ibid

⁴⁴¹ Interview of the Vice President of SLAJ with author, Freetown, November 26, 2011

the head of the IMC says that the media mostly reports on government with partisan biases.⁴⁴²

CIVIL SOCIETY

Summary

The legal framework is very conducive to a vibrant Civil Society in the country. Indeed, there is an impressive breadth of Civil Society Organizations in Sierra Leone. Many Civil Society Organizations work on governance issues including corruption and accountability. Civil Society Organizations however carry great internal democracy, accountability and sustainability minuses. Civil Society Organizations are simply not sufficiently credible and resourced. Civil Society is, therefore, not in a position to maximize its potentials in the anti-corruption fight.

Civil Society			
Overall Pillar Score: 50/100			
	Indicator	Law	Practice
Capacity 75/100	Resources	75	50
	Independence	100	75
Governance 50/100	Transparency	75	50
	Accountability	25	
	Integrity	-	25
Role 25/100	Hold government accountable	25	
	Policy reform	25	

Structure and Organization

Freedom of association and assembly are stated as fundamental human rights in the 1991 constitution of Sierra Leone. There are five State institutions responsible for registering non-

⁴⁴² Interview of Mrs. Bernadett Cole, Chairman, IMC, with Research Assistant, Freetown.

governmental organizations and citizens' associations. These are the Ministry of Social Welfare, the Office of the Registrar General, the Ministry of Youths and Sports, Local Councils, and the Economic Planning division of the Ministry of Finance, Development and Economic Planning. There are generally two categories of organizations that constitute Civil Society: Those that are traditionally "socially embedded" organizations that are membership-based, such as professional associations, trades unions, and social clubs and A second category of Civil Society consists of non-membership-based non-profit organizations that largely do development work. There is no literature that gives a count of the number of Civil Society organizations in Sierra Leone.

Assessment

Resources (Law)

To what extent does the legal framework provide an environment conducive to Civil Society?

Score: 75

The legal framework is very conducive to the existence and operations of NGOs. At one level, provisions in laws governing Civil Society Organizations (CSOs) include guarantees in the Constitution of the right to associate, the right to assemble, freedom of conscience, and speech. Laws pertaining to regulation essentially center on registration of Civil Society groups. Non-profit, voluntary organizations and citizens associations can register with any of five state agencies that have responsibilities to do such registrations. There is no law that serves as a reference point for these different agencies in registering Civil Society organizations. Therefore, the time it takes to register an organization varies from state authority to state authority.

CSOs registered with the Development and Economic Planning Division of the Ministry of Finance and Economic Development are required to renew their registration bi-annually. Failure to renew registration would result in prohibition. CSOs registered with other state authorities are not required to annually renew registration. To be registered, organizations mostly require a bank account, accessible and identifiable office space, a Board of Trustees, and Memorandum and Articles of Association. A former Development Secretary in the Ministry of Economic and Development Planning says that tax exemption for CSOs is limited to duty waivers that government may grant for imported goods.⁴⁴³ Such waiver she said was

⁴⁴³ Interview of Mrs. Kona Koroma, former Development Secretary with author, Freetown, December 9, 2011

mostly granted to registered CSOs with the Ministry of Development and Economic Planning involved in development work.⁴⁴⁴ According to a senior official of the National Revenue Authority, there is no special tax regime for CSOs.⁴⁴⁵

Resources (Practice)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Score: 50

A former Development Secretary in the Ministry of Economic and Development Planning says that requirements for registration of CSOs are not considered restrictive. Although different state institutions would demand different requirements, it is generally the case that associations are able to register with relative ease.⁴⁴⁶ A Civil Society leader agrees with this assessment.⁴⁴⁷ She agrees that it is very rare to hear that a voluntary organization or citizens' association has been banned or prohibited in Sierra Leone.⁴⁴⁸ One study has concluded that CSOs in Sierra Leone generally have very weak and narrow resource base.⁴⁴⁹ This is particularly true of CSOs involved in development and work around governance issues. This section of Civil Society relies almost entirely on grants from external donors.⁴⁵⁰ Weak resource base means that CSOs do struggle to acquire the relevant personnel, equipment, and materials for their work. CSOs are quick to metamorphose mandates and programmes to the beck and call of any willing donor.⁴⁵¹ One Civil Society leader says that she has never heard of any CSO receiving funds from indigenous philanthropists.⁴⁵²

Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Score: 100

⁴⁴⁴ Ibid

⁴⁴⁵ Interview of Tom Vandi, Non-Tax Revenue Department of the National Revenue Authority with author, Freetown, December 10, 2011

⁴⁴⁶ Interview of Mrs. Kona Koroma former Development Secretary with author, Freetown, December 9, 2011

⁴⁴⁷ Interview of the Coordinator of Campaign for Good Governance with author, Freetown, November 29, 2011

⁴⁴⁸ Interview of the Coordinator of Campaign for Good Governance with author, Freetown, November 29, 2011

⁴⁴⁹ Alice Jay, Paul Richards, and Tennyson Williams. A Framework for DFID Support to Civil Society. (DFID 2003)

⁴⁵⁰ Ibid

⁴⁵¹ Sesay and Hughes. 2005)

⁴⁵² Interview of the Coordinator of Campaign for Good Governance with author, Freetown, November 29, 2011

Comprehensive legal safeguards exist to prevent unwarranted interference in the activities of CSOs. At one level, provisions in law protecting Civil Society include guarantees in the Constitution of the right to associate, the right to assemble, freedom of conscience, and speech. At a second level, provisions in law pertaining to Civil Society are only about registration of non-State institutions, citizens' associations and non-profit organizations. There are no laws stating directly or indirectly that a representative of the state or a state institution attends CSOs meetings. It means that a representative of the state or a state institution attends CSOs meetings. There are equally no laws stating directly or indirectly that the state or a state institution be represented on the boards of CSOs. This means that the state or a state institution is not represented in the boards of CSOs. Although the recently enacted Access to Information Act compels public officials to disclose official information to citizens as they may request, the Public Order Act of 1965 makes it mandatory for any group planning a public demonstration to first secure a permit from the Police.

Independence (Practice)

To what extent can Civil Society exist and function without undue external interference?

Score: 75

In practice, the State largely meets its constitutional commitments to the rights of assembly, free speech, conscience, and association. Workers are allowed to join unions and have a right to collective bargaining. One expert cannot recall an instance of government's harassment of any CSO.⁴⁵³ There is no government interference into CSOs affairs; beyond registration formalities. According to the head of the Campaign for Good Governance there is no such practice in Sierra Leone whereby state officials attend meetings of Civil Society groups or are represented on their boards.⁴⁵⁴ Law enforcement agencies however frequently use the Public Order Act of 1965 to disallow public demonstrations. Civil Society is equally constrained in accessing official information from public officials in Sierra Leone. Without access to information' Civil Society work in promoting transparency and accountability in governance becomes very difficult.

Transparency (Practice)

To what extent is there transparency in CSOs?

Score: 50

In fulfilling requirements for registration, CSOs furnish the relevant government agency with Memorandum and Articles of Association, and information on bank account, office space, and

⁴⁵³ Interview of the Executive Director, Center for the Coordination of Youth Activities, Freetown, July 27, 2011

⁴⁵⁴ Interview of the Coordinator of Campaign for Good Governance with author, Freetown, November 29, 2011

Board of Directors. Beyond this, many CSOs in general do not disclose relevant information on their activities to the public.⁴⁵⁵ According to one expert, CSOs can hardly afford the resources to maintain websites or produce newsletters and annual reports.⁴⁵⁶ A study for DfID concludes that CSOs in general are particularly reluctant to share information on financial, board, and programme implementation matters with the public.⁴⁵⁷ CSOs produce reports on projects that they implement for the attention and information of their external donors. The vast majority of CSOs do not have websites.

Accountability (Law and Practice)

To what extent are CSOs answerable to their constituencies?

Score: 25

The evidence of CSOs' accountability in Sierra Leone is mixed. There are "socially embedded" membership groups where members and Boards of Directors exert accountability oversight, according to a study done for DfID.⁴⁵⁸ Boards of non-membership-based CSOs are not effective in providing oversight, the study says.⁴⁵⁹ According to another study on Civil Society in Sierra Leone, it is a fact that non-membership CSOs are largely owned by one man and therefore not accountable to constituencies.⁴⁶⁰ Government's "Policy Regulations for the Operations of Non-Governmental Organizations" requires NGOs to furnish the Ministry of Development and Economic Planning with reports on the completion of every project. According to a former development Secretary, the requirement is not rigidly enforced by government.⁴⁶¹ One expert agrees that the boards of the majority of CSOs are largely ceremonial.⁴⁶²

Integrity (practice)

To what extent is the integrity of CSOs ensured?

Score: 25

⁴⁵⁵ Alice Jay, Paul Richards, and Tennyson Williams. A Framework for DFID Support to Civil Society. DFID 2003

⁴⁵⁶ Interview of Andrew Lavalé of the Access to Security and Justice Project with author, April 3, 2012

⁴⁵⁷ Jay, Richards, and Williams. 2003

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid

⁴⁶⁰ Sesay and Hughes, 2005

⁴⁶¹ Interview of Mrs. Kona Koroma, former Development Secretary with author, Freetown, December 9, 2011

⁴⁶² Interview of lecturer in Political Science Dr. Michael Kargbo with author, Freetown, December 4, 2011

A Civil Society leader says that she has seen no efforts among CSOs to self regulate.⁴⁶³ In 1994, non-profit organizations came together to form the Sierra Leone Association of Non-Governmental Organizations (SLANGO). SLANGO's main thrust however was the facilitation of networking amongst its membership, facilitation of contact between NGOs and prospective donors, and government.⁴⁶⁴

There is no sector wide Code of Conduct. Integrity of CSOs has equally not been an issue that government has articulated thoughts or actions about. Studies on CSOs in Sierra Leone have concluded that many non-membership organizations do not have established administrative and financial management systems in place. One study on civil society in Sierra Leone has concluded that these organizations are often stretching or changing mandates to do any project for which there is donor money.⁴⁶⁵ It is equally the case however that the international donor community has also not privileged programmes and policies that seek greater integrity in CSOs.

Role: Hold government accountable (practice)

To what extent is Civil Society active and successful in holding government accountable for its actions?

Score: 25

While CSOs are somewhat active in seeking to hold government to account, the effectiveness of their actions is limited. A new development in the Civil Society landscape in Sierra Leone has been the emergence of many organizations involved in work to enhance good governance. Governance enhancing work by CSOs involves activities that directly impact the fight against corruption. These include public expenditure monitoring, budget analysis, public education, transparency in the extractives industry, and justice sector monitoring.

In the extractives industry, citizens groups are raising public awareness of receipt and use of public funds by local officials; minimizing incidences of misappropriation of misuse. A number of anti-corruption initiatives led by Civil Society include the Budget Advocacy Network (BAN) and the National Advocacy Coalition on the Extractives (NACE). Some CSOs are working with the ACC through the Civil Society Monitoring Groups to monitor the private contractors' implementation of public funded projects.⁴⁶⁶ Representatives of CSOs sit on District Budget Oversight Committees regularly to contribute to unearthing wastage or theft of public funds. According to one official of an NGO involved in accountability work, the monitoring efforts of

⁴⁶³ Interview of the Coordinator of Campaign for Good Governance with author, Freetown, November 29, 2011

⁴⁶⁴ SLANGO website

⁴⁶⁵ Sesay and Hughes, 2005

⁴⁶⁶ Anti-Corruption Commission Annual Report 2010

CSOs is proving to be of some relevance in preventing loss of public money particularly at the local levels.⁴⁶⁷ One expert agrees with this assessment but suggests that overall the impact of efforts of Civil Society in holding government to account is negligible.⁴⁶⁸

Role: Policy Reform (practice)

To what extent is Civil Society actively engaged in policy reform initiatives on anti-corruption?

Score: 25

In general, civil society is not active in the area of policy reform dialogue on anti-corruption. The last ten years has seen willingness on the part of government to accommodate Civil Society as a partner in development and delivery of social services. A development policy framework expressed in 2002 that Government's essential counterpart would be Civil Society, which had a fundamental participatory role to play in support of security, and good governance among others.⁴⁶⁹ An official of an NGO doing accountability agrees that CSOs' anti-corruption work largely focuses on sensitization, public education, monitoring of public contracts, and public expenditure tracking.⁴⁷⁰ CSOs have networks for such anti corruption work. These networks include the BAN, NACE, and the ACC's Civil Society Monitoring Group. The NGO official says that Civil Society involvement in policy discourses and reforms on corruption is very limited.⁴⁷¹ The advocacy undertaken by NACE around transparency in accounting for revenues from mining activities is the only known policy reform work on corruption by a Civil Society organisation, according to the expert. One expert suggests that it is fair to say that CSOs are not involved at all in anti corruption policy reform discussions.⁴⁷²

BUSINESS

Summary

Since 2002, the government has taken concrete reform measures to facilitate the ease of doing business in Sierra Leone. The World Bank has reflected Sierra Leone progress in its Ease

⁴⁶⁷ Interview of Joseph Ansumana of Network Movement for Justice and Development with author, Makeni, March 20, 2012

⁴⁶⁸ Interview of Andrew Laval of the Access to Security and Justice Project with author, April 3, 2012

⁴⁶⁹ Government of Sierra Leone. National Recovery Strategy 2002- 2003

⁴⁷⁰ Interview of Joseph Ansumana of Network Movement for Justice and Development with author, Makeni, March 20, 2012

⁴⁷¹ Ibid

⁴⁷² Interview of Andrew Laval of the Access to Security and Justice Project with author, April 3, 2012

of Doing Business report 2011. Further action is needed in terms of making or extending legal provisions for corporate oversight, and transparency and integrity in business transactions. For instance, although a new Companies Act has been passed, no institution has been established to oversee the implementation of its provisions. Public officials frequently seek bribes from businesses; although there is no evidence of abuse of public office for the expropriation of the assets and resources of private businesses. The business sector is however grossly uninvolved in positioning anti-corruption debate, advocacy, and activism.

Business			
Overall Pillar Score:25/100			
	Indicator	Law	Practice
Capacity 50/100	Resources	75	75
	Independence	25	50
Governance 50/100	Transparency	50	50
	Accountability	50	50
	Integrity Mechanisms	50	50
Role 0/100	Anti-Corruption Policy Engagement	0	
	Support for/engagement with civil society	0	

Structure and Organization

Sierra Leone is a free market economy. The formal sector, however, only accounts for 15% of economic activity. Although agriculture accounts for 70% of employment, mining accounts for 90% of Gross Domestic Product. A number of policies for private sector development have been comprehensively put in place in the last couple of years including the establishment of the Sierra Leone Investment and Export Promotion Agency (SLIEPA), the DfID-supported Private Sector Development Project, and the World Bank supported Rural Private Sector Development. SLIEPA works to facilitate and promote export oriented agricultural production and manufacturing through advisory, and technical assistance, trade and relationship facilitation between locals and internationals, research on investment, collation, analyses and

dissemination of relevant information, among others. DfID's Private Sector Development Project is helping to streamline and ease administrative barriers to doing business in the country, and increasing the transparency and predictability of business transactions.

Assessment

Resources (Law)

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

Score: 75

In 2007 the Ministry of Trade and Industry began a project that aimed at reducing administrative barriers, streamlining investment procedures, and increasing predictability of business transactions. The project intended to deliver simple, clear, straight forward processes for starting, operating and winding down a business. These efforts resulted in the enactment of two key legislations; namely the General Law (Business Start-up [Amendment]) Act, 2007; and the Business Registration Act, 2007. For the purpose of expeditious start-up of business, the General Law (Business Start-up [Amendment]) Act, 2007 removed the need to seek permission from the central bank before a company is registered in Sierra Leone.⁴⁷³ The law also allowed persons who were not legal practitioners to draw up or prepare Memorandum and Articles of Association of companies.⁴⁷⁴ "Sierra Leone has made enforcing contracts and resolving insolvency easier by establishing a fast-track commercial court in an effort to expedite commercial cases, including insolvency proceedings".⁴⁷⁵ The Ministry of Trade claims that trading across borders has been made faster with the implementation of the Automated System for Customs Data (ASYCUDA++).⁴⁷⁶ The tax structure has been simplified and taxes rates have come down. A one-stop shop has been established for business registration. The issuance of location clearances and building permits has been streamlined. In 2009 a new companies Act was passed to provide for the registration and regulation of companies and other matters. The Act provides for improvements in protection of investors, enhancement of insolvency processes, integrity in company management, and overall oversight of companies.⁴⁷⁷ The Act provides for a Corporate Affairs Commission with responsibilities for registering companies and ensuring their adherence to the Companies Act

⁴⁷³ The General Law (Business Start-up) (Amendment) Act, 2007, Section 34I(a)

⁴⁷⁴ The General Law (Business Start-up) (Amendment) Act, 2007, Section 34I(c)

⁴⁷⁵ Ministry of Trade and Industry Press Release, Awoko newspaper, October 24, 2012

⁴⁷⁶ Ibid

⁴⁷⁷ The Companies Act, 2009

2009. Protection of investors has been enhanced through a new company law that enhanced directors' liability and improved requirements for disclosure.⁴⁷⁸

Resources (Practice)

To what extent are individual businesses able in practice to form and operate effectively?

Score: 75

Individual businesses in Sierra Leone are able in practice to form and operate effectively. In 2011 Sierra Leone ranked 150 out of 183 economies surveyed for the ease of doing business.⁴⁷⁹ In 2012 Sierra Leone made a nine point improvement to rank 141. Sierra Leone ranked 19 in Africa in the World Bank's Ease of Doing Business Survey 2012 out of 46 economies surveyed. Starting a business has been eased with the establishment of a one-stop shop for business registration. The gains have been that today a business can be registered between 3 and 5 days. It cost between USD 300 and USD 500 to register a business; considered a great progress from a couple of years ago when it would cost USD 3, 000 or more. In 2010, property registration was sped up from 235 days to 86 days.⁴⁸⁰ Streamlining the issuance of location clearances and building permits has made dealing with construction permits easier. The simplification of the tax structure and decreased rates has reduced the tax burden on companies. One High Court Judge agrees that security of private property including land and other assets is guaranteed in practice; and contracts are enforced in courts.⁴⁸¹ Citizens and legally resident foreigners have no restriction in practice and in law to do business anywhere in the country. She says, however, that although the old Companies Act was repealed, no institution has been put in place to implement the new Act.⁴⁸²

Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of private businesses?

Score: 25

There are no specific laws or regulations preventing unwarranted external interference in the activities of private businesses. In tax and insurance administration, enforcement of corporate laws, and customs and excise activities public officials have recurrent contacts with private

⁴⁷⁸ The Companies Act, Section 240- 245

⁴⁷⁹ www.doingbusiness.org/rankings. (Accessed April 6, 2012)

⁴⁸⁰ World Bank's Ease of Doing Business Report 2010

⁴⁸¹ Interview of Justice Salamatu Koroma with author , Freetown, December 7, 2011

⁴⁸² Ibid

businesses. The Anti Corruption Act, 2008 therefore, generally applies to public officials relationships with private businesses. Where public officials unduly interfere in the activities of private businesses, it can be interpreted as a corrupt or unethical act.

Independence (Practice)

To what extent are the business sectors free from unwarranted external interference in its work in practice?

Score: 50

Public officials frequently seek bribes from businesses, the Secretary General of the Sierra Leone Contractors Union confirms.⁴⁸³ But the opportunity to seek bribes mostly arises when a business is seeking a license, clearing goods at ports, or paying taxes.⁴⁸⁴ There is however no evidence of abuse of public office for the expropriation of the assets and resources of private businesses.⁴⁸⁵ Private businesses who encounter problematic public officials can lodge complaints with either the Anti- Corruption Commission or the Ombudsman. An official of the ACC confirms that whistle-blowing by businesses against corrupt public officials has led to a number of prosecutions by the institution.⁴⁸⁶ It is very easy for a businessman to file a law suit against a misbehaving public official.

Transparency (Law)

To what extent are there provisions to ensure transparency in the activities of the business sector?

Score: 50

While a number of laws exist, they do not cover all aspects of transparency in business activities. Sierra Leone had a Stock Exchange only in the last five years. It was only in 2009 that a new Companies Act was passed into law. A Bankruptcy Act was also passed that same year. The Companies Act, 2009 provides for the registration and regulation of companies. It is the key legal framework that extensively covers transparency of companies. Among issues covered in this Act are provisions to check directors' "conflict of duty and interest", restraint of fraudulent persons from serving as directors, prohibition of loans to directors in certain circumstances, protection of minority against illegal and oppressive conduct, obligations to

⁴⁸³ Interview of Secretary General of Sierra Leone Contractors Union with author, March 31, 2012

⁴⁸⁴ Global Integrity 2006 and 2007 Reports

⁴⁸⁵ Interview with the Chairman, Board of Directors HQ Trading Sierra Leone Ltd. July 31, 2011

⁴⁸⁶ Interview of the Head, Policy and Ethics, Freetown, May 31, 2012

disclose information to shareholders, inspection of companies, obligation for disclosure of substantial shareholders in a company, and imposition of obligations for proper financial audit of companies, and publication of financial statements, among others.⁴⁸⁷ The Bankruptcy Act provides for declaring as bankrupt any person who cannot pay his/her debts of a specified amount, the processing of receiving and settling bankruptcy claims and related matters.

Transparency (Practice)

To what extent is there transparency in the Business Sector in practice?

Score: 50

The government's Chief Executive for investment promotion believes that all of these legislations make clear improvement in ensuring transparency in business activities; including requirements for that companies are audited annually by external auditors.⁴⁸⁸ In practice, however, not much has changed. In general, businesses do not disclose relevant information on their activities. Financial services companies and banks annually publish independently audited financial statements. Other types of businesses are not known to reveal information on financial performance, ownership structure, and other data by way of annual reports, in their websites, or any other means. Banking inspection is done by the Central Bank. The Companies Act, 2009 provides that companies who do not report annual returns are liable to a daily default fine.⁴⁸⁹ The sanction is not applied at the moment because the institution that should implement the Companies Act, 2009 has not been set up at the time of writing this report. Data on registered companies including the one held in the Office of the Registrar General cannot be made available to a member of the public on request; equally, companies do not give names of directors and contact details and annual reports to a member of the public on request. One expert says, the majority of companies in Sierra Leone are either foreign owned or owned by individuals.⁴⁹⁰ The public therefore has no interest in how these companies are run, he adds. Excepting financial services institutions, companies' financial

⁴⁸⁷ The Companies Act, 2009

⁴⁸⁸ Interview of the Chief Executive Officer, Sierra Leone Investment and Export Promotion Agency, with author, Freetown, July 31, 2011

⁴⁸⁹ The Companies Act, 2009, Section 320

⁴⁹⁰ Interview of the Chief Executive Officer, Sierra Leone Investment and Export Promotion Agency, with author, Freetown, July 31, 2011

audit, and operations reports are exclusively done for the attention of government, shareholders, and the Board of Directors, the expert explains.⁴⁹¹

Accountability (Law)

To what extent are there rule and laws governing oversight of the Business Sector and governing corporate governance of individual companies?

Score: 50

The provisions that exist to govern oversight of the business sector do not cover all aspects of accountability of businesses. Legal provisions for appropriate oversight of corporate governance include accountability to shareholders, rules on how companies should be governed, formation of companies, management and ownership of companies, roles of board, dissolution and insolvency. These provisions are contained in relatively new Acts, including the Companies Act 2009 and the Bankruptcy Act, 2009.⁴⁹² The Sierra Leone Insurance Commission exists as a statutory institution to regulate the insurance industry. All other financial services are regulated by the central bank.

Accountability (Practice)

To what extent is there effective corporate governance in companies in practice?

Score: 50

According to one expert, investors and Boards of Directors exert strong supervision of management decisions.⁴⁹³ Provisions for corporate governance are followed, he adds. In practice the Central Bank and the Sierra Leone Insurance Commission are effective oversight bodies for financial services businesses. There is no strong relationship between the ACC and businesses.⁴⁹⁴ In its 2010 annual report, for instance, no mention was made of any form of interaction between the ACC and the business community.⁴⁹⁵ The ACC's annual reports hardly carry stories about interaction with the business sector. The Anti-Corruption Commission has not sought to give incentives to companies to disclose anti-corruption information.⁴⁹⁶

⁴⁹¹ Ibid

⁴⁹² The Bankruptcy Act, 2009 and the Companies Act, 2009

⁴⁹³ Interview of Chief Executive of FJP Partners (Development and Management Consultants) with author , Freetown, December 5, 2011

⁴⁹⁴ Interview of the Head of Policy and Ethics with author, Freetown, November 24, 2011

⁴⁹⁵ Annual Report of the Anti-Corruption Commission 2010

⁴⁹⁶ Interview of the Head of Policy and Ethics with author, Freetown, November 24, 2011

Integrity mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of all those acting in the Business Sector?

Score: 50

Legal provisions for integrity in the business sector have only been recently expanded, and they do not cover all aspects of business activities. Integrity issues in respect of companies are covered in the provisions for corporate governance in the Companies Act 2009, the Bankruptcy Act, 2009, and the Other Financial Services Act, 2008. The Public Procurement Act, 2004 makes provisions for integrity in the conduct of bidders and suppliers. Legislations regarding gifts, bribes, entertainment policies and whistle blowing in the Anti-Corruption Act, 2008, cover businesses. Sanctions exist in the Anti-Corruption Act, 2008 and the Public Procurement Act, 2004 against companies and individual businesses that flout these legislations.⁴⁹⁷ There is no law that directly or indirectly prohibits companies and individuals from offering bribe when doing business abroad. There are no sector wide Codes of Conduct. Corporate Codes of Conduct are rare. Businesses do not have mandatory anti-corruption codes.

Integrity Mechanisms (Practice)

To what extent is the integrity of those working in the business sector ensured in practice?

Score: 50

In general, businesses' approach to integrity of their workers is piecemeal and reactive. Businesses' efforts essentially consist in enforcing financial and administrative procedures, inquiries into alleged misdeeds, and sanctioning of misdeeds. One entrepreneur insists that petty bribe taking by workers is common in the absence of internal control mechanisms and Codes of Conduct.⁴⁹⁸ Although the public procurement laws provide for debarment of any business house for certain offences, no list of companies that have been blacklisted exists. In spite of the laws, public procurement remains problematic in the country. The African Development Bank specifically has noted that in spite of progress made in implementing rules and procedures serious challenges remain in procurement, particularly in bid evaluation processes.⁴⁹⁹ Responding to the assertion, a civil works contractor says that bidding processes

⁴⁹⁷ Anti-Corruption Act, 2008 and the Public Procurement Act, 2004

⁴⁹⁸ Interview with the Chairman, Board of Directors HQ Trading Sierra Leone Ltd. Freetown, July 31, 2011

⁴⁹⁹ African Development Bank Sierra Leone Country Office Annual Report 2010

are most times tampered with by procuring agencies to give advantage to a business firm or individual that is favoured.⁵⁰⁰ Without exception, favoured businesses are those who pay bribes to the officials in charge of the procurement process in procuring agency.⁵⁰¹ A senior official in the Ministry of Finance, speaking of conditions of anonymity however, said that in the past executives in public institutions in particular had so much discretion in determining which businesses to buy services from.⁵⁰² Today, that discretion is no more and it is almost impossible for executives in public institutions to undertake large procurements without regards for competitive bidding.⁵⁰³ He, however, agrees with the African Development Bank's claims that challenges remain that officials still have ways and means to fiddle with the competitive processes for procuring services to gain corrupt rewards.⁵⁰⁴

Role: Anti-Corruption Engagement (practice)

To what extent is the Business Sector engaging the domestic government on anti-corruption?

Score: 0

In general, the issue of corruption is not on the agenda of the business sector. In the last five years, there have been no press statements from business associations highlighting corruption⁵⁰⁵ and there have been no keynote speeches by businessmen at annual conferences of business associations highlighting corruption.⁵⁰⁶ One expert says that she is not aware of any initiative by the business sector to engage government on corruption.⁵⁰⁷

Role: Support for/engagement with civil society (practice)

To what extent does the Business Sector engage with/provide support to civil society on its task of combating corruption?

Score: 0

There is very negligible engagement between business associations and Civil Society on the issues of corruption. Some form of engagement between the business sector and Civil Society

⁵⁰⁰ Interview of Secretary General of Sierra Leone Contractors Union with author, Freetown, March 31, 2012

⁵⁰¹ Ibid.

⁵⁰² Interview of Ministry of Finance official with author, Freetown, March 31, 2010

⁵⁰³ Ibid.

⁵⁰⁴ Ibid.

⁵⁰⁵ Interview of Chief Executive of FJP Partners (Development and Management Consultants) with author Freetown, December 5, 2011

⁵⁰⁶ Ibid.

⁵⁰⁷ Interview of Coordinator of Campaign for Good Governance with author, Freetown, March 31, 2012

began to emerge in 2011 when NGOs like NMJD and TI (SL) worked with a group of civil works contractors to help them form the Sierra Leone Contractors Union.⁵⁰⁸ As a result of the emerging interest of Civil Society in working with businesses in the fight against corruption, NMJD, TI (SL) and CGG were able to organise a Procurement Summit at the end of 2011. The summit brought together businesses, Civil Society, central and local government, and the NPPA to talk about procurement and corruption in Sierra Leone.⁵⁰⁹ One expert says that she does not know of any other anti- corruption interaction between the business sector and Civil Society beyond this small attempt by NMJD, TI (SL) and CGG.⁵¹⁰ There is no funding support from local businesses to Civil Society for anti-corruption fight. In the opinion of one civil society leader, there is no collaboration on anti-corruption initiatives between any Civil Society organization and a business entity.⁵¹¹

CONCLUSION

Before 2002, the National Integrity System in Sierra Leone consisted of the legislative and oversight work of Parliament, the policy setting and implementation work of the executive, and the investigation and prosecution work of the Police and courts in the judiciary branch of government. Since 2002, the National Integrity System has seen the inclusion of a specialized autonomous commission for investigating, prosecuting, and preventing corruption. The National Integrity System has also seen the inclusion of a specialized autonomous authority for regulating public procurement with the intention of preventing corruption. The Office of the Ombudsman has also been included in the National Integrity System since 2002. The National Integrity System, thus, presents today a wider terrain of institutions that should hold promise for better outputs in the fight against corruption.

Multiparty politics, since 1996, has provided an improvement in the environment for fighting corruption in Sierra Leone. The widening of the terrain of anti corruption institutions can be attributed to the country's democracy and good governance aspirations. It is also the case that competitive politics is generally compelling political parties to cry down each other's anti corruption efforts. Equally, competitive politics is also tasking political parties to raise their anti corruption credentials. The multiparty democracy environment has seen the emergence of Civil Society work on issues of financial accountability of public institutions.

There is, however, a serious mismatch between the expanded terrain of anti corruption actors in an environment of multiparty democracy, and the outcomes of the fight against corruption

⁵⁰⁸ Interview of Coordinator of Campaign for Good Governance with author, Freetown, March 31, 2012

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid

⁵¹¹ Interview of the Coordinator of the Campaign for Good Governance with author, Freetown, November 29, 2011

in Sierra Leone. Executive dominance of the branches of government is stifling the ability of Parliament for oversight. The judiciary on its part is bogged down by corrupt habits of its personnel. It means that it is the Executive branch of government which has been the main driver of the anti corruption agenda initiating policies, institutions, and processes. The Executive branch of government is, however, equally plagued by corruption and a desire to set and micro-manage the anti corruption agenda. The country is, thus, in a situation where the Legislature cannot take lead in anti corruption legislation without prodding by the Executive; and the Executive and Judiciary can tinker with corruption prosecutions and outcomes.

Beyond the shortcomings in attitudes, a key challenge facing the National Integrity System in Sierra Leone is insufficiency of resources. Excepting the ACC and the Electoral Commission which are enjoying international funding for now, all State anti corruption institutions have insufficient resources to do their work. Insufficient resource means that most national integrity institutions operate below their desired capacities. For instance, because of lack of resources the Office of the Ombudsman operates mostly in the capital city and is not accessible to most citizens in the country. Until recently when it had donor support, the Auditor General could not regularly audit the financial accounts of most state-owned enterprises for years because of lack of resources. On account of lack of resources State anti corruption institutions do not attract and retain high quality personnel. Consequently, inefficiency persists in these institutions.

The study reveals that many issues that impact the fight against corruption remain to be provided for in law or policies. Across all state institutions the provisions for ensuring the integrity and accountability of officials are not extensive; and are mostly limited to the anti Corruption and public procurement Acts. For instance, adoption of Codes of Conduct by national integrity institutions remains piecemeal across all state institutions. Although a new Companies Act was passed in 2009 for corporate governance, the institution provided for in the legislation to implement the law has not been set up. The laws are not robust in obligating individual State institutions to report and provide information to the public.

In these circumstances the limitations of one State institution affects the outputs of other institutions. For instance, where audit of public offices by the Auditor General is not comprehensive and regular, the ACC is losing a huge opportunity for anti corruption investigation and prosecution. Limited and irregular audit also means that the Executive branch of government and Parliament are losing a huge opportunity for anti corruption systems reviews, and policy reforms. Equally, in the circumstance where the Ombudsman is operating mostly in Capital city, the office is hardly in a position to exert horizontal accountability on many public institutions. The ACC, Law Enforcement agencies, business, and

the Judiciary are constrained to take action on certain corporate governance corruptions because an institution has not been set up for implementation of the Companies Act 2009.

As has been noted earlier, competitive politics is making it incumbent upon political parties to raise their anti corruption credentials. It is the case, however, that in practice political parties are falling short in many areas critical in the anti corruption agenda. These include areas such as transparency, integrity, resources and accountability. In general, political parties have not delivered new ideas and proposals in the fight against corruption.

The multiparty democracy environment would be seen as supportive of non-State sectors' involvement in anti corruption issues. The capacity of non-State actors, however, to take the anti corruption fight further is restrained at certain fronts. Although the media is plural and press freedom is largely respected in the country, reluctance to expose corruption is entrenched. Weak financial bases of media businesses predispose media professionals to unethical practices that are inimical to the anti-corruption fight. Many media businesses often depend on public officials for advertising revenue or bribery in the circumstances of small readership and low advertising revenue. The majority of newspapers are either pro-government or pro-opposition. Many journalists are poorly trained and unprofessional.

Civil society is vibrant in Sierra Leone; and they have in the last decade begun to take up action to exert accountability of public officials. A number of studies, however, show that Civil Society organizations are afflicted with problems that dissipate their capacity to influence the anti corruption fight. The vast majority of Civil Society organizations exist only through international funding assistance. Many CSOs in Sierra Leone lack coherent mandate, functional boundaries, and autonomy, according to one study. Many CSOs are equally unaccountable and many times corrupt.

Concrete reform measures have been taken to facilitate the ease of doing business in Sierra Leone; with potentials to limit the avenues for corruption. Further action needs to be taken to extend the legal environment for corporate oversight, and transparency and integrity in business transactions. In the circumstances of limited legal environment for corporate oversight, and transparency and integrity in business transactions, corruption in the sector remains at high thresholds.

The aspiration for democracy and good governance has leveraged a couple of institutions, policies, and processes in the fight against corruption. It is on account of these newer institutions, policies and processes that the corruptions watch-dog Global Integrity has indicated some progress in the fight against corruption. Beyond the limited institutional and

policy reforms, one can hardly point at any other driver of transformation in the fight against corruption.

RECOMMENDATIONS

Six actionable recommendations area made as ways by which the National Integrity System in Sierra Leone can be bolstered for higher returns in the fight against corruption.

It is recommended firstly, that the unequal relationship between the branches of government be addressed. It would aim to give Parliament more room to check the excesses of the executive. In this regard, Section 77k of the Constitution of Sierra Leone should be expunged so that Parliamentarians are able to debate and vote without fear of their party bosses' powers to remove them from Parliament. All constitutional provisions that give powers on the Attorney General and Minister of Justice to supervise any aspect of the work of the Judiciary should be scrapped. The Chief Justice must remain the head of the Judiciary who is not subject to the direction and guidance of the Attorney General and Minister of Justice.

It is recommended secondly, that the resource gaps that State institutions faced be incrementally addressed with purposive tact. It is obvious that as a poor country State institutions will continue to face challenges of inadequate resources. In the fight against corruption those institutions that are in the frontline must be given resource allocation priorities. At the minimum resources should allow such institutions to deploy all over the country, employ and retain qualified staff, and carry out their duties efficiently. Institutions that could be considered to be in the frontline of the anti corruption battle would be the ACC, the judiciary, the Auditor General's Office, National Public Procurement Authority, and the Office of the Ombudsman.

It is recommended thirdly, that the deficits in law be addressed comprehensively, and development and adoption of Codes of Ethics for all State institutions in the integrity system.

It is fourthly recommended that the Corporate Affairs Commission provided for in the Companies Act, 2009 be set up to handle matters of corporate governance integrity, accountability, transparency issues. This would bolster the institutional framework for managing corruption in the business sector.

It is recommended that incentives be given to the media and Civil Society for proper involvement in anti corruption work. Civil Society Organizations could be assisted with multi-year funding for multi-year work on social accountability issues. Assurances of multi-year

funding for any organization must be pegged to the quality of the organization's internal democracy and accountability. A more robust Code of Media Practice that holds incentives for professional growth should be introduced. A prestigious award could be introduced as one incentive to get the media to be excited about covering corruption.

It is lastly, recommended that purposive agenda be supported for the business sector's involvement in anti-corruption debate, advocacy and activism. For a start, such agenda could be set in a medium term with defined interventions, strategies and outputs. The Chamber of Commerce or a coalition of business associations could lead this effort with the support of international development partners.

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