

## **Countries at the Crossroads**

### **Countries at the Crossroads 2012: Sierra Leone**

#### **Introduction**

The decades-long breakdown of state institutions leading to an eleven-year conflict (1991-2002) has shaped the evolution of governance in Sierra Leone. Years of grievous official mismanagement of the country's economy and the subordination of government institutions led to a deeply corrupt system of rule. These problems helped to create conditions that led to the war, in which more than 60,000 people were killed.<sup>1</sup> The war began in 1991, when the Revolutionary United Front (RUF), a rebel group led by Foday Sankoh, launched a campaign to topple the corrupt military government of President Joseph Momoh and seize the country's resources. During its campaign to gain control of the country, the RUF employed brutal tactics including murder, physical mutilation, rape, and the recruitment and abduction of child soldiers. At the war's peak, the RUF controlled large swathes of territory and diamond fields in the countryside. In 1999 the UN Security Council established the United Nations Mission in Sierra Leone, which deployed up to 17,500 peacekeeping soldiers before its mandate ended in 2005. For more than a decade now there has been considerable British military involvement in security training. Reliance on external actors for reform of the security sector has been critical. Foreign financing and pressure have played key roles in pushing Sierra Leone officials to exercise the political will necessary to carry out reforms. External influence comes with very high levels of dependence on foreign aid, which accounts for 19 percent of national income.<sup>2</sup> Within this context, Sierra Leone has made considerable progress in improving governance, respect for human rights, and the rule of law, even though the country remains quite low on major international indices.

The government of President Ernest Bai Koroma of the All People's Congress (APC) was elected in September 2007. While the contest was the country's third competitive multiparty election since 1996, it marked the first time in Sierra Leone's history that an opposition party peacefully assumed executive and legislative power in a competitive election. Nonetheless, Sierra Leone's government and citizens remain dependent upon security guarantees associated with foreign military training programs and on considerable foreign aid to provide basic services.

Alongside deep poverty and endemic corruption, the most pressing and difficult long-term structural challenges in Sierra Leone are the nature of the justice system and local government administration in rural areas. The fusion of executive and judicial power in rural areas is embedded in an administrative system inherited from the colonial era. State officials and foreign donors have been reluctant to tamper with these institutions in part due to fears of potentially inciting social turmoil and political resistance.

Maintaining sustainable institutional reform and political stability as foreign involvement declines is critical to further improving Sierra Leone's record of governance, human rights, and the rule of law. This is already apparent in the decrease in information on government performance in some reports and web sites that were previously supported with external assistance. Ironically, advances in accountability and transparency raised the expectations of Sierra Leone's population well beyond the capacity of the country's economic resources and performance. These expectations may lead to political instability and aggravate existing election campaign violence.

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### Accountability and Public Voice

Voters choose the country's president in direct simple-majority elections. The 2007 elections for the unicameral legislature were based on a majoritarian electoral system, a shift from earlier use of a proportional representation system. Candidates from seven parties ran in the 2007 presidential elections and from eight parties in parliamentary elections in August of the same year. The president and parliamentarians are elected to five-year terms. In 2007, the head of the opposition All People's Congress (APC), Ernest Bai Koroma, was elected with 54.6 percent of the vote in a runoff election, beating the incumbent, Solomon Berewa, of the Sierra Leone People's Party (SLPP). Local government elections were held in July 2008. Presidential, parliamentary, and local elections are scheduled for the last quarter of 2012.

The National Electoral Commission (NEC) director is appointed by the president and confirmed by parliament to monitor elections and certify results. Observers declared the 2007 secret ballot elections to be free and fair.<sup>3</sup> The NEC led by Dr. Christiana Thorpe, demonstrated its independence when it annulled the results from 477 polling stations on the grounds of fraud and redrawing parliamentary constituency boundaries prior to voting.<sup>4</sup> Dr. Thorpe's decision was met with challenges from the SLPP, which questioned her authority to undertake such action. United Nations Development Programme (UNDP) staff and other foreign aid programs provide considerable technical and budgetary assistance to the NEC, raising concerns about its capacity to conduct impartial election monitoring as foreign assistance declines.

All parties enjoy equal campaigning opportunities by law. In 2008, during local government elections, there were complaints of sporadic intimidation of candidates and supporters, including attacks on individual's homes and efforts of local political bosses to buy out or otherwise sway candidates prior to the election. This election highlighted a number of issues, including tensions between the newly constituted local councils and existing chiefdom authorities. Chiefdom authorities under government-appointed chiefs have served as the primary institutions of local governance in Sierra Leone since colonial times. Elected local councils were established in the 1950s, abolished in 1972, and reestablished in 2004. Some chiefdom authorities view the new councils as threats to their longstanding control, and the two entities have struggled over the distribution of financial resources.

The May 28, 2011 by-election in Sierra Leone's eastern region also featured a tense campaign, with clashes between supporters of three main parties.<sup>5</sup> On September 9, 2011, a political event in Bo Township led to rioting between supporters of the SLPP and the APC, which included shootings and arson, and resulted in the leader of the SLPP and potential presidential candidate, Brigadier Rtd. Julius Maada Bio, receiving a head injury.<sup>6</sup> The incident raised concerns that political parties were recruiting youth gangs and that the increasing prevalence of violence would impact the 2012 election campaigns. The government response to the 2011 incident included a ban on political rallies. Opposition parties refrained from signing an agreement in December 2011 ending the ban on the grounds that the Political Parties Registration Commission (PPRC) rather than the Inspector General of Police should have handled the matter. Opposition parties and political candidates have raised further concerns over activities that may jeopardize equal campaigning opportunities. For example, observers have expressed alarm over a \$4.5 million arms shipment to the police's paramilitary Operational Support Division, which some fear includes a number of APC appointees. Likewise, an expected

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official “media outreach” program also incited concerns that pro-government media would be favored.<sup>7</sup>

The 2007 elections led to the first peaceful turnover of executive power to an opposition member since the resumption of multiparty elections in 1996. Three parties are represented among the 112 elected seats in parliament. Paramount chiefs, nonpartisan members of parliament, choose twelve legislators to represent each of the country’s twelve districts. Local council elections draw candidates from across the spectrum of parties. Parties theoretically support competing policies and interests, but in practice the individual political leaders’ influence and interests shape Sierra Leone’s party system. Many politicians engage in corrupt behavior and some encourage violent youth supporters, diminishing the significance of formal party platforms and declarations.

The 2002 Political Parties Act directs political parties to declare assets and contributions to the independent PPRC. This commission has the authority to decertify parties that fail to comply. In practice, the commission’s weak capacity has limited its enforcement ability. Indeed, several larger parties have not declared assets in advance of the 2012 elections, and have yet to face consequences. According to local media reports, many believe that members of the diaspora helped finance APC’s 2007 campaign and were rewarded with government appointments and official procurement contracts back in Sierra Leone. It is widely believed that such practices continue.

Sierra Leone’s 1991 constitution provides for the separation of executive, legislative and judicial powers with provisions for oversight and accountability for excessive exercises of power. Presidential refusal to sign parliamentary legislation can be overridden with a two-thirds majority vote in parliament. The constitution (section 124) grants the Supreme Court the power of judicial review to determine whether a legislative decision is contrary to constitutional intention, according to the court’s interpretation of the constitution.<sup>8</sup>

The legal framework of Sierra Leone’s political system does not privilege the interests of any specific group. It neither prescribes a particular political party nor provides special status for the military or other power group. The government has also taken action to specifically limit the influence of organized criminals in the political system, such as prosecuting a number of individuals involved in international drug trafficking, including a relative of a government official. International assistance for surveillance and the revision of legislation to combat money laundering also limits the influence of this illicit source of wealth. Despite these measures, widespread poverty and extreme economic inequality cause many Sierra Leoneans to regard their political system as biased in favor of a small elite, including those who were educated abroad and returned after the 1991-2003 conflict.

The government and foreign donors are focused on civil service reform.<sup>9</sup> Historically, poor record keeping allowed corrupt officials to add fictitious “ghost workers” to pad payrolls in order to collect additional salaries. Failure to collect and verify educational and professional credentials allowed managers to favor unqualified family members and friends in hiring and promotion. Improvements in record keeping have strengthened open competition and elevated merit in recruitment, promotion and dismissal of civil servants.

Sierra Leone has a vibrant civic culture, with numerous non-governmental organizations (NGOs) that pursue popular causes and monitor government performance. NGOs commonly highlight deficiencies in the implementation of official policies, corruption, and poor public service provision. NGO coalitions influence the crafting of legislation through advocacy efforts, often in tandem with foreign donors. There are no legal barriers to foreign funding of local

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organizations.<sup>10</sup> NGOs are supposed to be paid members of the official Sierra Leone Association of NGOs (SLANGO), which has a relatively simple registration process. Criteria for Sierra Leonean NGOs and civic groups to register with the government include employing at least five staff persons and signing an agreement with government to permit field verification and interviews. Despite this requirement, field visits from government officials are rare, reflecting low official capacity and a concern that visits might antagonize foreign donors that play a critical role in social service provision and in Sierra Leone's bilateral relations with many countries.<sup>11</sup>

Sierra Leone's constitution protects the freedom of expression and the press.<sup>12</sup> More than 50 licensed newspapers report on current affairs and many are critical of government officials and their performance. Two television stations broadcast in Sierra Leone: the independent government-supported Sierra Leone Broadcasting Corporation (SLBC) and a private station. Though technically independent, SLBC is widely perceived to be a pro-government station. The fact that the acting chairman of the station's board in early 2012 also held a position in the APC party reinforced this perception. Numerous private FM radio stations, owned by NGOs, private companies and individuals, offer call-in shows and other programs that deal with a wide range of topics and political views. Radio plays an important role in providing diverse and balanced information. Portable battery-powered radios provide listeners with information about democratic processes and policy issues and provide diverse guests with access to the airwaves throughout the country. These broadcasts are accessible to listeners despite absent or sporadic provision of electricity to the great majority of Sierra Leoneans. The government regulates media through the Independent Media Commission (IMC). The IMC Chairman and ten other members are appointed by the president with the advice of the independent Sierra Leone Association of Journalists (SLAJ), subject to approval by parliament. The IMC has acted in a neutral manner, and efforts on the part of officials intended to influence IMC proceedings have attracted swift SLAJ condemnation.<sup>13</sup>

Despite a generally positive record of government respect for media freedom, journalists face threats of criminal prosecution for libel under Part V of the Public Order Act of 1965. In 2009 the Supreme Court rejected a challenge to the law brought by SLAJ, which argued it was contrary to the constitution's guarantee of free speech. SLAJ and interested NGOs and civic groups remain committed to holding the president to his promise to review this law prior to the 2012 elections. Journalists have escaped prosecution under this law in recent years. Some agents of government have committed acts of violence against journalists. In June 2011 a police constable was arrested as a suspect in the murder of Ibrahim Foday of *Exclusive Newspaper*.<sup>14</sup> The murder was connected to a local land dispute and did not reflect an official policy of repression of journalists. In September 2011 plain-clothes members of the presidential guards assaulted four journalists. The incident produced a statement from the Office of the President, condemning the beatings of the journalists and calling for an investigation.<sup>15</sup> The lack of expeditious prosecutions of suspects in these cases reflects the low capacity of the country's justice system and the minimal political will to pursue these cases.

The state refrains from direct or indirect censorship of print, broadcast and web-based media. The National Telecommunications Commission regulates and licenses telecommunications operators amidst a proliferation of internet access providers. The activation in 2012 of a connection to an offshore fiber optic cable will end a government monopoly over international voice calls and dramatically increase available bandwidth. Sierra Leone's government makes no effort to filter internet content and has no laws for this purpose.

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The state does not subsidize media with the exception of SLBS. The 2009 Sierra Leone Broadcasting Corporation Act placed management of public radio and television broadcasting under a board of trustees that includes representatives of independent organizations from the legal profession, journalists, a school of journalism, an interfaith religious council, and others. The president appoints the board's chairman, subject to approval of parliament. Some private media operators are suspected of accepting payments from individual agents of government in return for favorable coverage, however there is no evidence of official support for this practice and it is explicitly condemned by SLAJ. Newspapers are required to register with government, and registration is regulated by the IMC. Newspapers remain beyond the financial means of many and power blackouts hinder the role of radio and television programming in fostering political debate and in delivering information about citizens' rights and official policies.

### **Civil Liberties**

The constitution protects citizens against "inhuman treatment," including torture, and Sierra Leone is party to the International Convention against Torture. The state has not engaged in extrajudicial executions in more than a decade, except in cases of police misconduct. The last death penalty execution took place in 1998. At the same time, the state has lacked effective control over its agents' uses of violence against citizens. The September 2011 riots in Bo, which resulted in some police officers firing directly at civilians, illustrated poor planning and crowd control on the part of the police force.<sup>16</sup> The state refrains from attacks against activists, apart from the involvement of police in inter-party disputes that rise to violent levels. According to its 2010 report, the police complaints division handled 1,183 cases, with 35 resulting in dismissal of accused officers, 81 warning letters, and 187 sent for corrective training.<sup>17</sup>

The prison system is overcrowded. In 2010, 2,328 prisoners were housed in prisons designated to hold only 981 individuals.<sup>18</sup> The system is also underfunded, as reflected by the poor feeding of prisoners. Many prisoners have to rely upon relatives to bring them adequate food. Many prisoners remain in detention without charges or trial, a reflection of the inability of the justice system to process cases in an accurate and timely manner. These conditions violate citizens' constitutional right to written charges within 24 hours of detention. Political opponents and activists are not targets of arbitrary arrests.

The low capacity of Sierra Leone's justice system forces many citizens to rely upon vigilante groups and officially sanctioned customary ("traditional") forms of adjudication to prevent crime and to seek redress when victimized. Vigilante justice is tolerated, particularly against theft in urban areas.

The bulk of human trafficking in Sierra Leone is internal trafficking of women and children for labor and prostitution. Fosterage of children is a widespread cultural norm, with many impoverished families choosing to put their children in the care of others that may be able to provide more opportunities for them. Children not taken in by families are often left exposed to traffickers looking for child laborers. In some rural areas, local notables abuse local customary courts to bring cases against individuals to coerce them into providing unpaid farm labor.<sup>19</sup> Though the Anti-Trafficking Act was passed in 2005, underfunded government agencies that are overwhelmed with other priorities have devoted few resources to the problem.

The office of the ombudsman was created in April 2000 to handle citizen complaints and petitions to the government, including those related to non-payment of salaries to civil services

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and other personnel matters. The office has been slow to investigate and address complaints, in part due to the agencies' reluctance to cooperate and weak enforcement capacity. Former Speaker of Parliament, Justice Edmund Cowan has served as Ombudsman since 2008. In 2007, the Human Rights Commission was created to handle citizen complaints related to violations of human rights on the part of public officials, state agents and institutions. The Commission also has the capacity to investigate rights violations on its own initiative. This has included action to investigate allegations of police mistreatment of protesting strikers in April 2012.<sup>20</sup>

Sierra Leone is a party to the African Charter on Human and People's Rights and is committed to the "elimination of every discrimination against women." Section 15 of the constitution recognizes this right, though it is qualified by the recognition of existing customary and family law, in section 27, which exempts laws concerning marriage, adoption, divorce and inheritance from protection against discrimination. In March 2010 President Koroma promised to abide by the 2004 Truth and Reconciliation Commission recommendation for a 30 percent quota for women at all levels of government administration.<sup>21</sup> Government actions to advance the role of women in the political process in line with the 30 percent quota have been limited. A woman serves as a High Court judge, the army now has its first female brigadier, and a 2011 cabinet reshuffle resulted in the appointment of two female cabinet ministers. As of late 2011, parliament was considering implementing a quota system in Sierra Leone's electoral law that would guarantee that women would constitute at least 30 percent of the representatives in parliament, on local councils and appointments to government positions.<sup>22</sup>

Three Gender Acts of 2007 have served to ameliorate slightly gender-based societal discrimination. These laws provide a framework for addressing domestic and other violence against women through Family Support Units attached to police stations. In 2011 more than 40 units were in operation. Nonetheless, these laws continue to be violated, especially in rural areas where widows continue to be prevented from inheriting their husbands' properties as the new law dictates. Out of 927 sexual abuse cases reported in 2009, none resulted in convictions that year.<sup>23</sup> In 2010, Family Support Units received more than 4,200 reports of sexual abuse and violence. About a quarter of these reports lead to charges, and 57 of them resulted in convictions.<sup>24</sup>

Sierra Leone's government does little to protect against gender discrimination in employment and occupation. Most anti-discrimination measures that exist on paper languish due to limited resources and weak political will to implement these reforms. In 2009, the High Court issued an exceptional decision that a woman was lawfully entitled to stand for the position of Paramount Chief.<sup>25</sup>

State policy does not discriminate against the ethnic, cultural, and linguistic rights of minorities. Protection from discrimination, defined in terms of ethnicity, sex, place of origin and political opinions, is a constitutionally right. Most minorities do not suffer systematic discrimination and enjoy full equality before the law. Nonetheless, resource scarcity and weak institutional capacity limit state efforts to ameliorate discrimination against minorities, and other distinct groups. The most extensive efforts to ameliorate societal discrimination appear in the passage of the Gender Acts noted earlier to improve the position of women in Sierra Leone society. Social pressures and the weak capacity of the justice system inhibit individuals or groups from challenging discriminatory community practices.

There is legal basis for discrimination against homosexual acts in the Offenses Against the Person Act of 1861 that prescribes a penalty of life imprisonment for buggery and bestiality.<sup>26</sup> This law is not used in practice, though homosexuality carries considerable social

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stigma and homosexuals have been subjected to evictions and beatings, and suspected lesbians have been raped. Fear of reprisals and weak enforcement of existing laws deters victims from filing complaints. Discriminatory treatment of persons of Lebanese and other foreign descent continues as a result of the Sierra Leone Citizenship Act of 1973 (section 11, part 2), which requires that a father or grandfather claim “negro African descent” as a condition for citizenship.<sup>27</sup> The Act was amended in 2006 to allow dual citizenship and maternal parentage of “negro African descent” as a condition for citizenship. This modification enabled some members of a long-established Lebanese Diaspora community to claim citizenship.<sup>28</sup>

The state makes no particular effort to prevent or ameliorate discrimination in employment and occupation against ethnic, religious, sexual minority and other distinct groups. Individuals may seek personal legal remedy, though the judicial system’s weak capacity limits such actions.

The state engages in limited efforts to modify or abolish customs and practices that discriminate against disabled persons. In 2009 Sierra Leone signed the UN Convention of the Rights of Persons with Disabilities. The Government accepts in principle the recommendation of the Truth and Reconciliation Commission that war-affected individuals receive government assistance. Scarce resources and lack of political limit the state’s ability to implement these recommendations. A survey of disabled individuals found that most believed that the government was unable to provide social services and looked instead to family and communities for assistance.<sup>29</sup>

Sierra Leone’s Constitution guarantees the right of citizens to hold religious beliefs of their choice and practice their religion as they deem appropriate.<sup>30</sup> The government has no requirement for recognizing, registering, or regulating religious groups. Likewise, the state imposes no restriction on religious observance, religious ceremony or religious education. Government officials often invoke religious principles at public events, reflecting personal conviction and social practice rather than official policy to support a particular religious group.

Freedom of association is a constitutional right.<sup>31</sup> Citizens face no compulsion to join any particular group or organization. The state respects rights to form and join free and independent trade unions. The dominance of the informal economy diminishes the role of trade unions and enhances the influence of associations such as those of petty traders. These associations typically support politicians in return for protection of their interests, often tying these trade associations to the fortunes of their political patrons.

The state recognizes the rights of civic associations, businesses, and political groups to organize, mobilize and advocate for peaceful purposes. This right is infringed when groups become involved in inter-party violence and personal competition between rival politicians who act as patrons to some of these groups. The UN Integrated Peacebuilding Office in Sierra Leone facilitates coordination between these organizations to limit political violence and manipulative influence by politicians. The state permits demonstrations and public protests, including those of opposition parties and groups that are critical of government policies. Allegations of the use of excessive force in the policing of political demonstrations have resulted in independent commissions of inquiry.

## Rule of Law

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The decline of state institutions over time and the lingering impacts of the 1991-2002 conflict have seriously undermined the administration of justice's ability to be independent, impartial, and nondiscriminatory. Delays in the administration of justice, due largely to lack of resources and personnel, have led to the popular perception that corruption often determines the speed and outcome of court proceedings. Discretionary power over the granting of bail has been susceptible to manipulation in criminal matters. Continuous procedural delays leave targets of prosecution in a state of uncertainty, and observers frequently suspect that powerful individuals exploit these conditions to target business competitors and political rivals.<sup>32</sup> Leaked US diplomatic cables indicate that American embassy officials were concerned that the Attorney General attempted to solicit \$2.5 million in bribes to grant bail to international drug traffickers.<sup>33</sup> As a result of this dysfunction, the country's law enforcement, security and judicial sectors have been targets of considerable international assistance, principally from the UK Government and through the UN.

Judges have constitutional protection from executive and legislative interference. Judges can be removed only if they are incapacitated or engage in serious misconduct. Removal must be authorized by the president upon recommendation of a special investigative tribunal and approval by a two-thirds majority in parliament. Despite these procedures, in January 2008 the president sent Chief Justice Ade Renner-Thomas on indefinite leave and named a female judge to take his place. This occurred in the context of SLPP efforts to challenge in court the NEC decision to invalidate some votes from the 2007 presidential run-off elections. Freetown media speculated that the dismissal was due, in part, to suspicions among government officials that Dr. Renner-Thomas might favor opposition views. In 2010 a magistrate was prosecuted for misappropriation of court fines. Similarly, in July 2011 the Supreme Court upheld the right of Parliament to form a committee to investigate whether two judges accepted bribes.<sup>34</sup> These cases indicate that the balance of powers between branches of government offer some basic protection to judges against undue interference while allowing pursuit against corrupt behavior.

Legislative, executive and other government authorities do not always comply with judicial rulings. Scarce resources and lack of support for decisions in local communities are more typical causes of non-compliance rather than systematic efforts on the part of government agencies or political groups to defy judicial rulings.

Judicial appointments at higher levels generally reflect professional experience and merit. Supreme Court judges must have practiced or sat on the bench for at least twenty years, Court of Appeals judges for fifteen, and High Court judges for ten. The paucity of resources limits training available to magistrates and judges prior to appointment, and there are few options available to upgrade skills after appointment, such as through attendance at international conferences or courses. Sierra Leone law reports ceased publication in 1973, hindering access to prior judgments. Placement of legal materials on the Internet selectively addresses some of these problems, as well as an overall improvement in training as the effects of the war recede.

In principle, citizens are guaranteed fair hearings in competent, independent tribunals. However, unmanageable caseloads and corruption undermine public perceptions that tribunals are either competent or independent. The presumption of innocence until proven guilty is an integral part of the legal culture and system of Sierra Leone, despite lapses in its application. The law limits the time between arrest and appearance before a judge or court, ranging from three to ten days depending on the seriousness of the suspected crime. In practice, defendants are remanded for long periods without charge. Indeed, some defendants remain in prison for years waiting for their cases to be heard as courts and other state agencies lose related paperwork and are overwhelmed with cases. Moreover, there is a dearth of translation services in the legal

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system and all but local courts conduct proceedings in English, a language that the majority of the population cannot understand.

The state guarantees access to council only for those accused of capital crimes. In 2011, state pay to private lawyers representing the accused in capital cases was set at \$150. The Constitution promises all defendants “access to a legal practitioner or any person of his choice”. Access to council is hindered by a lack of lawyers; only 298 lawyers serve Sierra Leone’s six million people.<sup>35</sup> State capacity to provide legal assistance to indigent people is virtually non-existent. The Open Society Institute’s Justice Initiative works in partnership with local NGOs to establish a national network of paralegals that can serve in place of legal aid from the state. By late 2011 paralegals were available in 32 locations in eight of Sierra Leone’s 12 districts to provide clients with legal advice, help in navigating the judicial system, and oversee mediation.<sup>36</sup> Some rural communities have complained of lapses in due process in the allocation of large land leases to foreign investors.

The Office of the Director of Public Prosecutions undertakes proceedings against those charged before all but local courts. Prosecutors are not subject to overt political direction, though this office suffers the same institutional and resource deficiencies that affect other judicial institutions in Sierra Leone. Prosecutorial misconduct is due, in general, to corruption of individuals rather than systematic political direction or control of the office by other officials of the state.

Public officials and ruling party actors are subject to prosecution for abuse of power, particularly for malfeasance for personal gain. In practice, public officials with the right connections to state power almost always evade prosecution for malfeasance. Prosecutions that do occur are pursued through the anti-corruption bodies detailed below. Recent cases include the indictment for corruption of three members of Sierra Leone’s 50<sup>th</sup> Anniversary Committee.<sup>37</sup> In the eyes of international donors and Sierra Leone’s citizens, corruption should be the main focus of prosecutions of public officials.

The majority of Sierra Leoneans are governed by customary law as administered in local courts. These courts suffer from deficiencies, including undue influence of local notables, particularly because proceedings are held in open sessions where individuals may hesitate to testify for fear of aggravating powerful members of their immediate communities. Moreover, local customary courts are not adequately separated from legislative and executive authorities, as they are not fully incorporated under the judiciary. The local courts fuse local executive and prosecutorial authority, which seriously undermines the notion of prosecutorial independence and freedom from political direction.

Local government administrators appointed by chiefs can assert political influence and provincial secretaries exercise the jurisdiction to review cases. Many local customary court officials are appointed because of their political loyalties, rather than their impartiality or expertise. This practice undermines the legitimacy of local courts and some plaintiffs seek justice through mediation by religious leaders or vigilante justice such as in real estate disputes.

Violations of due process occur at a systemic level in conflicts between customary law administered in local courts, and provisions of the 2007 Gender Acts. This violation of due process is ingrained in the fusion of a system of local rule and local courts, leading to the use of these courts as tools in the arbitrary exercise of power, especially over poor youth and women.<sup>38</sup>

The Special Court for Sierra Leone (SCSL), established in 2002, provides due process in the prosecution of actors charged with war crimes and crimes against humanity in connection with Sierra Leone’s 1991-2002 conflict. The court has indicted 21 individuals, twenty of whom

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were prosecuted or died before proceedings were complete. One remains a fugitive and is presumed dead. Closing arguments against former Liberian President Charles Taylor, who was accused of committing war crimes while supporting rebels in Sierra Leone and attempting to benefit from the country's natural resources, were completed in March 2011. In May 2012 he was convicted and sentenced to fifty years in prison.

Considerable UK government assistance has strengthened effective and democratic civilian control over the police, military, intelligence services, and internal security services. UK military assistance through the International Military Assistance Training Team has focused on institutionalizing military non-involvement in civilian politics as well as constitutional control of military and security services. An example of these programs' success may be that there has been no suggestion of military involvement in the 2012 presidential campaign of former army head Julius Maada Bio. The UK government has also been a primary financier of the Sierra Leone Security Sector Reform Programme to build civilian coordination of internal security tasks. This coordination takes place in the Office of National Security (ONS) under the executive branch. The ONS is more effective than most government agencies in Sierra Leone, however, the intensive involvement of the UK Government in this program's success causes some concern about the sustainability of these achievements as foreign financial support and monitoring declines.

Military and intelligence services generally do not appear in major investigations of corruption or abuse of power. While this can be attributed to the success of reform programs, it also may reflect continued international oversight of finances and other operational aspects of the military and intelligence services. Concerns in the U.S. and elsewhere about narcotics trafficking and regional stability, coupled with the Sierra Leone military's participation in an African peacekeeping force in Somalia, suggest that the intensive foreign presence in military affairs will remain in the foreseeable future. The Police Complaints Commission is charged with handling citizen complaints against police. Nonetheless, in April 2011 the Sierra Leone Police ranked as the most corrupt institution in Sierra Leone in a national public opinion survey, with complaints centering on traffic police.<sup>39</sup>

Members of the police, military, intelligence services, and internal security services generally respect human rights and are held accountable for violations of these rights. Indiscipline of any individual police member risks sanction. Improved security sector performance over the past decade reflects, in part, UK government support for programs aimed at convincing Sierra Leone citizens that the state and its security services will protect them and respect the law and that they need not turn to militias and other non-state actors for protection. The intervention of police in violent events related to election campaigns and strikes in 2011 and 2012 caused popular speculation about whether police used excessive force on behalf of powerful actors associated with the state. The Human Rights Commission has investigated such allegations, but redress for individuals are extremely limited.

The state gives individuals the right to own property in urban municipalities without restriction. Free-hold tenure is limited to these urban areas. Rural lands are subject to customary laws of tenure in which local chiefs hold land in trust for their communities. Families that trace ancestry to these areas are often given preferential land use rights. As noted, women's rights to own and inherit land have customarily been restricted in rural areas. Land transactions in rural areas often occur informally and are not mapped and registered by the state. Land tenure disputes play a significant role in political disputes between families and in social tensions in rural areas.<sup>40</sup>

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Foreign investors in the agricultural sector can conflict with customary land tenure norms. Activists claim that some firms take advantage of the government's eagerness to attract investors in commercial agriculture and argue that a lack of transparency in rural land tenure lead to "land grabs" that violate the rights of rural communities.<sup>41</sup> The occurrence of this kind of land deal highlights the extent to which citizens remain vulnerable to the economic interests of officials and businesses.

The enforcement of property rights and contracts is weak, and the Heritage Foundation in 2011 ranked Sierra Leone at 149 ("repressed") in their *Index of Economic Freedom*.<sup>42</sup> The state imposed a moratorium on real estate transfers in 2008 in response to widespread fraudulent sales of property by individuals and groups that lacked proper legal title. This problem reflects poor record keeping and a long history of corruption in title registration. The moratorium was lifted in 2011 amidst foreign donor-supported reform of the registration system. The process of resolving contract disputes is arduous and expensive. On average, enforcing a contract requires 39 procedures, takes 515 days, and costs 149.5 percent of the value of the claim. Sierra Leone ranks 141 out of 183 economies in the World Bank's annual *Doing Business* ranking.<sup>43</sup>

### Anticorruption and Transparency

Official corruption and graft are widespread in Sierra Leone's government. Much corruption stems from excessive bureaucratic regulations and registration requirements. Sierra Leone ranked 134 in Transparency International's 2011 *Perceptions of Corruption Index*, the same as its rank a year earlier.<sup>44</sup> Citizens widely cite corruption and bribes as key complaints about their government. Foreign donors, along with key individuals in Sierra Leone's government, recognize corruption as a critical area of concern, and as a key obstacle to bolstering the state's legitimacy in the wake of conflict.

The prevalence of corruption in official economic activity has decreased in recent years. State participation in commercial enterprises, usually in partnership with private investors, has occurred in connection to the financial sector, power generation, road construction and the construction of a link to an offshore Internet cable. State owned enterprises report to ministers and have no legal requirement to produce public annual reports or audit results. However, these enterprises often involve foreign donors and thus face pressure to conform to global standards of administration.

Reform of the tax system and of the National Revenue Authority (NRA) has improved the volume and transparency of revenue collection. In 2010 the Anti-Corruption Commission brought charges against the head of the NRA for his role in a fraudulent contract bid. The bulk of revenues from citizens are collected through excise taxes, which reduces opportunities for evasion. Opportunities for malfeasance remain in granting "tax exempt" status, particularly for import duties, to politically connected enterprises. Royalties on mining of titanium and diamonds, and increasingly from iron ore, are regulated under the Mines and Minerals Act of 2009, which was written and passed with expert foreign assistance. In 2011 Sierra Leone renewed its candidacy status in the Extractive Industries Transparency Initiative and a government spokesman promised to publish mining contracts on a web site.<sup>45</sup>

State enforcement of anticorruption measures has improved in purely institutional forms. The government continues to lack political will and capacity to regulate economic activities that invite corruption. In 2011 the UK Government funded the creation of the Anti-Corruption

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Commission (ACC) to investigate allegations of corruption in government agencies. ACC performance improved after the passage of the Anti-Corruption Act of 2008, which gave the ACC prosecutorial powers and strengthened its investigative powers. The Auditor General is responsible for auditing public accounts and posts audits on its web site.<sup>46</sup> The Audit Service Sierra Leone (ASSL) conducts audits of public accounts to advise parliament, however it does not have enforcement powers. In 2010 the ASSL's annual report detailed numerous irregularities in procurements and in enforcement of tax regulations. Findings included irregular salary advances and loans to members of parliament and the disappearance of revenues from state agencies. More generally, the ASSL's report painted a picture of financial irregularities across the entire public sector.<sup>47</sup> Legislation in 2007 provided for increased independence of the ASSL, though its limited investigative capacity hinders its operations. The ACC was involved in 28 prosecutions for corruption in October 2011, 60 percent more cases than a year earlier.<sup>48</sup>

The state enforces the separation of public and private interests of those in public office. An Asset Declaration Unit was created in 2009 to collect declarations of assets from civil and public officials. During the first phase of the collection exercise, 16,855 declarations were collected.<sup>49</sup> Many observers remain skeptical about whether these declarations include all assets. Moreover, many public officials, including in high office, ignore the rule without suffering penalties. Declarations that are provided are not regularly available for public scrutiny and verification.

Sierra Leone's vigorous print and broadcast media report details of allegations of corruption and closely follow related prosecutions. The ACC collects anonymous reports of corruption through telephone and web hotlines. Despite this wide coverage, redress for victims of corruption remains a fanciful concept due to Sierra Leone's scarcity of resources and the continued involvement of some government officials in corrupt activities. Victims of corruption may pursue claims, though very few chose to do so. Corruption is also an issue in the educational realm, which it is often an outgrowth of extremely low rates of pay for teachers. Students commonly bring small payments to give to their teachers for exams and other materials that are supposed to be provided free of charge. In rural areas, some students are also required to grow vegetables on school grounds for their impoverished teachers.

Information about government operations is often available to the public on state-run websites. There has recently been a decline in the timeliness of this information from some agencies because of the withdrawal of international backers, as well as other forms of technical and financial assistance. Despite the government's repeated stated intention to do so, a Freedom of Information bill had yet to be enacted as of mid-2012. The long delay in passing this promised measure suggests that some politicians are reluctant to share information about the perks of office. Meanwhile, government contracts for major projects continue to be surrounded by allegations of insider-dealing and other forms of corruption as the workings of government are shielded from public scrutiny. The Ministry of Finance posts budgets on its web site in a timely manner, reflecting the higher levels of capacity and expertise within this agency, historically and in the present. The budget-making process is subject to legislative review and scrutiny, although observers suspect that the advice of the International Monetary Fund (IMF) and other international actors that provide financial support to Sierra Leone's government weighs more heavily than that of the legislature in the formulation of the budget. Government expenditures and analyses appear online at the Ministry of Finance website<sup>50</sup> and are reliably updated.

Government procurement has become more transparent in recent years, although a World

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Bank report indicates that, “weaknesses still remain in the legal framework for public procurement, coordination with public financial management, and transparency.”<sup>51</sup>

The government’s dependence on foreign assistance has been coupled with significant donor involvement in the monitoring and distribution of procurement resources. Foreign doubt of Sierra Leone capacity to monitor procurement is reflected in the fact that less than a quarter of all aid disbursed to the government flows through national procurement structures.<sup>52</sup> Foreign assistance is vital to many of the government’s administrative functions, reflecting the central role that external actors have played in supporting post-conflict improvements in governance, while also causing concern about the sustainability of these gains as external actors gradually disengage.

### Recommendations

- The government should scrupulously adhere to procedure concerning campaigns and voting, in order to mitigate widespread popular perceptions that the ruling party manipulates state institutions for political advantage.
- The government should enforce laws and regulations that require state officials and agencies to disclose financial information, and it should make this information available to the public for scrutiny.
- Appropriate state agencies should undertake more systematic and even-handed anti-corruption investigations and prosecutions to address endemic corruption.
- The government should consider further reform of local justice institutions in rural areas, in order to insulate these institutions from undue interference from local government personnel.
- The government should repeal the criminal libel law in line with constitutional guarantees of free speech.

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