Legal and Policy Frameworks Regulating the Behaviour of Politicians and Political Parties—Sierra Leone

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Preface

In recent years the world has witnessed the increased capacity of illicit transnational networks to threaten the legitimacy of democratic institutions and political processes in both emerging and established democracies. Even though these networks typically use violence and intimidation to contest and challenge state institutions, they are increasingly using other (more subtle) methods to manipulate political processes. These include forging strategic links with politicians and political parties by inter alia funding political campaigns, participating in money laundering schemes, establishing new political parties and movements, and even joining in economic ventures and legitimate businesses.

International IDEA therefore launched the *Protecting Legitimacy in Politics* project to contribute to the understanding of the nexus between organized crime and politics in various regions and improving policy responses to those challenges. The project is designed to generate empirical knowledge on its extent and modalities, document the existing regulatory frameworks that restrict and punish the illegal behaviour of politicians, and facilitate policy debates with decision-makers at national and regional levels.

In West Africa, International IDEA joined forces with the Inter-Governmental Action Force against Money Laundering in West Africa (GIABA) to work with local researchers in the region. This work intended to analyze some existing policy frameworks that regulate the behaviour of political actors and parties, as well as to explore their implementation challenges, seeking to channel new policy alternatives at national and regional levels. This report is the result of those efforts in Sierra Leone, and complements similar reports that will be published for other regions, such as the Baltic states and Latin America.

Vidar Helgesen
Secretary-General
International IDEA

Acronyms and abbreviations

ACC	Anti-Corruption Commission
AG	Attorney-General
AML	Anti-Money Laundering
APC	All Peoples Congress
BSL	Bank of Sierra Leone
CISU	Central Intelligence Service Unit
CPP	Convention People's Party
CSSDCA	Conference on Security, Stability Development and Cooperation in Africa
DPP	Director of Public Prosecutions
ECOWAS	Economic Community of West African States
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GIABA	Groupe Intergouvernmental d'Action contre le Blanchiment d'Argent en Afrique dei'Ouest [Inter-Governmental Action Force against Money Laundering in West Africa]
International IDEA	International Institute for Democracy and Electoral Assistance
MDAs	ministries, departments and agencies
NDA	National Democratic Alliance
NEC	National Electoral Commission
NEPAD	New Partnership for Africa Development
NPPA	National Public Procurement Authority
NRA	National Revenue Authority
PLP	Peace and Liberation Party
PPRC	Political Parties Registration Commission
PPRR	Political Parties Registration and Regulation Commission
SLPP	Sierra Leone Peoples' Party
UNDP	United Nations Development Programme
UNIOSIL	United Nations Integrated Office in Sierra Leone
UNPP	United National People's Party

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Introduction

Despite a decade-long civil war, lasting from 1991 to 2001, and after several peace agreements (Aning and Atuobi 2012), Sierra Leone has emerged as a functional, but fragile democratic state. In the aftermath of the war, Sierra Leone has managed to hold three successive multi-party competitive elections. The significant progress made in consolidating and deepening the post-conflict peace and security environment is seen in the rebuilding of state and government institutions. A cursory look at the political history of the country shows the vibrancy of the political system in fighting colonialism to move the country into independence. However, the collective struggle for an independent Sierra Leone quickly gave way to an acrimonious political environment that eventually degenerated into an exclusivist, corrupt and abusive system of governance, eventually resulting in civil war (McIntyre and Aning 2005). In terms of its governance structure, Sierra Leone runs a three-tier government system with the formal national government comprising an elected president, an independent judiciary and parliament (Castillejo 2009). Additionally, there is a formal local government structure made up of district councils as well as customary chiefdom structures that operate under semi-regulated national legislation (Atuobi 2009). Political parties and politicians play a crucial role in all three tiers of government. Post-independence, several political parties were formed. However, the most dominant ones became the Sierra Leone Peoples' Party (SLPP) and the All Peoples Congress (APC). Table 1 provides an overview of political parties that have been victorious in the various general (presidential and parliamentary) elections in Sierra Leone since 1961. These parties emerged with the desire to shape the development trajectory of the country.

Table 1. Political Parties and Candidates that have won the General Elections since 1961

Year	Political Party	Candidate
1961	Sierra Leone Peoples' Party (SLPP)	Sir Milton Margai/ Sir Albert Margai
1967	All Peoples Congress (APC)	Siaka Stevens
1996	Sierra Leone Peoples' Party (SLPP)	Ahmad Tejan Kabbah
2002	Sierra Leone Peoples' Party (SLPP)	Ahmad Tejan Kabbah
2007	All Peoples Congress (APC)	Ernest Bai Koroma

Source: Authors' compilation, 2012

Sierra Leone has emerged as a functional, but fragile democratic state with different political parties that have won successive post-war presidential and parliamentary elections (African Research Institute 2011), although the SLPP and the APC between them account for about 90 per cent of civilian rule in Sierra Leone post-independence (World Bank 2011). Despite these modest gains, the country still grapples with election-related youth violence (Abdullah 1998), a high incidence of widespread corruption (Dumbuya 2011), and it has gradually become a hub of drug-related money laundering activities (*Sierra Leone Daily Mail* 2012).

This article critically examines the legal and policy frameworks that exist to regulate the behaviour of politicians (elected or appointed) and political parties. More importantly, this article identifies the existing loopholes within the legislation that can pose major threats to the growth of democracy in Sierra Leone. Consequently, the article begins by briefly outlining the legal and institutional frameworks governing political party formation and party financing. Additionally, we review the existing mechanisms for eliciting compliance in all forms of political behaviour and reflect the level of commitment—both institutional and structural—that individual politicians and political parties are willing to agree and subject themselves to. Also, with respect to compliance, we evaluate the political culture in Sierra Leone by assessing the norms and values of politicians and political parties towards the entrenched ethno-regional patterns of voting and politicized ethnic identities with a view to sanctioning free-riders (Dumbuya 2011). Accordingly, the

following section highlights pertinent issues in the political landscape, such as ethnicity and transparency in political behaviour, as well as adherence to the political parties' code of conduct. Finally, the concluding section looks closely at the loopholes within the legal frameworks with respect to public procurement, bribery and corruption within the public sector and anti-money laundering activities.

Political Party Formation and Financing

Sections 34 and 35 of the 1991 Constitution as well as the Political Parties Act 2002 outline the normative and institutional frameworks within which political parties can be formed in Sierra Leone. Sierra Leone is party to a number of international legal frameworks on freedom of association. These include the International Covenant on Civil and Political Rights, the New Partnership for Africa Development (NEPAD), the African Charter for Population Participation in Development and Transformation, and the Conference on Security, Stability Development and Cooperation in Africa (CSSDCA). Recognizing the need to better coordinate the activities of political parties in Sierra Leone, Article 34(1) of the 1991 Constitution and the 2002 Political Parties Act requires the political parties to register with the four-member Political Parties Registration Commission (PPRC) before they can operate. Specifically, this Commission is responsible for the registration of all political parties and for that purpose may make such regulations as may be necessary for the discharge of its responsibilities under the Constitution (Republic of Sierra Leone 1991). Consequently, the powers of the Commission to regulate political party behaviour must be understood in conjunction with Section 35(6) of the 1991 Constitution, which provides that 'Subject to the provisions of the Constitution, Parliament may make laws regulating the registration, functions and operations of political parties' (Republic of Sierra Leone 1991).

Political parties are supposed to conform to the democratic principles of participation, free choice, rule of law, political tolerance and transparency. However, support for political parties in Sierra Leone is polarized. Ethnic and regional identities have been the best placed and most effective means of mobilizing electoral support. In addition, traditional practices are used to prevent women from participating in the political process and many women, especially in the rural areas, are deprived of political power (Abdullah 2010). Allegiance to political parties is based on promises of money, jobs and services. Politicians routinely use office and state resources to reward party faithful (Abdullah 2010). Article 35(1) of the 1991 Constitution authorizes political

parties to participate in shaping the political will of the people through 'the dissemination of information on political, social and economic programmes of a national character as well as to sponsor candidates for Presidential, Parliamentary or Local Government elections'. Consequently, Article 35(5) states that,

> No association, shall be registered or be allowed to operate or to function as a political party if the Political Parties Registration Commission (PPRC) is satisfied that:
>
> a. membership or leadership of the party is restricted to members of any particular tribal or ethnic group or religious faith; or
> b. the name, symbol, colour or motto of the party has exclusive or particular significance or connotation to members of any particular tribal or ethnic group or religious faith; or
> c. the party is formed for the sole purpose of securing or advancing the interests and welfare of a particular tribal or ethnic group, community, geographical area or religious faith; or
> d. the party does not have a registered office in each of the Provincial Headquarter towns and the Western Area.

However, a number of political parties exist in Sierra Leone but, with the exception of the two main parties—APC and the SLPP, many of these other smaller parties revolve around specific individuals and personalities and have very little following. These parties include the United National People's Party (UNPP), the Peace and Liberation Party (PLP), Convention People's Party (CPP) and the National Democratic Alliance (NDA). The PPRC has been given the sole responsibility and powers under Section 10 of the Political Parties Act 2002 for enforcing the laws relating to the formation and funding of political parties. Accordingly, Section 10 of the Political Parties Act states that,

> any person who wilfully obstructs or otherwise interferes with the Commission or its members or officers in the discharge of the functions of the Commission under this Act commits an offense and shall be liable on conviction to a fine not exceeding Le 500,000.00 [USD 115] or to a term of imprisonment not exceeding one year, or to both.

Not surprisingly, the fines and sanctions as stipulated in the constitutional mandate are rarely enforced.

With respect to the issue of political party funding, Article 35(3) of the 1991 Constitution states that,

> A statement of the sources of income and the audited accounts of a political party, together with a statement of its assets and liabilities, shall be submitted annually to the Political Parties Registration Commission, but no such account shall be audited by a member of the political party whose account is submitted.

Likewise, Section 20(1) of the Political Parties Act 2002 requires that,

> every political party shall within such time after the issue to it of a final certificate of registration under Section 12 as the Commission may direct in writing, submit to the Commission a written declaration giving details of all its assets and expenditure; including all contributions donations or pledges of contributions or donations whether in cash or in kind, made or to be made to initial assets of the party by its founding members in respect of the first year of existence.

Currently, this legal provision is largely not being adhered to by the political parties. The Political Parties Registration Commission (PPRC), which has the mandate to oversee the behaviour of these political parties, does not have the capacity to sanction any political party in breach of this law or showing signs of inappropriate behaviour. Ordinarily, the PPRC appeals to the conscience of individual politicians as well as political parties to act according to agreed guidelines in the codes of conduct, as well as party constitutions.

Additionally, Section 19(1) of the Political Parties Act requires that 'the source of funds of a political party shall be limited to contributions or donations, whether in cash or kind, of persons who are entitled to be registered as voters in Sierra Leone'. However, the issue of party financing in Sierra Leone is relatively underregulated, creating loopholes allowing political parties and their candidates to source funding through unconventional means (Kamara 2009). There are instances where campaign resources come from candidates' individual fortunes and the argument has always been that many of these financial resources originate from corrupt practices. Although the PPRC has the mandate to enforce the laws on political party formation and funding, it lacks sufficiently strong enforcement powers to prosecute parties or revoke the registration of parties who refuse to fulfil their responsibilities and abide by the constitutional provisions. For instance, after the 2007 general elections the political parties were not forthcoming with their election-related financial accounts. The PPRC, after several attempts to meet this constitutional

requirement, had to resort to the use of the media to elicit compliance from the political parties. The desire to strengthen the operations of the political parties' registration body has culminated in a new Act of Parliament 2012 (Republic of Sierra Leone 2012). This Act gives the Commission additional roles and further empowers it to regulate the activities of political parties/politicians (Republic of Sierra Leone 2012).

Political Parties and Ethnicity

Sierra Leone is a multicultural society with about seventeen ethnic groups, mostly divided into the Mende and the West Atlantic groups (Batty 2011). Post-independence, political activities at both the national and the local levels have assumed ethnic dimensions because of the absence of class distinctions (Ndumbe 2001). According to the 1991 Constitution, political parties in Sierra Leone must be present in all regions and their activities must be nationwide in scope. Consequently, Section 35(5)(a-c) of the Constitution states emphatically that,

> No association, by whatever name called, shall be registered or be allowed to operate or to function as a political party if the Political Parties Registration Commission is satisfied that (a) membership or leadership of the party is restricted to members of any particular tribal or ethnic group or religious faith; or (b) the name, symbol, colour or motto of the party has exclusive or particular significance or connotation to members of any particular tribal or ethnic group or religious faith; or (c) the party is formed for the sole purpose of securing or advancing the interests and welfare of a particular tribal or ethnic group, community, geographical area or religious faith.

Regardless of these constitutional provisions, political parties and their actors are divided along Creole, Mende, Temne and Limba ethnic lines (Kandeh 1992). As a result, ethnicity has become a medium of political identity and a way of galvanizing support for one's political ambitions. For instance, the two major political parties, the SLPP and the APC, that have survived a decade-long brutal civil war and have at different times occupied the seat of government, both maintain support bases among the Mende and Temne ethnic groups respectively. In practice, political parties are heavily ethnocentric in their formation and modes of operation. It is also worth noting that the nature of politicking in Sierra Leone always drives political parties/politicians in power to attempt to consolidate and retain power by extending

development opportunities to their kinsmen and stifling development in opposition strongholds.

It must be observed that a confluence of factors account for this overriding influence of ethnicity in the political culture of Sierra Leone. For instance, the issue of ethnicity was highlighted in the 2007 parliamentary elections where the APC won 36 of 39 seats in the Northern Province, while the SLPP and its splinter party, the People's Movement for Democratic Change (PMDC), won 24 of 25 seats in the South (Casey 2012). Historically, these two major parties emerged as a result of the level of bias exhibited against the ethnic groups from which they draw their greatest support (Kandeh 2003). Although there are legal frameworks to guide the operations of political parties, the ability of the regulatory body (the PPRC) to enforce the laws as stipulated in their mandate is difficult. To be able to elicit compliance from the political parties, the PPRC needs to be firm and proactive in enforcing its own binding powers. Perhaps this difficulty could account for the recent change of name to Political Parties Registration and Regulation Commission (PPRR) to give it the capacity to not only register but also regulate the activities of these parties (*Awoko Newspaper* 2012).

Transparency in Political Behaviour

The power to appoint and select public officials is vested in the president. Article 70 of the Constitution states categorically that

> The President may appoint, in accordance with the provisions of this Constitution or any other law the following persons (a) the Chief Justice; (b) any Justice of the Supreme Court, Court of Appeal, or Judge of the High Court; (c) the Auditor-General; (d) the sole Commissioner or the Chairman and other Members of any Commission established by this Constitution; (e) the Chairman and other Members of the governing body of any corporation established by an Act of Parliament, a statutory instrument, or out of public funds, subject to the approval of Parliament.

The appointment committee of parliament on the other hand has a supervisory role in checking and scrutinizing the appointments made by the executive. They do this through the investigation of the assets and liabilities, as well as competence of the nominee presented to parliament by the president for vetting and approval. Additionally, when it comes to appointments to certain public sector institutions, for instance the appointment of certain

permanent secretaries (such as the Secretary to the Cabinet, Secretary to the Vice-President, Financial Secretary, Director-General of the Ministry of Foreign Affairs, Establishment Secretary, Development Secretary, Provincial Secretary and Permanent Secretary), the president is supposed to appoint in consultation with the Public Service Commission. However, the political elites barely follow the rules pertaining to appointment and promotions. Most of these political appointments are not made according to merit or the regulations. There is a lot of political influence in the appointments, especially for senior public servants.

In terms of conflict of interest rules in Sierra Leone, the 1991 Constitution and the Anti-Corruption Act (2008) provide the fulcrum around which public office-holders could be held accountable. In addition, the legal provisions are clear that ministers and high-level government officials are barred by the Anti-Corruption Act Section 8(1) from accepting any form of advantage or gift in connection with their official duties. Special permission from the president is required for a gift to be accepted. However, as has always been the case, gifts or favours have been elicited from individuals directly or indirectly without recourse to the president. Officials found in contravention of the rules regarding conflict of interest can be convicted of an offence under the Anti-Corruption Act. However, there is no clear-cut legislation that specifically deals with conflict of interest for ministers, or top-level officials, although there are sanction regimes against parliamentarians who engage in activities that amount to conflict of interest. This differentiation is a result of the silence of the Constitution on filing declarations relating to issues of conflict of interest involving political office-holders. Nevertheless, the Anti-Corruption Act 2008 has provided a mechanism by which sanctions could be applied to those who breach the rules on conflict of interest. The Anti-Corruption Act 2000, Section 40(1–3) recommends a prison sentence of seven years, payment of the value of the advantage acquired, or its deduction from pensions or gratuity. Perhaps the absence of a specific legislative instrument that sanctions conflict of interest for ministers and top government officials could explain the increasing incidence of corruption among public officials within government institutions.

Political parties' code of conduct

Codes of conduct for political parties highlight the principles, values and standards of acceptable behaviour expected of politicians. Invariably, such codes are the bedrock for the entrenchment of democracy and the rule of law. In 2006, political parties in Sierra Leone, with the combined support of the

United Nations Integrated Office in Sierra Leone (UNIOSIL) and United Nations Development Programme (UNDP), subscribed to their first code of conduct to guide the 2007 electioneering process. Recently, the PPRC—together with the National Electoral Commission (NEC) and the political parties—have produced similar codes of conduct to guide the behaviour of political parties/politicians. Specifically, the code encourages political parties and their supporters to desist from any activity that may create or aggravate tension on racial, gender, ethnic, language, class, regional or religious grounds (PPRC 2006). The set of rules that constitute the codes of conduct include, but are not limited to, the following regulations:

- All political parties that have subscribed to this code shall have the right to present their political principles and ideas without intimidation or threat. However, criticism of other political parties, when made, shall be confined to their policies and programmes, past record and work.
- Parties and candidates shall refrain from unfounded criticism of any aspect of private life, not connected with public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.
- All political parties that have subscribed to this code shall respect the right and freedom of other political parties to campaign and to disseminate their political ideas and principles without let or hindrance. There shall be equal access to the state media. Journalists who are engaged in their professional activities shall have a free hand to do so without any intimidation.
- All political parties, candidates, agents and party entities that have subscribed to this code shall not obstruct, disrupt, break up or cause to break up, meetings or rallies organized by other political parties and candidates; nor should they interrupt or prevent speeches and cause the destruction of handbills, leaflets, and the pasting of posters by other political parties and candidates. However, the posting of these handbills, leaflets, and posters must be with the consent of the owners of the properties.
- All political parties that have subscribed to this code shall in accordance with the Public Order Act 1965 notify the Inspector General of Police/Paramount Chiefs of any meeting or rally.
- The Police/Paramount Chief should ensure that no preferential treatment is accorded to one political party or a particular candidate to the detriment of other parties that have subscribed to this code of conduct.
- All political parties that have subscribed to this code shall not use state power, privilege or influence or other public resources for campaign purposes.
- All political parties that have subscribed to this code shall desist from coercing or offering pecuniary gains or other kinds of inducements to

individuals or groups of individuals to vote for or against a particular party candidate, or to abstain from voting.

- All political parties that have subscribed to this code accept that intimidation, in any form, is unacceptable, and leaders of these parties will direct their officials, candidates, members and supporters not to intimidate any person at any time.
- All political parties that have subscribed to this code shall ensure that they do not coerce or intimidate paramount chiefs or their sub-chiefs, or any other authority to deny any political party the right to gain access to any chiefdom for political functions.
- All political parties that have subscribed to this code shall not raise any private force or militia or use the regular army or other forces to intimidate and gain political or electoral advantage.

However, the political parties and politicians, even though signatories to this code of conduct, flagrantly disregard them in their daily activities. For example, the attack in September 2011 on a presidential candidate of the opposition Sierra Leone Peoples Party (SLPP), and attacks by opposition party members on property belonging to the governing APC, call into question the sincerity of the political parties concerned to adhere strictly to the codes of conduct. Hitherto the monitoring and enforcement of these codes of conduct was directly under the supervision of the various political parties, but the enactment in 2012 of the new Act has empowered the PPRC (now Political Parties Registration and Regulation Commission—PPRRC) to enforce the codes of conduct to the letter. All political parties that have subscribed to this code are required to make every effort to maintain communications with other political parties that have also subscribed to this code. In reality, the political parties are always at loggerheads and do not have a common ground within which they could discuss issues of shared concern. The PPRC is tasked under the Constitution to elicit compliance from the political parties with respect to the Political Parties Code of Conduct. Through a committee, chaired by PPRC and comprising representatives from political parties, the Sierra Leone Police, civil society, the National Commission for Democracy and the Interreligious Council of Sierra Leone, the PPRC functions to communicate, monitor, reprimand and sanction political parties/politicians who breach code of conduct rules. Additionally, the Commission is supposed to mediate any disputes between political parties and support parties to promote the participation of women in the electoral process (NDI 2007). Arguably, the Commission is able to settle disputes between the political parties, but when it comes to applying sanctions to politicians and their parties they lack the political will to enforce their own laws.

Protection of whistleblowers

Perhaps the most remarkable development in the Anti-Corruption Act 2002 is the part on the protection of informers. Clearly, there is no standalone legal framework within the laws of Sierra Leone that serves to highlight the issue of whistleblowing, apart from the part covered in Section 42 of the Anti-Corruption Act 2002. This states that,

> (1) Except as provided in subsection (2) No information for an offence under this Act shall be admitted in evidence in any civil or criminal proceedings; and
>
> (a) No witness in any civil or criminal proceeding shall be obliged—
>
> i. to disclose the name or address of any informer who has given information to the Commission with respect to an offence under this Act or of any person who has assisted the Commission in any way with respect to an offence; or
> ii. to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person, if, in either case, such informer or person is not himself a witness in such proceeding.

Although the 1991 Constitution creates an environment within which to share information without any interference, there is no clear legal provision for 'freedom of information'. Nonetheless, there are other legal instruments, such as the Political Parties Act, the Criminal Procedures Act of 1965, the Telecommunication Act (2006) and the Payment Systems Act (2009), that tacitly touch on public access to information. Even with some of these legal provisions, there are several restrictions. For instance, Section 15 of the Payment Systems Act 2009 controls the kind of information that the public may effectively request from financial institutions (Republic of Sierra Leone 2009). Additionally, Part Three of the Telecommunication Act (2006) empowers the National Telecommunication Commission to regulate what information the media can release (Republic of Sierra Leone 2006). On the other hand, the Criminal Procedures Act of 1965 grants parties to a conflict the powers to request any information that would be beneficial to their cause. Because there are no clearly defined legal frameworks regulating the right to information, there are therefore no enforcement mechanisms in place to deal with offenders.

Bribery and Corruption

The country enacted its first anti-corruption law in 2000, thus creating, the Anti-Corruption Commission (ACC), tasked with probing corruption cases in both the public and private sectors. The ACC has been given an extensive mandate under the Act to prevent, eradicate and suppress the incidence of corruption. The Anti-Corruption Act was revised in 2008, strengthening its capacity to investigate and giving the Commission the power to prosecute. The revised law has addressed the loophole within the original law that required the Justice Minister and the Attorney-General to approve each corruption prosecution by eliminating it. In order to tighten the sanctioning regime, the law has increased penalties for some corruption offences and it has introduced new requirements for public officials. For example, in October 2010, the Former Minister of Fisheries and Marine Resources (Haja Afsatu Kabba) was convicted of crime bordering on misappropriation of public funds and abuse of office following investigation by the ACC (ACC 2011).

It is striking to note that initially there was no constitutional provision in Sierra Leone that required Cabinet and other government ministers to declare assets and liabilities for public inspection. However, the new Anti-Corruption Act requires all public officials, including the president, to declare their assets within three months of taking office. In practice, however, public officials only partly comply with these asset declaration requirements. The independent Anti-Corruption Commission is charged with the responsibility for fighting corruption and eliciting compliance with the relevant provisions. When it comes to fighting corruption in Sierra Leone, the greatest challenge derives from a weak legal framework (Kabatto 2012).

Ombudsman

The Office of the Ombudsman was established in Sierra Leone after the enactment of the Ombudsman Act, 1997. The office also draws its authority from Section 146 of the 1991 Constitution. The ombudsman was created to collaborate with the ACC in handling citizens' complaints and petitions to government. The ombudsman's office exists not only to receive complaints but also to promote good governance and integrity among ministries, agencies and departments. The functions of the ombudsman are spelt out in Section 7(1) of the Ombudsman Act of 1997. Accordingly, the ombudsman is expected to investigate,

any administrative act of a prescribed authority in respect of which a complaint is made to him by any person who claims to have suffered injustice as a result of any maladministration in connection with such act; or information as received by him from any person or source, otherwise than by complaint, concerning the matters referred to in subparagraph (i); and (b) to take appropriate action to remedy, correct or reverse the complaints through such means as are fair, proper and effective, including:

i. the facilitation of negotiation and compromise between or among the parties concerned;
ii. reporting or causing the finding of any investigation together with his recommendation thereon to be reported to the principal office of the prescribed authority and, where the offending person is the principal officer, to the Minister;
iii. drawing the attention of Government to any defect in any law discovered in the course of any investigation together with such recommendation for the remedy of any such defect as he may find necessary; and
iv. drawing the attention of the Attorney-General and Minister of Justice to any contravention of the criminal law of Sierra Leone discovered in the course of any investigation.

In practice, the ombudsman lacks the necessary powers to compel individuals working in these ministries, departments and agencies (MDAs) to answer queries. Even though the Act clearly stipulates that if a person required to provide information fails to do so or makes a false statement either knowingly or recklessly, that person can be tried in a court of law and if found guilty will be liable to a fine or imprisonment or both. Regardless of these sanctions, there are instances where officials of government departments and agencies have failed to cooperate with the Office of the Ombudsman yet the ombudsman remains powerless to elicit compliance from these officials. For example, the ombudsman had to resort to the president to intervene in three cases involving certain ministries because of lack of cooperation from those ministries (Massaquoi 2010). The Office of the Ombudsman itself has not been immune from corrupt practices. For instance, the head of the Office of the Ombudsman from 2001 to 2007 was accused of corruption following his tenure of office (Freedom House 2010). Such instances create challenges for the office, especially in its desire to elicit compliance from public officials and state institutions.

Public procurements

Several regulatory mechanisms exist in Sierra Leone to govern public procurements. These include the Public Procurement Act 2004, the Public Procurement Regulations 2006, and the Public Procurement Manual for the guidance of procurement officers in the public service as well as the Standard Bidding Documents for goods, civil works and services (NPPA 2008). Overall, the most important component of any procurement process is the conduct of bidders and suppliers. The Procurement Act legislation provides a level playing field for all through competitive bidding. The Public Procurement Act 2004 was enacted to regulate and harmonize public procurement processes in the public service and to ensure value for money in public expenditures. Additionally, the Act has set up appropriate structures and has provided rules and procedures to be followed by parties involved in the procurement process. A cursory look at Section 33 of the Procurement Act 2004 outlines the conduct of public officials in the procurement process. Section 33(1) states that,

> Any public officer involved in requisitioning, planning, preparing and conducting procurement proceedings and administering the implementation of contracts, shall (a) discharge his duties impartially so as to assure fair competitive access to public procurement by bidders; (b) always act in the public interest, and in accordance with the object and procedures set out in this Act, in the regulations and in accordance with the Public Service codes of ethics, if any, and where applicable, the Local Government Act, 2004; (c) at all times avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out his duties and conducting himself and immediately disclose any conflict of interest and excuse himself from any involvement in the matter; (d) not commit or abet corrupt or fraudulent practices, coercion or collusion, including the solicitation or acceptance of any inducements; (e) keep confidential the information that comes into his or her possession relating to procurement proceedings and to bids, including bidders' proprietary information; (f) not take up a position of authority in any private concern with which he undertook procurement activities for a period of three years after departure from the procuring entity.

As a form of enforcement, the Act makes the requisite laws binding on all public officials and has empowered the National Public Procurement Authority (NPPA) to take legal action against contraventions of the law. Consequently, Section 34(6) states that 'Bidders and suppliers who engage in fraudulent, corrupt or coercive practices in connection with public

procurement are subject to public prosecution pursuant to the applicable criminal laws, including the Anti-Corruption Act 2000'. There are examples of politicians who have been sanctioned for breaching the procurement law. For example, in March 2010 the former Minister of Health (Sheiku T. Koroma) was convicted for abuse of office, abuse of position and failure to comply with procurement procedures (ACC 2011). Regardless of these convictions, the public procurement process in Sierra Leone is saddled with allegations of corruption and inefficiencies on the part of public officials who are tasked to manage the process. For instance, a detailed compliance and performance monitoring exercise carried out for the nine key MDAs in relation to the 2006 procurement plans revealed instances of low compliance with approved procurement plans, and procurement activities were not under the control of procurement units within the MDAs (NPPA 2008). Additionally, most of the procurement activities carried out in these MDAs were not in accordance with the requirements of the Public Procurement Act 2004 (NPPA 2008). Moreover, there was evidence of procurement processes being split to avoid legal threshold requirements (NPPA 2008). The interference of political actors in the procurement process is a major problem for the NPPA.

Money laundering

The Anti-Money Laundering (AML) Act of 2002 provides the legal basis for tackling money laundering in Sierra Leone. Broadly, this Act is in line with international recognized standards such as those of the Financial Action Task Force (FATF), ECOWAS (Economic Community of West African States) and GIABA (Groupe Intergouvernmental d'Action contre le Blanchiment d'Argent en Afrique dei'Ouest). Part Two of the Act highlights measures to combat money laundering in Sierra Leone, stating that,

> A person engages in money laundering if he (a) engages directly or indirectly in any transaction which involves property that is the proceeds of crime; or (b) receives, possesses, conceals, disguises, transfers, converts, disposes of, removes from or brings into Sierra Leone any property that is the proceeds of crime.

This definition of money laundering is in line with the Vienna and Palermo Conventions.

The internal anti-money laundering measures require that every financial institution develops, to the satisfaction of the Authority,[1]

> programmes for the prevention of money laundering, including (a) centralization of information on the identity of customers, principals, beneficiaries, proxies, authorized agents, beneficial owners and on suspicious business transactions; (b) ongoing training for officials or employees; (c) internal audit arrangements to check compliance with and the effectiveness of the measures taken to apply this Act.

Accordingly, the Act requires the establishment of a Financial Intelligence Unit (FIU) within the Bank of Sierra Leone to analyze and address the incidence of money laundering in the country (Republic of Sierra Leone 2005). However, despite these constitutional provisions, Sierra Leone's AML administration remains ineffective. The involvement of political parties/politicians in drug-related money laundering activities is such a subterranean issue that at present its extent can only be guessed at. However, the continuing complicity of politicians in drug-related money laundering activities has reduced the power of the existing laws to effectively sanction culprits. Drug barons have compromised political appointees, government officials and security agencies with money in order to gain safe passage to transport their drugs. For example, The Sierra Leonean minister in charge of Transport and Aviation was sacked following his 'tacit complicity' in the seizure of the 'cocaine plane' at Lungi International Airport (Kamara 2008).[2] It is alleged that he might have been recruited because of his strategic ministerial control of the airport. This ex-minister (who was the Chairman of the APC party in the Port Loko district) and most of the other suspects (including a relative of the ex-minister) were all known members of the APC party, which is now the ruling party. However, there are also vague suspicions that the other main party (SLPP) may also have benefited from similar practices when they were last in power. Commitment to enforce the law remains low because of the inability of the state to establish the FIU right from the outset as outlined in the AML Act. Although in recent years the FIU has been established, the Act does not grant the FIU the power to request information from non-financial institutions and persons (GIABA 2012). Besides, there are no existing mechanisms allowing the FIU to gather alternative intelligence, apart from the current requirements of the banking supervision division of the Bank of Sierra Leone to conduct onsite and offsite inspections (GIABA 2012). Additionally, the supervisory role of the Bank of Sierra Leone with respect to AML is very limited and ineffective, especially in controlling non-banking financial institutions (GIABA 2007).

There are administrative, penal and financial sanctions against money laundering; however, these enforcement mechanisms are considered weak and disproportionate to the crime of money laundering. The Bank of Sierra Leone (BSL), the Central Intelligence Service Unit (CISU) and the Attorney-

General (AG) and Minster of Justice are the agencies authorized under the AML Act to request the confiscation of money launderers' assets. However, there is no legal framework for the freezing, seizure or confiscation of assets. Governments in the past have shown very little commitment to fighting money laundering activities, particularly where drug-related. For instance, the charges against the ex-Minister of Transport and Aviation Ibrahim Kemoh Sesay, who was removed from his post due to the cocaine case, were eventually dropped and he was never indicted. He has in fact recently been appointed as a Senior Presidential Adviser (Kargbo 2010). Invariably, despite the existence of state institutions designed to check money laundering activities, the political system has been paying lip service to fighting these crimes (Kamara 2008). Currently, Sierra Leone has about four key agencies that are tasked with investigating and prosecuting all instances of money laundering. These institutions include the Sierra Leone Police, the National Revenue Authority (NRA), the Anti-Corruption Commission (ACC) and the Office of the Director of Public Prosecutions (DPP) (Kamara 2008). It should be noted that duplication of roles across these agencies has affected their coordination in seeking conviction of money laundering offenders in Sierra Leone (GIABA 2012).

Conclusion

This article takes as its starting point the realization that in spite of the existence of legal and policy frameworks designed to regulate the behaviour of political parties and politicians (elected and appointed) there is much to be done in plugging the loopholes within these provisions in Sierra Leone. In particular, the article identified loopholes within the legislation on political party formation and financing, whistleblower legislation, and adherence to political party codes of conduct. Evidence shows that regardless of the existence of legal provisions, many of the loopholes within the laws are a result of the inability of state institutions to fully enforce the powers assigned to them by the various Acts of Parliament and the 1991 Constitution. Additionally, where state institutions have shown a desire to execute the mandate given them by the legal frameworks, duplication of their efforts and responsibilities hampers their coordination in enforcing the provisions of such policies and frameworks.

The political trajectory of Sierra Leone is characterized by constant changes of government. In addition, the political climate is highly polarized and tainted with ethnic groupings, political corruption and lack of transparency in political behaviour. Political parties/politicians do not conform to the codes

of conduct to which they are signatories. Besides, there are serious challenges in monitoring, enforcing and implementing the provisions in the codes. These challenges are a result of the lack of clearly defined enforcement bodies with the implementation capacity and binding powers to sanction offenders. The prevailing political culture expressed in the norms and values of the political class continues to undermine the country's quest for democratic growth and good governance.

Our paper has drawn attention to the fact that there are no known reporting mechanisms for some of the legal provisions as stipulated under either the Constitution or the various Acts of Parliament. For instance, in the case of conflict of interest, the Constitution is virtually silent on members of the Executive declaring their assets. Additionally, the sanctioning regimes for several infractions of the Constitution are either weak or non-enforceable. The political will to sanction free-riders is virtually non-existent. All these have culminated in the impunity with which the political elite abuse the offices they occupy. We suggest a focus on strengthening the sanctioning regimes and the implementation capacity of state institutions. There must also be self-regulating mechanisms for institutions such as the ACC, Ombudsman, NPPA and the PPRC (now PPRRC). Such endeavours necessarily require the broadening of the legal and policy frameworks to encompass the various parameters of political behaviour, and close monitoring of the behaviour of political parties/politicians entrusted with the governance of the state.

Endnotes

1. The appointed Authority is the Governor of the Bank of Sierra Leone.
2. In 2008 a small Cessna private airplane landed at Lungi International Airport from Venezuela carrying over 700 kilograms of cocaine.

Further Reading

The Political Parties Act, 2002, <http://aceproject.org/ero-en/regions/africa/SL/sierra-leone-the-political-parties-act-2002>

The Political Parties (Amendment) Act, 2002, <http://www.sierra-leone.org/Laws/2002-6.pdf>

The Electoral Laws Act, 2002, <http://www.sierra-leone.org/Laws/2002-2.pdf>

The Human Rights Commission of Sierra Leone Act, 2004 [Sierra Leone], 20 August 2004, <http://www.unhcr.org/refworld/docid/477e5d932.html> [accessed 15 March 2013]

The National Electoral Commission Act, 2002–1, <http://www.sierra-leone.org/Laws/2002-1.pdf>

Criminal Procedures Act, o 1965,<http://www.sierra-leone.org/Laws/1965-32.pdf>

References

Abdullah, H.J., 'Forging Ahead without an Affirmative Action Policy: Female Politicians in Sierra Leone's Post-War Electoral Process', *IDS Bulletin*, 41/5 (2010)

Abdullah, I., 'Bush Path to Destruction: The Origin and Character of the Revolutionary United Front/Sierra Leone', *Journal of Modern African Studies*, 36/2 (1998)

African Research Institute, 'Old Tricks, Young Guns Elections and Violence in Sierra Leone', *Briefing Note* (2011), <http://www.africaresearchinstitute.org/files/briefing-notes/docs/Old-Tricks-Young-Guns-Elections-and-violence-in-Sierra-Leone-22ZK27SBXD.pdf> [accessed 7 August 2012]

Aning, K. and Atuobi, S., 'The Economic Dimensions of Negotiated Peace Accords in West Africa: Is there an Emerging Praxis by ECOWAS?', *Africa Spectrum*, 47/1 (2012)

ACC (Anti-Corruption Commission of Sierra Leone), *Summary of ACC Convictions in 2010* (2011), <http://www.anticorruption.gov.sl/index.php?p=102&pn=Concluded%20Criminal%20Cases> [accessed 14 August 2012]

Atuobi, S., 'Peace Support Operations and Post-Conflict Elections: The Case of Sierra Leone', *KAIPTC Monograph No.6.* (2009)

Awoko Newspaper, PPRC now a Regulatory Body (2012), <http://www.awoko.org/2012/09/13/pprc-now-a-regulatory-body> [accessed 18 September 2012]

Batty, F., 'Do Ethnic Groups Retain Homogenous Preferences in African Politics? Evidence from Sierra Leone and Liberia', *African Studies Review*, 54/1 (2011)

Casey, K., 'Crossing Party Lines: The Effects of Information on Redistributive Politics', Research Paper No. 2099 (2012), <http://www.gsbapps.stanford.edu/researchpapers/library/RP2099.pdf> [accessed 14 August 2012]

Castillejo, C., 'Women's Political Participation and Influence in Sierra Leone', Working Paper (FRIDE, 2009), <http://www.fride.org/descarga/wp83_women_political_eng_jun09.pdf> [accessed 22 July 2012]

Dumbuya, P., 'Post –Conflict Reconstruction Election, Stabilization, and Nation-Building in an African state: The 2007 Presidential and Parliamentary elections in Sierra Leone', *Journal of Third World Studies*, 28/2 (2011)

Freedom House, *Countries at Crossroads: Sierra Leone* (2010), <http://www.freedomhouse.org/template.cfm?page=139&edition=8> [accessed 18 July 2012]

GIABA (Inter-Governmental Action Force against Money Laundering in West Africa), *Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism. Sierra Leone*, (2007), <http://www.siteresources.worldbank.org/FINANCIALSECTOR/Resources/282044-1241752859230/SIERRA_LEONE_MutualEvaluationReport0607.pdf> [accessed 14 July 2012]

GIABA (Inter-Governmental Action Force against Money Laundering in West Africa), Sierra Leone, <http://www.giaba.org/member-states/20_sierra-leone.html> (2012) [accessed 14 July 2012]

Kabatto, D., 'Former Anti-Corruption Czar of Sierra Leone speaks at the United Nations', *The Sierra Leone Telegraph* [Freetown] (2012), <http://www.thesierraleonetelegraph.com/?p=2171> [accessed 14 August 2012)

Kamara, K.S., 'Political Parties and the Functioning of Modern Democracy in Sierra Leone', *Sierra Leone Policy Papers* (2009), <http://www.api.ning.com/files/I*ofqcyvyKZ38AoBnaeBGirxob1NAeS5W14P-pueqqjMGxVelOnIUAbDOUWNQJE6lIUvFvaNCLYD0pK3EkpqbKbKz9O82dpn/PoliticalPartiesandtheFunctioningofModernDemocracyinSierraLeone.pdf> [accessed 6 August 2012]

Kamara, M.M., 'Sierra Leone Sacks Minister', *African News* [Freetown] (2008), www.africanews.com/site/list_messages/19799> [accessed 18 September 2012]

Kandeh, J.D., 'Politicization of Ethnic Identities in Sierra Leone', *African Studies Review*, 35/1 (1992)

Kandeh, J.D., 'Sierra Leone's Post-Conflict Elections of 2002', *Journal of Modern African Studies*, 41/2 (2003)

Kargbo, Franklyn Bai, *President Koroma Names New Cabinet* (2010), <http://www.sierraexpressmedia.com/archives/17109> [accessed 17 September 2012]

McIntyre, A. and Aning, K., 'From Youth Rebellion to Child Abduction: The Anatomy of Recruitment in Sierra Leone', in A. McIntyre (ed.), *Invisible Stakeholders: Children and war in Africa* (Pretoria: ISS, 2005)

Massaquoi, Mohamed, 'Sierra Leone: State Institutions Undermine Ombudsman', *Concord Times* [Freetown], 2010), <http://www.allafrica.com/stories/201011291565.html> [accessed 14 August 2012]

NDI (National Democratic Institute for International Affairs), *The Sierra Leone Elections Story Unfolds* (2007), <http://www.ndi.org/files/2167_sr_election_watch_070907.pdf> [accessed 10 August 2012]

Ndumbe, J., 'Diamonds, Ethnicity, and Power: The Case of Sierra Leone', *Mediterranean Quarterly*, 12/4 (2001)

NPPA (National Public Procurement Authority), 'Procurement News', *Quarterly Bulletin*, 2/1 (2008), <http://www.publicprocurement.gov.sl/reports/bulletin/Pub_bulletin.pdf> [accessed 20 July 2012]

PPRC (Political Parties Registration Commission), *Codes of Conduct for Political Parties* (2006), <http://www.pprcsierraleone.org/POLITICAL%20PARTIES%20CODE%20OF%20CONDUCT.pdf> [accessed 14 August 2012]

Republic of Sierra Leone, *Constitution of the Republic of Sierra Leone* (Government Printing Department, 1991)

Republic of Sierra Leone, *Anti Money-Laundering Act* (Government Printing Department, 2005)

Republic of Sierra Leone, *Telecommunication Act* (Government Printing Department, 2006)

Republic of Sierra Leone, *Payment Systems Act 2009* (Government Printing Department, 2009)

Republic of Sierra Leone, *Sierra Leone Gazette*, CXLIII/29 (Government Printing Department, 2012)

Sierra Leone Daily Mail, 'Government White Paper on the Shears-Moses Commission of Inquiry into Incidents of Political Violence and Intolerance Occurring in Gendema, Freetown and Kenema' (2012), <http://www.sierraleonedailymail.com/archives/5276> [accessed 12 August 2012]

World Bank, *Sierra Leone: Country Brief* (2011), <http://worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/SIERRALEONEEXTN> [accessed 14 August 2012]

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