

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	149
Land:	Sierra Leone
Kilde:	Freedom House
Titel:	Countries at the Crossroads 2010. Country Report – Sierra Leone
Udgivet:	1. juni 2010
Optaget på baggrundsmaterialet:	21. juni 2010



Countries at the Crossroads 2010

Country Report - Sierra Leone

Introduction

Sierra Leone's government provides legal guarantees of a wide range of civil and political rights. The government's record in providing basic personal security and guaranteeing the predictable operation of state institutions has improved substantially since the end of a brutal eleven-year civil war (1991-2002). The primary problem remains the considerable gap between legal and administrative frameworks on paper and actual performance.

Decades 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.^[1] 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, gain control of the country's diamond industry, and—ostensibly—redistribute diamond wealth. 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 swaths of territory and diamond fields in the countryside. Following a 1999 peace agreement, the United Nations Mission in Sierra Leone (UNAMSIL) was established, but the RUF violated the agreement and chaos ensued, prompting Britain to deploy troops. The war finally came to an end when the government, with the aid of international actors, signed a second ceasefire agreement and a peace accord with the RUF in 2000 and 2001, respectively. In May 2002, President Ahmad Tejan Kabbah, who was initially elected in the 1996 return to civilian rule, again won the presidential elections. In July, the British withdrew from Sierra Leone, and in November UNAMSIL began a gradual withdrawal that was completed in January 2006, with a "peacebuilding" operation left behind.

The war crippled Sierra Leone's already flailing institutions and economy and left behind a serious security challenge. Sierra Leone's economy is heavily based on its abundant natural resources, and particularly its rich diamond mines, but the country has never been able to effectively translate these resources into economic growth due to complex factors including mismanagement, corrupt patrimonial rule, and external interference. The government has never been rich, but the war undermined state capacity to the extent that internal sources of government revenues in 2007 stood at 10.8 percent of the country's US\$1.66 billion GDP, or just US\$179 million to staff a civil service of more than 15,000 and provide public services to over five million citizens. By 2007, per capita incomes stood at US\$241, a figure considerably lower than incomes in the 1970s.^[2] State agencies suffer from insufficient resources and difficulties of coordination following decades of corruption and mismanagement and the near collapse of the government administration during the war.

Frustration of basic rights also comes from weak state capacity to guarantee the rule of law and the continuing ability of powerful individuals to manipulate or evade the enforcement of the law for their personal gain. The current 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 on security guarantees associated with foreign military training programs and on foreign financial aid to provide basic services.

State officials and foreign aid donors recognize the urgent need for judicial reform. Progress in this sector remains limited, reflecting the state's overall extremely weak capacity. The Joint Government of Sierra Leone and United Nations Special Court for Sierra Leone, which commenced trials in 2004 for those charged with greatest responsibility for human rights violations during the war, promotes the rule of law in the eyes of many citizens. The court is not universally popular, however, given its lavish expenditures and the generous physical environment extended to defendants, compared to the desperately poor local conditions.

Corruption continues to undermine the legitimacy of government policies. The government embarked on a new effort in 2008 to strengthen the legal and administrative competence of the Anti-Corruption Commission to address administrative corruption and conflict of interest among officials, but the weakness of the judicial sector and pervasive informal influence of politicians undermines the commission's work. Illicit diamond mining challenges the authority of the government to enforce licensing and tax regulations, although considerable progress has been made to rebuild government institutions and to provide increased revenue. More positively, the country's radio and newspapers partially compensate for the lack of official transparency.

Citizens elect high state officials in regularly scheduled competitive multiparty elections. International observers pronounced national elections in 1996, 2002, and 2007, as well as local elections in 2008, as free and fair. Despite scattered acts of violence, polling in each case was considered to have been carried out without interference. The National Electoral Commission (NEC) receives praise as generally autonomous and judicious in reviewing complaints. In general, Sierra Leone's democratic transition has benefitted from a political culture that values debate and is tolerant of diverse opinions and backgrounds. Formidable obstacles remain, including extremely weak government institutions and poverty so intense as to place Sierra Leone at the very bottom of the United Nations Development Programme's Human Development Index. Solving these problems will require continued significant international engagement to provide security and finance and oversee the implementation of reforms. This level of international engagement creates risks of its own, as outsiders and many Sierra Leoneans grow concerned about the sustainability of these reforms once external support is withdrawn.

Sierra Leone's record of sustaining a relatively democratic government is a remarkable achievement in light of the serious nature of human rights abuses during the war and the nearly complete collapse of state institutions. This is due in part to the government's very weak bureaucratic capacity—it cannot organize effective repressive measures—and its extreme dependence on external security guarantees and financial aid. These conditions create a context in which the most democratic and conciliatory elements of Sierra Leone's political culture can exercise significant influence. The country's best hope for a democratic future is to consolidate the influence of these domestic forces in a context of continuing relative political stability.

Accountability and Public Voice – 4.90

Sierra Leone's president and its unicameral parliament are chosen in direct elections that adhere to constitutional form. The first multiparty national election since the 1978 declaration of a one-party state took place in 1996, in the middle of the war. Seven parties participated in national presidential and parliamentary elections in August and September 2007, the first elections since the war for which the government was fully responsible for their conduct. The standard-bearer of the opposition APC, Ernest Bai Koroma, was elected with 54.6 percent of the popular vote in a second round of voting. Koroma beat Solomon Berewa, the candidate of the incumbent Sierra Leone People's Party (SLPP), amid widespread public perceptions that the SLPP administration had tolerated corruption and cronyism and had failed to address the problem of widespread poverty. Most international monitors pronounced the election to be free and fair,^[3] although European Union election observers noted "a rise in tensions at the start of the second campaign period and an increase in violent clashes between rival supporters." In addition, individuals reported to the NEC and EU instances of intimidation by traditional leaders and youth gangs linked to both candidates.^[4]

The 1991 constitution provides for the revival of elected local governments abolished in 1972. Local elections were scheduled for 1999 but did not take place until May 2004; council elections were held again in July 2008. The elections produced a turnout of 38.8 percent of eligible voters, considerably lower than turnout in national elections.^[5] The election highlighted issues such as tensions in relations between local councils and chiefdoms, particularly over the distribution of financial resources. There were some sporadic instances of localized violence associated with the balloting. The failure of government agencies to seriously investigate these incidents highlights the low institutional capacity to enforce laws, which is due in part to the assertion of partisan interests among some officials.^[6] Such local-level friction represents the reemergence of a key issue of contention that was a source of serious political instability during a previous effort to institute local government in the 1950s and 1960s.

The president is elected to a five-year term, with a second-round runoff if no candidate obtains at least 55 percent of the vote in the first round. The president is limited to two consecutive terms in office; he or she cannot hold a seat in Parliament but is able to appoint parliamentarians as ministers and deputy ministers. Presidential and legislative elections have been competitive multiparty affairs since 1996 under the terms of the 1991 Constitution. The two main parties first appeared together in legislative elections in 1962; in the first round of the 2007 presidential elections, third party presidential candidate Charles Margai won just short of 14 percent of the vote running on behalf of the People's Movement for Democratic Change (PMDCC), which occupies just under 10 percent of the seats in Parliament. Legislators for 112 seats are elected to single-member districts in simple majority elections and serve five-year terms. Each of 12 districts indirectly elects one paramount chief to a five-year term to complete the parliamentary complement of 124. The 1991 constitution specifies the separation of powers and provides for checks and balances. Parliament possesses the authority to approve budgets and to make laws that control taxation, expenditures, and borrowing. As information below shows, the realities of Sierra Leonean politics, particularly deficits in resources and expertise, qualify the application of these ideals.

Candidates and parties provide financial reports prior to and after elections, and some party statements are available on the web.^[7] Campaign resources usually come from the personal fortunes of candidates, and it is widely believed that many candidates acquire these resources through corrupt means. Private and group interests also intrude in the selection of civil servants; applicants are occasionally required to make informal payments to be hired for these positions. Weak monitoring capacity and low pay further increase corruption in the public sector.

Sierra Leone possesses a vigorous civic culture, with numerous nongovernmental organizations (NGOs) supporting popular causes. Women, minorities, and people with disabilities play visible roles in this sector. Civic groups, which freely collect donations from within Sierra Leone and from abroad, commonly highlight problems related to official corruption, the failure of officials to enforce laws, and deficiencies in the provision of public services. These issues are discussed openly on television and radio talk shows, and the state protects the rights of the independent civic sector to the extent its weak capacity allows.

Sierra Leone's constitution guarantees freedom of expression, and the country's dynamic media outlets reflect social norms that support free speech. Dozens of newspapers appear on a regular basis and many of them are openly critical of the government. The country also has numerous private FM radio stations that offer a wide array of views

and information; the dearth of newspapers outside of the capital puts radio at the forefront of political coverage. Some radio stations draw power from mobile telephone station generators so that they are not exposed to frequent power failures.^[8] The unreliability of electrical power reduces the role of television broadcasts as vehicles for political debate or for delivering information about policy. Current proposals include transforming the state-owned SLBS radio into an independent public radio station that will absorb United Nations Radio, the information arm of the extensive UN presence associated with postwar reconstruction in the country.

The country's poverty hampers efforts to improve the quality of media. Nonetheless, Sierra Leone's media has a long history of vigorous press participation in political debates, and the country benefits from several newspapers that provide important investigative reporting. The technical quality of these newspapers has improved in recent years, and advances in internet access, speed, and costs have given journalists access to more information resources.^[9]

Current Minister of Information Ibrahim Ben Kargbo previously served as president of the Sierra Leone Association of Journalists (SLAJ) and had earlier been imprisoned for his opposition to a previous government. The government regulates media through the Independent Media Commission (IMC), created by Parliament in 2000. Appointments to the IMC must be approved by Parliament. SLAJ recommendations concerning appointees are generally heeded. Despite these improvements in government conduct, journalists still face the threat of criminal prosecution for seditious libel under Part V of the Public Order Act of 1965. Jonathan Leigh, the managing editor of the *Independent Observer*, was arrested in February 2008 after two articles in his newspaper accused the minister of transportation of using his office to collect kickbacks and acquire real estate. SLAJ later succeeded in helping negotiate an out-of-court settlement of the case. Sylvia Blyden was held by police for publishing a caricature of the president in the *Awareness Times* in late February 2008,^[10] while in August 2008 Minister of Health Dr. Soccoh Kabia initiated court action against the managing editor of the *Standard Times* over reporting that claimed that the minister was engaged in corrupt acts.^[11]

These actions reflect what many in the media see as the continuing inclination of powerful individuals to use their positions to target critics. SLAJ, with support from the Society for Democratic Initiative, Sierra Leone, the Media Foundation for West Africa, and the Open Society Justice Initiative, filed a lawsuit at the Supreme Court in February 2008 challenging the criminal and seditious libel portion of the Public Order Act. No decision had been issued as of October 2009, despite the fact that the case was heard in March 2009 and the Supreme Court is constitutionally required to produce rulings no more than three months subsequent to the completion of hearings.^[12] *[Editor's Note: on November 10, 2009, the Supreme Court dismissed the SLAJ's case, leaving the restrictive provisions in place.]* Government intervention into media affairs has generated contention over whether its actions constitute official censorship. Some journalists viewed as censorship the IMC's decision to close an opposition party radio station for broadcasts that allegedly contributed to political violence in Freetown in March 2009.^[13] The UN's Integrated Peacebuilding Office for Sierra Leone noted that the IMC also revoked the license of the ruling party's radio station, and noted that the IMC was due to receive funding from the British government to procure media monitoring equipment.^[14]

Some journalists accept bribes in return for favorable coverage or promises to halt investigative reporting, while others are accused of using their newspapers to settle personal scores. In some cases, politicians act as shadow proprietors of newspapers to ensure favorable coverage.^[15]

Nonetheless, media coverage of the 2007 and 2008 elections demonstrated the considerable value of Sierra Leone's media in enhancing public voice and ensuring accountability. The media provided access to all political parties, and the proliferation of independent media ensured that nearly all candidates for election had access to coverage.

Civil Liberties – 4.30

Along with regular multiparty elections, the 1991 Constitution Act provides for freedom of assembly, freedom of movement, freedom of conscience, and equal access for women to political and civil rights. Sierra Leone's 1991 constitution prohibits arbitrary detention and detention without trial. It prohibits "any form of torture or any punishment or other form of treatment which is inhuman or degrading" (Section III, 21(1)). Torture is a punishable offense and state officials accused of torture have been charged in court, although the weak capacity of the judicial system (detailed below) limits the consistency of this practice. No serious allegations of extrajudicial killings of state opponents have appeared since 2000 and the death penalty has not been applied since 1998. State agencies do not persecute political opponents or peaceful activists as a matter of formal or informal policy, though individual officials use the prerogatives of their office to pursue critics or rivals. This appears to be most prevalent in the context of local politics, especially in the form of violent "youth protection squads."^[16] Many Sierra Leoneans suspect that official tolerance for cronyism and corruption is tantamount to an informal state policy of acceptance of such intimidation. Protections against arbitrary arrest and access to legal counsel are rights that exist in law, but poor pay and working conditions for police and a dearth of legal professionals seriously inhibits state enforcement of these rights. Mechanisms for disciplining police exist, and from December 2007 to June 2008, 94 police were dismissed for misconduct.^[17] Solicitation of bribes, which continues to occur, undermines public support for police operations, although the sharp reduction of roadside police checkpoints and arbitrary searches has mitigated this problem.^[18]

Suspects often suffer long-term pretrial detention in very harsh prison conditions, a consequence of the inability of the judicial system to process cases and of police and prison authorities to maintain accurate and timely records. Citizens have a constitutional right to written charges within 24 hours of detention, but this is rarely observed. State capacity to protect citizens from abuse by private and non-state actors is limited by serious logistical and financial constraints. In practical terms this means that many citizens turn to customary forms of adjudication and participate in local neighborhood watch activities to prevent crime. Citizens have statutory rights of redress when state authorities violate their rights. The Special Court for Sierra Leone provides a limited right of redress against officials who violated rights during the 1991-2002 war. In practice, citizens' complaints face weak and disorganized government institutions, regardless of official policy or intent. The Ministry of Internal Affairs, responsible for oversight of police and prisons, is housed in a small, cramped building, suffers from inadequate funding, and operates with a tiny staff. This is a condition that has changed little in the last several years. The National Human Rights Commission, created to fulfill an ombudsman role, substantially increased its level of functioning in 2008 and began to accept complaints at several locations around the country.

Sierra Leone is a party to the African Charter on Human and People's Rights, which guarantees "elimination of every discrimination against women." The national constitution (Section III, 19(1)) incorporates this right. Although women have constitutional rights to access to education, health care, and economic opportunities, in practice scarce resources and social customs limit women's enjoyment of these rights. Some existing statutes reinforce gender discrimination, including those in customary and family law that are exempt (Section I, 27(4)) from the aforementioned constitutional guarantee. Many local courts cite custom to limit the rights of women regarding family law and inheritance.^[19] This exemption extends to the widespread practice of female genital mutilation. The three Gender Acts of 2007 strengthen and codify women's rights in marriage and divorce law and rights to inheritance. The laws also provide a framework for the establishment of Family Support Units in police stations to deal with domestic violence and other violence against women. Some units have begun to operate and evidence suggests that reporting rates for domestic violence have increased.^[20] Seventeen percent of the more than 1,300 candidates who stood in the 2008 local council and mayoral elections were women,^[21] while the 2007 parliamentary elections sent 16 women to the 124-member Parliament, a decrease of 2 from the previous legislature. State policy prohibits trafficking in women. The Sierra Leone Police and Family Support Units reported that the government investigated 38 trafficking cases in 2008, with more than half of these cases involving female victims under the age of 16.^[22] The scarcity of resources and coordination capacity limit government efforts to raise awareness, detect, and prosecute instances of human trafficking.

State policy does not discriminate against the ethnic, cultural, and linguistic rights of minorities. Most minorities do not suffer systematic discrimination with regard to the enforcement of their rights and enjoy full equality before the law, albeit within the serious limits of state capacity to provide it. An exception concerns the treatment of ethnic Lebanese residents, including those who are from families resident in the country for generations. The Sierra Leone Citizenship Act of 1973 limits citizenship to persons of "Negro African descent."^[23] This vulnerability enables individual officials to threaten to reverse the naturalization of residents of Lebanese descent and subject them to deportation in the course of personal disputes. Popular discourse often ascribes ethnic biases to particular political parties, although electoral data indicate that there is significant flexibility in regional and ethnic voting patterns.^[24]

The government of Sierra Leone has accepted in principle the recommendations of the Truth and Reconciliation Commission to assist war-wounded individuals, particularly amputees. Scarce resources and lack of policy coordination, however, severely limit the government's actual provision of assistance.

Freedom of religious observance is constitutionally guaranteed and widely respected in practice. Nonbelievers and adherents of minority religious faiths enjoy official protections. State officials refrain from appointing spiritual leaders, and the government does not have requirements for recognizing, registering, or regulating religious groups.

The state has a strong record of adhering to constitutional provisions recognizing every person's right of association. The state respects citizens' rights to form and join trade unions, and unions are active within the small formal sector of the economy. The state effectively protects the rights of citizen organizations to mobilize and advocate for peaceful purposes. Citizens are not compelled to belong to any association. Some NGOs complain about registration fees, but there is no evidence of systematic discrimination. Demonstrations in support of opposition candidates for the 2007 and 2008 elections were tolerated, and authorities have not banned demonstrations by groups critical of government policies, although protests occasionally result in violence and forcible dispersal by the police.

Rule of Law – 3.96

The decay of state institutions, economic collapse, and the 1991-2002 war had deeply negative consequences for the security of Sierra Leonean citizens and seriously undermined the rule of law in civil and criminal matters. The RUF and their allies occupied large portions of the country from 1993 to 2001 and targeted judicial institutions, lawyers, police, NGOs, and others that they associated with the rule of law in the zones they controlled.

Sierra Leone's newly reemerging legal sector benefits from considerable international assistance. Concerns remain, however, regarding the capacity of the government to sustain this progress in the event of a decrease from the current level of assistance from the British government, the United Nations, the European Commission, and the World Bank. Nonetheless, the judiciary demonstrates some independence in the administration of justice when it is able to function. Lack of resources and trained personnel and very low (and often late) salaries continue to be serious problems. A single magistrate is appointed to each of the country's 12 districts, resulting in huge case backlogs. With only 10 state prosecutors in the whole country, untrained police often act as prosecutors, leading to delays and the collapse of cases.^[25] This results in many people turning to informal mechanisms for adjudication or taking the law into their own hands.

Judges enjoy considerable constitutional protection from governmental interference. A judge can be removed only if found incapable of functioning or guilty of misconduct while serving. Removal must be authorized by the president upon recommendation of a special tribunal and subsequent approval by a two-thirds parliamentary majority.

Salaries and pensions are paid from the Consolidated Fund, which is staffed with civil servants who are not political appointees, thereby insulating judicial remuneration from direct political interference.

Legislative, executive, and other governmental authorities' compliance with judicial rulings is sporadic. Governmental agents, especially police, exercise more ad hoc power outside the capital to deal with directives in their own fashion. This is due in part to the absence of resources to publish and communicate court decisions to relevant agencies. Many people lack adequate knowledge about their rights and how laws apply to them. The recent popularity of Family Support Units suggests that this situation may be changing. Formidable obstacles to improved justice remain, however, in terms of the high costs and long delays associated with government courts.

Judicial appointments reflect professional experience and merit. Supreme Court, Court of Appeals, and High Court judges are appointed by the president with parliamentary approval. Supreme Court judges are to have practiced or sat on the bench for at least 20 years, Court of Appeals judges for 15, and High Court judges for 10. The exigencies of rebuilding judicial institutions mean that many standards are relaxed in practice. The paucity of state resources means that magistrates receive limited training or upgrading in the form of conferences or courses.

The Supreme Court's role is to rule on matters of constitutional consequence. Following perceptions that it was unable to deal effectively with technical issues related to cases, President Koroma asked the chief justice to take a leave of absence in January 2008 and appointed the most senior justice on the bench as acting chief justice. Reforms in 2008 to streamline judicial sector operations illustrate the primacy of technocratic considerations in reforming the country's justice system. The reforms, which are backed by UN and British government judicial reform programs, include support for capacity-building measures and support for agencies such as the Law Reform Commission. These reforms measurably bolster the function and expertise of the higher courts, as evidenced by the decrease in the High Court's average trial duration from 105 days in 2004 to 7 days in 2007.^[26] The dilemma of such reforms, however, is that a gap in expertise may arise between technocrats within the judicial sector—such as the Law Officers' Department, responsible for helping to draft regulations and legislation—and members of Parliament and officials in various independent agencies. This gap, abetted by donor support to create islands of efficiency in parts of the judicial sector, helps Sierra Leone conform to international standards of justice and the protection of human rights, but may also increase executive power in a context in which the president's party lacks a parliamentary majority but legislators lack close relations with donors.

Those charged with criminal offenses are presumed innocent until proven guilty according to the law. However, defendants are often remanded for long periods without charge and are not offered reasonable prospects for bail. The incapacity of state agencies to keep records and monitor defendants, along with the scarcity of resources, can result in defendants remaining in prison for years while waiting for their cases to be heard. In principle, citizens are promised fair hearings in competent, independent, impartial tribunals. Unfortunately, the public's perception is that corruption often determines the speed and outcome of court proceedings. Moreover, courts lack adequate translation services to render hearings and documents comprehensible in Krio or other indigenous languages, a situation that leaves the majority of the country's population without judicial services in a language that they understand. All of these problems are related to the abysmal conditions of service in the judiciary and its crushing caseload, low pay, and poor physical conditions.

The state guarantees the provision of independent counsel only to those accused of capital crimes, although there are donor-backed plans to establish a public defender service. The constitution promises all defendants "access to a legal practitioner or any person of his choice" (Section XVII, 2 (b)) but the cost of hiring legal representation in a country with only 100 lawyers, of whom a mere seven practice outside the capital, exceeds the means of the vast majority of citizens.^[27] The capacity of the government of Sierra Leone to provide legal assistance is practically nonexistent; the gap is partially filled by civic organizations and NGOs. In practice, most defendants appear before tribunals without the assistance of a lawyer.

The office of the director of public prosecutions undertakes proceedings against any person charged before all but local courts, and prosecutors are relatively independent of political direction. This agency suffers the same institutional deficiencies that afflict some other branches of the judicial services. An exception to the relative independence exists in the attorney general's office. In high-profile cases, it is conceivable that an attorney general can act as liaison between the judiciary and other branches of government, while simultaneously appearing in court as counsel for the state.

Insecurity, poverty, and the institutional consequences of the 1991-2002 war reduce official capacity to afford all citizens in Sierra Leone access to equal treatment under the law without distinction of condition or circumstance. Nonetheless, the formal legal and policy commitment to these rights within the constraints noted above is remarkable. This includes judicial enforcement of property rights, which receives strong backing in law but is subject to constraints of resources and corruption. Rebuilding state institutions and addressing related problems of corruption remain the primary challenges to enforcing rights. In practice, individuals have complained of forced evictions by powerful people carried out in the name of "development." Such controversies have occurred in Freetown, where beachfront enterprises have been replaced with new high-end construction projects.

Legal bifurcation remains a controversial element of the Sierra Leone judicial system. Common law predominates in urban areas, while the majority of the country's population is subject to customary law and a system of chieftom courts that were inherited from the colonial judicial system. Adjudication under customary law is the task of court chairmen appointed by unelected local paramount chiefs, and customary law is not adequately codified. Lawyers are not allowed to appear before chieftom courts. In practice there is scant opportunity for appeal, owing to the poverty of most rural people and the weak capacity of formal legal institutions. Chieftom courts are administered under the jurisdiction of the Ministry of the Interior and not the country's judiciary. In practice, court chairmen often are not independent of the interests of the paramount chiefs who appoint them. In addition, the new Local Councils have taken over some of the revenue sources formerly available to chieftoms, making chieftom administrations more reliant on court fees and fines. Public perceptions of some chieftom courts are that they are corrupt, charge excessive fees, and levy excessively large fines. These complaints were among the grievances that arose during the war, although there is not widespread support for abolishing chieftom administration.^[28] To the extent that local people view such behavior as arbitrary and exploitative, it undermines the justice system's authority and drives more people to seek justice in informal arrangements outside the state's purview.

On January 16, 2002, Sierra Leonean and United Nations officials signed an agreement to establish the Special Court for Sierra Leone (SCSL) to prosecute those who bore the most responsibility for war crimes and crimes against humanity in Sierra Leone's 1991-2002 war. The SCSL is located in Freetown, although the trial of former Liberian president Charles Taylor has been transferred to The Hague. Taylor has been accused of committing war crimes in the course of his support for rebels in Sierra Leone and in his attempts to benefit from Sierra Leone's resources. On June 20, 2007, the SCSL delivered guilty verdicts against three defendants that resulted in sentences of between 45 and 50 years imprisonment. This judgment established a precedent in international law for prosecution of the crime of military conscription of children. A verdict in the Taylor case is expected in early 2010, which would end the work of the SCSL. The Special Court has drawn criticism in some local newspapers for the high cost of its operation. The 2007-2009 budgetary needs for the SCSL were estimated at about US\$89 million,^[29] a sum that vastly exceeds spending on Sierra Leone's domestic justice system.

Sierra Leone has suffered increasing use as a transshipment point for the trafficking of illegal narcotics from South America to Europe. The July 2008 seizure of 700 kg of cocaine at Lungi Airport from an aircraft arriving from Venezuela highlighted this threat;^[30] if left unchecked, drug trafficking has the potential to overwhelm recent postwar gains in the implementation of the rule of law. The value of the Lungi Airport seizure alone was roughly equal to the budget for the entire government's 2007 operations, thereby underscoring the threat of major corruption related to such activity.^[31] The Government of Sierra Leone invited Scotland Yard to aid in the investigation and Parliament, with help from the United Nations Office on Drugs and Crime, passed the Anti-Drugs Act of 2008 to provide stiffer penalties for drug trafficking in legislation.

Sierra Leone's military is subject to civilian control. Members of the military are constitutionally prohibited from holding presidential office or from serving in Parliament. The British-funded and staffed International Military Assistance Training Team acts as an implicit guarantor of military noninvolvement in politics. The military, police, and security forces have played no significant political role in recent electoral processes. Police have a record of mistreatment of detainees and abuses related to solicitations of bribes and other forms of corruption, but impunity is much less the norm than in the past. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department received 1,273 citizens' complaints in 2008, leading to "at least 176 officers being either dismissed, demoted, suspended or officially warned."^[32]

Anticorruption and Transparency – 3.29

Official corruption lay at the heart of the collapse of state authority and legitimacy in the decades prior to the start of the war in 1991, and graft remains extensive today. It features prominently in citizens' complaints about their government, despite the advent of civilian rule and regular elections. Citizens tend to blame corruption for problems of low capacity, regardless of their true causes, which underscores the degree to which perceptions of corruption erode the legitimacy of the government. High government officials make repeated pronouncements concerning the seriousness of the situation. Moreover, corruption remains a major concern for international donors and businesses, with Sierra Leone ranking 158th out of 180 countries surveyed in Transparency International's 2008 Corruption Perceptions Index.^[33] Corruption is regarded as a primary obstacle to sustained recovery of an autonomous national administrative apparatus capable of surviving without extensive international aid.

Much corruption stems from excessive bureaucratic regulations and registration requirements. Low-paid civil servants have a vested interest in maintaining these rules, even in the event that they are formally abolished, as opportunities to solicit bribes. In addition, the pervasiveness of corruption hinders state efforts to protect against conflicts of interest. Requirements for officials to declare personal assets result in only partial compliance, though President Koroma attempted to set a positive tone by declaring his assets in 2008. The slow process of divestment of state-owned companies, begun in the early 1990s, has helped mitigate corruption. However, most quasi-governmental organizations and state-run companies remain without audits for years, and even decades; indeed, the shoddiness of these companies has in some cases made privatization difficult. Sierra Leone's Audit Service produces reports that "are often ignored, or given superficial attention,"^[34] and Audit Service reports are difficult to access.^[35]

State enforcement of anticorruption measures is weak. Britain's Department of International Development (DFID) funded the 2001 creation of the ACC, which is charged with investigating allegations of corruption in government agencies and publishing regular reports of its activities. The ACC has been the target of considerable criticism in the country's media and lost its funding from DFID in 2007. Its 2007 report indicated that only five investigative reports were sent to the attorney general for prosecution and that only one conviction was obtained. The same report indicated that cases transferred to the High Court as far back as 2001 remained before the court.^[36] In the opinions of most people in Sierra Leone, this did not represent a credible effort to reduce corruption.

The passage of the Anti-Corruption Act of 2008 gave the ACC prosecutorial powers and strengthened its investigative powers. The new law offers the promise of strengthening the ACC's performance as investigations that were initiated in 2008 extended to the level of a senior magistrate and an ex-ombudsman. The ACC has found a new foreign financial backer in Germany's GTZ and has instituted a telephone hotline and a web page to collect anonymous tips.^[37] It has also embarked on an extensive effort to educate the public about its renewed mandate and to provide instructions for reporting corruption. ACC officials assert that the 2008 legislation marks a turning point in the its operation, although they point out that providing institutional capacity—including the hiring of qualified staff to conduct real investigative efforts—is crucial for the agency's

success.^[38]

Corruption in the critically important diamond-mining industry continues to be a national problem. UN Security Council Resolution 1306 of September 2000 required Sierra Leone's government to institute a certification scheme to guarantee the legality of exported stones. The government has made progress in regulating the industry. Official diamond exports of US\$212 million in 2005, versus US\$10 million in 2000, reflected the growing capacity of the government to manage this important source of economic opportunity and state revenue.^[39]

However, formal regulations, including environmental standards and anti-smuggling measures, remain weakly enforced. Because some government officials have been involved in illicit diamond mining, the paucity of investigations of corruption, much less its prosecution, reflect conflicts of interest among officials. Investigations also confront risks and challenges from local suspicion of central authorities and armed gangs that benefit from illicit mining, including through the "protection" of migrants seeking work in the sector.

In terms of transparency, government efforts to provide public access to information are limited. Organizational problems and the lack of resources in many government offices mean that information is not made available to the public unless these efforts are included as part of donor-funded initiatives. There is no broad provision in law for public access to official information. Efforts have been made to put information on internet sites, although these sites often are not updated regularly. Some politically sensitive information, such as financial disclosure forms, is available, but most of these appear to be incomplete. Budget material and details of the budget process that are available are beyond the reach of the great majority of citizens without internet access. Local newspapers are an important vehicle of dissemination for this information, as many journalists reprint material from websites as feature articles. Often more information is found in World Bank and International Monetary Fund documents than in official government open-source documents. Budgets are subject to legislative review, but actual expenditures, especially cost overruns, receive cursory legislative attention. Legislators occasionally derive personal benefit from these opaque practices.

The country's news media publish regular accounts of insider influence in the awarding of government contracts. The failure of the government to publish comprehensive expenditure accounts contributes to perceptions of corruption, although for those motivated to visit government offices in Freetown, hard-copy versions of more extensive accounts are occasionally available. Citizens possess the right to obtain information about the conduct of government. The office of the ombudsman was created in April 2000 to work closely with the ACC and assist in handling citizen complaints and petitions to the government. Prior to the reorganization of the ACC, the ombudsman's powers were more adapted to acknowledging inquiries than to addressing them. In any event, the individual that served as ombudsman from 2001 to 2007 later was alleged to have been involved in corrupt practices.^[40] Foreign assistance provides vital support to administration functions, and foreign experts play an important role in monitoring and assisting in the distribution of aid. Given the degree of donor influence, funds from these sources are generally monitored closely to assure they are not diverted into officials' pockets.

Recommendations

- Consistent with one of the recommendations of the Truth and Reconciliation Commission, the government should repeal the seditious libel law under the 1965 Public Order Act.
- In recognition of the role of paramount chiefs as the most durable—but not popularly elected—basis for local governance, the government should design a mechanism to facilitate political negotiations with these leaders focusing on improvements in electoral accountability and local government reforms.
- In order to provide citizens with means of redress for the inconsistent enforcement of rights, the government—with external support inevitably necessary—should form an independent commission charged with planning a multi-year rehabilitation of the country's court system that will ensure the country's impoverished majority access to these institutions.
- The government should establish a permanent mechanism for coordination with other regional governments and international institutions to monitor and combat the growing drug trade.
- In order to sustain and augment the ACC's capacity in preparation for the eventual withdrawal of international support, the government should put greater effort into coordinating with NGOs and other civic organizations that can apply pressure to provide greater political support for oversight and investigative agencies.

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Notes

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