



National Integrity Systems
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Questionnaire

Sierra Leone 2004

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Sierra Leone

The National Integrity System Indicators

Questionnaire

Executive

Can citizens sue government for the infringement of their civil rights?

Legal Position

Chapter 3 of the Sierra Leone Constitution of 1991, Section 28, enforces protective provisions. This can be done by applying to the Supreme Court for redress by anyone whose rights have been infringed.

Practice

An example was that between the APC (All People's Congress) plaintiff, and the Ministry of Social Welfare, Youth and Sports, 1996.

Are there procedures for monitoring of assets, including disclosure provisions for Cabinet and other government ministers?

Legal Position

There is no Constitutional provision in the Constitution of Sierra Leone that requires Cabinet and other government ministers to declare assets and liabilities for public inspection.

Practice

Parliament requires the declaration of assets and liabilities of prospective ministers upon appointment to the appointments committee.

Are there procedures for monitoring of assets, including disclosure provisions, for high-level officials?

Legal Position

In Sierra Leone, there is no legislation that requires high-level officials to declare assets, however, apart from the requirements by the Parliamentary Committee on appointment, requesting for the disclosure of assets by nominees of the President for high-level positions, the Local Government Act of 2004 make provisions for the declaration of assets on the part of elected Councillors and officials at Local Council level.

Practice

Nominated candidates by the President of Sierra Leone for top government positions are required to disclose their assets by the Parliamentary Committee, while the Local

Government Act of 2004 requires Councillors and officials to disclose their assets at Local Government level.

Are there differences in procedure and disclosure provisions between elected ministers, appointed ministers, and high-level officials?

Legal Position

There is no Constitutional Provision in the Constitution of Sierra Leone.

Practice

Upon appointment, elected ministers, appointed ministers, and high-level officials, generally senior civil servants, can only declare their assets to the appointments committee of Parliament, as part of the procedure for the committee to scrutinise any appointments made by the Executive.

Are there conflict of interest rules?

Legal Position

In Sierra Leone, ministers and high-level officials are prohibited by the Anti-Corruption Section 8 (1) Law from accepting any form of advantage in connection with their official duties. It states that they can be convicted of an offence if they fail to do their duty, but there is no legislation that specifically deals with conflict of interest rules for ministers, or top-level officials.

Practice

The absence of specific legislation dealing with conflict of interest rules for both ministers and top government officials has perhaps given scope for encouraging corrupt tendencies in government institutions and parastatals.

Are there rules and registers concerning gifts and hospitality?

Legal Position

In Sierra Leone, public officials are prohibited by law from accepting any form of advantage or gift in connection with their official duties.

Practice

The special permission of the President is required for a gift to be accepted. His permission is deemed to be granted in relation to the acceptance of a gift in customary nature by Paramount Chiefs and recognised as appropriate by custom.

If so, are these registers kept up to date, and by whom?

Legal Position

There are no known registers concerning gifts and hospitality.

Practice

Gifts and hospitality received by ministers and top government officials are mostly not registered, except for those that require the permission of the President for their acceptance in accordance with the Anti-Corruption Act.

What powers or sanctions are in place against parliamentarians?

Legal Position

The Anti-Corruption Act 2000, Section 40 (1, 2, 3) states a prison sentence of seven years, payment of the value of the advantage acquired, or its deduction from pensions or gratuity.

Practice

Parliamentarians are not different from other public officials in terms of the sanctions imposed either by national law or the Anti-Corruption Act pertaining to corruption. They can be prosecuted the same way as other public officials. For example, when the former Minister of Transport and Communications was arrested for alleged smuggling of diamonds, he was brought before the law, which proved that the allegation did not fall within the ACC Act 2000 and was later released, because he was not found guilty by the court.

Are there restrictions on post-ministerial employment?

Legal Position

There is no legal restriction on post-ministerial employment.

Practice

The practice has been that former ministers engage in private business or go overseas. There have been no recent cases where a minister decided to take a job or become part of a company he dealt with when in office.

Are members of the Executive obliged by law to give reasons for their decisions?

Legal Position

Yes, members of the Executive are obliged by law, particularly the Constitution, not only to avoid arbitrary decisions, but also to give reasons for their policies and decisions.

Practice

Recently, the practice has been that the Executive gives reasons for their decisions through the use of the media. In such programmes, they explain what they have done and the possible outcome. Parliamentary Committees can also call upon the Executive and even Cabinet Ministers to explain either before a Committee or the Committee of the Whole House.

Do ministers or high-level officials have and exercise the power to make final decisions in ordinary contract award and licensing cases? Is this power limited to special circumstances?

Legal Position

Until quite recently, the Minister of Finance and the Central Tender Board, which now includes the Office of the Vice President, make the final decision in award and licensing. The final award and licensing of contracts below Le 12 million are made by individual ministries through their procurement departments.

Are there administrative checks and balances on decisions of individual members of the Executive?

Legal Position

Section 127 of the 1991 Constitution empowers the Supreme Court to review actions of public officials that violate the Constitution. Public officials must act in accordance with the law and Constitution; otherwise their actions will be declared null and void or ultra vires by the courts.

Legislature

Is the Legislature required to approve the budget?

Legal Position

The Legislature approves the budget annually in Parliament.

Practice

The Minister of Finance publishes the annual budget.

Are there significant categories of public expenditure that do not require legislative approval (which department does this involve, what is their expenditure, and what percent does this represent of the government annual expenditure) ?

Legal Position

According to the 1991 Constitution Part 5, Section 111, (4), no money shall be withdrawn from any public fund other than the Consolidated Fund and the Contingency Fund, unless the issues of these monies have been authorised by or under the authority of an Act of Parliament. Section 114 (1), states that no money shall be expended from the general revenue of the Republic, except such expenditure that is authorised by a warrant under the hand of the President, or charged by the Constitution, or the expenditure is of monies received by specific departments of government, which gave that department the authority to expend such monies. Expenditure can only be made by the President when necessary to carry on the services of government in respect of any period not exceeding four months, or if the President considers that there is an urgent need to incur such an expenditure in the interests of the public to avoid delay, until a supplementary estimate can be laid before and approved by Parliament.

Practice

To a very large extent, the practice has been within the Constitutional provisions.

Are there conflict of interest rules for parliamentarians?

Legal Position

There is no legislation that deals especially with conflict of interest rules for parliamentarians.

Practice

They are prohibited by law from accepting any form of advantage, and the Anti-Corruption Act has recommended an insertion to ensure against the use of any influence by

parliamentarians. In a paper presented by the former Deputy Commissioner, Mr. Brendan Gibb-Gray, entitled: 'Is the acceptance of a gift corruption?' in 2002, he recommended that government ministers should consider a gift register, where members of staff can record instances and the circumstances under which they were offered any advantage. He also stated that individual ministers, parliamentarians, and public officials should open a debate on their responsibilities to disclose business interests and make an honest and accurate declaration of assets.

Are there restrictions on post-legislature employment?

Legal Position

There is no known legislation that restricts post-legislature employment.

Practice

Former ministers and parliamentarians usually engage themselves either in public or private employment without any problem.

Electoral Commission

Is there an independent Electoral Commission? (If not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)?

Legal Position

Section 32 (1) of the Constitution of Sierra Leone provides for the creation of an Independent National Electoral Commission headed by the Chief Electoral Commissioner who is the Chairman. Members of the Commission are appointed by the President after consultation with all the political parties and subject to the approval of Parliament.

Practice

The Commission so far has conducted two Presidential and Parliamentary elections and a Local Government Election with great success.

Who appoints the head of the Commission?

Legal Position

According to the Constitution, the President, in consultation with all leaders of political parties and subject to the approval of Parliament, appoints the head of the Commission.

Practice

So far, the various heads of the Commission have been people with integrity widely accepted by the people of Sierra Leone and even by political parties. So far, there has not been a case where political parties strongly opposed the candidature of any head of the Commission. The appointment is usually made on merit.

Political Parties

Are there rules on political party funding?

Legal Position

There are rules on political party funding. These rules are laid down in Part 4, Section 19 of the Political Parties Act 2002, which among other things, states that the source of funds of a political party shall be limited to contributions or donations, whether in cash or in kind, of persons who are entitled to be registered as voters in Sierra Leone. The Political Parties Registration set up by the Political Parties Act 2002, can also provide limits to the amount of the contribution or donation to a political party, and the disclosure of information that may limit the influence of money in the political process.

Practice

So far, political parties have been adhering to the stipulations of the Political Parties Act 2002.

Are substantial donations and their sources made public?

Legal Position

Every political party shall, within such time, after the issuing of a certificate of registration under Section 12 of the Political Parties Act, submit to the National Electoral Commission a written document giving details of donations and pledges of donations made or to be made.

Practice

According to the Political Parties Act 2002, Part 4, Section 25 (4), members of a political party or the public are entitled upon payment of a fee prescribed by the Commission to inspect at the offices of the Commission or to be given copies of the audited accounts of a political party filed with the Commission. So far, no donations on the part of political parties have been made public.

Are there rules on political party expenditure?

Legal Position

According to Section 25 (c) of the Political Parties Act 2002, each political party must maintain a statement of its accounts showing the sources of its funds and the name of any person who has contributed to this fund, membership dues paid, donations in cash or in kind, and all the financial transactions of the party conducted through or with the aid of the national office of the party. There is no law that specifies as to how expenditure should be carried out by political parties, but expenditure must be documented.

Practice

Interested members of the public, including political parties, have been making use of the provisions of the act. There has never been any publication on the part of the Political Parties Registration Commission informing the public of any default.

Are political party accounts published?

Legal Position

According to Section 25 (4) of the Political Parties Act 2002, every member of the public or political party shall be entitled upon a payment of a fee prescribed by the Commission to inspect at the offices of the Commission or to be given copies of the audited accounts of a political party filed with the Commission.

Practice

Interested parties usually make use of the provisions of Section 25 (4).

Are accounts checked by an independent institution, are they published, and are they presented to Parliament?

Legal Position

Under Section 25 (4) of the Political Parties Act 2002, political parties' accounts are open for inspection to the public, including political parties, after a payment of a prescribed fee by the Commission at the offices of the Commission, and copies of the audited accounts of a political party filed with the Commission may be given to the interested individuals, groups, or institutions. Section 5 (5) states that where the Commission is not satisfied with the accounts of a political party, the Auditor-General will be notified to take the necessary steps and has to inform the Commission.

Practice

Interested individuals, groups, and institutions have been making use of Section 25 (4) of the Political Parties Act 2002.

Who appoints the head of the institution?

Legal Position

According to Part 2, Section 2 of the Political Parties Act 2003, members of the Political Parties Registration Commission, with the exception of the Chief Electoral Commissioner, are appointed by the President, subject to the approval of Parliament.

Practice

There is a Political Parties Registration Commission that facilitates the activities of political parties in terms of monitoring the affairs or conduct of political parties, so as to ensure their compliance with the Constitution, with the Political Parties Act and the terms and conditions of their registration.

Supreme Audit Institution

Is the National Auditor-General independent, i.e., is the appointment of the Auditor-General required to be based on professional criteria/merit?

Legal Position

Section 119 (6) of the Sierra Leone Constitution, guarantees the independence of the Auditor-General, by providing that in the exercise of his duty, he shall not be subject to the direction or control of any other person or authority. No qualification requirement is laid down for the Office of the Auditor-General.

Practice

The President, subject to the approval of Parliament, appoints the Auditor-General. Although no qualification requirement is laid by the Constitution, the practice has been that the individuals occupying that office were of suitable quality.

Is the appointee protected from removal without relevant justification?

Legal Position

His security of tenure is guaranteed by section 119 (9 and 10) of the Constitution of Sierra Leone, which, among other things, provides for both his removal and retirement. The terms for his removal from office are the same as those for the Chief Justice as laid down in section 137 of the Constitution of Sierra Leone, which stipulates that a judge of the Superior Court of judicature may be removed from office only for inability to perform the functions of his office, whether arising from infirmity of body or mind or for stated misconduct, and shall not be so removed except in accordance with section 137 (4) of the Constitution. The constitutional provision for retirement of the Auditor-General is 65 years of age.

Practice

The Auditor-General cannot be removed from office unless he is incapable of performing the functions of his office, whether arising from infirmity of the body or mind or for stated misconduct, according to Section 137 (4) of the Constitution.

Are all public expenditures audited annually?

Legal Position

According to Section 119 (4) of the Sierra Leone Constitution, the AG presents an annual report to Parliament.

Practice

Parliament debates the annual report, but these reports are usually delayed for several years on the part of the AG's Office, for example, the last report was published on the 15th September, 2002 covering the accounts of Sierra Leone from 1996 to 1999.

Is reporting submitted to a Public Accounts Committee and/or debated by the Legislature?

Legal Position

Reporting is submitted to Parliament and Parliament debates the report, through the Public Accounts Committee.

Practice

The reports usually have no significance because of the delay, as those who might have misused public funds would have died, retired, resigned, or transferred to other departments. For years, little or no action had been taken against those who misappropriated state funds.

Are all public expenditures declared in the official budget?

Legal Position

According to Section 112 (1)-(2) of the Constitution, it is the duty of the Finance Minister to put before Parliament every financial year, estimates and expenditures of Sierra Leone for every coming financial year. Estimates of public expenditure are declared before

Parliament to provide for the issue from the Consolidated Fund of the sums of money necessary to meet that expenditure, and the appropriation of those sums for the purposes specified.

Practice

The practice has been that the Finance Minister puts forward a bill before Parliament requesting its approval.

Judiciary

Have the courts the jurisdiction to review the accounts of the Executive (Presidency, the Prime Minister, or other ministers and their officials)?

Legal Position

The courts can deal with cases involving the President, ministers, and other executive officials. The court can invalidate legislation that conflicts with the Constitution, because the Constitution is the Supreme Law of Sierra Leone. If it is suggested that the Executive has misappropriated state funds or committed another offence, then that matter could be taken to the court of law for jurisdiction.

Practice

Over the years, Sierra Leone has witnessed ministers and government officials being taken before the courts to answer for crimes they have committed. For example, in the case of a former Minister of Agriculture, the court found him guilty of misappropriating funds meant to purchase seed rice in 2000–2001. Similarly, government officials have been sentenced to jail terms for misappropriating state funds or for accepting an advantage, for example, Mr. Soloku Bockarie, Justice Taju-Deen, etc.

Are judges/investigative magistrates independent, i.e., are appointments required to be based on merit? Are the appointees protected from removal without relevant justification?

Legal Position

According to Section 120 (3) of the Sierra Leone Constitution, Judges and Magistrates shall not be subject to the control or direction of any other authority. Appointments are made by the President, acting on the advice of the Judicial and Legal Service Commission, and subject to Parliamentary approval. Section 137 (4–7) of the Sierra Leone Constitution protects the tenure, but in the event of inability to function, a Tribunal can recommend their removal from office.

Practice

Both Judges and Magistrates are appointed in accordance with the Constitution. For example, the individual must have served the amount of years required by law and must also possess the required qualification.

Are recruitment and career development based on merit?

Legal Position

Recruitments and career development are based on merit. There are specific qualification requirements stated by the Constitution. For example, to qualify as a Judge, one must have practised law for at least ten years after admission to the Bar. However, there is no

qualification requirement for becoming a Magistrate stated in the Courts Act of 1965, nor in the Constitution. To practise as a lawyer, one must have a degree in law in any Commonwealth country, a country with a legal system analogous to that of Sierra Leone, or to have passed the prescribed exams approved by the Council of Legal Education.

Practice

There has been no situation to suggest that the legal position has been flouted.

Have there been instances of successful prosecution of corrupt senior officials in the past three years?

Legal Position

Judges, Magistrates, and Court officials are all subject to the law on corruption if found guilty.

Practice

A senior retired Judge was found guilty and sentenced for accepting an advantage.

Civil Service

Are there laws establishing criminal and administrative sanctions for bribery?

Legal Position

Yes, there are established laws in the criminal code of Sierra Leone on bribery. An individual can be sentenced to a jail term or fined if found guilty of bribery. Similarly, the Public Service Commission can reprimand and impose sanctions on a public servant for the offence of bribery. Also, the ACC, in Part IV on Corrupt Practices of the Anti-Corruption Act 2000, Section 8 (1), establishes the act of soliciting or accepting an advantage as criminal, and Section 40 (1, 2, 3, 4) levies sanctions for bribery.

Practice

A Permanent Secretary (Mr. Soloku Bockarie) was charged and convicted in the year 2000 for corrupt practices, and is serving a seven-year sentence for misappropriating millions of leones meant for the ministry.

Are there rules requiring political independence of the civil service?

Legal Position

The civil service is under the Public Service Commission and prior to the approval of the President, the Public Service Commission can make regulations by a Constitutional instrument for its effective and efficient performance under the 1991 Constitution as in Section 152 (10), and shall not be subject to the direction or authority of anyone in the performance of its duty as in Section 152 (11).

Practice

Despite the fact that civil servants should not be influenced by politicians in performing their state functions, it is argued, however, that civil servants are indeed politicised and thus not truly independent in their actions. This is perhaps due to the fact that most senior civil servants want to maintain their positions and cannot afford, therefore, to antagonise politicians.

Is recruitment/career development based on merit?

Legal Position

The Public Service Commission is responsible for recruitment.

Practice

All civil servants enter the civil service through the Public Service Commission.

Are there specific rules to prevent nepotism, cronyism? (Note: rules discriminating positively in favour of marginalised or minority groups are not included in this description)

Legal Position

There are no specific rules to prevent nepotism, cronyism. There are, however, rules that lay down the basis for the recruitment of officials to the civil service, which among others, include merit, i.e., the applicant must be the best one. This is usually determined through an interview or an examination.

Practice

In practice, however, cases have been reported of certain officials being appointed to positions without using the criteria of merit. It is possible that such considerations as those of tribal, regional, or filial relationships, may have influenced these decisions.

Are procedures and criteria for administrative decisions published (eg., for granting permits, licences, bank loans, building plots, tax assessments published, etc.)?

Legal Position

There are no procedures and criteria for administrative decisions published.

Practice

There are publications, however, in the Gazette usually on granting permits to sell alcohol and state lands.

Are there complaint mechanisms for public servants and whistleblower protection measures?

Legal Position

Public servants can complain to the Public Service Commission, the Establishment Secretary's Office, the President, the Courts, the Office of the Ombudsman, the Police, or the Anti-Corruption Commission (where Section 42 (b) I ii of the ACC Act 2000, obliges that no witness shall disclose his/her name, or answer any question leading to the disclosure of his/her name).

Practice

Civil servants actually complain about what they consider to be administrative injustice done to them by their bosses. This may either take place when the civil servant is in the service of government, or when he or she has retired from the civil service. Most of the complaints relate to unlawful dismissals, delays in paying gratuity and pension, promotions, administrative privileges that should be enjoyed by the office, etc.

Are there means of complaint by members of the public?

Legal Position

There are several means of complaint for members of the public, including the Public Service Commission, the Establishment Secretary's Office, the President, the Courts, the Police, the Anti-corruption Commission, and the Office of the Ombudsman.

Practice

Members of the public actually complain, but it takes a long time to obtain redress, especially complaints for pensions and gratuity. The Office of the Ombudsman has received many complaints from the public, ranging from disputes over land, decisions of government which an individual might see to be unjust, complaints against the police for abuse of power, etc.

Are there administrative checks and balances on decisions of individual public officials?

Administrative complaints on the part of individual civil servants could be made to the Office of the Establishment Secretary, which is directly responsible for the recruitment and discipline of civil servants, while complaints for redress could also be sought at the Office of the Public Service Commission, which is the Commission set up by Parliament as responsible for the appointment of all civil servants. However, many civil servants who might have been maltreated are usually hesitant to take their case to either the Establishment Secretary or the Public Service Commission. They fear losing their positions.

Police and Prosecutors

Is the commissioner of police independent, i.e., are appointments required to be based on merit? Is the appointee protected from removal without relevant justification?

Legal Position

The Sierra Leone Police Force was created under Section 155 (1) of the Sierra Leone Constitution, and according to Section 157 (1), the President appoints the Inspector General of Police acting on the advice of the Police Council and subject to the approval of Parliament. Appointments are based on merit by conducting exams and interviews. The Constitution gives power to the Police Council to appoint the rank of Assistant Superintendent of Police from above and below, excluding the Inspector-General of Police. Any officer is protected from removal without justification.

Practice

The practice so far has been within the Constitutional provisions.

Are public prosecutors independent?

Legal Position

Public prosecutors are independent. There is legislation that prohibits the direction and control of prosecutors and their institutions on the part of any person or authority in the performance of their functions. For example, Section 53 of the ACC Act 2000.

Practice

Police prosecutors, state counsels, and even Anti-Corruption Court investigators, perform their duties within the law, which also makes provisions for the prosecution of any official found compromising the independence and neutrality of their respective institutions.

Are there special units for investigating and prosecuting corruption crimes?

Legal Position

The Investigation Department of the ACC consists of two groups. Each group is headed by an expatriate Principal Investigator seconded to the Commission by DFID. There are also four consultants (three dealing with prosecution and one for civil cases) at the Law Officers' Department paid by DFID to help facilitate the prosecution process of the ACC. Additionally, the police and state counsels are also involved in investigations.

Practice

It is the ACC that investigates and forwards the cases to the Office of the Attorney-General and Minister of Justice, where the merits of the case will be determined as to whether it should be forwarded for jurisdiction or not.

Is there an independent mechanism to handle complaints of corruption against the police?

Legal Position

Departments to deal with police complaints have been set up at both headquarters and at branches.

Practice

Within the police itself, structures have been put in place to reduce the opportunities for corruption in such areas as the audits, accounts, and procurement of supplies. They have been working and have had some effect.

Does civil society have a role in such mechanism?

Civil society has been co-opted by the Sierra Leone police in the area of community policing. Citizens are more cooperative with the police in such areas as giving information to the police and joint policing an area, and they also have access to make complaints against police officials, etc.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Legal Position

The departments responsible for police behaviour deal with complaints against the police and if found guilty, the matter is taken to the Police Council to take the necessary action, even that of prosecution, disciplinary measures, or dismissal.

Practice

A former Immigration Commissioner of Police, Eric Musa, was implicated in passport fraud in the year 2002. He was accused of selling diplomatic passports, which were intended for sale legally by government to foreign nationals in order to get foreign exchange.

Are there cases of corruption within the prosecuting agencies?

Legal Position

There have been several cases of corruption within the prosecuting agencies, like the Police and the Judiciary.

Practice

Usually such cases are taken to the court for adjudication. The case of Judge Taju-Deen which occurred in 2001 is a case in point – he was charged and convicted for accepting an advantage, and the appeal is pending.

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of case of corruption/bribery?

Legal Practice

The Sierra Leone Constitution, the Criminal Laws of Sierra Leone, the Anti-Corruption Act 2000, and the Police Discipline Code may be used as legislative instruments.

Practice

All cases concerning corruption/bribery are adjudicated by using the Constitution, the Criminal Law, and the Provisions of the Anti-Corruption Act 2000.

Is the law applied?

Legal Position

The laws are actually applied; otherwise it would have been inconceivable for a judge, ministers, and top government officials to be found guilty and sentenced accordingly.

Is private-to-private corruption punishable by law?

Yes, if brought before the courts. The laws of Sierra Leone have a place for private-to-private corruption, even members of companies are seen as natural people who can sue and be sued.

Is the law applied?

Yes, if such cases are brought before the courts.

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

Legal Position

Out of the 43 cases of corruption that were submitted to the Attorney-General, 10 cases were adjudicated and 8 were won within ten months by Justice Robert Anthony Schuster, one of the Judges from the Commonwealth sponsored by DFID. The number of prosecutions is actually low, but since the coming of the two Judges sponsored by DFID, the ACC is now witnessing acceleration in the prosecution of corruption cases. This is also complemented by the four consultants at the Law Officers department also sponsored by DFID. Several cases have been prosecuted successfully, involving petty bribery in the Sierra Leone Magistrate Courts. The ACC is still an investigative agency that does not have its own special court for corrupt cases, and according to the ACC Act, it must send all

cases to the Office of the Attorney-General and Minister of Justice, which will determine whether a particular case can be prosecuted or not. Prosecution of cases will remain at a snail pace, if the 13 State Counsels are not increased to meet the demands of the present workload currently faced by the AG's Office.

Public Procurement

Do the rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Legal Position

Public procurements are open to a formal bidding process for all major procurements.

Practice

The public procurement bid for the exploration of oil in Sierra Leone was won by three oil companies after a bidding process. The only exceptions are for bids below Le 12 million (US \$5000), which is done at departmental level in the ministries.

Are the rules laid down in documents publicly accessible?

Legal Position

The rules are posted on the bulletin board of the ministry.

Practice

The newspapers carry full advertisements of the bid and the conditions.

Are there strict formal requirements that limit the extent of sole sourcing?

Practice

Bids above Le 12 million are conducted by the Ministry of Finance, whereas bids below Le 12 million are conducted at departmental level in the procurement division of individual ministries. Sole sourcing is not limited. The United Nations Development Programme has begun the process of drafting a procurement policy for the government.

Are all major public procurements widely advertised to the private sector?

Legal Position

All public procurements are widely advertised in the news media.

Practice

Bids only commence after the deadline stipulated in the advert.

Are procurement decisions made public?

Legal Position

Procurement decisions are announced in the media.

Practice

Procurement decisions for the winners of the bid to explore oil in Sierra Leone were not only made public, but ratified in Parliament. This was because it was a major procurement decision and it was believed that the public should know about it for political reasons. Though procurement bids are usually published in the newspapers calling upon bidders to bid for specific contracts, the winners of such contracts are not usually published.

Is there a procedure to request review of procurement decisions?

Legal Position

The Supreme Court of Sierra Leone has the powers to review all decisions of government when a case is brought up against them.

Are there provisions for blacklisting companies proved to have bribed in a procurement process?

Legal Position

Yes.

Practice

According to the proposed Procurement Act, any company found guilty of bribery to secure procurement can be proscribed from any procurement process with government.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Legal Position

There are no rules on nepotism/conflict of interest.

Are assets, income, and life-style of public procurement officers monitored?

Legal Position

There are no specific rules for procurement officials.

Practice

They live a life that is unmonitored.

Ombudsman

Is there an Ombudsman or its equivalent (i.e., an independent body to which citizens can make complaints about maladministration)?

Legal Position

The Office of the Ombudsman was created in 1997 by an Act of Parliament.

Practice

Since its inception, the Office of the Ombudsman has received complaints from the public and has made representations on behalf of complainants either to government, private institutions, or individuals.

Is the Ombudsman independent?

Legal Position

Yes, the Ombudsman is independent. He is appointed by the President with the approval of Parliament. He reports annually to the President.

Are appointments required to be based on merit?

Legal Position

According to the Constitution, to be appointed to the Office of the Ombudsman, the applicant must be qualified to be appointed as a Judge of the Superior Court of Judicature, or is a person who has held the Office of a Judge of a Superior Court or Judicature, whether in Sierra Leone, or in any other country having a system of law like that of Sierra Leone.

Practice

The current Ombudsman, Mr. Francis Gabbidon, who was a practising Barrister, performs the functions of the Office of the Ombudsman in Sierra Leone.

Is the appointee protected from removal without relevant justification?

Legal Position

The Ombudsman, like Judges, is protected by the Constitution from removal without relevant justification. His tenure of office is four years and is eligible for appointment to one more term. He can only be removed for inability to perform the functions of his office, whether arising from infirmity of body or mind, or for stated misconduct.

Has an Ombudsman been removed without relevant justification in the last five years?

Legal Position

No.

Can petitioners complain anonymously if they fear possible reprisals?

Legal Position

Yes.

Practice

Complaints are made through the 14 investigators in the Office of the Ombudsman, who will call upon the parties involved for settlement. If they fail, then the matter is reported to the President for discussion in Parliament.

Are reports of the Ombudsman made public?

Legal Position

Reports of the Ombudsman are made public, both as a report before Parliament, and as publications in newspapers.

Practice

The Ombudsman makes representations to Parliament, gives interviews to the media and even discussions on the TV.

Does the government act on the Ombudsman's recommendations?

Legal Position

The Ombudsman does make recommendations to government.

Practice

Some sections of the public still complain as to the action taken on the recommendations of the Ombudsman to Parliament.

Investigative/Watchdog Agencies

Are there special investigative or watchdog agencies?

Legal Position

The Anti-Corruption Commission is the only investigative or watchdog agency in Sierra Leone that deals with corruption. According to Part 3, Section 5, Part 1 of the Anti-Corruption Act 2002, the Commission was established to investigate instances of alleged or suspected corruption referred to it by any person or authority, or that have come to its attention, whether by complaint or otherwise, and to take such steps as may be necessary for the eradication or suppression of corrupt practices.

What are their main responsibilities?

Legal Position

According to Section 5, 2, a-d, the responsibility of the Commission is to examine the practices and procedures of government ministries, departments, and other public bodies aimed at revising practices that might lead to corruption; to instruct, advise and assist any person or authority on ways and means in which corruption can be reduced or eliminated; to educate the public against the evils of corruption; and to enlist and foster public support in combating the corruption menace.

Practice

The various departments of the ACC have been going all out to translate their responsibilities into objective reality. For example, over the years, there has been a massive sensitisation to educate the public on the evils of corruption and the need for public support. The ACC has also made several representations to ministries of government, departments and other public bodies aimed at reviewing practices that might lead to corruption.

Are they independent?

Yes, the ACC operates as an independent organisation. Section 53 of the Anti-Corruption Act 2000 provides that in the performance of its functions, the ACC shall not be subject to the direction or control of any person or authority.

Are their appointments required to be based on merit? Are appointments generally based on merit?

Legal Position

The ACC Commissioner is appointed by the President, staff are generally employed through an advertisement made in the newspapers, whereby the specific position is stated, including the qualifications required.

Practice

To a very large extent, appointment to the ACC is based on merit.

Are the appointees protected from removal without relevant justification?

Legal Position

The head of the ACC is protected from removal without relevant justification. Although the act itself is silent on this aspect, like any other head of a Commission created by an Act of Parliament, it is protected by the Constitution from arbitrary dismissal. The President can only remove him for inability to discharge the functions of his office, whether arising from infirmity of mind or body, or from any other cause or misconduct.

Practice

The Deputy Commissioner resigned, because of what he considered to be a bureaucratic muddle that did not augur well for the mitigation of corruption through speedy trials.

Are their reports published (other than when criminal charges are pending)?

Legal Position

The ACC publishes its reports annually with the approval of the President and Parliament.

Do they report publicly to the legislature on the general scope of their work?

Legal Position

The ACC reports publicly to the Legislature in Parliament on the general scope of its activities through the report, which is first sent to the President who will in turn send it to Parliament for discussion and approval. According to the act, this must be an annual event.

Can people complain to the agency without fear of recrimination?

Legal Position

Yes, the people can. The ACC Act 2000, Section 42 (b), protects the informer. According to this section, no information for an offence under this act shall be admitted in evidence in any civil or criminal proceeding. And no witness in any criminal proceeding shall be obliged to disclose the name or address of any informer who has given information to the Commission with respect to an offence under the Anti-Corruption Act, or any person who has assisted the Commission in any way with respect to an offence, or to answer any question if the answer will lead or tend to lead to discovery of the name or address of such

an informer, if in either case such an informer is not himself a witness in such a proceeding.

Media

Is there a law guaranteeing freedom of speech and of the press?

Legal Position

Chapter 3, Sections 25 and 26, guarantee the basic freedom of expression of the press, assembly, and association.

Practice

However, freedom of expression is limited, because in order to protect its citizens, the state can enact legislation restricting the exercise of freedom of expression, as under a State of Emergency, or for the purpose of protecting the reputation of a person or maintaining confidence.

Is there censorship of the media?

Legal Position

According to the 1991 Constitution, Section 25 (2) b, among other things, imposes restrictions on the freedom of expression in the interest of defence, public order, public morality or public health, or for the purpose of protecting the reputations, rights and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the independence of the court, etc. The Independent Media Commission Act 2000 also requires the registration of newspapers, TV and radio stations through an application process.

Practice

The primary legislation in this area is Section 25, 2a and b of the Constitution of Sierra Leone. Other legislation includes Chapters 111–114 of the laws of Sierra Leone 1960. Chapters 111–113 are devoted to the print media, while Chapter 114 deals with undesirable advertisement, intended to prohibit and restrict certain kinds of undesirable advertisement in the media. Other laws include the Public Order Act No 46 of 1965, the Public Emergency Regulation 1999, Regulation 10 stipulates consequences for the publication of disturbing reports in that no person shall publish any report or statement which is likely to cause alarm or despondence, or be prejudicial to the public safety and maintenance of public order. Many journalists have been prosecuted using the above stated laws on censorship.

Is there a spread of media ownership?

Legal Position

There is a spread of media ownership. There is both government-owned television and newspapers. Government has one TV Station, several relay stations in the provincial headquarter towns and in Freetown, known as the Sierra Leone Broadcasting Service, one newspaper, the *Sierra News*, and also the party newspaper, *Unity*. There about 40 registered and privately-owned newspapers owned by businessmen, politicians, and practising journalists.

Does any publicly-owned media regularly cover the views of government critics?

Legal Position

All the privately-owned media covers views of government critics.

Practice

Most of the privately-owned media is usually very critical of certain policies regarding government. They sensitise the public on important national issues.

Have journalists investigating cases of corruption been physically harmed in the last five years?

A few journalists have been imprisoned in certain cases of libellous articles. For example, the case of Paul Kamara, the Editor *For Di People* newspaper, in court vs the President, and Justice Tholla Thompson. Paul Kamara wrote an article in his paper accusing Justice Thompson of being a thief in 2003.

Do the media carry articles on corruption?

Legal Position

The media is the first point of contact for corruption articles.

Practice

The media prods the investigative/watchdog agencies, such the ACC, on anti-corruption cases. Papers, such as the *Standard Times*, *For Di People*, *Democrat* and *Peep Magazine* frequently carry stories on corruption. The *Standard Times* was successful in investigating corruption at the Ministry of Education, involving a then Permanent Secretary who was later found guilty in court and is at present serving a prison sentence of seven years.

Do the media licensing authorities use transparent, independent and competitive criteria procedures?

Legal Position

The licensing for newspaper, TV, and radio stations is determined by the Independent Media Commission, made up of the Sierra Association of Journalists, and representatives of government

Practice

Yes, although the West African Democratic Radio was refused an operational license on the grounds of national security, an action argued by some to be questionable.

Are libel laws or other sanctions (e.g., withdrawing of state advertising) used to restrict reporting on corruption?

Legal Position

Libel laws and sanctions are used to restrict defamation, false reports, and sedition. This includes the Public Order Act No 46 of 1965, and the Public Emergency Regulations, 1999.

Practice

The Editor of *For Di People* newspaper was imprisoned for six months for libel against Justice Tolla Thompson, for saying that the Justice was a thief. The same Editor was involved in another libel case, this time against the President of Sierra Leone, Alhaj Dr. Ahmed Tejan Kabbah, and imprisoned for six months in 2004.

Civil Society

Does the public have access to information and documents from public authorities?

Legal Position

All public authorities are under a Secrecy Act, and the government chooses the information they want to make public.

Practice

The Sierra Association of Journalists is currently advocating a Freedom of Information Act, with the support of international bodies, to be presented to Parliament.

Do the public authorities generally co-operate with civil society groups?

Legal Position

The government generally cooperates with civil society.

Practice

Public authorities are using civil society to facilitate government programs and ensure that they do not antagonise civil society, through funding various sensitisation programmes carried out by civil society organisations.

Are there citizen groups or business groups campaigning against corruption?

Legal Position

There are citizen and business groups campaigning against corruption, such as the Campaign for Good Governance, Transparency International – Sierra Leone, Civil Society Coalition, the Bank Institutions, and the Trade Unions.

Practice

They have been effective in complementing the efforts of the ACC, through the sensitisation of the public and publishing letters to government, drawing its attention to certain practices that do not auger well for good governance.

Are there citizen groups monitoring government in the area of service delivery?

Legal Position

The citizen groups are formed into watchdog and coalition agencies.

Practice

They send out field investigators, e.g., the Campaign for Good Governance has conducted several surveys to determine whether the people were satisfied with the governance activities of either government or the private sector. It also sent out reminders on government democratic initiatives, and civil society coalitions to monitor government in the area of service delivery. The Health Ministry was a case in point, when it failed to keep the city of Freetown clean, because of the ministry's incapacity to remove refuse from the city.

Do citizen groups regularly make submissions to the legislature on proposed legislation?

Legal Position

So far, citizen groups do not regularly make submissions to Parliament, however, they influence such proposals through the Parliamentarians or the committees concerned.

Practice

Citizen groups make recommendations to their representatives in Parliament, which may fall within government development programmes, and can demonstrate against any bill to be passed in Parliament that is against their interests.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

Legal Position

The education system pays attention to integrity issues. This has been further reinforced with the setting up of Integrity Clubs in secondary and tertiary institutions by the ACC.

Practice

Integrity clubs have been set up in educational institutions. Corruption is now an issue that is discussed seriously. The ACC has excellent relations with the various integrity clubs. It usually organises seminars, workshops and public lectures.

Regional and Local Government

Are there at regional and local levels, rules and disclosure provisions, similar to those operating at national level on nepotism, conflict of interest, gifts and hospitality, and post-public office employment?

Legal Position

The Local Government Act of 2004 requires Councillors and officials to disclose their assets and also contains conflict of interest provisions. All legislation by Parliament covers the whole country without exception.

Practice

There is no separate legislation, but what is applicable at national level, applies to regions and local levels of government.

What public offices at regional and local level, are appointed by the national government?

Legal Position

All public offices are appointed by the government through the Public Service Commission.

Practice

The Local Government Act 2004 gives the Local Government Service Commission the power to determine the criteria for the Local Council Chief Administrator and other established posts in the local councils.

Is there a legal requirement that meetings of city/town councils can be open to the press and the public?

Legal Position

The same principles of freedom of the press in the Constitution apply in this circumstance. Section 25, 1–2 (a) and (b) provides for the freedom to hold opinions and to receive and impart ideas and information without interference, freedom from interference with correspondence, freedom to own, establish and operate any medium for the dissemination of information, ideas and opinions, and academic freedom in institutions of learning, etc.

Practice

The press is responsible for transmitting information at national level on events and early warning signs as a coalition of the media.

Are there criteria restricting the circumstances in the city/town councils excluding the press and the public?

Legal Position

There is freedom of the press and expression, except in the case that the legislation limits them.

Practice

Even corrupt cases are reported promptly to the press, as was the case in the City Council of Freetown, involving misappropriation of funds.

Do national agencies with a remit to deal with corruption (anti-corruption agencies, Ombudsman, Supreme Audit Institutions and so on) work at regional or local levels, and are there specific agencies with regional and local responsibilities?

Legal Position

National Agencies that deal with corruption mainly operate in the capital city of Freetown. The ACC, according to its Five Year Strategic Plan 2003–2008, will soon start to operate in all of the provincial towns, including Bo in the South, Makeni in the North and Kenema in the East. Similarly, the Office of the Ombudsman is also contemplating decentralisation of its activities.

Progress with Government Strategy

Has the government announced an anti-corruption strategy, and a timetable for implementation?

The ACC has promulgated a five-year strategic plan covering 2003–2008.

How much of the strategy has been implemented?

Legal Position

An Anti-Corruption strategic plan has been promulgated to last from 2003–2008. Since its inception, the ACC has been trying, among other things, to sensitise the public on

corruption, develop capacity, and prepare cases against individuals for prosecution. Similarly, the five-year strategic plan revolves around the intensification of activities in the various departments, including the decentralisation policy, which has been organised and administered and should be effected within the five-year plan. With the support of DFID, a Governance Reform Secretariat was also set up by government, in order to ensure that government departments practise good governance, such as the Judiciary, the Police, the restructuring of the Armed Forces, Local Government – the Local Government Decentralisation process, and the Paramount Chiefs Restoration project. This Good Governance Programme is aimed at putting in place a more decentralised, transparent, and proactive system of governance characterised by inbuilt checks and balances to minimise corruption and public administration, with civil society playing a key role in the planning and monitoring of policies and budgetary oversight. Government has also promulgated a vision for Sierra Leone, known as Vision 2025, i.e., a vision for 25 years. It is a multi-faceted policy which government should pursue in order to achieve the aspirations of all Sierra Leoneans in the economic, social, political, environmental, cultural, and technological activities of life. It is aimed at ensuring a better life for all and a united and peaceful Sierra Leone characterised by socio-economic and political development. Government is also implementing a strategy that would ensure the consolidation of revenue derived from taxes and duties. In this regard, it has created a Nation Revenue Authority.

Is the strategy at national level or regional/local level?

Legal Position

Government strategy is national.

Practice

The ACC has started the process of the decentralisation of its activities which will involve Bo in the southern part, Makeni in the northern part, and Kenema in the eastern part of the country. The Governance Reform is also carrying out its programme in the various sectors concerned. The decentralisation of local governance has taken off the ground with the creation of Local Councils and its elected Councillors have started work. Departments of government are now making use of the Vision 2025 document. The National Revenue Authority is now yielding dividend.

Is the government meeting its own timetable?

Legal Position

Putting a strategy into effect is a process and government is in no way meeting its own timetable, but at the same time, it is working towards the achieving of its objectives to ensure meeting its deadline, even against the backdrop of inadequate resources.

Donor Anti-Corruption Initiatives

Which bi-lateral and multi-lateral donor agencies are based in the country?

Legal Position

There are inter-governmental agencies.

Practice

They include the Department for International Development, the United Nations, United States International Development, World Bank, International Monetary Fund, and European Union. There are also non-governmental agencies, which have established relations and are based in the country, such as religious groups and humanitarian groups.

What types of anti-corruption initiatives have they supported?**Legal Position**

They have supported the formation of the Anti-Corruption Commission and police training in investigation and prosecution.

Practice

They have provided training at international level in the United Kingdom, the United States, and South Africa.

Are there examples of donors co-operating or co-coordinating their programmes?**Legal Position**

On several occasions, there has been donor cooperation and coordination of programmes in their efforts to bring about development in Sierra Leone. This was manifested just after the 11 years of war when donor agencies cooperated.

Practice

Donor agencies are cooperating in the areas of capacity building, peace education, development of a viable civil society, infrastructure, education, governance reforms, etc. Without cooperation and coordination, the work could have proved more difficult. Government also welcomed donor cooperation and coordination of their programmes. They usually cooperate by funding the same project, thus, avoiding duplication of efforts.

Future Research and Donor Support**Can key areas or issues be identified in terms of corrupt activities that the research for the report has demonstrated as requiring immediate attention, and which are they?**

One area that is most urgent is the speeding up of the Annual Auditor-General's Report that usually depicts how state funds have been expended. There is a deficit in this area and this has caused a lot of corrupt individuals to go unpunished. They leave the country before the matter ever becomes public. Another area is the development of a Code of Ethics that would require every public servant to declare his or her assets, and also containing a conflict of interest clause. Giving support to watchdog agencies or whistleblowers and protecting them from intimidation and any form of interference, is also an area that should be looked into. A study is also necessary to assess as to whether the monthly salary and wages of the individual has any relation to the economic situation of the country, and if so, what measures should be taken to ensure that the situation does not impact negatively on the wages and salary of the individual. So far, no serious research has been conducted, not even opinion surveys targeting the reasons for corrupt practices and how they can be mitigated. Before now, corrupt practices were seen as normal in society and that nothing could be done about it.

Is there a particular aspect of corrupt activity either particular to the country concerned or significant in terms of effect or impact that would require more in-depth research?

These include aspects of culture, poverty and the socio-economic environment and their possible links to corrupt practices on the part of the individual. In Sierra Leone, corrupt practices do take place everywhere in society, be it among the poor, the rich, the educated and the non-educated, traditional and western-oriented individuals.

Is there a particular approach or initiative to combating corruption that may be considered for future research or study, as an example of best practice?

Although no particular approach or initiative to combating corruption in Sierra Leone may be identified, it is argued, however, that the institutions that combat corruption should be capacitated so as to give them the wherewithal to put their programmes into effect. At the same time, more emphasis should be put on the sensitisation of the public on the evils of corruption, using religious, cultural, and traditional values. Future research or study should perhaps look at these areas, even to find out whether there is a link between culture and corruption.

Can key areas or issues relating to possible anti-corruption initiatives be identified as requiring donor support?

The ACC is going all out to obtain adequate funding that will cover all its activities concerning corruption in the areas of community relations, investigations, research and development, finance and administration logistics, decentralisation of the ACC, etc. There is a need for reform in all these areas and in particular that of decentralisation of ACC activities, which will need a lot of input to cover Bo, Makeni and Kenema, the administrative and district headquarter towns.

Can key areas or issues relating to anti-corruption initiatives be identified in terms of forming the basis for potential donor prioritisation, sequencing, cooperation and coordination?

The Anti-Corruption Commission has produced a strategic plan of action with the support of the UK government. In the strategic plan, the ACC sets out clearly the policies and objectives of the Anti-Corruption Commission. More importantly, it has stated its strategic objectives and the key target areas on which it has set its sights over the next five years. This strategic plan concerns corruption prevention activities, community relations activities, investigations activities, research and development activities, finance and administration logistics, decentralisation of the Anti-Corruption Commission, and staff development. The activities of the Strategic Plan started in 2003 and are due to continue until 2008. The government has embarked on an anti-corruption drive.

The ACC has been following carefully its strategic plan of action which has been greatly enhanced by both donor and government funding. Since its inception, the ACC has carried out tremendous work in all its departments. Once it has decentralised its activities, the ACC will become more nationwide and effective.