Examine the Legal and Policy Frameworks Regulating the Behavior of Politicians and Political Parties in Sierra Leone

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Examining the Legal and Policy Frameworks Regulating the Behavior of Politicians and Political Parties in Sierra Leone*

Kwesi Aning¹ & Fiifi Edu-Afful²

Introduction

Despite a decade-long civil war, lasting from 1991 to 2001, and after several peace agreements³, Sierra Leone has emerged as a functional, but fragile democratic state. In the aftermath of the war, Sierra Leone has managed to hold two successive elections. It is about to go to the polls for its third successive multi-party competitive election. The significant progress made in consolidating and deepening the post-conflict peace and security environment is seen in the rebuilding of institutions of state and government. A cursory look at the political history of the country shows the vibrancy of the political class in fighting colonialism to move the country into an independent state. However, the collective struggle for an independent Sierra Leonean state quickly gave way to an acrimonious political system that eventually degenerated into an exclusivist, corrupt and abusive system of governance, which eventually resulted in civil war.⁴ In terms of its governance structure, Sierra Leone runs a three-tier government structure with the formal national government comprising an elected president, an independent judiciary and parliament.⁵ Additionally, there is a formal local government structure made up of district councils as well customary chieftaincy structures that operate under a semi-regulated national

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legislation.\textsuperscript{6} Political parties and politicians play a crucial role in all three tiers of
government. Post-independence, several political parties were formed. However, the
most dominant ones became the Sierra Leone Peoples’ Party (SLPP) and the All
Peoples Congress (APC). Table 1 provides an overview of political parties that have emerged victorious in the various general (presidential and parliamentary) elections in Sierra Leone since 1961. These parties emerged with the desire to shape the
development trajectory of the country.

Table: 1 Political Parties and Candidate that have won the General Elections since 1961

<table>
<thead>
<tr>
<th>Year</th>
<th>Political Party</th>
<th>Candidate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>Sierra Leone Peoples’ Party (SLPP)</td>
<td>Sir Milton Margai/Sir Albert Margai</td>
</tr>
<tr>
<td>1967</td>
<td>All Peoples Congress (APC)</td>
<td>Siaka Stevens</td>
</tr>
<tr>
<td>1996</td>
<td>Sierra Leone Peoples’ Party (SLPP)</td>
<td>Ahmad Tejan Kabbah</td>
</tr>
<tr>
<td>2002</td>
<td>Sierra Leone Peoples’ Party (SLPP)</td>
<td>Ahmad Tejan Kabbah</td>
</tr>
<tr>
<td>2007</td>
<td>All Peoples Congress (APC)</td>
<td>Ernest Bai Koroma</td>
</tr>
</tbody>
</table>

Source: Authors Compilation, 2012

The democratic credentials of the country are exemplified in the number of different political parties that have won successive post-war presidential and parliamentary elections.\textsuperscript{7} Besides, between the SLPP and the APC, they account for about 90% of


civilian rule in Sierra Leone post-independence.\textsuperscript{8} Despite these modest gains, the country still grapples with the use of the youth to propagate election-related violence,\textsuperscript{9} high incidence of widespread corruption\textsuperscript{10}, and it has gradually become a hub of drug-related money laundering activities.\textsuperscript{11}

This article critically examines the legal and policy frameworks that exist to regulate the behavior of politicians (elected or appointed) and political parties. More importantly, this article identifies the existing loopholes within the legislation that can pose major threats to the growth of democracy in Sierra Leone. Consequently, the article begins by briefly outlining the legal and institutional frameworks governing political party formation and as well as party financing. Additionally, we review the existing mechanisms for eliciting compliance from all forms of political behavior and reflect the level of commitment - both institutional and structural - that individual politicians and political parties are willing to agree and subject themselves to. Also, with respect to compliance, we evaluate the political culture in Sierra Leone by assessing the norms and values of politicians and political parties towards the entrenched ethno-regional patterns of voting and politicized ethnic identities with a view of sanctioning free-riders.\textsuperscript{12} Accordingly, the following section highlights pertinent issues such as ethnicity in the political landscape, transparency in political behavior as well as adherence to the political parties’ code of conduct. Finally, the concluding section draws extensively on the loopholes within the legal frameworks on public procurement, bribery and corruption within the public sector and anti-money laundering activities.


\textsuperscript{12} Dumbuya, op.cit.
Political Party Formation and Financing

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

Political parties are supposed to conform to the democratic principles of participation, free choice, rule of law, political tolerance and transparency. However, support for political parties in Sierra Leone is polarized. Ethnic and regional identities have been the most well-situated and effective means of mobilizing electoral support. In addition, traditional rights are used to prevent women from participating in political process and several women especially in the rural areas are deprived of political

14 ibid.
power.\textsuperscript{16} Allegiance to political parties is based on the promises of money, jobs and services. Politicians routinely use office and state resources to reward party faithfuls.\textsuperscript{17} Article 35(1) of the 1991 Constitution authorizes political parties to participate in shaping the political will of the people through ‘the dissemination of information on political, social and economic programmes of a national character as well as to sponsor candidates for Presidential, Parliamentary or Local Government elections’. Consequently, Article 35(5) of the same Constitution states that ‘No association, shall be registered or be allowed to operate or to function as a political party if the Political Parties Registration Commission (PPRC) is satisfied that:

a) membership or leadership of the party is restricted to members of any particular tribal or ethnic group or religious faith;

b) the name, symbol, colour or motto of the party has exclusive or particular significance or connotation to members of any particular tribal or ethnic group or religious faith; or

c) the party is formed for the sole purpose of securing or advancing the interests and welfare of a particular tribal or ethnic group, community, geographical area or religious faith; or

d) the party does not have a registered office in each of the Provincial Headquarter towns and the Western Area.’

However, a number of political parties exist (nearly eight of them) in Sierra Leone, but with the exception of the two main parties the APC and the SLPP, many of these other smaller parties revolve around specific individuals and personalities and have very little following. Some of these parties include the United National People’s Party (UNPP), Peace and Liberation Party (PLP), Convention People’s Party (CPP) and National Democratic Alliance (NDA). The PPRC has been given the sole responsibility and powers under section 10 of the Political Parties Act 2002 to enforce the laws on political parties’ formation and funding. Accordingly, Section 10 of the Political Parties Act states that ‘any person who wilfully obstructs or otherwise interferes with the Commission or its members or officers in the discharge of the functions of the Commission under this Act commits an offense and shall be liable on


\textsuperscript{17} Ibid.
conviction to a fine not exceeding Le 500,000.00 (US$115) or to a term of imprisonment not exceeding one year, or to both.’ Not surprisingly, the fines and sanctions as stipulated in the constitutional mandate are hardly enforced.

With respect to the issue of political party funding, Article 35(3) of the 1991 Constitution states that ‘A statement of the sources of income and the audited accounts of a political party, together with a statement of its assets and liabilities, shall be submitted annually to the Political Parties Registration Commission, but no such account shall be audited by a member of the political party whose account is submitted.’ Likewise, Section 20(1) of the political parties Act 2002 requires that ‘every political party shall within such time after the issue to it of a final certificate of registration under section 12 as the Commission may direct in writing, submit to the commission a written declaration giving details of all its assets and expenditure; including all contributions donations or pledges of contributions or donations whether in cash or in kind, made or to be made to initial assets of the party by its funding members in respect of the first year of existence’. Currently, this legal provision is largely not being adhered to by the political parties. The Political Parties Registration Commission (PPRC), which has the mandate to oversee the behaviour of these political parties, does not have the capacity to sanction any political party who breaches this law or shows signs of inappropriate behaviour. Ordinarily, the PPRC appeals to the conscience of individual politicians as well as political parties to act according to agreed guidelines in the codes of conduct, as well as party constitutions.

Additionally, Section 19(1) of the Political Parties Act requires that ‘the source of funds of a political party shall be limited to contributions or donations, whether in cash or kind, of persons who are entitled to be registered as voters in Sierra Leone.’ However, the issue of party financing in Sierra Leone is relatively under-regulated creating loopholes for political parties and its candidates to source for funding through unconventional means.\(^\text{18}\) There are instances where campaign resources come from individual fortunes of candidates and the argument has always been that many of these financial resources originate from corrupt practices. Although the

PPRC has the mandate to enforce the laws on political party formation and funding, it lacks the strong enforcement powers to prosecute or revoke the registration of parties who refuse to fulfil their responsibilities and abide by the constitutional provisions. For instance, the political parties after the 2007 general elections were not forthcoming with their election-related financial accounts. The PPRC, after several attempts to satisfy this constitutional provision, had to resort to the use of the media to elicit compliance from the political parties. The desire to strengthen the operations of the political parties’ registration body has culminated in a new Act of Parliament 2012. This Act gives additional roles and further empowers the commission to regulate the activities of political parties/politicians.

**Political Parties and Ethnicity**

Sierra Leone is a multicultural society with about seventeen ethnic groups generally divided into two main groups, namely the Mende and the West Atlantic groups. Post independence, political activities at both the national and the local level have assumed ethnic dimensions because of the absence of class distinctions. According to the 1991 Constitution, political parties in Sierra Leone must be present in all regions and their activities must be nationwide in scope. Consequently, Section 35(5) a-c of the Constitution states emphatically that “No association, by whatever name called, shall be registered or be allowed to operate or to function as a political party if the Political Parties Registration Commission is satisfied that (a) membership or leadership of the party is restricted to members of any particular tribal or ethnic group or religious faith; or (b) the name, symbol, colour or motto of the party has exclusive or particular significance or connotation to members of any particular tribal or ethnic group or religious faith; or (c) the party is formed for the sole purpose of

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20 Ibid.


securing or advancing the interests and welfare of a particular tribal or ethnic group, community, geographical area or religious faith.’

Regardless of these constitutional provisions, political parties and their actors are divided along Creole, Mende, Temne and Limba ethnic divides.\textsuperscript{23} As it is the case, ethnicity has become a medium of political identity and a source of galvanizing support for one’s political ambition. For instance, the two major political parties, the SLPP and the APC that have survived a decade-long brutal civil war and have at different times occupied the seat of government, both maintain support bases among the Mende and Temne ethnic divide respectively. In practice, political parties are heavily ethnocentric in their formation and modes of operation. It is also worth noting that the nature of politicking in Sierra Leone drives political parties/politicians in power always to adopt the approach of consolidating and retaining power by extending development projects to their kinsmen and stifling development to opposition strongholds.

It must be observed that a confluence of factors account for this overriding influence of ethnicity in the political culture of Sierra Leone. For instance, the issue of ethnicity was highlighted in the 2007 Parliamentary elections where the APC won 36 of 39 seats in the Northern Province, while the SLPP and its splinter party, the People’s Movement for Democratic Change (PMDC), won 24 of 25 seats in the South.\textsuperscript{24} Historically, these two major parties emerged as a result of the level of biases exhibited against the ethnic group within which they draw their greatest support.\textsuperscript{25} Although there are legal frameworks to guide the operations of political parties, the ability of the regulatory body (the PPRC) to enforce the laws as stipulated in their


mandate is the utmost challenge. To be able to elicit compliance from the political parties, the PPRC needs to be firm and proactive in enforcing its own binding powers. Perhaps this challenge could account for the recent change of name to Political Parties Registration and Regulation Commission (PPRR) to give it the needed capacity not only to register but also to be able to regulate the activities of these parties. 

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Transparency in Political Behavior

The power of appointment and selection of public officials is vested in the President. Article 70 of the Constitution states categorically that ‘The President may appoint, in accordance with the provisions of this Constitution or any other law the following persons (a) the Chief Justice; (b) any Justice of the Supreme Court, Court of Appeal, or Judge of the High Court; (c) the Auditor-General; (d) the sole Commissioner or the Chairman and other Members of any Commission established by this Constitution; (e) the Chairman and other Members of the governing body of any corporation established by an Act of Parliament, a statutory instrument, or out of public funds, subject to the approval of Parliament.’ The appointment committee of Parliament on the other hand has a supervisory role in checking and scrutinising the appointments made by the executive. They do this through the investigation of the assets and liabilities, as well as the competence of the nominee that the president presents to parliament for vetting and approval. Additionally, when it comes to appointments to certain public sector institutions, for instance, the appointment of certain Permanent Secretaries such as Secretary to the Cabinet, Secretary to the Vice-President, Financial Secretary, Director-General of the Ministry of Foreign Affairs, Establishment Secretary, Development Secretary, Provincial Secretary and Permanent Secretary, the President is supposed to appoint in consultation with Public Service Commission. However, the political elites hardly follow the rules of appointment and promotions. Most of these political appointments are not done

according to merit or laid down regulations. There is a lot of political influence in the appointments; especially appointments for senior public servants.

In terms of conflict of interest rules in Sierra Leone, the 1991 Constitution and the Anti-Corruption Act (2008) provide the fulcrum around which public office holders could be held accountable. Besides, the legal provisions are clear that ministers and high-level officials of government are barred by the Anti-Corruption Act Section 8(1) from accepting any form of advantage or gift in connection with their official duties. A special permission of the President is required for a gift to be accepted. However, as it has always been the case, gifts or favours have been elicited from individuals directly or indirectly without recourse to the President. To enforce this rule, officials found culpable on conflict of interest can be convicted of an offence under the Anti-Corruption Act. However, there is no clear-cut legislation that specifically deals with conflict of interest rules for ministers, or top-level officials, although there are sanctions regimes against parliamentarians who engage in activities that mark conflict of interest. This differentiation is as a result of the silence of the Constitution on the filing of declaration for the identification of issues of conflict of interest against political office holders. Nevertheless, the Anti-Corruption Act 2008 has created a forum whereby all public officials are captured under a particular umbrella within which sanctions could be applied to those who breach the rules on conflict of interest. The Anti-Corruption Act 2000, Section 40 (1-3) recommends a prison sentence of seven years, payment of the value of the advantage acquired, or its deduction from pensions or gratuity. Perhaps the absence of a specific legislative instrument that sanctions conflict of interest for ministers and top government officials could explain the increasing tendency of corruption among public officials within government institutions.

**Political parties’ code of conduct**

Codes of conduct for political parties highlight the principles, values and standards of acceptable behaviour expected from the political class. Invariable, such codes are the bedrock for the entrenchment of democracy and the rule of law. Political parties in Sierra Leone in 2006, under the combined support of the United Nations Integrated Office in Sierra Leone (UNIOSIL) and United Nations Development
Programme (UNDP) subscribed to their first Code of Conduct to guide the 2007 electioneering process. Recently, the PPRC together with the National Electoral Commission (NEC) and the political parties have produced similar codes of conduct to guide the behaviour of political parties/politicians. Specifically, the code encourages political parties and its supporters to desist from indulging in any activity that may create or aggravate tension between race, gender, ethnicity, language, class, region or religion. The set of rules that constitute the codes of conduct include, but are not limited to the following regulations:

- All political parties that have subscribed to this code shall have the right to present their political principles and ideas without intimidation or threat. However, criticism of other political parties, when made, shall be confined to their policies and programmes, past record and work.
- Parties and candidates shall refrain from unfounded criticism of any aspect of private life, not connected with public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.
- All political parties that have subscribed to this code shall respect the right and freedom of other political parties to campaign and to disseminate their political ideas and principles without let or hindrance. There shall be equal access to the state media. Journalists who are engaged in their professional activities shall have a free hand to do so without any intimidation.
- All political parties, candidates, agents and party entities that have subscribed to this code shall not obstruct, disrupt, break up or cause to break up, meetings or rallies organized by other political parties and candidates; nor should they interrupt or prevent speeches and cause the destruction of handbills, leaflets, and the pasting of posters by other political parties and candidates. However, the posting of these handbills, leaflets, and posters must be with the consent of the owners of the properties.
- All political parties that have subscribed to this code shall in accordance with the Public Order Act 1965 notify the Inspector General of Police/ Paramount Chiefs of any meeting or rally.

- The Police/Paramount Chief should ensure that no preferential treatment is accorded to one political Party or a particular candidate to the detriment of other parties that have subscribed to this code of conduct.
- All political parties that have subscribed to this code shall not use state power, privilege or influence or other public resources for campaign purposes.
- All political parties that have subscribed to this code shall desist from coercing or offering pecuniary gains or other kinds of inducements to individual or group of individuals to vote for or against a particular party candidate, or to abstain from voting.
- All political parties that have subscribed to this code accept that intimidation, in any form, is unacceptable, and leaders of these parties will direct their officials, candidates, members and supporters not to intimidate any person at any time.
- All political parties that have subscribed to this code shall ensure that they do not coerce or intimidate paramount chiefs or their sub chiefs, or any other authority to deny any political party the right to gain access to any chiefdom for political functions.
- All political parties that have subscribed to this code shall not raise any private force or militia or use the regular army or other forces to intimidate and gain political or electoral advantage.

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

**Protection of whistleblowers**

Perhaps the most remarkable development in the Anti-Corruption Act 2002 is the part on the protection of informers. Clearly, there is no stand-alone legal framework within the laws of Sierra Leone that serves to highlight the issue of whistle blowing, apart from the part covered in Section 42 of the Anti-Corruption Act 2002. Accordingly, Section 42 of the Anti-Corruption Act states that: ‘(1) Except as provided in subsection (2) No information for an offence under this Act shall be admitted in evidence in any civil or criminal proceedings; and

a) No witness in any civil or criminal proceeding shall be obliged—

i. to disclose the name or address of any informer who has given information to the Commission with respect to an offence under this Act or of any person who has assisted the Commission in any way with respect to an offence; or

ii. to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer

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or person, if, in either case, such informer or person is not himself a witness in such proceeding.’

In as much as the 1991 Constitution provides the environment to receive and pass on information without any interference, there is clearly no legal provision for ‘freedom of information’. Nonetheless, there are other legal instruments such as the Political Parties Act, the Criminal Procedures Act of 1965, the Telecommunication Act (2006) and the Payment Systems Act (2009) that tacitly touches on public access to information. Even with some of these legal provisions, there are several restrictions. For instance, Section 15 of the Payment Systems Act 2009 controls the kind of information that the public may effectively request from financial institutions.\(^\text{29}\) Additionally, Part Three of the Telecommunication Act (2006) empowers the National Telecommunication Commission to regulate information the media houses can churn-out.\(^\text{30}\) On the contrary, the Criminal Procedures Act of 1965 grants parties to a conflict the needed powers to request any information that would be beneficial to their course. Because there are no clearly defined legal frameworks on the right to information, consequently, there are no enforcement mechanisms in place to deal with offenders.

**Bribery and corruption**

The country enacted its first anti-corruption law in 2000 thus creating, the Anti-Corruption Commission (ACC), tasked with probing corruption cases both in the public and private sectors. The ACC has been given extensive mandate under the Act to prevent, eradicate and suppress incidence of corruption. The Anti-Corruption Act was revised in 2008, strengthening its capacity to investigative and giving the commission the powers to prosecute. The revised law has addressed the loophole within the initial law by eliminating the legal requirement under which the Justice Minister and the Attorney General had to approve each corruption prosecution. As a form of tightening the sanctioning regime, the law has increased penalties for some corruption offences. It has raked in new requirements for public officials. For


example, in October 2010, the Former Minister of Fisheries & Marine Resources (Haja Afsatu Kabba) was convicted of crime bordering on misappropriation of public funds and abuse of office following investigation by the ACC.\textsuperscript{31} It is striking to note that initially there was no Constitutional provision in Sierra Leone that allowed Cabinet and other government ministers to declare assets and liabilities for public inspection. Nevertheless, the new Anti-Corruption Act requires all public officials, including the President, to declare their assets within three months of taking office. In practice, however, public officials partly comply with these asset declaration regimes. The independent Anti Corruption Commission is saddled with the political will to fight corruption and elicit compliance to these constitutional provisions. When it comes to the issue of fighting corruption in Sierra Leone, the greatest challenge has to do with a weak legal framework.\textsuperscript{32}

\textit{Ombudsman}

The Office of the Ombudsman was established in Sierra Leone after the enactment of the Ombudsman Act, 1997. In addition, the office draws its authority from Section 146 of the 1991 Constitution. The ombudsman was created to collaborate with the ACC in handling citizens’ complaints and petitions to government. Not only is the ombudsman office a recipient of complaints, but also an institution that exist to promote good governance and integrity among ministries, agencies and departments. The functions of the Ombudsman are spelt out in Section 7(1) of the Ombudsman Act of 1997. Accordingly, the Ombudsman is expected to investigate ‘any administrative act of a prescribed authority in respect of which a complaint is made to him by any person who claims to have suffered injustice as a result of any maladministration in connection with such act; or information as received by him from any person or source, otherwise than by complaint, concerning the matters referred to in subparagraph (i); and (b) to take appropriate action to remedy, correct


or reverse the complaints through such means as are fair, proper and effective, including:

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

In practice, the powers of the Ombudsman are not encompassing enough to address complaints and enquiries that are received from the citizenry. He/She does not have the necessary powers to compel individuals working in these Ministries, Departments and Agencies (MDAs) to answer to queries. Even though the Act clearly stipulates that if a person required to provide information fails to do so or makes a false statement either knowingly or recklessly, that person can be tried in a court of law and if found guilty will be liable to a fine or imprisonment or both, regardless of these stipulated sanctions, there are instances where officials of government departments and agencies have failed to cooperate with the office of the ombudsman yet the ombudsman is unable to execute its mandate and elicit compliance from these MDAs. For example, the Ombudsman had to resort to the President to intervene in three cases involving certain ministries because of lack of cooperation from the said ministries.33 The office of the ombudsman itself has not been insulated from corrupt practices. For instance, the head of the ombudsman office from 2001 to 2007 was

tagged with corruption allegations after his tenure of office. Such instances create challenges for the office, especially in its desire to elicit compliance from public officials and institutions of state.

**Public procurements**

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

Accordingly, Section 33(1) states that ‘Any public officer involved in requisitioning, planning, preparing and conducting procurement proceedings and administering the implementation of contracts, shall— (a) discharge his duties impartially so as to assure fair competitive access to public procurement by bidders; (b) always act in the public interest, and in accordance with the object and procedures set out in this Act, in the regulations and in accordance with the Public Service codes of ethics, if any, and where applicable, the Local Government Act, 2004; (c) at all times avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out his duties and conducting himself and immediately disclose any conflict of interest and

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excuse himself from any involvement in the matter; (d) not commit or abet corrupt or fraudulent practices, coercion or collusion, including the solicitation or acceptance of any inducements; (e) keep confidential the information that comes into his or her possession relating to procurement proceedings and to bids, including bidders’ proprietary information; (f) not take up a position of authority in any private concern with which he undertook procurement activities for a period of three years after departure from the procuring entity.

As a form of enforcement, the Act makes the requisite laws binding on all public officials and has empowered the National Public Procurement Authority (NPPA) to take legal action against breaches of the law. Consequently, Section 34(6) states that ‘Bidders and suppliers who engage in fraudulent, corrupt or coercive practices in connection with public procurement are subject to public prosecution pursuant to the applicable criminal laws, including the Anti-Corruption Act 2000.’ There are examples of politicians that have been sanctioned for breaching the procurement law. For example, in March 2010 the Former Minister of Health (Sheiku T. Koroma) was convicted for a abuse of office, abuse of position and failure to comply with procurement procedure.36 Regardless of these convictions, public procurement process in Sierra Leone is saddled with allegations of corrupt practices and inefficiencies on the part of public officials who are tasked to manage the process. For instance, a detailed compliance and performance monitoring carried out for the nine key Ministries, Departments and Agencies (MDAs) in relation to the 2006 procurement plans revealed incidences of low compliance with approved procurement plans and procurement activities were not under the control of procurement units within the entities.37 Additionally, most of the procurement activities carried out in these entities were conflicting with the requirements stipulated under the Public Procurement Act 2004.38 Moreover, there was evidence of splitting of procurement processes to avoid legal threshold requirements.39


37 National Public Procurement Authority op.cit.

38 Ibid.

39 Ibid.
interference of political actors in the procurement process is a major obstruction to the work of the NPPA.

**Money laundering**

The Anti-Money Laundering (AML) Act of 2002 provides the legal basis with which incidence of money laundering in Sierra Leone is tackled. Broadly, this Act is in accordance with international recognised standards such as those of the Financial Action Task Force (FATF) and ECOWAS Groupe Intergouvernemental d’Action contre le Blanchiment d’Argent en Afrique de l’Ouest (GIABA). Part Two of the Act highlights measures to combat anti-money laundering in Sierra Leone. Accordingly, Section 2 of the Act states that ‘A person engages in money laundering if he— (a) engages directly or indirectly in any transaction which involves property that is the proceeds of crime; or (b) receives, possesses, conceals, disguises, transfers, converts, disposes of, removes from or brings into Sierra Leone any property that is the proceeds of crime.’ This definition of money laundering is in consonance with the Vienna and Palermo Conventions.

The internal anti-money laundering measures require that every financial institution develops, to the satisfaction of the Authority, ‘programmes for the prevention of money laundering, including— (a) centralization of information on the identity of customers, principals, beneficiaries, proxies, authorized agents, beneficial owners and on suspicious business transactions; (b) ongoing training for officials or employees; (c) internal audit arrangements to check compliance with and the effectiveness of the measures taken to apply this Act.’ Accordingly, the Act requires the establishment of a Financial Intelligence Unit (FIU) within the Bank of Sierra Leone to analyse and address incidence of money laundering in the country. However, despite these constitutional provisions, Sierra Leone’s AML administration remains ineffective. The involvement of political parties/politicians in drug related anti-money laundering enterprise is such a subterranean issue that warrants only

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40 The appointed Authority is the Governor of the Bank of Sierra Leone.

speculation at this moment. However, the revolving complicity of politicians in the
drug-related money laundering activities has reduced the potency of the existing
laws to effectively sanction offending culprit. Drug barons have compromised political
appointees, government officials and security agencies with money in order to gain
safe passage to transport their drugs. For example, The Sierra Leonean Minister in
charge of Transport and Aviation was sacked following his ‘tacit complexity’ in the
seizure of the ‘cocaine plane’ at the Lungi International Airport.\textsuperscript{42} It is contended that
he might have been recruited because of his strategic ministerial control of the
airport. This ex-minister (who was the Chairman of All People’s Congress (APC)
party in the Port Loko District) and most of the other suspects (including a relative to
the ex-minister) were all known members of the All People’s Congress (APC) party
which is the ruling party now. However there are also vague suspicions that the other
main opposition party (Sierra Leone’s People’s Party) may also have been benefiting
from similar practices when they were in power in the last tenure. The commitment to
enforce the legal provisions remains weak because of the inability of the state to
establish FIU right from the onset as outlined in the AML Act. Although in recent
years the FIU has been established, the AML Act does not grant the FIU the needed
power to request for information from non-financial institutions and persons.\textsuperscript{43}
Besides, there are no existing mechanisms on how the FIU could gather alternative
intelligence, except for the current method of on-site and off-site inspection
requirements of the banking supervision division of the Bank of Sierra Leone.\textsuperscript{44}
Additionally, the supervisory role of the Bank of Sierra Leone with respect to AML is
very limited and ineffective, especially in controlling the non-banking financial
institutions.\textsuperscript{45}

(at:www.africanews.com/site/list_messages/19799) (Accessed 18 September 2012); In 2008 a small
Cessna private airplane landed at the Lungi International Airport from Venezuela carrying over 700
kilograms of cocaine.

2012)

\textsuperscript{44} Ibid.

of Terrorism. Sierra Leone.
(at:www.siteresources.worldbank.org/FINANCIALSECTOR/Resources/282044-
There are administrative, penal and financial sanctions against money laundering; however, these enforcement mechanisms are considered to be weak and disproportionate to the crime of money laundering. The Bank of Sierra Leone (BSL), the Central Intelligence Service Unit (CISU) and the Attorney-General and Minster of Justice (AG) are the authorised agencies, under the AML Act, to request for confiscation of assets of money launderers. However, there is no legal framework for the freezing, seizing or confiscation of assets. Governments in the past have shown very little commitment in fighting drug-related money laundering activities in particular. For instance, in the ex-minister of Transport and Aviation (Ibrahim Kemoh Sesay), after being found culpable in the cocaine case was only dismissed as minister but was never incarcerated. He has in fact been recently appointed as the Senior Presidential Adviser.\(^{46}\) Invariably, irrespective of the existence of institutions of state to check money laundering activities, the political class in the country has been paying lip service to fighting crime related to money laundering.\(^{47}\) Currently, Sierra Leone has about four key agencies that are tasked with the sole responsibility to investigate and prosecute all incidence of money laundering. These institutions include the Sierra Leone Police, the National Revenue Authority (NRA), the Anti-Corruption Commission (ACC) and the Office of the Director of Public Prosecutions (DPP).\(^{48}\) It should be noted that duplication of roles between these agencies has affected their coordination in seeking conviction for offenders of money laundering in Sierra Leone.\(^{49}\)

Conclusions

This article takes as its starting point the realization that in spite of the existence of the legal and policy frameworks to regulate the behavior of political parties and


\(^{48}\) Ibid.

\(^{49}\) GIABA 2012, op.cit.
politicians (elected and appointed) there is a lot to be done in plugging the loopholes within the legal regimes in Sierra Leone. More strikingly, the article identified loopholes within the legislation on political party formation and financing: whistle blower legislation, and adherence to the political party codes of conduct. Empirical evidence shows that regardless of the existence of the available legal provisions, many of the loopholes within the laws are as a result of the inability of the institutions of state to enforce to the letter the powers assigned them by the various Acts of parliament and the 1991 Constitution. Additionally, where the institutions of state have shown the needed desire to execute the mandate given them by the legal frameworks, the duplication of their efforts and responsibilities hamper their coordinating roles in enforcing the provisions of such policies and frameworks.

The political trajectory of Sierra Leone is replete with the constant change of government. However, the political climate is highly polarized and tainted with ethnic grouping, political corruption and lack of transparency in political behavior. Political parties/politicians do not conform to the codes of conduct that they have voluntarily signed. Besides, there are serious challenges in monitoring, enforcing and implementing the provisions in the codes. These challenges are as a result of the absence of a clearly defined enforcement bodies with the needed implementation capacity and binding powers to sanction offenders. The prevailing political culture exemplified by the norms and values of the political class continues to undermine the country’s quest for democratic growth and good governance.

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

Appendix

Political Parties Code of Conduct
1991 Constitution
The Political Parties Act 2002
The Political Parties (Amendment Act) 2006
The Electoral Laws Act 2002
The Human Rights Commission of Sierra Leone Act 2004
The National Electoral Commission Act 2002-1
Criminal Procedures Act of 1965,
Telecommunication Act 2006
The Payment Systems Act (2009)