

Teaching an old dog new tricks?

Addressing Corruption in Post Conflict Sierra Leone

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Corruption is commonly identified as the greatest obstacle to good governance in Sierra Leone. “Good governance is perhaps the single most important factor in eradicating poverty and promoting development” (Kofi Anan). So it can be said that for efficient, effective and sustainable development to take place the plague of corruption must be addressed. Various organisations and departments within government and civil society as well as the international community have been attempting to address corruption through various methods. Whilst great effort is being put in, and a great deal of attention especially from the press is being paid, these efforts are being crippled by a lack of effective mechanisms. This paper will briefly identify the nature and scope of corruption and will highlight strengths and weaknesses of current efforts to deal with it. This analysis will be used to present an overarching direction on the way forward for further debate and more detailed recommendations. Why is it, that corruption is so prevalent in contemporary Sierra Leone, and what are the measures which have been adopted to tackle it thus far?

Sierra Leone’s position at the bottom of the United Nations Human Development Index is a result of bad governance. Poor governance has led to inadequate distribution of resources which has resulted in the institutionalisation of compliance. A poorly educated populace living in poverty without ever realising a government free of rampant corruption is unlikely to be able to comprehend leaders who are genuine about reform. Compounding this scenario is a widespread acceptance of corruption. Indeed most Sierra Leoneans expect some element of corruption from both their leaders and individuals they encounter in their everyday lives.¹ An unenquiring public has been created by the crippling impact of corruption on basic services such as health and education. The political and social elite have benefited from such a reciprocal nature of corruption. Through the period since independence corruption has been entrenched in institutional conduct with the public sector gaining powerful ascendancy in a failing economy. A culture of neo clientelism has emerged through the consistent practice of nepotism creating loyalty to one’s employer instead of one’s country. This results in poor governance crippling state institutions, and deepening socio-economic problems which constitute the root causes of state collapse. These are clear indications that even though Sierra Leone is engaging in post conflict reconstruction, a clear absence of political will to address the root causes of state collapse persists. One of the most prominent underlying causes of state collapse is corruption as a consequence of poor governance.

State Initiatives

Since the country was returned to multi party rule a range of donor sponsored initiatives have been undertaken to address corruption. The Governance Reform Secretariat has introduced a code of ethics for the private sector which spells out both expectations and repercussions for non compliance. It has also initiated work for the

¹ Interview with Frances Fortune, Talking Drum Studio, 21 July 2003

construction of a decentralised framework of government and has instituted performance appraisal systems. The Public Expenditure Tracking Survey has exposed overall discrepancies between money allocated to line ministries and money received at grass roots levels. Both initiatives are yet to pose a realistic deterrent to systematic corruption. Such controls are also being introduced to the finance ministry especially in the budget process.² These controls are already being flouted by ministries in the face of both anti corruption agencies and public sector reform mechanisms.³ The judiciary, the public accounts and public expenditure committees, and other integrity pillars have all received training, rehabilitation or resources from donor agencies but still lack the required impetus to have a real impact. Taking the Auditor General's office as an example, new legislation has been introduced to update the office's authority to similar to that of some of the world's supreme audit institutions. Approval of the office's conditions of service however, has been blocked by the government for the last 15 months. Contentions are often made that the only way to reduce corruption permanently is to drastically cut back the government's role in the economy.⁴ It is under that direction that governments are often urged to embark on privatisation. However privatisation processes have often proven to be a supplementary source of corruption in Sub Saharan Africa as many enterprises are bought by politicians or businessmen with strong political connections.⁵

The above initiatives have been largely donor driven and focus heavily on restricting discretionary and monopolistic power through administrative and market orientated reform. They are in their early stages and are yet to have any real impact other than to highlight the fact that corruption is taking place without attributing blame or responsibility. Stiff resistance to such reform has been encountered within the relevant ministries, departments and institutions from personnel with vested interests in the continuation of the status quo.⁶ According to World Bank Representative Peter Eigen "Politicians and political interests invariably perceive the introduction of greater transparency and accountability as an erosion of their power". This illustrates the urgency with which effective mechanisms of investigation and punitive deterrent are required.

To investigate and discourage administrative abuses and other forms of corruption the government has provided for the Office of the Ombudsman and the Anti Corruption Commission with help from international donors. After years of unproductive efforts one could draw the conclusion that these mechanisms have been set up to satisfy donor requirements for a comprehensive anticorruption strategy. As time has borne out the real motivation behind such initiatives has become clear. The government has consented in principle to an anti corruption strategy in order to satisfy requirements for donor funds without implementing such action in practice. The aforementioned institutions have been crippled by a lack of political will, resulting in constraining

² Interviews with donor officials from European Union 25th June 2003 and British Department For International Development (DFID) 20th June 2003

³ See footnote no. 22

⁴ Corruption as "a powerful enemy of good governance", World Bank Rep Peter Eigen, 1990

⁵ Corruption as "a powerful enemy of good governance", World Bank Rep Peter Eigen, 1990

⁶ Interviews with donor officials from European Union 25th June 2003 and British Department For International Development 20th June 2003

clauses in empowering legislation, unresponsiveness to recommendations and findings, and political interference.⁷

Given current circumstances and efforts we can derive that the government has shifted away from the former stance of the APC regime under Siaka Stevens of engaging and defending the engagement of corruption.⁸ What has emerged is a policy of engaging in corrupt practice unofficially, whilst pursuing an anti corruption policy on the surface, thus satisfying donors requirements for aid. Nowhere is this more painfully clear than in the establishment of the Anti Corruption Commission. Here, the government has passed legislation to facilitate political interference and restrict the ability of the institution to fulfil its mandate. The legislation requires all cases investigated and approved for prosecution by the commission to be assented to by the Attorney General who is also the Minister of Justice. This intentional infrastructural flaw has meant that cases put forward by the commission which accuse individuals with political connections, have been interfered with through the political link of the Attorney General time and again. Such influence can not come about on such a regular basis without the knowledge and subsequent approval of the president. Cases involving such individuals as the former Deputy Minister of Finance Mohamed Daramy who was to be tried for false pretences had his case handed over to the police in November 2002 with little to no action since. Irrespective of allegations and a pending trial the President gave him a cabinet position (Minister of development and Economic planning). Another former minister, Momoh Pujeh had his case⁹ charged to court under the Mines and Minerals Act by the Attorney General after personal intervention from the President. The consequence of this interference is that he would be at worst fined as opposed to facing a prison sentence under the Anti Corruption Act. He retains a parliamentary position.¹⁰

Another aspect of the legislation which has been employed by the Attorney General at the expense of due process is the insistence that trials be brought directly before the high court consequently requiring statements (many of which must be obtained from the provinces) to be retaken under oath. The Attorney General has used this obstacle as an excuse for the 51% of cases submitted to his office which still await a decision. 57% of these cases have been waiting for the Attorney Generals decision for more than a year with the status of many having never been communicated to the Anti Corruption Commission.¹¹ He has also misled donors through the exclusion of cases from the consultative group results framework progress report.¹² Compounding the problem of arbitrary and administrative justice at the Attorney Generals office is the

⁷ Interview with Anti Corruption Commissioner, 21 August 2003

⁸ One of Siaka Stevens favourite sayings was “who sai dem tie cow nar day e go eat”, which translates to a cow eats where it is tethered. His neo patrimonial polity was infamous for its entrenchment of a culture of corruption throughout the public and private sector which culminated in an economy which spiralled out of control in the 1980’s facilitating the circumstances for Sierra Leone’s 10 year long civil war. Politics and Corruption in Africa, A Case Study of Sierra Leone, Sahr John Kpundeh, University Press of America, p4, 1994

⁹ Momoh Pujeh’s case was a clear conflict of interest case with numerous witnesses prepared to testify according to an interview with the Anti Corruption Commissioner, 21 August 2003

¹⁰ Interview with Anti Corruption Commission Official, 21 August 2003, Anti Corruption Commission Annual Report 2002, Sierra Leone After Elections: Politics as Usual? ICG Africa Report No 49 July 2002

¹¹ Anti Corruption Commission Analysis of Current Cases, DFID, June 2003

¹² Consultative group, results framework progress report for July 2003

distinct lack of due process in the Judiciary. Inadequate remuneration in comparison to private practitioners coupled with poor working conditions¹³ have resulted in poor performance from public prosecutors who often fail to appear in court for corruption cases.¹⁴ Delays in cases before the judiciary, most notably in the case of Justice Taju-Deen whose appeal is still pending, and whose case was submitted to the Attorney Generals office in October 2000, are a clear signal that judicial reform is urgently required. Since the Anti Corruption Commissions inception in 2000 not one case before the court has been finally decided.¹⁵ Under donor requirements the president has accepted the need for a full time judge and prosecutor to sit on and prosecute corruption cases. This has subsequently been implemented.¹⁶

In contrast to such donor based initiatives the President has shown a complete lack of will to exercise his own power in the fight against corruption. Weeping pleas to corrupt officials at the ports¹⁷ are unlikely to incur change when the president is contrasting his words of condemnation with actions of condonement. These actions have come in the form of his promotion of Kangji Daramy to the role of presidential spokesman after he was found culpable for the disappearance of Le159 million at SALPOST under the Fergusson Nicol enquiry¹⁸. The Presidents attitude towards addressing corruption was clearly illustrated in his testimony to the Truth and Reconciliation Commission where he states;

“I have often described myself as the chief servant of the people and required all other public officers to regard themselves as servants of the people. A practical way of our illustration of the concept of service and not personal gain is by subjecting our own salaries to the determination by a commission comprising civil society and other prominent citizens, particularly those who have demonstrated the highest level of integrity in private or public life. This of course will require an adjustment of the constitutional position.”

Such anti corruption rhetoric followed by immediate disassociation from implementation is symbolic of the government’s anti corruption campaign. A stubborn unwillingness to prioritise the good of the country ahead of the entrenchment in power of the president, his party and his political supporters has emerged. Such a stance can only be reversed through pressure from watchdog agencies and the international community.

Civil Society Efforts

Corruption has not been high on the agenda of civil society since it started gaining hold in Sierra Leone. Movement of prominent activists into politics and other more lucrative roles, especially international organisations and institutions, has left a void

¹³ Interview with Director of public Prosecutions 6th may 2003

¹⁴ Anti Corruption Commission Analysis of Current Cases, DFID, June 2003

¹⁵ Anti Corruption Commission Annual Report 2002

¹⁶ The Long Term Partnership for Development Agreement between the United Kingdom and Sierra Leone requires that by July 2003 25% of cases lodged with the Attorney Generals office must either be brought to prosecution or rejected with that figure to rise to 50% by the end of 2003. Currently (August 2003) 0% of cases have been prosecuted or rejected.

¹⁷ Sierra Leone Broadcasting Service June 2003

¹⁸ A further National Policy Advisory Committee found evidence of other corrupt activity and recommended that “he should go”.

of leadership in Sierra Leone's civil society. The National Accountability Group is Sierra Leone's only civil society organisation with a corruption focus. It, like many other civil society groups lacks the capacity to conduct effective research and investigation and its members are forced to juggle their own professions with the organisations work.¹⁹ With the common acknowledgement of increasing intensity of competition for donor funds, the reluctance of civil society groups to undertake advocacy against corruption is somewhat perplexing. Whether the reason is that the task appears to be too mammoth, or that civil society actors do not wish to subject their own personal backgrounds to the scrutiny of embarking on such work is unclear.²⁰ The answer may lie in the Anti Corruption Commission Coalition which released its strategic plan recently. Overcoming tentative feet due to the threat of self implication has been a commonly acknowledged deterrent for civil society NGO's.

The media conversely have played a much more enthusiastic role, especially the press. Although often accused of political influence and "purchased" articles, newspapers have been at the forefront of the watchdog role. It is unfortunate however, that all too often articles with credible backgrounds are discredited by accompanied inaccurate allegations and a lack of understanding of the mechanism or procedure of which they are covering. For the approximately 30% of the population who are literate and are more likely to keep track of political transgressions the reporting is more pertinent. The ordinary citizen on the other hand, generally listens to the radio. Programs which highlight the effect of small scale corruption in the lives of ordinary citizens are more appropriate for the more demographically diverse radio audience. Other items which create public awareness as to the role, reason, and means of access, to key institutions such as the Anti Corruption Commission and the Office of the Ombudsman are also timely and appropriate.²¹ The Sierra Leone Broadcasting Service covers important political events and various workshops but rarely embarks on investigative or impartial reporting. What is common amongst the three media mediums is a lack of resources and influence. They have had very little impact on policy.

The impact of the International Community

The only players who are expected to have a real impact on government policy and corruption are the international donors. These agencies have established different integrity and accountability mechanisms and systems, both externally and internally of government ministries and departments. A predominantly bottom up approach has been undertaken with institutional reform at the forefront. Such reform significantly decreases discretionary power and unaccountability through the introduction of clearly defined administrative rules and regulations, ethical standards of public service, and administrative and financial systems. Such institutional focus however, fails to recognise that corruption is not only organised and systematic but casual and endemic, especially at the highest levels of government. Individuals are likely to continue corrupt practice in defiance of comprehensive administrative systems of control if they feel that there is not a significant deterrent (in the form of an effective

¹⁹ Interview with National Accountability Group Emile Carr August 2003

²⁰ The leader of the National Accountability Group (Clifford Roberts) received criticism from the press regarding allegations surrounding his past upon the establishment of the organisation, Interview with Olayinka Creighton Randall, Campaign for Good Governance, 19 August 2003

²¹ Interview with Frances Fortune, Talking Drum Studio, 21 July 2003

Anti Corruption Commission or other punitive mechanism). This can be seen in observance of the blatant transgression of the tender process by the ministry of finance recently. This action was subsequently accepted by the African Development Bank Group despite cabinet finding that the rules of the tender process had been broken.²² A reluctance to tackle prosecutorial and executive deterrents of corruption with vigour has also allowed a continuation of the status quo. Newly introduced measures of constraint are likely to have little effect in the medium to long term whilst corruption continues to occur without the punishment of those engaging in it at the highest levels of government. These effects indicate the limited impact the international communities efforts to curb corruption in Sierra Leone have had.

What is of further concern is the lack of effective and specific pressure on the government from donor agencies. Convincing argument can be made that incentive based conditionality destroys credibility as a result of governments over estimating their ability to effect real change. A World Bank study of 23 African countries found that an increase in aid caused a worsening in policy and vice versa. Kenya for example has sold the same reform policy four times in eleven years.²³ This may not however be the case in Sierra Leone where approximately 70% of the government budget comes from donor agencies and the problem is not the government's ability, it is its will.²⁴ Whilst government initiative and ownership has been paramount, the international community has largely failed to tailor specific amounts of aid to specific areas of reform and to ensure that specific areas of reform are being duly rewarded. A relevant example is the requirement of 25% of all corruption cases submitted to the Attorney Generals office to be successfully prosecuted or dismissed by the court by June 2003 and 50% by the end of the year under a formal agreement between the United Kingdom and the Sierra Leone Government.²⁵ Observers might note that the Sierra Leone government has failed miserably to uphold its commitment (the current percentage is 0%), but what should also be noted is that it has taken action which would have otherwise been unlikely.²⁶ Some might also observe that the reluctance of donors (the British government in this circumstance) to cease or ease aid as a consequence of non compliance causes a loss of credibility on the part of the government which is accepted in vain through a lack of consequence implemented by

²² Anti Corruption Commission, Letter dated 14th of April 2003 from the Anti Corruption Commission to the Minister of Finance points out the likely manipulation of the tender process for Connaught hospital in complete contravention of the tender process rules and guidelines and expresses extreme concern over the likelihood of interference for corrupt gain. The Ministry of Finance sent a letter (ref no MF-ADM 153/77/01) to publicists stating that the decision would stand without defending the specifics of the rules of procurement or the fact that the price of the selected contractor is significantly higher than that of the originally favoured bidder. The African Development Bank subsequently accepted this stance (Fasimail to the Ministry of Finance ref OCSD.1/FAX/2003/05/010). The Vice President sits at Chairman of Procurement. Interview with Anti Corruption Commissioner, 21st August 2003 A procurement reform action plan was recently launched by the Vice President, the world bank and the UNDP.

²³ *Learning from Failure: The International Financial Institutions as Agencies of Restraint in Africa*, Paul Collier, *The Self Restraining State, Power and Accountability in New Democracies*, Edited by Andreas Schedler, Larry Diamond, Marc F. Plattner, Lynne Rienner Publishers, Boulder London

²⁴ Interview with the Income Tax Department Deputy Commissioner, 10th April 2003

²⁵ Long Term Partnership for Development Agreement between the Government of Sierra Leone and the Government of the United Kingdom 2002

²⁶ The Government has begun to look for an expatriate judge and an expatriate prosecutor to sit on and prosecute corruption cases – Office of the President, Government statement on the status of operations of the Anti Corruption Commission, 26th October 2002, p3

donors.²⁷ Specific requirements coupled with government agreement have been sparse, and have allowed the government to avoid overarching obligations.

The way forward

In spite of the popular will of the people to return to genuine multi party democracy, the government has provided itself as a stumbling block to transparency, accountability, the rule of law and genuine efforts to curb corruption. Strategies to tackle corruption must address its personalistic (individuals breaking rules or laws for their own benefit), institutional (structural, administrative, auditing, communications etc), and systemic (illegitimate and/or corrupt outside interests) nature.²⁸ Comprehensively addressing one or two of these issues and neglecting the remainder(s) would likely prove frivolous.

For tangible and intangible effects of advocacy and reporting to occur, regular, accurate, impartial and detailed accounts of key issues must be discussed through relevant mediums. A united core of civil society must utilise access to, and relations with, integrity mechanisms so as to both increase the dissemination of information and increase their own understanding as to relevant intricacies. A government which protects instead of holding accountable its own is not one which can sincerely claim to be fighting corruption. Official condemnation coupled with unofficial condonement will only lead to an environment where public sentiment mirrors the anti government feeling which led to the recent eleven year war. The need for the president to show leadership similar to that of President Nestor Kirchner of Argentina, through an executive exercise of power against individuals engaging in corruption has long since been apparent.²⁹ The only stakeholder with sufficient leverage to influence such policy is the international community. This influence needs to be directed towards creating bona fide disincentive for those engaging in corrupt practice at the highest level of government. Such measures would compliment the introduction of administrative measures which are likely to be flouted if high level officials continue to set a corrupt example and are allowed to act with impunity. Although a birds eye donor perspective may allow for the acceptance of corruption in exchange for peace and security in the short term, to ignore a crucial opportunity to create significant change under the security of the worlds largest United Nations peacekeeping force would only serve to lay the same foundations of misrule and marginalisation which led to the recent war from which Sierra Leone is now attempting to recover. Breaking up reform packages with penalties and rewards for the achievement of specified objectives which are tied to a clear timeline is imperative.

²⁷ Another example is the requirement for the approval of conditions of service for the Auditor Generals Office under the Long Term Partnership for Development Agreement between the Government of Sierra Leone and the Government of the United Kingdom 2002 which has been blocked for over fifteen months by the government.

²⁸ Politics and Corruption in Africa, A Case Study of Sierra Leone, Sahr John Kpundeh, University Press of America, p6, 1994

²⁹ President Nestor Kirchner of Argentina, although faced with the withdrawal of political support, has forced the resignation of the head of the supreme court, replaced 80% of the top police officers along with over half of the military's top ranks.