ABA-UNDP International Legal Resource Center (ILRC)

UNDP/Sierra Leone Query: Experiences with Sequencing PAR Reforms and Electoral Cycles[1]

August 2011

This report aims to assist UNDP/Sierra Leone in formulating strategies to reform different aspects of civil service, as it heads into upcoming elections. It begins with a discussion of the types of civil service reforms that may be useful, and methods of implementation. It was difficult to find examples of experiences correlating PAR reforms and electoral cycles. However, we did find examples of reform programmes from a number of countries. These programmes tend to be implemented over a minimum of four (4) years; at which time the country has often undergone some type of major election. The overwhelming trend across the international reports found seems to point towards avoiding election times when it comes to civil service reforms. Reforms in other countries have begun either before or after elections, but do not tend to be heavily implemented during election time frames. Although civil service reform is the main topic of the report, it would be difficult to have meaningful reforms without legitimate leadership, chosen through democratic elections. Because of the difficulty in maintaining fair elections in the past, it seems that electoral reform is a necessary precursor to civil service reform, especially given the temporal proximity of the next elections. The report concludes with observations and questions for further study, which may aid UNDP/Sierra Leone as it attempts to reform civil service and public sector laws, while anticipating upcoming elections.

Civil Service and Public Sector Reform – Principles

    a. In *An Agenda for Change*, a report from the UN Integrate Peacebuilding Office in Sierra Leone gave suggestions specifically tailored to the needs of Sierra Leone, while taking into account the current political situation there. Among the suggestions were:

        1. *Actual* **implementation of public service reform suggestions** - The report noted that "efforts to reform the public sector have not been very successful and the lack of a comprehensive civil service reform programme continues to pose a serious challenge to government, as the required capacity to implement, monitor and evaluate programmes is still lacking in line ministries. Management and functional reviews were undertaken for several Ministries, Departments and Agencies (MDAs), but the recommendations were not implemented." According the report, "the lack of capacity in

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all MDAs needs to be addressed in order to achieve the successful implementation of all development programmes."

2. **Participation and Representation in Politics/Public Institutions** – "One of the most salient political issues in contemporary Sierra Leone has been women's participation in politics and the public sphere. Women's groups continue to draw attention to the fact that even though women constitute over 50% of the population, they continue to be grossly under-represented in elective and appointed offices. Between 2002-2007, women constituted 14.5% of people in parliament, 14.3% in cabinet positions, 9.6% in top civil service positions and 13.3% in ambassadorial positions." This point is particularly relevant to UNDP/Sierra Leone, because of the focus on the upcoming elections. Efforts should be made to ensure the inclusion of women throughout the electoral process and after. This could also be used as an opportunity to set up a quota system, or something similar, to assist in achieving adequate representation of women and minorities, not only in politics and institutions, but also in civil service.

3. **Methods for Strengthening the Civil Service**

   a. **Pay and Incentives** – Salaries and incentives are important when looking towards pay reform and downsizing civil service. It is critical to create an enabling environment and attract and retain good personnel through an incentive-based remuneration system and improvement of civil service conditions. These changes would not create new laws, but perhaps new policies.

   b. **Records Management Improvement Programme** – Significant progress has been made to improve record management procedures and build capacity within pilot ministries. UNDP/Sierra Leone should encourage the improvement of personnel records improvement and payroll verification and expand the program to cover the entire public service. As payroll verification programs can take over a year to fully implement, it may be wise to consider waiting until

after the elections to formally remove personnel. However, compiling lists of personnel anomalies could begin now.

c. **Training and Human Resource Development** – "The revival of the Civil Service Training College and promotion of cooperation with key external service providers, especially in important capacity areas like procurement, financial management, strategic management and policy development, are urgent [g]overnment priorities. The objective is to promote manpower planning, development and staff utilisation in a coordinated and cost effective manner." Investing in the development of the capacity of civil servants would be a positive step and it should not be affected by the upcoming elections.

d. **Reducing Staffing Levels and Introducing Measures to Mitigate the Social Cost of Retrenchment** – "The civil service is over-staffed, particularly at lower levels, where staff often lack basic education, skills and expertise. The size and cost of the civil service will be reduced through various mechanisms including laying-off temporary and casual workers, privatising departments and outsourcing services." UNDP/Sierra Leone, in their efforts to downsize, should take this idea into account, and reduce temporary workers, while working to educate higher level employees. If employees are already budgeted in, then removing them at this point would be unwise. Additionally, too many changes to the human resources of the civil service sector may incite general discontent among the population as the country heads towards election. As such, it might be wise for UNDP/Sierra Leone to advise towards segueing into any *big* changes in this sector after elections.

e. **Empowering Local Councils** – "Technical support by way of advice and guidance will be provided to develop capacity in local councils following the lead from the Human Resources Management Office. The

objective is to provide common systems and procedures to those in the central civil service and provide equity. There is also a need to rationalise the use of human resources across ministries, departments, agencies, and local councils by ensuring the transfer of existing competent or trainable staff to local government." For effective public sector reforms, a bottom-up approach works best. Local councils need to be a key starting point for improvements. Because these local council representatives were elected in 2008 and have five-year terms, they should be engaged at this point so that they can assist with civil service reform during their remaining time in office.

f. **Strengthening the Capacity of the Public Sector Reform Unit (PSRU)**–The PSRU is newly-formed, and located in the office of the President. So far, the PSRU has commissioned a "wider public sector records management improvement programme to help restore integrity and credibility to personnel, payroll and policy files." It was also behind undertaking statutory retirements, a pilot study for payroll verification (discussed in the next section), and "a possible job inspection that should lead to some retrenchment." UNDP/Sierra Leone can support PSRU in order to "provide leadership and technical coordination for various reform agendas across government."

http://unipsil.unmissions.org/portals/unipsil/media/publications/agenda_for_change.pdf

b. In *Sierra Leone Case Study*, by the International Records Management Trust, a pilot civil service payroll verification project is outlined. The pilot program took about a year to complete, but a scaled up version of it would likely take longer due to logistical complexities. The main purpose of the project was to establishing personnel files with a significant degree of completeness, which served as tool to support firm and sustainable evidentiary control. Because of the size of the civil service in Sierra Leone, and the widespread fraud in the civil service payroll sector, special attention

should be devoted to improvement in this area. The following are important factors:

1. Verifying that each individual on payroll can be identified and matched against an established post,
2. Resolving anomalies as far as possible,
3. Confirming Information about each employee's status and pay level, and
4. Making the confirmed data available to update the payroll.
   http://www.irmt.org/documents/building_integrity/case_studies/IRMT_Case_Study_Sierra%20Leone.pdf

c. The UN Public Administration Network produced a *Public Administration Country Profile* for Sierra Leone, which has a focus on corruption and civil service reform. According to the Bo Declaration, passed by the State House in 2003, "work has recently commenced on the development of a framework for creating a competent and well-motivated corps of civil service leadership consistent with our declared determination to raise the level of performance and integrity of our civil service. Talented and committed officers with the requisite integrity will be retained in the service and their advancement in their careers may even be accelerated. This will enhance the efforts of the Government to restore the public service to its former dignity and respect and enable it to serve the people more effectively and efficiently."

    i. "Subject to the provisions of the Constitution, the power to appoint persons to hold or act in offices in the public service (including power to make appointments on promotion and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission." Though the Constitution allows for a system of patronage, the limits of the system should be examined, as it often results in public perception of corruption, and fraudulent acts involving civil service employment.
        http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023286.pdf

d. Another report, which is particularly on point with this query, is *The Nettle of Civil Service Reform - and 'Topping-up,'* from the Europe Aid Development and Cooperation. In creating effective civil service reform, the article says, "it may require a combination of retrenchments, further salary decompression (e.g. bigger differences between those earning most and those earning least), and due respect for the fiscal implications in a country

where domestic revenues are covering only around half the public budget, with donors adding the rest." It goes on to note that, "there have been various proposals for civil service reform over the last decade, including combinations of pay and grade reform, new human resource management procedures, cleaning up payrolls for ghost workers, etc. The latest, from March 2008, is yet to make decisive progress, confirming that civil service reform is as difficult politically, as it is technically complicated." The report noted that a complex, comprehensive civil service reform may require 10-15 years to fully implement.

http://capacity4dev.ec.europa.eu/article/nettle-civil-service-reform-and-topping

II. International Examples Relating to Civil Service Reform

a. International (General)

i. In *Three Paradigms of Public Sector Reform*, the author discusses three main systems of public sector reform, but says that none of them can be successful without three core principles, which, if UNDP/Sierra Leone wants to implement public service reform around a tense election time frame, should be closely followed:

1. Performance Management: "Performance managements starts with information: data on performance must be published, so that service providers and the public can see how they are doing and can benchmark their performance against others. As governments move away from command and control, the capacity to intervene when a service is underperforming is crucial. Without reliable, up-to-date information on performance, this cannot be done."

2. Capability, Capacity, and Culture: "This means ensuring that people who provide the service have the right skills. It means enough resources to get the job done. It means developing a strong performance culture among those providing the service. Given that real-world situations typically require a mix of paradigms, the demands on the flexibility of the service providers can be considerable."

3. Strategic Direction: "Developing a good strategy is a sophisticated challenge for a large business. In a political environment, this challenge is even more daunting. A small,

well-qualified, courageous group–a kind of 'guiding coalition'–must oversee the sequencing and implementation of reform. Given the controversy such reform often generates, only a sustained, well-thought-through strategy will work. Support should be built over time, both within the public service itself and among the public. As a result, sequencing is important: a long-term strategy needs to deliver short-term results if public confidence is to be maintained."

http://ww1.mckinsey.com/clientservice/publicsector/pdf/TG_three_paradigms.pdf

b. **Thailand:**

i. In a report from Chulalongkorn University, titled *Public Sector Reform: An Analysis of the Policy Process on Transformation to an Autonomous Public Organization in Thailand*, the author talks about reform in Thailand, stating that most reforms "have involved adjustments to working processes, revisions of existing laws and regulations, and the re-organization of ministries and departments." The goals of reforming these sectors are to strengthen performance-based resource management and become more outcome focused, to improve service efficiency by outsourcing, restructuring, or decentralizing government activities, and to strengthen government accountability. In order to fulfill these goals, five main changes were made:

1. Adjustment of roles and responsibilities of the government sector;
2. Reform of financial and budgetary systems;
3. Review of the personnel management system;
4. Adjustments in the legal system, and
5. Changes in management paradigms, culture and values

Each of these are steps that UNDP/Sierra Leone can encourage and guide the government towards in its efforts to reform civil service. Notably, changes involving review of the personnel management system have already been made, though on a scaled down level.

http://cphs.healthrepository.org/bitstream/123456789/1439/1/PHD%20Thesis_Benjaporn.pdf

c. **UNDP/Liberia:**

i. Initially established in 2003, the Governance Reform Commission (GRC) of Liberia was formed just two years before the 2005 general elections. As of a 2007 UNDP/Liberia project, the GRC has "carried out activities, which can be described as laying the foundation for implementation of the public service reforms; and seeking to build a consensus on the nature of the decentralization process that is desirable for Liberia. These activities include:

   1. Conducting a census of civil servants,
   2. Reviewing the mandates, functions and structures of government Ministries and agencies and undertaken the in-depth definition of staff establishment of 3 ministries,
   3. Preparing a Code of Conduct for Public servants,
   4. Revising civil service rules and regulations,
   5. Preparing a blue print for decentralization,
   6. Developing a draft national Leadership Programme, and
   7. Formulating a program for developing a National Shared Vision.

   "There are also a number of public sector reform initiatives, which have been undertaken by other national and international governance actors such as auditing of the government payroll and removal of ghost names; restructuring the General Auditing Commission, enactments of a Public Procurement Act and establishment of a Public Procurement and Concession Commission."

   http://www.lr.undp.org/hrv51.htm

d. **UNDP/Angola:**

   1. Angola was due for elections in 1997 and 2002, but they were delayed until 2008. Following the second delay, in 2002, UNDP/Angola issued a report about civil service reform. The report focused primarily on human resources management reform, and noted some major challenges in implementing those reforms:

      a. A major deficiency in actual implementation of change

      b. A lack of commitment by civil servants

c. A tendency to remain permanently trapped in institutional routine

d. A continuation of patterns, culture and work practices of the past being perpetuated with few signs of genuine willingness or capacity to create a new work ethic

e. A lack of a clearly defined vision of the future role of the public sector, ample political commitment on the part of the government, and broad-based ownership of the vision by the political leadership, the rank and file of the civil service and the private sector at large

f. An insufficient pool of well-qualified candidates, willing and able to take on the heavy responsibilities of chief executives in the public sector.

http://mirror.undp.org/angola/linkrtf/civil-service-angola.pdf

e. **European Union**

i. In a report produced by Support for Improvement in Governance and Management (SIGMA), the organization looks at what it takes to make civil service reforms last. The report notes that civil service reform is first and foremost a domestic endeavor, and that the reforms materialized only when they were perceived as necessary. Additionally, the report stated that early and determined reforms paid off, but protracted reform periods were counterproductive. Though the report did not mention anything about civil service reforms as they relate to election timings, the changes discussed were implemented between 2004 and 2009, during which period multiple elections were held throughout the EU. UNDP/Sierra Leone may find that SIGMA and its research about civil service reforms over a broad time span beneficial.

http://www.rcpar.org/mediaupload/publications/2010/201003 11_SIGMA_can_reforms_last.pdf

f. **UNDP/Bangladesh**

i. A report about the Civil Service Change Management Programme, by UNDP/Bangladesh, states that, "a responsive, transparent, and

effective public administration is key to good governance development." The changes made to the Bangladesh Civil Service (BCS) are largely the responsibility of the BCS itself, and must reflect the Government's policies for providing basic services to citizens. These changes took place starting in 2008, and are set to continue into 2012. Elections were held in December of 2008; therefore timing of these changes may be of relevance to UNDP/Sierra Leone as it looks to find information about civil service reforms during election times.

> http://www.undp.org.bd/library/FactSheet2/FINAL%20CSC MP%20Mar%202011.pdf

g. **UNDP/Afghanistan**

  i. Civil Service Leadership Development (CSLD) was a task taken on by UNDP/Afghanistan. The project began in 2005, and concluded in December of 2009. Presidential elections took place in 2009, but considered essentially unsuccessful due to fraud and corruption, UNDP/Sierra Leone may note that the trend seems to be towards ending civil service reforms around the time of elections, and beginning new reforms after elections have concluded.

> http://www.undp.org.af/whoweare/undpinafghanistan/Project s/sbgs/prj_csld.htm

h. **UNDP/Timor-Leste**

  i. In a project designed to support the development of strategic capacities (at systemic, organizational and individual levels) necessary to the enhancement of professionalism and integrity in public service management, and to increase national ownership of the capacity development process, the timing seems to revolve around elections yet again. In this case, the project ran from January 2008, and is set to conclude in December of 2011; elections took place in 2007 and are upcoming in 2012. This report shows a continuation in the trend of conducting civil service reforms between elections, and not during them.

> http://www.tl.undp.org/undp/what%20we%20do/Democratic %20Governance/Civil%20Services/SupporttoCivilService- factsheets-feb2011.pdf

    i. **UNDP/Eritrea**

        i. UNDP/Eritrea successfully downsized civil services, retrenching about 10,000 workers out of 25,000 total starting in 1993. "Unlike other such programs in Africa, this was not voluntary. Retrenchees were paid six months salary, plus any pension entitlement." These changes took place *after* the last presidential election, which was held almost 20 years ago, in 1993. This, again, shows the tendency to work on civil service reforms after elections occur, but not during them.

              http://mirror.undp.org/magnet/Docs/!UN98-21.PDF/!RECONCE.PTU/!sec2.pdf

    j. **UNDP/Vietnam**

        i. In an attempt to build a democratic, clean, strong and modernized civil service, UNDP/Vietnam is assisting in a project, started in 2009, that could provide "possible reform framework for the Vietnamese civil service in the next 10 years." The last elections held in Vietnam were May 2011, so the project was set to begin two years before the beginning of the election. Because of the lengthy time period anticipated with such a project, it seems that completely avoiding elections would be inevitable. The timing also indicates that the project should be ending at roughly the same time as the 2019 elections, thus minimizing the number of elections that occur during its implementation. For more information relating to the specifics of the project as it relates to election timing, UNDP/Sierra Leone may want to consider contacting UNDP/Vietnam.

              http://www.undp.org.vn/undpLive/digitalAssets/25/25525_3_CivilServiceReform.pdf

III. Election Analysis

Although civil service reform is the main topic of the report, it would be difficult to have meaningful reforms without legitimate leadership, chosen through democratic elections. Because of the difficulty in maintaining fair elections in the past, it seems that electoral reform is a necessary precursor to civil service reform, especially given the temporal proximity of the next elections. With that in mind, this section on election analysis attempts to lay basic principles for improvement in elections in Sierra Leone.

a. On the topic of electoral reform, a Chatham House Report, titled *Sierra Leone: Reform or Relapse? Conflict and Governance Reform* states that "in May 2005, the Chief Electoral Commissioner made a press statement about irregularities in the local government elections, explaining that the National Electoral Commission (NEC) had become concerned at the number of polling stations showing more than 100% turnout. This is a similar issue to the one highlighted by the Carter Center in 2002. Consequently, the NEC invited the International Foundation for Electoral Systems (IFES) to investigate a sample of polling stations." Because of known issues with corruption in the electoral process, UNDP/Sierra Leone, in seeking to implement civil service reforms around the timing of upcoming elections, should first make sure that the electoral process is addressed. If the public perception of the election is that it is invalid, or a product of corruption, the attempts at reforming civil services in conjunction with the election will face much greater obstacles. The report proposes that combating electoral corruption may be a significant task, given its scope - "the fact that ballot box stuffing and other irregularities were found to be widespread suggests a degree of organization. However, the Commissioner was careful to stress that it had not been one-sided but in favour of all parties. It is not clear what impact the irregularities had on the results."

   http://www.chathamhouse.org/sites/default/files/public/Research/Africa/reportsierraleone0607.pdf

b. In *Sierra Leone: A New Era of Reform?* by the International Crisis Group, legitimacy of elections is discussed. This report claims that, even though there were flaws in the election process, the overall outcome is a good indicator of a restoration of legitimacy to the election process. The primary reasoning behind this statement is that the elections represented a transfer in power from the incumbent Sierra Leone People's Party (SLPP), of which former president Kabbah was a member, to the All People's Congress (APC) party, of which current president Koroma is a member.

   i. The report goes into a discussion of patronage, with a focus on several key points:

      1. Clientelismis still being sustained by fears that refraining from diverting state resources to private networks, simply gives others the opportunity to do so. A formal system of diverting state resources to private networks should be adopted in order to eliminate public views of shady dealings and biased officials.

2. Some political patronage is not always a negative aspect of the election system. "A well-established system of patronage has traditionally characterised the political relationship between the central government and provincial towns. In the provinces, these social trends have not been so marked, but there, too, confidence in securing resources via well-connected patrons is being shaken." There needs to be a balance between legitimate patronage, which supports provincial towns, and corrupt hiring practices that alienate citizens, and reduce governmental legitimacy.

3. "The great fear in the provinces is that, once in office, the politicians and senior bureaucrats will renege on commitments to their home areas and organize themselves into self-serving oligarchies. This stems from memories of the one-party regime of Siaka Stevens, which co-opted every branch of government and in effect abandoned rural populace to its fate. A related fear is that a cabal representing narrow, subregional interests will take over the central government."

4. In addressing regional concerns, the trend seems to be that southerners are out and northerners are in. "While the new government has displayed clear intent to make good its reform promises, Koroma, as noted, is under intense pressure from supporters. The Kabbah cabinet included a few high-profile northerners, but many elite families from that region which supported the APC in the elections now look to the Koroma administration for better opportunities."

http://www.observatori.org/paises/pais_73/documentos/143_sierra_leone___a_new_era_of_reform.pdf

c. In a conference on "Electoral Reform: Building Confidence for Our Future," put on by the American University Center for Democracy &Election Management, specific methods and goals for electoral reform were outlined. Though the conference was in reference to Nigeria, the electoral reform principles are universal:

i. **Political Commitment to Reform** – "Free and fair elections are a key to building a democracy. There is widespread concern, however, that irregularities in recent elections could undermine the legitimacy and stability of a democratic system. Urgent reforms are therefore

needed to correct these flaws in future polls. The first step is for political leaders, from all branches of government and every political grouping, to affirm their commitment to basic principles for a free, fair, and violence-free election."There needs to be an overall commitment from political leaders to the process of reform, in order to create a long-lasting solution to civil reforms in relation to elections. This point is also relevant to UNDP/Sierra Leone because of a prior history of suggestions being given from outside advisory groups, which are subsequently ignored or unimplemented.

ii.   **Enforcement:** Though some changes in the laws and regulations are needed, the changes mean very little if they are not effectively enforced. This has been an issue in the past for Sierra Leone, where advice has been offered from international advisory groups, and the government has failed to implement the recommendations. Election tribunals with the purpose of resolving electoral disputesshould be formed in addition to the general Election Commission.

iii. **Security:** "Violence, intimidation and insecurity continue to be major concerns for the election process. In order to ensure violence free elections, it is necessary to involve the security agencies, parties, candidates and campaigns, and civil society." In the most recent elections (2007) for Sierra Leone, then-President Kabbah threatened to impose a state of emergency because of the escalation in violence, especially in the capital, Freetown, and south-eastern cities like Bo Kenema and Koidu Town.

iv.   **Civic Education and Citizen Participation**: "The government needs to invest in broad civic education and information for voters on their rights, duties and the procedures of voting. The government can provide courses in schools and media advertisements on why and how people should vote. [The Electoral Commission] and the political parties can play complementary roles in publicizing key dates for registration and elections, and educating the public on voting practices. Civil society organizations have an essential role to play in creating a culture of civic rights, and informing voters of procedures at the polling stations." UNDP/Sierra Leone should take a broad approach to citizen participation and civil service reform, incorporating multiple facets of government and private organizations.

http://www1.american.edu/ia/cdem/pdfs/aaun_conference.pdf

d. This past June, the National Elections Watch (NEW) "affirmed that electoral reforms were urgently needed to help reduce some of the complexities of the laws governing the electioneering process" in Sierra Leone. "The organisation observed that a complex electoral administrative structure exists in the country, characterized with deficiencies in the legal framework, which they believe undermines the attainment of a just electoral system." NEW also claimed that the "reform process should ensure that the legal framework for elections in the country contributes in the most significant manner to the legitimacy of the results and the political authority of the winner," noting that "following the 2007 election process and the recommendations made, civil society organizations realised the need for a sweeping reform to improve the system." Given the nature of the 2007 elections, caution should be exercised before implementing civil service reform changes leading up to the election. The country still seems fragile, and the electoral process is in need of improvement, so minimizing outside stresses during the electoral time period would work to the benefit of both the government and the citizens.

http://allafrica.com/stories/201106100977.html

IV. Recommendations, Observations, and Questions for Further Study

a. In the area of civil service reform, what other reforms is UNDP/Sierra Leone looking to make other than the pay reform mentioned in the query?

b. Some notable areas in need of public sector reform include:

i. Education: Sierra Leone suffers from a shortage of schools and teachers. At least 1,270 schools were destroyed over the course of the Civil War, and, even though improvements are being made in this area, further development and support should be dedicated. In most discussions of electoral laws, an educated population comes up as a key component for creating a successful democratic election environment.

ii. Healthcare: The Free Health Care Initiative, which commits free services for pregnant and lactating women, and children under five is a policy that has been supported by increased aid from the United Kingdom and is recognized as a progressive move that other African countries may follow. But, high infant mortality, and critically low life expectancy still plague Sierra Leone.What further healthcare reforms can be made to improve the country's performance in these areas?

iii. Income Distribution: Sierra Leone has an abundance of valuable natural resources, including diamonds and titanium, yet there is a tremendous inequality in income distribution, with over 70% of the population living below the poverty line. Recent political stability has led to a revival of economic activity such as the rehabilitation of bauxite and rutile mining, which are set to benefit from planned tax incentives. Is it possible that the increase in income as a result of recent stability could be used to help larger swaths of the population than are currently benefiting from it?

c. The overwhelming trend across the international reports found seems to point towards avoiding election times when it comes to civil service reforms. Reforms in other countries have begun either before or after elections, but do not tend to be heavily implemented during election time frames. The reasoning behind this most likely has to do with the additional stresses on a country while it undergoes elections, and the desire to reduce any potential for instability by incorporating additional, possibly stressful, civil service reforms.