

POLITICAL ECONOMY OF EXTRACTIVES GOVERNANCE IN SIERRA LEONE



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EXECUTIVE SUMMARY

The conversion of resource rents into both sustainable development and a demonstrated improvement in the standard of living for the majority of Sierra Leone's population is the immediate challenge facing the Government of Sierra Leone today. Set against these rising expectations and aspirations, is the historical manner in which extractives governance has been conducted in the country, the continued role and influence of the traditional authority and power mechanisms in the communities and areas of the country where mining takes place and the requirement for consistent improvements in the legal, financial and institutional structures and processes of Government. Where institutional structures impede progress, when accountability for revenues earned is not demonstrated, and where transformation in lives through improved quality of services is not delivered, then there is an opportunity for unrest, volatility and conflict to threaten the hard earned peace and stability that is, in itself a sine qua non for sustained development and poverty reduction. This is the so called 'resource curse', with which Sierra Leone is well acquainted.

This report reviews the key developmental challenges, obstacles and constraints to effective governance of the natural resources sector (specifically extractives) in Sierra Leone. Through the application of the theories of change political economy approach, applied to the natural resources value chain, extractives governance is reviewed in an historical context, within the current environment and in the framework for future generations. By supplementing these perspectives with a comprehensive stakeholder and institutional analysis, a better understanding of formal and informal rules, incentives and underlying roles of political drivers, a clearer perception of how the network of key stakeholders shapes policy around natural resources management, and improved appreciation and recognition of the institutional structures and boundaries within which all groups of stakeholders interact and co-operate, is established.

There is, today, a real opportunity to break with the past and to establish significant and sustained improvements in extractive governance in the country. Emerging through the analysis of the extractives sector, several building blocks around which a common platform for policy and operational engagement can be developed for extractives governance in Sierra Leone has evolved. Whilst at first glance, these may not be new ideas or themes, it will be as much about the comprehensive manner and behavior of future engagement (country-led, synergized, context appropriate, in for the long haul and above all, respectful) as much as the areas themselves (governance/institutional reform, public financial management, economic and social rights of communities and modern economic development at the local levels), that will establish a new paradigm for extractive resource management in Sierra Leone.

ACRONYMS

A4P	Agenda for Prosperity
ACC	Anti-Corruption Commission
ADF	Agriculture Development Fund
ADMS	Alluvial Diamond Mining Scheme
AG	Auditor General
AML	African Minerals Limited
APC	All Peoples Congress
ASSL	Audit Service of Sierra Leone
BSL	Bank of Sierra Leone
CAS	Country Assistance Strategy (replaced by CPS)
CASPR	Country Assistance Strategy Progress Report
CCMS	Cooperative Contract Mining Scheme
CDA	Community Development Agreement
CJM	Campaign for Just Mining
CLC	Community Liaison Committee
CMP	Core Minerals Policy
CMU	Country Management Unit
CPS	Country Partnership Strategy (replaces CAS)
CRF	Consolidated Revenue Fund
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
CT	Country Team
DACO	Development Assistance Co-ordination Office
DELCO	Sierra Leone Development Company
DFID	Department for International Development (UK)
DG	Director General

DoGS	Director of Geological Survey
DoM	Director of Mines
DP	Development Partner
EIA	Environmental Impact Assessment
EITAP	Extractive Industries Technical Assistance Project
EITI	Extractive Industries Transparency Initiative
EMP	Environmental Management Plan
EPA	Environmental Protection Agency
ESR	Environmental and Social Regulations
GBAA	Government Budget and Accountability Act
GDP	Gross Domestic Product
GGDO	Government Gold and Diamond Office
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GoSL	Government of Sierra Leone
HDI	Human Development Index
IMF	International Monetary Fund
IOC	International Oil Company
IRCBP	Institutional Reform and Capacity Building Project
J4P	Justice for the Poor
LM	London Mining
MAB	Minerals Advisory Board
MAFFS	Ministry of Agriculture, Forestry and Food Security
MASEU	Mining and Allied Services Employees Union
MCAS	Mining Cadaster Administration System
MDAs	Ministries, Departments and Agencies (of Government)
MFR	Management and Functional Review
MLA	Mining Lease Agreement

MLECP	Ministry of Lands, Environment and Country Planning
MLGRD	Ministry of Local Government and Rural Development
MMA	Mines and Minerals Act
MMMR	Ministry of Mines and Mineral Resources
MMO	Mines Monitoring Officer
MoFED	Ministry of Finance and Economic Development
MRRT	Mineral Resources Rent Tax
NACE	National Advocacy Coalition on Extractives
NCA	National Carrier Act
NDMC	National Diamond Mining Company
NEC	National Electoral Commission
NEPAD	New Partnership for African Development
NMA	National Minerals Agency
NMJD	Network Movement for Justice and Development
NRA	National Revenue Authority
NRC	Natural Resources Charter
ODA	Official Development Assistance
P&PP	Pay and Performance Project (World Bank)
PAYE	Pay As You Earn
PFMA	Public Financial Management Act
PFMICP	Public Financial Management Improvement and Completion Project
PFMRD	Public Financial Management Reform Directorate
PFMRS	Public Financial Management Reform Strategy
PIU	Project Implementation Unit
PMDC	Peoples Movement for Democratic Change
PMU	Project Management Unit
PRS	Poverty Reduction Strategy

PRSP	Poverty Reduction Strategy Paper
PSC	Public Service Commission
PSRU	Public Sector Reform Unit
RUF	Revolutionary United Front
SLEITI	Sierra Leone Extractive Industries Transparency Initiative
SLPMB	Sierra Leone Produce Marketing Board
SLPP	Sierra Leone Peoples Party
SLNSC	Sierra Leone National Shipping Company
SLST	Sierra Leone Selection Trust
SLTRC	Sierra Leone Truth and Reconciliation Commission
SPU	Strategy and Policy Unit
SRL	Sierra Rutile Limited
TA	Technical Assistance
TDA	Transformation and Development Account
TDF	Transformation and Development Fund
TTL	Task Team Leader
UMU	United Mine Workers Union
UNDP	United Nations Development Program
WB	World Bank

1. INTRODUCTION

1. Sierra Leone is still recovering from a brutal civil war (1991-2002), fuelled in part by a valuable and easily extractable natural resource (diamonds). Since 2009, the discovery (or rediscovery) of mineral deposits, notably iron ore and oil,¹ has propelled the issue of responsible and transparent management of the country's mineral resources towards the top of the development agenda. Sierra Leone now stands on the verge of an unprecedented period of economic growth,² driven primarily by revenues from large-scale iron ore mining. Yet it continues to face many governance and developmental challenges.

2. The rapid rise of the extractives governance agenda in Sierra Leone requires an equally swift, yet strategic response from all stakeholders: the Government of Sierra Leone (GoSL), development partners (DPs), civil society organizations (CSOs), communities, and mining companies. The most recent World Bank Country Assistance Strategy Progress Report (CASPR)³ identifies the need for a new strategic pillar on managing the extractives boom. The CASPR highlights the potential growth opportunities arising from increased private sector investment, increases in revenues for development investment, the emergence of private-public partnerships for infrastructure development and strategic support for 'growth poles' to capture opportunities for economic development outside the capital Freetown. However, the CASPR also highlights a number of challenges and risks associated with these additional extractives-generated revenues. These problems arise in the areas of: a) public financial management; b) governance (including, but not limited to, licensing, contract negotiations, revenue management, accountability and combating corruption); c) macro-economic management and forecasting and d) the institutional, regulatory and monitoring frameworks for the extractive sector. In response to increasing awareness of the impact (positive and negative) of extractive activities upon local communities and the wider population, the CASPR further highlights the importance of social accountability (demand for good governance). The challenges here are: a) improving citizen engagement and voice in the management of windfall revenues from mineral extraction; b) ensuring that public expectations of benefits from extractives-led economic growth are effectively and responsibly managed; c) protecting the economic and social rights of communities directly affected by mining operations.

3. In 2004, the Sierra Leone Truth and Reconciliation Commission (SLTRC) reported that the central cause of the civil war had been the *endemic greed, corruption and nepotism of political elites, who plundered the nation's assets, including its mineral riches... robbed the nation of its dignity and reduced most people to a state of poverty.*⁴ In the light of this unfortunate past, the prospect of a 'revenue bonanza' driven by extractives raises understandable apprehensions over the capacity of government to obtain the best deals for the country and to utilize revenues in an accountable and transparent manner. But it also generates significant optimism that there is a real opportunity to propel Sierra Leone forward in terms of development and poverty reduction. Clearly, there is a need at this stage

¹ In September 2009, Anadarko Petroleum Corporation announced the discovery of commercially viable offshore oil on the Sierra Leone-Liberia basin. In November 2010, the company also announced a deep-water discovery at the Mercury exploitation well. As of April 2013, the GoSL had awarded a total of eight oil blocks to eleven companies in a competitive bidding process.

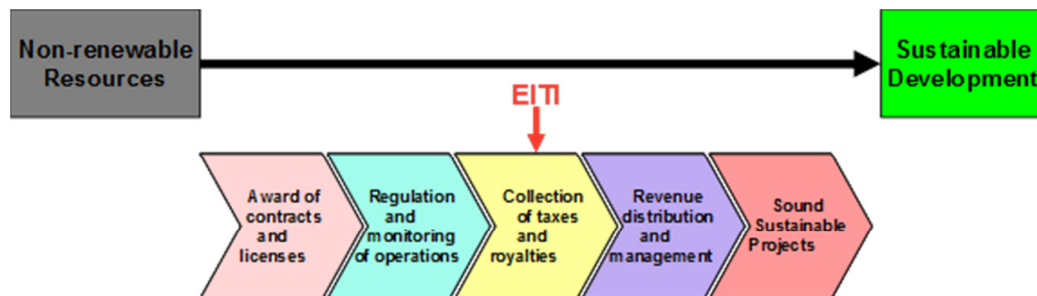
² Real GDP growth in 2012 increased to 15% in 2012 after expanding by 6% in 2011, due to the commencement of iron ore production while non-iron ore GDP growth was 6.3%. Projected GDP growth estimates for 2013 are 25% (non iron ore growth is 8.3%), for 2014 it is 14.15 (7.9%) and for 2015 12.1% (7.0%). See World Bank, 'Draft PAD Sixth Governance Reform and Growth Credit', May 2013.

³ World Bank, 'Country Assistance Strategy Progress Report for the Republic of Sierra Leone for the Period FY 10-13', July 2012.

⁴ SLTRC, *Witness to truth: report of the Sierra Leone Truth and Reconciliation Commission*, Volume 2 Chapter 2, 'Findings', 2004.

for a detailed institutional and political analysis of the extractives sector to support Sierra Leone’s government, citizens and international development partners in ensuring that revenues are successfully managed and channelled into development and poverty reduction agendas.

4. This report uses a ‘value chain’ approach to mining governance (see diagram below). The value chain highlights the critical stages through which a resource dependent country is expected to progress as it seeks to transform resource rents into economic growth and sustainable human development. By applying a political economy lens to each stage in the chain, the report undertakes a comprehensive assessment of the factors affecting Sierra Leone’s current and future capacity to transform ‘rents into riches’.⁵



5. This report is organised in the following manner. Following the introduction, Chapter Two presents a summary of previous analytical work on the political economy of Sierra Leone with special reference to the extractives sector, its governance past and possible governance futures. Chapter Three undertakes an in-depth analysis of the extractives value chain in Sierra Leone and Chapter Four identifies key stakeholders across this value chain, noting their influence on extractives management policy and implementation, their potential relationships with other stakeholders and influence over policy outcomes. Chapter Five identifies and highlights suitable entry points for policy dialogue on extractives-led governance in Sierra Leone and possible project and technical assistance interventions across the value chain.

6. The objective of this study is ultimately to improve the management of the natural resource endowment, enjoyed by Sierra Leone, in a manner that will allow the revenues generated from natural resource extraction to contribute in an optimal manner towards sustainable economic growth. Specifically, the study focuses on mining (iron ore, diamonds, other minerals) and to a much lesser extent, oil and gas. By using the ‘theories of change’ approach to political economy analysis,⁶ the report looks at the historical challenges around extractive governance, identifies systemic features and characteristics of ‘the problem’, extrapolates and analyses the incentives shaping the activities and behaviours of key stakeholders, and then lays out a possible platform for engagement based on clearly identified entry points.

⁵ N. Barma, T. Minh Le and L. Viñuela, *Rents to Riches? The political economy of natural resource-led development*, World Bank, 2012.

⁶ M. Foresti, T. O’Neil and L. Wild, ‘The Politics Of Delivery’, Politics and Governance Paper, Overseas Development Institute, April 2013.

2. Mineral Resources and Development in Sierra Leone

This Chapter provides an appraisal of the key political economic, geographical and social cleavages/fault lines in Sierra Leone, an assessment of political stability (given the country's history) and the degree of concentration of power/decision making and resource allocation, historically and present.

2.1 Political Economy Background: The Rural-Urban Divide

7. The concentration of power and wealth in the capital city Freetown and the deprivation of rural areas is a fundamental feature of Sierra Leone's political economy. Data from the most recent national census (2004) reveal that 15.5% of Sierra Leone's population of 4.9 million was living within the boundaries of Freetown municipality (an area of 167 km²), while 60% were living in settlements of less than 2,000 inhabitants.⁷ Fifty-six per cent of all Sierra Leoneans working in public administration, security, health services, water and power supply, professional and domestic services, transport and foreign-owned organisations were residing in the capital district (Western Area). A further 22% were residing in districts containing the provincial administrative headquarters of Makeni, Bo and Kenema. Total employment in these sectors only accounted for 10% of the national workforce, while agriculture, hunting and forestry occupied 65% on average, rising to more than 80% in six of the twelve provincial districts (Kailahun, Pujehun, Moyamba, Tonkolili, Kambia and Koinadugu). Three quarters of the national workforce were reported to be 'self-employed'.⁸ In 2010, 21% of Sierra Leone's rural population resided within 2km of an all-season road (compared to 31% for 'middle income' African countries) and only 5% of the total population had access to power.⁹

8. Rural and peri-urban poverty underlies Sierra Leone's perennial low scores against indices of human development.¹⁰ Sierra Leone's HDI for 2012 was 0.359 (as compared to a Sub-Saharan African average of 0.475), which placed it 177th out of 187 listed countries. When Sierra Leone's HDI is adjusted to reflect inequality (by taking into account the range of results) it falls to 0.21, a reduction of 41.6%. The average HDI adjustment to reflect inequality was minus 33.5% for low HDI countries and minus 35% for Sub-Saharan Africa. These figures indicate that there are relatively large differences in quality of life among Sierra Leoneans as compared to the populations of other poor countries.¹¹

9. Sierra Leone's rural-urban divide is historically rooted. The present-day Western Area was established in the geographical footprint of the British Crown Colony of Sierra Leone, whose origins lay in philanthropic efforts to re-settle liberated African slaves on African soil. Trans-Atlantic trade brought early prosperity to the Colony. By the end of the 19th century its main settlement, Freetown, was a thriving port city with 30,000 inhabitants and its own municipal council. The Sierra Leone Protectorate (the present-day provinces) was established in 1896 on territory adjacent to the Colony. While the Protectorate

⁷ I. Sesay, A. Kamara, and J. Ngobeh, 'Government of Sierra Leone 2004 Population and Housing Census: analytical report on population distribution, migration and urbanisation in Sierra Leone', Statistics Sierra Leone, 2006.

⁸ S. Braima, P. Amara, B. Kargbo and B. Moseray, 'Government of Sierra Leone 2004 Population and Housing Census: analytical report on employment and labour force', Statistics Sierra Leone, 2006.

⁹ N. Pushak and V. Foster, 'Sierra Leone's infrastructure: a continental perspective', Policy Research Working Paper 5713, World Bank, June 2011.

¹⁰ In 2008, 53% of Sierra Leoneans were living in extreme poverty on less than US\$1.25 per day. In 2010, 77% were living in 'multidimensional poverty' (an index of deprivation taking account of educational opportunities, health and standards of living). Life expectancy at birth in 2012 was 48.1 years and the literacy rate was 35.1 per cent (46.9% for males and 24.4% for females).

¹¹ United Nations, *The rise of the south: human progress in a diverse world*, Human Development Report 2013.

represented only a small part of Freetown's historic trading hinterland, colonial administrators entertained the hope that British rule would facilitate the intensification of the local economy.¹² These hopes soon faded, not least because colonial investment in infrastructure and services in the Protectorate in the first half of the twentieth century was negligible.¹³ A government railway was completed in 1915, but its tiny 2ft6in gauge severely limited its load capacity and it operated at a loss for almost all of its 77-year history (1897-1974).

2.1.1 Colonial Indirect Rule

10. Colonial 'indirect rule' in the Protectorate also constrained commercial enterprise. The basic idea behind this administrative system was to harness 'native' institutions (i.e. chieftaincy and customary law) to the task of maintaining rural social order, tying labour to the land and preventing an influx of poor migrants into Freetown.¹⁴ Colonial land law in Sierra Leone operated on the principle that 'non-natives' could not own land in the Protectorate; they could only lease it. The 'non-native' category included the colonial government and the Krio community of the Colony (descendants of liberated slaves). This discriminatory administrative system helped to lay the foundations of a political economy based on the extraction of rents from landowning peasants. These rents included tributes and taxes administered by chiefs and interest on credit advanced by traders. For many years, trading enterprises held most of the land leases in the provinces. For example, a survey of land leases carried out in 1978 discovered that 55% were held by Lebanese (a group specializing in trade) and 29% by European companies (mainly banks and petrol stations). Sixty per cent of all leases applied to business premises in district headquarters.¹⁵

11. This economic system predominates in rural areas today. Essential local services (e.g. schools, peripheral health posts and local courts) are still concentrated in the headquarters of chiefdoms and chiefdom sections.¹⁶ Pooling of labour and capital is fundamental to economic survival among peasant groups and serves as a counter strategy to indebtedness.¹⁷ In larger and more prosperous settlements, residents often pool cash to pay for local road improvements and the upkeep of community-managed schools.¹⁸ Sharing in peasant groups has moral as well as economic dimensions, which often leads to conflict when decision-making power is not equally distributed (especially in relations between wives and husbands and between youths and elders). However, community membership remains many poor Sierra Leoneans' primary source of realizable rights and properties.¹⁹

12. Limited opportunities for wage employment in colonial Sierra Leone did not stop the rural poor from seeking them out. Demand for unskilled labour in Freetown increased

¹² T.J. Allridge *A transformed colony: Sierra Leone as it was and as it is – its progress, people, native customs and undeveloped wealth*, London, 1910.

¹³ M. Kilson, *Political change in a West African state: a study of the modernization process in Sierra Leone*. Cambridge, Mass., 1966.

¹⁴ R. Fanthorpe and M.G. Sesay, 'Reform is not against tradition: making chieftaincy relevant in 21st century Sierra Leone', Campaign for Good Governance and Partners in Conflict Transformation, 2009.

¹⁵ F.C. Tuboku-Metzger and H. van der Laan, 'Land leases in Sierra Leone: a survey of leases granted under the Protectorate Land Ordinance of 1927', University of Leiden, 1981.

¹⁶ R. Fanthorpe, A.Lavali and M.G. Sesay, 'Decentralization in Sierra Leone: impact, constraints and prospects', DFID, 2011.

¹⁷ For example, farmers interviewed in a remote village in Tonkolili district in 2007 reported that wholesale traders offer them cash advances during the pre-harvest 'hungry season' with a view to collecting payment in kind at harvest time. Under these arrangements, farmers were parting with newly harvested rice at less than one third of its value on the open market. In an effort to minimize their vulnerability to such exploitation, farmers were pooling whatever cash they could find and taking turns to buy essential commodities (e.g. salt) for their own use or as stock for petty trading. See R. Fanthorpe, 'BRACE institutional survey', Concern Worldwide, 2007.

¹⁸ Fanthorpe, et al, 'Decentralization'.

¹⁹ R. Fanthorpe, 'Neither citizen nor subject? "Lumpen" agency and the legacy of Native Administration in Sierra Leone', *African Affairs* 100, 2001.

dramatically during both World Wars and prompted influxes of rural migrants. By the early 1930s, 'natives' of Protectorate origin in Freetown outnumbered the Krios by a factor of 3:2.²⁰ Furthermore, the small size of the formal employment sector heightened the political profile of organized labour. For example, a railway workers' strike in Freetown in 1919 served as a catalyst for citywide rioting targeting Lebanese traders. The railway workers struck again in 1926 in protest against the alleged discriminatory practices of their European managers, and went on to inspire workers at the newly opened Sierra Leone Development Company (DELCO) iron ore mine at Marampa to strike for better pay and conditions in 1935 and 1938.²¹ By this time, rural protest against chiefs who abused their power, often for personal material gain, had become a source of growing concern for the colonial government. The fear here was that the spread of modern education and wage employment in the Protectorate, however slow, was undermining a rural social order previously guaranteed by chieftaincy.²² In 1955, a strike called by the Artisan and Allied Workers Union and Transport and General Workers Union over pay again escalated into rioting and looting in Freetown. A few months later, peasants and lower level government workers in several areas of the north participated in riots prompted by local chiefs' maladministration. The Commission of Inquiry into this second outbreak of rioting reported that some parts of the country had experienced a *state of affairs better described as a civil war rather than a disturbance*.²³

2.1.2 Post Colonial Political Settlements

13. However, outbreaks of populist protest in late colonial Sierra Leone were generally short-lived and did not coalesce into a class-based political movement.²⁴ National elites were therefore able to build a post-colonial political settlement around the peasant bloc. Decolonization began in 1951 with the administrative unification of the old Colony and Protectorate. Sierra Leone's first national government was led by the Sierra Leone People's Party (SLPP). Dominated by members of chiefly families, the early SLPP successfully mobilised the 'Protectorate' vote to defeat its Krio opponents in the first national elections in 1957.²⁵ The party's hegemonic strategies in government were twofold. First, as the party of an established rural elite, it managed to capture the rural poor's visceral preference for leaders of their own communities to represent them in government. Having achieved that, it had little incentive to expand the state's institutional footprint and thus provide platforms for populist opposition. But in order to maintain power, it had to channel benefits downwards through elite networks and accommodate emerging politicians who enjoyed the support and trust of the provincial populace.²⁶ Secondly, the coercive power of the central State was put to direct use in controlling and co-opting rival networks. A case in point was the Milton Margai government's manipulation of local development grants and anti-sedition laws to suppress the populist yet localized (Kono District) Sierra Leone Peoples Independent Movement in the early 1960s (See Section 2.2.2).

14. The SLPP's chieftaincy-based social contract worked best in the relatively prosperous south where chiefly families had enjoyed a head start in converting rents into commodity

²⁰ M. Banton, *West African city: a study of tribal life in Freetown*, Oxford 1957.

²¹ H. Conway, 'Labour protest activity in Sierra Leone during the early part of the twentieth century', *Labour History*, **15**, 1968; I. Abdullah, 'Profit versus social reproduction: labour protests in the Sierra Leonean iron-ore mines, 1933-38', *African Studies Review*, **35**, 1992.

²² J. Fenton, *Report by Mr. J.S. Fenton, OBE, District Commissioner, on a visit to Nigeria and on the application of the principles of native administration to the Protectorate of Sierra Leone*, Freetown 1935.

²³ Government of Sierra Leone, *Report on the Commission of Inquiry into disturbances in the Provinces (November 1955 to March 1956)*, Freetown, 1956, p.82.

²⁴ Kilson, *Political change*.

²⁵ J. Cartwright, *Politics in Sierra Leone, 1947-1967*, Toronto, 1970.

²⁶ Cartwright, *Politics in Sierra Leone*.

consumption and modern education for their children.²⁷ The party's main political opponent was the All Peoples Congress (APC), which drew its initial support from lower level government workers, trade unions, petty traders and labour migrants in Freetown and the north. The APC's original constitution called for the creation of a *welfare state based on a socialist pattern of society* and the party campaigned successfully on a populist, anti-chief ticket in the national elections of 1967.²⁸ However, by this time the country was beginning to experience serious balance of payments problems. APC support in the countryside was patchy, and civil disorder in the provinces prompted APC leader Siaka Stevens to declare a state of emergency a few months into his premiership. Ultimately, Stevens' strategic response to insecurity was to co-opt the state to his regime's interest. The ensuing centralization and de-bureaucratization drive left the state's institutional footprint smaller than it had been under colonial rule. Westminster-style government was replaced by a republican constitution and an executive presidency in 1971, and elected local government was suspended indefinitely in 1972. Violent suppression of regime opponents, whether in government or the country at large, became commonplace. In 1978, a one-party constitution was adopted after a national referendum condemned as rigged by opposition groups.

15. Stevens' hegemonic strategies would not have been possible had not the peasant bloc remained largely intact. For example, a 30,000-respondent survey of rural-urban migration in Sierra Leone, carried out in the mid-1970s, found that net migration from rural to urban areas represented only 0.5% of the rural population. The authors concluded that most rural-urban migrants came either from a comparatively affluent social stratum seeking formal education and salaried jobs or from a comparatively impoverished stratum.²⁹ This last finding was supported by other research, which found that in some areas of the north, peasant cooperation was insufficient to secure economic survival in an increasingly monetized rural economy. Out-migration from these areas was thus a product of desperation rather than aspiration.³⁰ These findings concur with a wider view in political science that regime centralization in bureaucratically weak states may not prompt protest among the rural poor as much as their withdrawal from the state and formal economy.³¹

2.1.3 *Emergence of a Shadow State*

16. Leaving the peasant majority to fend for themselves incurred huge costs in terms of human suffering and lost potential. But it also provided Stevens' regime with the political buffer it needed to convert public assets into private wealth. In the 1970s, foreign credit, an over-valued currency and government price controls on basic commodities supported an import economy in foodstuffs, fuel and luxuries that benefited the urban elite at the expense of peasant producers.³² This import economy was fuelled by the lucrative diamond trade, controlled by the governing elite through politically managed distributions of mining and mineral export licenses. Some observers have argued that these arrangements

²⁷ S. Hofstra, 'Personality and differentiation in the political life of the Mendi', *Africa*, **10**, 1937.

²⁸ Cartwright, *Politics in Sierra Leone*, p.132, quoting from *The Constitution of the All Peoples' Congress*, 1965.

²⁹ Almost a third of all urban migrants identified by rural respondents in the survey were located in Freetown, 24% were in the Kono diamond mining area and a further 21% were in the provincial headquarters of Bo, Kenema and Makeni. The survey also found that 33% of all rural-urban migrants were educated to secondary level (as compared to 1% of the non-migrant rural population) and that 41% were aged between 15 and 24. Average per capita income in non-migrant rural households was 72.7 Leones, falling to 63.1 Leones for households with uneducated male rural-urban migrants but rising to 83.7 Leones for households with educated male rural-urban migrants. See D. Bayerlee, J. Tommy, and H. Fattoo, 'Rural-Urban migration in Sierra Leone: determinants and policy implications', African Rural Economy Paper No.13, Michigan State University, 1976.

³⁰ K.P. Moseley, 'Land, labour and migration: the Safroko Limba case', *Africana Research Bulletin*, **2-3**, 1979.

³¹ See, for example, B. Baker, *Escape from domination in Africa: political disengagement and its consequences*, Oxford, 2001.

³² V. Davies, 'War poverty and growth in Africa: lessons from Sierra Leone', Centre for the Study of African Economies, Oxford University, March 2002.

constituted a 'shadow state', in which sovereign authority was used less to govern the country than to secure elite dominance over trans-local markets (See Section 2.2.2).³³

17. Elites also managed to position themselves as the main beneficiaries of rural development programmes, as the following assessment of the Sierra Leone Produce Marketing Board (SLPMB) argues:

The functions of the marketing board included taxation and assessment... and the generation of a rural surplus. In the 1960s, this surplus was used by the Sierra Leone government for what was termed as 'developmental purposes', or the funds were invested in securities of the British government... During this period, the major spending of SLPMB funds in Sierra Leone was on thirty capital-intensive plantations of 34,600 acres, which were to produce increased levels of export crops. The spending, though rural, benefitted not the small farmer who bore the cost but the personnel of the SLPMB and the export revenue of the government... Between the years 1966/7 and 1973/4 the SLPMB converted a capital account deficit of Le1.8 million to a reserve of Le 12 million – in other words, Le 13.8 million was appropriated from farmer's income over that period. These funds, which represent the difference between the prices received by the farmers and those obtained on the world market, were transferred to the urban elite in several ways: employment opportunities; perquisites for officials; urban spending; export duty; investments in government securities and treasury bills; contributions to the development budget; and overstaffing.³⁴

18. Other studies have also noted how public sector employees with farming interests (notably civil servants and police officers) tended to capture rural development resources in the early post-colonial era by positioning themselves as leaders of peasant farmer cooperatives and beneficiaries of government-funded agricultural extension schemes.³⁵

19. At the end of the 1980s, the Sierra Leone government was employing 70% of the nation's salaried workers, most of them located in Freetown, and absorbing more than 80% of domestic credit.³⁶ However, price controls and exchange rate overvaluation had created a burgeoning parallel economy. Regime discipline was the key to controlling parallel markets, but this began to unravel when Stevens retired in 1985. Declining terms of trade for Sierra Leonean produce exports, rising oil prices and post-Cold War aid austerity put additional pressure on Stevens' successor, J.S. Momoh, to maintain control over markets. But Momoh was unable to prevent regime insiders from brokering private deals with foreign businesses to exploit the country's natural resources, especially diamonds, fisheries and timber.³⁷ Every benefit accrued from the parallel economy was revenue lost to the treasury. As a recent study of taxation in Sierra Leone points out:

³³ W. Reno, *Corruption and State Politics in Sierra Leone*, Cambridge, 1995

³⁴ B. Riddell, 'Beyond the geography of modernization: the state as a redistributive mechanism in independent Sierra Leone', *Canadian Journal of African Studies*, 19, 1985, pp. 534-5.

³⁵ E. Mukonoweshuro, 'The political economy of rural differentiation in Sierra Leone', *IFDA Dossier*, July/September 1990.

³⁶ V. Davis, 'Sierra Leone's economic growth performance, 1961-2000' in B. Ndulu, S.O'Connell, J-P Azam, and R. Bates (eds), *The political economy of economic growth in Africa, 1960-2000: Volume 2 (country case studies)*, Cambridge, 2007.

³⁷ W. Reno, *Warlord Politics and African States*, Boulder, Colo., 1998.

*Until 1981 tax revenue hovered consistently around 15% of GDP, which was entirely comparable to levels elsewhere in the region. However, the years that followed witnessed a dramatic decline in revenue to 10% of GDP in 1982, 7.5% in 1983 and less than 5% by 1986. Such low levels of revenue were not nearly sufficient to operate a modern state, and by the late 1980s the government found itself unable even to meet the salaries of civil servants and the military... such a dramatic decline can only be fully explained by the increasing politicisation of tax collection, as exemptions were granted to political allies, corruption expanded and the state lost its ability to monitor and regulate activities within its borders.*³⁸

20. Formal government in Sierra Leone had virtually come to a standstill when donor-enforced structural adjustment came into effect at the end of 1980s. In the short term, these measures could do little to stimulate the private sector and only added to the impoverishment of ordinary Sierra Leoneans.³⁹ With the capacity of the state to maintain law and order undermined from within, the Revolutionary United Front (RUF) insurgency of March 1991 had a far greater impact than it might otherwise have done.

2.1.4 *From the War to Today*

21. The ensuing civil war (1991-2002) differed from many other post-Cold War conflicts in that none of the armed factions were led by individuals who had been prominent political actors prior to the outbreak of war. Furthermore, while ethnicity played a role in the organization of the pro-government Civil Defence Forces (CDF), ethnic and religious identity politics were not significant conflict-driving factors. The prevailing analysis of the war is that the collapse of the state and formal economy at the end of the 1980s undermined social cohesion - that what had begun as a straightforward confrontation between the RUF and the national army expanded into a chaotic low-intensity conflict as impoverished and socially marginalized youths were recruited by both sides and used their new-found power to enrich themselves and exact revenge upon elites.⁴⁰ There have even been claims that the war was driven by a long overdue 'peasant revolt'.⁴¹ However, state collapse in Sierra Leone was always likely to have a far greater impact on waged workers, and those aspiring to such work, than peasants. The leadership of the RUF came, tellingly, from the ranks of the itinerant self-employed, secondary school dropouts, college lecturers, schoolteachers, agricultural extension workers and police officers.⁴² Rebel army groups were led by former serving officers and NCOs. To what degree peasant youths conscripted by rebel groups were brutalized by armed conflict, as opposed to their experiences prior to the war, remains open to debate.⁴³ But the ease with which combatant groups were disarmed and demobilized at war's end, and the remarkable absence of tangible security threats in the decade since, lends support to the notion that the civil war was fought around the fringes of a peasant bloc that, yet again, remained largely intact.

³⁸ W. Prichard, S. Jibao, A.S. Bah and K. Jumu, 'Sierra Leone report: building a fair, transparent and inclusive tax system in Sierra Leone', Tax Justice Network, Nairobi, 2011, p.14.

³⁹ D. Keen, 'Liberalization and conflict', *International Political Science Review* 26, 2005.

⁴⁰ P. Richards, 'Rebellion in Liberia and Sierra Leone: a crisis of youth?' in O. Furley (ed.), *Conflict in Africa*, London, 1995; D. Keen, *Conflict and Collusion in Sierra Leone*, Oxford, 2005.

⁴¹ E. Mokuwa, M. Voors, E. Bulte and P. Richards, 'Peasant grievance and insurgency in Sierra Leone: judicial serfdom as a driver of conflict', *African Affairs*, 110, 2011.

⁴² The social backgrounds of the RUF leadership were described in detail during the proceedings of the Special Court for Sierra Leone. See www.sc_sl.org.

⁴³ M. Denov, *Child soldiers: Sierra Leone's Revolutionary United Front*, New York, 2010.

22. There is no question, of course, that the civil war represented a shock to the old political order. War and post-war reconstruction prompted historically unprecedented levels of engagement between peasant populations on the one hand and security services and bureaucracy (both state and non-state) on the other. These engagements have had tangible political effects. For example, the surprise victory of the APC over the incumbent SLPP in the Presidential and Parliamentary elections of 2007 was seen by many observers as a sign of increasing public determination to hold governments to account for promising development that they are unable to deliver.⁴⁴ The immediate aftermath of the 2007 elections saw vehement SLPP protests at the National Electoral Commission's handling of the election and complaints about the new President Ernest Bai Koroma's dismissal of many SLPP appointees, mostly southerners, from key government agencies and parastatals. These issues went on to enmesh the SLPP in a politics of southern grievance, which did nothing to revive the party's electoral popularity at the national level. President Koroma's campaign for re-election in 2012 yielded him a 74% share of the vote in Freetown and the Western Area and shares of between 11% and 26% in historically SLPP-supporting districts in the south. SLPP presidential candidate Julius Maada Bio, Koroma's main rival, only managed to win between 4% and 6% of the vote in historically APC-supporting districts in the north and 37% in the 'swing' district of Kono.⁴⁵ The APC victory in 2012 was a testament to the power of incumbency (when fully mobilized), President Koroma's personal popularity and opposition disarray.

23. The recent growth of Freetown and Western Area towns (notably Waterloo, Hastings, Grafton and Goderich) is a further indication of growing public demand for services and employment opportunities that only the state can provide. While the extent and character of this growth will not be fully known until the next national census is carried out in 2014, Freetown's congested pavements and the phenomenal pace of new housing construction in the Western Area suggest that the capital is attracting population on an unprecedented scale. Some commentators argue that West Africa's post-conflict states (Sierra Leone, Liberia and Côte D'Ivoire) are now undergoing peaceful upheaval as young people leave rural areas in their thousands to seek opportunities for 'coexistence, reinvention and empowerment' in cities.⁴⁶ In Sierra Leone, youth-led migration to urban areas is more likely to prompt fears of social disorder, as a recent PRSP for Sierra Leone attests:

Agricultural activities represent 70% of employment, with similar levels for youth and adults. Many youth, especially males, do not want to become farmers due to low returns through labour intensive methods. Consequently, large numbers of young people are engaged in self-employment in petty trading, carpentry, masonry, gara tie-dyeing and diamond mining. Most young people lack the necessary skills to operate a viable enterprise. Public sector employment opportunities tend to exclude young people on the basis of age and experience. The desire to change jobs is highest among the 25-35 year olds who always look for improved employment opportunities. Youth unemployment is therefore particularly visible in Freetown and other urban centres where the war attracted large numbers of young people. In these towns, city life in the peri-urban areas has become a nightmare of poverty,

⁴⁴ 'Sierra Leone: a new era of reform?' International Crisis Group, 2008.

⁴⁵ Figures obtained from www.nec-sierraleone.org.

⁴⁶ M. Sommers, 'West Africa's youth employment challenge', United Nations Industrial Development Organization, 2007.

*misery, despondency, and unfulfilled dreams. Informality, criminality and marginality characterised the majority of youth in the urban areas.*⁴⁷

24. This analysis requires some caveats. For example, the Integrated National Public Services Survey carried out by the IRCBP for the period 2008-2011 recorded small but statistically significant decreases in self-reported agricultural activity in all districts of the Southern Province (Moyamba, Bo, Bonthe and Pujehun), the two southernmost districts of the Eastern Province (Kenema and Kailahun) and one district in the north (Kambia). However, the lowest reported result was from Bonthe District (69% of surveyed households reporting that they had undertaken agricultural activity in the previous year), which has an important artisanal fishing industry. All other results from districts with significantly decreased agricultural activity remained in the 77%-81% range.⁴⁸ While the contraction of the peasant economy might gather momentum in years to come, the available data is not yet indicative of mass exodus from the agrarian sector.

25. Furthermore, internationally supported post-war reconstruction has played a key role in attracting population to the capital and its economic 'pull' effects are likely to decline in years to come. Central government was the first beneficiary of post-war development resources, which means that employment, education/training and business opportunities attendant upon the restoration of peace and state functionality were, and still are, heavily concentrated in the capital.⁴⁹ The combined objectives of maximizing the impact of development assistance and reforming Sierra Leone's governmental system have generated a vast array of new agencies. These include project management units (PMUs) embedded in line ministries, parastatals (e.g. National Revenue Authority), development coordination agencies (e.g. Development Assistance Coordination Office and National Commission for Social Action), governance reform agencies (e.g. Public Sector Reform Unit, Law Reform Commission and Human Rights Commission), technical and regulatory agencies (e.g. National Minerals Agency and Environmental Protection Agency) and public interest protection agencies (e.g. Anti-Corruption Commission). Together, these agencies employ Sierra Leonean professional and clerical workers in substantial numbers and generate further demand for goods and services in the capital.

26. Sierra Leone's major development challenge as it begins to move beyond aid dependency is economic diversification, especially the creation of employment and business opportunities outside of Freetown and in the provinces where the majority of the population still lives. The expected revenue bonanza from mining activities adds extra urgency to this imperative, as the World Bank's latest Country Assistance Strategy Progress Report (CASPR) for Sierra Leone points out:

The appreciation of the real exchange rate which could result from the impending extractives sector boom would render many tradable sectors uncompetitive unless special efforts are made to strengthen productivity, promote economic

⁴⁷ Government of Sierra Leone, 'An agenda for change: second poverty reduction strategy (PRSP II), 2008-2012', 2009, p.98.

⁴⁸ World Bank, 'Report on the IRCBP 2011 Integrated National Public Services Survey', June 2012.

⁴⁹ In 2005 alone, Official Development Assistance (ODA) to Sierra Leone amounted to US\$336 million, with foreign loans and grants representing 46% of national revenues. In 2010, ODA accounted for 24.4% of Sierra Leone's GNI, a proportion exceeded by only three countries in Sub-Saharan Africa (Democratic Republic of Congo, Burundi and Liberia). See Government of Sierra Leone, 'Development Assistance to Sierra Leone, 2004-2005', Development Assistance Coordination Office, Freetown, 2006 and Human Development Report 2013.

*diversification especially in sectors less vulnerable to trade competition and to strengthen significantly and expand the pool of skilled labor.*⁵⁰

27. Current World Bank interest in 'growth poles'⁵¹ in Sierra Leone (see Chapter 5) focuses on developing synergies between mining, commercial agriculture and infrastructure/service capacity building in key provincial localities.⁵² However, previous configurations of Sierra Leone's extractives sector militated against the formation of the kinds of 'growth pole' currently envisaged in the literature. Consequently, there is a need to better understand the social capital dimensions of the growth pole approach in today's context to ensure that proposed growth pole activities are not dependant on enclave extractive operations but linked into structured economic planning and diversification strategies that can exploit forward and backward economic linkages. The next Section explores the lessons that can be learned from this history for future extractives-led development.

2.2 Developmental Impacts of Mining: Sierra Leone's Historical Experience

2.2.1 Large-Scale Iron Ore Mining

28. Large-scale industrial mining is not new in Sierra Leone. It began in 1930 when the Sierra Leone Development Company (DELCO) obtained the rights to mine the iron ore deposit at Marampa (Port Loko District), which had been identified by a colonial geological survey a few years previously.⁵³ DELCO built a shore-to-ship offloading facility at Pepel in the Sierra Leone River estuary and a railway to directly connect it to the mine site. Minerals jumped to 57% by value of Sierra Leone's exports a few years after DELCO began production, the export sector having previously been dominated by palm products and agriculture. By 1952, just before the artisanal diamond boom, iron ore accounted for 59% of Sierra Leone's mineral exports by value, with diamonds accounting for 32%. DELCO was at that time employing 2,834 Sierra Leoneans.⁵⁴ During the 1960s, the international market for iron ore was sufficiently robust to encourage the company to invest in substantial upgrades to its processing facilities, rolling stock and port capacity. However, the 1973 oil crisis and subsequent world economic downturn wiped out DELCO's profitability at a stroke and loans totaling £2.25 million from the GoSL could not forestall its voluntary liquidation in 1975. Austromineral GmbH began refining and exporting tailings at Marampa in 1981 but also ran into financial difficulties and ceased operations four years later. The GoSL thereafter took custody over the abandoned mine, rail and port facilities.⁵⁵

29. Assessments of the developmental legacy of DELCO have generally been unfavorable. According to one study, 82.75% of the total economic benefits generated by the company during its 45 years of operation were exported to Britain.⁵⁶ Freight charges represented 40% of the iron ore price to the customer and these were claimed by shipping

⁵⁰ World Bank, 'Country Assistance Strategy Progress Report for the Republic of Sierra Leone for the Period FY 10-13', July 2012. P.12.

⁵¹ A 'growth pole' is a geographic location where productive economic activities are rapidly expanding fueled by a combination of economies of scale, economies of agglomeration, and backward/forward linkages.

⁵² World Bank, 'Growth pole diagnostic in Sierra Leone', October 2012.

⁵³ H. Jarrett, 'Lunsar: a study of an iron ore mining center in Sierra Leone', *Economic Geography*, **32**, 1956.

⁵⁴ H. Jarrett, 'Mineral developments in Sierra Leone', *Geography*, **42**, 1957.

⁵⁵ See <http://www.derbysulzers.com/sierraleone.html>.

⁵⁶ A. Hoogvelt and A. Tinker, 'The role of colonial and post-colonial states in imperialism: a case study of the Sierra Leone Development Company', *Journal of Modern African Studies*, **16**, 1978.

enterprises owned by DELCO's successive parent companies. The cost of supplies and equipment imported from Britain represented a further 25-30% of the consumer price.⁵⁷ Furthermore, despite receiving a 5% profit tax from DELCO, (re-negotiated upwards by Sierra Leone's first national government), the colonial administration had no great interest in the mining operation as a driver of local development. The original sessional paper on the Marampa concession only goes so far as to note possible benefits to local trade from the extra purchasing power of DELCO's Sierra Leonean employees and the fact that employment in the mines and freight railway 'would be a useful outlet for the unemployed native population at present drifting into Freetown'.⁵⁸

30. DELCO thus had all the characteristics of an 'enclave' operation, with minimal forward or backward economic linkages.⁵⁹ In the mid-1950s the company investigated the possibility of extending the freight railway from Lunsar to the Sula Hills in Tonkolili District to enable exploitation of the large iron ore deposit now being mined by African Minerals Limited, but the costs proved prohibitive.⁶⁰ DELCO's only lasting developmental legacy was the growth of Lunsar, a settlement located just outside its lease area, from a tiny village into a bustling town. In 1959, a research team from Edinburgh University interested in the social and economic impact of urbanization in sub-Saharan Africa began an extended case study of Lunsar, whose population by then was approaching 12,000.⁶¹ The researchers found that 46% of Lunsar's adult male population were DELCO employees, 40% were working in the town in trade and service occupations and 14% were unemployed. Migration to Lunsar had mainly come from the surrounding area. Eighty one per cent of Lunsar's male inhabitants and 67% of its female inhabitants in 1959 were not born in the town, but only 27% of the town's male inhabitants and 10% of its female inhabitants had come from locations more than 35 miles away.⁶² Lunsar's population had remained transient. Many young men were leaving the town to attend secondary school or find work in Freetown and the diamond mining areas, while others were still arriving looking for work. One of the researchers went on to note that the main constraint upon the local consolidation of development gains from the DELCO operation was Sierra Leone's over-centralized system of administrative decision-making:

In Lunsar there is yet no town council, local government has not developed, and much of the control is exercised from elsewhere. The Special Health Authority concerned with town planning, building regulations and permits consists of the District Commissioner and Medical Officer in Port Loko,⁶³ the Senior Medical officer at the Mines and the Paramount Chief. Public works- water supply, road maintenance, bridges and culverts- are under the supervision of the District Engineer at Port Loko. The Health Centre also comes under the Medical Officer at Port Loko...The Post Office is controlled by the Postmaster-General in Freetown; the Veterinary Inspection Post by the Director of Veterinary Services at Makeni.⁶⁴ Serious court cases come before the Magistrate of the Northern Province whose circuit includes Makeni, Magburaka, Port Loko. Kambia and Lunsar. Schools come under the supervision of Local Education Authority at Port Loko. Trade Union Policy is decided

⁵⁷ E. Mukonoweshuro, *Colonialism, class formation and underdevelopment in Sierra Leone*, Lanham, MD, 1993.

⁵⁸ Cited in Mukonoweshuro, *Colonialism*, p.45.

⁵⁹ J. Cartwright, *Political Leadership in Sierra Leone*, London 1978.

⁶⁰ H. Jarrett. 'Mineral developments in Sierra Leone', *Geography*, 42, 1957.

⁶¹ K. Little, 'The effects of urbanization in Sierra Leone', UNESCO, 1962.

⁶² A.R. Mills, 'A comparison of urban and rural populations in the Lunsar area', *Sierra Leone Studies* (new series) 21, 1967.

⁶³ Administrative headquarters of the district containing Lunsar

⁶⁴ Administrative headquarters of the Northern Province

*in Freetown. Wage claims are dealt with in Freetown by the Mining Workers Wages Board. Constant outside control militates against the development of any sense of community, and the local authority rarely seems to act on its own initiative. Political actions are directed towards seeking favours, grants, and special treatment from central bodies, largely through personal contacts – a type of situation extremely difficult for an outsider to penetrate.*⁶⁵

2.2.2 Artisanal and Small-Scale Mining

31. Historically, artisanal mining of diamonds and gold in Sierra Leone had a much wider socio-economic impact than industrial mining due its low technology, labor intensive methods. When extensive alluvial diamond deposits were discovered in the 1930s, the colonial government's plan for exploiting them was to grant an exclusive exploration, mining and marketing license to the Sierra Leone Selection Trust (SLST), a wholly-owned subsidiary of Consolidated African Selection Trust. However, since the deposits were dispersed over an area exceeding 20,000 Km², they soon attracted unauthorized peasant mining using, as one study put it, 'buckets, spades, bowls, sieves and, in rare cases, mechanical pumps'.⁶⁶ According to official estimates, 75,000 people were engaged in mining in Sierra Leone in 1956, most of them operating illegally.

32. Violent clashes between artisanal miners and security forces aiming to suppress illicit mining persuaded the government to renegotiate the SLST lease and legalize artisanal mining. The Alluvial Diamond Mining Scheme (ADMS), introduced in 1956 to facilitate administration of artisanal licenses, strengthened chiefs' brokerage role in the industry. Under this scheme, chiefs were the primary authorizers of both mining licenses and land leases. This arrangement helped to entrench system of mining governance in which private investors ('supporters') negotiated access to mining plots with chiefs and hired gangs of youths ('tributors') to work them. These gangs would be supplied with food and tools by their 'supporters', but receive no other payments unless diamonds were found.⁶⁷

33. The legalization of artisanal mining did not spell the end of political militancy in Kono District. Diamondiferous areas continued to see large influxes of non-Kono 'strangers', which provided opportunities for chiefs, and educated members of chiefly families, to champion local demand for recognition of the historical and cultural rights of the Kono people. A notable case in point was the Kono Progressive Movement (KPM), a political party led by a paramount chief. Rebuffed by the SLPP establishment but drawing strong support from young 'tributor' gangs, the KPM merged with the Freetown-based Sierra Leone Progressive Independence Movement (SLPIM) to form a national party. The merged party voiced radical demands for the reorganization of the system for allocating mining licenses, a stronger voice for youths in national government, an end to chiefs' alleged oppression of youths and greater government respect for the rights of 'indigenous' peoples.⁶⁸ The KPM won two parliamentary seats as an independent party in 1957 and, when merged with the SLPIM, four of nine parliamentary seats in Kono District in 1962. Yet its demise was as rapid as its emergence. The SLPP government used old colonial laws authorizing the deposition of chiefs guilty of 'sedition' to remove the KPM leader from office and began bypassing the district

⁶⁵ D. Gamble, 'Sociological research in an urban community (Lunsar) in Sierra Leone', *Sierra Leone Studies* (new series), 17, 1963. p.256-7.

⁶⁶ T. Killick, 'The developmental impact of mining activities in Sierra Leone', in S. Pearson and J. Cownie (eds.), *Commodity exports and African development*, Lexington, Mass., 1974.

⁶⁷ A. Zack-Williams, *Tributors, supporters and merchant capital: mining and under-development in Sierra Leone*, London, 1995.

⁶⁸ F. Hayward, 'The development of a radical political organization in the bush: a case study in Sierra Leone', *Canadian Journal of African Studies*, VI, 1972.

council to confer development resources upon chiefs who had remained loyal to the SLPP. KPM leaders were given inducements to return to the SLPP fold and these bore fruit in 1965 when the merged party was formally dissolved.⁶⁹

34. Alluvial diamonds went on to underwrite the patronage-based political economy built by APC leader Siaka Stevens. At first, the very density of informal networks in Kono District presented a challenge to Stevens' hegemony.⁷⁰ Strategies for controlling these networks included manipulation of chieftaincy elections to favor regime supporters. In one notorious case, Stevens' personal bodyguard was elected paramount chief in Gbense chieftdom in the heart of Kono District despite having none of the hereditary credentials for chieftaincy. However, such interventions tended to provoke vehement local opposition and the Stevens regime was on safer ground when it sought to strengthen general state control over the diamond industry.⁷¹ The ministry responsible for mining took over the authorization of artisanal mining licenses from chiefs in 1967 and in 1970 the Sierra Leone government acquired a 51% share in SLST to create the National Diamond Mining Company (NDMC). These moves facilitated direct government control over mining rights in prime concession areas in Kono and Kenema Districts. Dealers lacking strong social roots in these areas, Lebanese especially, were now given preferential access to diamond mining and export licenses. Mining licenses were also issued to regime supporters under the guise of the Cooperative Contract Mining Scheme (CCMS), introduced in 1973. According to one commentator, this scheme marked the beginning of the above-mentioned 'shadow state':

The introduction of the Cooperative Contract Mining Scheme came at a time when disaffection with state control of resources was growing once again. The new program was mooted as a means with which to offer private digging companies an opportunity to participate directly in the exploitation of the best, previously NDMC-leased, plots. Property was slowly divided into a series of 'blocks' and 'areas', for theoretical 'first come first served' distribution to investors with sufficient capital. In reality, the CCMS was developed to reward high ranking permanent secretaries, ministers and cabinet members for supporting the party. Those in favor were presented with gift-wrapped diamond mines to be worked-out with hardware from the Ministry of Works while laborers were paid with rice misappropriated from the Ministry of Agriculture. Vast profits were made from primary industry that required little in terms of personal financial investment. In setting this trend, Stevens encouraged elite expectations that continue to limit political and economic development to the present day.⁷²

35. The devastation visited upon Kono District during the civil war did not stop a new wave of in-migration at war's end, swelled by newly demobilized ex-combatants.⁷³ The post-war era has also seen the revival of large-scale river dredging and open cast mining alongside new initiatives in shaft mining. Artisanal and small-scale diamond mining is now in decline, but it still accounted for 80-90% of Sierra Leone's diamond exports by value in 2006.⁷⁴ As recently as 2008, diamonds accounted for 46% of Sierra Leone's total exports by

⁶⁹ Hayward, 'radical political organization'.

⁷⁰ W. Reno, *Corruption and State politics in Sierra Leone*, Cambridge, 1995.

⁷¹ Reno, *Corruption and state politics*, pp. 85-100.

⁷² C. Fithen, 'Diamonds and war in Sierra Leone: cultural strategies for commercial adaptation to endemic low-intensity warfare', PhD thesis, University of London, 1999, pp.164-5.

⁷³ R. Fanthorpe and R. Maconachie, 'Beyond the crisis of youth? Mining, farming and civil society in post-war Sierra Leone', *African Affairs*, 109, 2010.

⁷⁴ 'Diamond Industry Annual Review, Sierra Leone 2006', Partnership Africa Canada, Freetown, February 2006.

value.⁷⁵ Recent rises in the world price of gold, and decline in the price of diamonds, are now attracting migrant labor to the alluvial gold deposits in the Kangari Hills (northern Bo/southern Tonkolili districts) and the hilly country around Lake Sonfon in Koinadugu District.⁷⁶ Present estimates of the number of artisanal miners in Sierra Leone range from 200,000 to more than double that number. By way of contrast, large-scale mining companies operating in Sierra Leone employed nearly 14,000 people in 2010.⁷⁷

36. It has long been argued that a) artisanal mining is a magnet for young people seeking to escape agrarian poverty and b) many 'tributors' have found that digging for diamonds yields scarcely better returns than peasant farming.⁷⁸ It is certainly the case that much of the wealth generated by the industry to date has been claimed by local elites and foreign interests. Even in recent years, estimates of the value of diamonds lost to smuggling range from 50% to as much as 90% of total production by value.⁷⁹

37. However, the artisanal mining industry has not been entirely lacking in local linkage and multiplier effects. Historically, the large population of non-farm labor in diamond mining areas generated considerable demand for foodstuffs, and many farmers living in these areas found that they could obtain higher prices from 'supporters' competing to buy in bulk for their workers than from village markets.⁸⁰ The main constraint upon the expansion of local food production was always the availability of extra labor. However, farmers living in close proximity to mining operations often found ample underemployed manual labor available for short-term hire. Demand from miners also stimulated local production of fruit and vegetables. One pre-civil war study of the mining-farming economic nexus concludes, prophetically, that:

*Alluvial diamond mining is already showing signs of diminishing returns, and as the decline continues, it could cease to be a viable economic activity, so much so that this particular market for agricultural produce could gradually disappear... If no substitute market develops, then the farming population might revert to concentrating mainly on subsistence requirements. This, however, seems improbable, particularly after a lengthy period of market-orientated production, which has generated wealth and a demand for consumer goods. Alternatively, or perhaps simultaneously, there might be an exodus of people from the rural areas into the towns in search of higher wages. The local industrial sector would have to be diversified to provide more jobs and act as a market for agricultural produce when diamond mining ceases.*⁸¹

2.2.3 Lessons for future Extractives-led Development

38. Lunsar did not become a 'ghost town' when DELCO left, due to its good road links to Freetown and Makeni. But all that is left of today of the original mine compound (which had a hospital, leisure center, supermarket and extensive residential quarters for company staff) is the central administrative building (recently refurbished by London Mining) and a few

⁷⁵ O. Bermúdez-Lugo, '2008 minerals yearbook: Sierra Leone', USGS, 2010.

⁷⁶ L. Cartier and M. Bürge, 'Agriculture and artisanal gold mining in Sierra Leone: alternatives or complements?', *Journal of International Development*, **23**, 2011.

⁷⁷ O. Bermúdez-Lugo, '2010 minerals yearbook: Sierra Leone', USGS, 2012.

⁷⁸ P. Richards, *Fighting for the rain forest: war, youth and resources in Sierra Leone*, London 1996.

⁷⁹ 'Diamond Industry Annual Review, Sierra Leone 2004', Partnership Africa Canada, Freetown, January 2004.

⁸⁰ R. Maconachie and A. Binns, "'Farming miners" or "mining farmers"? Diamond mining and rural development in post-conflict Sierra Leone', *Journal of Rural Studies*, **23**, 2007

⁸¹ A. Binns, 'Agricultural change in Sierra Leone', *Geography*, **67**, 1982, p.124.

dilapidated machine sheds. There remains the possibility that current large-scale mining operations in Sierra Leone, as dependent as DELCO was on the vicissitudes of international markets, will suffer the same eventual fate.⁸² Furthermore, even when all of the planned industrial mining operations in Sierra Leone come on stream, they are unlikely to employ unskilled and semi-skilled workers in great numbers. Increased demand for local goods and services generated by mining and mining-related employment is likely to be concentrated in only a few places, despite the efforts of the local content policy.

39. In the 1970s, some analysts compared artisanal mining favorably to industrial mining as a driver of development in Sierra Leone, arguing that while the cost of extracting a given volume of diamonds by artisanal methods was higher, this drawback was more than offset by the benefits artisanal mining tended to bring to local economies.⁸³ However, most of the iron, gold, rutile, bauxite and kimberlite diamond deposits currently (or about to be) mined by foreign-owned companies in Sierra Leone are probably not feasibly exploitable by anything other than capital intensive, high technology methods. A key challenge here is to minimize the potential for rupture between mining companies and peasant populations demanding jobs, community development investment and compensation for lost farming resources. The riot prompted by rock blasting undertaken by Koidu Holdings (now re-named Ocea) in Kono District in 2007 (the subject of a GoSL Commission of Inquiry), and recent reports of disgruntled, recently laid-off workers stealing equipment from African Minerals Limited's compound in northern Sierra Leone, indicate what is at stake here.⁸⁴

40. However, by far the greatest governance challenge generated by new extractive operations in Sierra Leone is to ensure that wealth generated by mining is maximized and invested a manner that benefits the whole country, not just a small elite. The significant difference between now and the 1970s is that most of the new wealth from mineral extraction will be coming in the form of taxes and royalties levied on foreign-owned companies and not private capital generated from direct elite engagement in mining and mineral marketing. While elites may still come under pressure from below to re-distribute private wealth, their management of mineral rents in their capacity as political representatives and public servants will become the crucial accountability issue moving forward. Given the post-war increases in public demand for state services, a possible long-term outcome here is stronger state-society integration in Sierra Leone. However, the risk of division and conflict could also increase should the process of re-distribution not be materially sufficient or transparent.

41. Current estimates of mineral revenues suggest that they will dwarf anything Sierra Leone obtained from the extractives sector in the past. Yet, they will remain highly sensitive to the vagaries of international iron ore prices, which in 2012 have experienced record volatility. This means that expectations (both within government and among the population) need to be managed carefully, and potential spending excesses curbed. Mistakes have already been made in the form of unrealistic GDP growth rate forecasts in recent months, which had to be scaled back due to market price fluctuations and lower than estimated output figures. These forecasts encouraged excessive public spending in anticipation of large

⁸² As one mining company senior executive remarked to the authors during an interview in Freetown in March 2013, 'every mining operation ends in economic failure'.

⁸³ See, for example, Killick, 'The developmental impact of mining activities in Sierra Leone'

⁸⁴ 'Thieves rampage African Minerals', *Awoko*, Freetown, 28 March 2013.

revenue streams.⁸⁵ The next Section examines the political and institutional factors affecting the capacity of Sierra Leone's governing elite to meet these challenges.

2.3 The Role of the Governing Elite in Extractives-led Development

2.3.1 *Private Versus Public Interest – The Emergence of the Super-Rich?*

42. The civil war prompted a great deal of debate about the moral and political failings of pre-war elites. Corruption remains a problem, as the recent indictment of 29 top health officials for allegedly misappropriating half a million US Dollars in immunization funds from the GAVI Alliance attests. However, misappropriation of public funds is part of a wider spectrum of sub-optimal governance in Sierra Leone, which has economic as well as moral underpinnings. The Sierra Leone state has a small institutional footprint, which reflects past political choices and perennial struggles in meeting recurrent expenditure with domestic revenues.⁸⁶ For example, there were an estimated 60,600 public sector employees in Sierra Leone in 2005, representing 1.2% of the national population. These employees consisted of 15,500 civil servants, 24,750 teachers, 8,450 police and 11,900 military. Pay and conditions have remained poor. Civil service base salaries in 2004 were 49% of those in the private sector, with some civil servants receiving 4% of the salary of similarly qualified private sector workers. In 2005, the Establishment Secretary's Office reported that nearly 40% of administrative posts and 26% of senior posts (grades 11-14) were vacant.⁸⁷ A later World Bank study found that 87% of 13,617 civil service personnel in 2011 were in the lowest five grades and that professional and technical staff constituted only 11% of the total civil service workforce (as compared to 26% in Gambia and 14.3% in Sudan).⁸⁸

43. Dissatisfaction with salaries and terms and conditions underlies many public sector workers' continuing interest in alternative business opportunities (e.g. farming, wholesale trading and artisanal mining) in their rural home areas. For example, a district council chief administrator interviewed in March 2013 remarked that while he was happy to have been posted to his provincial home area, he could not have completed a much-needed rebuild of his family compound by relying solely on his official salary. He had become, as he put it, a 'businessman' as well as an administrator: a participant in the lucrative cross-border trade in produce and consumer goods between Sierra Leone and Guinea. Such strategies are not new.⁸⁹

44. An obvious problem with this system of governance is the recurrent potential for conflict between public duties and private interests. Yet the system persists because governing elites continue to rely heavily on community-based patrons (who are no longer limited to chiefs) to broker political exchanges between center and periphery, mobilize voters at election time and trouble-shoot local problems. It is noteworthy that while the pre-

⁸⁵ Current revenue inflow originating from mining royalties and license fees are estimated at approximately US\$44 million in 2013, US\$58 million in 2014, US\$70 million in 2015, US\$74 million in 2016 and US\$98 million in 2017. See IMF, 'Sierra Leone: Fiscal Operations of the Central Government', 2013.

⁸⁶ Prichard, et al, 'Sierra Leone report'

⁸⁷ T. Brown, R. Fanthorpe, J. Gardner, L. Gberie and M.G. Sesay 'Sierra Leone Drivers of Change', the IDL Group, 2006.

⁸⁸ World Bank, 'Sierra Leone: strengthening entry-level leadership development in the civil service', 2012.

⁸⁹ To take another example, a Freetown-based senior police officer first encountered by one of the authors in 1980 was cultivating extensive swamp rice and cassava farms in his remote home village in Bombali District. He often used police vehicles to transport sacks of imported rice to distribute to chieftdom elders during the pre-harvest 'hungry season'. Such patrons are found throughout the provinces (and the rural Western Area) and represent the stock from which many local councillors, paramount chiefs and MPs are drawn. Indeed, the above-noted police officer was an unsuccessful aspirant for paramount chieftaincy after his retirement in the 1990s. Shortly after the war, when the SLPP was in government, he went on to organise an SLPP-aligned youth group in defiance of his home area's historically staunch support for the APC.

war APC government was forced by popular pressure to concede national elections in 1982 and 1986, the object of the exercise on each occasion was not the election of a new government but the election of new local representatives to the one-party regime.⁹⁰ Local patrons tend to dilute demand-side pressure on central government to improve service delivery by canvassing for favors at the center, as Gamble noted in the case of Lunsar half a century ago (See Section 2.2.1). Patrons do indeed capture state resources on behalf of their communities from time to time, as one group of consultants discovered when carrying out a scoping study for public sector reform in Sierra Leone in the early 1990s:

*In Moyamba the Mission had discussion with the Paramount Chief of the District, Madam Ella Koblo Gulama. A former Minister, she has a lot of influence and drive in mobilizing development assistance for her district. She has been able to get water and electricity systems rehabilitated for Moyamba town. She is the focal point of development activities in the district and not the government district office, which is poorly managed.*⁹¹

45. The persistence of central-local patronage networks may help to explain why recent Integrated National Public Services Surveys conducted by the IRCBP show an improving trend in public confidence in central government, but a declining trend in confidence in elected local councils.⁹² Hampered by holdups in the release of functions scheduled for devolution and extremely constrained, so far, in their discretionary spending, local councils have struggled to capture the political imagination of the rural populace or deliver on their electoral promises.⁹³

46. A political system in which 'communities' (identified by family, town, chiefdom, district and ethnicity) compete for scarce resources gives central government considerable room for political maneuver.⁹⁴ But it generates little pressure for good governance. Sierra Leone's executive presidency, originally created by Siaka Stevens, has extensive but vaguely defined powers.⁹⁵ Observers from both inside and outside central government tend to note how the heavy concentration of decision-making power in the person of the President shapes the entire culture of government. For example, a local council leader interviewed in May 2011 remarked that no major policy decisions are secure without the President's personal approval, which means that everyone from cabinet level downwards spends most of their time 'fighting each other' for his attention. A senior government adviser, interviewed in February 2013, noted in similar fashion that the name of the game in government is what he called the 'personalistic implementation' of state power. In other words, whatever fraction of state sovereignty is attached to a particular political or administrative office it is emphasized to the maximum by the incumbent in a competitive effort to exercise personal fiat.

⁹⁰ F. Hayward and A. Dumbuya, 'Changing electoral patterns in Sierra Leone: the 1982 single-party elections', *African Studies Review*, 29, 1985; M. Ferme, 'staging *politisi*: dialogics of publicity and secrecy in Sierra Leone', in J. & J. Comaroff (eds). *Civil society and the political imagination in Africa*, Chicago, 1999.

⁹¹ M. Zwanikken, D. Olowu and E. Chiviya, 'Sierra Leone aide memoire: capacity assessment for public sector management and decentralization programming mission', UNDP, December 1994, paragraph 188.

⁹² IRCBP, 'Report on the IRCBP 2011 Integrated National Public Services Survey', World Bank, June 2012.

⁹³ Fanthorpe, et al, 'Decentralization'

⁹⁴ C. Clapham, 'The politics of failure: clientilism, political instability and national integration in Liberia and Sierra Leone', in C. Clapham (ed.), *Private patronage and public power: political clientilism in the modern state*, London 1982.

⁹⁵ The provisions of the 1991 and 1978 Constitutions regarding presidential powers are identical: *the executive power in Sierra Leone shall vest in the President and may be exercised by him directly or through members of the Cabinet, Ministers, Deputy Ministers or public officers subordinate to him.*

47. One example of this style of governance in action is the Executive's intervention, in 2009, to reverse the decision of Kenema City councilors to dismiss their Chief Administrator and Procurement Officer for unprofessional conduct. While the councilors were acting in accordance with the provisions of the Local Government Act of 2004, their action was opposed by the local branches of two leading political parties (APC and PMDC). The Executive took action through the Inter-Ministerial Committee on Decentralization, which is the highest oversight body for elected local government.⁹⁶ Another case in point is the previous Director of Mines' unilateral action in March 2013 to suspend surface rent payments from mining companies to local landowners, a move he claimed to have been prompted by public complaints that 'huge sums of money' were not being properly accounted for.⁹⁷ Here, a statutory oversight function was again being used as a basis for executive intervention.⁹⁸

48. This system of governance also has a 'bottom up' dimension in that senior politicians and civil servants are in constant demand from members of the public to resolve local issues (e.g. land disputes, disputes with employers, and disputes over the election of officers to trade unions and other civil associations) that, in other countries, would normally be settled by local planning authorities, arbitration services, the police and civil courts.⁹⁹ The problem here is not just that the attention of decision-makers is constantly being diverted from the bigger issues of government, but also that these local issues tend to get resolved in favor of those with the strongest social and political connections to the governing elite.

49. One danger inherent in this mode of governance is that key decisions are often made on an *ad hoc* basis, with little regard for policies and procedures. Another is that people and economic interests constantly gravitate towards the Executive, and the locations in government where executive power best facilitates access to wealth. Some of this movement is entirely legitimate, a case in point being the post-war expansion of State House (Office of the President) into an elite cadre of public administration, separate from the mainstream civil service.¹⁰⁰ However, concerns have been raised in the literature over the role of private interests in the GoSL's poor performance in collecting revenues, which persist despite the creation of the National Revenue Authority (NRA) in 2002.¹⁰¹ Rapid revenue growth in the early post-war period was followed by a decline of tax revenue as a share of GDP. Revenues fell from 11.53% of GDP in 2004 to only 9.16% in 2007, driven by a dramatic fall in customs collections (from 6.20% of GDP in 2004 to 4.54% in 2007). Revenue from import taxes also declined in the post-war period despite strong growth in the value of imports. Duty-free exemptions on imports declined from 1.99% of GDP in 2004 to 0.81% of GDP in 2007 (an election year), but had risen again to over 2% of GDP by 2009.¹⁰² The inescapable conclusion here is that government has lost considerable revenue due, firstly, to

⁹⁶ 'Trouble Looms at Kenema City Council', *Standard Times*, Freetown, 13 January 2010.

⁹⁷ 'Mines Ministry Suspends Payment of Surface Rent', *Awoko*, Freetown, 28 March 2013.

⁹⁸ A third example illustrates another effect of this governance culture. For many years, one of the directorates in a leading line ministry was virtually a one-man operation. Poor record keeping and a reluctance to train subordinates enabled the long serving director to accumulate an unrivalled personal knowledge of the workings and politics of his technical sector, which he used to make himself indispensable to a succession of ministers despite having exceeded the statutory retirement age.

⁹⁹ In one case known to the authors, a senior civil servant cancelled all appointments for an entire day to arbitrate a domestic land dispute in a Freetown suburb.

¹⁰⁰ The Office of the President currently includes the Public Sector Reform Unit, the Strategy and Policy Unit, the Public Private Partnership Unit, the Anti-Corruption Commission, the Office of Diaspora Affairs, the Sierra Leone Extractive Industry Transparency Initiative, the Sierra Leone Environmental Protection Agency, the Office of National Security, the Petroleum Resource Unit, the National HIV/AIDS Secretariat, the Human Resource Management Office, the African Peer Review Mechanism and the National Asset and Government Property Commission.

¹⁰¹ The National Revenue Authority bought the Customs and Excise and Income Tax Departments under a single administration and became a focus of donor-supported capacity building.

¹⁰² Prichard, et al, 'Sierra Leone report'.

corruption at the ports and the NRA and, secondly, to the over-use of duty-free exemptions as expressions of personal and political favour.

50. The recently published Auditor-General's report on public accounts for the year 2011 indicates how widespread the leakage of public resources in Sierra Leone has become. The Auditor-General issued a Disclaimer of Opinion on the Financial Statements of the GoSL, noting that she was unable to obtain sufficient appropriate audit evidence that the external public debt, domestic revenue and government bank balances disclosed in the public accounts were free from 'material misstatement'. The Auditor-General was particularly critical of the NRA, noting that the *administrative weakness of the NRA places compliance with the government's tax law and policy at risk of being disregarded if not ignored by the citizens and corporate taxpayers of Sierra Leone*.¹⁰³

51. Sierra Leone's entire political economy since Independence has been geared towards the management of scarcity and the extraction of rents wherever they can be found, whether from diamonds, international trade or taxing the poor. The question is not *whether* the expected influx of mining revenues into state coffers will change this political economy but *how* it will change it. Some commentators argue that the expected revenue bonanza from mining could ease pressure on the political elite to extract private rents from governing, and thereby create space for institutional reform.¹⁰⁴ But the grimmer possibility remains that the revenue bonanza will simply produce a super-wealthy oligarchy and sow alienation on a much wider scale than occurred in the 1990s.

52. An additional question here is to what degree will the population of Sierra Leone understand and accept government management of extractive revenues and how will the GoSL respond to this challenge? The durability of Sierra Leone's peasant bloc has been an important (and often overlooked) factor in the country's post-civil war stabilization. But episodes of popular protest dating back to colonial times show that a major factor in this durability is poverty and isolation. Increasing popular engagement with the state as a guarantor of security and justice, provider of services and driver of development (which has been a post-war trend) can only increase the political rewards for good governance. Yet it will also magnify the scope and strength of public reaction to bad governance. A leading member of the current administration, interviewed for this study, claimed that as long as the provincial populace see 'development' taking place they will have 'hope', even if its benefits do not reach them immediately. This analysis could prove to be dangerously complacent.

53. Development partners will continue to support good governance agendas in Sierra Leone, but change will have to come from within the national political system. Outcomes may depend on specific configurations of institutional capacity and political interest, and this is an issue explored further in the following analyses of the extractives value chain and stakeholder groupings.

¹⁰³ Audit Service of Sierra Leone, *Auditor General's Report on the Accounts of Sierra Leone, 2011*, Freetown, December 2012. P.6.

¹⁰⁴ V. Srivastava and D. Larizza, 'Working with the grain for reforming the public service: a live example from Sierra Leone', Policy Research Paper 6153, World Bank, July 2012.

Chapter 3. ANALYSIS OF THE EXTRACTIVE INDUSTRIES VALUE CHAIN

This Chapter examines each segment of the extractive industries value chain in Sierra Leone, noting technical developments to date and outstanding governance issues. The chapter concludes with a political economy analysis of these issues.

3.1 Award of Contracts and Licences

3.1.1 Current Situation

54. The licensing process for extractive industries in Sierra Leone has come under close scrutiny in recent years from central government, development partners and non-governmental organisations. President Koroma signalled the need for reform in the governance of the extractives sector in his inaugural speech to Parliament in 2007.¹⁰⁵ A Task Force on Mining Licences and Agreements, coordinated by the Strategy and Policy Unit (SPU) of the Office of the President, was subsequently set up in July 2008 to carry this agenda forward. Its primary objective was to examine all agreements and licenses for current or planned mining activities in order to determine whether optimum gains were being secured for the economy.¹⁰⁶ The Task Force reported in April 2009 and its recommendations¹⁰⁷ were instrumental in the re-negotiation of mining licence agreements between the GoSL and four major companies: Sierra Rutile, Koidu Holdings (Ocea), Vimetco (Sierra Minerals) and London Mining PLC.

55. The Koroma administration also went on to establish an Environmental Protection Agency (EPA), which is now based in the Office of the President.¹⁰⁸ Extractive industries (e.g. mining, quarrying, extraction of sand, gravel, salt, peat, and oil and gas) are identified in the first schedule of the 2008 Act as requiring an Environmental Impact Assessment (EIA) licence. This licence is issued by the EPA on approval of an EIA prepared by the applicant and serves as a permit for the proposed activity. The license is renewable annually, subject to any further conditions the EPA may impose to ensure protection of the environment.

56. Further capacity building initiatives in the extractives sector drew upon the early post-war work of the Law Reform Commission on the revision of the Mines and Minerals Decree of 1994 and the 2005 Management and Functional Review (MFR) of the Ministry of Mines and Mineral Resources (MMMR), both of which were strongly supported by development partners. The first major output of these initiatives was the Mines and Minerals Act (MMA) of 2009, which included detailed provisions for different kinds of

¹⁰⁵ *Mr. Speaker, the mining sector is plagued with a poor regulatory framework and rampant smuggling. My government will enforce existing mining legislation and develop a robust environmental protection policy. My Government shall also ensure increase in exports as well as encourage secondary processing of minerals, especially diamond and gold to increase the tax revenue base and create more jobs. Government will pursue the proposed resuscitation of the Marampa mines and the development of the Tonkolili Iron Ore prospect as well as the Port Loko Bauxite mining project. Government will also continue to support the operations of the Sierra Rutile mines as well as the Sierra Minerals Bauxite operations with a view to improving revenue to government and more benefit to the people of Sierra Leone.* President Ernest Bai Koroma, Inaugural Address to Parliament, 5th October 2007.

¹⁰⁶ 'Task Force on Mining Agreements and Licences (Terms of Reference)', no date.

¹⁰⁷ Government of Sierra Leone, 'Report of the task Force for the Review of Mineral Rights', April 2009.

¹⁰⁸ The agency's functions, as set out in the EPA Act of 2008, include: a) advising the Minister responsible for the environment on policies relating to the environmental and environmental protection; b) coordinating the activities of bodies concerned with the technical or practical aspects of the environment; c) issuing environmental permits and pollution abatement notices; d) prescribing standards and guidelines relating to ambient air, water and soil quality, e) ensuring compliance with any laid down environmental impact assessment procedures in the planning and execution of development projects; f) imposing and collecting environmental protection levies and g) promoting the establishment of national environmental standards.

mineral licence (reconnaissance, exploration, artisanal, small-scale and large-scale), the submission and assessment of licence applications and the monitoring of licensed operations. The second notable output was the development of a Mining Cadastre Administration System (MCAS) to log all mineral extraction licences in Sierra Leone and the payments made against them. The MCAS online repository was launched to the public in January 2012. The third major output of this capacity building work was the establishment of the National Minerals Agency (NMA), which was formally launched in March 2013. The rationale for creating the NMA was to provide effective and efficient licensing, geological and trading regulatory agency services in a consistent, accountable and transparent manner in Sierra Leone. It will be resourced to attract and retain professional and competent staff that will be responsible for developing the minerals sector and to administer and enforce the Mines and Minerals Act 2009.¹⁰⁹ The NMA has incorporated the directorates of mines and mineral survey formerly located in the MMMR, and has taken over the functions and responsibilities of the former Government Gold and Diamond Office (GGDO).

3.1.2 *Problems and Vulnerabilities*

57. The salient feature of recent mining licence agreements in Sierra Leone, notably those of London Mining PLC (LM) and African Minerals Limited (AML), is their lack of conformity with the provisions of the MMA of 2009, the Income Tax Act of 2000 and the Finance Act of 2010. Sierra Leonean advocacy groups, notably National Advocacy Coalition on Extractives (NACE), Network Movement for Justice and Development (NMJD), and Campaign for Just Mining (CJM), have highlighted the irregular nature of the financial concessions contained in these and other agreements in an on-going series of reports. For example, a briefing document published by NACE¹¹⁰ notes that while the original LM agreement of December 2009 was revised in August 2011, it still departs from existing legislation in the following key areas:

- LM retains a six per cent income tax rate for three years and pays 25 per cent for the remaining duration of the lease. The standard corporate income tax rate in Sierra Leone is 30 per cent
- LM will pay one per cent import duty on the value of imports of mining equipment for the first eight years, a reduction by two thirds of the standard rate
- The company has been granted reductions in three categories of withholding tax: dividends, interest on loans and contracts awarded to non-residents
- LM is permitted to offset community development spending and lease and surface rent payments against tax, which is not provided for in legislation
- LM has been given an exemption from paying social security contributions for its expatriate staff, which is not provided for in legislation

58. Concessionary mining agreements are not new in Sierra Leone. For example, Sierra Rutile Limited (SRL) has been dredging river gravels in southern Sierra Leone since the 1970s and was at one time supplying 30 per cent of the world's annual supply of rutile. Much of its equipment was destroyed during the civil war, and it went on to receive targeted support from the GoSL and international development partners to help restore its economic viability.

¹⁰⁹ Government of Sierra Leone, 'The National Minerals Agency (NMA) "set up" phase proposal', MMMR, July 2011.

¹¹⁰ NACE, 'The revised London Mining agreement: better, but still a major problem', March 2012.

The GoSL received a 25 million Euro loan from the European Union in 2004, which was lent on to SRL on the understanding that the repayments would be utilizable by government for development purposes. The company also benefitted from a US\$25 million investment guarantee from the United States government.¹¹¹ The GoSL entered into a complicated series of concessionary agreements with SRL, beginning with the Sierra Rutile Agreement Act of 2002. By 2004, the company was paying royalties and turnover taxes of 0.5%, and duty on fuel imports at 1%, for a ten-year period. Income tax was also waived until 2014. Under this agreement, the GoSL obtained shares in Sierra Rutile Holdings Limited (SRHL), a subsidiary of SRL, in lieu of PAYE payments.

59. In April 2012, a second amendment to the Sierra Rutile Agreement Act of 2002 rushed through Parliament under emergency procedures, provided for: a) the liquidation of the GoSL's interest in SRHL; b) the resumption of PAYE payments and c) a prepayment of PAYE covering two years' worth of estimated liabilities. As a result of this new agreement, the GoSL received a single cash payment of US\$17 million from the company.¹¹² Some critics in the press have argued that the GoSL might have realised up to three times that amount if it had put the shares up for competitive auction, although this analysis is based on the misplaced assumption that shares in SRHL were tradable.¹¹³ In fact, Sierra Rutile noted in an interview for this report that the GoSL was offered the opportunity to convert its SRHL shareholding into tradable equity, but declined in favour of instant liquidation. In this case, the recent upturn in the economic fortunes of SRL means that the current value of these shares would now be much greater than their sale price in April 2012.

60. Government spokespersons tend to defend concessionary agreements with mining companies on the grounds that Sierra Leone desperately needs to attract foreign investors to consolidate its post-war recovery (there is also the question of imbalance in the negotiating capacity between the two parties, since the GoSL may not have ready access to the specialist and technical skills to understand the deals that are being discussed and may be in a hurry to conclude the negotiations. Mining companies, on the other hand, have access to substantial resources, technical and financial, and are very often better equipped to determine the pace and content of the discussions). One could also argue that making community development spending tax deductible is a progressive measure, providing an incentive to companies to invest in community development. However, this line of argument has never been the subject of published policy, available for public scrutiny. Part of the problem here is that while the Task Force on Mining Agreements and Licences had an executive mandate, it did not have a legally defined role. The Task Force's report to the President was not released to the public. Furthermore, while concessionary 'special agreements' between the GoSL and mining companies require Parliamentary ratification, that process has not resulted in publication of the details of recent agreements in the *Sierra Leone Gazette*.¹¹⁴ Advocacy groups and journalists tend to obtain copies of these agreements through personal contacts with civil servants and politicians, who tend to store these on personal computers and filing systems. In most instances, only draft copies of contracts are readily available, and not the final versions – which usually have a far more restricted circulation.

¹¹¹ NACE, 'Sierra Leone at the crossroads: seizing the chance to benefit from mining', March 2009.

¹¹² 'Sierra Rutile agrees to cash pay PAYE, cancelling Government's minority interest', www.sierra-rutile.com/uploads/payepressreleasefinal.pdf.

¹¹³ 'Sierra Rutile sold to fund re-election bid', *The New People*, Freetown, 6 May 2012.

¹¹⁴ The authors' checked through every issue of the *Sierra Leone Gazette* for the year 2012 to confirm that not even the Second Amendment Agreement to the Sierra Rutile Agreement Act of 2002 has been published.

61. Difficulties in accessing final versions of mining licence agreements reflect a broader problem of poor record keeping. The 2005 MFR of the MMMR reported that records in the ministry were in a 'deplorable state'. Ministry offices were overwhelmed with inactive files, there were no procedures for tracing and tracking documents, subject labelling was often inaccurate and storage facilities were inadequate or absent. Sensitive documents such as mining company records were being kept in senior staff offices and were not readily accessible to other staff.¹¹⁵ A confidential briefing document dating from 2009 notes that consultants spent many months going through all these files and that 'only recently have we been able to decipher who has a licence and who doesn't, who owes what fee or report'.¹¹⁶ The MCAS thus represents a huge advance in records management in Sierra Leone's extractives sector. However, the online system does not currently provide information on mining licence agreements beyond the type of licence, its duration and geographical delimitation and the fee payments made against it. As of March 2013, 'technical difficulties' were holding up the logging of the full details of mining licence agreements on the online system, but a further online check in May 2013 revealed no change in the amount of detail in the system. Until all these relevant details are logged, it will be impossible for anyone without contacts in government to discover the precise terms under which any particular mining company is operating in Sierra Leone.

62. Current legislation is unclear, and often conflicted, over the division of institutional authority and responsibility in the licensing process. The key institutions here are the MMMR, EPA and Minerals Advisory Board (MAB), and now the NMA. The MAB was established by the Mines and Minerals Decree of 1994 as an inter-ministerial committee. Its membership comprised of the Directors of Mines (Chair) and Geological Survey from the ministry, the Commissioner of Income Tax, representatives of the Attorney General's office, Department of Internal Affairs, Department of Lands and Environment and the Chamber of Mines, and two persons with experience in the industry appointed by the Secretary of State for Mines. The functions of the MAB at that time included: a) advising the Secretary of State on matters relating to minerals; b) formulating recommendations on minerals policy; c) monitoring the implementation of policy; d) securing a firm basis for data collection on national mineral resources and e) assessing proposed 'major agreements' relating to minerals. The 2005 MFR noted that the MAB did not have the resources to fully research the background of prospective investors. It recommended that government representation on the Board should be reviewed and greater representation given to other stakeholders, including professionals from the private sector, the United Mineworkers Union, and civil society. It also recommended that the MAB should be free to choose its own Chair.¹¹⁷

63. The MMA of 2009 provides for additional members of the MAB: a representative of civil society, the Chief of Defence Staff, the Inspector-General of Police, and representatives of Paramount Chiefs and the Sierra Leone Youth Council. Environmental issues are now represented on the Board by the EPA and revenue collection issues by the NRA. The MAB Chair is now appointed by the President on the recommendation of the Minister of MMR. The MMA grants the MAB the same advisory, monitoring and data collection functions as the 1994 Decree but expands its role in licensing to include: a) advising the Minister on the granting, renewing, suspending, transferring and cancelling of licences and b) certifying mineral rights applications.

¹¹⁵ Government of Sierra Leone, 'Management and functional review of the Ministry of Mineral Resources', Governance Reform Secretariat, October 2005.

¹¹⁶ Anonymous, 'Review of Sierra Leone's minerals sector: constraints, opportunities and solutions', December 2009.

¹¹⁷ 'Management and functional review of the Ministry of Mineral Resources', 2005.

64. The primary function of the NMA, as set out in the NMA Act of 2012,¹¹⁸ is to promote the development of the mineral sector by effectively and efficiently managing the administration and regulation of mineral rights and minerals trading in Sierra Leone, to provide technical and other support to the mineral sector including geological survey and data collection. Compared to the MAB, the NMA has professional rather than political leadership and vastly greater technical capacity. But with the exception of the assessment of licence applications, the statutory functions of the two agencies are more or less identical. Ideally, the MAB should have been reconfigured purely as a licensing advisory board when the NMA was created. However, to carry out that function effectively it needed to be independent of government, which clearly it is not.

65. A further problem has arisen over the representation of NMA officials on the MAB. The NMA Act of 2012 states that the directorships of mines and geological survey, formerly located in the MMR, are now part of the NMA. The NMA is thus represented on the MAB by these directors. However, that arrangement still leaves no *ex officio* seat for the Director-General of the NMA on the MAB. While the possibility remains that the Director-General could be appointed Chair of the MAB by the President, the challenge inherent in this whole arrangement is that technical advice supplied by NMA professional staff to policy makers could be challenged, diluted or even overruled by political appointees sitting on the MAB (or influencing behind the scenes).

66. The MMA of 2009 indirectly contradicts the EPA Act of 2008 regarding the authority of the EPA in the licensing process. Section 131 of the 2009 Act states that the Minister of MMR (i.e. not the EPA) shall require an environmental impact assessment licence as prescribed under the Environment Protection Act as a condition for granting a small-scale or large-scale mining licence. Section 133 of the MMA goes on to state that, in addition to any requirements set out in the Environment Protection Act, a mining licence applicant should submit an environmental impact assessment containing *the types of information and analysis reflecting international mining best practice*. Applicants should design an Environmental Management Programme/Plan (EMP) on the basis of this assessment and submit annual progress reports to the Director of Mines (DoM), who forwards copies to the EPA. Section 175(3) of the MMA Act also states that the Minister shall, in consultation with the Chairman of the Board of the EPA, make regulations restricting or prohibiting exploration or mining operations for environmental reasons and setting out terms and conditions of environmental impact assessment required under the Act.

67. It is hard to see these provisions as anything other than a reassertion of the primacy of the MMR, after the enactment of the EPA Act, in mining licence administration. However, all of the mining licence agreements that the authors have been able to consult prioritize the EPA Act as the instrument for establishing the environmental protection conditionalities of mining licences. One of these agreements (for Tonguma Limited, a subsidiary of Ocea) goes so far as to state that in the event of a conflict between the regulations made under the EPA 2008 and the regulations made under the Mining Law [i.e. the MMA of 2009], the regulations made under the EPA 2008 'shall prevail'. Furthermore, the draft Environmental and Social Regulations for the Minerals Sector state explicitly that the EPA is the *Lead Authority* on environmental and social matters related to the issuance and administration of environmental licenses for mining activities. They also state that 'clear evidence' that a mining licence applicant is engaged in open and transparent negotiations

¹¹⁸ Specific functions of the NMA include: a) administering and enforcing the 2009 Act; b) advising the Minister on policy matters related to mining; c) making recommendations to the Minister for amendment and other improvements in laws and regulations relating to mining; d) formulating and implementing plans and systems for managing the responsible development of the minerals sector.

for rights to use land is required before an environmental license can be issued. These draft regulations go some way to clarifying the process by which mining operations are licensed, but they have yet to be ratified by Parliament.

68. These legislative contradictions highlight the absence of an overarching policy in Sierra Leone's extractives sector. The GoSL published a Core Minerals Policy in 2004, which was heavily focussed on the diamond industry. A draft of an updated policy, seen by the authors, dates from 2008 and was prepared by the SPU in State House. The draft is noteworthy in stating that all mining companies will be required to obtain an Economic and Social Impact Assessment (ESIA) license from the Environment Protection Agency (EPA) before commencing operations. According to those familiar with the process, progress towards finalizing and publishing the revised policy was stalled by an argument between the MMR and SPU over policy-making authority in the minerals sector.

69. Current legislation does not do enough to ensure that the economic and social rights of affected communities are taken into account in the assessment of mining licence applications. According to the MMA of 2009, mining companies are not allowed to carry out operations that destroy private houses, public infrastructure, burial grounds and land under crops without the written consent of local authorities or the Minister of MMR. However, the Minister has the power to enforce consent if it is deemed to have been withheld 'unreasonably'. Furthermore, while applicants for artisanal and small-scale mining licences must supply proof of community consent to use local land for mining, applicants for large-scale mining licenses are only required to provide evidence of having consulted 'interested and affected parties'. Responsibility to consult, however, does not grant communities a right of input into either the terms of mining license agreements or the monitoring of environmental and social management programs.

70. A further problem here concerns the administration of land leases for mining operations, which are distinct from mining licences. Historically, land leases were filed at the Registrar-General's office in Freetown, with copies held in the district offices. The current condition of these records was not investigated by this study. Land leasing has become a hugely politically sensitive issue in recent years due to: a) the large area of provincial land that is now under lease for mining and commercial farming and b) frequent complaints from land owning groups that traditional chiefs have arranged and negotiated these leases without consulting them and on economic terms unfavourable to them.¹¹⁹ In mining governance, land lease agreements establish the amount of surface rent companies must pay. For that reason in particular, details of these agreements should be entered on the MCAS but are currently not. Land governance and its political ramifications lie outside the scope of this study, but clearly requires further examination for better understanding of the dynamics of natural resource governance in Sierra Leone.

3.2 Regulation and Monitoring of Operations

3.2.1 Current Situation

71. The 2009 MMA sets out general parameters of mining operation regulation and monitoring. According to the 2009 Act, the duties of the Director of Mines include: a) exercising regulatory administration and supervision over all reconnaissance, exploration,

¹¹⁹ See, for example, F. Mousseau and E. Schaefer 'Understanding land investment deals in Africa: Socfin land investment in Sierra Leone', Oakland Institute, April 2012.

and mining operations; b) carrying out investigations and inspections necessary to ensure compliance with the provisions of the Act and c) advising holders of mineral rights on proper and safe mining methods. The DoM and the Director of Geological Survey (DoGS) are empowered by the Act to inspect mine sites and take samples of soil, tailings and minerals. The DoM also has the authority to inspect company accounts, documents and records and issue directions to companies with respect to the health and safety of employees. The Act states that the DoM may issue a temporary suspension order on any mining operation until measures are put in place to prevent danger to life, property and the environment or to rectify non-compliance with any law.¹²⁰

72. The 2009 Act also sets out details of Corporate Social Responsibility (CSR) in the minerals sector and allocates responsibilities for monitoring, namely:

- A company holding a mining license must obtain a land lease or other rights to use land for mining. The terms of this lease include its duration, the rents to be paid on it and the extent or area of the land to which it relates, *as may be agreed between such holder and such owner or lawful occupier of the land or failing that, such agreement as may be determined by the Minister on the advice of the Minerals Advisory Board.*
- Mining companies are required to pay compensation *on demand* to owners or lawful occupiers of land for disturbances of their rights and for damage to crops, trees, buildings and works. Compensation is assessed according to the 'market value' of the land, taking into account any improvements made by the mining company. Land occupiers may opt for resettlement in lieu of compensation, in which case costs must be met by the mining company. Compensation claims made more than two years after the event are not enforceable.
- Mining companies are required to implement Community Development Agreements (CDAs) funded by not less than 1% of 1% of the gross revenue amount earned by mining operations in the previous year. According to the Act, the 'primary host community' benefitting from the fund is the *'single community of persons mutually agreed by the holder of the small-scale or large-scale mining license and the local council.* If no such community exists within thirty kilometres of any boundary defining the large-scale mining license area, the primary host community shall be the local council. The Minister has the power to resolve disputes over the identity of this community. CDAs require the approval of the DoM before being put into operation.

73. The Extractive Industries Technical Assistance Programme (EITAP), a project supported by the World Bank and DFID, assisted the MMR in developing a comprehensive set of regulations for the extractives sector. The Operational Regulations developed by the

¹²⁰ Operational oversight duties of the DoM that are specific to particular kinds of licences include: a) authorising the sale of mineral specimens and samples obtained from reconnaissance and exploratory operations; b) ensuring that buildings and machinery installed by reconnaissance and exploratory operations are removed on expiration of the licence and that any boreholes and excavations are made safe; c) approving amendments to reconnaissance programmes; d) ensuring that small-scale licence holders applying for renewal of licences have carried out effective rehabilitation and reclamation of mined-out areas; e) approving the appointment of Mines Managers to manage operations on behalf of small-scale licence holders; f) inspecting mining company statements of expenditure and assessing reported progress against approved programmes of work; g) approving the stacking or dumping of minerals and waste products; h) determining whether an Environmental Management Plan (EMP) is succeeding and advising the Minister to suspend the licence if it is not.

programme expand considerably on the MMA of 2009 in respect of reporting requirements for mineral resources and reserves, operational procedures for different types of mine, health and safety, workplace standards, waste disposal, explosives, blasting and closure and reclamation considerations. The former DoM presided over the public launch of these regulations in December 2011, but they have yet to be ratified by Parliament. The Environmental and Social Regulations for the Minerals Sector (ESR) are also awaiting parliamentary ratification.¹²¹

74. While the MMA of 2009 calls for the creation of *consultative and monitoring frameworks between the license-holder and the primary host community*, the ESR identify Community Development Agreements (CDAs) as environmental and social management ‘instruments’ and call for the creation of local Community Liaison Committees (CLC) to work with mining companies in developing and implementing CDAs. The draft regulations state that CLCs should comprise of: a) a chair (who is not a chief) nominated by the community and approved by the mineral licence holder; b) a chiefs’ representative; c) four representatives of the local community; d) a representative of civil society who shall be appointed from local interest groups proposed by the community (e.g. teachers, workers’ unions, health practitioners, and women’s cooperatives); e) a representative of local government. The CLC should have at least two female members. The draft regulations include detailed standards for EIAs, EMPs, SIAs, SMPs and CDAs. They also stipulate that company reports on all of these matters should be sent to the EPA Board and DoM ‘simultaneously’.

75. The GoSL has recently published a Local Content Policy, whose primary aim is to *facilitate the development of Sierra Leonean service providers by promoting linkages with more advanced and experienced foreign companies* and to *promote employment of Sierra Leonean citizens through participation in the private sector*. The provisions of the policy include: a) encouraging out-grower schemes for agricultural products to supply large firms and manufacturers; b) ensuring that for all enterprises operating in any sector of the economy, at least 20% of the managerial and 50% of intermediate positions are held by Sierra Leonean citizens; and c) ensuring that where an enterprise or investor cannot employ Sierra Leoneans due to lack of trained personnel, the enterprise or investor devises a training plan.

3.2.2 Problems and Vulnerabilities

76. In the first instance, the overlap in the regulatory functions and authority of the MMMR and EPA is in urgent need of resolution. One recent report on extractives sector governance in Sierra Leone notes that ministry and agency are on a ‘collision course’.¹²² Rivalry between these institutions was indeed apparent in interviews for this study. For example, the former Director of Mines acknowledged that there was ‘an argument’ between the Ministry and the EPA over responsibility for monitoring CDAs. Notwithstanding the CDA standards set out in the draft ESR, he claimed to be working on a ‘model’ CDA based on an agreement recently developed and submitted to the Ministry by one of the mining companies (London Mining). However, a senior member of the EPA argued that a) CDAs should be outcomes of EIAs and SIAs and therefore monitored by the EPA and b) the MMMR cannot approve mining licenses, make policy in the mining sector and monitor mining

¹²¹ The draft ESR for the Minerals Sector state that the EPA is in charge of: a) regulating, coordinating and monitoring all environmental and social aspects associated with mining activities at all of its stages; b) granting environmental licences; c) the enforcement of environmental and social laws and regulations and the imposition of sanctions in relation thereto. The draft regulations go on to state that highly socially impactful mining operations require Social Impact Assessments (SIAs) and Social Management Plans (SMPs) in addition to EIAs and EMPs.

¹²² See ‘Resource governance in Sierra Leone: a comprehensive approach’, GIZ, July 2012.

operations without entering into a clear conflict of interest. Other interlocutors in the GoSL pointed out that the functions of the NMA, as set out in the NMA Act 2012, include promoting the rights of communities and that the NMA should therefore take the lead on monitoring CDAs. However, the NMA does not currently have resources or staff dedicated to this function.

77. In addition, senior figures in MMMR report that the draft Operational Regulations and ESR have not yet been enacted purely as a result of the heavy backlog of draft laws and statutory instruments currently awaiting processing at the under-resourced Law Officers Department. However, it is not uncommon in Sierra Leone for draft laws and regulations that are objects of contention between ministries and agencies to remain 'in process' indefinitely.¹²³ As things stand, the MMMR is making authority claims in respect of environmental protection and CRS regulation on the basis of the MMA of 2009, while the EPA is making rival claims on the basis of the EPA Act of 2008 and the draft ESR. The challenge is getting the parties to agree to a revision and consolidation of existing legislation, which would have to start with the MMA of 2009.

78. A further 'elephant in the room' issue is that the MMMR currently employs more than 200 Mines Monitoring Officers (MMOs), whose duties and functions are not specified in either the Mines and Minerals Decree of 1994 or the MMA of 2009. These operatives are paid out of the Mines Monitoring Fund (MMF), which was originally resourced from mining licence fee income and designed to assist in the rehabilitation of mined out areas.¹²⁴ Senior figures in the Ministry concede that many MMOs are political appointees and local party activists, rewarded with jobs that are not subject to the entry criteria of the mainstream civil service. Some development partner interlocutors claim that there are more MMOs than the MMF can support and that they add little to the monitoring and regulatory capacity of the Ministry. Finding a process for retraining and reassigning them has, so far, proven elusive and remains a significant challenge to institutional reform.

79. Finally, the NMA Act of 2012 states that the Directors of Mines and Mineral Survey, insofar as the MMA of 2009 refers to them, are functionaries of the NMA. However, the Ministry currently retains its original Directors of Mines and Mineral Survey. In an interview for this study in March 2013, the former DoM stated that these directorates would continue in the Ministry to facilitate policy making. However, it is hard to see how the extensive decision-making powers granted to the DoM by the MMA of 2009 can simply be transferred to a functionary of the NMA without compromising the authority of the Director-General of the NMA.¹²⁵ Indeed, the explicit purpose of the NMA is to improve the professional and technical management of the extractives sector, which surely means the replacement of the DoM's personal fiat with a fully bureaucratic decision-making process. Again, these problems suggest that the MMA of 2009 is in need of revision.

¹²³ A case in point is the Local Courts Act, which was drafted in 2006 but not enacted until 2011. In this case, the Justice Sector Coordination Office was eventually able to broker an end to a long impasse between the ministries responsible for local government and justice over the proposed transfer of authority for managing Sierra Leone's Local Courts from the former to the latter.

¹²⁴ 'Management and functional review of the Ministry of Mineral Resources', 2005.

¹²⁵ The Director General's statutory duties include a) formulating and implementing policies, programmes and plans; b) overseeing the activities of all departments; c) assigning responsibilities to the Directors of Mines and Mineral Survey.

3.3 Collection of Taxes and Royalties

3.3.1 Current Situation

80. In 2010, Sierra Leone's mining industry accounted for 60% of national exports (US\$199.5 million) but only 11% of government revenue (US\$32 million, including PAYE). This revenue represented 1.4% of GDP.¹²⁶ However, a revenue bonanza has been widely anticipated when the leading extractive companies (principally iron ore but also gold) enter full production and develop their second phase construction. In 2010/11, what subsequently proved to be an over-optimistic estimate of incomes from iron ore exports led the IMF to predict 51.4% growth in Sierra Leone's GDP for the year 2012. After expanding by 6% in 2011, real GDP growth in Sierra Leone did in fact increase to 15% in 2012 following the commencement of iron ore production. Non-iron ore GDP growth in 2012 was 6.3%. Current projected GDP growth for Sierra Leone is 25% (8.3% for non-iron ore growth) in 2013, 14.15% (7.9%) in 2014 and 12.1% (7.0%) in 2015.¹²⁷

81. The government submitted a revised Petroleum Exploration and Production Bill to Parliament in July 2011. This included several clauses seeking to improve transparency in the industry, notably a requirement that oil contracts be awarded only through competitive auctions, that contracts be published and that payments be disclosed in accordance with the terms and procedures of EITI.

82. With support from development partners, notably the IMF, the GoSL has recently drafted an Extractive Industries Revenue Bill, which aims to clarify and coordinate the various taxes and charges on extractive industries (including petroleum). The proposed Bill details the tax liabilities of a) companies with multiple mining operations, b) companies moving from exploration to production and c) companies undergoing substantial shareholding changes. Notably, the draft Bill proposes that the income tax rate for mining industries is now 30%, introduces a new schedule for capital allowances, allows extractive companies to offset rents and royalties against tax, and introduces a new Mineral Resources Rent Tax (MRRT). The MRRT base rate is 40% of company net receipts adjusted downwards according to a formula based on the current rate of income tax (e.g. an income tax rate of 30% generates a 38% MRRT rate). As of May 2013, the Bill had yet to be presented to Parliament.

83. In November 2012, the GoSL announced the establishment of a Sierra Leone National Carrier (SLNC), a joint venture between the Sierra Leone National Shipping Company and a company of the Italian-based Premuda Group. The National Carrier Act (NCA), ratified by Parliament and signed into law by the President in the same month, entitles the SLNSC to ship 40% of all cargoes, whether they are unitized, dry bulk or liquid, that are exported from or imported into the Republic of Sierra Leone. SLNSC also has the right under the provisions of the NCA to demand a 40% shareholding in any company providing or operating any Floating Production Storage Off-Loading unit (FPSO) or Floating Storage Off-Loading unit (FSO). Alternatively, it may charge a commission equal to 4% of the estimated total consideration paid to the operators of such units in Sierra Leonean territorial

¹²⁶ S. Dieckmann, 'Not sharing the loot: an investigation of tax payments and corporate structures in the mining industry of Sierra Leone', DanWatch, October 2011.

¹²⁷ World Bank, 'Draft PAD Sixth Governance Reform and Growth Credit, May 2013.

waters. The NCA also authorises the SLNC to levy a 10% above market value surcharge on shipping rates.

84. In March 2013, Sierra Leone's candidature for the Extractive Industries Transparency Initiative (EITI) was suspended for one year. This suspension was not unexpected given that the country's second EITI reconciliation exercise in September 2012 reported that 2 out of 18 benchmarks had not been met.¹²⁸ The first problem identified in the reconciliation was that data compiled by the MCAS revealed that 27 companies holding small-scale mining licenses had made payments exceeding the US\$4,000 materiality threshold set by the SLEITI, while the SLEITI multi-stakeholder group had only reported on four companies. The second problem was that: a) several local councils and chiefdoms in mining areas did not return reporting templates; b) there were significant positive discrepancies in NRA revenue declarations (i.e. more money was collected than accounted for) and c) several revenue streams were excluded without explanation from the EITI reconciliation process.¹²⁹

85. According to a senior functionary in the SLEITI secretariat interviewed in March 2013, the GoSL was informed by the EITI Board that it had failed to meet four benchmarks: a) government is required to ensure that all relevant companies and government entities report; b) government is required to ensure that government reports are based on accounts audited to international standards; c) companies comprehensively disclose all material payments in accordance with the agreed reporting templates; d) government agencies comprehensively disclose all material payments in accordance with the agreed reporting templates.

3.3.2 *Problems and Vulnerabilities*

86. In the first instance, the opinion of the SLEITI secretariat is that the problems highlighted by the EITI reconciliation process reveal a worrying lack of coordination between the National Revenue Authority (NRA) and the MMMR. The secretariat took it as a positive that the information logged by the MCAS had aided the reconciliation process, even if the overall result was an unfavorable one. However, the problems exposed by the SLEITI reconciliation process reflect wider failings in fiscal administration in Sierra Leone, as detailed in the above-noted Sierra Leone Auditor-General's report (See Section 2.3).

87. Worryingly, anticipation of the mining revenue bonanza prompted the GoSL run up a considerable budget deficit, which had reached approximately 300 billion Leones (circa 70 million US Dollars) by the end of 2012. Budget overruns in 2012 reflected over-spending on domestic capital projects (roads, electricity and water), personnel costs (especially State House employees), election related costs, and domestic interest costs. These overruns have led the GoSL to take up additional credit from the banking system and put pressure on banks to extend credit to government's private contractors to cover delays in invoice payments. The GoSL's focus in the first quarter of 2013 has been the management of cash shortfalls. By the end of that quarter, all non-essential payments had been halted, no treasury bills had been issued, and the GoSL was coming under increasing pressure to pay the monthly wage bill. Additional funds were sought from 'ways and means' advances on the FY2013 budget and mobilization of the funds from SRL's repayment of the above-mentioned European Union loan. The focus on these short-term problems has meant that little attention has been given to a more orderly and rigorous public financial management process and adherence to fiscal discipline. While the projected increase in revenues from 2012 onwards will help to

¹²⁸ Boas & Associates, 'Report on Second SLEITI reconciliation report (2008-2010)', September 2012.

¹²⁹ Multi-Stakeholder Group of the SLEITI, 'Validation report', December 2012.

alleviate these cash-flow problems, there is a danger that Sierra Leone's public financial management system has become over-adapted to *ad hoc* decision-making and crisis management, and is neither equipped nor minded, currently, to make effective and optimum long-term use of these revenues.¹³⁰

88. Unsurprisingly, the provisions of the NCA and the manner in which it was rushed through right at the end of the Parliamentary session caused huge uproar among mining companies. Several company executives argued in interviews that since the SLNC currently has no ships, its only purpose must be to extract rents from their business, and thus reduce their profit margins.¹³¹ One mining executive reported that increased shipping costs could drive his company out of business and claimed that it is refusing to pay any monies to the SLNC. The root of the problem here is GoSL inconsistency in its treatment of the mining companies. While the NCA is not directed specifically at the mining sector, it sends out a message that what is given with concessionary licence agreements can be taken away again at short notice by new taxes. This is not a situation conducive to investor confidence, bearing in mind that the above-noted confidential report on Sierra Leone's minerals sector found that the most important factors affecting investment decisions among mining companies, globally, were: 1) security of tenure; 2) ability to repatriate profits; 3), measure of profitability; 4) stability of terms; 5) ability to predetermine tax liability.¹³² Similar points apply to the MRRT, which was originally mooted by development partners as a tax specific to the petroleum industry.¹³³

89. Finally, until the MCAS captures the all the financial details of mining licence agreements, and continues to make it publically available it will not be possible for any member of the public to check whether payments made by leaseholders are complete, correct, and on time.

3.4. Revenue Distribution and Management

3.4.1 Current Situation

90. The Government of Sierra Leone is considering setting up a special fund to manage natural resource revenues, as recommended by the Transformation and Development Conference of February 2012. The draft Agenda for Prosperity (PSRP III) characterises this fund as a special expenditure fund: *a sizable portion (75%) of resource revenues should be assigned to a special fund to promote transformation and sustain the level of inclusive economic development. Noting that priorities change over time, the current priorities are for Education, Infrastructure, Health and reducing income inequality.*¹³⁴ The Agenda for Prosperity also argues that 10% of the fund should be used to rehabilitate mined-out areas.

91. However, the IMF advocates the adoption of a fiscal rule in which the overall budget envelope is based on a deficit between total expenditures and non-mining revenues of 25%, declining by 1% every year. According to the IMF, this deficit would be covered by mining revenues with the surplus paid into a separate fund. Sierra Leone's Ministry of Finance and Economic Development (MoFED) prefers a simpler formula in which 'Transformation and

¹³⁰ World Bank, 'Sierra Leone: budget support, public investment management and fiscal risk evaluation', March 2013.

¹³¹ Other stakeholders stated *the boot is on the other foot*, in apparent reference to the special agreements and concessions that some companies had received

¹³² 'Review of Sierra Leone's minerals sector: constraints, opportunities and solutions', December 2009

¹³³ P. Daniel, P. Harris, O. Luca and C. Nakhe, 'Sierra Leone: fiscal regimes for extractive industries – a preliminary review', IMF, September 2011.

¹³⁴ Government of Sierra Leone, *Agenda for Prosperity*, draft zero, MoFED, October 2012.

Development' (TD) investment claims 60% of mining revenues in any given year, moderated by a supplementary rule stating that that TD capital investment must remain within the range of 75%-125% of the previous year's investment.¹³⁵ The MOFED rule is less complex but has no stabilization objectives.

92. Surface rents for land leased to mining companies are distributed according to a formula set out in the 2009 MMA: landowners receive 50%, paramount chiefs receive 15%; the district council receives 15%; chiefdom administration receives 10% and the constituency development fund receives 10%.

3.4.2 *Problems and Vulnerabilities*

93. Recent IMF reports state that the GoSL has agreed that all extractive industry revenues should be managed through the normal budgeting process so as to avoid duplication, fragmentation of decision-making and 'Dutch Disease' effects.¹³⁶ However, both the draft Agenda for Prosperity and the above-noted MoFED TD investment model continue invoke the image of a special investment fund, which begs the question of whether the IMF's idea of using the mining revenue fund purely as a fiscal stabilization instrument really corresponds to the investment strategy the GoSL has in mind. The crucial question here is what criteria will distinguish 'transformation' expenditure from 'normal' expenditure, given that the whole point of a fiscal rule, as the IMF sees it, is that mining revenues are limited to funding legally mandated budget activities rather than augmenting or replacing them.¹³⁷

94. Second, the provisions of the MMA of 2009 regarding surface rent payments conflate the principle of ground rent with a tax on mining companies (and ultimately local landowners) to support local service providers and law and order agencies. In an interview for the present study, the Paramount Chief of Marampa reported that he was using his 15% share of mining surface rents to pay the wages of the local chiefdom police and other chiefdom functionaries. While the Paramount chief's problem was that the taxes raised by his chiefdom administration were insufficient to meet this wage bill, it is questionable whether subsidizing local administrative costs that are supposed to be met by the state (through taxes and transfers) is an appropriate use of surface rent. Law and practice in Sierra Leone still recognizes chiefdom councils as the primary authorizers of land leases and redistributors of surface rents in provincial areas, but the land itself has always been owned by families and individuals. Is surface rent compensation to local landowners for mining companies' use of their property or a commission claimed by political elites? This question applies to members of parliament and district councilors as well as chiefdom authorities. Mining companies are not at fault here, since the conflation of principle lies in the MMA.

95. A related issue concerns the definition of the 'community' that is affected by mining operations. The MMA of 2009 states that a 'primary host community' entering into a CDA with a mining company is *the community of persons mutually agreed by the holder of the small-scale or large-scale mining license and the local council, but if there is no community of persons residing within thirty kilometres of any boundary defining the large-scale mining license area, the primary host community shall be the local council*. In this context, 'local council' means an elected local government council but the 2009 Act remains vague as to who, precisely, represents the community interest in the making of CDAs.

¹³⁵ J. Gardner, S. Flynn, O. Luca and S. Gurr, 'Sierra Leone: determination and implementation of a fiscal rule', IMF, October 2012.

¹³⁶ See the report cited in the previous note.

¹³⁷ J. Gardner, S. Flynn, S. Gurre, O. Luca, and M. Wanyera, 'Sierra Leone public financial management: reform priorities in the new fiscal environment', IMF, February 2012.

96. In the absence of clear statutory guidelines for community liaison structures,¹³⁸ mining companies are making their own arrangements. For example, LM has managed to track down all landowning families in its lease area and pays them their 50% share of surface rent directly.¹³⁹ According to the elders in one village located on the edge of the LM lease area (Chaindatta), families benefitting from surface rent tend to share it with their neighbours.¹⁴⁰ However, LM also works with a local 'steering committee' for community liaison purposes, which comprises of the Senior District Officer (SDO), the two MPs representing local constituencies, a representative of the MMMR, the Paramount Chief, the chair the local landowners association, and representatives of women, youths and religious groups. This committee has been guiding the company's community development portfolio, and current projects include the refurbishment, at LM's cost, of Lunsar town hall, the local living quarters of the Sierra Leone Police and the SDO's office and living quarters in Port Loko. While the company is also helping the local poor with school scholarships, food distributions and works projects for unskilled labour, the question again arises as to whether it is appropriate for foreign companies to invest in local governmental capacity building (and financial responsibilities) under the banner of CSR. This question is particularly pertinent in the case of the SDO. LM executives interviewed noted that the SDO's adjudicatory authority in respect of land disputes makes this functionary a key player in the company's efforts to remove alleged residential encroachments onto its lease area.

97. Recently, LM has revised its community investment strategy to focus support on local services delivered by Port Loko District Council.¹⁴¹ This strategy will help to ensure that the company's CSR investments do not generate conflicts of interest. However, it will also mean that benefits will be spread over a much larger population than the 'primary host community' as defined by the MMA. Lunsar still lacks an elected town council, and the company cannot be blamed for the fact that the nearest statutory provider of education, health and water and sanitation services is a district council. Again, the organization and prioritization of mining company community development investment is an issue that policy makers in Sierra Leone need to re-visit.

3.5. Sustainable Development Projects

3.5.1 *Current Situation*

98. Revenues from new mining operations have yet to make a demonstrable impact on public spending on development projects and in particular upon the provision of better service delivery. The GoSL is still dealing with the consequences of its earlier budget overspend and recent IMF studies project that, for the first three years of operation of any fiscal rule, all resource revenues would be spent without any savings or surpluses available for major new projects.¹⁴²

3.5.2 *Problems and Vulnerabilities*

99. There is a danger that Sierra Leone's political and administrative system, in its current form, will simply be unable to cope with a massive increase in revenues from

¹³⁸ Assuming the draft ESR are ratified by Parliament in the near future, the 'model' CLC they contain is plausibly representative of the current stakeholder profile of rural areas except for the fact that it lacks a designated youth representative.

¹³⁹ AML currently pays surface rent in a lump sum to chiefdom authorities for distribution to landowners.

¹⁴⁰ LM has recently distributed US\$150,000 as surface rent for the year 2012.

¹⁴¹ London Mining, 'Community investment strategy policy', November 2012.

¹⁴² Gardner, et al, 'determination and implementation of a fiscal rule.'

extractives. In principle, the GoSL cannot spend money it doesn't have, which means that there is likely to be a time lag between revenue increases and spending increases. In practice, there are a number of financing deals being undertaken in anticipation of increased revenue inflows even if development partners' strong preference is that GoSL stops borrowing as soon as revenues actually do increase. Any holdups in spending are likely to generate adverse reactions amongst a Sierra Leonean population, impatient for 'development', that has so far seen little in the way of benefits from extractive activities. These issues are discussed further in Chapter 5.

3.6 The Political Economy of the Extractives Value Chain

3.6.1 *Dynamics of the Extractive Sector in Sierra Leone*

100. Perhaps the greatest challenge for promoting a 'good governance' agenda in Sierra Leone's extractives sector is that its current management parameters were set in the early post-war era, i.e. before the capacity building initiatives that produced the EPA, MMA, NMA, and MCAS began. Almost all of the major mineral deposits currently subject to large-scale licences in Sierra Leone were identified by geological surveys in the colonial era.¹⁴³ It was thus only a matter of time before international prices for gold, bauxite and iron ore (the latter greatly magnified by demand from rapidly industrializing China) made the exploitation of these deposits attractive to investors. Some reports speak of a 'free-for-all' in acquisition of mineral exploration licenses at the end of the civil war.¹⁴⁴ By 2008, more than 150 prospecting licenses, covering 82% of the country's surface area, had been issued to over 100 companies. The licenses of one particular company covered more than 50% of the total land area available for mineral exploration.¹⁴⁵

101. Local brokers ('fixers') have been playing a key role in this mineral license market, both in providing opportunities for market entrants and ensuring that licence applications and transfers are approved in Freetown. This behaviour is still very much in evidence and operation today. For example, a mining company senior executive interviewed for the present study reported that his company was still receiving offers to purchase mineral rights, one such licence being located within the boundaries of a national park. The office of the Executive Chairperson of the EPA contains a wall map of another national park, whose boundaries are overlain by exploration licences issued in the early post-war era.

102. Land leases are subjects of a similar market. A case in point is the Bagla Hills in Eastern Sierra Leone, which contain an estimated 3.2 billion tons of iron ore. In 2011, an Australian businessman and a Southern African-owned mining company became locked in a legal battle for ownership of a land lease registered by an earlier investor. According to one account, the land in question had formerly been the site of a mining operation owned by Bethlehem Steel and local chiefs had been shopping it around to potential investors.¹⁴⁶ The legal action prompted a GoSL press release stating that the site was part of the Gola Forest Reserve and therefore off-limits to mining. However, in an effort secure ownership of the site, the businessman persuaded a local descendants' association to sue him, the rival company and the chiefdom authorities to nullify the competing leases. The Sierra Leone

¹⁴³ N. Junner, 'Notes on the geology and mineral resources of Sierra Leone', *Sierra Leone Studies* (old series), Vol. 16, 1930.

¹⁴⁴ 'Review of Sierra Leone's minerals sector: constraints, opportunities and solutions', December 2009

¹⁴⁵ Information obtained from a member of the Task Force on Mining Licenses and Agreements.

¹⁴⁶ 'Confusion over Iron Ore Mining' *Awoko*, Freetown, 18 August 2011.

High Court went on to rule that that the signatures on both leases were not those of competent authorities.¹⁴⁷ The businessman subsequently took out a new land lease, which was signed by the heads of the 23 local families that actually owned the land. While unable mine the land, the businessman promised to initiate social and infrastructure development programmes in the area. According to a further report from mid-2012, the businessman was allegedly *building ties to the three major political parties in advance of an election this November. He hopes that this will help ensure there is political support for his ownership of a mining license if the ban is lifted.*¹⁴⁸

103. It is hard to imagine these markets working without the payment of substantial private commissions, especially to authorizers of licences. Indeed, a technical advisor who has worked on recent institutional capacity building programmes in the extractives sector argued in an interview for the present study that development partners were late in understanding these markets and their implications for governance reform programming:

After the war everyone was focused on stabilization and the link between the diamond sector and stability and so a lot of the efforts that were made right after the war were focussed on diamonds. When we came in [in 2008] diamonds were still a preoccupation, they were glamorous: everyone wanted to know the dirt on who was moving what diamonds where, who was the exporter...what's the game happening in diamonds. What most people missed the boat on was that the big play wasn't around diamonds; it's always been around the big exploration licences, the mineral rights across the whole country. The political elite, that's where they started to make their move. The allocation of these mineral rights back in the mid-2000s was really where the game was being played... We're still battling to clean out non-performing licences and speculators from the market place. And what I think will have the biggest impact on how well the sector will perform going forward is the quality of investors. Sierra Leone was never able to get high quality investors because of this game that's been played for close to a decade around who has licences, who doesn't, who has access to opportunities. That is the headline story. You can only do so much on governance and ultimately if the political economy is going to lock in those kinds of interests on those licences then you've got limited ability to really have that massive impact both on local economic and financial revenues for the government.

104. Old ways of governing have also been apparent in elite reactions to labor unrest in the mining sector. In April 2012, senior political and technical officers from at least two major ministries vacated their offices in Freetown and travelled en masse to Bumbuna in an attempt to calm aggrieved workers at the AML mine site. Bumbuna residents interviewed for this study reported that word had come down from the highest level of government that if anyone caused further chaos (*sonko sonko* in Krio), chaos would be visited upon them.¹⁴⁹

105. Today as in the past, organized labor protest in Sierra Leone is politically impactful because large-scale employers are small in number yet economically important and because horizontal political solidarities strike at the heart of a system of governance based on patronage. It is noteworthy here that one of the mine workers' grievances was that one of

¹⁴⁷ www.thisismoney.uk, 'Pay-TV tycoon's troubled battle for African mineral riches', 16 June 2012.

¹⁴⁸ www.internationalresourcejournal.com 'West African mining', June 24 2012.

¹⁴⁹ This could be interpreted as a moral observation, as well as a threat.

the mining companies was refusing to pay dues to their union of choice, the Mining and Allied Services Employees Union (MASEU). The Ministry of Labour revoked MASEU's bargaining certificate after the disturbances. The mining company subsequently entered into negotiations with the United Mine Workers Union (UMU), which already had collective bargaining agreements with the other leading mining companies operating in Sierra Leone. The politics behind these developments are a matter of conjecture. However, the National President of the Trade Union Confederation of Sierra Leone hinted strongly in his submission to the public inquiry into the Bumbuna disturbances that both the GoSL and mining companies preferred to see UMU (a union with strong historical links to the APC) representing all mineworkers so as to facilitate closer political control over them.¹⁵⁰

106. In spite of these problems, there have been recent signs of maturation in extractives governance. First, the mining company executives interviewed for the present study were united in their dismay at the NCA, and appeared to be showing renewed interest in the Sierra Leonean Chamber of Mines as a forum for putting their collective views across to government. It is also noteworthy that while the re-negotiation of the LM agreement in August 2011 did not bring it into full conformity with Sierra Leonean law, its reduced concessions are now much closer to those contained in the unrevised AML agreement.¹⁵¹ Furthermore, all the mining companies visited during research were keen to discuss their plans for developing and expanding their community development portfolios. Now that companies have actually begun mining, thereby committing themselves to working in Sierra Leone for several years, they are discovering a common interest in maintaining a level economic playing field (especially predictable overheads) and developing a constructive relationship with their workers and communities affected by their operations.

107. The present government in Sierra Leone is by no means impervious to the argument that bureaucratic capacity building brings political dividends. For example, a consultant who worked on the design of the NMA told the present authors that the Cabinet was persuaded by development partner claims that improving the technical capacity of extractives governance would help to improve state revenues from that sector. There is more at stake here than the government of a historically aid-dependent country embracing a few 'good governance' loss leaders to maintain good relations with its international development partners. The upheavals of the one-party era and the ensuing civil war were a lesson for everyone that the privileges attached to governing in Sierra Leone cannot be sustained for long without a minimum of state functionality and popular accountability. The recent spate of major road building projects, which the country cannot currently afford, is a testament to this political imperative.

108. Furthermore, President Koroma is in his final term of office and already his potential successors are jockeying for position, power and influence in the governing party. Leading politicians sharing the same provincial home areas are current engaged in public struggles for ascendancy and groups claiming to be underrepresented in government (notably Limba speakers) are loudly demanding recognition. However, new mining and commercial agricultural developments are unlikely to generate new manifestations of Kono-style regionalism because they don't attract migrant labour on the same scale and level of concentration as alluvial diamond mining did in the early post-Independence era. The large-scale exploitation of oil fields off the coast of southern Sierra Leone might be a different

¹⁵⁰ www.sierraleoneview.com, 'Presentation at the Human Rights Commission of Sierra Leone's public inquiry into alleged gross violations of human rights at Bumbuna Town (16th-18th April 2012)' held at Bumbuna Town, Tonkolili District, Northern Province', 1 August 2012.

¹⁵¹ NACE, 'The revised London Mining agreement: better but still a major problem', March 2012; NACE, 'NACE urgently calls on President, Parliament to revise the African Minerals agreement', August 2010.

matter, especially as the south is an historic stronghold of the current opposition party. But even here a massive influx of revenues into central government coffers could strengthen the political brokerage role of the state as much as create division and rupture.

109. Elected local government could yet play a key role in the management of the extractives boom by helping to ensure that new development investment reaches all localities and by enhancing local voice in investment planning. It will not, of course, be able to fulfil these functions without strong support from the Executive. There have been recent signs that this support is growing, notably President Koroma's speech at the state opening of Parliament in December 2012. Here, the President signalled his government's intention to create new town councils in response to Sierra Leone's rapid post-war urbanization.¹⁵²

110. On both the company and government side therefore, there are still grounds for optimism that development partner support can be effective in improving extractives sector governance. Specific possibilities are discussed in the final chapter (Chapter 5), following further analysis of stakeholder groups across the value chain (Chapter 4).

¹⁵² *We shall reform the structure of municipal governance by the creation of new area councils within the City of Freetown, with appropriate functional assignments, and revenue assignment between the area councils and the greater Freetown City Council. Similarly, growing peri-urban towns exhibiting incoherent growth will be upgraded to town councils to prepare them for city status in the medium term. Consequently, all existing Local Council boundaries shall be reviewed and criteria will be set for the establishment of new Town Councils.* See www.statehouse.gov.sl.

CHAPTER 4. KEY STAKEHOLDERS IN EXTRACTIVE GOVERNANCE

This Chapter assesses the formal and informal rules, incentives and underlying political drivers of extractives governance in Sierra Leone and how the network of key stakeholders shapes policy.

4.1 Central Government

111. The Executive (President and Cabinet) and MoFED represent the decision-making hub of government in Sierra Leone. There are significant lines of administrative and political cleavage below this level, notably between the mainstream civil service and the elite administrative cadre of State House (Office of the President). In the extractives sector, the MMR has very limited administrative and technical capacity yet still plays a key role in the authorization of mining license applications. While senior figures in the MMR continue to emphasize their policy making and oversight functions, the Ministry has not been the primary author or driver of recent strategies to create the NMA, draft new regulations for the minerals sector or update the Core Minerals Policy. The SPU has taken over aspects of policy development (CMP) and the EPA has taken over environmental regulation.

112. The recent expansion of contract staff in State House and various special agencies, PIUs and parastatals has been the product of a deliberate effort on the part of the GoSL and DPs to get highly qualified and capable Sierra Leoneans in place quickly to ensure that post-war reconstruction is effectively administered (see Section 2.1.4). The new generation of technicians and administrators includes returnees from overseas, and tends to be more professionally ambitious and results-orientated than their civil service colleagues.¹⁵³ However, there is still a tendency for State House in particular to recruit senior contract staff with strong social links to the governing party (e.g. direct family members of former Ministers, MPs, and senior party officials). Ministers and Deputy Ministers tend to remain superior to these professionals in both the formal and informal (i.e. social) hierarchies of government. Ministerial prerogative in bringing policy proposals to Cabinet is closely guarded and Ministers remain in a strong position, politically, to block proposals that come from outside their ministries. Such 'gatekeeping' behaviour may account for the stalling of the draft updated Core Minerals Policy and the draft ESR. The broader institutional pattern here is an array of MDAs that have much stronger vertical ties to the Executive than horizontal ties to one another (See Figure 1).

113. Poor harmonization of institutional capacity and decision-making power within a state system makes for sub-optimal governance. However (and as discussed in Section 3.6), low institutional capacity can be attractive to some precisely because it facilitates the concentration of decision-making power in the hands of a few individuals. Focussed capacity building efforts do not necessarily solve this problem, as DPs discovered in the case of the NRA. The root of the NRA's well-publicized problems may not be corruption among individual functionaries, since these problems also reflect the historical propensity of Sierra Leone governments to break rules of good financial practice, even their own laws, in order to move money about to service *ad hoc* needs. This failing also undermines the NRA's capacity to interact effectively with other MDAs.

¹⁵³ C. Gabelle, 'The Dynamics of Civil Service Reform in Sierra Leone', unpublished discussion paper, World Bank, March 2013.

114. Sierra Leone's bid for EITI membership has been considerably weakened by these historically entrenched financial management problems. Despite having the support of a politically broad-based multi-stakeholder group and a designated government 'champion' (the Chief of Staff of the Office of the President), the SLEITI Secretariat was unable to secure Sierra Leone's full compliance with EITI requirements. While some interviewees for the present study claimed that there is a lack of interest in EITI compliance at the highest level of government, the EITI reconciliation process simply fell foul of systemic failings in record keeping. It is possible that the embarrassment of failing to meet EITI requirements will stimulate GoSL efforts to redress these problems, although improvements sufficient to secure EITI compliance will not necessarily have a system-wide impact.

115. The EPA currently represents the other side of this governance coin. The agency is described in in one recent study as having *a rather proactive stance in enforcing compliance with environmental protection laws and in drafting the regulations for the mineral sector*.¹⁵⁴ It is able to operate in this manner due to strong political support from above. Indeed, the Executive Chair of the EPA observed in an interview for the present study that without the strong personal support of the President, the agency would have been 'crushed' as soon as it began to confront vested interests in parallel natural resource markets. Again, vertical ties to the executive are emphasized over horizontal ties to partner agencies in extractives governance.

116. The overlaps in mandate and function between the NMA and both the MMR and MAB are in urgent need of clarification (see Section 3.1.2). Another critical issue is how well the NMA 'beds in' politically. The new Director-General is widely considered to have been the best-qualified candidate but does not have strong links to the current governing party. According to some informants, the position of Deputy Director-General, which is not provided for in the NMA Act of 2012, was specifically created to facilitate the appointment of a person hailing from the northern provincial heartland of the APC. This development does not necessarily prevent the NMA from delivering effective professional services and sound policy advice. Yet it serves to emphasize yet again that technical and regulatory agencies in Sierra Leone find it difficult to fulfil their design purpose without political support from above, however well-resourced they may be as a result of DP support and whatever the extent of their legal mandates. It would not be surprising to see the NMA being drawn into the administrative orbit of State House in years to come.

117. A further effect of the creation of the NMA is that it has left the MMR looking for new areas in which to exercise its unreformed executive power. Senior figures in the Ministry make no secret of their interest in taking charge over a) the design and monitoring of CDAs between mining companies and communities and b) the distribution of surface rent payments.¹⁵⁵ Indeed, they stated in an interview for the present study that they intended to 'usurp' these functions. While this word choice is unfortunate (it prompted another interviewee to comment that the Ministry 'smells money' in these functions), it serves to encapsulate a culture of governance in which executive power expects to trump rules, regulations and the mandated regulatory functions of technical agencies.

118. A broader problem here, which is present throughout the governmental system in Sierra Leone, is that bureaucratic capacity building and improved rule observance in one area of government tends to prompt the re-entrenchment of the old ways of governing in

¹⁵⁴ GIZ, 'Resource governance in Sierra Leone: a comprehensive approach'.

¹⁵⁵ Hence the above-noted intervention of the former Director of Mines to suspend surface rent payments— see Section 2.3.1.

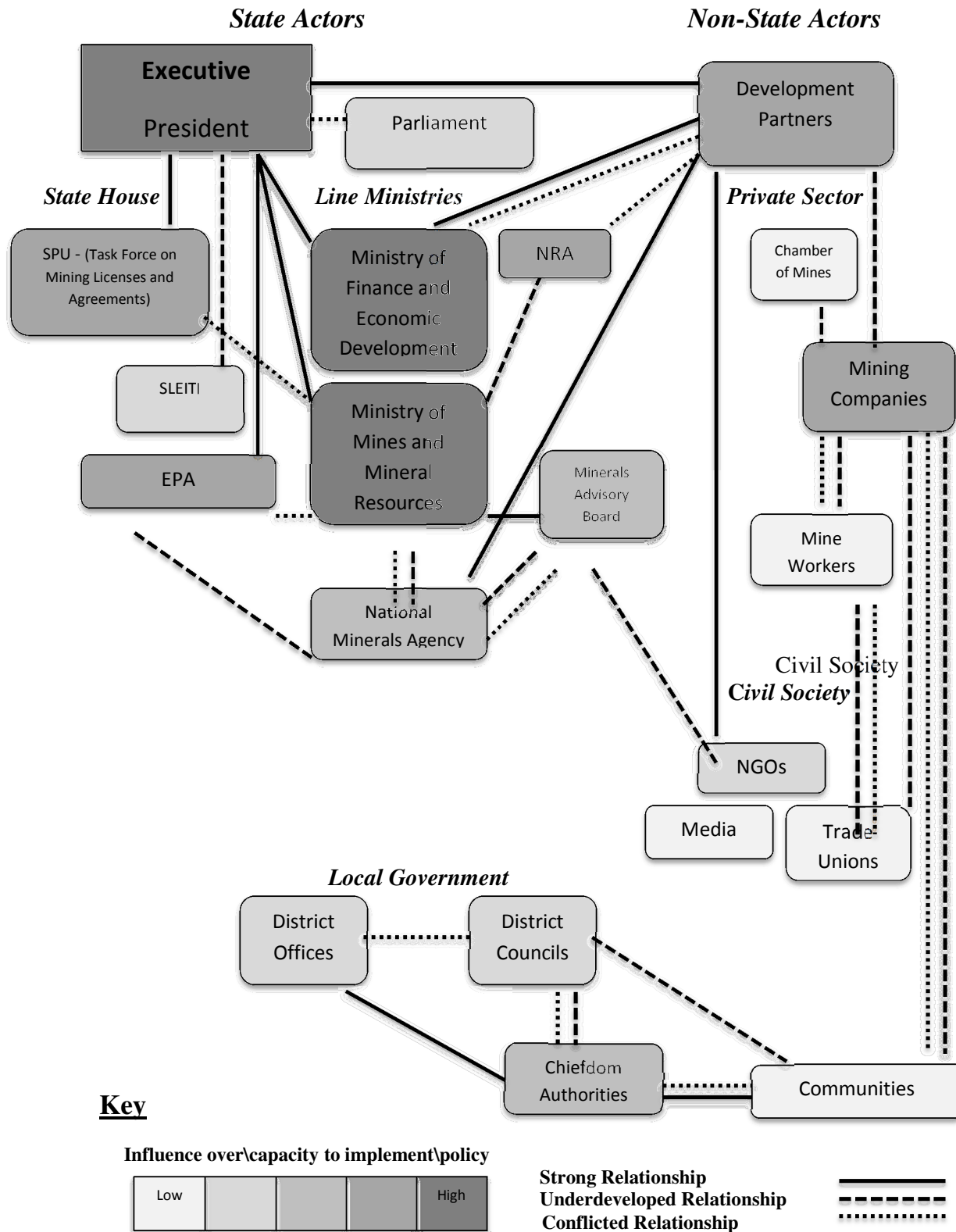
another.¹⁵⁶ Continued fragmentation over limited resources, as well as conflict over individual and institutional roles and responsibilities, will hamper coordinated and sustained efforts in improving extractives governance and will deprive the country of maximum economic, social and benefits from large-scale mining. This is a fundamental governance challenge for the GoSL, the primary stakeholder in this sector, to resolve.

119. Notwithstanding its constitutional oversight responsibility for holding the Executive in check, Parliament currently has little capacity to analyse and/or influence policy decisions in the minerals sector (See Figure 1). The passing of some recent mining agreements through Parliament prompted opposition walkouts and complaints of procedural breaches, but these had no lasting effect. The last-minute passage of Bills (while equally important bills remain delayed¹⁵⁷) raises questions about the robustness of Parliamentary scrutiny and its members' capacity to act independently of the Executive. A governing party MP interviewed for this study noted that bills are in often very advanced state when Parliament finally gets an opportunity to examine them and that MPs are under strong pressure to pass them without amendment. The MP went on to recall that when he and his colleagues visit MDA's in fulfilment of their oversight functions, someone gets on the phone immediately and an intervention (telephone call) soon comes in demanding that they explain themselves and the reason for their questioning. MPs do not rank particularly highly in the social hierarchy of government, and in many areas of the country, party nomination is the key to winning seats. MPs therefore have very little scope for independent action and often have no collective voice on the question of whether or not a particular Executive action is in the national interest.

¹⁵⁶ See Fanthorpe, et al, 'Decentralization in Sierra Leone', for a discussion of this phenomenon in relation to elected local government.

¹⁵⁷ The Freedom of Information Bill has been stuck in Parliament for over 3 years.

Figure 1: Stakeholders in Extractives Governance



4.2 Local Government

120. Chieftdom authorities continue to play an important role in the administration of provincial localities, maintaining law and order, collecting taxes and authorizing land rights. They are the primary authorizers of land leases for mining operations and take a substantial share of surface rents. The central elite continues to support the chieftaincy system, partly because socially embedded governance minimizes central state expenditure on provincial administration, but also because many members of this elite continue to identify with, and see themselves as patrons of, their chieftdoms of origin.¹⁵⁸ Elite individuals who regularly visit their provincial home areas to distribute food to the poor, build houses for family members and pursue business opportunities have a vested interest in the continuation of a hereditary-based rural social order in which formal bureaucracy and rule of law based regulatory systems have minimal purchase.

121. The fundamental weakness of this system of rural administration is its almost total lack of bureaucratic capacity and resulting over-concentration of decision-making power in the hands of paramount chiefs. While some chiefs do consult with their chieftdom people on a regular basis and maintain written records of their administrations, they do so on their own initiative with little support or oversight from central government. Paramount chiefs' reputation for keeping their subjects informed of the details of leasing agreements with outside agencies, and for getting the best deal for local landowners, is extremely poor and is the focus of much discontent and grievance. Their designated share of surface rent on land leases is, in many respects, a 'gatekeeper's' commission. It helps to ensure that deals get done and that chiefs' personal commissions from land leasing are amenable to moderation.

122. In relation to mining, local councils could play a much stronger oversight and planning role than they currently do. Part of the reason why they don't is that prerogatives in authorizing land leases and externally managed development activity in provincial localities still lie with paramount chiefs, which they tend to guard jealously. Local councils' effectiveness as planning authorities is also limited by the current holdup in the devolution of scheduled functions from the Ministry of Lands, Country Planning and the Environment (these functions include land registration, issuance of building permits and preparation of land use plans). The recently re-activated post of District Officer adds further complications to an already conflicted situation. District Offices represent the original (i.e. colonial) oversight apparatus for local administration and Senior District Officers (SDOs) have extensive yet poorly defined powers to intervene in chieftaincy matters, land administration issues included. SDOs answer to central government and do not have a formal relationship with local councils. Their re-activation was the outcome of a successful campaign, waged by some members of the central elite, to rein back the political influence of local councils – especially councils controlled by opposition parties.¹⁵⁹

123. In spite of these constraints, local councils have a potentially vital role to play in the local investment of development revenues from mining and the promotion of local economic development. The extent to which this potential will be realized will depend, crucially, on political support from the Executive, the reduction of centrally imposed development objectives, and the ability of the local communities to make their voices heard in the planning and development processes of local government.

¹⁵⁸ See Fanthorpe and Sesay, 'Reform is not against tradition'.

¹⁵⁹ See Fanthorpe, et al, 'Decentralization in Sierra Leone'.

4.3 Development Partners

124. Over the years, Development partners (DPs) have strongly supported the governance mechanisms in the extractives sector, including the initiatives that have resulted in the creation of the EPA and NMA and the drafting and enactment of the MMA of 2009. DPs remain engaged in supporting the processes involving the drafting of rules, procedures and regulations for effective collection and management of mining revenues. A significant issue highlighted by DP interviewees was the on-going effort to influence and persuade the GoSL to adopt strategies and policies they themselves (i.e. the DPs) favor. Such persuasion is not always successful or appreciated. DPs are often reproached by Sierra Leonean colleagues for preferring their own tried and tested approaches, formulated by and presented as *best practice from other countries*, as opposed to what might be the best strategy for Sierra Leone. Indeed, a view aired repeatedly in some sections of government regarding mining revenues is that *it's our country and it's our money!* Such sentiments may sometimes lead to the rejection of advice from DPs on the grounds that it not in the 'national interest'. DPs have historically been less 'joined up' in their approaches (and recommendations) concerning extractive governance – this has also been recognized by Government. This is especially true when bilateral DPs share the country of origin of the extractive companies, which creates potential for conflicts of interest (real or imagined).

125. The other side of the coin is the tendency of DPs to compromise over the details of legislative and institutional reforms in order to make concrete progress with their preferred strategies and policies. Their hope here is that if they can't get everything they want, they can at least create platforms and entry points for future work supporting their strategic aims. However, such pragmatism runs the risk of leaving behind the very kinds of problem outlined in Section 3: legislative contradictions, management and functional overlaps between governmental institutions, a difference in 'law on books' and 'law in action' and 'legacy' agencies with no real capacity to carry out their mandates (e.g. the MAB). It might not matter in the short term if an old law is not repealed when new legislation is enacted or whether a 'legacy' agency with minimal operational capacity has overlapping functions with a new, well-resourced agency. However, in Sierra Leone's competitive and personalized decision-making environment, no pretext for an unheralded intervention, policy shift or blocking maneuver is likely to remain unexplored indefinitely.¹⁶⁰ While DPs may sometimes find policy compromises unavoidable, it is in their interest to ensure that every legal and administrative loophole that can be closed is in fact closed.

126. There is also a conundrum created by frequent international (and national) staff turnover and portfolio re-allocation within DP organizations. These factors, coupled with the tendency of in-country offices to follow the strategic lead of overseas headquarters, means that as a major stakeholder group, DPs run the risk of losing their institutional memory of agreements and decisions and opening themselves to possible fragmented and duplicative approaches.¹⁶¹ A further problem is that competition between DPs for access to GoSL decision-makers undermines their collective voice and leverage in the provision of policy advice and technical support, especially when the engagement is focused at the central level. Despite significant work on support to the decentralization process, DP's tend to see traditional authorities as an impediment to modern governance.

¹⁶⁰ A case in point is the re-activation of District Officers in 2010. Government spokespersons argued that Cabinet's decision to bring back these officials did not require a supporting White Paper or parliamentary approval because laws describing their duties had never been removed from the statute. See Fanthorpe, et al. 'Decentralization'.

¹⁶¹ A senior administrator in a donor organization turned to one of the present authors during a project evaluation meeting in 2002 and asked 'what were we doing in Sierra Leone before the civil war?'

4.4 Mining Companies

127. Mining companies have been very successful in winning concessionary agreements from the GoSL. Furthermore, there does not seem to be the appetite in certain GoSL circles to challenge non-compliance issues, even when there are breaches of Sierra Leone's own laws. In this regard, the mining companies have exerted a strong influence over the governance of their sector and while this is understandable to a certain extent (their aim is to maximize profits and protect their investments) there is a need for them to understand the downstream implications of their actions. Now that several companies have begun mining, they have a clear incentive to build and foster relationships with a wider range of stakeholders (notably, communities, trade unions and development partners) to ensure security and protection for their operations, and to exert extra influence over government to observe consistency in respect of royalties and taxes.

128. Historically, mining companies in Sierra Leone have *upped and left* (see Section 2.2.1) when the going gets tough, i.e. when world demand for local minerals falls to a level where continued operations are no longer economically viable. Sierra Leone is now entering a period when the resolve of shareholders in recent large-scale mining investments will be sorely tested. This is apparent in some of the leading companies' struggles to find funding for 'phase 2' operations (i.e. beginning or expanding production) and mounting arrears in payments to sub-contractors and suppliers.¹⁶² The onus is on the national government to ensure that the *here today, gone tomorrow* scenario doesn't translate into dislocated and poverty stricken communities, unmet commitments on royalty and tax obligations, environmental destruction and, even worse, significant social discontent and potential for further conflict.

4.5 Trade Unions

129. Organisation, responsibilities and dynamics of Sierra Leone's mineworkers' trade unions were not researched for this study. Clearly, with more extractive mining companies going into large-scale production than at any time in Sierra Leone's history there is a significant opportunity for trade unions to gain a stronger, representative and more independent voice in the governance of their sector. The issue of addressing workforce rights, so often overlooked in the promotion of employment and livelihood opportunities, needs to be tackled. Appropriately representative trade unions are the vehicle for this to happen.

4.6 Civil Society and NGOs

130. Civil Society Organizations (CSOs) have campaigned effectively in pointing out the manner in which concessionary mining agreements have departed from Sierra Leonean law and the plight of some mining-affected communities. They have made good use of both Sierra Leonean and international experts in producing high quality analytical reports, and have engaged in numerous debates over extractives sector governance with politicians at public meetings and on national radio. However, a great deal of their advocacy work tends to be reactive rather than prescriptive (e.g. advocating revisions of existing mining license

¹⁶² Interviews with suppliers draw attention to a backlog in unpaid invoices and bills – going back as far as 6-9 months.

agreements to bring them in line with the law). Some organizations have undertaken more prescriptive work (e.g. NACE and NMJD's campaign for the GoSL to adopt 'model' MLAs and CDAs), but have yet to publish comprehensive analyses of the governance and policy options in the extractives sector for more open discussion and potential uptake by GoSL policy makers.

131. Most of the CSOs and NGOs interested in the minerals sector in Sierra Leone are managed by urban elites. While most of these organizations have field offices, or at least networks of community contacts ('point persons'), they have struggled both to sustain engagements with mining-affected populations and develop local case studies with which to address policy at the national level. On some occasions, urban-based advocacy groups have encountered hostility from local populations desperate for development investment and fearful that adverse publicity will drive foreign companies away.¹⁶³

132. Many Sierra Leonean CSO/NGOs are disinclined anyway to pursue issues, whether local or national, to a point where they gain public exposure as critics of powerful organizations, groups and individuals.¹⁶⁴ Post-war peacebuilding and development investment in Sierra Leone transformed the domestic NGO/CSO sector into a major employer of secondary school leavers and university graduates. Many of these employees have no background in economic and social rights activism but are simply looking to develop careers in public administration and international development. Consequently, they are often keen to avoid alienating the powerful and thereby risk jeopardizing future career opportunities.¹⁶⁵ Another aspect of this problem is that CSO/NGOs working in Sierra Leone are heavily dependent on contacts in government to supply them with information (e.g. copies of mining license agreements). This dependency again serves as a disincentive to critical analysis that might alienate these sources.

133. Over the last decade, donor-funded NGO projects in rural Sierra Leone have focused on livelihood security, infrastructure, social capital creation, institutional capacity building, governance reform and human rights awareness-raising. There have also been many efforts, led by the GoSL and international agencies, to build upon these local initiatives to create governance and accountability frameworks at both the district level (e.g. local council-led CSO and NGO 'learning alliances' and district budget oversight committees) and the national level (e.g. the National Youth Council). Recent mining and commercial agricultural developments are already creating a need for new frameworks for community development investment, local job creation and the management and protection of local land rights. Whether these frameworks should build upon existing structures (e.g. landowners' associations and village development committees) or new structures (e.g. the CLCs proposed in the draft ESR and the Community Land Committees proposed in the draft National Lands Policy) and what role (if any) chieftdom authorities, local councils, and national-level CSOs/NGOs should play in them, are questions policy makers and development planners have yet to work through.

134. Sierra Leone currently lacks a national policy forum that is independent of government. National intellectuals have been talking for years about creating a development policy 'think tank', but such plans have yet to attract funding and individuals in

¹⁶³ See, for example, 'Lunsar people say leave London Mining alone', *Awoko*, Freetown, 27th May 2010.

¹⁶⁴ The strong support given by some national NGOs to local landowners' protests over the alleged unfairness of certain commercial agricultural land concessions in the provinces is an exception here, but further analysis is beyond the scope of this paper

¹⁶⁵ This is not a problem confined to Sierra Leone. See, for example, Harri Englund, *Prisoners of freedom: human rights and the African poor*, Berkeley, 2006.

salaried work with families to support are understandably reluctant to devote their energies to such a project full time.¹⁶⁶

4.7 Media

135. The print press in Sierra Leone is largely confined to Freetown and the major provincial towns, elite orientated, and highly politicized. Several print outlets also maintain news websites, whose primary orientation towards Sierra Leone international diaspora reflects the limitations of domestic Internet access (both in terms of physical availability and quality of coverage). Articles on mining governance appearing in the press vary considerably in quality, and critical analyses are often dismissed by government spokespersons as the work of opposition activists, pursuing political as opposed to a developmental agendas. Some issues, however legitimate (especially those pertaining to the most senior figures in government), seem to be off-limits even to what may be described as impartial reporting, let alone the opposition press. Government tends to badge all criticism as ‘unpatriotic’ and take the position that *you’re either for us or against us*. Journalists interviewed for this study acknowledged that future job prospects (becoming a press attaché in a foreign embassy is a career ambition for many Freetown journalists) are a consideration when publishing articles critical of the government’s (collective and individual) activities, policies or statements.

4.8 Communities

136. Being the stakeholder group most affected by extractive activities, local communities’ capacity to influence policy and governance of the minerals sector is currently minimal. Furthermore, relations between communities and mining companies are fundamentally problematic due to: a) the disruption caused by large-scale mining operations to land extensive peasant economies; b) low demand for unskilled labour in large-scale industrial mining operations; c) communities’ recurrent fear that their political representatives are more interested in taking commissions from the companies than in championing their interests; d) the undeniable fact that historically, communities have seen few direct benefits from mining. Intra-community tensions (e.g. grievances against chiefs and unease at the influx of non-community migrants in search of jobs) are also factors here.

137. There is a great deal of self-organized, survival-orientated associational life at the village level (e.g. reciprocal labour associations, rotational credit clubs, farmer production and marketing cooperatives and village ‘development committees’). However, many poor farmers lack both the means and the time to take a lead on issues that affect, for example, ten villages let alone an entire chiefdom. Community representation therefore tends to be claimed by local elites (e.g. chiefs, traders and locally domiciled government workers) and its effectiveness is often undermined by conflict over the right of a particular individual to represent a particular community. For example, the Marampa Landowners Association (an organisation created to represent the interests of landowners in the LM and Cape Lambert concession areas) nominated a ‘chairman-elect’ in 2012, but this man was ousted in the election that was supposed to confirm his appointment in January 2013. The ousted chairman-elect complained vociferously in the national press that the election had been

¹⁶⁶ A development policy ‘think tank’, possibly located in the University of Sierra Leone, was an early projected outcome of the DFID-supported ENCISS (Enhancing the Interaction and Interface between Civil Society and the State to Improve Poor People’s Lives) programme. However, this idea had been dropped by the end of the second phase of the project (2010).

hastily convened without his knowledge by the Paramount Chief and his supporters in an effort to get their own candidate into the post. This candidate, allegedly, was not a local landowner but was nevertheless elected. The ousted chairman-elect went on to allege that he was unpopular with the Paramount Chief because he and his former vice-chairman were 'not stooges' and accused the PC of numerous acts of criminality and corruption. This attack prompted counter-claims, again in the press, that the ousted chairman-elect was merely a self-aggrandizer, sore loser and troublemaker.¹⁶⁷ Meanwhile, the poor farmers of Marampa chieftdom continue look for a reliable champion of their interests in their dealings with mining companies.

138. The lack of central and local government's ability to provide a consistent quality of basic services, leads to additional (and unwelcome) pressure on mining companies to provide benefits and services in their areas of operation, whether employment opportunities, healthcare, road maintenance or water supply and sanitation improvements. The strong sense of community ownership over land and its resources leads to an equally strong sense of entitlement to benefits from outside agencies using 'community' land for their own profit. This sense of entitlement is a product of decades of poverty and isolation, but makes it difficult for companies to build constructive relationships with the rural population.

¹⁶⁷ 'Controversy over Marampa landowners chairmanship' and 'Marampa landowners complain Paramount Chief', *The Salone Champion*, Freetown, 18 March 2013; 'Conflict continues in Marampa', *Premier News*, Freetown, 11 March 2013; Marampa elect Landowners chairman', *Standard Times*, Freetown, 11 March 2013.

CHAPTER 5. A NEW PARADIGM FOR EXTRACTIVES GOVERNANCE ENGAGEMENT

This chapter draws upon the preceding analysis to identify key areas and building blocks around which future policy and operational engagement can be developed for extractives governance in Sierra.

5.1 Introduction

139. With a rapidly changing economic environment (stability, private sector investment and the development of the extractives sector), Sierra Leone should be in a position to enjoy unparalleled prosperity from its mineral resources. Revenues from new mining operations offer a ‘once in a lifetime’ opportunity to set the country on an irreversible path towards sustained development, poverty reduction and higher living standards across the board. Current expectations are centered on iron ore operations (African Minerals in Tonkolili and London Mining in Marampa). The potential increases in revenues generated by exports from these operations underlie the upswing in GDP for the 2012/2013 period and forecasted revenues for the period 2013 to 2017.¹⁶⁸

140. It is also commonly recognized that while the mining of iron ore (and including other minerals such as gold, zircon, diamonds, bauxite, rutile etc.) will significantly influence the nature of the game in Sierra Leone, commercially viable deposits of oil and gas reserves will change this game forever. In this area, Sierra Leone will compete with other oil and petroleum producing countries, most notably within its own sub-region (Ghana, Liberia, Guinea). Therefore, the challenge will be to establish and enforce a legal framework that will maximize the benefits of oil for the country and at the same time create sufficient incentives and security that will attract first rate IOCs. The current iron ore extractives bonanza offers important lessons for reaping the benefits of oil – if commercially viable resources are proven. Sierra Leone will undoubtedly benefit from the lessons learned in oil and gas governance from some of its regional neighbours such as Ghana. There is also the scope to look more regionally at ‘iron ore dynamics’ given the deposits in both Guinea and Liberia.

141. A window of opportunity is therefore opening for key stakeholders (see Chapter 4) to agree on the key parameters of extractives governance especially Development Partners. DP engagement, both in terms of policy and operational support, needs to be formulated in a prioritized and structured manner, so as to have a catalytic impact upon extractives governance. DP engagement needs to be respectful, country-led, synergized, appropriate, internally consistent and harmonized, coordinated and to tackle strategically linked issues (e.g. land reform). Experience to date has shown that this is not always the case (DPs should recognize that they have tended to ring-fence and address extractive governance issues in isolation over the years). If this more effective way of working in the extractives sector takes hold, then this is certainly the first step towards a new style of engagement.

142. Governance and institutional strengthening have been the primary challenges for Sierra Leone in escaping the ‘resource curse’: the historical trend of ineffective governance, conflict, elite capture of resources and lack of adequate consideration of the economic and social rights of host communities. There is a real undertaking for the GoSL today in being

¹⁶⁸ Real GDP growth in 2012 increased to 15% in 2012 after expanding by 6% in 2011, due to the commencement of iron ore production while non-iron ore GDP growth was 6.3%. Projected GDP growth estimates for 2013 are 25% (non iron ore growth is 8.3%), for 2014 it is 14.15 (7.9%) and for 2015 12.1% (7.0%). See World Bank, ‘Draft PAD Sixth Governance reform and Growth Credit, May 2013.

able to ensure that it has the skills, vision and willingness to manage this new revenue boom effectively and accountably, thereby negating any possible instances of social exclusion (whether perceived or real). This last point is particularly important given that exclusion from the developmental benefits of mining has proven to be an inflammatory issue in Sierra Leone in the past. Any future social exclusion around the supervision and administration of resource revenues runs the risk of triggering conflict and instability, and thus derailing development, investment, growth and poverty reduction.

143. In opening discussions around social exclusion, there will need to be an acceptance that effective local governance and improved service delivery at the decentralized level is reliant upon adequate resource flows and full devolution of functions. Furthermore, in these modern times, the continued involvement of traditional authorities (chiefs) in negotiation, compensation, employment, and remuneration interfaces with mining companies, will need to be reviewed and, ideally, altered. Local elected government has a key role to play in ensuring that that communities in which mineral resources are geographically located do not overly benefit (infrastructure, employment, financial revenues for development) or are overly penalized (environmental destruction, health issues, or relocation and displacement) than other communities around the country.

5.2 Lessons from the Past Guide the Future

144. There is a documented evidence base that illustrates that countries with weak governance and institutional frameworks that become reliant or partially reliant on revenues generated by natural (usually extractive resources) are prone to conflict and instability.¹⁶⁹ Sierra Leone’s diamond-fueled historical conflict is a case in point. Today’s possible drivers of conflict and instability center around six potential themes, all of which have been raised in the previous chapters as either historical factors or current possibilities: political, economic, social, land tenure, community and environmental. These drivers of potential conflict and instability are summarized in the table below and represent a background lens through which DP interventions in support of extractives governance can be viewed.

TABLE 1 Potential Drivers of Conflict from Extractives in Sierra Leone.¹⁷⁰

DRIVER	Conflict and Resultant Risk
Political	Lack of transparency in the collection, management and utilization of enhanced revenues => leads to tensions over lack of improvements in service delivery, standards of living and poverty. Undermining and non-compliance of legislative, policy and administrative guidelines and structures => increasing concerns over corruption and disillusionment => greater possibility of electoral violence in 2017 as the “stakes are higher.”
Economic	Disparities in standards of living between those in mining districts and rest of country. Inequalities between national and sub-national representatives due to “gate keeper” behavior. Disruption of traditional agricultural activities and possibility of Dutch disease. Inappropriate application and abuse of local content policy. => potential resurrection of the grievance based unrest, marginalization and frustration that led to the civil war.

¹⁶⁹ For example: A Ganesan and A Vines, *Engine of War: Resources, Greed and the Predatory State*, 2004, Human Rights Watch World Report, Human Rights and Armed Conflict, Washington D.C: HRW pp301-323. (see www.hrg.org),

¹⁷⁰ Adopted and modified for Sierra Leone from International Alert, *Harnessing Oil for Peace and Development in Uganda*, Investing in Peace Issue No. 2, September 2009.

<p>Social</p>	<p>Domination of “extractive finds” in particular geographical locations of country => leads to continued issues of ethnic exclusion and potential instability.</p> <p>Inequality (provision of services, employment opportunities, standards of living) between communities where extractive activities are taking place/and those where they are not => frustration and resentment.</p>
<p>Land</p>	<p>Land tenure issues and restricted access to land ownership => divorces population and communities from traditional means of livelihoods.</p> <p>Rapid population migration into the mining areas from outside of the communities => increased pressure for land, services, space and ultimately resentment of “outsiders”.</p> <p>-Apprehension of land grabs by elites, companies and traditional authorities => isolation, marginalization, and continued poverty of local communities when expectations and aspirations are rising.</p>
<p>Community</p>	<p>Dearth of information on company activities => suspicion and rumor, resulting in tensions and flashpoints.</p> <p>Companies prefer a relationship with central authorities => disempowering and neglecting locally elected government officials.</p> <p>Companies opt for “select” gatekeepers – either at central or local levels => fuels potential for corruption and nepotism.</p> <p>Companies disburse payments either at central or local levels outside of legally binding contracts => breaking contractual obligations and failing to follow the rule of law.</p>
<p>Environmental</p>	<p>-Issues of environmental destruction and degradation without clear avenues of re-dress and grievance => isolated and frustrated communities.</p> <p>-Lack of capacity and both central and local levels for enforcement of EPA regulations and rules => disregard for the rule of law.</p>

145. A huge responsibility is placed here upon central government. It must be seen (and proven) to be just, visionary, accountable and balanced when it comes to managing the

extractives boom. Central government must also be able to clearly demonstrate that it has the capacity and capability to address the negative effects of the resource blessing, which may manifest themselves in the diversion of human capital and entrepreneurial and investment resources away from non-mining sectors of the economy. Managing revenues in the face of world market volatility and the operational phasing of mining enterprises (which add uncertainty to revenue projections over price volumes extracted and related pricing) will pose its own challenges, as will the necessity of balancing the hope and expectations of the population against reality.

146. Based on the analysis undertaken in this study and on a understanding of the potential challenges and barriers to inclusive and transparent management of the country's extractive sector, this Chapter identifies a) key building blocks from which a common platform for successful policy and operational engagement in the extractives sector can be developed, and b) key areas and opportunities for Sierra Leone's development partners. The aim is to arrive at a new paradigm¹⁷¹ for extractives governance in Sierra Leone.

5.3 Key Areas for Engagement for Managing The Extractives Boom

Underlying Principles

147. Respecting a country-led approach and conforming to all the principles of partnership, the new paradigm for engagement must take into account the guiding principles of the GoSL's next Poverty Reduction Strategy (PRS), the *Agenda for Prosperity* (A4P). While still in draft form, this document has identified the following guiding principles for natural resource management:

- That all strategies, programs and interventions addressing natural resources, must do so with the singular aim and vision of promoting sectoral integration, emphasize transformation, strive for sustainability, avoid errors of the past reduce dependency and promote sustained growth;
- That there should be a particular effort to promote local investment and enterprise (including in the award of concessions) and that incentives and efforts to encourage local participation and content in the value chain should be actively considered, but not at the expense of long term efficiency and competitiveness;
- That there should be increased transparency and accountability throughout the sector and should be the foundation upon which the future management of the extractives sector is based. This includes the need to ensure that concession processes are open and transparent and that negotiated settlements are limited; and
- That environmental considerations, decentralization policies and strong regulations of the destructive nature of extractives operations upon people and land need to be recognized and actively addressed.

¹⁷¹ The new paradigm recognizes the on-going policy and the operational interventions in and that impact upon, the natural resource sector, but provides suggestions in the light of the increased visibility of the issue and recognition of a small development partner base, many of whom are also actively working directly or indirectly with agencies and institutions involved in the extractives sector.

148. The challenge in developing a common and effective platform for extractives governance will be to identify an appropriate mix of policy, advisory and technical assistance activities in support of the GoSL's efforts to harness revenues from the extractives into economic growth and sustained poverty reduction. With the current world market prices subject to fluctuations and distortions, attention needs to be given to accurate and concise revenue forecasting and stringent governance and fiscal management rules. The fundamental aim is to harness the finite benefits of the country's natural resource base to an infinite expansion and enhanced economy and quality of life for the citizenry. Insofar as predictability in macro-economic forecasting is possible, sustainability in growth will also be determined by the Government's willingness to expand and improve its public financial management systems, the control of corruption and the enforcement of the rule of law. This last point refers to the drawing up of agreements that are beneficial to both mining companies and the host country and rapid and transparent delivery of justice when problems arise in the extractives sector. Government also need to ensure that attention remains focused on the development other productive sectors of the economy (e.g. agriculture), to ensure that Dutch Disease, and related security risks, is avoided.¹⁷²

149. The WB's first strategic effort to address the effects of the extractives boom in Sierra Leone, and to begin a gradual alignment of its country portfolio with the opportunities and challenges it presents, was undertaken in the middle of 2012 and reflected in the Country Assistance Strategy Progress Report.¹⁷³ In adopting the CASPR process the WB, in addition to the extensive discussions with the Government, held wide-ranging consultations with DPs, on natural resource governance. As a result of these discussions, the CASPR identified the need for the addition of a new (third) CAS pillar on Managing the Extractives Boom, but the process of CASPR discussions can also be seen as the first attempts to draw together Development Partner thinking in terms of extractive sector engagement .

150. Discussions with Government and DPs led to the identification of two key strategic areas particularly pertinent to the strategic economic management of extractives: a) strengthening institutions and governance, and b) private and financial sector development.¹⁷⁴ The WB, for example, has also looked to place greater emphasis on the promotion of social accountability, i.e. the need to address citizens' concerns over extractives governance, to provide support to the articulation of these concerns and aspirations, and to provide a mechanism for channeling them into future policy, development activities and impact assessments. The table below illustrates these engagement areas and the sub-areas where specific interventions would be needed.

¹⁷² In economics, the Dutch disease is the apparent relationship between the increase in exploitation of natural resources and a decline in the manufacturing sector. The mechanism is that an increase in revenues from natural resources (or inflows of foreign aid) will make a given nation's currency stronger compared to that of other nations (manifest in an exchange rate), resulting in the nation's other exports becoming more expensive for other countries to buy, making the manufacturing sector less competitive. While it most often refers to natural resource discovery, it can also refer to 'any development that results in a large inflow of foreign currency, including a sharp surge in natural resource prices, foreign assistance, and foreign direct investment'.

¹⁷³ World Bank, 'Country Assistance Strategy Progress Report for the Republic of Sierra Leone for the period FY10-13', July 2012. Annex 2: Post Conflict Meets Resource Rich (page 32).

¹⁷⁴ World Bank, 'Country Assistance Strategy Progress Report'.

Table 2 – Key Areas for Engagement for Managing The Extractives Boom

STRATEGIC AREA/sub-priority	Public Financial Management	Governance	Framework for macro-economic management	Regulatory/monitoring frameworks
areas.				
STRENGTHENING INSTITUTIONS AND GOVERNANCE	Improved PFM for consistent and coherent budget analysis	Licensing and contract negotiations process	Establishment of a sovereign wealth fund to absorb mineral revenues	Establishing and Operationalizing the National Minerals Agency
	Deepened financial discipline	Revenue management and associated accountability mechanisms	Strong Pipeline of public investment plans and social interventions	Upgrading Petroleum Directorate capacity
	Skills and systems ensuring allocation and distribution of government spending is optimal across all sectors	Control of corruption		Full implementation (including monitoring of Mines and Minerals Act of 2009)
	Effective collection of all revenues – requires openness and dialogue with citizens			Strengthen the award of licenses and contract regulation/monitoring of operations and revenue collection.
	Strong public procurement framework. Public sector reform leading to improved service delivery and more effective revenue collection			

	Growth Poles	Infrastructure	Non-Mining Sectors	Financial Sector
PRIVATE AND FINANCIAL SECTOR DEVELOPMENT	Leverage infrastructure and mining industry to promote 'growth poles' Spatial Development,	Creation of Public-Private Partnerships to address infrastructure deficits	Clear policy and focus on non-mining sectors to ensure diversification of economy	Strengthening the regulatory framework and building capacity for banking supervision. Banking sector to be able to meet demand for funding for new entrepreneurs and businesses Address demand for financial services and products.
	PROMOTION OF A STRONG AND ENABLING ENVIRONMENT		PROMOTING CITIZEN ACCOUNTABILITY	
SOCIAL ACCOUNTABILITY	-Identify and address context specific constraints – sector explicit		-Combination of supply and demand side accountability interventions required to ensure that service delivery outcomes (e.g. health) improve as the economic transformation of the country takes place.	

Adapted from Annex 2 – Post Conflict Meets Resource Rich, CASPR, July 2012.

151. When the results of the value chain analysis undertaken during this study are superimposed upon strategic areas, a number of specific areas for both policy support and operational assistance emerge. These can be seen in the following table:

Table 3 – Key Areas of Intervention Along the Value Chain.

	AWARD OF CONTRACTS AND LICENSES	REGULATION AND MONITORING OF OPERATIONS	COLLECTION OF TAXES AND ROYALTIES	REVENUE DISTRIBUTION AND MANAGEMENT	SOUND SUSTAINABLE PROJECTS
POSSIBLE ENTRY POINTS	<p>Establish clear policies with regard to mining agreements and establish guidelines as to what circumstances allow for ‘special agreements’ to be signed that override current regulations</p> <p>Review formula that can best bring companies back into full compliance with regulations once a concessionary ‘start up’ phase has been completed.</p> <p>Review and approve revised/final Core Minerals Policy</p> <p>Review functions of Minerals Advisory Board in light of NMA establishment.</p>	<p>Management and Functional Review of Ministry of Mines and Mineral Resources</p> <p>Regulating and Monitoring of Companies’ compliance with CSR – through NMA or EPA</p> <p>Role of Local Councils in monitoring and evaluating extractive operations</p>	<p>Demand Side Fiscal Accountability</p> <p>Extractive Industries Transparency Initiative</p>	<p>Support a wider debate around Investment of mining revenues and Dutch Disease</p> <p>Standardization of Community Development Agreements</p> <p>Review Surface Rent distribution provisions of MMA 2009</p>	<p>Economic Growth Poles</p> <p>Economic Development and land Reclamation of Mined out areas</p> <p>Addressing Citizens Aspirations – both at central and at local levels</p>

152. In summary, four main areas of intervention emerge from the above: a) Governance Institutional Reform and Capacity Building, b) Public Financial Management, c) Protecting Economic and Social Rights (especially those of mining affected communities) and d) Local Economic Development, Local Content, Decentralization and Growth Poles.

5.4 Governance, Institutional Reform and Capacity Building.

153. Undoubtedly, there remains a strong case to continue to support institutional reform issues, address governance challenges and capacity building as the basic platform of

any further engagement. Future continued economic growth and the development of the country (in both physical and financial terms) dictate the need for this type of support to be provided through a variety of activities: policy engagement and dialogue, continuing (and new) operational project-based support with technical assistance, and the development of on-going research and knowledge production in order that the experiences of other countries facing (and successfully addressing) the same resource rich/fragile state dilemma are tapped, and applied where appropriate, to Sierra Leone.

154. As result of weak and inadequate governance, successive Sierra Leonean governments have not been able to secure the most advantageous gains from the extractive sector in terms of revenue, employment or technological transfers. As a result, the country has lost out on optimum benefits, such as: a) higher revenues collected by the Government in taxes, royalties and fees; b) greater benefits to mining communities (particularly to land owners and occupiers in the form of land rents, crop compensations, orderly relocation and acceptable social and economic amenities); c) more sustainable management of the environment; d) greater transparency and accountability by both mining companies and political authorities, at the national and local levels. Furthermore, historically poor contract negotiations by numerous government officials have led in, many instances, to signed agreements that afford open-ended economic opportunities to mining companies (with the justification that special agreements and concessions were required to attract international private sector investment to the sector) and undermine the benefits of the sector to the State.

155. Severe capacity shortcomings in the public sector, both in terms of quality and quantity of human resources, also account largely for the miserable performance of the extractives sector so far. There are clearly significant capacity building issues and requirements throughout a number of government institutions and agencies that are involved in the management, oversight and monitoring of natural resource extractive activities and operations.¹⁷⁵

156. There are, as is to be expected, turf wars or duplication of perceived roles and responsibilities, around key interactions with the extractive sector. However, external support (and especially policy and technical advice) also needs to be unified in terms of its approach and content to the institutions and agencies that have the clear legal mandate and responsibility for these activities.¹⁷⁶

¹⁷⁵ The Sierra Leonean civil service suffers from a significant dearth of professional and technical staff in the middle grades (Grades 6-10) and current estimates are that only 11% of the total civil service workforce can be found in what is commonly known as the 'missing middle'. This has clear implications for the levels of technical capacity and effective implementation of Government policies and program, and when coupled with reduced access to appropriate training and skills and sub-optimal working conditions, means that the officials in critical lime agencies are unable to meet the challenges posed – such as negotiations, monitoring, technical reporting, enforcement and oversight, etc. The staffing shortage even extends to the top management and leadership levels of the civil service (Grades 10-14), where the current numbers are estimated at between 1 and 2% of the entire service. With many of these individuals having been in the service for long periods of time (promotion and career progression is more aligned to longevity in service as opposed to performance), there are obvious challenges to ensure that strong, well intentioned and impartial leadership is available to represents the full interests of the Government and People of Sierra Leone, in a sector that has historical transparency issues and difficulties.

¹⁷⁶ For example, there is a proposal in the earlier drafts of the proposed Agenda for Prosperity, for the Environmental Protection Agency of Sierra Leone, to receive specific training in negotiation issues contained within extractive agreements. Whether or not, this request is finally included is unknown, but at this stage it would be important to ensure that any support to the EPA-SL focusses on technical competency issues and addressing capacity and institutional challenges, as opposed to shopping for "specific training in negotiations with extractive companies", which will fall within the purview of other line ministries and bodies such as the Ministry of Justice, Ministry of Mines and Mineral Resources – and perhaps the Strategy and Policy Unit in State House. In this instance, it would be advisable to focus support within the respective agencies' core mandate (environmental and social regulations – and their implementation) and to leave the legal (contract negotiation) aspects to others that might be better qualified to lead on this issue.

157. Based on the above scenario and following the logic that continued efforts in the areas of Governance and Institutional Reform and Capacity Building are required, the key entry points for external DP support are noted below. Recognizing that these may not be ‘new ideas’, the fresh approach is one of DP co-ordination and unified messaging – using a variety of implementation models to achieve the intended results.

5.4.1 *Ministry of Mines and Mineral Resources.*

158. This is the key player in the entire extractives sector and is responsible for designing and enforcing legislation, policy formulation and application, and approval of mining licenses. With the recent establishment and operationalization of the NMA, the MMR has transferred its previous responsibility for implementation of minerals legislation and policy to this new body. As a result, there is an urgent need to undertake a detailed, and Government-led¹⁷⁷ management and functional review (MFR¹⁷⁸) of the Ministry, to review and agree on its mission, mandate, responsibilities and staffing requirements going forward, in the light of the divested responsibilities to the NMA.

159. Further work needs to be done on the guidelines, regulations and processes that govern the award of licenses to mining companies. In the first instance, full and open clarification needs to be provided around the issue of ‘special agreements’ – i.e. where licenses and mining agreements are agreed in conflict with regulations and processes outlined on the Mines and Minerals Act of 2009. If special agreements are to remain an option for Government, then there needs to be a set of regulations and circumstances when such a special agreement can be used – and the rationale and process for this needs to be clearly defined and transparent.

160. Building on the issue of special agreements, a policy discussion (and subsequently a decision) needs to be started around possible formula that would bring companies that have signed special agreements back into compliance with the laws and regulations, once a concessionary start-up phase or period has been completed. A clear timetable for the process of ‘coming back into compliance’ would need to be set out and monitored.

161. The role (and composition) of the MAB needs to be reviewed in the light of strengthening the process for awarding licenses and contracts and potential conflicts with the responsibilities of the NMA. It is recognized that the upstream areas of the value chain, notably the processes around the awards of contracts and licenses, is where the principal governance challenges lie. Support to providing an open and transparent (and published) strategic framework and principles for receiving, reviewing and recommending licenses - drawing on best international practice- is a feasible and necessary area of work. Certainly, with the creation of the NMA there is a need for this agency to be represented at the Director-General level on the MAB (currently, legally speaking, there is no scope for DG representation).

¹⁷⁷ Management and Functional Reviews are led by the Public Sector Reform Unit (PSRU).

¹⁷⁸ Management and Functional Reviews are a process by which the re-engineering of the management system of a Ministry, Department or Agency takes place, with a view to improving/re-aligning and changing the vision, mandate, mission statement, functions, organizational structure, legal framework, staffing (including pay, incentives, positions) systems and tools, assets, IT systems and interface with civil society and the public. Led by the PSRU, the process culminates in a report, which is then taken by the Minister concerned for Cabinet approval and following that, implementation. Key to the success of the MFR is the creation of an internal change management team (supported by the PSRU and others), charged with its implementation.

162. As part of the institutional and process restructuring, and the significant changes in the roles and responsibility of the MMR, there is a need for a comprehensive and urgent review of the MMA of 2009. Almost four years on from its original passage, and given the progress and events that have taken place since 2009, this is the most opportune time to ensure that the Act is updated to ensure that its provisions are comprehensive, clear and fully reflective of the views and contributions of all stakeholders. This simple accomplishment would underpin the legal and governance structure of the entire extractives sector.

5.4.2 *Review and Cabinet Endorsement of an updated Core Minerals Policy*

163. There is a pressing need to review, update and approve a Core Minerals Policy (CMP) for Sierra Leone. This single policy document should be the Government's key policy statement for the Minerals Sector, setting out in clear and precise terms the objectives for the sector as well as the legal, contractual, institutional, fiscal, environmental, social and economic guiding principles. Despite attempts to revise and update the CMP, the current version dates back to 2003 (passed in 2004). While relatively comprehensive in its coverage, is very much orientated around the diamond and gold extractive sectors (and associated challenges). It is therefore outdated¹⁷⁹, given the significant changes that have taken place in the last ten years, notably the re-emergence of iron ore extraction (at two major sites in the country), the expansion of the rutile operation and the growth of gold mining.

164. Key stakeholders¹⁸⁰ should be engaged in the deliberations and processes involved in updating the CMP (noting that the WB, DFID and GIZ have already been extensively involved in discussions around the CMP). Policy support, technical expertise and encouragement to negotiate should be assembled and provided in a conducive and coordinated manner, in order to arrive at an updated and comprehensive CMP. Without policy coherence linking to institutional unity and consistency, continued poor outcomes in extractive governance are almost guaranteed.

165. Support to the development of a Natural Resource Charter (NRC) for Sierra Leone should also be actively considered by the Government and external stakeholders. The NRC offers a potentially alternative approach to analyze the extractive resource decision-making chain, and is based on an internationally recognized assessment framework that has been formally adopted by the New Partnership for African Development (NEPAD) steering committee as a flagship program for the NEPAD agency. Further, the NRC is working with the African Union to incorporate the principles of the African Mining Vision and the new African Mining Centre.¹⁸¹ Recommendations from the July 2013 NRC visit to Sierra Leone, should be

¹⁷⁹ Whilst diamonds remain an important source of revenue and employment, the significantly greater impact of large scale, capital intensive iron ore mining, which disfigures the landscape and drastically affects communities, underpins the need for a revised and sector relevant CMP, that captures all relevant components of the extractives sector and is not limited to historical (gold and diamond) mining activities, but rather reflects best international practice, relevant to the Sierra Leone context

¹⁸⁰ Attempts to revise and update the CMP, by both the GoSL (SPU Task Force for the Review of Mineral Rights) and a technical assistance advisory team in the Ministry of Mines and Mineral Resources, have resulted in an updated and more concise draft CMP in 2008 – but this CMP has not yet been either taken to Cabinet for approval, or subsequently endorsed. The blockage and infighting seems to be a difference of opinion as to which institutions (SPU or MMR) has the authority and responsibility to create policy and take this documentation to Cabinet.

¹⁸¹ The NRC could work as follows: Prioritization process – A final assessment report would identify weak links in the decision chain and lead to the creation of an extractive sector action plan identifying key deliverables moving forward. Coordination stage – The creation of key national policy documents as specified by government, such as the Core Mineral Policy, would build consensus within Government and between Government and other stakeholder extractive companies, donors and civil society, on roles and responsibilities in the development of the extractive sector moving forward. Delivery stage – Research would provide broad understanding to better implement new activities as well as existing initiatives, such as EITI, the Local Content Policy, and the upcoming Extractive Industries Revenue Act. The research process would build Government research capacity

widely circulated amongst key stakeholders for discussion and agreement on possible entry points through the NRC process. These discussions must include civil society and community representatives, and if possible, representatives of mining companies.

5.4.3 *National Minerals Agency*

166. The creation of a NMA¹⁸² is a significant step forward in the management, administration and regulation of the minerals sector in Sierra Leone. The NMA is designed to attract highly qualified industry professionals to the administration of the minerals sector in Sierra Leone and has the following responsibilities: a) administering and enforcing the MMA of 2009; b) making recommendations to the Minister of MMR on the improvement of laws and regulations in the minerals sector and c) advising the Minister on policy matters. The NMA will take over the functions and responsibilities of the former Government Gold and Diamond Office (GGDO). The WB has been significantly involved in the creation of the NMA, through EITAP and has contributed to logistical and support equipment to get the Agency operational.

167. However, there is now a considerable challenge for the NMA to deliver on its responsibilities, not least the lack of any assurance regarding its financial support from Government, (Consolidated Revenue Fund) and the continued recruitment of capable technicians, without any political interference.¹⁸³ Development Partners should jointly consider continuing to support the functioning and setting up of the NMA, through the provision of technical advice, office logistics and equipment support, specialist training and instruction – and perhaps even supporting the establishment of a) an extensive library with relevant technical and sectoral documentation and b) the creation of a unit within the NMA that has responsibility for regulating and monitoring adherence to the corporate and social responsibilities of the mining companies.

168. Serious consideration should be given to funding support for a small, defined group of embedded technical experts, with very clear job descriptions, to be recruited into the NMA, where necessary and required. This approach (funding of institution/agency positions) is always fraught with problems: issues of sustainability, agency inability to pay for the positions after the external funding has ceased and issues around the transparency of recruitment. Consequently, this recommendation is made with the provision that any support externally financed will terminate after a clearly agreed period and that the NMA uses Public Service Commission recruitment guidelines¹⁸⁴ and processes to ensure transparency, non-interference and competence in the recruitment process. It is recognized that the staff of the NMA are not civil servants, but it is believed that the PSC recruitment guidelines are sufficiently transparent and robust to reduce inappropriate and ‘influenced’ recruitment.¹⁸⁵

and could assist the establishment of a permanent policy research institute on natural resources based at the University of Sierra Leone. Monitoring process – Indicators under the Charter research framework can be used in the long term to track sector progress toward specific goals and targets identified in the action plan.

¹⁸² The National Minerals Agency Act was passed in May 2012. The Agency became operational in February 2013.

¹⁸³ Interference has already been witnessed in the creation and subsequent appointment of a Deputy Director –General, whose position was not included in the final Act establishing the NMA. However, such a position has been made available and recruitment has taken place- this has necessitated the drawing up of a new job description and terms of reference for the post as well as an associated budget cost increase.

¹⁸⁴ In October 2012, following approval from the Civil Service Steering Committee, the Public Service Commission published its Recruitment Handbook, which for the first time clearly outlined the processes and procedures and individuals involved in the recruitment and staffing of Grade 6-10 positions.

¹⁸⁵ C. Gabelle, Discussion Note: ‘The dynamics of civil service reform in Sierra Leone’, March 2013. Whilst in many cases, the decisions on recruitment and hiring of project co-ordinators and other key staff into the PIU/PMU is undertaken in a relatively transparent manner between the recipient MDA and the WB, discussants raised the need for an increased involvement and oversight of the PSC in this recruitment process - perhaps even to the extent where the PSC takes over the recruitment process

169. DPs could consider channeling all their assistance to NMA through the current EITAP, or its eventual successor program, or another method/mode of joint support. Internally, the WB should consider the inclusion of other sectoral colleagues (e.g. PREM, LEJR) as part of the on-going discussions and support and should be given the opportunity to contribute to the design and implementation of any successor operation.

5.4.4 Environmental Protection Agency

170. The EPA was established by an Act of Parliament in 2008.¹⁸⁶ Its key functions are: a) to ensure compliance with any laid down environmental impact assessment procedures in the planning and execution of development projects and b) to act as the focal point on all issues concerning the environment. Through EITAP, a set of regulations addressing environmental and social issues was drafted, which was part of a wider technical assistance piece of work designed to develop updated and coherent mining regulations for Sierra Leone.¹⁸⁷ Although the principal client for this work was the MMMR, a particular effort was made to bring together officials from both the EPA and the MMMR, to discuss the division of institutional and administrative authorities regarding the social and environmental management of the minerals sector. However, despite these discussions, there remains a lack of clarity as to who is responsible for taking forward these draft regulations to Cabinet (EPA has done so) and who has responsibility for enforcing them (EPA or MMMR?). This lack of clarity underscores the need for an urgent management and functional review of the MMMR.

171. There is a requirement for clear and unambiguous Memorandum of Understandings, signed between the EPA and other institutions such as the MMMR and the NMA – as well as subsequently with local government authorities, so there is clarity and simplicity in day-to-day operational responsibilities and interaction, how its activities and recommendations are to be used within the governmental system and quite simply, where the lines for authority and responsibility on environmental issues and dialogue with extractive companies lie. This is a clear area where the DPs can provide both policy and technical advice.

172. There are also some concerns being voiced by some mining companies about being ‘muscled’ by the EPA into contracting specific Sierra Leonean companies to undertake the mandatory EIA. Despite the fact that some of these companies have already used internationally recognized companies to complete these tasks for them, they are told that unless this part is undertaken by a Sierra Leonean company, the EIA *will probably not be accepted*. Whilst there is a clear need to promote and support the development of national private sector capacity and consulting opportunities, the EPA can endorse either teaming up between international and national expertise or providing guidelines and standards against which either both national or international companies can provide the required EIA work. This would actually be in conformity with the principles behind the local content policy, i.e. *facilitate the development of Sierra Leonean service providers by promoting linkages with*

entirely. There are concerns from rank and file civil servants that positions in PIUs and PMU’s are at high risk of being filled through political connections or continued patronage and nepotistic based practices. The P&PP could initiate a discussion with the PSC on this issue, and should this be a viable proposition, the P&PP could inform other WB country sectoral interventions of the new procedures for recruitment into PIU’s and PMU’s – perhaps even broadening this to other DP financed operations.

¹⁸⁶ The EPA Act was amended in 2010

¹⁸⁷ Adam Smith International, ‘Technical Assistance in Developing Mining Regulations of Sierra Leone, Final Report’, June 2012.

more advanced and experienced foreign companies and to promote employment of Sierra Leonean citizens through participation in the private sector.

5.4.5. Support to the Development of the Oil and Petroleum Industry

173. The nascent Petroleum Directorate will require substantial encouragement and support from both internal and external stakeholders. The current efforts being invested in legislative, policy and operational support to the minerals sector, will serve as a sound basis and springboard for similar patterns of support to the oil and gas sector. Early identification of the challenges and timely work in addressing these issues will help to avoid mistakes that have been made in the past – and will help balance the usual tension, desire and need for detailed control over petroleum issues as set forth in an IOC’s Production Sharing Agreement (PSA) and the dictates of Sierra Leone’s national constitution, statutes and responsibilities to the citizen. The framework offered by the Natural Resources Charter is a possible starting point for GoSL’s engagement with external partners in supporting the institutional reforms and governance challenges that will surface should commercially viable oil deposits be found.

5.4.6 Project Implementation Units/Project Management Units

174. There will be a need to be selective in the areas of where there are clearly identified technical capacity deficits or challenges, noting that PMU’s and PIUs are no longer the preferred way (or in some cases not even the most appropriate way) forward. The need here is to focus on supporting institutions and agencies with the appropriate mandate and authority to recruit staff and build capacity within the bounds of their responsibilities and duties.¹⁸⁸ This will mean that current ‘silo-based thinking’ within DP country portfolios will need to change and that additional interaction and mutual leveraging between portfolio and DP interventions will need to be encouraged. Much of the responsibility for encouraging these processes will lie with the GoSL.

5.5 Public Financial Management.

175. As is standard practice in countries that are experiencing a natural resource revenue boom, there have been discussions around the establishment of a TDF/Sovereign Wealth Fund and an associated fiscal rule (that would restrict budget expenditure in future years to domestic revenue (excluding revenue derived from extractives). The proposal will be to amend the Government Budget and Accounting Act (GBAA) to include this fiscal rule, along with other measures to improve fiscal responsibilities and compliance. A proportion of the mineral revenues will then be saved in a separate fund, part of which will be allocated for transformative projects and the remaining amount saved for future generations and future budget stabilization.

176. While these discussions take place, and noting that the differences between the Government and IMF preferences (see section 3.4.1) appear to have been resolved, there is a pressing issue that needs to be addressed: where the WB and other DPs can influence the relevant policy discussions and technical/implementational issues. The majority of the

¹⁸⁸ Ron Issacson, ‘Analysis of the Implementation Arrangements in the World Bank Sierra Leone’, June 2011 (unpublished)

revenue projected from the extractives sector for the current 20-year period (2010 to 2030) is based principally upon the premise that the second phase investments for both African Minerals (AML) and London Mining (LM) will come on-stream as planned. These significant second phase operations will both increase overall iron ore output (extraction) and operate at reduced unit costs, thereby generating additional significant revenue to the Government (and returns to the shareholders).

177. But there is already a potential delay in these second phase investments coming on stream. Although they have been approved technically by the company boards, neither the significant amounts of funding, nor the exact timing of these investments is yet confirmed or fully in place. This has a significant knock-on effect for the forecasting of revenues, which will be directly affected by the implementation of these second phase operations.¹⁸⁹ Forecasting will also be affected by world commodity prices,¹⁹⁰ which are in turn affected by international capital markets and demand for iron ore and by the manufacturing requirements of the world's largest iron ore consumer (in particular China). The real dilemma here is that overly optimistic revenue expectations has led to pressures on the GoSL to increase spending now which, if continued, may turn out to be unsustainable. This problem has already been demonstrated in the award of large-scale road construction projects in Freetown, the demands by public servants for wage increases and financing deals undertaken in anticipation of future revenues.

178. Additionally, the inclusion of a fiscal rule within a revised GBAA will not guarantee future Government spending in conformity to the prescribed rule. Past practice has demonstrated that the commitment of Government to the legally endorsed budget appropriations has been less than rigorous, with budget overruns contrary to legal requirements common practice.

179. In conformity with the common position that fiscal responsibility and wealth management legislation should be in place as soon as possible, in order to ensure the appropriate legal and operational framework exists when larger revenues flow, the GoSL preparing to modernize the GBAA. Work has already begun on this, which would lead subsequently to a Public Financial Management Act (PFMA). This Act would cover all legislation relating to public finances and would include the appropriate legislative framework for the fiscal rule and its budget execution implications¹⁹¹. In this regard, it is imperative that the work currently being undertaken in finalizing the Public Financial Management Reform Strategy (PFMRS) by the Public Financial Management Reform Directorate (PFMRD) be mindful of the need to include specific responses and recommendations with regard to more stringent controls around revenue mobilization and management, particularly around extractive based revenues. The most current version of the PFMRS, is less than comprehensive on the issue of extractive revenue management, save for a few references to 'the fiscal rule and resource revenue management'.¹⁹² An underlying advantage of enshrining fiscal responsibility into legislation is that these rules and guidelines

¹⁸⁹ In September 2012, revenue modeling estimates were for approximately US\$7.5 billion for the 20 year period 2010 to 2030 – by May 2013, this had been reduced to approximately US\$3.9 billion. Downward revisions reflected both anticipated delays in the second phase of operations for AML and LM as well as a forecast falls in commodity prices. It is possible that if the second phases don't go ahead, the revenue project could fall to as little as US\$1 billion for the 20 year period. See J. Gardener, S. Fynn, O. Luca and L. Mckenzie, 'Improving the Legal Framework for Fiscal Responsibility and Public Financial Management', IMF, May 2013.

¹⁹⁰ <http://www.indexmundi.com/commodities/?commodity=iron-ore&months=12>

¹⁹¹ J. Gardener, S. Fynn, O. Luca and L. Mckenzie, 'Improving the Legal Framework for Fiscal Responsibility and Public Financial Management', IMF, May 2013.

¹⁹² Government of Sierra Leone, 'Sierra Leone PFM Reform Strategy 2014 – 2017' (revised draft), 11th April 2013.

are laid down for future governments to use as the basis for their policy decisions, while maintaining an element of flexibility in case the macro-economic circumstances change.

180. Here, the approach and support most suitable from DPs is a focus upon compliance with legal requirements, collection efforts, and adherence to proper process for mineral revenue administration and public financial management efforts. Generally, whilst the legal framework is reasonably rigorous, it requires both technical adherence and political willingness to abide by the rules.

181. The recent IMF Report 'Improving the Legal Framework for Fiscal Responsibility and Public Financial Management'¹⁹³ offers a pivotal commentary and series of recommendations/actions, around which the GoSL and DPs (and indeed civil society in some instances) can base policy discussion and operational actions.¹⁹⁴

182. The entry points for external assistance in the PFM arena are therefore:

- Support the GoSL in deepening financial discipline in both expenditure and revenue collection through continued policy and technical discussions as part of the on-going budget support program and commitments.
- Provision of technical assistance and support to the natural resources revenue modeling processes in MOFED – including the establishment of more accurate and reliable projections.
- Design, establish and support the activities and responsibilities of a Minerals Revenue Unit at the National Revenue Authority, as part of a wider program of support provided by development partners (principally DFID) to the NRA. This Unit would ensure compliance across the entire tax structure for the Mining Companies, to ensure that all commitments (taxes, royalties etc.) are collected, booked and accounted for in the national budget.
- Continued policy and technical assistance to the establishment of a robust public investment management process, that ensures a proper framework, adequate and competent technical skills, managerial oversight and leadership skills to underpin project formulation and implementation – particularly the huge infrastructure development commitments that are being outlined and planned for in the Agenda for Prosperity (PRSP). As part of this support, the DPs should also work with the Public Private Partnerships Unit, which has been established to leverage future investment and growth pole activities with mining companies.
- Design and implement a successor¹⁹⁵ multi-donor public financial management program (currently underway and to be known as the Public Financial Management

¹⁹³ J. Gardener, S. Fynn, O. Luca and L. Mckenzie, 'Improving the Legal Framework for Fiscal Responsibility and Public Financial Management', IMF, May 2013

¹⁹⁴ The report details suggested governance structures for the oversight and management of extractive industry revenues (EIR) that flow through the Consolidated Revenue Fund (CRF), the proposed subaccount for EIRs (Transformation and Development Account - TDA) and a Transformation and Development Stabilization Fund (TSDF) to be managed by the Bank of Sierra Leone (BSL). Further recommendations on the proposed Extractive Industries Revenue Management Act and a number of proposals and amendments to the GBAA that could be incorporated into a PFM Act, are also laid out in detail. Proposals for a series of committee's – Natural Resources Revenue Committee, Investment Advisory Committee, Guardians of the Natural Resources Committee – are also detailed.

¹⁹⁵ The current multi donor program of support to PFM is the Integrated Public Financial Management Program (IPFMRP, supported by WB, DFID, EU and AfDB), and is due to end in March 2014.

Improvement and Consolidation Program, PFMICP), to continue developing skills and systems to ensure full and transparent allocation and distribution of government expenditures in conformity with Parliament's approved appropriations¹⁹⁶.

- Establishment of a Single Treasury Account (through the PFMICP) in order to ensure that revenues collected by ministries and agencies in the sector are fully booked to the consolidated revenue account and are fully declared and not 'reduced' by recipient MDAs.
- Continued support and strengthening of the public procurement processes to ensure value for money, confidence to private and public investors, reduced corruption and quality of goods and services delivered.
- (More controversially but absolutely necessary) Advise and support full compliance to the tax structures and responsibilities (as contained in the Mining Lease Agreements and Income Tax Act) by the mining companies.¹⁹⁷
- Strengthening the linkages between the central and regional planning processes for investment projects and policies.
- Develop the capacity of the Audit Service of Sierra Leone and Parliament to carry out their constitutionally defined oversight functions.

183. All of these proposed entry points and work streams are important, particularly in light of the possible arrival of substantial and additional revenues from oil and natural gas. This work will help to set the framework for handling petroleum sector revenues, based on lessons learned from the mining (iron ore) operations and will provide transparency in the issues of contract negotiations (production sharing contracts, like mining lease agreements are often classified as confidential), remittances to the national budget (over US\$ 30 million¹⁹⁸ was booked as being paid as signature bonuses to the CRF by the successor block bidders in 2012) and full adherence to the terms of the contractual and tax responsibilities to the state by the petroleum companies.

5.6 Protecting Economic and Social Rights (especially those of mining affected communities).

184. There is an increasing demand by stakeholders for attention and clear progress to be paid to the issues of better public information, debate and transparency, equitable benefit

¹⁹⁶ The proposed PFMICP will focus on improving 1) budget planning, comprehensiveness and credibility, 2) strengthening PFM legal framework and compliance, budget execution and control, and financial reporting 3) strengthening Revenue Mobilization and Administration, 4) accountability and transparency in public finance management and 5) strengthening the financial management aspects of decentralization through local councils. World Bank Aide Memoire PFMICP Identification Mission (February 19th to March 1st 2013).

¹⁹⁷ Currently it appears that one of the mining companies is not paying the full amount of royalties, despite the agreed provisions in the MLA. Due to the company's own internal shareholder responsibilities, a discounted Free on Board (FOB) price is being declared – against which royalties are then calculated. This arrangement, the details of which are clearly commercial in confidence to the company and its shareholders, is, on the face of it, not in the interests of the Government and therefore this is a compliance and enforcement issue as the GoSL could be losing between 10 and 12 million US dollars a year.

¹⁹⁸ US\$ 15 million by Minexco (British/Israeli firm operating Block SL7A.), US\$5million by African Petroleum (Block SL4A) and US\$10 million by Chevron (for Block 8A and 8B).

distribution, community development and effective conflict/mitigation grievance mechanisms. Protection of the economic and social rights of local communities affected by mining has historically been weak, and remains so. Companies are not required to secure local landowners' consent in order to obtain large-scale mining licenses; they merely have to supply licensing authorities with evidence that they have consulted with 'interested and affected parties'. Responsibility to consult however, does not grant communities a right of input into either the terms of mining license agreements or the monitoring of environmental and social management programs. Government may overrule local community and stakeholder objections to mining companies' planned destruction of housing, infrastructure and arable land if it considers these to be 'unreasonable'. Community compensation, resettlement and development schemes in mining-affected areas tend to be organized in a top-down manner and rely heavily on the goodwill and diligence of the mining companies.

185. More opportunity and scope for 'voice' is required to incorporate citizen/community aspirations and views in social and environmental impact assessments and resulting compensation arrangements. Work is currently underway by a both Government (NMA), civil society (NMJD) and development partners (GIZ, WB) to design a model community development agreement (CDA) that can be standardized and rolled out, with an overall aim and objective of promoting durable and equitable agreements, from the perspective of those most affected and most marginalized by the extractive activities. A key theme running through the CDA, is to ensure peaceful resolution processes for disputes and issues arising from mining operations' use of community land.

186. In this regard it would be important to ensure that the particular functions contained within the CDA are carefully addressed to avoid a scenario of 'form over function'. The understanding by the communities of the details of CDAs is absolutely essential to prevent these agreements from being captured by elites (who may be the only ones that understand the terms of a CDA). Host communities will be at a significant disadvantage given low levels of rural literacy, subordination to chiefs and lack of information upon which to be able to make decisions. This is especially important because there is a tendency for DPs to follow 'best practice' or 'international standards' (e.g. referring to the World Bank handbook on Community Development Agreements), when what is really required is a 'best fit' to the particular circumstances of communities affected by extractives. Model text may simply be inappropriate to address the issue of the continuing powerful role and influence of traditional authorities in Sierra Leone.

187. There are also attempts by mining companies to develop their own CDAs (London Mining¹⁹⁹), based on community dialogue and discussions. These are orientated towards one particular operation and locality. Again, the issue of who speaks for the community (beyond the chief) is an important point to consider, and what, if any alternative discussions the mining company has held outside the communities (e.g. government bodies, national civil society groups, local councils and representatives, development partners etc.).

188. The World Bank leads much of this work through its Justice for the Poor Program (J4P). This program has made significant headway in providing technical advice and guidance to a multi stakeholder Working Group addressing the issue of CDAs. This work needs to continue beyond simple technical advice to a) assistance in the production of acceptable and inclusive CDAs; b) operational support to the implementation of CDAs to ensure that they achieve their objectives of improving livelihoods and c) regular monitoring and feedback

¹⁹⁹ It is believed that London Mining has completed their documentation and consultation processes and submitted this to the Director of Mines for approval.

feeding into re-designed and improved CDAs. It will be important to tie key elements of this J4P work with other activities being undertaken by DPs on local empowerment and accountability.

189. In terms of promoting a wider debate around the investment of natural resource revenues, there are opportunities for both developing an increased level of knowledge within civil society and the expansion of country specific knowledge products, that can shape future policy discussions and development of social accountability activities. By better understanding the dynamics of CSOs and mining affected communities, it will be possible to improve their ability and capacity to contribute to social and environmental impact assessments and resulting compensation arrangements.

190. As part of this process, constant feedback and revision in the implementation of the CDAs will be required. Continual modification and changes to pilot CDAs might be one approach and direct engagement with 2 or 3 mining companies to roll out and monitor CDAs might be another method. Careful attention to the clarification and detail within the schedules and procedures is needed: how do you elect people to monitor the CDA, how are grievance procedures implemented and for what period of time does a CDA remain in place (renewed and process of renewal every 5 years or so)?

191. Closely associated with this, is the need to be able either enforce the responsibility of mining companies to fully adhere to the terms and conditions of their MLA's when it comes to the restoration of mined out areas (associated with the environmental impact and management plan to which each mining operation is required to adhere). The proposal set forth in the Agenda for Prosperity, for a RAMP (Rehabilitation of Mined Out Areas Program) certainly deserves some attention. Under this proposal, monies from the proposed TDF would be ring-fenced for environmental management and restoration programs and mined-out areas would be targeted for special remediation or restoration activities, dependent on the location and ownership issues, as well as the potential for the establishment of 'brown field' sites.²⁰⁰ Development Partner support in this area (reclamation and re-use of mined out areas) could be considered.

5.7 Local Economic Development, Local Content, Decentralization and Growth Poles

192. The challenge for Government is to be more aware of, and responsive to, growing citizens' demands (whether reasonable or unreasonable) for access to basic services and employment opportunities. If expectations are not managed properly, demands will become unreasonable. But the social and economic aspirations of an increasingly better informed and mobile population cannot be ignored and neither are they likely to be satisfied by traditional authorities. There is also a responsibility upon Government to ensure that in their urgency to exploit the opportunities provided by natural resource extraction, a balance is struck between short term gains and rewards (revenue) and longer term penalties such as displaced communities, environmental destruction and reduction of agricultural land (both in terms of access and physical existence). As a starting point for being able to understand what the opportunities/costs of losing agricultural land would mean to the economy, it would be necessary to have an accurate land inventory/cadaster of what all stakeholders

²⁰⁰ Brownfields are abandoned or underused industrial and commercial facilities available for re-use. Expansion or redevelopment of such a facility may be complicated by real or perceived environmental contaminations.

agree to be productive agricultural land in areas where mining operations exists (which would require explicit recognition of the multi-year fallow periods required by upland rice farming). What would follow then would be an analysis of what would be an acceptable and sustainable level of exploitation that would subsequently inform policy decisions, mining lease agreements, compensation, etc.

193. There is a need to expand the Government footprint outside of Freetown, and equally importantly outside and around the specific mining operation locations. Currently, these mining operations function in an enclave manner – with infrastructure, power and services all specifically developed and targeted at the mining company’s operation, to the almost total exclusion of the surrounding communities and populations. The ‘growth pole’ approach is essentially a strategy for fostering local economic linkages and multipliers (mining, agriculture, transport infrastructure, tourism, etc.). This approach also requires targeted investment and coherent and robust investment policies. The growth pole approach will provide the Government with an opportunity to match some of the expectations of its citizens by demonstrating its ability to utilize mining revenues for local development projects and, through sound investment principles and policies, deliver on economic growth. Opportunities for broadening access to infrastructure already developed by mining companies (such as Pepel Port and Marampa-Manna Point rail/port construction) will also be explored, acknowledging that the companies making the original investments have priority in usage. The current thinking is that the ‘growth poles’ approach is more likely to be successful in Sierra Leone today than in the past simply because investment (both national and international) in mining, large-scale commercial agriculture and smallholder agribusiness is higher and more widespread than ever before and because local demand for business opportunity and wage employment has never been greater.

194. Significant work is already underway in developing a growth poles approach with the GoSL. Potential growth poles (and zones) have been identified, and their parameters orientated towards the priorities set out in the A4P. Work has also begun on establishing key programming themes, which currently include: a) establishing an appropriate delivery system; b) identifying opportunities for shared infrastructure development; c) the development of a catalytic fund to remove value chain constraints and do feasibility studies, and d) detailed analysis of the opportunities for building social capital, including a review of the planning functions devolved to local authorities, new initiatives in community-driven development financed through block-grants and environmental risk mitigation. The analytical work on social capital will enhance understanding of the governance role, and potential, of locally elected councils in areas experiencing large-scale extractive activity.

6 CONCLUSIONS

195. In 2009, NACE published a paper entitled '*Sierra Leone at the Crossroads*', which emphasized the need for reform in extractives governance to ensure that benefits reach the Sierra Leone people, among the poorest in the world.²⁰¹ The 'crossroads' image is even more pertinent today, as revenues from iron ore, gold and (possibly) petroleum create the prospect of unprecedented economic growth. At stake now is not just Sierra Leone's economic future, but also its political future given that its system of governance has long been predicated on the existence of an impoverished peasant bloc.

196. This report has noted that successive governments in Sierra Leone are under increasing pressure from their electorates to improve public services. It has also noted that there is awareness at the highest political level that a) new policy responses are required to ensure effective management of the minerals sector and the environment and b) the state must expand its institutional footprint in order to secure the effective governance of an increasingly mobile and urbanized population.

197. However, there are also signs that the old ways of governing, which include the over-centralization of decision-making, competitive personal fiat, and the ad hoc use of executive power to trump laws and regulations, are still present in the governmental system. If the system won't change in the face of new demands from below, if steps aren't taken to ensure that mineral wealth benefits the entire population rather than just a few, Sierra Leone may yet find itself in a crisis of greater magnitude than occurred in the 1990s. The first challenge here is to ensure that governments in Sierra Leone are sufficiently responsive to demands from below to avoid crisis. Here, the impetus has to come from within the country, with DPs in a support role. For the latter, promoting demand side accountability is a delicate undertaking given Sierra Leone governments' historical propensity to view DP support to civil society as support to the political opposition.²⁰²

198. Relations between communities and mining companies, currently problematic, could serve as an important entry point for promoting demand side governmental accountability. The last ten years of post-war reconstruction have shown how readily the Sierra Leonean poor self-organizes into associations, cooperatives, community based organizations, civil society organizations and NGOs in order to receive benefits from above, but also how readily these organizations are captured by the relatively wealthy and politically well-connected.²⁰³ Mining companies represent a complicating factor here since as private enterprises with nothing at stake in local politics, they tend to follow the line of least resistance and work with local elites. Advocacy NGOs could do more to link defense of the economic and social rights of mining-affected communities to national policy debates. But in order to encourage this, DP funders may need to revise their project evaluation criteria so as to specifically reward research-based policy engagement and analysis.

199. If self-organized community representation and chiefdom administration proves ineffective in championing the interests of mining-affected communities, the obvious alternative is elected local government. Local councils have the bureaucratic capacity that chiefdom administrations and interest-based associations lack, and local councilors have a stronger democratic mandate than either. At least one mining company has already come to

²⁰¹ NACE', '*Sierra Leone at the Crossroads*', 2009.

²⁰² A. Jay, P. Richards and T. Williams, '*Sierra Leone: a framework for DfID support to civil society*', November 2002.

²⁰³ See R. Fanthorpe and R. Maconachie, '*Beyond the crisis of youth*'.

the conclusion that elected local councils are the best-equipped institutions for managing community development investment. Once key stakeholders start pushing in this direction, institutional reform and capacity building doors will become easier to open, e.g. completing the devolution of planning authority, reforming of the local tax system and creating new local councils.

200. A similarly strategic and politically informed approach could also pay dividends in respect of reform of public financial management. Corruption often works in poor countries because many citizens do not miss what they have never had. But an extractives revenue boom is likely to shift the focus of Sierra Leone's political economy from the management of scarcity to the investment of wealth. In that context, government as well as citizens may become increasingly intolerant of revenue leakage into private hands. Monitoring these shifts will give DPs an opportunity to maximize the purchase of PFM programs.

201. The second major challenge for improving demand side political accountability in a revenue rich Sierra Leone is maintaining strategic consistency across time and across the extractives value chain. For example, while the idea behind a Transformation and Development Fund (i.e. the conversion of 'windfall' revenues into public goods) may be politically attractive in Sierra Leone, it sends out the wrong message if the priority is to use extractive revenues to make the Sierra Leonean state as a whole more effective at delivering services and less debt-dependent. Furthermore, while the GoSL and DPs have already expended considerable resources on drafting and enacting the MMA of 2009, drafting new mining regulations, establishing the MCAS and creating the NMA, the issues highlighted in this report show that making extractives governance fit for purpose in Sierra Leone has only just begun. International development support has finite resources, which must be shared by many countries. But a great deal of useful work would be wasted if DP support to extractives governance reform in Sierra Leone does not continue.

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