**CSO Response to Consultation on Human Rights Impact of Fiscal and Tax Policy**

**Taxation**

*Is your government’s tax policy compatible with the obligation to use maximum available resources to realize economic and social rights? If not, why? Do obstacles of a national or international nature impinge on your government’s ability to mobilize the maximum available resources through taxation?*

On an overall level, the government’s tax policy is not compatible with the obligation to use maximum available resources to realize economic and social rights. This is closely related to the weak and inconsistent taxation of the extractives sector in Sierra Leone, which is by far the most economically important sector in Sierra Leone - in 2012, natural resources comprised more than 70 % of total exports according to the Bank of Sierra Leone[[1]](#footnote-1), amounting to a value of more than US$ 750 mio. This weak taxation consequently leads to losses of hundreds of millions of dollars every year. According to a report from Budget Advocacy Network (BAN), to be published in December, the losses from tax exemptions[[2]](#footnote-2) granted by the government to mining companies amount to US $ 240 mio yearly, or what corresponds to more than 8 times the health budget or nearly 7 times the education budget in 2012. So it seems fair to conclude that the government is not raising the maximum available resources in order to realize economic and social rights.

The regulation of the companies is also a significant obstacle to raising the maximum available resources – the companies rarely rapport what they are supposed to in terms of production and profit, and the government’s ability to control these reports are significantly weakened by lack of capacity, staffing and resources. The big mining companies also have complex company structures with branches in tax havens, which increase suspicions about profit-shifting and illicit capital flight[[3]](#footnote-3).

Moreover, there are large challenges concerning revenue management in the entities responsible for raising revenue, which consequently leads to revenue being lost. According to the latest report from the Sierra Leone Auditor General from 2011, there are “*significant weaknesses in the management of revenue in most if not all of the revenue generating entities”[[4]](#footnote-4)*, and in relation to the NRA, she notes that there are problems even in the most basic levels of administration and internal control, which “*affect the capacity of the NRA to protect itself from inaccurate accounting, fraud and corruption as well as unnecessary broadening of the tax gap through revenue leakage*”[[5]](#footnote-5).

We cannot pin point any reason for this; there have not been any pressure groups demanding for such. Other national obstacles comprise among others lack of enforcement, no controls on annual corporate accounting and reporting; unclear roles and responsibilities of institutions that man tax collection and management; the untransparent manner in which taxes are collected and distributed leading to poor oversight of tax revenue spending that impinge on government’s ability to mobilise maximum resources through taxation; weak capacity structures; lots of exemptions/waivers/incentives to corporate businesses; transfer pricing and capital flight by corporate entities.

*In general, would you say that the tax regime is regressive or progressive? Why? Please provide examples. What are the shares of tax revenue paid by different groups and the rate of taxation on different social groups?*

If we take the case by case basis of our tax policies, laws and regulations, we may be tempted to say that most of them are progressive - i.e. corporate tax, PAYE (pay as you earn), property tax, head tax at local level, import and excise etc - as against GST (goods and services tax) which is regressive. However, in a situation where a nation attracts lots of investors who earn large quantum of wealth, but pay less corporate tax and other taxes such as withholding, tax on management fees etc, then such less tax payment pass on the tax burden on to citizens such can speak of the regressive nature of our tax regime.

*What is the tax/GDP ratio of your country? Would you say that tax regime allows the State to: a) raise adequate resources to ensure the realisation of human rights, including sustainable financing of social protection systems: b) mitigate poverty and inequalities: and c) ensure that rights of disadvantaged and marginalised individuals and groups are not disproportionately affected? Please explain. If the answer was negative, why are the different rates or other types of taxes not in the place?*

Tax/GDP ratio of Sierra Leone is 12.51, according to the annual report from the Bank of Sierra Leone. This is below the regional bench mark of 13%. The state does not have a harmonised fiscal regime, thus deterring the government from raising more taxes. The state is doing poorly in this area. It does not raise adequate resources to realise HR and financing of social protection systems; mitigate poverty to ensure that rights of the disadvantages and marginalised groups are not disproportionately affected because of lack of political will to address the issues, weak capacity of institutions responsible, mismanagement and corruption of the few resources generated and the incentive obtain from corrupt practices.

*How does the government guarantee that the design and implementation of taxation measures, as well as monitoring of their impacts, are carried in accordance with principles of public participation, transparency, non-discriminatory and accountability? Are there special mechanisms to protect these guarantees, in particular for marginalised and vulnerable group?*

Citizens’ are not part of the whole process of design, implementation, monitoring of tax measures. Thus, we can say for now, public participation in all of the above is Nil. Discretional taxes are not disclosed in the budget; tax poly issues are seen only as in the purview of the government. The impact is worse even with the role of the research department within the Ministry of Finance and Economic Development. However, the FOI (Freedom of Information) Act might have the potential to guarantee such processes.

*If the government has recently introduced tax cuts, which sector of society have benefited most? How has your government justified any reduction in revenue, which may result from these tax cuts? What is your country’s corporate tax rate?* Foreign investors such as mining companies and commercial agriculture are the beneficiaries of tax cuts – see question 1. There is also a proposed a 5 years tax holidays to all new investors in the country, regardless of sector. The government justification has been to encourage investors to invest more, the poor national infrastructure; competing with regional countries for best tax incentives; no proper justification on tax cuts for investors especially in extractives leading to lack of transparency in the sector. The country’s corporate rate is 37%; which is not enforced as many companies are paying 25% and below.

*What is the fiscal pressure on the financial sector? Would you characterise the financial sector as paying a fair share of taxes? On what basis?*

Not relevant for Sierra Leone.

*Are there any particular industries that receive tax subsidies (for example, agriculture, housing)? Are these subsides related to government’s commitments to specific human rights (for example, rights to adequate housing or food), or do they follow other human rights-based rationale?*

Education, health, INGOs/NGO, embassies, mining (see question 1), basic food stuffs and agriculture all receive tax subsidies. For agriculture, health, education and food stuff, yes these subsidies are related to poverty reduction in achieving the MDGs. For embassies etc the rational is based on treaties and protocols signed by the state and other nations.

*Has your government proposed or supported increased intergovernmental tax corporation? What is its official position on tax havens? What is its official position on illicit flows of capital, e.g. measures to stop transfer pricing, proposal for country-by-country reporting, automatic exchange of information, disclosure of beneficiary ownership?*

The government is supporting the regional level harmonization i.e. ECOWAS on revenue Management bill development, the double taxation treaties with the UK and Norway which has not been revised for decade. There are provisions for the arms length-method and against transfer pricing in the income tax act and corporate contracts especially mining – though these are not enforceable. There is however no official position or commitment on the illicit flows of capital, country by country reporting, automatic exchange of information etc.

*Has your government proposed or supported international tax policies such as a financial transaction tax? If so, please specify in which form. If not, please explain the nature of its objective. Do revenues from such taxes (if in place) go into general revenue or are they earmarked for specific sectors or programmes? If the latter, which programmes?*

Not relevant in Sierra Leone.

*Is your government party to international investment or trade agreements that curtail your country’s capacity to levy taxes, or the capacity of your partner country/ies to levy taxes Is your government party to investment contracts or concessions that restrict your government’s ability to levy taxes on certain companies or sector? What measure (if any) were taken to mitigate impacts of theses limitation on your country’s (or to other countries) ability to raise adequate resources in order to fulfil human rights obligations?*

Yes, such as WTO, the double taxation treaties with the UK and Norway which makes provision for lower rates of taxes; ECOWAS trade agreements. Yes, this is normal for all investment agreement in country especially mining and commercial agriculture. Government is still unable to meet the Abuja Declaration on health – still at 10.5; Furthermore government has been unable to develop social protection mechanisms for the aged- due to these lapses in raising adequate resources.

**Spending**

*Are gender equality and economic and social rights criteria considered in budget planning and execution? If so, how are they integrated and monitored? Since when? Have you or your government been able to tract the effect of these criteria? If so, what results have you obtained by applying these criteria?*

Ministries, Department and Agencies (MDA’s) are required to develop gender budgeting as part of the budget call circular, but still MDA’s lack capacity for this. As such not started.

*Has your government engaged, or is it planning to engage, in fiscal austerity measures, such as cutting spending on social services? If so, what safeguards did, or will, it put in place to ensure that such measures are consistent with human rights obligations? Are the cuts temporary or permanent? Are they necessary in the sense that their absence would have meant greater harm to economic and social rights of the population? Has the government identified the minimum content of rights that should not be affected? Have the cuts been accompanied by mitigating measures to ensure that vulnerable and marginalised populations are not disproportionately affected? If yes, please provide examples of some of those measures.*

*What measures were put in place to ensure public participation, transparency, non-discrimination and accountability in the design and implementation of spending cuts and in the monitoring of their impacts? To what extent do these rely on disaggregated data by sex, age, income and place and up-to-date information on poverty?*

*What is the distribution of expenditure between social groups (e.g. women-men, rural-urban, different age groups)? What percentages of the national budget does your government allocate and spend on health services, public education and social welfare compared to military expenditure?*

In 2012, spending on health amounted to US$ 25,7 mio and spending on education amounted to US$ 32,2 mio. Spending on The Ministry of Defence amounted to US$ 13,9 mio.

*What percentage of the national budget goes to service debt? Is that level of payments consistent with the spending needed to comply with your government’s human rights obligations?*

Percentage of nation budget that goes to service debt – is 24.4m dollars (Bakara, kindly do the calculations) – Page 33 of the Economic Bulletin volume 18 2012.

*What is your assessment of the Government’s capacity in terms of tax collection, treasury management, budget execution, accounting and auditing*?

Assessment of government Capacity in terms of tax collection – is that institutions, systems and processes are weak both at nation and sub-national levels e.g. the Bombali district has 71 sources of revenue collection but was able to collect from 31 and even the 31 was not exhausted ( Sierra Leone Tax report 2012). In terms of Treasury Management: there is lack of capacity and lot of mismanagement of public funds as evidence from the Audit General Report, 2011. In terms of budget execution- still delay in disbursement of funds to MDAs and local councils; lack of capacity to monitoring disbursed funds; lack of absorptive capacity by the MDAs and above all the lack of transparency in the execution of national budget which is only in the purview of the government. In the area of Accounting and Auditing- there now a fairly strong Audit institution making quiet an improvement as 2011 Audit report is out and 2012 will be out in December Hopefully. Accounting systems in all government institutions is still weak and full of holes/ leakages and they are not systematic; poor record keeping and low capacity (human and technical ) at all level evidenced by the temporary suspension of Sierra Leone that lead to the temporary suspension

1. Bank of Sierra Leone: Annual report and statement of accounts for the year ended 31. December 2012 - p 22 [↑](#footnote-ref-1)
2. The tax exemptions covered in the report are Goods and Service Tax (value added tax), customs duties and corporate income tax [↑](#footnote-ref-2)
3. DanWatch 2011: Not sharing the loot [↑](#footnote-ref-3)
4. Auditor General’s report 2011 p 8 [↑](#footnote-ref-4)
5. Auditor General’s report 2011 p 6 [↑](#footnote-ref-5)