

## **Introduction**

In January 2016, Sierra Leone's human rights record was reviewed at the Second Cycle Universal Periodic Review (UPR) by the Human Rights Council. Sierra Leone received 208 recommendations, accepted 177 and noted 31 recommendations. Among the accepted recommendations, the government agreed to continue promoting and protecting the rights of women and girls; implementing ongoing measures to foster better communication between the police and members of the public; and continuing working to strengthen the fight against corruption. The Government of Sierra Leone (GoSL) has signed all nine fundamental human rights treaties,<sup>1</sup> and it appears committed to engaging with the UN human rights system. This is also evidenced by their submission of initial and/or periodic reports on five of the seven ratified treaties, namely: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Civil and Political Rights (CCPR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child (CRC).<sup>2</sup>

The recommendations found in this report are based on findings and recommendations of The Carter Center's observation mission to the country's 2018 election, recognizing that elections can serve as a critical snapshot of the treatment of civil and political rights in a country. The Center also considers recommendations from previous UPR cycles as well as the mid-term review report.

*The Carter Center in Sierra Leone:* The Center deployed a team of four experts to Sierra Leone in February 2018 to monitor key aspects of Sierra Leone's 2018 electoral process, including the legal framework, electoral preparations, the general security environment, and the resolution of electoral disputes. Given the limited size and scope of the mission, the Center's team did not conduct a comprehensive observation of the electoral process, including election day voting and counting processes, and released only a final report following the conclusion of the electoral process. The mission's focus was on discrete aspects of the electoral process assessed by the expert team, with additional analyses drawn from other international and domestic observation missions. The Center conducts its election missions in accordance with the Declaration of Principles for International Election Observation, endorsed by the United Nations in 2005.<sup>3</sup> It is on this basis that the Center offers the following assessments and recommendations for Sierra Leone's 2020 UPR review process.

## **Findings and Recommendations for Consideration**

### **Equitable Participation of Citizens in the Political Process**

#### *1) Take measures to increase the participation of women*

Women candidates and aspirants reported to The Carter Center that they have limited opportunities to participate fully in larger political parties, which are the main source of campaign funds. In some cases,

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<sup>1</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), International Convention for the Protection of All Persons from Enforced Disappearance (CPED) and Convention on the Rights of Persons with Disabilities (CRPD)

<sup>2</sup> Sierra Leone Government Midterm Review Report on the 2nd Cycle UPR Recommendations: Jan 2016 – July 2019

<sup>3</sup> The Carter Center, *Presidential and Parliamentary Elections in Sierra Leone*, 2018

this resulted in an inability to afford candidate registration fees.<sup>4</sup> As a consequence, only two of the 17 presidential candidates were female, representing 12.5% of all parliamentary candidates. This falls short of the customary international benchmark of 30% women's representation in national legislative bodies. The low number of female nominees reflected a lack of political will from authorities to improve gender equality in public institutions since the last elections in 2012. A Gender Equality Bill, which would bring much-needed reforms, has been in the drafting process since 2013 however the government has yet to pass it into law.

Gender discrimination contravenes Sierra Leone's international obligations.<sup>5</sup> In the previous UPR cycle, Sierra Leone committed to improve the political participation of women in public elections and the representation of women in public offices.<sup>6</sup>

The Carter Center recommends the adoption of legislation such as the Gender Equality Bill or a constitutional amendment to support greater gender equality in politics, the lowering of the candidate registration fees to improve women's access to stand. It additionally encourages political parties to strengthen internal processes to nominate more women for office.

### *2) Safeguard the rights of people with disabilities*

The 2011 Persons with Disabilities (PWD) Act, which represents the domestication of the UN Convention on the Rights of Persons with Disabilities, provides that all public buildings must be made accessible for persons with disabilities within five years of the adoption of the Act or 2016. However, this objective has not been widely achieved, including for polling stations, despite Sierra Leonean commitments in the second UPR cycle.<sup>7</sup> Despite providing ramps for several polling stations, the National Electoral Commission (NEC) acknowledged that many of them would not be fully accessible by the 2018 elections. In a positive step intended to increase PWD's participation, the NEC reintroduced the provision of tactile ballot folders to polling stations to facilitate voting for people living with blindness in the 2018 elections.

Measures and public funding to enhance the political participation of PWDs in future elections, including the accessibility of all polling stations and NEC offices for wheel-chair bound citizens (as well as access to buildings of law enforcement and the judiciary as key institutions in the electoral process), and voter education for persons living with visual and hearing impairments is strongly encouraged.<sup>8</sup> Such measures would bring Sierra Leone more in line with its international commitments.<sup>9</sup>

### *3) Strengthen civic and voter education efforts*

Electoral stakeholders who interacted with the election observation mission (EOM) consistently noted that voter education efforts were insufficient. Interlocutors noted that voter education materials were distributed late in the election cycle, in part due to the delays in government funding, and that the information was only basic, including posters on the candidates and how to vote. Given the high illiteracy

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<sup>4</sup> Civil society groups and opposition parties have heavily criticized registration fees as unreasonable and exorbitant in light of the country's economic situation, particularly. For example, the amount of the nonrefundable candidate registration fees, established by a 2012 NEC statutory instrument (10,000,000 Leones for parliamentary candidates and 100,000,000 for presidential candidates, i.e., \$1,300 and \$13,000 U.S. dollars) made it extremely difficult for candidates with limited resources, many of them women, to run for office on the elections.

<sup>5</sup> African Charter on Democracy, Elections and Governance (ACDEG), Art. 32(1); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Art. 7

<sup>6</sup> UPR 2016 Recommendations 111.166; 111.167; 111.168

<sup>7</sup> UPR 2016 Recommendation 111.90

<sup>8</sup> The Carter Center, *Presidential and Parliamentary Elections in Sierra Leone*, 2018

<sup>9</sup> U.N., Convention on the Rights of Persons with Disabilities, Art. 29

level in the country, the implementation of multiple types of elections on the same day, and the number of invalid ballots in past elections, stakeholders widely agreed that voter education efforts need improvement, especially in light of Sierra Leone's international commitments which require that all eligible voters are informed of their electoral rights before, during, and after election day.<sup>10</sup>

## **Candidacy and Campaigning**

### *4) Review measures that restrict freedom of assembly*

Sierra Leone's electoral law requires the NEC to create a campaign calendar that sets out a schedule for contestants to hold campaigning events on specific, designated days, with the aim of preventing clashes between the supporters of different political parties. Campaigning outside of the established timeframe is punishable by a fine and prison term. However, the NEC only allocated timeslots to political parties, disregarding independent candidates and preventing them from holding campaign events except for one in their respective constituency. The calendar also limited candidates to campaigning in very specific circumstances,<sup>11</sup> heavily restricting parties' freedom of assembly. Several opposition parties reported to the Carter Center that the calendar was enforced inconsistently as the ruling party did not adhere to the schedule. A party also reported that its events were subsequently cancelled by the authorities despite being held in accordance with the rules.

Sierra Leone has committed itself to safeguard freedom of assembly in its constitution and by its ratification of international treaties.<sup>12</sup> For future elections, The Carter Center recommends a review of the electoral framework to assess whether mechanisms less strict than the election calendar can equally serve the broad goal of maintaining peace and preventing violence.

### *5) Guarantee freedom of movement*

The Sierra Leone Police (SLP) imposed a ban on vehicle movement, apart from NEC-accredited vehicles, throughout election day with the objective of preventing violence. Most opposition parties agreed to the ban but were concerned over the lack of police impartiality and argued that the ban favored the ruling party since it had access to state-owned vehicles. One political party argued that the ban restricted freedom of movement and undermined the right to campaign, and ultimately challenged it in court. The court upheld the ban without a substantive hearing.

The vehicle ban contradicts Sierra Leone's international obligations, which state that the aim of containing security risks does not supersede fundamental rights and freedoms except in limited circumstances.<sup>13</sup> In future elections and assuming there is a justifiable need, the Center recommends that the Political Parties Registration Commission (PPRC), rather than the SLP, should accept the lead role in negotiating among the police, political parties, and other stakeholders regarding any restrictions on freedom of movement.

### *6) Restrictions on party registration and freedom of association*

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<sup>10</sup> U.N., Human Rights and Elections, para. 75; U.N., International Covenant on Civil and Political Rights (ICCPR), art 25(b); ACDEG, art. 4

<sup>11</sup> Restricted to specific days and districts, which were allocated by lottery; no clear specification on the type of campaign events which were allowed.

<sup>12</sup> ICCPR, Art. 21

<sup>13</sup> ICCPR: General Comment No. 27: Freedom of Movement (Art. 12), para 3.

Legal provisions in Sierra Leone's constitution prevent the establishment of political parties that contradict the constitution or are formed with the sole purpose of advancing specific interests.<sup>14</sup> The restrictions are intended to minimize political discord and national disunity. However, they curtail the right of freedom of association and formation of political parties.

The PPRC is an independent body responsible for the registration of political parties and the implementation of the Political Parties Act, and the monitoring parties' conduct. However, several new parties reported experiencing excessive bureaucratic challenges when registering with the PPRC.<sup>15</sup> Interlocutors alleged that the PPRC introduced politically motivated conditions that were intended to dissuade parties from contesting the elections. The PPRC refused to register a political party application without disclosing the grounds for its decision.

The international standards to which Sierra Leone abides indicate that party registration regulations and deadlines should be clear and specific, while the state must protect the right of every citizen to be elected.<sup>16</sup> The Carter Center recommends that Sierra Leone should consider other less restrictive ways of preventing national discord. The role of the PPRC and its regulatory framework should also be reviewed ahead of future elections, with a view of avoiding the introduction of conditions for political party registration that appear arbitrary or unnecessarily bureaucratic.

#### *7) Improve the regulation of campaign finance*

A limited framework for party and campaign finance is set out in the Political Parties Act. Not later than 21 days after an election is called, political parties are required to submit a statement of assets and liabilities to the PPRC. Despite this requirement, no parties submitted statements for the 2018 elections and the PPRC did not enforce the requirement. Public funding for party and campaign activities is not provided and the source of funds is limited to monetary or in-kind donations by eligible voters, leaving smaller parties with little resources to campaign.<sup>17</sup> There is no limit on the amount of donations to a political party or requirements to disclose this information, and the PPRC has not exercised its authority to adopt regulations limiting donations and requiring disclosure to minimize the influence of money in the elections.

The lack of framework regulating campaign finance contravenes Sierra Leone's international commitments to fight corruption in public institutions.<sup>18</sup> The Carter Center recommends the development of a comprehensive framework on campaign finance that ensures the highest level of transparency in campaign finance, including prior to election day. Commensurate penalties for breach of campaign finance rules and reporting requirements should be established.

#### *8) Clarify prohibitions on the use of state resources*

The use of state resources for campaigning was a common concern raised by opposition parties and civil society organizations. In the months leading up to the elections, the outgoing president undertook an official presidential farewell tour countrywide. The tour was apparently used as a campaign opportunity, using public resources, with the events featuring the ruling party's presidential candidate alongside the

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<sup>14</sup> Be it the particular interests of an ethnic group, religion or geographic area.

<sup>15</sup> The process could take up to nine months as the PPRC does not have a deadline to issue a final decision on party registration applications. A party is prohibited from campaigning or engaging in political activity before being formally registered.

<sup>16</sup> ICCPR, Art. 25

<sup>17</sup> Opposition parties noted that the advantages and alleged abuses of the incumbency are therefore magnified.

<sup>18</sup> United Nations Convention Against Corruption (UNCAC), Art. 7, Art. 13 and Art. 18

president. Opposition parties accused the president of misuse of state resources to pay for his nationwide campaigning, and deliberately skewing the playing field. The PPRC and NEC were publicly criticized for not addressing this apparent transgression.

International good practice and Sierra Leonean law indicates that state or public resources should not be used to support a specific party. Given these guidelines, and the concerns about instances of the misuse of government resources, the Center recommends that the PPRC and NEC implement stronger and more proactive measures to address these concerns in future elections.

### **Electoral Framework and Credibility of Elections**

#### *9) Regulate process of boundary delimitation of voting districts*

The NEC recommended that district boundaries be altered ahead of the 2018 election, despite the lack of national provisions for the process in the electoral law. The only conditions regarding boundary delimitation relate to a maximum threshold for deviation at 25%, although international standards suggest no more than a 15% deviation.<sup>19</sup> The NEC's formal process, which begun in May 2016, revised the boundaries of 132 constituencies and its efforts were commended by civil society stakeholders. However, upon receiving the proposal, the government delayed its submission to the parliament and subsequently introduced new administrative divisions, which interlocutors reported to Center appeared politically motivated; the new districts were in the government-friendly North. The NEC then submitted a revised proposal to the parliament.<sup>20</sup> The final amended boundaries were approved by the parliament in August 2017 but the final act was never published, and the Center found that more than a third of constituencies deviated by more than 15% from the population average.

Sierra Leone signed international treaties that include the delimitation of boundaries while ensuring that elected representatives represent reasonably equal numbers of constituents.<sup>21</sup> Ahead of future elections, the Center encourages the government and the NEC to lower the maximum deviation threshold and to adopt a legal framework governing the boundary delimitation process, to align Sierra Leone with international standards.

#### *10) Ensure independence and transparency of the election management body*

Sierra Leone's constitution grants the NEC independence, but the electoral framework does not regulate its scope of action and relations with the government comprehensively. NEC officials' independence is questionable since they are directly appointed by the President and the grounds for their dismissal are unduly broad, including "misbehaviour."<sup>22</sup>

Several transparency issues also clouded the functioning of the NEC. Its sessions were generally held behind closed doors and there were no legal requirements for the publication of information on the NEC's website. Sierra Leonean citizens were denied key information such as session minutes, resolutions or regulations. The voter register and full list of candidates were never published online, and the boundary delimitation information was not updated prior to the election.

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<sup>19</sup> Council of Europe Venice Commission's 2002 Code of Good Practice in Electoral Matters

<sup>20</sup> Lawmakers from the ruling party amended many of the boundaries, with a lack of transparency and without consulting with the NEC, according to some electoral stakeholders.

<sup>21</sup> ICCPR, General Comment 25, para. 21

<sup>22</sup> NEC officials, opposition parties and civil society groups all reported examples of politically motivated pressures from the state on the NEC throughout the electoral process. These included threats to withhold the NEC's weekly funding, a year-long investigation of its staff by the Anti-Corruption Commission and delays in transferring financial resources.

International provisions stipulate that elections must be administered by an independent and impartial election management body that functions transparently and professionally.<sup>23</sup> Although the NEC is widely trusted by all political actors, the election law should seek to address the shortcomings described above to ensure that the NEC has the legislative framework necessary to conduct elections in line with international standards.

## **Dispute Resolution**

### *11) Provide clear guidelines and ensure effective remedies for electoral offenses*

Sierra Leone's election law provides for the establishment of a temporary Electoral Offences Court (EOC) as a division of the High Court, to try any criminal offenses established in the election law. The lack of regulation over the EOC allowed it to take jurisdiction over any crime related to elections, even if not strictly an electoral offense. Thus, cases involving hooliganism or assaults that occurred at campaign rallies, which typically are dealt with by magistrates, were referred to this court. Given that all trials had to be concluded within six months of its establishment in September 2017, the court was left with only a few days after election day to investigate and prosecute election crimes. By the time of its dissolution, there were no reports that any cases underwent trial, including acts of violence and cases of double voter registration forwarded by the NEC.

While the concept of electoral offenses courts is sound, their ineffectiveness during this election cycle suggests that they are not serving their intended purpose. The Carter Center recommends a review of the Electoral Offence Court legal framework and operational structure to bring it in line with Sierra Leone's international commitments,<sup>24</sup> including considering an amendment to the law that would ensure the duration of the court's mandate is enough for handling electoral offenses that are prosecuted after election day.

## **Media**

### *12) Strengthen the Independent Media Commission (IMC)*

There is limited regulation of media coverage during an electoral process. The election law provides only that the state-owned Sierra Leone Broadcasting Corporation (SLBC), which operates a TV station and a radio network, must ensure equal air time is given to each candidate and political party during an election period, and that not less than 30 minutes of airtime must be allocated to each candidate and party. However, both domestic and international media monitors concluded that the ruling party benefited from more positive coverage. Media is regulated by the Independent Media Commission (IMC), whose members are by law appointed by the president acting on the advice of the Sierra Leone Association of Journalists (SLAJ), and can impose fines, suspensions and closures to ensure fairness in political reporting. However, SLAJ reported that the current members of the IMC were appointed without consultation and are ostensibly ruling party activists. Some interlocutors raised concerns to The Carter Center that media outlets face government pressure on content and that a criminal libel law is used to intimidate journalists and citizens. For example, in the weeks leading up to the election, the police informed citizens it would increase surveillance of social media to identify individuals criticizing the ban on vehicle movement on election day.

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<sup>23</sup> ICCPR, General Comment 25, para 20; ACDEG, Art. 32(1); UNCAC, Art. 13(1)

<sup>24</sup> ACDEG, Art. 17

Such irregularities contradict Sierra Leone's commitments to protect freedom of expression and freedom of the press<sup>25</sup> as well as recommendations under the second UPR cycle.<sup>26</sup> The Carter Center encourages authorities to foster a climate in which criticism of authority is tolerated and equal access is given to media to all political parties, by strengthening the independence of the IMC.

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<sup>25</sup> AU, Declaration on Principles on Freedom of Expression in Africa, art. 6; AU, Declaration on the Principles Governing Democratic Elections in Africa, art. IV.5.

<sup>26</sup> UPR Recommendation 2016 111.162