

# THE CARTER CENTER



**Submission to the United Nations Universal Periodic Review of**

**Sierra Leone**

**Second Cycle**

**Twenty-Fourth Session of the UPR**

**January-February 2016**

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*The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.*

*The Carter Center's Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored 100 elections in 38 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democratic Election Standards (DES) initiative aims to build consensus on standards for democratic elections, based on state obligations under public international law.*

## **Introduction**

As part of its 2011 Universal Periodic Review, the Government of Sierra Leone accepted recommendations, inter alia, to take greater measures to protect the civil and political rights of women, to increase the participation of women in public and political life, to strengthen the independence of the judiciary, to guarantee the impartiality of the key electoral management agencies, and to safeguard the rights of persons with disabilities.

Sierra Leone has ratified a series of international and regional human and political rights instruments that are relevant to the electoral process. These include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Political Rights of Women (CPRW), the African Charter on Human and Peoples' Rights (ACHPR), the Convention on the Rights of Persons With Disabilities (CRPD), the ECOWAS Protocol on Democracy and Good Governance, and the African Union Convention on Preventing and Combating Corruption.

*The Carter Center in Sierra Leone:* The Carter Center deployed an international election observation mission for the 2012 presidential, parliamentary, and local government elections in Sierra Leone. The mission included long-term observation from September-December 2012, covering the activities of the election administration, campaigning, voter education, counting and tabulation, as well as post-election developments including the announcement of results and the resolution of electoral complaints. There was also short-term observation of the polling, counting and tabulation process in November. It is on the basis of this work that we offer the following assessments and recommendations for Sierra Leone's 2016 UPR.

## **Findings and Recommendations for Consideration**

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

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

A disproportionately low number of women stood as candidates in the 2012 elections, and this was among the principal shortfalls of the electoral process. Despite constituting 52 percent of the total population, women made up only 13 percent (16 members) of the outgoing parliament, and a similarly low percentage of the newly-elected parliament (15 members). 75 women made it onto parliamentary candidate lists, representing 12 percent of candidates, and 342 women were nominated for local council, representing 21 percent of candidates. Although no presidential candidates were women, notably, four vice presidential candidates were women.

The participation of women candidates in the 2012 elections was impeded by high registration fees, intimidation, societal attitudes, and a history of electoral violence. Prospective women candidates reported being subject to restrictive intra-party nomination procedures which

lacked transparency and denied women a meaningful role in the decision-making process. There were also reports of electoral violence targeting women candidates during the campaign, and intimidation against women during the nomination period. The government should take firm measures to prevent gender-based violence, which undermines the fundamental right of candidates to security of the person.<sup>1</sup>

The Carter Center recommends further consideration of alternative steps to ensure greater numbers of women candidates.<sup>2</sup> Legislation should be considered that promotes women's participation in politics and requires compliance of political parties.<sup>3</sup> A Gender Equality bill had been drafted to support women's political participation but failed to pass before the dissolution of the outgoing parliament in 2012. The Carter Center strongly encourages that the bill be revisited, strengthened and reintroduced for parliamentary consideration. The Carter Center also recommends that Sierra Leone ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Political parties should also embrace the principles of equal opportunity for female candidates.<sup>4</sup>

## 2) Safeguard the rights of people with disabilities

In 2012 the World Health Organization estimated that disabled people constituted approximately 10 percent of the population of Sierra Leone. This group included amputee victims of the country's devastating civil war as well as those suffering from debilitating diseases such as polio that could not be easily treated with the country's poor infrastructure and high rates of poverty. The Electoral Act and the Persons with Disabilities Act of 2011 support equal enfranchisement of Sierra Leone's disabled population by encouraging accessibility of polling stations and making provision for assistance to voters.

Nonetheless, the location of polling centers should be revised to ensure easier access for disabled voters. The National Electoral Commission should also reconsider utilizing tactile ballots in future elections and should consider efforts to hire a greater number of people with disabilities as staff and poll workers as a means of enhancing the participation of this significant population in the electoral process. Future voter and civic education efforts should also include components that target disabled voters and should include people with disabilities in the dissemination of information.<sup>5</sup>

## 3) Intensify civic and voter education efforts

Voter education was of critical importance for the 2012 elections, given Sierra Leone's high rate of illiteracy and diversity of languages, and considering that four elections were

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<sup>1</sup> Inter-Parliamentary Union, Declaration on Criteria for Free and Fair Elections, art. 3.

<sup>2</sup> U.N., ICCPR, art. 3, art. 26.

<sup>3</sup> U.N., CEDAW, art. 3, art. 4(1).

<sup>4</sup> CEDAW Committee, General Recommendation 23, para. 22.

<sup>5</sup> U.N., CRPD, art. 4, art. 5.

administered simultaneously for the first time in the country's history. Regrettably, Carter Center observers reported that the visibility and breadth of voter education campaigns were disappointing, which limited the reach of voter education efforts beyond district capitals. Observers noted limited voter education across the country, particularly at the ward level.

The Carter Center recommends increasing the scope and quality of voter education initiatives, which are important in ensuring that an informed electorate is able to effectively exercise their right to vote.<sup>6</sup> In future elections, as key stakeholders in an election, political parties should also become engaged in wider civic and voter education activities that go beyond simple voting mechanics and the marking of paper ballots. This will foster a more conscious choice of elected representatives.

## **Candidacy and Campaigning**

### 7) Guarantee freedom of movement

Although The Carter Center recognizes Sierra Leone's political context and the unique need for the ban on vehicular movement that was put in place for the 2012 elections, the Center hopes that such a restriction will not be necessary in the future. The Center recommends that steps be taken to ensure that freedom of movement of Sierra Leone's citizens will be respected in future elections.

### 8) Remove unreasonable restrictions on the right to be elected

The inability of independent candidates to contest the presidency in 2012 constituted an unnecessary restriction on the right to contest elections.<sup>7</sup> This right was also hindered by a provision requiring public servants to resign from their posts 12 months before an election, an excessively long time. These barriers should be reconsidered, and the relevant sections of the Electoral Act should be revised to include a detailed time frame for the withdrawal of candidates. Clear time frames should be set regarding challenges around candidate nominations to ensure they are resolved before ballots are printed.

### 9) Strengthen the Political Parties Registration Commission and improve the regulation of campaign finance

As of 2012, campaign finance regulations in Sierra Leone were weak and existing requirements were frequently not met. The Political Parties Registration Commission (PPRC) lacked authority to improve or implement regulations. Political parties did not consistently submit annual audits of their accounts, and according to the commission, none of the political parties submitted their pre-election statements on their assets and liabilities. In 2012 the Carter Center recommended the review and passage of the draft Political Parties Registration

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<sup>6</sup> U.N. Human Rights Committee, General Comment No. 25, para. 11; ICCPR, art. 25(b).

<sup>7</sup> U.N., ICCPR, art. 25(b).

Commission Act to strengthen the commission's mandate and enforcement capabilities, including those concerning campaign finance. This would help promote transparency in public decision-making as a means of combating corruption.<sup>8</sup> There should also be additional training and capacity-building measures to ensure that the commission can adequately perform its regulatory functions. The design and role of district code-monitoring committees should be re-evaluated to facilitate the work of the PPRC at the district level, including campaign finance monitoring.

10) Clarify prohibitions on the use of state resources

As of 2012, the only reference in the Electoral Act to the use of state resources was a provision which prohibited candidates and political parties from engaging in the improper use of government resources for 'political propaganda purposes'. The Electoral Act should include further provisions elaborating on the proscription of the use of state resources for campaign purposes and include penalties for violations. This will ensure equal access to public services, preventing unfair advantages to particular parties or candidates.<sup>9</sup>

11) Revise nomination fees

The Carter Center recommends that the excessively high nomination fees for candidates be reconsidered in advance of future elections. The fees in 2012 were disproportionately high compared to regional standards and represented an unnecessary restriction on the right of every citizen to be elected.<sup>10</sup>

## **Legal Framework**

4) Reconcile discrepancies between the Electoral Act and NEC regulations

The legal framework for Sierra Leone's 2012 elections - comprising the Constitution; the 2012 Public Elections Act; the Political Parties Act; and the regulations and procedures of the National Electoral Commission (NEC) - provided a sound basis for democratic elections that largely met international standards. However, there were contradictions between the Electoral Act and the NEC's procedures on matters such as inking, voter identification and police presence in polling stations. In most cases the NEC's procedures better reflected best practices and Sierra Leone's international obligations. The Carter Center recommends that Sierra Leone consider making revisions to the Electoral Act for future elections to ensure consistency with NEC procedures and with international standards. Specific areas of concern are detailed below.

5) Review codes of conduct and incorporate them into law

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<sup>8</sup> U.N., UNCAC, art. 7; A.U., African Union Convention on Preventing and Combating Corruption, art. 7.

<sup>9</sup> A.U., ACHPR, art. 13.

<sup>10</sup> U.N., ICCPR, art. 25(b).

Aside from the Political Parties Act, there were several codes of conduct and declarations/agreements signed by political parties, candidates and other stakeholders for the 2012 election. However, since none of these documents were promulgated as NEC regulations or included in the Electoral Act or Political Parties Act, they were not legally enforceable. The Carter Center recommends that all codes be reviewed for compliance with the Constitution and international standards and that they be incorporated into legislation so there is no question as to their legal enforceability.

## **Dispute Resolution**

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

There was confusion during the 2012 election over which body – the NEC, Political Parties Registration Commission (PPRC), or the Electoral Offenses Court – had jurisdiction over electoral offenses and what the applicable procedures were. Many of The Carter Center’s interlocutors did not seem to be aware of the Electoral Offenses Court or what its function was. This resulted in uncertainty among stakeholders over the proper venue and procedure for the filing of complaints and undermined confidence in the electoral dispute resolution mechanism.<sup>11</sup> The Electoral Act should include a range of administrative sanctions for all types of electoral offenses and designate an appropriate body with authority to impose such sanctions. Further, several cases filed with the courts during the 2012 electoral period were not resolved before election day, thus denying the complainants their right to an effective remedy. The Electoral Act should provide a defined time frame for the resolution of complaints, including election petitions challenging the results. Disputes regarding the nomination of candidates should be resolved in advance of election day and prior to the printing of ballot papers. While electoral offenses courts have the potential to be strong institutions, training should be provided to lawyers and others on their function and jurisdiction.

## **Media**

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

For the 2012 elections, the IMC had the legal authority to enforce fines and to suspend or ban print and electronic media when not complying with media regulations. The IMC indeed tried to suspend two newspapers close to the ruling party. In spite of the IMC’s efforts, cases of noncompliance with the Media Code of Practice were observed by The Carter Center during the pre-election period. The mandate, power and legal authority of the Independent Media Commission should accordingly be strengthened.

## **Election Management**

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<sup>11</sup> U.N., ICCPR, art. 2(3).

13) Stagger appointments of commissioners on the NEC

The Carter Center recommends that commissioners be appointed on a staggered basis so as to protect to the NEC's independence, a vital element in ensuring that citizens are able to participate in a genuine democratic process.<sup>12</sup>

14) Guarantee secrecy of the ballot

While the NEC's procedures sought to uphold the fundamental right to a secret ballot in the 2012 elections, the Electoral Act required that serial numbers appear on the ballot papers as well as the counterfoil. This requirement has the potential to undermine the secrecy of the vote, and should be removed from the Electoral Act.<sup>13</sup>

15) Review biometric voter registration

Although biometric voter registration seems to have boosted confidence in the registry, the system should undergo review to assess cost, impact and sustainability. If the system is retained for future elections, steps should be taken now to ensure that the capacity to implement and maintain the system is developed in Sierra Leone to avoid the need for important elements of the process to be conducted by foreigners outside of Sierra Leone's borders.

16) Strengthen training for staff, particularly on counting and tabulation procedures

Carter Center observers noted that, overall, NEC polling staff seemed well-trained and performed their responsibilities with professionalism and neutrality. The majority of weaknesses were noticed in understanding of counting procedures, completion of results forms, and the tabulation process, partly due to the very late completion of final tabulation procedures.

17) Publish a consolidated electoral calendar

Although the NEC did detail specific calendars for certain stages of the 2012 electoral process, such as voter registration or candidate nomination, a consolidated comprehensive calendar – which would have served to inform citizens, political parties and other stakeholders of the process – was not publicly available. The Electoral Act should include a specific requirement that the commission develop and publish a comprehensive elections calendar at the beginning of the electoral process.<sup>14</sup> The Carter Center recommends reconsideration of the election campaign calendar that was in place for the 2012 elections, noting that it was

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<sup>12</sup> U.N. Human Rights Committee, General Comment No. 25, para. 20.

<sup>13</sup> U.N., ICCPR, art. 25; U.N., UDHR, art. 23.

<sup>14</sup> International IDEA, International IDEA Code of Conduct: Ethical and Professional Administration of Elections, p. 14.

ultimately difficult to implement effectively and proved to be an unnecessary restriction on the freedom of association.<sup>15</sup>

## **Results Processes**

### **18) Strengthen procedures for the tabulation of results**

The tabulation and transmission of results is a critical phase in any electoral process. Although the tabulation process was conducted well overall, observers did note some procedural challenges. There was initial confusion in some cases surrounding quarantine procedures and procedures for recounts. The late release of tabulation procedures threatened the integrity and transparency of the process. The parallel system of tabulation at the district and regional levels created unnecessary complications, and in future elections a single integrated tabulation system should be adopted for determining results.

Tabulation procedures should be finalized well in advance of election day to allow adequate time for training of staff as well as familiarization by political parties, civil society groups and other stakeholders. The NEC should also communicate to political parties all procedures pertaining to ballot recounts and the triggers in place for such recounts. To enhance confidence in the decision-making process, The Carter Center also urges the commission to share in a timely manner all decisions pertaining to sensitive matters, including ballot recounts, with political parties at the national and district level. Final results should be made public down to the polling station level, or lowest possible level of aggregation.<sup>16</sup>

### **19) Improve the announcement and release of results**

Further consideration should be given to the release of results on a rolling basis, to contribute to the transparency of the process. Further, the NEC should share the results of all four elections by polling station and post them on its website as soon as possible. In future elections, results should be made available by polling station at the time of announcement of final results.

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<sup>15</sup> U.N., ICCPR, art. 22.

<sup>16</sup> ECOWAS, Protocol A/SP1/12/01 on Democracy and Good Governance, Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, art. 6; CoE, Code of Good Practice in Electoral Matters, sec. I.3.2.xiv; OSCE, Copenhagen Document - Second Conference on the Human Dimension of the CSCE, para. 7.4.