



## EISA Election Observation Mission to the 2018 Elections in Sierra Leone Preliminary Statement

***The EISA Election Observation Mission commends the people of Sierra Leone for turning out in large numbers to register their will on 7 March 2018. In the absence of an incumbent in the presidential race, the presidential election seems to be one of the most keenly contested in the post-civil war period. The EISA EOM notes the efforts of the different institutions to guarantee the integrity of the elections. On election day, voter turnout was impressive and the conduct of polling personnel was professional. There were technical glitches that necessitated the postponement of elections in 18 polling stations. Election day proceeded in a largely peaceful manner albeit with isolated incidents that were immediately addressed. The EISA EOM is of the view that the process up until the end of the first day of tallying has so far been conducted substantially in line with sub-regional, continental and international standards although there is room for improvement, especially in the legal framework to further level the playing field.***

***The EISA EOM urges the people of Sierra to remain calm while they wait to see the process through. We call on political leaders to show true leadership by respecting the rule of law throughout the results tally process.***

### 1. Introduction

The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed an Election Observer Mission (EOM) to the 7 March 2018 elections in Sierra Leone. The EISA EOM was led by His Excellency, Dr. Goodluck E. Jonathan, former President of the Republic of Nigeria as the Mission Leader, and Mr. Denis Kadima, EISA's Executive Director, as the Deputy Mission Leader. The mission is comprised of 12 Short Term Observers (STOs) drawn from civil society organisations (CSOs) and election management bodies (EMBs) from 11 African countries. EISA observers were deployed in Bo, Freetown, Kenema, Makeni, and Port Loko.

Since its arrival in Sierra Leone, the EISA EOM has interacted with Sierra Leonean stakeholders such as the National Electoral Commission (NEC), the Political Parties Registration Commission (PPRC), the Office of National Security, the Sierra Leone Police (SLP), the Independent Media Commission (IMC), CSOs and independent experts. The EISA EOM closely coordinated with other international election observer missions (IEOMs) in the country.

The EISA EOM's assessment methodology is guided by its commitments within the framework of the Declaration of Principles for International Election Observation. Its assessment of the electoral process is based on the principles and obligations for democratic elections stipulated in the following international benchmarks:<sup>1</sup> the African Union (AU) Declaration on the Principles

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<sup>1</sup> Sierra Leone is a State Party to the following Instruments: International Covenant on Civil and Political Rights, UN Convention on Political Rights of Women, Convention on the Elimination of All Forms of Discrimination against Women, UN Convention on Rights of Persons with Disability, African Charter on Democracy, Elections and Governance, African Charter on Human and People's Rights, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, and ECOWAS Protocol on Democracy and Good Governance

Governing Democratic Elections; the African Charter on Democracy, Elections and Governance; and the Principles for Election Management, Monitoring and Observation (PEMMO).

This statement presents EISA's preliminary findings, conclusions and recommendations on the pre-election period and Election Day operations. It is issued while the transmission and tallying of results are still on-going, and therefore only reflects the mission's observations up to the conclusion of the counting process at polling stations. This statement therefore neither covers the transmission of results nor the finalisation of the results tally process, which explains why this statement is preliminary.

A final report covering the entire process will be issued by EISA about three months after the close of this mission. This statement identifies both best practices and gaps in the conduct of the elections and makes recommendations for a possible presidential run-off election and future elections.

## **2. Preliminary Findings**

### **2.1. Political Environment**

The 2018 multi-tier elections in Sierra Leone are the fourth elections since the end of the decade-long civil war in 2002. The elections are significant as they are the first to be conducted under the full responsibility of the Government of Sierra Leone following the closure of the United Nations Integrated Peace building Office in Sierra Leone (UNIPSIL) in March 2014. They will also mark the peaceful transfer of presidential powers, as the incumbent President, Ernest Bai Koroma, has completed his mandate after two terms in office. The elections are taking place against the backdrop of the closure of UNIPSIL which has provided extensive operational support to previous elections. The polls also took place within a context marked by a slow growing economy and poor infrastructure impacted by recent disasters, namely: the outbreak of the Ebola virus that claimed over 3,500 lives between March 2014 – March 2016, and a mudslide in August 2017.

The 2018 presidential elections being a transition elections makes it keenly contested. The emergence of the National Grand Coalition (NGC) as a third force in a political space that has been dominated by the ruling All People's Congress (APC) and Sierra Leone People's Party (SLPP) also contributes to the competitiveness of the election. The constitutional 55% threshold for determining the winner in a presidential election further contributes to the competitiveness of this election as all contestants put in efforts to win in one round.

The context in the lead up to the election was shaped by a number of issues which, in some cases, raised concerns and in other cases created uncertainties about the elections. These issues include the uncertainties around the dates of the elections and the debate about the referendum to adopt constitutional amendments proposed by the Constitutional Review Committee (CRC). There were concerns about the perceived reluctance of the incumbent president to declare the dates of the elections for different reasons, which led to speculations that the incumbent intended to remain in office beyond his term limit. Regarding the Constitution review process, there was disappointment that the government accepted only 33 of the 138 the recommendations presented by the CRC and most of the recommendations hailed as progressive, were not accepted.<sup>2</sup>

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<sup>2</sup> In its official response to the recommendations of the CRC, in White Paper dated November 10, 2017, the government accepted only 33 of the 138 recommendations.

The petition challenging the candidature of the NGC presidential candidate, Kandeh Yumkella, over his dual citizenship also impacted the pre-election context. While the Supreme Court did not make a determination before Election Day, uncertainty remains about the implications of the outcome of the case.

Within this context, the EISA EOM notes the commitment of Sierra Leoneans to participate in democracy building in their country. The EOM also commends the PPRC for facilitating the process that led to the signing of the 'Freetown Declaration' by presidential candidates on 28 February 2018. The signing of the declaration showed the commitment of the candidates to the conduct of peaceful elections. Cognisant of the fact that there were isolated incidents of violence in the tense pre-election period, the absence of widespread violence provided an atmosphere for Sierra Leoneans to freely show their support to their chosen candidates.

## **2.2. Constitutional and Legal Framework**

The legal framework for elections in Sierra Leone is provided in the following instruments: Constitution of 1991 (as amended); Public Elections Act 2012; Public Order Act 1965; Wards (Boundary Delimitation) Regulations, 2008; Criminal Procedure Act 1965; Political Parties Act 2002; Election Petition Rules 2007; Chieftaincy Act 2009 and Local Government Act 2004.

The EISA EOM notes that the constitution recognises fundamental rights and freedoms that are critical in a democratic dispensation. These include the freedoms of movement, assembly, association, and expression; the freedom of the media; and the right to protection from discrimination. The Constitution also provides for entrenchment of democracy through provisions for a multi-party political system; the separation of powers within a presidential system; a majoritarian electoral system; conduct of regular elections managed by independent institutions; and term limits for elective offices.

While the legal framework broadly provides sufficient basis for the conduct of democratic elections, the EISA EOM notes the following areas where the legal framework could further be strengthened for more democratic elections:

- A review of Sierra Leone's political history shows a trend of ethnic politics and polarising runoff elections because it is difficult for candidates to win a first round due to the 55% threshold. The EISA EOM considers the threshold as fairly high. The current system does not also adequately address the trend of ethnic politics as it remains possible for candidates to win based on the support received from their ethnic base. The ethnic politics problem could be better addressed by introducing a minimum regional electoral threshold while lowering the national threshold.
- While the law provides for independent candidates in parliamentary and local elections, the same privilege is not accorded to presidential elections. This impinges on the principle of equal opportunity to vote and to be voted for.
- While the legal framework provides for non-discrimination and equal participation, there is no provision for affirmative action to promote the participation and representation of vulnerable and underrepresented groups such as women, youth and People with Disabilities (PWDs). This is reflected in the low representation of women the previous parliament.<sup>3</sup>

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<sup>3</sup> There were only 15 female members of parliament, constituting 12% of the 124 MPs.

### **2.3. Election Management**

The establishment of the NEC is provided in chapter IV of the Constitution. The five Electoral Commissioners are appointed by the President in consultation with the leaders of all the registered political parties and the approval of Parliament. The independence of the NEC is guaranteed by the Constitution and reinforced by the Public Elections Act. The EISA EOM however notes that in the reporting and accountability mechanisms, the Commission is required to submit its reports to the President, for tabling in Parliament. This line of reporting could compromise the independence of the Commission.

The EISA EOM notes the measures put in place by the NEC to ensure open communication with stakeholders, especially political parties and CSOs. This approach ensured transparency in the electoral process which fosters trust. Stakeholders consulted by the EISA EOM including all political parties affirmed their confidence in the NEC as a professional body capable of conducting an impartial election.

Faced with the responsibility of conducting the first elections after closure of the UNIPSIL in March 2014, and the financial challenges due to budgetary constraints, the NEC with government funding and the support of international technical and financial partners made reasonable efforts to deliver on the election calendar. The EISA EOM notes the delays in the printing of voter's cards and the steps taken by NEC to ensure that registered voters who did not have the cards were not disenfranchised.

The EISA EOM notes the concerns raised by stakeholders regarding the number of excess ballot printed by the NEC. The EOM observed that while there are clear procedures to account for the contingency ballot at polling stations and for storage of these ballots after elections, procedures for destruction of the ballots are not clearly provided. The EOM calls on the NEC to be transparent in the handling and safe storage of the unused ballots in the post-election period.

Based on its assessment of the process until the release of this statement, the EISA EOM is of the view that the commission carried out its responsibilities in a non-partisan and proactive manner. It endeavoured to promptly address the operational challenges it was faced with.

### **2.4. Voter Registration and verification**

Voter registration for the 2018 elections was conducted jointly by the NEC and National Civil Registration Authority (NCRA) from 20 March to 16 April 2017. This was the first joint registration by the two institutions. Subsequent voter registration would require NEC to extract data from the NCRA database. Following the registration process, data from the NCRA database was extracted to the NEC database to generate the provisional voter register. The register was exhibited from 22 June to 27 August, 2017 and was followed by distribution of Voter Identification Cards from 25 November to 4 December 2017. A total of 3,133,413 voters were generated in the provisional voter register. This figure was later reviewed to a final figure of 3,178, 663 following the exhibition of voter register. The EOM gathered that the transfer of data had resulted in some missing registrant data which was later retrieved from the registration devices.

Some stakeholders consulted expressed disappointment over the inability of the NCRA to complete the civil registration process by issuing a national identity document that would have doubled as a voter's card.

While the legal framework recognises the right of Sierra Leoneans living abroad to participate in electoral processes, the NEC did not provide for voting by citizens residing outside the country.<sup>4</sup> While noting the operational and financial requirements for diaspora voting, the EISA EOM regrets that eligible voters living abroad remain disenfranchised.

## **2.5. Political parties and nomination of candidates**

Sierra Leone is a multi-party democratic state with a vibrant political culture where parties are able to register and operate without undue restrictions. This can be attested to by the fact that 16 of the 18 registered political parties fielded candidates for the 2018 presidential election.

Prior to the 2012 elections, nomination fees were increased by the enactment of the Constitutional Instrument No. 13 of 2012. Following complaints by parties, the President subsidised the candidate's nomination fees for the 2012 elections. A proposal seeking a downward review of the fees was presented to Parliament but was not passed by the time the Parliament was dissolved on December 7, 2017. Following protests by the parties, the President again subsidised the nomination fees. Candidates therefore paid the same amount of nomination fees as for the 2012 elections.<sup>5</sup>

While noting the government subsidy on the nomination fees, the EISA EOM also considers the failure to pass the proposed regulations on nomination fees as a stumbling block to inclusive participation in the electoral process. The current high nomination fees, if maintained, could discourage qualified candidates from vulnerable groups such as women, youth and PWDs from exercising their right to participate in the elections as candidates. In addition, the continuous subsidy by the government, which is not anchored in the legal framework could be misconstrued as an incentive to entice voters or rival candidates.

While a candidate for Member of Parliament can contest either on behalf of a registered political party, or as an independent candidate, a Presidential candidate must be nominated by a party. The EISA EOM considers this provision as discriminatory against potential presidential candidates who either do not believe in political party politics or cannot afford to set up a political party structure.

## **2.6. Campaign finance**

There is no State funding for political parties in Sierra Leone. The legal framework however makes provision for mandatory disclosure by all registered political parties of their finances annually to the PPRC. The law also prohibits receipt of funding from foreign sources. It further stipulates that the PPRC may, through regulations, provide for limits on the amount of contribution or donation to a political party and the disclosure of information that may limit the influence of money in the political process.

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<sup>4</sup> Article 31 of the Constitution and section 18 of the Public Elections Act 2012

<sup>5</sup> Presidential candidates – 100 million Leones; Members of parliament – 10 million Leones; Mayors/ Council Chair persons – 5 million Leones; Councillors – 1 million Leones ; Village heads - 500,000 Leones

The law however remains weak as it does not provide ceilings on campaign expenditure. This gives undue advantage to the candidates who have access to more resources and tilts the playing field to their favour.

The EISA EOM notes that there are limitations on the capacity of the PPRC to enforce these provisions in the absence of quasi-judicial powers, as the judicial route is long and expensive for the PPRC.

## **2.7. The Role of the Media**

Freedom for expression is a fundamental human right and vital for democracy. The Constitution of Sierra Leone guarantees freedoms of speech, of expression and of the media. These are critical civil and political rights in relation to the electoral process. The Electoral Law also enjoins the public broadcaster, the national radio and television, to ensure that each candidate and each political party have access to airtime at these institutions during the campaign period.

There are many media outlets, the bulk of which operate in Freetown. Apart from the public media, there are also private media outlets some of which are owned by political party leaders and report along party lines. There are 3 TV stations (1 state owned and two privately owned), over 42 radio stations and over 40 daily papers countrywide. The EISA EOM gathered that the public media gave a fairly balanced coverage of both the ruling and opposition parties during the election period.

The EISA EOM notes the efforts of the Independent Media Commission (IMC) to train journalists on conflict-sensitive reporting, towards mitigating election-related conflict. The IMC also developed a Media Code of Ethics. However, the EOM noted with concern that, despite a caution on cessation of promotion of any political interest 24 hours before the elections, four newspapers contravened this directive.

The EISA EOM notes the value added by the presidential debates to public information, it specifically commends the initiative to convene debates for female candidates and local council election candidates. The EOM however considers the criteria set for parties to participate in the debates<sup>6</sup> to be quite stringent, thus, only six out of the 16 presidential candidates met the criteria.

## **2.8. Gender, Persons with Disabilities and Youth**

Women constitute 52% of registered voters in Sierra Leone. This is indicative of their willingness to participate in the electoral process. Beyond their participation as voters, there is no significant improvement in their participation as candidates. Only two (12.5%) of the 16 presidential candidates are women and five (31.2%) female vice presidential candidates. Out of the 795 parliamentary candidates, 100 (13%) are women. The EOM notes that while there are no legal provisions for affirmative action, political parties have also not shown commitments towards gender parity within their party systems to promote women's representation. It is worth mentioning that the recommendation for a 30% quota for women made by the CRC was not accepted in the government White Paper.

The EISA EOM acknowledges the various efforts by stakeholders to enhance the political participation of youth in the electoral process. Key among these was the engagement of first time

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<sup>6</sup> Parties were required to have fielded candidates in at least 25% of the constituencies in the country.

voters in various voter education activities, including simulation of the voting process in partnership with NEC. The increase in nomination of youth candidates, especially at the local level is also noted.<sup>7</sup>

Political rights of PWDs are guaranteed in the 1991 Constitution, 2012 Public Elections Act as well as the Disability Act of 2011. The mission commends NEC's proactive steps towards inclusion of PWDs through the publication of the Elections Disability Policy (NECDiP) and for nominating one of the 5 Commissioners to take responsibility for inclusion of PWDs. NEC also made efforts to construct ramps in some polling stations to facilitate access for PWDs. The Commission also provided tactile ballot guides for visually impaired voters to guarantee the secrecy of their vote. It is our hope that these steps will enhance the participation of PWDs. The absence of legal provisions of affirmative action however continues to impede their representation.

The EISA EOM however gathered that none of the political parties fielding candidates for the various elective positions nominated PWDs. This discrimination serves to further disadvantage and marginalise the PWDs.

## **2.9. Civil Society**

The EISA EOM observed the active and unrestricted participation of CSOs in the election. This was mainly through advocacy for electoral reforms, voter education efforts, election observation as well promoting political participation of youth, women and PWDs through various interventions. Through advocacy, CSOs played an instrumental role in shaping the electoral process and ensuring that the electoral calendar was respected.

The EISA EOM notes that the CSOs observed and reported on key aspects of the process such as voter registration, nomination of candidates and electoral campaign. The EOM appreciates the efforts of the different groups, especially the National Elections Watch (NEW), to train and deploy citizen observers to all the 11,122 polling stations on Election Day, with an additional 506 observers in sample polling stations to collect data for the Parallel Vote Tabulation (PVT).

The EISA EOM also commends the CSOs for operating Women's Situation Room, Media Situation Rooms and Civil Society Situation Room as hubs for information sharing and real time monitoring. It is of the view that these initiatives greatly enhanced the transparency of the poll.

## **2.10. The Role of Security Agencies**

The Sierra Leone Police (SLP) has the primary responsibility of internal security. During the elections however, all security institutions play a role in support of the SLP to enable them cope with any challenges that may arise. The Office of National Security (ONS) coordinated the Integrated Elections Security Planning Committee (IESPC). This provided a framework for security sector institutions be adequately prepared to perform Elections Security related duties.

The IESPC, through a national consultative exercise, developed the National Elections Threat Assessment / District Risk Mapping for the 2018 elections. The assessment report highlighted potential hotspots around the country. Based on this report, the ONS issued a ban on vehicle movement on Election Day except for persons on election duty whose cars have been cleared by

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<sup>7</sup> <http://nationalelectionwatchsl.org/2018/01/30/nomination-press-statement-2018/>

the NEC and issued vehicle passes. The EISA EOM notes concerns raised by opposition political parties before election regarding the use of government vehicles on election as a way to increase the movement of the representatives of the ruling party at the expense of opposition parties. The EOM notes that the vehicle ban was largely respected, though it was not clear whether the provision of vehicle passes to parties could have given an undue advantage to the governing party. The EOM also notes the arrangements made for free transportation of voters to polling centres on Election Day, to ensure voters were not discouraged from going out to vote.

### **3. Findings from Election day and results tally procedures**

The EISA EOM deployed its observers to five regions, where they visited 61 polling stations, spread across eight districts.

The EOM notes the technical hiccups encountered by the NEC which necessitated the postponement of elections in 18 polling stations.<sup>8</sup> The EOM commends the NEC's swift action to address the issue of missing ballot papers.

Election day was largely peaceful with isolated reports of incidents that were contained in a timely manner. EISA observers reported that polling stations opened on the average between 07:05 and 07:45 due to delays in the preparations by polling officials. The opening procedures were also conducted with limited lighting in a number of the stations visited.

The EISA EOM commends the NEC for their consideration of women as polling staff. 42% of the polling staff in all polling stations visited were women. However, lower numbers of female party agents, at 10% of the total agents, were observers in the polling stations visited.

The mission observed the efforts by NEC to make the process inclusive to PWDs through the construction of ramps in polling stations. EISA observers reported that 73% of the stations visited were accessible to PWDs.

In its assessment of election day procedures, the Mission notes that overall, the stipulated procedures for opening, voting, closing and counting were largely complied with and that staff demonstrated competence in execution of their duties. The decision of the NEC to cap the number of voters per station to 300 voters made the management of the process easier. Each voter took an average of 6 minutes to complete the process. The secrecy of the ballot was guaranteed in most of the stations visited and election materials were available throughout the day.

Although party agents were present in all visited polling stations, only the party agents of the APC, SLPP and NGC were consistently represented at all the polling stations visited by EISA teams. As stipulated in the Elections Act, party agents who were present at the count consented to and signed the Reconciliation and Result Form (RRF) and a copy was posted outside the station by the presiding officers.

The EISA EOM commends the presence of citizen observers at all the polling stations visited. International and citizen observers were granted unrestricted access to the polling centres and

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<sup>8</sup> The following elections were postponed: Bonthe municipality mayoral election (no ballot papers); Kenema Ward 55 district councillor election; Pejuhan district councillor election.

were allowed to conduct their duties without interference. The presence of citizen observers and party agents is an important indicator of the transparency of an election.

Though there were concerns that some registered voters may be disenfranchised for not being in possession of voter's cards, these concerns did not materialise on Election Day. EISA observer noted that persons whose names appeared on the register but did not have their voter's cards were allowed to vote after presentation of an attestation from the NEC, and in some cases, voters were required to provide additional documents that verified their identity.

The Mission notes with concern the presence of heavily armed security personnel on the SLPP presidential candidate's premises at the Goderich in the afternoon on Election Day. Thanks to the presence of high level international dignitaries, the situation was de-escalated. The EISA EOM urges the security forces to refrain from such acts of aggression which are a potential threat to the existing peace and security in the country.

On 8 March, EISA observers visited five regional tally centres. In its assessment of the early aspects of the results tally process, the EISA EOM notes that the process was off to a slow start as officials waited for materials to be transported from the different areas. The layout of the tally centres and the procedures stipulated by NEC did not facilitate direct observation of the procedures or easy interface between officials and observers. Observers depended on the figures projected on the screens. The tally procedures at the centre in Port Loko was interrupted for some hours due to technical problems with the generator.

At the time of writing this statement, tallying was ongoing. The mission will provide further detailed assessment of the tally in its final report.

#### **4. Recommendations**

Based on its observations and findings, the EISA EOM offers the following recommendations:

Considering the importance of the result tally process and the tensions that attend this process, we urge the NEC to manage the process in a transparent and professional manner. Specifically paying attention to information management to avoid suspicions and misinformation.

##### **In the short term, in the event of a runoff election:**

- Provide lamps and extra batteries that will cover both the opening and counting procedures.
- Reconsider the ban on vehicle movement to ensure citizens are able to move freely to exercise their franchise.
- Take steps to ensure that incidents similar to what happened at the premises of the SLPP candidate, which involved interference by security agencies is not repeated.

##### **In the long term:**

###### ***Legal reforms:***

- Revisit the report of the CRC and begin the process of constitution review deliberations at the parliament early in the life of the incoming parliament.

- Consider adoption of a lower threshold for determining the winner of presidential election. To also address the issue of ethnic politics, further criteria to ensure national spread of votes regionally for the winner of presidential election should be considered.
- Review the legal framework to strengthen the regulation of party and campaign finance and also strengthen the powers of the PPRC to effectively regulate party finance.
- In line with article 9(1b) of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, which Sierra Leone has ratified, the legal framework should be revised to provide affirmative action to promote the representation of women in elective positions.
- The legal framework should also be revised to provide affirmative action to promote the representation of PWDs in elective positions

### ***Election procedures***

- The NEC should consider simplifying the ballot reconciliation and counting procedures to make it less tedious and easier for polling personnel observers and monitors.
- The NCRA should finalise the civil registration process that started in 2017 and put appropriate steps in place to effectively register births and deaths. This will further strengthen the credibility of the voter register for future elections.
- Reconsider the ban on vehicles movement as this creates unnecessary tension and suspicion.
- CSOs and the media should consider a more inclusive criteria for participation in the presidential debates. All parties should be given equal opportunity to sell their agenda to the electorate.

**9 March 2018**  
**Freetown, Sierra Leone**