

THE CARTER CENTER



THE CARTER CENTER SIERRA LEONE 2023 NATIONAL ELECTIONS PRELIMINARY STATEMENT

June 27, 2023

EXECUTIVE SUMMARY

The Carter Center was honored to observe the June 24, 2023, elections in Sierra Leone, with voters casting ballots for president, members of Parliament, city mayors, and local councilors. The elections – the fifth general elections in the country since the end of the decade-long civil war – took place in an atmosphere that was largely calm, with the people of Sierra Leone demonstrating their enthusiasm and determination to peacefully express their will at the ballot box.

The electoral process is ongoing, as the tabulation and finalization of election results is still underway. As the process continues, it is important for all Sierra Leoneans to await the announcement of final results by the Electoral Commission for Sierra Leone (ECSL), which has sole authority to declare results. If there are disputes about the official election results, parties and candidates should use formal legal channels to resolve complaints and ensure that the will of the people is expressed. To ensure the transparency and verifiability of results, the ECSL should publish results at the polling station level.

This statement is a preliminary assessment of the process so far. The Carter Center mission visited 119 polling stations on election day and observed tallying processes in all five centers. Key findings of the Carter Center mission regarding the voting, counting, and tabulation process to date include the following:

- *Poll openings.* Carter Center observers report that some polling stations opened late on election day due to a lack of material.
- *Voting process.* The voting process was assessed by Carter Center observers as “reasonable” or “very good” in 93 percent of polling stations observed. In some polling stations prospective voters were noted who claimed to be registered at a polling station where their names could not be found on the list. Some polling stations in Freetown had insufficient ballot papers and ran out in the mid-afternoon.

- *Closing and counting.* Closing and counting procedures were assessed positively at 100% of poll closings observed.
- *Tabulation.* Carter Center observers reported that the tabulation process lacked adequate levels of transparency. Carter Center observers directly observed instances of broken seals and inappropriately open ballot boxes in three of the five tally centers.

At this time The Carter Center offers the following priority recommendations:

- Results from any ballot boxes that were opened in violation of procedure and international best practice should be set aside for additional scrutiny and should not be included in the final results until a formal, transparent, and inclusive review can establish whether they can be considered credible.
- As noted above, the ECSL should publish detailed results at the polling station level to allow for cross-verification in accordance with international best practice.
- Any complaints, including allegations of manipulation of results, should be addressed in established legal channels before any conclusions are drawn about the electoral process and its outcome.

As the country awaits the declaration of final results, the Center urges key political leaders to act responsibly and in the interest of all Sierra Leone's people, consistent with the spirit of the Peace Pledge signed by all parties.

The Carter Center election observation mission has been in Sierra Leone since May 7, 2023, at the invitation of the Electoral Commission for Sierra Leone (ECSL). Eight medium-term observers from seven countries were deployed in mid-May to assess campaigning and election preparations. For the period surrounding election day, The Carter Center deployed 38 observers from 15 countries. Carter Center observers visited 119 polling stations across Sierra Leone's 16 electoral districts to assess the voting and counting processes. The Carter Center team was led by former U.S. Ambassador Cameron Hume.

The electoral process is still ongoing, and tabulation is continuing. This statement is preliminary. A comprehensive report will be released in the months after the elections.

The Carter Center's assessment of Sierra Leone's elections is based on obligations for democratic elections contained in Sierra Leone's Constitution, electoral law, and other relevant parts of the legal framework, as well as its commitments under international law. The Carter Center conducts its election observation mission in accordance with the Declaration of Principles for International Election Observation, which was adopted in 2005 at a ceremony at the United Nations.

The Carter Center has been a force for peace in Sierra Leone since 2002, when it observed the first presidential and parliamentary elections following the end of Sierra Leone's civil war. Since then, The Carter Center has played a role in the country's 2007, 2012, and 2018 national elections. Since 1989, The Carter Center has observed more than 110 elections in 39 countries.

The full preliminary statement is available at www.cartercenter.org (PDF).

PRELIMINARY CONCLUSIONS

In this statement, The Carter Center offers a preliminary assessment of the electoral process thus far, including the legal framework for elections, election administration, the campaign period, the political participation of women and marginalized populations, election-day voting, counting, and the ongoing tabulation to date.

Since the tabulation process and announcement of results are still ongoing, this is a preliminary statement and does not provide the Center's overall final assessment.

Legal Framework and Electoral System. A sound legal framework is essential to the administration of democratic elections and to ensuring that a country upholds its international obligations. Sierra Leone has ratified all major international and regional instruments that relate to human rights and the conduct and inclusivity of democratic elections.¹ The 2023 elections were governed by the 1991 Constitution, 2022 Political Parties Act, and the 2022 Public Elections Act, along with several new provisions including the revocation of the criminalization of libel under the controversial 1965 Public Order Act (which remains in force) and introduction of a Cybersecurity and Cyber Crimes Act of 2021 that introduced significant new restrictions on freedom of expression online. In January 2023 President Bio signed into law an important Gender Equality and Women's Empowerment Act (GEWE) that advances protections for women's rights, including a 30% affirmative action measure for women's participation in politics for appointed positions (including cabinet, ministry, and ambassador roles) and elected positions (including parliamentary and local council seats).

The president of Sierra Leone is elected in a two-round system. If no candidate receives 55% of the votes in the first round, the top two candidates proceed to a runoff. Independent candidates cannot run for president. For the parliamentary elections, the President made a controversial declaration to apply a proportional representation system that had not been used since the country's first post-war elections in 2002. These changes were introduced by the ECSL at the president's directive on October 21, 2022, were challenged in the courts by APC and PMDC, and were upheld by a Supreme Court decision on January 27, 2023. Contrary to best practice, these changes to the electoral system were made less than six months before the election, without the consultation of political parties, and with little time for parties or the public to understand their implications.

In addition, a high threshold was introduced requiring political parties to obtain 11.9% of the vote to receive a seat in parliament. This requirement is an undue restriction on the right to participate in political life, contravening Sierra Leone's commitments under ICCPR. The threshold could also negatively impact ethnic political divisions through concentration of parliamentary power in the APC and SLPP parties.

Voter Registration. The rights of universal and equal suffrage are fundamental international obligations for democratic elections. International standards provide that voter registration should enable the broadest possible pool of voters to participate, and voter lists should be prepared in a transparent manner with voters having easy access to review and correct their registration data as the need arises.²

¹ Sierra Leone has signed but not ratified the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

² "The voters' lists shall be prepared in a transparent and reliable manner, with the collaboration of the political parties and voters who may have access to them whenever the need arises." Article 5, ECOWAS Protocol on Democracy and Good Governance (2001)

A total of 3,374,258 persons were registered. The Carter Center notes that the APC contested the validity of the voter registry in the courts, claiming unreasonable increases in the number of voters in SLPP strongholds and decreases in APC strongholds. That case has not yet been heard.

The Carter Center did not observe the voter registration process in advance of Sierra Leone's 2023 general elections and therefore cannot assess that process or the integrity of the voter registry used for the elections. However, The Carter Center noted on election day that in 55% of cases voters' pictures on the registry were inadequate for identification purposes, and that in others voters reported that while they were registered at a polling station their names could not be found on the list.

Boundary Delimitation. According to international standards, constituency boundaries should be drawn in such a way that the principle of equal suffrage is preserved, so that every voter has roughly equal voting power.³ Notwithstanding strong concerns raised regarding the census, the ECSL decided to use the census results and not voter registration data as a basis for identifying how many parliamentary seats each district would be electing.⁴ As a consequence, electoral districts which have historically voted by a significant majority for the governing SLPP were apportioned eight more seats in the parliament, and districts which have historically supported the opposition APC by significant majorities lost the same number of seats. Significantly, the capital district of Freetown (Western Urban), which in previous elections had twenty seats in the parliament, now has only eleven.

At the time the ECSL took this decision, the Commission had completed the voter registration exercise, meaning that this data was available during the ECSL's apportionment process. However, as noted above, the ESCL used the controversial census data. The number of registered voters per Member of Parliament varies dramatically between the districts and ranges from 16,541 in Pujehun to 54,366 in the Western Urban (Freetown) district, distorting representation in parliament and undermining equal suffrage, which requires that voters have roughly equal voting power.⁵

Election Administration. A critical factor in enhancing the transparency of an electoral process and facilitating the active participation of citizens in the democratic process is an independent and impartial election management body (EMB). A transparent, accountable, and professional body is regarded as an effective means of ensuring that domestic and international obligations related to the democratic process are met.⁶ The EMB should provide accountable, efficient, and effective public administration of elections, and should ensure that the electoral process complies with Sierra Leone's national laws as well as its regional and international obligations for democratic elections and human rights.⁷

³ "The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely." ICCPR. General Comment 25. Article 21

⁴ Interestingly, the ECSL chose to add another step to this calculation, and the final apportionment of seats to districts was based on obtaining the average of the current number of seats for each district (determined for the 2018 elections) and the number of seats suggested by the district's share of the total population according to the mid-term census.

⁵ Using the generally accepted method of evaluating equality of suffrage ("weight of vote") method, only four electoral districts meet the norm of not deviating from the voter-per-seat average by more than 10 percent.

⁶ United Nations, International Covenant on Civil and Political Rights, General Comment 25, para. 20

⁷ Venice Commission, Code of Good Practice in Electoral Matters, Section II.3.1.c

The ECSL is composed of a chairperson and five commissioners representing Sierra Leone's five regions, with five of the six-member commission appointed since the last elections in 2018. The 2023 elections were conducted with considerably less technical assistance from the international community than past elections. Administration of the elections was characterized by a lack of communication and transparency that undermined public confidence in the institution and its work. While the SLPP expressed confidence in the ECSL, most opposition parties – including the APC, the largest opposition party in parliament – expressed a lack of confidence in the ECSL's independence and capacity. Two weeks before the elections the APC called for the resignation of all commissioners.

Candidate Nomination and Campaign Period. Equitable treatment of candidates and parties during an election and the maintenance of an open and transparent campaign environment are important to ensuring the integrity of the democratic election process. Sierra Leone's legal framework and its international and regional commitments create obligations related to campaign periods, including the right to freely express opinions and to participate in public affairs.⁸

Thirteen political parties contested Sierra Leone's presidential elections, with only a single female candidate standing for the office.

Despite serious limitations on and violations of the right of assembly in the run-up to election day, and restrictions on campaigning by political parties, contestants were able to exercise fundamental freedoms and conduct their campaigns. The campaign period was dominated by debates about the financial situation of the country and legal complaints filed regarding the elections and in particular the quality of the voters list. While there were reports of intimidation and election-related violence targeting both of the main parties – the SLPP and the APC – Carter Center observers reported a pattern of intimidation directed against the APC, particularly in the south and east, which undermined the party's ability to exercise its right to freedom of assembly in some cases.

Carter Center observers heard allegations that the ruling SLPP used state resources to campaign. Carter Center observers reported the presence of government vehicles at three observed SLPP campaign events, although the president himself traveled in his personal vehicle at one of those events. Domestic citizen observers also reported seeing government vehicles at other SLPP campaign events.

Citizen and International Observers. The National Election Watch (NEW) trained and deployed 6,000 observers across the country. Out of these observers, 750 received specialized training to collect polling and results data from a statistically relevant sample using an advanced Process and Results Verification for Transparency (PRVT) methodology. The PRVT methodology allows NEW to accurately project the results of the election utilizing data collected at the count in polling stations across the country on election night. On June 26, NEW announced it had gathered information from nearly 100% of these 750 specialized observers.

Women. In 2022, Sierra Leone's parliament passed the Gender Equality and Women's Empowerment Act, the nation's first legislative affirmative action measure aiming to enhance women's political participation and promote women as candidates. The Act mandates that 30% of

⁸ ICCPR, Article 19(2); ACHPR, Article 13(2)

political party candidates must be women.⁹ The PEA supports the GEWE by stipulating that political party nomination lists that do not include the required number of female candidates will be rejected. The ECSL gazetted a final list of candidates on June 22, the last day of the campaign period. However, the list does not specify gender or which office candidates are contesting (parliament, mayor, local council). As a result, it is not possible for the public or political parties to assess whether parties nominated the required number of female candidates. Furthermore, The Carter Center heard allegations that some political parties intentionally provided incorrect gender data for their candidates in order to circumvent the requirement. However, these allegations cannot be confirmed based on the candidate list shared by the ECSL.

Regardless of whether the final candidate lists do include 30% women, The Carter Center notes that the distribution of seats will require that at least every third candidate who obtains a seat be a woman.

People with Disability. International standards for democratic elections call for accommodations to be made for people with disabilities, and polling places must be accessible.¹⁰ People living with disability in Sierra Leone face difficult stigmas and are often marginalized. While the percentage of the population living with disability is unknown, it is thought to be high in part due to the number of citizens left disabled following the country's decades-long civil war. On election day The Carter Center noted that 68% of polling stations observed were accessible.

In the 2023 elections the ECSL provided tactile ballot guides for all four ballot papers so visually impaired voters would be able to cast their votes independently and in secret. Carter Center observers noted the presence of the tactile ballot guides in 80% of polling stations observed. While the procurement of these guides is commendable, very little voter education was done to ensure visually impaired voters were able to utilize the tool and in some cases polling station staff seemed unfamiliar with the use of tactile ballot guides.

Closing and Counting. The Carter Center observed the closing and counting process in all 16 electoral districts and reported that overall, the process was peaceful and orderly. The counting process was observed as "very good" or "reasonable" at 100% of polling places visited. Carter Center observers noted that the counting process was conducted with transparency in the presence of political party agents and national observers. Carter Center observers did not report any instances of someone refusing to sign the Reconciliation of Results Form (RRF). Carter Center observers also reported that the process to determine the validity of votes was conducted according to procedure.

ELECTION DAY

The quality of polling operations on election day is crucial to determining how closely an election falls in line with a country's democratic obligations. According to Sierra Leone's

⁹ Parliament has 146 members in full composition; at the time of the passage of the GEWE, only 18 MPs were women.

¹⁰ U.N., CRPD, Article 29

international and regional commitments, all citizens should enjoy the right to universal and equal suffrage, subject only to reasonable and objective limitations.¹¹

The voting process stands as the fundamental pillar in ensuring the fulfillment of the people's right to freely express their will through genuine and periodic elections.¹ The manner in which polling operations are conducted on election day plays a pivotal role in assessing whether an election has been held in accordance with international standards for democratic elections. Both national and international law recognize the significance of conducting elections through the use of secret ballots, as it serves as a vital mechanism to guarantee the free expression of the people's will.²

The vote was conducted in 3,630 polling centers comprising 11,832 polling stations nationwide. The Carter Center deployed 38 observers across Sierra Leone's 16 electoral districts.

Opening

Carter Center observers assessed the process of the opening of polling stations as good or very good in 100% of stations observed. 38% of observed polling stations opened more than 30 minutes later than the 7:00 a.m. start time due to issues of preparedness or missing materials.

Polling

The polling environment was assessed as very good or reasonable in 100% of polling stations observed.

Carter Center observers did not observe any major irregularities during the polling process. Observers reported that they had full access to the polling stations and were allowed to observe all aspects of the process. In several polling stations, observers received reports of voters not being allowed to vote as they didn't appear on the voter registry, though the voters were adamant that they had registered at the station and had received confirmation that this was their polling station during the exhibition exercise. In 50% of polling stations observed the quality of some photos in the Register of Voters provided was not sufficient to identify voters.

No incidents were reported inside or outside the majority of polling stations. International and domestic observers were present in 66% of observed stations. In particular, non-partisan domestic election observers from the National Election Watch (NEW) were observed at polling stations across the country and performed their responsibilities professionally. The polling center manager in 73% of polling centers was male. 69% of polling stations were assessed as accessible to the physically disabled.

Closing

Implementation of procedures during the closing process was assessed as very good or good in 80 of the ten observed polling stations in which Carter Center observers were able to follow

¹¹ U.N., International Covenant on Civil and Political Rights, Article 25(b); U.N., United Nations Human Rights Committee, General Comment No. 25 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service," para. 21; U.N., Universal Declaration of Human Rights, Article 21(3); IPU, Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Article 2(6).

the count through to its conclusion. Similarly, the overall environment was assessed as very good or reasonable in 100% of observations.

Counting

Accurate and fair vote counting plays an indispensable role in ensuring that the electoral process is democratic and reflects the will of the voters. International commitments require that votes be counted by an independent and impartial electoral management body. The counting process must be public, transparent, and free of corruption.¹²

The Carter Center observed counting in all 16 electoral districts. The counting process was observed to be good or very good in 100% of polling stations observed.

Tensions rose in some locations as closing and counting progressed, with a visibly increased security presence as counting took place. The Carter Center noted a high percentage of invalid ballots in some polling stations observed. In one polling station in Kenema, an unknown person who did not appear to be ECSL staff arrived towards the end of the count and took over the presiding officer's duties.

All observed polling stations had domestic observers and candidate agents present during the closing and counting, an important level of transparency.

Tabulation

Tabulation of results is an integral phase of the electoral process that ensures the will of votes is accurately and comprehensively reflected in final results.¹³

Thirty-eight observers from The Carter Center observed the tabulation of results at the five national tally centers in Port Loko, Makeni, Bo, Kenema, and Western Area. Observers witnessed a tabulation process that was characterized by limits to transparency and at times was conducted in tense environments with increased security presence.

Observers in some centers were not able to make an accurate assessment of tabulation procedures as the distance between the workspace and the designated place for observers was too great to see what was taking place. In some centers observers were not allowed to approach the staff to ask questions.

In all five tabulation centers, a double-blind data entry process appeared to be taking place in which a results form is entered by two separate data entry clerks. If there is a discrepancy in data entry, the results form is flagged for review. RRFs that were flagged for review during the double-blind data entry process were set aside and did not seem to be reviewed during the time of The Carter Center's observation at all five tally centers. ECSL staff declined to answer questions regarding procedures for handling results forms that were flagged for review.

In the pre-election period, the ECSL procured a controversial results tabulation application that was to be utilized during the tabulation process. However, Carter Center observers did not witness the application being utilized anywhere across the country. In addition, Carter Center

¹² U.N., Human Rights Committee, General Comment 25, para. 20; U.N. Convention Against Corruption, Article 18.

¹³ U.N., International Covenant for Civil and Political Rights, art. 25(b); AU, Declaration on the Principles Governing Democratic Elections in Africa, art. 1.

observers did not observe the use of projectors to display data entry or results at tally centers as had been anticipated in accordance with information from the ECSL, which would have greatly contributed to the transparency of the process.

Party agents, domestic observers, and international observers had a very limited presence at tally centers on the first night of tabulation in particular. In one instance in Makeni APC party agents were removed from the tally center and later escorted back in by the military following a three-hour disruption of the process. Carter Center observers noted several instances of instability during the tabulation process on June 25 and June 26.

Carter Center observers directly observed broken seals and open ballot boxes in three of the five tally centers. In two tally centers ballot boxes appeared to have been opened after they arrived. Results from any ballot boxes that were opened in violation of procedure and international best practice should be set aside for additional scrutiny and should not be included in the final results until a formal, transparent, and inclusive review can establish whether they can be considered credible.