

RECALIBRATING THE LEGAL AND NON-LEGAL FRAMEWORK FOR RESOLVING
ELECTORAL DISPUTES IN SIERRA LEONE

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Abstract: Electoral disputes are not infrequent particularly before, during and in post-elections. There are historical footnotes that these electoral disputes/violence are caused by various factors and evidently manifest in so many ways within the electioneering process. The fundamental need to understand the dynamics around electoral violence remains germane to limiting the risk of electoral dispute, which has the potential to improve the quality of democracy in Africa. This is so because electoral disputes negatively impact on the survivability and health of budding democracies and, if not handled efficiently, could have a cataclysmic impact on the political stability and, by implication, on the socio-economic development of a country. To this end, there is the exigency to recalibrate and reengineer informal and alternative dispute resolution mechanisms that can effectively and expeditiously settle and determine these disputes within the Judicial system and alternative dispute resolution mechanisms of a nation. The main thrust of this article is to recalibrate and bring to the fore the framework (legal and regulatory) employed in resolving electoral disputes in Sierra Leone. It argues that while the judiciary system is established by the 1991 Constitution to handle disputes arising from electoral processes, alternative electoral disputes resolution mechanisms established by the Elections Management Bodies (EMBs) continue to prevent disputes from arising or sliding into outright violence. The article concludes that EDRMs are quintessential and pivotal in preventing, resolving and managing electoral disputes and providing stable electioneering process in Sierra Leone.

Keywords: elections management, electoral disputes, judiciary, electoral process,

Introduction

Electoral management in nascent democracies especially in Africa remain a complex and multi-faceted activity. Expectedly, Elections Management Bodies (EMBs) have the constitutional responsibility to manage elections and discharge their duties in a fair, transparent and impartial manner. This is done by ensuring the effective participation of citizens to make decisions at the polls. This ensures the citizens to choose leaders they think can best serve their interests and improve on their socio-economic needs. To guarantee that the electoral process has credibility and acceptability, EMBs have the responsibility to ensure the electoral process is carried out in an environment characterized by an effective and stable administrative system.

Duodu (2010) holds the view that for a country to organize credible, free and fair elections, certain institutional framework should be put in place. The institutional architecture provides fair avenue for citizens to freely elect and be elected under rules and regulations that are clear to all contesting parties (Hammer, 2009). Fundamentally, this requires the establishment of EMBs that are independent of the control and manipulation of the political and governing class, on the one hand, and also have the legal mandate to conduct and preside over free and fair elections, on the other. The responsibilities of EMBs are critical to the consolidation of democracies in Africa. These bodies have become the cornerstones of the electoral process (OSIWA, 2011). The core activities of EMBs include but not restricted to (1) determining who is eligible to vote, (2) receiving and validating the nominations of the participating parties and candidates, (3) conducting the polling, (4) counting the votes, and (5) disseminating the results (Wall et al., 2006). By performing these activities, the EMB has to ensure that the elections are conducted and managed in a way that is efficient, transparent and fair. Failure to do so can trigger electoral violence as was the case in 2007 elections (Jacobs 2011).

The need for an impartial and independent EMBs with the wherewithal to prevent, mitigate and resolve electoral disputes cannot be overstated. This is critical especially in nascent democracies where state fragility is not

uncommon. Citizens need to have confidence and trust in the institutional capacity that takes responsibility to conduct elections for public officials. While this is the ideal situation, most EMBs in Africa are not only partial or biased towards the governing elite but also laden with prejudices that blur their judgement. The resultant effect of their lack of independence has always plunged countries into internecine violence.¹

The role of Independent EMBs is very critical to the outcome of an election as these electoral bodies derive their powers and mandate from the national constitutions and laws of the various state (Makumbe, 2009). A recent study using data from more than 50 African elections from 2011 to 2017, showed that almost all these elections had cases of electoral violence at some stage of the poll (Kewir et Gabriel 2018). The risk of violence is especially evident when incumbents propose referenda or parliamentary votes to change the constitution in a bid to extend their presidential terms, as was the case in Ivory Coast in 2020 and Guinea in 2020. Beyond the relatively few cases that make it to the international headlines, many countries

experience an 'everyday' kind of electoral violence: low-scale but pervasive and typically occurring long before election day, between electoral cycles, and in local elections far away from the international spotlight.²

Electoral violence is not limited to general and national elections (inter-party elections) but also intra-party elections. In Sierra Leone, for example, several parliamentary by-elections at constituency level (the 2020 parliamentary elections in Constituency 110 in the Western Rural Area district and the Koinadugu District Council Chairman elections in October 2021 come to mind) have degenerated into high levels of violence, intimidation and insecurity with ominous impact on the population, and bringing into question the image of the National Electoral Commission (NEC). Another avenue for electoral violence that has not been comprehensively researched on relates to intra-party politics. This presupposes party members involving in a constant struggle to create and maintain the connections that will ensure their progress up the party ladder. This struggle, like most others, often intensifies around transition times. In the absence of clear succession plans, this can result in vicious intimidation and violent attacks. For instance, in Burundi, violence that broke out in connection to elections in 2015 was preceded by a longer period of intra-party tensions and attacks on individuals within the ruling party.³

Beyond physical violence, violent discourse can be effective in mobilising political campaigns, especially in political environments coloured by ethnic and regional stereotypes and a previous history of conflict (Jacobs 2010). In the 2012 general election campaign in Sierra Leone, supporters of the opposition presidential candidate, Julius Maada Bio, called him 'the Tormentor', a reference to his past as member of the military junta that overthrew the government. Sometimes, words are unnecessary to evoke memories of a violent past. During protests in 2015 in Burundi, members of the ruling party's youth militia were heard outside public radio station Radio Publique Africaine (RPA), widely known for its critical opinions of the government, popping balloons to resemble the sounds of gunshots⁴.

Studies have pointed to weak institutions and institutional rules governing the election process as one of the main contributing factors to post-election violence (Khadiagala, 2009; Baregu 2009). Zeev and Russett (1993) argue that the frequency of political and electoral violence is closely related to the degree of performance by electoral institutions. This supports the assertion by Eklit and Reynold (2002) that, acceptability of election results is dependent of whether a particular state has created an autonomous and independent election management bodies with the responsibility of conducting elections professionally and impartially. Example of such election management bodies is the Electoral Commission of Ghana and Independent Electoral Commission of South Africa.

The quality and performance of election administrators have a strong impact on whether or not electoral violence occurs (UNDP, 2009). Positive attributes such as inclusive membership structure, political balance and professionalism to these bodies, could contribute to the legitimacy of the election and, if absent, can trigger election-related violence (Sisk, 2008). There are different types of electoral management bodies and administration

¹The violence that attended the competitive elections between Alhassan watarra and Laurent Gbagbo in Ivory Coast is a case in point.

²See Violence in Africa Elections, The Nordic African Institute, Policy note, np., 7: 2018 for details

³Ibid., p. 4.

⁴Ibid., p. 4.

models in Africa. According to Lopez-Pintor (2000), elections can be administered by the government; by the government but under supervision of an independent authority; or by an independent commission.

While administration of election may be fairly done by the government-based in advanced democracies, in a fragile economies and conflict prone divided countries with ethnic cleavages, government-based electoral administrations face legitimacy issues and accusations of manipulation by the incumbent (Pastor, 1999; Lopez- Pintor 2000). The credibility of these EMBs, therefore, rests on their independence, representativeness and sustainability of the body, and professionalism and credibility of the members of the election body (Pastor 1999).

There is evidence in some African countries which point to the fact that elections administered by independent EMBs are more acceptable with the outcome of the elections fully respected and uncontroverted. It is for this reason that Lopez- Pintor (2000) points out that historical evidence as well as recent conclusions by observers, analysts and practitioners, almost unanimously indicates that elections run by independent electoral bodies are preferable to those run and/or influenced by executives.

The nature, intensity and consequent outcomes of electoral violence in African countries have taken different dimensions and forms. According to Sisk (2008), the risks associated with organizing elections becomes high, if the electoral process is not managed professionally and impartially by a trusted institution. Sisk (2008) avers that the recent clashes in Mali, Togo, Democratic republic of Congo and Sudan are all reflective of the view that, the will of the people are not considered be the sacred outcome of political contest. It is worthy to posit that not only can the EMB create electoral tension by the way it organises the election, its own composition, and related behaviour of its members, can also become a focal source of electoral conflict. This means that electoral violence may emanate from deficiencies in the electoral process itself as much as it may be stimulated by externally motivated underlying ethnic, socio-political and economic cleavages or tensions.

Sierra Leone has a unique electoral management system. It is the only country in West Africa with two Electoral Management Bodies (EMBs). There is the National Electoral Commission (NEC) and the Political Parties Registration Commission (PPRC) with different klegal mandates. The National Electoral Commission (NEC) of Sierra Leone is a corporate independent Election Management Body (EMB) responsible for the organization, conduct and supervision of the essential elements of public elections and referenda.⁵For most part of its existence since independence in 1961, especially during the pre-war one-party era (1978-1991) and after the country's civil war, the NEC was not only dependent on the executive (i.e. the Ministry of Interior/Internal Affairs) but unable, all by itself and without outside assistance, to conduct credible democratic elections. It was against this background that the NEC was restructured into an independent and professional EMB in 2005, with the help of the Government of Sierra Leone (GoSL) and its development partners.

The PPRC, on the other hand, is a Commission established under the constitutional provision contained in Sections 34 and 35 of the 1991 Constitution of Sierra Leone. The PPRC came into operation in 2005 during the re-organization of NEC, which witnessed the relinquishing of its oversight responsibilities of political parties. The PPRC is the first of its kind in the West African sub-region and its contribution to strengthening internal political party democracy, plurality, constitutionality and to the overall governance and democratization growth in Sierra Leone cannot be overstated.

The establishment of the NEC and the PPRC was thus part of the country's post-conflict institutional arrangements. Since their establishment, the two institutions have been crucial to the on-going process of democratisation in the country. While both commissions have made, and continue to make notable progress, there is the need to address ambiguities in the 1991 Constitution and related enabling legislation establishing them, paying close attention to electoral justice, and addressing electoral disputes that have characterized post-conflict elections in Sierra Leone.

Sierra Leone has a formal and well-entrenched legal instruments and institutions for resolving electoral disputes in Sierra Leone. The instruments/framework are deeply ooted in the justice system. In addressing pre-election conflicts and disputes, fort instance, the Political Parties Act in Sierra Leone mandates the Political Parties Registration Commission (PPRC) to *'mediate any conflicts or disputes between or among the leader ship of any political party or between or*

⁵The 1991 Constitution of Sierra Leone

among political parties. Section 152 of the Public Elections Act also mandates the National Elections Commission (NEC) to receive and address complaints on violations of rights in the electoral process. Both the NEC and PPRC have the mandate for electoral related dispute resolution but lack the power and authority to hold political parties accountable.⁶

Methodology

A qualitative methodology was employed in carrying out data collection. The researcher undertook desktop research (literature review) and key informant interviews (virtual and/or telephonic). Paramount among the tools used was the review of related literature from International IDEA knowledge products, the 1991 Constitution of Sierra Leone, EMBs annual and other reports, and electoral related Acts of the Republic of Sierra Leone. The researcher also reviewed published reports of election observation missions such as that of European Union, Commonwealth, African Union, ECOWAS, MRU, and other local based election observation reports on the elections of Sierra Leone were reviewed for an understanding of the role of the EMBs and how they have executed their mandates particularly resolving elections disputes/violence. The literature review was embedded in the legal framework documents that established the EMBs as well as internationally accepted best practices.

Virtual or telephonic interviews were carried out with staff of the PPRC, NEC, the Judiciary and members of CSOs engaged in elections in Sierra Leone. The interviews focused on eliciting experience, stories, and explanations on the role of EMBs in managing electoral

Limitations to the study

This research was undertaken during the COVID-19 period, which largely limited the consultant to conduct full-fledged face-to-face interviews and FGDs. To mitigate this, the consultant employed telephone/virtual interviews especially with CSOs and some members of the EMBs.

Discussions and Findings

Rolling out efficacious election procedures, to a large extent, guarantee the legitimate outcome of elections in developing countries. Such contests are hardly attended by disputes or electoral violence. One can opine that establishing a transparent and fair procedures for the resolution of electoral disputes is a necessary component of a properly functioning election process. To ensure that effective remedies are available for the redress of violations of basic rights in connection with the election process, appropriate dispute resolution processes are required (International IDEA, 2019a). Every citizen in Sierra Leone has the right to an effective remedy before a competent national tribunal for acts that infringe on his or her rights or freedoms, including the right to free and fair elections and other associated rights, under Sierra Leone's international and regional obligations (The Carter Center, 2012). In the event of a disagreement involving elections, everyone has the right to a public hearing before an independent and impartial tribunal before which they can present their case. Political commitments in Sierra Leone also dictate that the country's electoral legal structure should allow adequate remedy for those who have been denied the opportunity to vote. When it comes to resolving election disputes in Sierra Leone, there are a variety of options available. They include making a complaint with the National Electoral Commission (NEC) on a party or candidate's breach of campaign regulations, filing a complaint with the Political Parties Registration Commission (PPRC), and filing a case with the Electoral Offences Court.

The bodies dealing with an electoral dispute on election results is conceptualised based on the first and last instance bodies dealing with disputes related to election results (NEC Annual report 2020). The inherent challenge with this conceptualisation is that it positions the discussions within the realms of the formal electoral dispute mechanism usually stipulated in the laws (International IDEA 2018). To deal with this limitation, the conceptualisation of the electoral management bodies is extended to other informal alternative electoral dispute resolution mechanism that has become a pivotal part of the electoral dispute resolution system of Sierra Leone and some other African

⁶Interviews with members of the NEC and PPRC revealed that while the Constitution and other legal instruments/Acts mandate the two EMBs to address complaints emanating from the electoral process, there is no legal provision that gives them power and authority to hold responsible political parties or citizens with regard to electoral violations.

Countries. In this context, the main bodies responsible for resolving electoral disputes are the Judiciary, the NEC, the PPRC, and other informal alternative resolution mechanisms that have evolved out of the role of the two EMBs in Sierra Leone.

The Justice System in Sierra Leone

The judiciary of Sierra Leone is headed by the Chief Justice and comprises the Supreme Court, the Court of Appeal and the High Court. These constitute the Superior Court of Jurisdiction. The inferior courts comprise the Magistrates courts and the Local courts. The Magistrate Courts exist in each district. The 1991 Constitution of Sierra Leone confers responsibility on the judiciary to dispense justice in the country at all levels. By implication, therefore, the Judiciary takes responsibility for electoral disputes related to the outcome of presidential and parliamentary elections as well as other electoral offences. The country's election-related matters are managed by a number of different courts, which include challenges to candidate nominations, cases against the authorities alleging abuse of power during the election process, prosecution of electoral offences, and petitions challenging the election results (NEC Annual Report 2020).

The Supreme Court is the highest court in the land and the 1991 Constitution provides that it has the mandate to adjudicate challenges to the nomination of a presidential candidate or the results of presidential elections. The complaint about the nomination of a presidential candidate has to be filed at the Supreme Court. Accordingly, section 47 (2) indicates that *any citizen of Sierra Leone may lodge an objection, if any, against the nomination of a presidential candidate but that the objection shall be lodged with the Supreme Court within seven days of the publication of the Government Notice (a notice of the nomination, showing the full name, address and occupation of each presidential candidate).*

Any citizen who has lawfully voted can submit a petition with the Supreme Court challenging the results of the presidential election if he or she does so within 7 days following the release of the results by the NEC (NEC Annual report 2020). Section 55 (1) of the Public Elections Act (2012) provides that *a person who is a citizen of Sierra Leone and has lawfully voted may in a presidential election may challenge the validity of that election by petition to the Supreme Court within seven days after the declaration of the result of a presidential election.* The Supreme Court is required by the public elections law to set up a panel made up of three Justices to decide on an objection against the nomination of a presidential candidate that may be brought before it. The Supreme Court is expected to decide on the complaint against the nomination of a presidential candidate within 30 days after receiving it. Section 47 (3) of the Public Election Act (2012) states *that an objection against the nomination of a presidential candidate shall be heard by the Supreme Court made up of three Justices whose decision shall be given within thirty days of the lodging of the objection.* There is, however, no provision in the law regarding how the Supreme Court is supposed to superintend the petition that may be brought before it, challenging the presidential elections apart from Section 55 (2) which states that *a declaration by the Supreme Court that the election of the President is not valid shall not prejudice anything done by the President before the declaration.*

The 2020 NEC Annual Report avers that complaints regarding the right of a person to be or remain a member of Parliament, as well as a complaint challenging the validity of the election of a member of Parliament or a member of a local council may be filed at the High Court for determination. Section 138, 139, and 140 of the Public Elections Act (2012) provide that, *all questions which may arise as to the right of a person to be or remain a member of Parliament shall be referred to and determined by a Judge of the High Court on a petition presented by a voter and in accordance with the procedure prescribed under section 162 for the trial of an election petition. A petition complaining of an undue return or undue election of a Member of Parliament or a member of a local council, in this Act called an election petition, may within twenty-one days from the date of the publication of the result of the election in the Gazette be presented to a Judge of the High Court by any one or more of the following persons: a) a person who voted or had a right to vote at the election to which the petition relates; (b) a person who claims to have had a right to be returned or elected at the election; or (c) a person who alleges himself to have been a candidate at that election.*

Dovetailing with the above, the Public Elections Act of 2012 clearly states that complaint challenging the validity of the election of a member of parliament has to be brought to the Court within 21 days after the election results have been gazetted. Section 139 (1) of the Public Elections Act (2012) states that *every election not called in question within twenty one days after the publication of the result in the Gazette, shall be deemed to have been to all intents a good and valid election.* There is no provision in the law on maximum time within which complaints about the right to be a member of parliament have to be filled upon the discovery. Also, there is no provision in the laws regarding whether the complainant has to pay any fee and how much that has to be paid by the person filing a complaint on electoral dispute of any form. The right to a defence or to a hearing on a challenge is guaranteed to both the complainant and

the person or group against whom the complaint is lodged. In addition to allowing them to present their arguments, the Court is obligated to hear and consider their submissions in its decision. Section 141 (1) of the Public Elections Act (2012) states that *every election petition shall be tried by a Judge of the High Court in open court.*

The Public Elections Act also indicate that at the end of a trial on both the right to be or remain a member of Parliament or challenges to the election of a member of Parliament, the High Court has to produce in well-reasoned and justified report which conclude with a judgment in keeping with the proven facts of the proceedings and which assess each party's claim. Section 138 (2) of the Public Elections Act (2012), provides that *where the question to be decided concerns the right of a person to remain a Member of Parliament, the Court shall certify its decision in writing to the Speaker and the Electoral Commission and where the High Court has decided that a person is not entitled to remain a Member of Parliament that person shall then cease to be a Member of Parliament.* Similarly, Section 141 (3) indicates that, *at the conclusion of the trial, the High Court shall determine whether the person whose return or election is complained of was duly returned or elected, or whether the election was void, and shall certify that determination as provided in subsection (2) of section 136 where the question decided concerns an election to Parliament and where the election concerns an election to a local council, the High Court shall certify its determination to the Electoral Commission and to the Minister responsible for local government.*

The judiciary takes responsibility of disputes related to all electoral offences. Some of the types of election-related misconduct that are regarded as offences and the associated penalties are contained in the Public Elections Act (2012). The Act also makes provision for election offences to be tried in a special court called the Election Offences Court (EOC). For instance, in the run up to the 2018 elections, the Chief Justice appointed 12 Judges on October 2017, to the EOC; 4 in the Provinces (Kono, Makeni, Kenema and Bo) and 7 in the Western Area (National Elections Watch, 2018).

The Elections Offences Court has been established in Sierra Leone and is headed by either a High Court judge, a retired judge, or a Barrister or Solicitor who is qualified to hold office as a high court judge, and sits in such places in Sierra Leone as the Chief Justice may determine. All trials by the EOC must be concluded not later than 6 months after the establishment of the Court. Thus, an individual may be arrested, prosecuted and if found guilty, pay a fine and or go to jail for committing any of the electoral offences stipulated in the law. A person convicted of an electoral offence is entitled to appeal to the Court of Appeal.

The Role of the National Electoral Commission (NEC)

The Electoral Commission (EC), also called National Electoral Commission (NEC) under the repealed National Electoral Commission Act, 2002, is the sole authority with the constitutional mandate (under section 33 of the 1991 Constitution, Act No. 6 of 1991) to prepare and conduct all public elections and referenda, that is, presidential, Parliamentary and Local Government elections. It was set up by an Act of Parliament to serve as the electoral authority with its constitutional mandate under Section 33 of the Constitution of Sierra Leone, Act No. 6 of 1991; Section 7 (1) of the Public Elections Act, 2012; and Section 28 of the Paramount Chieftaincy Act, 2009. NEC is mandated, among other things, to conduct all public elections and referenda and perform related functions in the fulfillment of such mandate. Section 152 (1) of the Public Elections Act (2012) provides that *where candidate or political party believes that his or its rights under this Part have been violated, the candidate or political party may lodge a complaint with the Electoral Commission. The Electoral Commission shall, upon receipt of a complaint under subsection (1), take all necessary steps to ensure that the issues raised in the complaint are properly addressed and any fault or defect is rectified without delay.*

There are no direct provisions for public funding to political parties in the Public Elections Act of Sierra Leone. However, political parties are entitled to subsidize access to media for political and tax relief in relation to the importation of campaign material. The NEC is supposed to issue to a candidate or a political party, a Certificate of Authorisation upon the application of by a candidate or political party wishing to import electoral campaign materials. Section 150 (4) of the Public Elections Act (2012) provides that *a candidate or political party shall, notwithstanding any enactment to the contrary, be exempted from the payment of customs duty in respect of election campaign material which is imported and supported by a Certificate of Authorisation issued by the Electoral Commission.* In regard to the above provision, a candidate of a political party who believes that his or its rights have been violated can lodge a complaint with the Electoral Commission. The Electoral Commission upon receiving such a complaint is required by the law to *take all necessary steps to ensure that the issues raised in the complaint are properly addressed and any fault is rectified without delay.*

The NEC engages and works with diverse Civil Society Organizations (CSOs), political parties, and stakeholders to prevent and manage electoral related disputes before, during, and after the election. For instance, after the 2018 election results were declared, the NEC publicly announced that where Political Parties have evidence of malpractice, they will do a recount. They also committed to a sample recount just so that they satisfy the Political Parties and ensure that they do not have any cause for rejecting the results.

The Role of the Political Parties Registration commission (PPRC)

The PPRC was established in December 2005 by the Political Parties Act of 2002, in accordance with Sections 34 and 35 of the 1991 Constitution of Sierra Leone. The PPRC has the general responsibility to register and supervise the conduct of Political Parties and monitor their “accountability to their membership and to the electorate of Sierra Leone” (See the PPRC act of 2002). It also has the responsibility, among others, to receive the statements of the sources of income, the audited accounts, assets and liabilities of each registered political Party, for action, in accordance with the Constitution of Sierra Leone and the Political Parties Act, 2002. The PPRC has restructured itself and recruited its own staff, who are not part of the country’s unified civil service.

The birth of the PPRC witnessed the relinquishing of NEC’s oversight responsibilities of political parties. The PPRC is the first of its kind in the West African sub-region and Sierra Leone is the only country in the sub-region with two EMBs. Its contribution to strengthening internal political party democracy, plurality, and constitutionality has contributed to the overall governance and democratization growth in Sierra Leone. The PPRC Act No3 of 2002 gives the Commission the mandate to: register and supervise the conduct of political parties in accordance with the 1991 Constitution and the PPRC Act of 2002; monitor the affairs or conduct of political parties to ensure their compliance with the constitution of Sierra Leone, the PPRC Act and the terms and conditions of their registration; monitor the accountability of political parties to their membership and to the electorate of Sierra Leone; promote political pluralism and spirit of constitutionalism among political parties; when approached by persons or parties concerned, to mediate any conflict or disputes between or among the leadership of any political party or between or among political parties; to do all such things as will contribute to the attainment of good conduct of political parties.

The PPRC, therefore, is not just established to register political parties but to superintend what the political parties do by the way of supervising, monitoring, and offering mediation during moments of disputes between or among the leadership or members of political parties. Section 10 of the PPRC Act provides that any person who wilfully obstructs or otherwise interferes with the Commission or its members or officers in the discharge of the functions of the Commission commits an offence and shall be liable on conviction to a fine not exceeding Le500,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Established Informal Dispute Resolution Mechanisms

It is an established fact that elections generally in Africa are fraught with disputes and sometimes violence. This is due to the fact that electoral process is predicated on oppositional framework. The frequency of electoral violence in Africa is concerning and this augurs ill for emerging democracies on the continent. Even in situations where elections are being considered as “free and fair” by elections observers may not have been devoid of violence as in Sierra Leone in 2018. At the same time, the voting process is riddled with accusations and counter-accusations of irregularities, which are exacerbated by lack of credible institutional and legal instruments for aggrieved individuals to seek redress or resolve issues arising from electoral disputes.

Informal and out of court mediation and reconciliation in settlement of electoral disputes or peace talks are not new phenomena in Sierra Leone. Some of these are carried out by individuals or groups such as CSOs and esteemed, well-respected and highly placed individuals in society to ensure that electoral disputes do not degenerate into violence and chaos. Some informal electoral dispute resolution mechanisms developed by the two EMBs are discussed below.

The Political Parties Code of Conduct and the Monitoring Committees

In accordance with its constitutional provisions and mandate, the PPRC has developed and agreed on a code of conduct with all political parties which was signed by all Political Parties in 2006. Even though the Political Parties

Code of Conduct is a gentleman's agreement, the registered Political Parties pledged to adhere to the Terms and Conditions therein. The Code serves as an effective tool to check-mate the excesses of Political Parties and ensure that a level playing field is guaranteed as contained in the Political Parties Act of 2002 in Section 6 (2) (c) "to promote political pluralism and the spirit of Constitutionalism among political parties". The code of conduct enjoins all political parties "to allow each and every citizen to express their political views and exercise their rights within the provisions of the law without fear of intimidation or extreme forms of violence". It guides the actions of all political parties in Sierra Leone before, during, and after the Elections; outlines acceptable and non-acceptable actions by parties, candidates, and their agents; and facilitates conditions conducive to the conduct of free, fair, and democratic elections within a climate of democratic tolerance in which political activities may take place without fear of coercion, intimidation or reprisals.

The PPRC has also established the District Code of Conduct Monitoring Committees across the sixteen electoral districts to monitor compliance with the Code of conduct and by extension, the Political Parties Act of 2002 in Section 6 (2) (c). The monitoring committee consists of the Chair of PPRC, representatives from ONS, NEC, National commission for democracy, 50/50 Women's group, Legal Aid Board, traditional rulers, inter-Religious Council and the human Rights Commission. The Committees are nationally represented, gender mainstreamed and inclusive.

The District Committees are responsible for: **Monitoring the code of conduct** - the District Committees are responsible for monitoring breaches of the Code of Conduct in the district and shall discuss reported breaches. All discussion within the committee must rely on facts, and not false or frivolous information. **Early warning of possible conflict in the district** - the district meetings provide political parties and other participating stakeholders the opportunity to bring up possible conflict in the district, and to discuss such concerns with other stakeholders. In line with this, the district committee should be open to information from the public in the district regarding the breaches of the code of conduct or potential sources of conflict. Written submissions can be received from any elector in the district and should be discussed immediately. **Conflict prevention** - based on discussions in possible conflict, the District Committees will discuss ways in which conflict can be prevented and how the environment for a peaceful and constructive campaign can best be created. **Conflict mitigation and resolution** - when breaches of the code of conduct can always be referred to the national monitoring committee, it will most often be more effective to deal with breaches and other conflict at a local level. The District Committees shall therefore discuss and try to settle such issues in a peaceful manner.⁷

Reports from the District Committees are submitted to the PPRC, NCD, and NEC headquarters within 48 hours of the holding of the meeting. The PPRC and other agencies involved in the electoral process, such as NEC, through the District Committee meetings provide participating stakeholders with up-to-date information about the electoral process and related issues. The constitutional mandate of the PPRC and the District Committees that have evolved from the discharge of its function implies that informally, the PPRC may be the first instance body to be engaged in various forms of electoral dispute beyond that which is related to the nomination, registration of electoral contestants (PPRC Report 2020).

The Eminent Persons Group (EPG)

The PPRC has the mandate to prevent violence and disputes before, during and after elections. In fulfilment of that mandate, the PPRC established the EPG in 2018 as a national anchor for preventive diplomacy, facilitating dialogue and mediation with top political leadership and to engage the Presidential Candidates and running mates to secure their commitment to peace during the elections.

The EPG has five members, and were selected based on the criteria the members should be drawn from a cross section of key stakeholder groups in society but that selection be based on individual credibility and gravitas, and should be gender sensitive. Women are always regarded as beacons of peace and their inclusion in peace and mediation efforts cannot be overstated. The group comprises two men, two religious leaders one an Islamic Imam and another a Canon, the third is a leading Media female practitioner. Two female members were drawn from civil society and the Children's Commission respectively. However, people living with disability were and are not represented in the EPG.

⁷See the PPRC annual report of 2020 for details

Since their induction, the focus of EPG work has largely been preventive. For instance, they followed up with Presidential Candidates who did not attend the signing of the Peace Pledge and secured the signatures of three of them including that of the ruling party APC flagbearer.

Another area of successful intervention has been the consultations they have held with Presidential Candidates following polling day where a number of them had, through press statements, registered dissatisfaction with the counting and tallying of results wherein some stated that they would not accept the outcome. The EPG and PPRC Commissioners met with 5 of the Political Parties² that raised concerns and subsequently met with the NEC, ONS and the Inspector General of Police (IGP) to discuss the concerns raised and they explored ways that addressed the issues resulting in the maintenance of peace.

Election Peace and Conflict Mitigation Group (EPCMG)

The 2018 election in Sierra Leone was marred by violence and extended to the subsequent bye-elections conducted to fill in vacant positions at both Parliament and Local Councils countrywide. This has posed a challenge for the NEC to conduct elections in a peaceful atmosphere often leading to the cancellation of elections including the Constituency 110 election in the Western Area Rural District. The situation also caused problems in the conduct of Paramount Chieftaincy Elections where conflicts always lead to court injunctions and community disputes and violence.

When the New Chief Electoral Commission and Chairman took office in 2020, the Commissioner saw the need for the formation of an Elections Conflict Prevention and Mediation Group that comprised of NEC staff members and Stakeholders from civil society group (NEC, 2020: 50). He decided to design an alternative mechanism/platform that would address the violent-laden situation with the view to achieve a win-win situation for the contestants and aggrieved parties. The Commission established the EPCMG group (which was gender sensitive save the absence of persons with disability) comprising three civil society organizations namely the Inter-Religious Council -Sierra Leone (IRC-SL), the Eminent Women Peace Mediators Sierra Leone (EMPM-SL) and Campaign for Human Rights and Development International (CHRDI) as a conflict prevention management team to provide the platform for Contestants and Parties to discuss, identify grievances, and solve issues as and when they arise before, during and after elections (NEC, 2020: 50).

The EPCMG and other stakeholders were able to address many of the contentious issues before the elections that eventually led to a peaceful and violent free re-run election on 12 December 2020. In 2020, the group has successfully mediated conflicts in the following elections, Constituency 110 in the Western Area Rural District, Constituency 010 in the Kailahun District, Ward 012 in the Kailahun District, Ward 192 in the Kambia District, to name four.

This EPCMG, which received funding from NEC, has become an important part of the NEC's agenda for the conduct of peaceful elections organised by the NEC (NEC, 2020). It is hoped that the group will be expanded to incorporate more civil society groups with similar structures and aspirations and also to be operational in the 5 regions, 16 electoral districts, 132 constituencies, 446 wards, and 190 chiefdoms.

Conclusion

Since the 1990s, competitive elections have become the hallmark to legitimize political leaders in many developing countries. Credible elections in some countries like Ghana, Botswana, and South Africa, are facilitating the consolidation of democratic national institutions with potentials for political and socio-economic development and stability. Most elections in these countries have been largely peaceful and credible. On the other hand, flawed elections in countries such as Ivory Coast have resulted in outright political imbroglio having a toll on lives and property not to mention eroding the democratic gains made. Some of these violent acts are caused and created by unprofessional behaviour of EMBs, state security especially the police, inefficient and biased legislative and adjudicatory system and the lack of effective involvement of critical stakeholders in the electoral process. This demonstrates that the institutions that are responsible for fair application of electoral laws (the courts), those responsible for providing security (the police) and those responsible to manage elections (EMB) often fail to do so in a manner that gains the acceptance of all stakeholders' due to lack of independence and neutrality. In the absence of

credible institutions to manage elections and electoral outcomes peacefully and credibly, electoral dispute resolution mechanisms have become one of the bastions of hope to regain the democratic dividends.

They ERDM with its inclusive and participatory framework is the vogue in Sierra Leone. As indicated in the preceding paragraphs, the EDRM system established by the EMBs have proven to work prevent electoral conflicts from arising. Regardless of its limitations: funding, composition and sometimes, neutrality, the EPCMG and the EMG have conducted themselves professionally in the last two years in operation. The preventive measures taken through engagement of key stakeholders and their proactive inclination have proven worthwhile in quelling potential conflicts especially in the constituencies mentioned above. This discovery indicates that more can be done with home-grown conflict management and resolutions in preventing violence that frequently attend elections not only in Sierra Leone but in Africa.

When the 1991 Constitution of Sierra Leone and other electoral legal framework shall have been reviewed to address the legal lacunas, ambiguities and to meet international standards and to stand the test of time; when the Government of Sierra Leone through the Judiciary and the Electoral Commission (EC) facilitate the immediate setting up of an Elections Offences and Petitions Court and the enactment of Election Petition Rules for the speedy adjudication of all legal election-related matters; and when the government and development partners provide support (financial, technical) to the EMBs to institutionalize the operations of the EPG and the EPCMG to serve as effective instruments for electoral dispute resolution in Sierra Leone, electoral disputes will either be reduced or relegated to history in Sierra Leone but in Africa.

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