

THE LIMITS OF MANAGING ELECTORAL CONFLICTS IN THE ON-GOING  
DEMOCRATIZATION PROCESS UNRAVELING IN SIERRA LEONE

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**Abstract:** Electoral conflicts are not uncommon in the world. They occur in many competitive electoral processes the world over because the electoral management itself is unwieldy, multifaceted and complex. Whereas elections have become a commonplace in Africa in the aftermath of the cold war, some recent elections have failed to legitimise power largely because they have been embroiled in creating tension and causing violence. Understanding the dynamics around electoral violence has become fundamental to limiting the risk of electoral disputes to improve the quality of democracy in Africa. The purpose of this article, therefore, is to examine the limits of managing electoral violence in Sierra Leone and to proffer recommendations for an effective management of electoral process that would be free of violence/disputes. It argues that the lack of judicial independence, lack of political will, low trust in the electoral management bodies because of display of unprofessionalism and partiality toward incumbent governments, excessive use of force by the police against unarmed voters, outdated electoral laws, are some of the critical challenges with the potentials for ferment electoral disputes and violence in Sierra Leone. The article concludes that undertaking electoral reforms, capacitating the judiciary to act independent of the political or governing class, professionalizing the police force, depolitization of the EMBs, will go a long way to promote peaceful conduct of and violent-free elections thereby consolidating democracy in Sierra Leone.

**Keywords:** Electoral Conflict, Electoral Violence, Judicial Independence, Ethnicity and Regionalism

**Introduction**

The end of the Second World War in 1945 gave birth to the decolonization process in Africa. The period witnessed the emergence of political parties and movements clamouring for the end of colonialism on the continent. From the 1950s onwards, political parties sprouted throughout Africa demanding self-rule from white colonialists.<sup>1</sup> While the yearn for freedom was greeted with euphoria in many places, it could not mask the deep political instability that often accompanied independence. Violence and coercion became a common means of changing power. Coups, counter-coups, and aborted coups littered the political landscape on the continent.<sup>2</sup> From the first military putsch in Togo that ousted President Sylvanus Olympio in 1963 to the most recent coup in Guinea in 2021 that sacked President Alpha Konde, the Africa continent has a resounding record of military interventions with cataclysmic consequences.

The era following the end of the Cold War in 1990's tended to usher in positive changes with respect to democratization in Africa. Participatory politics grew in the 1990s and 2010s, as the percentage of African countries holding democratic elections increased from 7 to 40 percent and in 2010, Freedom House classified eighteen

<sup>1</sup>The Sierra Leone's People Party in Sierra Leone in 1951; Nkruma's Convention Peoples Party in Ghana 1946; Sekou Toure's Le Rassemblement démocratique africain (RDA) in Guinea-1946; Milton Obote's Uganda People's Party in 1960; Julius Nyerere's Chama Cha Mapinduzi in Tanzania—1954, to name a few.

<sup>2</sup>African Union Panel of the Wise, "Election-Related Disputes and Political Violence: Strengthening the Role of the African Union in Preventing, Managing, and Resolving Conflict," *The African Union Series*, New York: International Peace Institute, July 2010.

countries on the continent as electoral democracies.<sup>3</sup>This means that in the last two decades, there has been an ever-growing demand for greater accountability from the citizens on the political leadership. Elections have empowered citizens not only to hold their political representatives to account but also to give or deny them the much-needed entrance legitimacy required to attain or maintain power. While this can be rated as positive, progress on the continent remain largely uneven and lop-sided (Benson 2021).

Elections have facilitated the emergence of democratic governments in Benin, Cape Verde, Ghana, Mali, Senegal, and South Africa. Following autocratic regimes and protracted civil wars, more stable societies have emerged in Guinea, Liberia, Niger, and Sierra Leone.<sup>4</sup> In some cases, however, elections and or national constitutions have been manipulated to legitimize autocratic regimes or to ensure dynastic successions on the continent with attendant violent consequences.<sup>5</sup> Violence still plagues approximately 20 to 25 percent of elections in Africa.<sup>6</sup>In recent times, high-profile electoral crises in Kenya (2007-2008), Zimbabwe (2000 and 2008), and Côte d'Ivoire (2010-2011) have collectively led to at least four thousand deaths and hundreds of thousands displaced.<sup>7</sup>Electoral violence can erode a people's faith in democratic processes. Additionally, countries with a history of electoral violence often experience a recurrence of such violence, as has been witnessed in Kenya, Nigeria, and Zimbabwe.<sup>8</sup>

The electoral history of Sierra Leone is closely related to and has been influenced by a wave of political instability and a decade-long civil war (Momoh 2020). The 1996 elections, conducted under the aegis of the United Nations, were held at the peak of the wanton and brutal civil strife that brought Sierra Leone to its knees. Similarly, the first post-conflict elections in 2002 were carried out with heavy security presence of the United Nations. The situation was different in 2007 because the responsibility for security during the elections rested with the government of Sierra Leone and it was widely acclaimed as peaceful. The 2007 elections marked a major improvement in the management of elections because the elections were organised and fully managed by two constitutional Elections Management Bodies (EMBs) viz: the National Electoral Commission (NEC), in charge of organising and implementing all phases of the electoral process, and the Political Party Registration Commission (PPRC), in charge of supervising and monitoring political parties' activities.<sup>9</sup>

The establishment of the NEC and the PPRC was thus part of the country's post-conflict institutional arrangements (International IDEA 2010). 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.

The framework for handling electoral conflicts and violence in Sierra Leone is very formal and entrenched in the justice system (Momoh 2020). With regards to addressing pre-election conflicts and disputes, the Political Parties

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<sup>3</sup>Freedom House, "Electoral Democracies," in *Freedom in the World 2010*, available at [www.freedomhouse.org/uploads/fiw10/ElectoralDemocraciesFIW2010.pdf](http://www.freedomhouse.org/uploads/fiw10/ElectoralDemocraciesFIW2010.pdf).

<sup>4</sup>Ibid., p. 6.

<sup>5</sup>The cases of Alpha Konde in Guinea and Alhassan Watarra of Ivory Coast manipulating their respective Constitutions to contest for Third Terms are in order.

<sup>6</sup>Dorina Bekoe, "Trends in Electoral Violence in Sub-Saharan Africa," *Peace Brief 13*, United States Institute of Peace, March 10, 2010, available at <http://www.usip.org/files/resources/PB13Electoral%20Violence.pdf>

<sup>7</sup>Ibid., p. 6.

<sup>8</sup>See, international IDEA Handbook on Elections in Africa, 2012

<sup>9</sup>Elections Management Bodies in West Africa: A Comparative Study of the Contribution of Electoral commissions to the strengthening of Democracy, OSIWA publications, 2011

Act in Sierra Leone mandates the Political Parties Registration Commission (PPRC) to ‘mediate any conflicts or disputes between or among the leadership of any political party or between or 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.

### Methodology

This study was purely qualitative and was based on desktop research (literature review) and key informant interviews (virtual and/or telephonic). The research had two levels of data collection and validation of information. This included literature review and content analysis comprising of International IDEA knowledge products, electoral related Acts of the Republic of Sierra Leone, and written reports of the electoral management bodies (PPRC and NEC) such as their annual and activities-based reports. In addition, 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 limits of managing electoral conflicts in Sierra Leone.

### Limitation

Restrictions imposed by the government and safety measures put in place to stave off the COVID-19 pandemic limited the researcher to physically engage in face-to-face interviews with a wider group of people who have worked on elections management and mechanisms in Sierra Leone. The researcher mitigated this limitation by resorting to telephonic and/or virtual calls to solicit information.

### Findings

#### The Legal Framework

Sierra Leone operates on the 1991 Constitution characterized by ambiguities, lacunas and loopholes. A legal framework that meets international standards is always fundamental to the proper functioning and operations of an electoral system (Chiroro 2005). One thing that is clear is that the legal framework that meets internationally acclaimed standards guarantees certainty and security. In the absence of revised legal framework that meets international best practice, the assurance of having an electoral process devoid of consternations and trepidations cannot be guaranteed. A key limitation of managing electoral conflicts in Sierra Leone is the inadequate legal framework that provides for managing electoral disputes and its operations (Carter Center 20180. Serious lacunas and inconsistencies exist in the current legal documents for both NEC and the PPRC to comprehensively address elections disputes/conflicts and to conduct elections in line with international standards and best practice. The system for resolving electoral disputes in modern democracies is central to building up stable political systems and to shaping up a regular legal system as well. The legal framework (particularly the 1991 Constitution of Sierra Leone and other legal legislations) should, therefore, be reviewed, and clearly state that every voter, candidate, and political party has the right to lodge a complaint with the competent election commission or court and require that body in turn to render a prompt decision and provide for the right to appeal to the court of last resort. It should also ensure that the complaints system is transparent, understandable and free of unnecessary obstacles, particularly high cost. Additionally, a legal framework should be reader and gender-friendly, concise and accessible to citizens.

#### Political and Civic Culture

Sierra Leone’s political and civic culture, particularly in respect of rule of law and human rights, is in transition (Koroma 2016). That is, both political and civic cultures are not deeply rooted and, therefore, are not based on democratic ethos and values that can help prevent electoral disputes. These principles include strict respect for the rule of law and human rights and the peaceful settlement of disputes using the required channels. Some of the causal factors include high illiteracy rate, pervasive and extreme poverty, and absence of civic education in the educational systems, etc. As such, the country is breeding citizens who have no clue about their rights and responsibilities. To avert this situation, a comprehensive overhaul of the educational curriculum (formal, informal and non-formal) to include subjects such as moral and civic education starting from primary schools cannot be overstated. Moreover, government should resource the National Commission of Democracy and other democracy

institutions to undertake deliberate civic education based on human rights and the rule of law alongside voter education. The development of a political culture is the responsibility not only of political leaders but also of every citizen, government institutions and the media.

### Dispensation of Justice

Critical too is the delay in the dispensation of justice. The delay is mostly caused by lack of capacity (financial, technical and administrative) of the judiciary system and that of the EMBs to speedily adjudicate cases before the courts (Gyimah-Boadi 2007). Judges are poorly paid; courts lack the required infrastructure to function; there is inadequate number of judges and magistrates especially outside of the Capital City Freetown and some judges lack specialized training to handle electoral offences. Put another way, the judiciary remains largely centralized resulting in not rendering judicial services around the country. As such, cases are inordinately delayed leading to mistrust in the judiciary and court systems. To remedy this situation, there needs to be deliberate investment in the judiciary system to not only serve as a beacon of justice, rebuild trust in the judiciary system but also to uphold the tenets of democratic values much required for electoral justice.

### Electoral Offences Court

In 2017, the judiciary of Sierra Leone established the Electoral Offences Court (EOC) with the view to capture and speedily hear cases arising from electoral petitions and processes. However, the courts have remained dysfunctional. The EOC has the mandate to invalidate election results if it determines there is reasonable presumption that the commission of an electoral offence affected the result and that trials must be concluded within six months of the establishment of the Court. By the time the Electoral Offences Court was to be dissolved, there were no reports that any cases had been tried, including for the perpetrators of reported clashes during the 2018 electoral campaign that took place in parts of the country. In addition, the investigation of more than 1,500 cases of double voter registration forwarded by the NEC to the police months before the election did not lead to any prosecutions. These issues raise concerns about the efficiency of the police in the conduct of election-related investigations and the limited duration of the Electoral Offences Court's mandate. While the concept of electoral offences courts is sound, their ineffectiveness during the election cycle especially in 2018 suggests that they are not serving their intended purpose. There is, therefore, the exigency to review the Electoral Offence Court legal framework and operational structure, including considering an amendment to the law that would ensure the duration of the court's mandate is sufficient for handling electoral offences that are prosecuted after election day.

Alternatively, encouraging the use of the Alternative Dispute Resolution Mechanism will minimize the delays in securing justice. Everyone is entitled to an effective remedy for acts that violate their fundamental rights and when remedy is granted, it must be enforced to deter future occurrences thus leading to electoral stability. Alternative Dispute Resolution (ADR) Mechanisms can provide a valuable means to relieve burdens on the legal system and ensure that disputes are heard in a timely fashion.<sup>10</sup>

### Political Interference

Dovetailing with the above, unbridled political interference by incumbents remains a challenge in dispensing justice and resolving electoral disputes in the country in a manner that can be acceptable to all parties involved. The President appoints the Chief Justice and other Judges to both the High and Supreme courts and the tendency for

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<sup>10</sup> Electoral Dispute Resolution Discussion Paper Experts Meeting, Atlanta GA – February 2009

<sup>11</sup> See the NEC annual report of 2020 for details

<sup>12</sup> Ibid., p. 27.

<sup>13</sup> See The Carter Center: March 7, 2018 Presidential and Parliamentary Elections in Sierra Leone, Final Report

<sup>14</sup> Electoral Dispute Resolution Discussion Paper Experts Meeting, Atlanta GA – February 2009

the courts to adjudicate cases against the incumbent has always been a challenge. Rulings coming from these courts have been challenged by the litigants who feel unjustifiably treated. Constitutional and other legal reviews are required to address the monopoly of the President to appoint the Chief Justice and other Judges to both the High and Supreme Courts. Non-discrimination (equal treatment to all citizens regardless of sex, religion, ethnicity, and other differences) and equality before the law is quintessential for EDR and because all are equal and deserve equal protection before the law, this guarantee must be respected by any judicature or one there of.

Closely tied to the afore-mentioned point is the fact that EDR mechanisms have not received the same amount of analysis and attention that other aspects of the electoral process, such as voter registration, have in Sierra Leone. Although observation of these mechanisms does take place, EMBs and election observation missions have very different methodologies that they employ and many are often under-resourced for EDR observation throughout the pre- during and post- election period. In addition, few organizations have researched and published on EDR. More attention should be paid to, and research undertaken on EDR, as a key element to underscoring and ensuring democratic stability, and the fulfilment of human rights and representative democracy in the country.

### Ethnic and Regional Considerations

Ethnicity and regional considerations serve as deterrent to ensuring effective electoral conflict management system in Sierra Leone. There is no gainsaying the fact that Sierra Leone's electoral system requires the winning political party to form the government (winner-takes-all), most of the appointments, including Judges and Commissioners of the EMBs, are based on regional and ethnic affinities (NEC's Annual report 2020). Opposition political parties are always circumspect and reticent, and most time reluctant to accept, when EMBs establish alternative dispute resolution mechanisms to serve the purposes of settling intra and inter party conflicts. The Political Parties Registration Commission (PPRC) mandated by the 1991 Constitution of Sierra Leone and the PPRC Act of 2002 to supervise, monitor political parties and their activities have not effectively managed electoral disputes/conflicts to the satisfaction of political actors, especially the opposition parties. Resultantly, electoral disputes and conflicts continue to fester on. To remedy this situation, there is the exigency first to review the constitutional and other legal framework with the view to ensuring that systems and processes are put in place to mitigate elections related disputes and violence. Second, there is need to ensure parity in terms of distributing political positions and power in a country laden with ethno-regional divisions. A quota system for each district represented in government positions can be explored and citizens with high integrity and above petty ethno-regional considerations and with high possibility of acceptability by all should be named to such bodies.

In tandem with the above, establishing ADRM and signing of Code of Conduct and MOUs are important to electoral conflict management system but are not sufficient enough because MOUs are not binding on the parties/signatories. That is, they lack *locus standi*. While the establishment of the Eminent Persons Group by the PPRC and the Election Peace and Conflict Management Group by NEC are significant milestone in mitigating election disputes, there is no guarantee that these groups cannot be revoked by and or objected to by other parties that deem them susceptible to the manipulation of the incumbent especially so when the Commissioners of the EMBs are appointed by the President. There is, therefore, a legal lacuna in this arrangement. This can be resolved by institutionalizing the groups as part of the electoral process and also reforming the internal legal system of the EMBs to serve that purpose.

### Candidature Fees

Candidature fees for Presidential, Parliamentary and Local Council elections remain a thorny issue that usually give birth to elections disputes. For example, candidature fees for the 2018 elections for all of the above elections were viewed by especially the opposition and women candidates as prohibitive resulting in unnecessary anxiety. The fee structure for candidate nominations should be revised to reflect the economic reality of the country and to address the special obstacles that hinder the equal participation of women, youths and people living with disability. A revised law might include provisions for a refundable fee if the candidate receives certain reasonable percentage of votes cast in the election, and for alternatives to the Nomination fee, such as presenting a certain reasonable percentage of voters' signatures collected in support of the candidate. Concrete steps to promote women candidates such as reducing the fee by half for women aspirants and providing financial assistance for their campaigns



## Lessons Learned

Interlocutors maintained that the media training on conflict-sensitive journalism and social media and the establishment of a well-functioning situation room actually changed behavior by creating more discerning users, lessening inflammatory rhetoric, and lowering tolerance toward negative behavior within the profession. Continued media monitoring, *albeit* at a reduced level, would help to maintain this if it were able to compare data collected before/during elections and track changes now after elections.

Democracy institution, independent commissions and government entities, e.g. Human Rights Commission (HRC), National Commission for Democracy (NCD), NEC, PPRC, Legal Aid Board (LAB), and their local counterparts emphasized that their institutions engagement in the electoral process made them focus more on youth and women issues critical for dispute mitigation. Strengthening these institutions and ensuring their continuous engagement and collaboration with vulnerable groups will help build a stable future for the peaceful conduct of elections in Sierra Leone.

Bringing on board citizens and tapping into their knowledge, skills and professionalism to serve as peace envoys before, during and after elections is singularly applauded. The dialogue and engagement with the Eminent Persons Group at PPRC, the Election Peace and Conflict Management Group at NEC, All Political Parties Association (APPA), All Political Parties Women Association (APPWA), All Political Parties Youth Association (APPYA) and other groups to mediate in intra and inter disputes has been seen as a bold step in instituting and building indigenous and durable mechanisms for conflict management.

In the 2018 elections, the Conflict Management Project at UNDP helped train judges, through the Judicial Training Institute, in electoral law and dispute resolution. The capacity building of these judges has now generated capacity within the Institute to replicate the course as needed in future. These trainings and knowledge development have sustainability elements.

The Sierra Leone Police (SLP) leading up to the 2018 elections and the knowledge attained in election security will be used to reduce/hasten unresolved electoral disputes and help manage other public order issues. Further, election security training has now been added to the curriculum of the police training institution for all new recruits who will then be equipped for future elections.

The integration of human rights knowledge into a number of project interventions and gendering these interventions will help embed human rights into future conversations and activities on conflict prevention, governance, elections, and rule of law. Both HRC and NCD are seeking assistance to take these aspects forward in their ongoing work.

Conducting high level and decentralized political dialogue and mediation platforms, engaging Eminent persons, establishing district code monitoring committees, signing of codes of conducts for political parties, women and youths respectively can lead to prevention of electoral violence and disputes.

Not paying enough attention for the inclusion of PWDs into the EDR system that ensures peaceful electoral process have the tendency of undermining the credibility and inclusivity of elections in Sierra Leone.

## Recommendations

Review the 1991 Constitution of Sierra Leone and other electoral legal framework not only to meet international standards but to stand the test of time. Consider the recommendations contained in the Justice Cowan Constitutional Review Commission with the view to address the legal lacunas, ambiguities and to ensure that critical issues relating to electoral violence, human rights, rule of law, women and youth issues are amended and comprehensively addressed.

The Government of Sierra Leone through the Judiciary and the Electoral Commission (EC) to 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.

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. Strengthen these groups to operate country-wide and increase their membership at all levels.

Consider amending the Public Elections Act, 2012 and other electoral laws to provide legislative certainty for what should happen in the case of disqualification of a presidential candidate during the campaign period with the view to permit the political party to nominate an alternative candidate and reduce the incidence of electoral dispute

Provide support to the government's newly established Independent Commission for Peace and National Cohesion to ensure its impartiality, independence, accountability and transparency in discharging its duties especially in intra and inter-party dispute resolution. A national entity with this purpose has been demonstrated in several other countries in sub-Saharan Africa to be an effective instrument in election violence prevention, overall conflict prevention, and participatory dialogue leading to improved social cohesion.

Provide support and institutionalize PPRC to become a standing, empowered independent entity and regularize its mandate to enhance dialogue between political parties. This would include enforcement authority, further enhancement of skills in mediation, training, dialogue, participatory decision-making to strengthen dispute resolution skills at all levels.

Provide support to the women's Parliamentary caucus - to empower and strengthen joint action on issues emanating from all sides of the aisle and undertake attitudinal and policy reforms to encourage reasonable quotas for women in decision making processes (particularly in parliament with potentials for greater impact) that engender peace and stability.

Provide support to CSOs and media outlets to monitor and collect data on elections related issues before/during elections in order to track changes in media behavior and public attitudes in post-election period.

Train, professionalize and capacitate the judiciary, the Sierra Leone Police and other legal entities on electoral laws with the view to ensure all are treated equal before the court of law and to fast-track electoral offences.

Provide training to security institutions in election preparedness to maintain peace and stability, conducting simulation exercises across the country, establishing an early warning mechanism that will be decentralized at all levels in the country to prevent electoral disputes and conflicts

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