

THE
CARTER CENTER



SIERRA LEONE

NGO Submission to the U. N. Human Rights Committee

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Reporting Organization

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

The Carter Center’s Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored more than 110 elections in 39 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. [The Carter Center’s Democracy Program](#), through its Democratic Election Standards (DES) initiative, aims to build consensus on standards for democratic elections, based on state obligations under public international law.

The Carter Center in Sierra Leone

The Carter Center has been involved in Sierra Leone since 2002, when it was invited to observe the first presidential and parliamentary elections after the end of Sierra Leone's civil war. A peaceful transition of power in Sierra Leone offered hope to other countries affected by conflict in West Africa. The Carter Center was the only U.S.-based organization that monitored the 2002 elections, and the Center reported that the process was peaceful and relatively well-managed. The Center fielded a delegation of 22 observers, led by former Benin President Nicéphore Soglo, which included nine civil society leaders from Liberia and Guinea. The 2002 delegation commended the voters of Sierra Leone, political party agents, and polling station workers for their impressive commitment to peaceful voting under very challenging conditions.

In 2007, The Carter Center provided technical assistance to the African Union international election observation mission to Sierra Leone around the presidential and parliamentary elections. The Center provided two staff members to establish an office in Freetown, drafted briefing materials, developed a deployment plan, and made logistical preparations for accommodation, transport, and delegation support. The mission was responsible for its own observations and assessment of the election. Following the mission, the Center produced an internal report for the African Union with suggestions for the administration of future missions.

Sierra Leone held presidential, parliamentary, and local government elections on Nov. 17, 2012. The presidential elections were the third to take place since the end of the devastating war in Sierra Leone, and the first elections that were fully self-administered. This represented a significant step for the country toward a functioning post-conflict democracy. At the invitation of the National Election Commission, The Carter Center observed the elections, and deployed eight long-term observers and 40 short-term observers from 18 countries across the 14 districts in Sierra Leone. The Center found the process to be orderly and transparent and in general accordance with Sierra Leone's legal framework and obligations for democratic elections. While the Center noted some limited administrative shortcomings, observers reported that election commission officials conducted the process well, that polling staff performed admirably in difficult conditions, and that the people of Sierra Leone turned out in high numbers to cast their ballots freely.

The Carter Center was also present for the 2018 elections with a small expert mission deployed to Freetown around election day and issued a comprehensive report with its observations and recommendations. A four-person expert team was deployed to Freetown in early February, immediately before the formal campaign period. Originally, the Center anticipated this team would support the deployment of a full observation mission, including both long- and short-term observers. However, due to funding constraints, in the end it was not possible to deploy a full mission. As a result, the Center's team acted as an "expert mission" and focused on several key issues exclusively during the first round, including the legal framework, the role of the judiciary in the electoral process, the planning and training for the security forces and other actors to maintain peace during the election period, and the role of civil society in promoting the credibility and integrity of the electoral process.

Issues and Suggested Questions for the Human Rights Committee

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 were an important opportunity to further consolidate Sierra Leone’s democracy. Unfortunately, the 2023 national elections proved to be a significant setback for Sierra Leone’s fragile democracy and an important warning to other democracies in the region. This submission is based on the data collected by The Carter Center’s 2023 election observation mission to Sierra Leone. It addresses gaps in the legal framework for elections in Sierra Leone as well as observed issues related to the implementation of the election in 2023. This submission offers questions for the consideration of the Committee and provides some key recommendations to ensure that various stages of the electoral process are implemented in accordance with Sierra Leon’s obligations under the ICCPR in the future.

Article 25: The Right to Participate in Public Affairs and the Institutions of Elections

Restriction on the right to stand for election: General Comment 25, paragraph 17 outlines “the right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties.”¹ During the 2023 elections, The Carter Center found that the Government of Sierra Leone continues to struggle to ensure that voters have a free choice of candidates, and that conditions placed on political parties and candidates are reasonable and nondiscriminatory. According to Sierra Leon’s constitution, public servants who have not resigned from their positions at least 12 months prior to an election is excluded from contesting elections, although a 2016 Supreme Court decision exempts government ministers from this provision.

Electoral Administration: The Electoral Commission for Sierra Leone (ECSL) is composed of a chairperson and five commissioners representing Sierra Leone’s five regions, with five of the six current commissioners appointed by the Sierra Leone People’s Party (SLPP) government that was in power from 2018 to 2023. Administration of the 2023 elections was characterized by a lack of communication and transparency that undermined public confidence in the ECSL and its work. While the SLPP expressed confidence in the ECSL, most opposition parties – including the APC, the largest opposition party in parliament going into the 2023 elections – expressed a lack of confidence in the ECSL’s independence and capacity. Importantly, the ECSL commissioners declined to meet with The Carter Center while its international election observation mission was deployed in Sierra Leone.

The Electoral System: While recent elections had been conducted via a first-past-the-post electoral system, in late 2022 President Kamara took a controversial decision that the 2023 national elections would be conducted under a proportional representation system. The decision to change

¹ UN Human Rights Committee (HRC), *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote)*, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service*.

key aspects of the electoral system was taken less than a year before the next election and without broad stakeholder input. Although the decision was challenged, it was upheld by Sierra Leone's Supreme Court.

In addition, electoral constituency boundaries were delimited following a political compromise based on a mix of data from 2016 (compiled when the APC was in power) and a 2021 census (conducted by the SLPP government). Decisions taken regarding the electoral system and boundary delimitation were not widely understood by citizens and were largely made without public input.

Presidential Electoral System: The president and vice president are elected together on the same ticket. The presidency is a five-year term with a limit of two consecutive terms. Under the constitution, 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 election within 14 days (about 2 weeks) of the announcement of first round results. As described in the discussion of the legal framework, independent candidates are not allowed to run for president.

Electoral System for Parliamentary Elections: The Parliament of Sierra Leone is made up of 149 members who serve a five-year mandate. 135 seats are directly elected and were on the ballot in the June 24, 2023, elections, while the remaining 14 were reserved for paramount chiefs, who were elected through a different process in late May 2023. While recent elections had been conducted via a first-past-the-post electoral system, in late 2022 the president of Sierra Leone took a controversial decision that the 2023 national elections would be conducted under a proportional representation system. 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. The Constitution of Sierra Leone does not prescribe an electoral system by which the unicameral legislature is elected. Over the postwar period, two electoral systems were used to elect members of Sierra Leone's parliament. During the 1996 and 2002 elections, MPs were elected under proportional representation (PR) systems. Since the 2007 elections, MPs have been elected under a first-past-the-post system in single-member constituencies. At the time, international observers applauded the shift to the FPTP system, noting that it would likely deepen the connection between MPs and the constituencies they represent.

For the 2023 parliamentary elections, the president made a controversial declaration to return to a proportional representation system. A postwar amendment to the Sierra Leone Constitution of 1991 provides the president with the right to choose an electoral system for parliamentary polls in case of simultaneously occurring exceptional circumstances.² The amendment stipulates that in the event the date of the parliamentary elections has been proclaimed but the boundaries of the constituencies have not been delimited by the Electoral Commission for Sierra Leone (ECSL), the president can decide that parliament will be elected through proportional representation³.

² The Constitution of Sierra Leone (Amendment) Act, 2001, Supplement to the Sierra Leone Gazette Vol. CXXXIII, No. 6 dated 7 February 2002

³ The 2001 amendment giving the president the right to direct that elections be conducted through a proportional representation system was enacted to protect the right to vote if the election management body may fail to delimit

The ECSL produced a booklet on the new electoral system.⁴ The publication failed to match its purpose as it was mostly a reproduction of the complex regulation and the attendant mathematical formulas. Moreover, if anything, it served as a pamphlet praising the new electoral system, stating on its back cover: “Let us use the proportional representation system to unite Sierra Leone.” Rather than explaining how the new system works, the ECSL took a stand on the contentious issue of the system itself, unnecessarily amplifying the perception of the commission’s partisanship.

The opposition All People’s Congress (APC) and People’s Movement for Democratic Change (PMDC) challenged the shift to proportional representation and exhausted domestic remedies with the ruling of the Supreme Court delivered on Jan. 27, 2023.⁵ The court ruled in favor of the president and the ECSL's decision-making process.

Overhaul and Modernize Campaign Finance Laws: The state is obligated to take measures to prevent corruption, particularly in the context of the financing of campaigns. International best practice requires that financing of political parties be fully transparent. To this end, accounts of all income and expenditures should be maintained by contestants. To ensure transparency and the voter’s ability to make an informed choice, campaign finance reports should be published well before election day.

In Sierra Leone, the financing of political parties and campaigns remains largely unregulated. A lack of transparent campaign finance regulation — particularly the lack of a ceiling on campaign expenditures — and a lack of enforcement create an uneven playing field and therefore undermines the right of all to participate in political affairs. While the Political Parties Registration Commission (PPRC) does have some regulatory authority, its mandate is not supported by enforcement powers, not even for breaches of campaign finance rules, except for the far-reaching recourse of applying to the Supreme Court for cancellation of the party’s registration for any infractions, regardless of the severity of the violation.

The law does not prescribe any limit on expenditures, further skewing the playing field. Reasonable limitations on campaign expenditures help ensure that the free choice of voters is not undermined, or the democratic process distorted by disproportionate expenditures on behalf of a candidate or party.

The Political Parties Act of 2022 obligates political parties to disclose their assets, liabilities, and expenditures, including donations.⁶ Despite these reporting requirements, only three of the parties

constituencies in Sierra Leone’s complex postwar context. The nature of the amendment was to ensure that such a failure to delimit constituencies would not be an obstacle to periodic elections. Applying this amendment in Sierra Leone’s 2023 elections after two elections utilizing the FPTP system and following a census intended to inform an updated delimitation of boundaries raises questions regarding the separation of powers and independence of the election management body. Furthermore, the amendment is an exception from the general norm by which Parliament establishes electoral laws. Invoking the amendment in the context of regular elections, in the absence of extraordinary circumstances, contradicts the international law codified under the ICCPR, which provides that the relation between a norm and exception cannot be reversed.

⁴ “Frequently Asked Questions on the PR System”

⁵ S.C. Misc APP. NO. 06/2022.

⁶ The Political Parties Act of 2022, sections 35 & 36.

contesting the election submitted a statement of their assets and liabilities to the PPRC prior to elections. The lack of pre-election publication of campaign financial reports limits transparency and the voter's opportunity to make an informed choice about the candidates. In advance of future elections, the PPRC could build its capacity to review and analyze campaign finance reports and to monitor and enforce campaign finance regulations.

Carter Center observers heard allegations that the ruling SLPP was using 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.

Suggested Questions for the Committee

The Carter Center recommends that the following questions be included in the List of Issues for the examination of Sierra Leone:

- a) *What specific steps will the Government of Sierra Leone take to ensure that decisions taken regarding the electoral system and boundary delimitation are widely understood by citizens and seek public input before it becomes effective?*
- b) *How will the Government of Sierra Leone ensure that voters have a free choice of candidates, and reaffirm that any conditions placed on political party and candidate registration processes should be reasonable and nondiscriminatory?*
- c) *How will the Government of Sierra Leone reform campaign finance laws in the country to ensure transparency in campaign finance regulation — particularly regarding ceiling on campaign expenditures? Failure to do so creates an uneven playing field and therefore undermines the right of all to participate in political affairs.*

Articles 3 and 25: Equal Participation of Women

Sierra Leone is signatory to several international treaties that obligate the government to take specific positive action to ensure the equal participation of women in political life.⁷

After years of advocacy, Sierra Leone introduced Gender Empowerment and Women's Equality Act (GEWE) in 2022 in a bid to promote equal participation of women in public affairs. The statute includes a requirement that at least 30% of the candidates on a given party's list should be women. Although the passage of this act in 2022 was widely applauded, the late publication of candidate lists during the 2023 elections made it difficult to assess its application and impact. Women made

⁷ The United Nations. (1953). Convention on the Political Rights of Women. Treaty Series, 2, 1–28. African Union. (2003). Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Maputo: African Union. "State Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: a) women participate without any discrimination in all elections; b) women are represented equally at all levels with men in all electoral processes; c) women are equal partners with men at all levels of development and implementation of State policies and development programmes."

up 37% of total candidates for parliament and following the elections hold 19% of parliamentary seats.⁸ However, The Carter Center was unable to verify allegations that political parties identified male candidates as female on their lists during the candidate nomination period to evade the new law and ensure the acceptance of their lists.⁹ While the passage of the 2022 law is a historic step, more needs to be done to address the broader social barriers that stand in the way of the full realization of women's right to equal political participation.

Suggested Questions for the Committee

The Carter Center recommends that the below questions be included in the List of Issues for the examination of Sierra Leone:

- a) *What specific steps will the Government of Sierra Leone take to adjust its legal framework and electoral system to equalize the representation of women in Parliament?*
- b) *What specific steps will the Government of Sierra Leone government take to ensure the full implementation of GEWE and protect against any attempts by political parties to evade the law?*

Articles 2 and 25: Universal Suffrage

Universal suffrage requires that the broadest pool of eligible voters have the right and the opportunity to cast their ballots during an election process, free from discrimination. During the 2023 election in Sierra Leone, The Carter Center noted the following issues regarding the participation of persons with disabilities and in detention:

Voting and Persons with Disabilities: to protect the right of persons with disabilities to participate in public affairs as provided in Article 2 and 25, states must make accommodations, including ensuring that polling places are accessible, and that the secrecy of the vote is guaranteed.¹⁰

People living with disabilities in Sierra Leone face difficult stigmatization 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 during the 2023 elections, The Carter Center noted that 68% of the polling stations observed were accessible.

In addition, the ECSL provided tactile ballot guides for all four ballot papers to enable voters with visual impairments to cast their votes independently and in secret in accordance with international standards. Carter Center observers noted the presence of tactile ballot guides in 80% of the polling

⁸ As of December 2023, women hold 28 of the 149 parliamentary seats (including those held by paramount chiefs). <https://www.parliament.gov.sl/members-of-parliament.html>.

⁹ Once parties had met the deadline and their lists were accepted, they were then allegedly replacing male candidates identified as female with actual female candidates.

¹⁰ U.N. CCPR, General Comment 25.

stations observed. While the procurement of these guides is commendable, little voter education was done to ensure visually impaired voters could use the tool and in some cases polling station staff seemed unfamiliar with tactile ballot guides.

Voting by persons on detention: As there are no provisions in the law for voting outside of the polling stations and no mechanism for mobile voting, several groups of citizens effectively are disenfranchised.¹¹ These include the elderly or infirm that are in hospital or cannot physically go to the polling station and those in pretrial detention. Additionally, Article 16(d) of the Constitution of Sierra Leone imposes a total ban on voting for those who are serving a sentence of incarceration.¹²

Suggested Questions for the Committee

The Carter Center recommends that the following questions be included in the List of Issues for the examination of Sierra Leone:

- a) *What measures will the Government of Sierra Leone take to ensure that people with disabilities can participate in public affairs freely without interference or discrimination?*
- b) *What concrete steps will the Government of Sierra Leone take before the next elections to ensure that pre-trial detainees can participate in future elections?*

Articles 2 and 25: Tabulation of Results

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

During the tabulation process, the election management body collates and verifies the results from individual polling stations to determine the result. In Sierra Leone, Carter Center observers witnessed a tabulation process that was characterized by unduly restrictive limits to transparency and at times was conducted in tense environments with increased security presence. The Carter Center directly observed irregularities during the tabulation process, including inappropriately open ballot boxes. Calls for increased transparency during the tabulation process went unheeded.

The Carter Center does not have confidence that the results of the presidential election reflect the will of people due to the lack of transparency during tabulation. The lack of transparency was found in irregularities directly observed by The Carter Center during tabulation, as well as in data from the process and PRVT conducted by the National Election Watch, which showed irregular variances in results data across the presidential and parliamentary elections. Results of the presidential elections contain mathematical inconsistencies when compared with the results of the parliamentary elections in particular. International and citizen observers have noted that there are

¹¹ See UN ICCPR, General Comment 25(1) and (11).

¹² UN ICCPR General Comment 25 (14).

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.

substantial variances in turnout and invalid votes, which suggest results may have been tampered with during the opaque tabulation process.

The ECSL was not responsive to a key recommendation made by The Carter Center, NEW, and a wide range of other actors, to release election results at the polling station level, and in accordance with recognized good practice.

Suggested Questions for the Committee

The Carter Center recommends that the below question be included in the List of Issues for the examination of Sierra Leone:

- a) *What measures will the Government of Sierra Leone take to revise its tabulation procedures to ensure that the receipt of results by tabulation staff along with data entry operations by which Records of the Count from polling stations are input and aggregated can be directly observed?*
- b) *What measures will the Government of Sierra Leone take to ensure that in future elections results are published disaggregated to the polling station level in accordance with recognized best practice?*

Articles 2 (3): Access to Competent Judicial, Administrative or Legislative Authorities

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process and ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process. According to international standards, individuals are entitled to have decisions affecting fundamental rights taken up by a competent, independent, and impartial tribunal in a fair and public hearing.¹⁴ Expedient hearings for election matters are necessary to ensure an effective remedy, particularly given the relatively compressed time frame of electoral processes.

Sierra Leone's legal framework provides for the right to an effective remedy consistent with international and regional treaties.¹⁵ The right to an effective remedy is fundamental to ensuring the fulfillment of all other human rights and is applicable throughout the electoral process.

Most stakeholders interviewed by The Carter Center expressed a lack of confidence in the judiciary — and in particular the Supreme Court and chief justice — to handle electoral matters with independence and neutrality.

Pre-election Period

Amendments to the Public Elections Act in 2022 introduced a new Election Offences and Petitions Court. In the pre-election period, technical support was provided by the UNDP to the chief justice to support training of judges and magistrates in dispute resolution techniques. However, these

¹⁴ See Article 2.3 of the ICCPR, Article 8 of the UDHR, and Article 7 of the African Charter on Human and Peoples' Rights.

¹⁵ U.N., ICCPR, Article 2; ACHR, Article 25; ECOWAS, Protocol Article 7; AU, AfCHPR, Article 7

courts were not established until May 2023, and election-related cases in the pre-election period were filed in the Supreme Court.

Interlocutors and citizens expressed low levels of confidence in the judiciary, expressing doubt about its overall capacity and neutrality. The Supreme Court has no timelines for adjudication, undermining the right to a timely and effective remedy. Positively, the Public Elections (Petitions) Rules of 2022 introduced some case management provisions to ensure that election petitions are heard and adjudicated promptly.¹⁶

In the pre-election period, court decisions involving political parties and candidates were frequently reported in the media, but access to legal instruments and judgments is challenging as they are rarely publicly available. This lack of transparency further undermined public confidence in the judicial system.

Post-election Period

The APC did not file an official complaint in court contesting the election results despite its presidential candidate's rejection of the election results. The APC issued a public statement on July 3, 2023, following several days of internal party discussion and one day before the deadline to file a complaint regarding the presidential election results, notifying the public that APC would not contest the elections in court because "the APC has had a recurrent bad experience relating to the lack of impartiality and competence of the Sierra Leone Judiciary to provide redress for violations of electoral laws, processes and mandates."¹⁷

The three-page statement summarized the party's experience with electoral dispute resolution in the pre-election period. It noted that the APC believed it had strong evidence against the ECSL, but that the party lacked faith in the independence of the judiciary. The statement concluded: "We shall stand on our decision of NOT recognizing the presidency of Julius Maada Bio and that we shall NOT participate in any level of governance until this unprecedented daylight electoral toppling of the people's mandate is amicably and satisfactorily addressed."

On Dec. 13, 2023, Sierra Leone's Court of Appeal ordered the immediate arrest of APC presidential candidate Samura Kamara around allegations of corruption. The call for Kamara's arrest was made amid investigations of senior APC officials, including former President Koroma, following the alleged coup attempt two weeks prior, and the announcement by ECOWAS regarding the deployment of a regional military force to stabilize the country.

[Suggested Question for the Committee](#)

The Carter Center recommends that the below question be included in the List of Issues for the examination of Sierra Leone:

- a) *Given the wide criticism of the capacity of the judiciary in Sierra Leone and widespread distrust in its ability to function without political influence, what measures will the*

¹⁶ Public Elections (Petitions) rules 2022, Part V, VI

¹⁷ APC Public Statement. The APC Shall Not Go to Court Over the Disputed 24th June, 2023 Polls, has No Faith in the Judiciary. July 3, 2023.

Government of Sierra Leone take to guarantee and protect the independence of the judiciary to provide effective remedy?