



EISA ELECTION OBSERVER MISSION TO THE 10 OCTOBER 2017 PRESIDENTIAL AND REPRESENTATIVES ELECTIONS IN LIBERIA

Preliminary Statement

Monrovia

12 October 2017

“Covering only the electoral process up to the voting and counting procedures at the polling places, this preliminary assessment of the 10 October 2017 Presidential and House of Representatives elections by the EISA observer mission concludes that the process thus far has been peaceful and largely conducted in a transparent manner, allowing Liberian voters to freely express their will. Furthermore, the EISA mission is of the opinion that this phase of the electoral process has been largely in conformity with the laws of Liberia and with international, continental and sub-regional standards for credible elections. However, the Mission notes a number of shortcomings and therefore offers recommendations for improvement of future elections. EISA will continue to observe the process until the transmission; tallying and announcement of results are concluded and then make a final assessment of the process”

1. Introduction

The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed an Election Observer Mission (EOM) to the 10 October 2017 Presidential and House of Representatives elections in Liberia. The mission is comprised of 14 experienced observers representing civil society and election management bodies from 12 African countries, led by Her Excellency Dr Aminata Touré, former Prime Minister of the Republic of Senegal, supported by Mr Denis Kadima, EISA's Executive Director as the Deputy Mission Leader. Following the conduct of a pre-election assessment mission in September 2017, members of the EOM began arriving in Liberia on 1 October 2017 and will depart on 14 October 2017.

To gain further insights on the context of the elections, the mission has engaged with key stakeholders such as the National Elections Commission (NEC), the Press Union of Liberia, civil society organisations, academics, legal experts and heads of other international observer groups present in Liberia. Prior to their deployment to five counties¹ observers were trained on EISA's election observation methodology.

In their areas of deployment, EISA observers witnessed the final phase of the election campaign, interacted with local stakeholders, and observed the delivery and receipt of materials at the NEC offices and at polling stations. On Election Day members of the EISA mission observed Election Day processes from the opening of polls, voting closing of polling places and counting of votes. The observers were equipped with computer tablets that enabled them to collect and transmit election observation data to the Mission Coordination centre in real time.

EISA's preliminary assessment of the electoral process is based on the Liberian legal framework governing the electoral process as well as the OAU/AU Declaration on the Principles Governing Democratic Elections, the standards and obligations stipulated in the African Charter on Democracy, Elections and Governance, the ECOWAS Protocol on Democracy and Good Governance, the Principles for Election Management, Monitoring and Observation (PEMMO) and the International Declaration of Principles for International Election Observation.

This statement presents EISA's preliminary findings, conclusions and recommendations on the pre-election period and Election Day operations. It is issued while the transmission and tallying of results are still on-going, and only reflects the mission's observations up to the conclusion of the counting process at polling stations. This statement does not therefore cover the transmission of results nor the finalisation of tabulation of results at the county and national tallying levels. This explains why this statement is preliminary. A final report covering the entire process will be issued by EISA about three months after the announcement of final results.

This statement identifies both best practices and shortcomings in the conduct of the elections and makes recommendations for a possible presidential run-off election and future elections.

¹ Bong, Nimba, Grand Bassa, Montserrado and Grand Cape Mount

2. Preliminary Findings

2.1 Political Environment

After more than 20 years of conflict which only ended in 2003 with the intervention of the sub-regional and international community Presidential and House of Representatives elections were held in 2005. The next elections which were held in 2011 were marred by the refusal of one of the two presidential candidates to participate to the second round, alleging rigging and pulled out of the run-off election. This led to a low voter turnout that in turn affected the legitimacy of the election outcome. Special senatorial elections took place in 2014.

The 2017 elections were held in line with the constitutional provisions for the conduct of elections for the Presidency and the House of Representations at six year intervals. The 2017 elections are significant as they represent the first transfer of power between one elected president and another since 1944. There will be a new head of state, as President Ellen Johnson Sirleaf will be stepping down in terms of Article 50 of the constitution.

Although there has been political stability since the end of the civil war, Liberia has continued to face great socio-economic challenges including grinding poverty, widespread unemployment and economic contraction all of which were exacerbated by the collapse of commodity prices and the Ebola crisis of 2014/2015 which had a devastating impact on an already strained infrastructure. Thus the expectations on the incoming President are great.

Despite these challenges the mission notes the commitment of Liberians to avoid violent conflict at all costs and to maintain the peace, albeit in a challenging environment. The mission also notes that the elections took place at a time when the departure of the United Nations Mission to Liberia (UNMIL) was imminent and would remove much of the logistical and financial support that the United Nations had been providing to the country, placing an extra burden on the government and people of Liberia.

2.2 Constitutional and Legal Framework

The legal framework for elections in Liberia is provided in the Constitution of 1986 as amended, the New Elections Law of 1986 as amended, and Regulations produced by the National Elections Commission of Liberia (NEC).

The Regulations for the 2017 elections which were published by NEC cover all aspects of the poll from the registration of voters, delimitation of electoral districts, nomination of candidates, campaign finance regulations, polling and counting, complaints and appeals, and election hearings procedures. The mission is of the view that the national elections law and NEC regulations provide adequately for the conduct of key election processes and voting and counting operations on Election Day.

The mission notes that the constitution guarantees fundamental freedoms of movement, religion, thought, association, expression and information and makes sufficient provisions for a democratic dispensation, including provisions for a multi-party political system and presidential and parliamentary term limits.

The two round system for the election of the President allows for an absolute majority in terms of the election and therefore confers a high level of legitimacy on the elected candidate. However there are shortcomings in the current electoral system as there is no provision for specific measures to promote or to enhance the participation and representation of groups that are traditionally disadvantaged such as women, youth and people living with disabilities. This is reflected in the low representation of women in the current House of Representatives in which only nine out of 73 members were women. Amongst the candidates nominated for the 2017 elections only 16 % were women.

In its assessment of the legal framework, the EISA mission notes that it provides the basis for the conduct of, transparent and credible elections in Liberia albeit with some restrictions on political rights which are covered further in this statement.

2.3 Election Management

The mission notes that the constitution establishes the NEC to manage the elections. Section 2.9 of the New Elections Law as amended, states that the electoral commission is an autonomous agency of Government, independent of any branch of the Government.

With the scaling down of the UNMIL, for the first time since 2005 much of financial and logistical burden of organising the elections has been borne by the government of Liberia and the NEC. The mission was informed that the NEC received sufficient funding, mostly from the government, for the conduct of the first round of the election with the hope of securing further funding in the event of a run-off election. Despite the delays in delivering key elements of the electoral calendar such as the promulgation of regulations, voter registration and the nomination of candidates, the mission notes that NEC endeavoured to fulfil its legal mandate under the circumstances.

In spite of the logistical challenges experienced with managing these processes, the mission was informed by the stakeholders consulted that, to a large degree, the performance of the election commission had been satisfactory. The commission was adjudged to having conducted itself in a consultative manner, with stakeholders citing for example the weekly briefings given by the chair of the electoral commission, as a measure that enhanced transparency and confidence in the commission. The mission notes with satisfaction that the commission carried out its activities in a non-partisan manner and treated all parties and candidates equally and fairly.

Whilst noting the concerns raised by stakeholders regarding the number of excess ballot printed by the NEC, the EISA EOM observed that on Election Day there were appropriate procedures for reconciliation to account for the unused ballot at polling places. The EOM calls on the NEC to be transparent in the handling and safe storage of the unused ballots in the post-election period. Furthermore, the NEC is encouraged to communicate to stakeholders its decision on the procedures for discarding of the excess ballots.

It is the view of the EISA observer mission, that on the whole the NEC conducted itself in a professional manner and endeavoured to meet the operational requirements of conducting credible elections.

2.4 Delimitation of Electoral Districts

Although Article 80 (d–e) of the constitution establishes that each electoral district should have around 20,000 voters, the mission observed that these provisions were not strictly followed as the 2011 boundaries were maintained irrespective of the voter registration figures.

Final voter registration figures for the electoral districts showed a wide disparity in the size of voter populations in the electoral districts. For example the largest district has 63 786 voters whilst the smallest district has 10 604 voters. Therefore the value of the votes cast was not equal.

2.5 Voter Registration and Register's inspection

In line with the requirements for securing the right to vote, a voter registration exercise was conducted from 1 February to 7 March 2017 with the exhibition and inspection phase taking place from 12 to 17 June 2017. The mission notes the various challenges associated with the voter registration which negatively impacted on the process and the final voter register such as problems with non-functional cameras and the use of a coding system that allocated voters to the wrong polling stations. The NEC acknowledged that on Election Day there were likely to be voters who would not find themselves in the voters register at the place where they had registered to vote. This matter will be further elaborated below under Election Day observations.

The mission also notes with concern the short period allocated to the exhibition of the register for accuracy and to for the correction of their details. This concern was echoed by some of the stakeholders consulted by the mission who indicated that many people had not been able to inspect the register. That notwithstanding, the mission notes with satisfaction that the commission for setting aside the week of 7-12 August 2017 for voters to replace lost, spoiled, or poor-quality voter registration cards.

2.6 Political parties and nomination of candidates

The mission was pleased to note that Liberia is a multi-party system with a vibrant political culture where parties are able to register and operate without undue restrictions. The 26 parties registered for the elections and 20 presidential candidates in the elections are indicators of this.

The mission commends the electoral commission for extending the nomination of candidates by 10 days in order to allow for maximum participation by the interested parties and candidates and for parties to canvass more women to stand.

Although the nomination fees charged for contesting in the election were fair, the mission considers that requirements for proof of further financial means, such as cash deposits and assets, can be restrictive and reduce participation, particularly given the high poverty levels in the country. The mission notes further that there are more requirements made to independent candidates over party sponsored candidates which places the independent candidates at a disadvantage in comparison to the party sponsored candidates. These requirements affect in particular disadvantaged groups such as women and youth who tend to have a low economic status. Furthermore requiring parties to show proof of broad national support by fielding candidates in at least 50% of the districts can be difficult for parties to fulfil.

The mission was pleased to note that at 20, the number of presidential candidates was high which showed that there is a high level of political freedom, including the freedom to participate as a candidate. This high level of participation was also mirrored in the House of Representatives' elections where there was an average of 14 candidates for each of the 73 seats.

The mission was concerned about the lack of clarity concerning the requirement in the National Code of Conduct for Public Officials and Employees of the Government of the Republic of Liberia for public officials and employees to resign well in advance of standing for elections. Two consecutive Supreme Court judgements led to controversy and a standoff between the legislature and the judiciary.

2.7 Campaign finance

Political party and campaign finance is regulated by Article 82 of the constitution and chapter 7 of the New Elections Act (as amended) and the May 2016 Campaign Finance Regulations. These regulations set ceilings on campaign donations and expenditure and provides a framework for monitoring of campaign spending by the NEC

The mission notes that although Article 83 of the constitution requires parties to submit assets and liability statements on an annual basis, for the sake of transparency, the mission was concerned by the fact that according to the NEC² the parties did not always abide by these requirements to disclose their assets.

2.8 Electoral Campaign

The EISA mission commends political parties for their commitment to a violence-free electoral process as outlined and agreed to in the Farmington River Declaration signed by most of the parties in June 2017. This commitment was adhered to and the mission notes that on the whole, the electoral campaign was lively and largely peaceful, with only a few isolated incidences reported. Citizens were free to participate in campaign activities and did so with unrestrained enthusiasm.

However the mission was concerned by reports that there had been high levels of the abuse of state resources for the campaign with some parties and candidates also alleging that they had been denied access to public venues for their campaign. The mission could not verify these allegations for itself and notes that such practices would violate the principle of fairness and equity and disadvantage some candidates over others.

2.9 The Role of the Media

The media in Liberia can operate freely and without restrictions, which enhances access to information for the voters. The mission notes also that though there are many media outlets, the print media operates mainly from the urban areas and community radios

² NEC weekly briefing - 13 September 2017

transmit in their localities. The Liberian Broadcasting Service (LBS) and the UN radio are the only media outlets with a national reach.

The mission was pleased to note that there is a Media Code of Ethics developed by the Press Union of Liberia and that the Union also produced election reporting guidelines and trained journalists on the guidelines. Presidential debates enlivened the campaign, although some presidential candidates complained that only selected candidates were invited to participate in the debates. Candidate debates also took place at the local level for candidates contesting the representatives' elections.

The lack of free airtime for all parties and candidates to share their campaign messages and manifestoes combined with the fact that some of the radio stations are owned by political actors aligned to some of the candidates, creates an unlevel playing field with regard to information dissemination. Furthermore, unregulated, these stations stand as the potential source of political propaganda and broadcasting that may incite party supporters to violence.

2.10 Gender, Persons with Disabilities and Youth

Article 9(1b) of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa promotes equal rights to participation in the political life of African countries through affirmative action.

The mission notes that the provisions in Section 4.5 (1b) and (1c) of the New Elections Law, as amended, that 30% of a party's candidates should be female is not mandatory. Moreover, despite these provisions and notwithstanding the fact that the current president is a woman, representation of these groups in the political life of Liberia, including in the outgoing House of Representatives, the Senate and the cabinet remains low. An increase in representation is long overdue.

Despite exhortations from the NEC, only two political parties succeeded in having a minimum of 30% women as candidates. Only one candidate out of the 20 presidential candidates is a woman and only six of the 20 vice-presidential aspirants were female.

A report on the exhibition of the voters' roll produced by local observer group³, noted that the majority of the NEC staff during the process were male. The mission notes with satisfaction that civil society organisations worked extensively with women and other groups such as persons with disabilities and youth in the provision of civic education and by involving them in their activities. Additionally the mission notes that out of the seven current electoral commissioners, three are women and that the commission made a commitment to recruit women and men equally as election staff.

The mission is also satisfied with the provision of tactile ballot guides at all polling places to assist voters facing challenges due to age, visual impairment and illiteracy. However access to election sites for those with disabilities was poor. For example it was reported by citizen observers that during the voter registration period some of the registration centres were not accessible to those with disabilities⁴.

Liberia has a very young population with 60% of its total population under the age of 25⁵. The participation of young people in the elections was notably high. Young people were observed as widely involved in the campaigns and on Election Day as observers, election personnel and poll watchers. Their turnout as voters was also commendably high. With such a high number of young people, there is a need for long –term engagement with the youth to instil and entrench the values of a democratic political culture.

2.11 Civic and Voter Education

Considering the high proportion of invalid votes (6.4%) from the first round of the 2011 presidential election, there was an urgent need to ensure that voters received instruction on how to mark the ballots correctly. The mission notes with satisfaction the commitment and efforts by the NEC to conduct civic and voter education, including working with civic groups to distribute sample ballots and posters on voting procedures and sample ballot papers. These organisations targeted their specific constituents such as women, youth, first time voters, and people with disabilities in order to educate them about the electoral process.

³ Liberia Elections Observations Network (LEON) report on the Replacement of Lost and Damaged Cards

⁴ LEON -Report on the Exhibition of the Provisional Registration Roll (PRR)

⁵ CIA World Factbook

Although internet access outside of the urban areas is low, the electoral commission's website and its social media accounts broadcast information about the election and in the case of voter registration. Furthermore, voters could check their registration details on the NEC website and by SMS. Voters also received information from traditional leaders, churches and mosques.

Although the commission's interaction with stakeholders was high, the mission was concerned about the commission's ability and capacity to reach the voters themselves, particularly in light of the fact that it was required to pay for airtime on the radio, which is the form of media that has the widest coverage in Liberia.

2.12 Civil Society

The EISA mission observed the active and unrestricted participation of civil society organisations in the election. This was mainly through the voter education efforts and through election observation. Civil society organisations observed and reported on key aspects of the process such as the voter registration, nomination of candidates and the electoral campaign. The mission was pleased to note that Liberian civil society organisations deployed a large number of citizen election observers on Election Day and also operated Situation Rooms as hubs for information sharing and real time monitoring. It is the view of the EISA mission that this measure greatly enhanced the transparency and credibility of the poll.

2.13 The Role of Security Agencies

In its consultation, the EISA EOM notes the stakeholders' satisfaction with the professional conduct of the Liberia National Police (LNP) in the pre-election period, specifically during the campaigns. The conduct of the police on Election Day was also observed as nonintrusive by the Mission. It was however noted that the LNP's human resource capacity was stretched to the limit which necessitated reinforcement by other agencies.

2.14 Election Day Observations

EISA teams observed Election Day procedures, including opening, voting, and closing and counting, at 61 polling places, of which more than a third were in the rural areas, in the five

counties where they were deployed. This is a summary of their observations at the places observed by the EISA Observer Mission:

The atmosphere in and around polling places was mostly peaceful and orderly, without any visible campaign materials or activities. There was a visible security presence in most polling places visited and in 95% of the stations the security presence was judged to be professional or discreet. The atmosphere was lively with queues throughout the day in 92.5% of polling places visited. Whilst the environment was peaceful in 88.7% of the polling places visited; poor crowd control resulting in long queues and unruly behaviour of frustrated voters, were reported in 14% of polling places. In Bong country for example, voting at David Fajue School in District 5 (Gbartala) was temporarily suspended due to poor crowd control and only resumed after the district magistrate and additional security intervened at the precinct.

Party agents and candidate agents were able to monitor all phases of the process on Election Day and were present at an average of 10 agents per polling place. The mission commends the parties for deploying these agents as party representation at polling places contributes to enhancing the transparency and credibility of Election Day procedures and ultimately the acceptance of the electoral outcome. Citizen observers were also present at an average of 1 per polling place. The mission notes with satisfaction that more than 50% of the citizen observers were female. EISA observers were granted access to all polling places and were able to observe without restriction.

All the polling places had all the necessary materials for Election Day operations to proceed normally throughout the day except in Nimba, at Karnplay Market, polling place 33099 which opened late due to the late arrival of materials.

Ballot boxes were sealed and remained so throughout the day until the start of the counting process.

Opening Procedures

EISA observers were present for the opening of polls. Polling materials were available at all the stations where EISA teams observed the opening. 98.1% of polling places observed opened on time. The polling place which did not open on time had a delay of one hour, due to the late arrival of election materials

Voting Process

EISA teams observed voting at 61 polling places. Two teams reported that some polling places were located upstairs thus restricting access to persons living with physical disabilities. The Mission commends the initiative of the NEC to ensure that priority was given to the elderly, persons with disability, expectant and nursing mothers.

The layout in 92.3% of the polling places visited was adequate for an easy flow of voters. In all polling places visited by observers secrecy of the vote was guaranteed. The ballot boxes were properly sealed and placed in public view in all of the polling places

Members of the mission observed that the average time for processing voters was between 3-6 minutes in 66.7% of the polling places, whilst it was 6-9 minutes in 10.4% of the polling places. In some polling places there were longer delays, for example the team in Grand Cape Mount reported that the voter identification process in some instances, took up to 15 minutes, making voters impatient. It was the observation of the mission, however, that although slow, the voting procedures have been carried out in line with guidelines set by the NEC in all of the polling places visited by the teams.

In Nimba, at Shirley Memorial High School (polling station 33146) in Saniquelle, the team observed a voter's identity being challenged. However was resolved immediately through a `quick verification via sms. Furthermore in Monrovia, at Lucy B Gibson Memorial polling station 30214 there were 4 voters who turned away because their names could not be found on any of the voter rolls at the polling precinct.

Closing and counting process

EISA teams observed the closing and counting processes. The teams reported that the atmosphere was peaceful and although there were queues at 33% of the polling stations at the time of closing, the voters in the queues at closing time were permitted to vote. Guidelines for closing were not strictly adhered to at some of the polling places, such as at Fiamia C Baptist 30394/3 where staff appeared to be unsure of the procedures which slowed down the process and delayed the start of the counting. In Montserrado, at William C. Jones, polling place 30350 not all the steps were followed as agents did not sign the record of seal forms. EISA observer teams judged the training and competence of staff during closing as good in 67% of the counting places and as average and bad in 17% of the places respectively. The mission observed that polling staff were less knowledgeable about closing, reconciliation and counting procedures than the voting procedures

In 83.3% of the polling stations observed, the number of ballot papers in the ballot box verified to ensure that they tallied with the number of votes cast. There seems to be a lack of knowledge of reconciliation procedures, in Montserrado William C. Jones polling places 30350. Political party and candidate agents were well represented at the polling and closing with an average of 11 representatives per polling place visited. EISA observers assessed their conduct as unobtrusive, although they seemed in some instances to lack sufficient training to effectively undertake their duties. For instance, in some of the polling places visited, party and candidates agents were not given copies of the results forms and they did not demand for them.

Members of the mission notes however that in 40% of the polling places where closing and counting was observed, political party agents did not receive a copy of the results and in 50% of stations the results were not posted at the polling place. This is not in line with the NEC regulations for the counting and announcement of results.

3. Conclusion

Covering only the electoral process up to the voting and counting procedures at the polling places, this preliminary assessment of the 10 October 2017 Presidential and House of Representatives elections by the EISA observer mission concludes that the process thus far has been peaceful and largely conducted in a transparent manner, allowing Liberian voters to freely express their will. Furthermore, the EISA mission is of the opinion that this phase of the electoral process has been largely in conformity with the laws of Liberia and with international, continental and sub-regional standards for credible elections. However, the Mission notes a number of shortcomings and therefore offers recommendations for improvement of future elections. EISA will continue to observe the process until the transmission; tallying and announcement of results are concluded and then make a final assessment of the process.

4. Recommendations

Based on the findings presented above, the EISA Election Observer Mission presents the following recommendations for the considerations by Liberian decision-makers:

To the Government and the Legislature:

- Consider passing laws and implementation of measures that will increase the political participation of disadvantaged groups, such as for example, reserved seats for women, youth and people with disabilities in the House of Representatives. This is in line with the Protocol on the Rights of Women in Africa.
- Consider amending the legislation to provide for the conduct of elections during the dry season as opposed to the rainy season.
- Take initiative to engage the youth to instil the values of democratic political culture in form of long term citizenship education.

To the National Elections Commission

- Consider revising the signage to polling places to enable voters to identify their correct polling places, to ensure that voters are not inconvenienced or discouraged by standing in the wrong queue for long periods on Election Day. Furthermore, improve the modalities for crowd control and the training of the precinct and polling place queue controllers.
- Consider reviewing the voter registration system for a more accurate and credible voters' register
- Consider improving and increasing the training of electoral staff, particularly on the closing, reconciliation and counting processes
- Consider introducing quotas for the recruitment of under-represented and disadvantaged persons as electoral staff
- Consider improving the conditions and locations of polling places in order to make them fully accessible to voters with disabilities and to provide adequate lighting after sunset
- Make arrangements to provide copies of the polling place results to all party and candidate agents who are present at the polling place.

To Political Parties

- Undertake capacity building of party agents in order to build their capacity to effectively undertake their duties.
- Consider the increase of the numbers of women, youth and people with disabilities in their membership and as candidates so that this will translate to better representation of these disadvantaged groups in political decision making positions.

The EISA Election Observer Mission commends the people of Liberia, the NEC, the candidates, the security agencies and stakeholders for a peaceful and well managed process. The mission appeals to the Liberian stakeholders to maintain the same spirit of serenity and peace demonstrated so far, while the results are tabulated and announced and after the process is concluded and to use the legal route for any grievances they may have.

The EISA Election Observer Mission would like to thank the people and the NEC, for the warm welcome and for creating the conditions and atmosphere for the successful completion of our task.