

HOW NEC AND THE GATEKEEPERS OF OUR DEMOCRACY ARE FAILING

By Basita Michael

From 2002-2018, Sierra Leone witnessed peaceful transitions of power, which offered hope in a region where attempts to circumvent term limits, coups, and bloody transfer of power are predominant. Although final reports of international observation missions mention some shortcomings, all the reports concluded that these challenges and weaknesses did not affect the outcome of the elections and their legitimacy.

The Carter Center's final report regarding the 2002 elections concluded that "the electoral process ... enabled voters to freely express their democratic choices and ... the official results reflected the will of the voters. Although the elections were far from perfect, they were characterized by robust political participation, inclusiveness, competence, and dignity."

Likewise, regarding the 2012 elections, the Center "noted some limited administrative shortcomings," it reported that "the electoral process was well-conducted by National Electoral Commission officials, 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 electoral process was conducted with a high degree of transparency."

In the 2018 general elections, Jean Lambert, the Chief Observer of the EU EOM and a Member of the European Parliament (MEP), declared that "Despite numerous challenges, the National Election Commission delivered what is assessed so far as a transparent, credible and well-organized electoral process."

Ahead of the 2023 elections, the fundamental question is not who will win but whether it will be orderly and transparent. A free and fair election will give the winner legitimacy that will prevent conflict.

OPTIMISM WILL BE AN ERROR OF JUDGMENT

Reflecting on the controversies and uncertainties surrounding the rerun bye-elections in Constituency 110 and the local council election ward 155 in Koinadugu, it will be an error of judgment to be optimistic that NEC will receive the same degree of confidence expressed in the last two decades.

A press statement by NEW dated December 13, 2020, on the elections in Constituency 110 stated that the pre-election period was characterized by violence and intimidation. The report noted that "NEW conducted a Pre-elections assessment study in all five election locations where the communities highlighted concerns ranging from; Lack of Community Engagement prior to the announcement of the new date for election in Constituency 110, Importation of Youths into Election Precincts to cause violence, Mistrust in the Sierra Leone Police, the Legality of the Re-run Election, Political Interference ahead of the Election, Intra-party Conflict and Paramount Chiefs Interference in Politics and Women's Political Intimidation and Marginalization."

More than a year since that report and more than two years since the incidents of violence perpetrated in the rerun bye-elections held on August 24, 2019, in Constituency 110, there has been no investigation of any sort.

According to NEW's Report, "A man who NEW cannot recognize and who throughout the day was being consulted by the SLPP party agents in the polling centre ordered voting to stop and started destruction of the ballot boxes and voting materials, after which a group of men rushed into the polling stations destroying ballot boxes and other election materials." "A black RAV4 vehicle with no number plate but with an inscription 'CEO of Soja Team Paopa' with the SLPP logo was plying the elections centres vicinities." To the outrage and dismay of many, no one was prosecuted. As the election was marred by violence, NEC cancelled it, and another rerun was held on December 12, 2020.

Another incident took place during the rerun of the elections. NEW reported that "In Kent Village, the Minister of Lands and Country Planning Dr. Dennis Sandi went into polling centre 15084 with two vehicles (Toyota Land Cruiser Registered No. AEE 403 and a blue Jeep with registration No. AMK 884) and men dressed in black suits and an armed Military personnel even before polls opened and was obstructing the work of NEC. He defied the assigned security personnel deployed at the polling station and insisted on staying at the polling centre, though he was not accredited. The roving police patrol headed by AIG Brima Jah also approached him, but he still resisted to leave the polling centre. The men in black suits that were with the Minister threatened the ONS Regional Coordinator of Western Rural District who was also roving that she would lose her job for asking the Minister to leave the centre." Thus, though the polling station was invaded, ballot boxes and other election materials were destroyed, and despite the reported open acts of intimidation by a government official, no one was investigated or prosecuted.

It's one thing to persistently hear of violence by unknown persons and the use of state resources by the incumbent for partisan purposes, but to persistently hear of high-profile government officials and politicians openly and brazenly interfering in elections before and during polls and to hear of a candidate physically assaulting citizens without any form of accountability is a pattern that raises a serious alarm and put our democratic credentials in question.

Although NEW's report states that "Generally, the Voting and Counting ended peacefully, there were incidents of widespread and unprecedented political intimidation and thuggery ranging from the burning of ballot papers and other materials, disruption of the voting process, disruption of the counting process and running away with ballot papers and the sealed ballot box, vandalization of vehicles, the use of vehicles without registration number plates, the movement of thugs from one centre to the other with motorbikes and disruption and suspension of the tallying process."

Moreover, for Ward 155 Constituency 046 Local Council Bye elections, despite the complaints by the APC of an official of NEC tampering with the results giving the SLPP candidate 100 extra votes, NEC on October 6, 2021, declared Kalie Thoronka, the SLPP candidate, duly elected. Likewise, despite the SLPP's complaints about acts of violence and intimidation by APC thugs, recruitment by NEC of Ward coordinators who are APC, ballot stuffing, multiple voting and interference by the APC in respect of the Koinadugu District Council Chairman, Kargbo Lawrence Teteh was declared the winner. Thus, the pattern of impunity continues. It's over three weeks and yet again, there is no indication of any investigation or prosecution.

HOW THE GATEKEEPERS OF OUR DEMOCRACY ARE FAILING US

This leads to another striking question, what have our oversight institutions done to demonstrate the will to defend our democracy and electoral process? It appears from the onset that the gatekeepers of our democracy and oversight institutions, including PPRC, Parliament, the media, and civil society, have abandoned their duties to call out NEC and the Police for not credibly investigating these incidents of violence and bring to account all those responsible for endangering our democratic process.

Lurking underneath these concerns is the perceived politicization of the Judiciary and its lack of independence. In what appears to be a systematic effort to weaken the opposition, the Judiciary has given controversial rulings and judgments that have led to further distrust of its ability to independently adjudicate in election-related matters. It is no gainsaying that the court's inability to decide election matters impartially and in a timely manner, as documented in several Election Observation mission reports, is another major factor that has placed the integrity and ability of the Judiciary to oversee a fair electoral process in serious question.

WILL AN ELECTION OBSERVATION MISSION BE ENOUGH?

According to NEW, "Political parties are not doing enough to curb the violence in elections... Elections in the country have become characterized by unbridled violence and lawlessness. The continued deep animosity and political intolerance between APC and SLPP continues to undermine credible elections and democratic practices in Sierra Leone."

In light of the above, it becomes apparent that our problem is not technical as much as it is political and therefore raises the question of whether an Election Observation Mission will be sufficient for the 2023 Elections and how effective they will be?

In light of the uncertainties and controversies surrounding NEC and as the indifference by key oversight institutions continues, one of the main things to consider is to ensure that long-term international and national observers are deployed very early. This may help prevent covert means of pre-election manipulation. As the 2023 elections approach, signs of strategic manipulation are starting to appear. According to the EU Election Follow-up Mission press release of October 29, 2021, "The mid-term Census is unprecedented; the stated reason for it is highly contested. The use of an optional census to provide data which might be used to change electoral boundaries shortly before an election is not conducive to the political atmosphere or good electoral practice. The Mission repeats its recommendation that the voter register should be automatically produced from the civil register, which would save money and time. The Mission has not seen evidence that sufficient progress has been made on this important issue."

Other examples are the alleged increment in salaries of NEC's employees as revealed by the Africanist Press and the appointment of NEC Commissioners "without consultation," including the recent appointment of Zainab Umu Moseray as Commissioner Western Region.

In the Press release of the EU Election Follow-up Mission, it is stated that "The implementation of the 29 recommendations made by the EU Election Observation Mission in 2018 "would enhance the credibility, inclusiveness and transparency of Sierra Leone's 2023 elections." Perhaps they will but considering that 2023 is just around the corner, sweeping changes by 2023 to reverse the situation is not realistic. Despite the tremendous efforts by the EU and other international actors have to encourage reforms in the electoral process, implementation is unacceptably slow. According to the EU Elections Report 2018, "Of the 29 recommendations offered by the 2018 EU EOM, 25 are considered to require changes of primary legislation, 9 of these would also involve changes in the Constitution." Up to date, the said legislations have not been passed, the Constitutional Review process has been stalled and there seems to be no certainty as to what has been done with the six recommendations classified as a priority by the EU.

MOBILIZING A VOTE OF NO CONFIDENCE IN NEC AND OVERSIGHT INSTITUTIONS

In short, the current conditions of NEC and our oversight institutions in Sierra Leone raise serious questions about their neutrality and impartiality in overseeing and holding credible elections. Until we take strong stances against all those responsible for lowering the bar of electoral integrity, the trend of violence, intimidation and interference can be expected to continue.

Efforts to save our democratic process now heavily depend on the resilience of civil society and the stances of regional and international actors. Some civil society groups such as NEW are already doing the right thing. The EU is one international partner making tremendous efforts, clearly seen in its recent follow-up press release. However, as election day fast approaches, more has to be done.

CSO's, NGO's INGO's and the Inter-Religious Council as well can play a crucial role in mobilizing the call for NEC and our oversight institutions to be made truly independent. They can be reformed and reconstituted. Therefore, it is vital for the political parties, and civil society to go beyond press statements and continue to find the courage to demand loudly and firmly a truly independent NEC and credible oversight bodies that will ensure that the 2023 elections are fair.