



## PRELIMINARY STATEMENT

### **Liberians mobilise for a democratic transition in elections, with scope for legal and procedural improvements**

**Monrovia, 12 October 2017**

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#### **Summary**

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*This preliminary statement is delivered before the completion of the election process. The final assessment will depend also on the conduct of the remaining stages of the election process, in particular, tabulation of results and the handling of post-election day complaints and appeals.*

- The first post-conflict elections entirely managed by Liberians are the culmination of the transition process for the country. The elections are governed by a legal framework broadly in line with international standards, a pluralistic political and media landscape, a strong commitment from civil society and the population. The election process has evident scope for improvements in its laws, procedures and implementation by the institutions. During an intense campaign period that evidenced imbalanced playing field for candidates, in terms of access to resources, especially for female contestants, all parties and candidates showed commitment to democratic rules. The democratic capital built so far should be consolidated by transparent and impartial tallying and complaints processes.
- Election day showed good voter participation and strong commitment from Liberians to cast their votes. While EU Election Observation Mission (EOM) observers assessed voting as very good, they also noted that voters had to face long waiting times. Undue aggravations in finding their Polling Place, something that ultimately resulted in frustration and tension, potentially forced some to forfeit their right to vote. Due to inconsistent training of polling personnel, late divulgence of polling procedures, and insufficient guidelines for queue control, the voting procedure was very slow. Simple remedies and solutions could be put in place to ensure the fulfilment of the right to vote. EU EOM observers noted the encompassing presence at Polling Places of party or candidate representatives together with a good presence of local observer groups; a key element for the transparency of the elections. The EU EOM final assessment of the elections will also consider the conduct of tallying and complaints processes.
- Liberia's legal framework is broadly in line with the country's international and regional treaty obligations and constitutes an adequate basis for the conduct of democratic elections. However, in some important respects, it falls short of international standards. A restrictive definition of citizenship, which disenfranchises many persons born in the country, does not accord with Liberia's international legal obligations. Additionally, a lack of precision and consistency in some aspects of the legal framework favours diverging practices. Improvements in the law could serve to ground a more coherent and comprehensible legal framework.
- During the period of its observation, the EU EOM noted a limited number of disputes and a few in which mediation was successfully engaged. While Supreme Court decisions positively contributed to inclusivity of candidacies, this outcome may have come at some reputational expense as many stakeholders alleged the court had been politicised. Liberia's judiciary suffers significant challenges and training for lawyers remains a key issue for the efficient functioning of judicial institutions.

- In the first post-conflict elections entirely managed by Liberians, the NEC faced major logistical obstacles in its operations because of the country's difficult terrain, poor transport infrastructure and adverse weather conditions. NEC communication to stakeholders improved over time and enhanced the inclusiveness of the process. However, in some cases, NEC decisions were not communicated nor published in a timely manner nor sufficiently explained, creating controversy and criticism. Similarly, late preparation of key guidelines on tallying of results and a lack of consistency in the training of polling officials resulted in the non-uniform application of procedures during and after the vote.
- The NEC managed to register 2,183,629 voters in the absence of a comprehensive and reliable framework for voter registration. The registration of voters showed some gaps, resulting in cases of voters not being found on the Final Registration Roll (FRR) both during the FRR exhibition period and Election day. Additionally, these gaps were also a source of confusion on Election day, with voters often facing problems to find their assigned Polling Place. The NEC partially solved this problem by emphasising that possession of a Voter Card alone was a requisite for voting.
- Most interlocutors agree that insufficient enforcement constitutes one of the major challenges in the field of campaign finance, which contributes to undermining equality of opportunity among contestants and transparency of the election process. The NEC is perceived to lack the capacity and expertise for effective implementation, resulting in contestants having limited interest in submitting complete and accurate financial reports. Substantial parts of the regulatory framework remain to be applied.
- Whereas most parties have published manifestos, many candidates have failed to articulate concrete policy proposals thus depriving the electorate of a genuine issue-based choice. A lack of clear legal provisions and procedures for the approval and co-ordination of political rallies hindered an equitable distribution of opportunities to campaign, particularly for larger events, creating a degree of uncertainty in the final days of campaigning.
- Imbalanced coverage provided by the state-owned broadcaster and a media sector reliant on political sponsorship, or politically aligned through direct ownership by candidates or their supporters, affected the right of access to media by some candidates with less financial means. The absence of provision for free airtime in the state broadcaster contributes to unequal treatment of political parties and candidates.
- The legal provision that political parties 'shall endeavour' to have no less than 30 per cent of each gender among both governing bodies and candidates is not a sufficiently effective measure to overcome obstacles to women's full participation. The absence of timely trainings and the lack of funds needed for running a campaign also significantly limited potential women candidatures.
- Positively, procedures to facilitate participation of persons with disabilities were put in place in over two-thirds of Polling Places visited by EU EOM observers. However, delays in procuring tactile ballot sleeves and the late provision of training in their use negatively affected their employment on Election day.

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*The European Union Election Observation Mission (EU EOM) has been present in Liberia since 1 September 2017 following an invitation from the Liberian authorities. The Mission is led by Chief Observer, Maria Arena, Member of the European Parliament. In total, the EU EOM deployed 81 observers from all 28 EU Member States plus Norway, across the country to assess the electoral*

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*process against international obligations and commitments for democratic elections as well as the laws of Liberia. On Election day, observers visited over 297 Polling Places in 53 of 73 Electoral Districts.*

*The EU EOM remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.*

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## Preliminary Findings

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The elections to the Presidency and House of Representatives (HoR) held on 10 October 2017 marked a defining moment in the reconstruction process Liberia initiated after its civil wars. In the wake of the Ebola crisis and enduring economic difficulties, these elections are key to strengthening Liberia's democratic institutions and maintaining the country's stability. All the candidates and political parties have firmly stated their commitment to the conduct of non-violent elections. Liberians have now the opportunity to enable the first peaceful transfer of power from one elected government to another in more than 70 years.

With 20 candidates for the Presidential Office and 986<sup>1</sup> contenders standing for a seat in the House of Representatives, a strong political competition provided the Liberian voters with a multiplicity of options on Election day. Whereas most parties have published manifestos, many candidates have failed to articulate concrete policy proposals thus depriving the electorate from a genuine issue-based choice.

## Legal Framework

Liberia's legal framework is broadly in line with the country's international and regional treaty obligations and constitutes an adequate basis for the conduct of democratic elections, albeit with room for additional improvements in terms of precision and consistency. Key fundamental rights, including those of freedom of expression and assembly, the right to vote periodically and by secret ballot, are enshrined in the 1986 Constitution. The New Election Law (NEL)<sup>2</sup> and National Election Commission (NEC) regulations give further substance to these rights by spelling out eligibility to vote, the rules for polling and counting, as well as procedures on voter registration, candidacy, campaigning, and campaign finance among others.

The Constitution, the NEL, NEC regulations, together with certain provisions of both the 2014 Code of Conduct Law for Public Officials (CoC)<sup>3</sup> and the 2015 New Police Act (NPA)<sup>4</sup> constitute the legal basis for Liberia's 2017 elections<sup>5</sup>. Liberia is also party to key international and regional treaties with provisions relevant to elections, including the International Covenant on Civil and Political Rights (ICCPR), the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the UN Convention against Corruption (UNCAC) and the African Charter on Human and

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<sup>1</sup> The final candidate listing issued by the NEC mentions a total of 984 candidates for the House of Representatives. Following a number of appeals, the NEC announced during its weekly press conference that the final official figure was 986. This figure does not, however, tally with the total of candidates counted by different international observation missions, including the EU EOM.

<sup>2</sup> The New Election Law, 1986 (amended 2003, 2004 and 2014), Ministry of Justice and published by the NEC, 2016.

<sup>3</sup> An Act of the Legislature prescribing a National Code of Conduct for all Public Officials and Employees of the Government of the Republic of Liberia, articles 5.1, 5.2, 12 (g) and 15.

<sup>4</sup> Article 22.86 requires seven days' prior notification to the Ministry of Justice (County Attorneys) of intention to hold a march, demonstration or similar special event.

<sup>5</sup> Additional Codes of Conduct were released by the NEC for Political Parties, Observers and the Media.

People's Rights (ACHPR). In some cases, Liberia has also incorporated treaties into its national legal framework, as is the case with the ECOWAS Protocol on Democracy and Good Governance<sup>6</sup>.

In some important respects, however, the legal framework falls short of international standards. Notwithstanding its historical context, a restrictive definition of citizenship, which excludes from political participation many persons of non-Negro descent born in the country, does not accord with Liberia's international legal obligations<sup>7</sup>.

A lack of precision and consistency in some aspects of the legal framework also underpinned diverging practice among political and institutional stakeholders. Whereas the Constitution places a requirement of ten years of residency on presidential candidates 'prior to his election', the NEL provides that 'for all elected offices' candidates be domiciled in their constituency for twelve months prior to Election Day. The Supreme Court has distinguished the often-confused concepts of residency and domicile, suggesting the latter has a greater weight of permanency, by stating that "*A person... may have more than one residence at a time but only one domicile*"<sup>8</sup>.

Elsewhere, the Constitution imposes an obligation on HoR candidates to be taxpayers, though the same condition is not imposed on those who seek to stand for President, although the NEL does impose the duty to be a regular taxpayer on all candidates. Overly prescriptive constitutional provisions<sup>9</sup>, both in relation to the date of elections and the establishment of electoral districts, have been the source of complications for the NEC. Improvements in the law could serve to ground more coherent and comprehensible legal framework.

### Election Complaints, Offenses and Appeals

Political parties competing in the 2017 elections committed to the resolution of disputes through the established mediation or judicial means<sup>10</sup>. The law accords the NEC with jurisdiction over election complaints. Its regulations set out a considerable body of election offences and sanctions applicable to them as well as procedures for hearings and appeals. All election related disputes are appealable to the NEC Board of Commissioners, whose rulings in turn are appealable, in the final instance, to the Supreme Court<sup>11</sup>.

During the period of its observation, the EU EOM noted a limited number of disputes and a few in which mediation was successfully engaged. Otherwise, there was an overall small number of complaints leading up to Election day among which, however, there were some high-profile appeals to the Supreme Court highlighting technical deficiencies in law and practice. In a positive manner, the Supreme Court reminded the NEC of its duty to strictly adhere to due process while dealing with the acceptance or rejection of candidates. In at least one case, the court addressed a conflict on deadlines for appeal in the regulations and was compelled to rule against the NEC on that issue<sup>12</sup>.

<sup>6</sup> ECOWAS Protocol (A/SP1/12/01) supplementary to the Protocol relating to the mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

<sup>7</sup> See e.g., article 8, African Charter on Democracy Election and Governance; article 5(c), International Convention on the Elimination of all Forms of Racial Discrimination.

<sup>8</sup> MPC et al v National Election Commission et al [2011] LRSC 1 (5 October 2011). See also, Sando D. Johnson vs. Unity Party, Edwin Snow and Others, Supreme Court Decision (5 September 2017). the court appeared to indicate the test for residency be formulated by asking: "*Does he own a residence in that constituency?*". The 1956 Aliens and Nationality Law provides "*A residence may be continual without an uninterrupted physical presence*".

<sup>9</sup> A Constitutional Review Committee convened in 2015 advanced some 25 proposals for amendments to the Constitution. While at least seven of these were endorsed by the HoR, those matters have yet to be put to a referendum.

<sup>10</sup> Farmington River Declaration of 1 June 2017.

<sup>11</sup> While candidates, parties, their respective agents and voters had the right, up to and including Election day, to file complaints regarding the election process, an individual complaint after Election day may only be done under the umbrella of a candidate or a party.

<sup>12</sup> Abu Bana Kamara vs NEC, Supreme Court Decision (17 July 2017).

In a few instances, decisions of the Supreme Court generated some controversy. A notably divided court (by a majority three to two ruling) determined in March 2017 that the 2014 Code of Conduct Law was constitutional. Provisions of this law require Presidential public appointees to resign from public office between two and three years before an election (depending on rank). However, by July 2017, further appeal decisions facilitated the right to stand for some candidates, who held public office between 2014 and until shortly after the March 2017 ruling<sup>13</sup>.

While Supreme Court decisions positively contributed to inclusivity in candidacies, this outcome may have come at some reputational expense, as many stakeholders alleged the court had been politicised. On at least one occasion, the filing of a petition of impeachment against three of the Justices, which was subsequently withdrawn<sup>14</sup>, exposed the Court to additional pressure.

Liberia's judiciary suffers significant challenges. During attendances before the Supreme Court, the EU EOM observed an inadequate level of preparedness among attorneys presenting arguments and pleadings and thereby contributing to unnecessary delay<sup>15</sup>. Training for lawyers, which is reported by relevant stakeholders as having seen some improvements in recent years, remains a key issue for the efficient functioning of judicial institutions<sup>16</sup>.

In the last weeks of the campaign period, the EU EOM observed trainings on complaints and appeals procedures for a wide variety of stakeholders including political parties, Magistrates and hearing officers. Some doubts remain about overall preparedness and capacity in this regard, with concerns expressed about the potential for a flood of frivolous complaints and the potential for many appeals to an already overburdened Supreme Court. Notwithstanding, among the total number of PPs observed by the EU EOM, just 6 outstanding complaints were noted. The EU EOM equally noted a high presence of both party/candidate agents and national observers<sup>17</sup>.

## **Electoral Framework**

The President is elected through an absolute majority while elections to the HoR, conducted in 73 one-seat Electoral Districts (constituencies), follow a first-past-the-post system. As the number of voters per seat varies notably between the 73 Electoral Districts<sup>18</sup>, their current size does not sufficiently provide for equal suffrage and the principle 'one person one vote' is not applied. The Constitution<sup>19</sup> requires constituency delineation be based on Census data<sup>20</sup>. However, the current boundary delimitation results from the number of registered voters for previous elections and subsequent modifications<sup>21</sup>.

The NEC faced major logistical obstacles in its operations because of the country's difficult terrain, poor transport infrastructure and adverse weather conditions. Some NEC operational deadlines were not met, including the late arrival to Liberia of the ballot papers for both elections<sup>22</sup>. These shortcomings negatively impacted an already challenging plan of distribution of the election material from the Magistrate Election Offices (MEOs) to the Polling Places, with some of the latter not

<sup>13</sup> Harrison S. Karnwea & Liberty Party vs. NEC, Supreme Court Decision (20 July 2017).

<sup>14</sup> Report from The Inquirer, Vol 26, No. 183 (6 October 2017), confirmed by a Supreme Court source.

<sup>15</sup> Lavela Korbo Johnson vs. CDP and Others, Supreme Court Decision (23 September 2017), 11 political parties were mentioned in the petition.

<sup>16</sup> NEC vs. Amos Sieh Siebo, Supreme Court Decision (5 September 2017). The court expressed its sympathy with the respondent/ appellant arising out of the failure of his legal team to file the appeal on time.

<sup>17</sup> 99.6 per cent and 66.7 per cent presence respectively across 266 PPs observed.

<sup>18</sup> The number of voters per seat ranges from 10,604 in River Gee's ED-3 (65 per cent below the average) to 63,786 in Montserrado's ED-4 (113 per cent above the average).

<sup>19</sup> The Constitution Art. 80 (d).

<sup>20</sup> Last census was conducted in 2008.

<sup>21</sup> The number of registered voters per county increased between 7 and 29 per cent from the 2011 to the 2017 elections.

<sup>22</sup> Presidential election ballot papers arrived in the country on 23 September, while the ballots for the House of Representatives arrived in two batches, on 29 September and 5 October. Tally and results transmission procedures for the MEOs were finalised only on 27 September.

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opening on time on Election day<sup>23</sup>. However, no precise information was communicated on how many Polling Places were affected by delays. Late recruitment and training of polling staff may have contributed to the confusion of voters on Election day as they were not accurately informed which Polling Place to go within a Voting Precinct. Tallying and electronic transmission of the result procedures were also elaborated late in the process.

NEC communication to stakeholders reportedly improved over time and enhanced the inclusiveness of the process. The NEC started organising weekly press conferences and dedicated meetings for political parties in August. However, in some cases, NEC decisions were not communicated in a timely manner nor sufficiently explained, creating controversy and criticism. The NEC decision to increase the ballot paper contingency was only communicated on 27 September, after the arrival of ballot papers in the country, resulting in serious concerns expressed by political parties<sup>24</sup>.

The NEC is mandated to adopt secondary legislation on electoral matters. However, NEC deliberations were not uniformly published and affected the stakeholders' right of access to information<sup>25</sup>. Additionally, the NEC did not fully take advantage of its prerogative of clarifying gaps in the legal provisions by issuing clearer guidelines and regulations.

The EU EOM has assessed MEOs as operating in an open and transparent manner, but they often lacked necessary guidance and communication from the NEC. While stakeholders reported confidence in the work of the MEOs, EU EOM observers reported limited official communication between the MEOs and political parties.

While the EU EOM assessed the NEC training of the key polling staff (Presiding Officers and Voter Identification Officers) as well attended, it was not of consistent quality. The EU EOM observed voter education campaigns conducted by the NEC and civil society organisations in most of the counties, although more effort to provide these campaigns in local languages could have been undertaken.

## **Voter Registration**

Liberia is currently not in possession of a comprehensive civil register, and voter registration is conducted on a voluntary, active and periodic basis. The NEC managed the registration of 2,183,629 voters between February and March 2017. This represented an overall increase in registrations of approximately 20 per cent compared to the 2011 elections. In the weeks leading up to the elections, the NEC acknowledged that some voters attending the polls with a valid Voter Card may have been omitted from the PP Final Registration Roll (FRR). In an effort to overcome potential difficulties, the NEC emphasised that the only requirement for voting at the assigned voting precinct on Election day would be a valid Voter Card.

In the absence of comprehensive and verifiable residence requirements, in addition to a weak system of personal identification, eligible voters could register at a location of their choice, subject to their ability to access the registration place.

Unfortunately, the law does not provide for enfranchisement of voters who turned 18 between the end of the registration process and the Election day, therefore disenfranchising a portion of the electorate. Voter registration was not provided for detainees<sup>26</sup>, including those awaiting trial and convicts not

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<sup>23</sup> The NEC has 19 MEOs with responsibility for county level administration of the election process.

<sup>24</sup> The NEC calculated the contingency over the maximum number of voters (500) per Polling Place, and additionally created a contingency stock to be stored in the MEOs. This resulted in a total of 879,000 additional presidential ballots delivered nationwide.

<sup>25</sup> UNCAC Art. 10 (a), ICCPR Art. 19(2), General Comment (GC) 34 para. 19.

<sup>26</sup> The number of persons in detention in Liberia is estimated at between 2,500 and 3,000 of whom pre-trial detainees are estimated at over 50 per cent.

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legally deprived of the right to vote by the judicial decision, contrary to Liberia's international commitments<sup>27</sup>.

## Campaign Environment

Campaigning remained predominantly open and calm except for sporadic cases of campaign material defacing and a few incidents of violence. In most instances, EU EOM observers described the atmosphere of campaign events as enthusiastic, with only a few cases of inflammatory language reported. Large events outside Monrovia concentrated around the presidential candidates' campaign trail and campaigning revolved, to a large extent, around candidates' personalities. EU EOM observers reported that tribal sentiments punctuated campaign rhetoric with several candidates underlining their indigenous background, and some choosing to emphasise the difference between 'natives' and 'Americo-Liberians'.

Despite the request made by the Liberia National Police (LNP) that large campaign events cease from 4 October to allow for timely deployment of resources to PPs across the country, several political parties held major closing rallies during the last days of campaigning as permitted by the electoral law. Campaign activities concluded at midnight on 8 October.

A lack of clear legal provisions and procedures for the approval and co-ordination of political rallies hindered an equitable distribution of opportunities to campaign, particularly for larger events, creating a degree of uncertainty in the final days of campaigning. The NEC and the LNP called upon political parties to submit their campaign calendars with a view to facilitate the coordination of their respective events. However, a practise of 'first-come, first-served' deepened a perceived discrimination in favour of the incumbent in the allotment of dates and space for campaign activities. In at least four instances, the holding of conflicting events also led to clashes between rival supporters.

## Campaign Finance

Political actors, NEC representatives and civil society organisations almost unanimously agree that insufficient enforcement constitutes one of the major challenges in the field of campaign finance, which contributes to undermining the equality of opportunity among contestants and the transparency of the election process. The legal framework embodies a comprehensive set of regulations which, if implemented, could support equality, transparency and accountability. Alongside the sources of campaign funding and the spending limits, the framework regulates the reporting and disclosure requirements for contestants and it does foresee a system of sanctions and enforcement mechanisms.

Together with the NEC's lack of capacity and resources to implement campaign finance regulations, the NEC working-level representatives also signalled their lack of internal expertise. Despite these challenges, the NEC has put some effort to increase the law enforcement by announcing their intention to audit the annual financial reports submitted by political parties<sup>28</sup>. Concrete arrangements, however, remain to be finalised and the measure implemented.

In circumstances where financial reports have historically not been audited and sanctions seldom applied, most contestants demonstrate limited interest to comply with the regulations. Although required by the law to keep accounts of campaign contributions and expenditures, many of them conveyed to the EU EOM the intention to submit *pro-forma* reports not reflecting the real flows of funds. Under these conditions, smaller parties and independent candidates expressed concerns about the level of spending of wealthy frontrunners. This is perceived as particularly important in a country

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<sup>27</sup> UN ICCPR GC 25 para. 14.

<sup>28</sup> The legal framework requires political parties to submit the statement of assets and liabilities together with the accounts of contributions and expenditures for the period of the past twelve months on 1 September every year (annual reporting deadline). The Constitution vests the NEC with the power to examine and audit those financial reports.

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where the divide between the wealthy and the less well-off sections of society has deep historical roots.

The EU EOM has directly observed several instances of public officials engaged in campaigning that further hampered equality among contestants<sup>29</sup>. The mission has received claims about the uneven use of state resources and access to public spaces working to the advantage of the incumbent. The mission's direct observation indicates a high level of monetisation of the campaign, where a culture of in-kind and financial hand-outs to communities prevails. While the law prohibits such practices, instances of the same are difficult to track and sanction as aggrieved parties rarely file official complaints.

## Media

A wide range of privately-owned broadcasters and newspapers offered a variety of views on the election process, radio being the most important source of information and television the least used. However, imbalanced coverage provided by the state-owned broadcaster and a media sector reliant on political sponsorship, or politically aligned through direct ownership by candidates or their supporters, affected the right of access to media by some candidates with less financial means. In a few counties, limited access to news sources constrained the possibility of voters to receive sufficient information on candidates and to be able to make an informed decision.

Liberia's Constitution provides for freedom of expression, speech and press and the right to hold opinions without interference. The right of recourse to the courts to protect these rights in state-owned media is also guaranteed in the Constitution. Freedom of speech in the media was broadly respected. While no cases were reported to the EU EOM, existing defamation laws and provisions in the Penal Code for libel against the President prescribe excessively punitive penalties, contrary to international standards on freedom of expression.

EU EOM media monitoring results indicate that the state-owned public broadcasting entity failed to provide equitable and fair coverage of the campaign<sup>30</sup>. Liberia Broadcasting System (LBS), which operates the radio station ELBC (the only Liberian broadcaster with national reach) and the television channel LNTV, showed an imbalance in airtime allocation in news bulletins and in non-news programmes, with the ruling UP and its presidential candidate being given more time than opposition parties.

News coverage of campaign was highly monetised, and coverage reflected the parties and candidates' financial means. Whereas coverage of opposition parties was given through talk shows and interview style programmes, this approach did not ensure equal opportunity in the state-owned media, as candidates' appearances on radio and TV were determined chiefly by their financial capacity to buy coverage and rather arbitrary editorial decisions on newsworthiness.

Private electronic media also allocated time in their talk shows and non-news programmes including political rally coverage where the financial means of political competitors permitted. Occasionally, time was allocated free of charge only where the station considered having the candidate in studio newsworthy. While some monitored privately-owned radio and television broadcasters provided time to independent and lesser known candidates, there was a tendency to grant more coverage to the UP.

An absence of provision for free airtime in the state broadcaster, contributes to unequal treatment of

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<sup>29</sup> The EU EOM has observed campaign involvement of ministers (Nimba), Superintendents and their offices (Lofa, Bong, Nimba, Grand Bassa), Assistant Superintendent (Bomi), city or district mayors (Lofa, Bong, Nimba, Grand Kru, Grand Bassa), officials of the County Attorney office and the Gbarnga City Corporation (Bong), a district commissioner (Lofa) as well as members of the Elders Council (Nimba).

<sup>30</sup> The EU EOM monitored seven radio stations including ELBC, Prime FM, Farbic FM, Truth FM, Capitol FM, UNMIL radio, OK FM, as well as three television channels, LNTV, Power TV and Prime TV, and the newspaper titles: The Daily Observer, Front Page Africa, The Inquirer, New Democrat and The Analyst.

political parties and candidates. There are also no provisions in the law regulating paid airtime and space, which could open space for uneven treatment of contenders. The NEC did not promulgate media regulations in respect of airtime, in circumstances where the state broadcaster is considered compelled by economic necessity to charge for all broadcasting activities. Accordingly, airtime assigned to political parties and candidates, disadvantaging contestants with less resources, contributed to an uneven playing field.

Overall, UP campaigns received the largest share in the news and in non-news programmes in most of the monitored media, followed by opposition LP and CDC. The latter two and ALP enjoyed considerable additional media coverage on the radio stations and print media linked to each of those parties. ELBC radio allocated the largest share of exposure in its news coverage to UP campaigns (22 per cent), followed by the activities of Government entities (20 per cent) and the official duties of the outgoing President, Ellen Johnson Sirleaf (11 per cent). News coverage was dedicated to a significantly lesser extent to the opposition parties CDC (8 per cent) and LP (6 per cent), followed by ANC (5 per cent), MOVEE (5 per cent) and ALP (2 per cent). Remaining parties received very little or none coverage.

In non-news programming, the UP was also dominant on ELBC and LNTV through talk shows, political advertising, paid live radio coverage and recorded televised coverage of their rallies. ELBC allocated to UP 51 per cent of the time outside the news dedicated to political parties and candidates, followed by ANC (10 per cent), CDC (7 per cent), MOVEE (7 per cent), ALP (6 per cent), LP (5 per cent), MDR (3 per cent), GDPL (3 per cent), and UPP (3 per cent), with remaining parties and candidates receiving less or none. In prime-time news, LNTV allocated a relatively similar share to UP and ANC, followed by smaller share given to CDC, ALP, MDR, MOVEE and other parties and candidates. Outside news programmes LNTV followed the same pattern described for ELBC. This coverage reflected the amounts paid by some of those parties for adverts and campaign coverage.

Presidential debates received live radio and televised coverage and offered an opportunity for additional publicity for less known candidates. However, some of the events lacked representativeness, due to the absence of some of the contenders. Over half of the 20 presidential candidates used the two hours of free-airtime offered to each by UNMIL radio to promote their views nationwide.

Overall, newspapers, some with online editions, provided more critical reporting and a scrutiny of the candidates and their platforms. However, the use of these media sources by the public is very limited.

## **Human Rights**

Despite the Liberian framework being broadly in line with international human rights standards relevant to elections, implementation gaps need to be addressed.

Procedures to facilitate the electoral participation of persons with disabilities (relocation of Polling Places, preferential treatment, assistance to visually impaired voters, tactile ballot sleeves, targeted civic and voter education) were put in place. EU EOM observers have found over two thirds of PP accessible for persons with disabilities. On the other hand, delays in procuring tactile ballot sleeves and training in their use, together with an absence of funding, have impacted DPOs timely delivery of cascade training and voter mobilisation efforts. A constitutional provision in respect of absentee voting, previously provided for by legislation, was removed by a legislative act in 2004.

## **Women's Participation**

Among 20 aspirants only one woman ran for the presidency and six contested for the Vice-Presidency. Less than 20 per cent of female candidates ran for the HoR, contrary to the 30 per cent

target of the Beijing Declaration<sup>31</sup>. A NEL provision that political parties ‘endeavour’ to have no less than 30 per cent of each gender among both governing bodies and candidates is not a sufficiently effective measure to overcome obstacles to women’s full participation given the absence of any implementing mechanism in this regard<sup>32</sup>.

The efforts of political parties on this issue varied widely and were largely insufficient. Training for women candidates came mainly through civil society organisations (CSO) engagement. Particularly for new women candidates, such capacity building came too late for the thorough preparation of their campaigns. Key interlocutors indicated that the absence of adequate timely trainings impeded potential women candidates, underlining the need for a comprehensive programme of capacity building throughout the electoral cycles. In addition, hurdles encountered by both would-be women aspirants and candidates consisted of a lack of funds needed for nomination and campaigning as well as for some of them, incidents of gender-based hate speech<sup>33</sup>.

## Minorities

Owing to the restrictive constitutional provision on citizenship, and contrary to Liberia’s international legal obligations, some sizeable and long-established minorities are excluded from political participation.

While the Constitution prohibits religion-based discrimination<sup>34</sup>, EU EOM observers witnessed campaign statements directed against the Muslim minority, particularly toward the Mandingo ethnic group. Notwithstanding negative perceptions, several candidates from the Muslim minority community competed for the HoR seats, including a few women. The Inter-Religious Council (IRC) and several Muslim CSOs were monitoring the electoral process and participated in domestic election observation in the counties with the highest Muslim population.

During the campaign, homosexuality was substantially debated with several presidential candidates voicing opposition to same-sex marriage and some arguing for a tougher sanctioning of homosexuality. The campaign environment was not conducive to open participation of LGTBI-persons and advocacy for the concerns of this community.

## Domestic Observers

CSOs, in part in cooperation with several government institutions, were actively engaged in civic and voter education, monitoring the electoral process and advocating the NEC and other stakeholders on respect of the rights of citizens, especially women, people with disabilities and dissuading, particularly youth, from violence. Two national CSO networks undertook comprehensive observation of the elections: the Election Coordination Committee (ECC) observed the electoral process since the start of the voter registration and deployed 89 LTOs and 2,170 STOs. The Liberia Elections Observation Network (LEON) deployed 140 LTOs and 1,000 STOs. Other initiatives included Election day human rights monitoring by the Independent National Human Rights Commission and the Women’s Situation Room.

## Election Day

The EU EOM conducted 336 observations on Election day, visiting a total of 297 polling stations. The overall assessment of the conduct of the opening procedures was *good* or *very good*. 89 per cent

<sup>31</sup> Beijing Declaration and Platform for Action.

<sup>32</sup> NEL Art. 4.5.1c. See also CEDAW, article 7 and GC 23 para. 32.

<sup>33</sup> LP-rally in Voinjama, Lofa, on 5 October. See also Press Release of UN Women of 09 October “Violence against Women in the Elections Worrying” mentioning posting of nude images of a female candidate in social media.

<sup>34</sup> A proposed constitutional amendment in that sense was also considered during Constitution Review Committee consultations in 2016.

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Polling Places observed opened on time or with half an hour delay. The overall conduct of the voting was generally assessed as either *good* or *very good*. Despite the overcrowding observed in many Voting Precincts, in 97 per cent of the observed Polling Places the secrecy of the ballot was preserved. EU EOM observers carried out 266 observations during the voting hours.

Interest in the elections and active participation of political parties in ensuring the transparency of the elections was confirmed by the fact that candidates and party representatives were met by EU EOM observers in all Polling Places observed. Representatives were mainly from CDC (97 per cent), UP (95 per cent), LP (91 per cent). Domestic observers were present in 67 per cent of observed Polling Places. While the EU EOM observed that 41 per cent of the polling staff was female, the percentage fell to only 19 per cent for women in management positions.

Observers reported that 91 per cent of Polling Places closed on time or within one hour and that queuing voters could cast their ballot. EU EOM observers assessed that the closing and counting procedures were generally *good*, *very good* and that in 78 per cent Polling Places observed the counting process was assessed as transparent. Issues emerged in 25 per cent of cases during ballot papers reconciliation and recording of the data in the forms. EU EOM observers continue to follow the process at the tally centres throughout the country and the determination of the results at the central level.

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An electronic version of this Preliminary Statement is available on the Mission website

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