



Carter Center Statement on Liberia's Tally Process and Post-Electoral Environment

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Contact: Atlanta, Deborah Hakes +1 404 420 5124; Monrovia, Alexander Bick +231 (0)880 326 379

Executive Summary

The Carter Center reports that the tally process for the Nov. 8 presidential run-off election was conducted transparently and in general accordance with Liberia's obligations for democratic elections. Tallying was carried out smoothly throughout the country, with greater adherence to procedures and fewer irregularities than in the first round of the elections.

At the same time, The Carter Center notes that the tally process revealed anomalous results at polling places in Grand Gedeh County. While our investigation into these anomalies was inconclusive, interviews by Carter Center observers and analysis of election results raise serious questions about the integrity and transparency of the process in Grand Gedeh. The Carter Center emphasizes that anomalies in Grand Gedeh are not of sufficient magnitude to have a material effect on the outcome of the election as a whole, as represented in the final results announced by the National Elections Commission (NEC) on Nov. 15, 2011.

The Carter Center welcomes the NEC's decision on the Oct. 18 complaint by the Congress for Democratic Change (CDC) alleging widespread fraud in the first round of the elections. Based on a series of hearings, attended by Carter Center observers, the NEC ruled that the CDC had failed to provide sufficient evidence to support its allegations. While noting that best practice calls for complaints to be adjudicated before the holding of a run-off, The Carter Center concludes that this ruling was sound based on the evidence produced and in accordance with the NEC's responsibilities to provide due process. The Carter Center calls on the NEC to resolve all remaining complaints in a timely manner.

The Carter Center regrets the criminal court's Nov. 15 decision on the closure of three media outlets in connection with the CDC rally and subsequent violence on Nov. 7. While the Liberian Constitution permits the government to restrict free speech in emergency situations, no state of emergency was declared on Nov. 7. Additionally, the trial and conviction of the media outlets failed to meet standards for due process and the rule of law. The Carter Center welcomes the court's expeditious decision to permit the media outlets to re-open and notes the government's record of respect for free speech and media freedom. However, this case raises serious questions about the government's continued commitment to these rights, which are crucial for the electoral process and

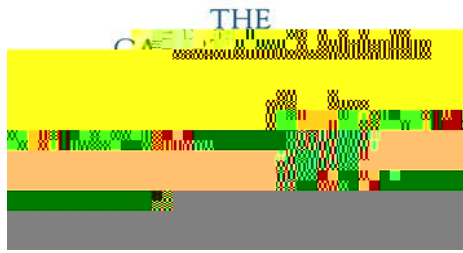
The Carter Center launched its election observation mission in early September and observed both rounds of the 2011 elections in all 15 counties. Carter Center observers will remain in Liberia until the end of November to report on the post-electoral environment.

The Carter Center assesses Liberia's elections against its obligations for democratic elections contained in the Constitution, the Elections Law, and other relevant parts of the legal framework, as well as its obligations under international law. The Carter Center conducts its election observation activities in accordance with the Declaration of Principles for International Election Observation, which was adopted at the United Nations in 2005.

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A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers in developing nations to increase crop production. 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.



- Computational and clerical errors were common on RoC forms, but in all reported cases these were quarantined and corrected in line with the tally procedures. In no case did this affect the total votes obtained by any candidate;
- In several cases, observers reported that small discrepancies revealed during the tally resulted from the number of ballot papers received by the polling places differing from 550. In no observed case did this difference exceed five ballot papers;
- Procedures for entering results into the database were followed in most observed cases. However, as in the first round, in several cases observers reported that the division of duties among magistrate office staff was not strictly followed⁴ and that the setup of the magistrate offices made it difficult to observe the process of entering the results to the database. In Margibi County, observers noted that the Record of the Count from the Tally Database form (ET-02) was not displayed after each data entry;
- Observers encountered no CDC party agents during the tally process, presumably as a result of the party's decision to boycott the election. UP party agents were present at many magistrate offices, but in smaller numbers than during the first round of the elections and often for a shorter period of time. Domestic and international observers were present at all 19 magistrate offices. Carter Center observers reported no formal complaints challenging the tally process; and
- Overall, The Carter Center concludes that the tally process was conducted in general accordance with Liberia's obligations for democratic elections.⁵

Anomalous Results in Grand Gedeh County

The Carter Center notes that the tally process revealed anomalous results throughout Grand Gedeh County, including dramatic changes in party support, 100 percent votes for one candidate, and marked differences in turnout at polling places within the same precinct. These anomalies were identified independently by NEC and by Carter Center observers who witnessed the tally process at the magistrate office in Zwedru and conducted interviews with polling staff, voters, representatives of political parties, domestic observers, and other stakeholders in all three electoral districts in Grand Gedeh from Nov. 12-18.

The NEC performs a number of internal checks on results transmitted to the National Tally Center during the tally process to identify potential irregularities.⁶ For the run-off, NEC performed a supplemental check to examine variation in the results from the first and second round of the elections. This check revealed concentrations of polling places with significantly higher support for the UP in the second round in Nimba County, where Prince Johnson endorsed the president, and in Grand Gedeh County, traditionally a stronghold of the CDC. In Grand Gedeh the UP received 13,795 votes in the second round, as opposed to 4,514 votes in

⁴ In Upper Nimba several important personnel – including the magistrate and assistant magistrate – were absent for most of the tally process.

⁵ ICCPR, art. 25(b).

⁶ These checks are designed to identify cases where: (1) the number of votes exceeds the number of registered voters in a polling place; (2) turnout is 95 percent or higher in a polling place; (3) there is a discrepancy between the number of ballots cast and total votes; and (4) one candidate receives 100 percent of the votes.

Independent Commission of Inquiry

On Nov. 11, President Sirleaf announced the creation of a Special Independent Commission of Inquiry to gather evidence on the events at the CDC headquarters on Nov. 7, 2011. Sister Mary Laurene Brown, president of Stella Maris Polytechnic, was selected to serve as chair. Other members of the commission include Jerome Korkoya, Una Thompson, Augustine Zayzay, and Joe Gbalah. The commission's legal counsel is Konatee Kofa.²¹ The commission has publicly called for witnesses to come forward to provide testimony and evidence and has been given two weeks to carry out its investigation.

The Carter Center welcomes the creation of the independent commission but regrets that the process of nominating commissioners has not been transparent. The Carter Center urges the commission to undertake an exhaustive and impartial investigation and calls on the Government of Liberia to make the final list of commissioners public and to swiftly act on the commission's recommendations, so that those responsible can be held accountable.

Media Shutdown

The media play an indispensable role during elections by giving voters access to information that will allow them to make an informed decision. Respect for freedom of expression and of the press is protected in the Liberian Constitution²² and international law.²³ Any restrictions must be clearly justified, reasonable and objective, and based in the law. The courts play a critical role in the electoral process by ensuring that elections are conducted according to the law and with respect for fundamental rights, including freedom of expression and the press. In doing so, the courts must remain independent of the government at all times, and judicial proceedings must accord with the rule of law, due process, and the principle of transparency.

On Nov. 7, the Liberian Government, through court-ordered police action on request of the Ministries of Justice and Information, closed down three media outlets, including seven radio and television stations.²⁴ A petition filed by the government in support of the court order alleges the Respondents, as owners and operators of various media institutions, were illegally using these outlets by broadcasting hate speech against the government and deliberately spreading misinformation and messages of violence in connection with their reporting of the CDC boycott and Nov. 7 rally.²⁵ The station managers were summoned to appear in criminal court on Nov. 10.

The Carter Center raised concerns about the closures in its Preliminary Statement on the Run-Off Election and then closely followed the legal proceedings and reviewed the relevant legal documents and court decision in the matter. The closure of the media outlets and the subsequent court proceedings and decision undermines respect for freedom of speech and

²¹ This list was confirmed by Sister Mary Laurene Brown on Nov. 16, 2011.

²² Constitution of Liberia, Article 15 states, in part, that "every person shall have the right to freedom of expression...This right shall not be curtailed, restricted or enjoined by government save during an emergency declared in accordance with this Constitution...[The right] includes freedom of speech and of the press...This freedom may be limited only by judicial action in proceedings grounded in defamation or invasion of the rights of privacy and publicity or in the commercial aspect of expression in deception, false advertising and copyright infringement."

²³ International Covenant on Civil and Political Rights, Article 19.

²⁴ These outlets include Kings FM Radio, 0 Tc 0 Tr(o)7(ven5dTr(sr1(vc 0 Tr(o)aFjEMC Tf0 Tc 17(def)7(a)4(mation or)7(invasion of th)7(e n

press freedom, challenges the independence and transparency of the judiciary, and illustrates a failure to guarantee rule of law and due process.

