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PARKER: This is Nealin Parker and I'm at the UN (United Nations) Sierra Leone and we are interviewing Victoria Stewart-Jolley who is the legal advisor for the UN team, elections team here. Just to begin with, would you mind describing your position and what your job entailed while you were here?

STEWART-JOLLEY: *I'm the legal advisor for the Electoral Assistance team. I started in March 2007 as the only person working in this area within the team. And subsequently in March 2008, I acquired an assistant, so then there was two of us. I liaise with a national counterpart who is a legal retainer for the NEC (National Electoral Commission), and I work closely with the three main electoral management bodies in Sierra Leone, the National Electoral Commission, the Political Parties Registration Commission (PPRC) and the electoral courts which were established with the assistance of this unit, liaising with the Chief Justice and the high court structure. Yeah, basically in relation to the presidential, parliamentary and local government elections, anything legal, that's mine.*

PARKER: And what were you doing, just very briefly, before this?

STEWART-JOLLEY: *Well, to be honest, this was my second election. The first one, I was a lawyer on the Electoral Complaints Commission in Afghanistan. But my background is international treaty law and constitutional law and I've worked in international criminal law in East Timor and world trade organization law, bizarrely enough, in Indonesia. So I come at this with a slightly different perspective than just get your law degree, go straight into elections and you carry on. I kind of took the scenic route.*

PARKER: And what would you say is the mission of your office in Sierra Leone?

STEWART-JOLLEY: *To provide advice and support predominantly to the NEC, the National Electoral Commission. There are a number of people who work with the PPRC and then in terms -- in real terms, I'm the only person that works with the electoral courts. But to basically guide them and assist them through the minefield that is an election process, to make sure that they adhere to the law, that they -- that they follow rule of law principles. And, also, especially in the context of Sierra Leone, where laws tend to be very elaborate and extremely detailed, to simplify systems so that the Commissions can actually operate.*

PARKER: Elections are in some cases run predominantly by the international community and in other cases run predominantly or entirely by a national organization like the NEC. Where would you put Sierra Leone on that spectrum?

STEWART-JOLLEY: *On a scale of one to ten, with ten being total international control, I would say we probably hover between the six and the seven. We're in an interesting position in as much that we were advisors and therefore any of the local actors could refuse to follow that advice. At the same time, the skills level, especially in the legal field -- the NEC and the PPRC don't have a legal department. Their national counterpart is a brilliant man, but he basically is their trial attorney who comes in to do that sort of thing. But on a day-to-day basis, especially in my position, you're 10% advisor and 90% implementer.*

I think you'll actually see that as a theme across this team where, in certain key areas, national staff, just simply are not skilled enough to be able to undertake it. So you kind of have this balancing act between being a respectful advisor who does not force your -- their opinions down people's throats and at the same time

you have a job to do which sometimes requires you to be much more of an implementer than you would otherwise consider.

PARKER: Do you have recommendations for how to manage that balance?

STEWART-JOLLEY: *I think it always -- I think we didn't do too badly. It is such a personality-driven construct. You know, (pauses) elections as a whole are going through a serious and quite profound philosophical change in terms of international approach. Up until quite recently, the focus was on going into a place, which was absolutely destroyed, with no civil administration worth talking about, and doing an election, you know, the election in a box. We roll in, the box unravels, and suddenly you have this massive operation. And it's done and then everybody leaves, and the piece of paper is signed at the end of the day and that's it. Well done.*

That's shifting dramatically and very quickly into the recognition that national institutions, in many instances in vulnerable countries, simply don't have the capacity to do what they want to do, which is to run a good clean process. And, as such, election professionals, international professionals, are becoming capacity builders. But there are many people who are very much used to the old system, and it's taking time to really absorb that transition. I don't know at this stage if there's a recommendation to make that transition easier. It's a fundamental sea change in attitude. And -- and that has its strengths.

PARKER: What would you say are the biggest challenges that arose during this elections environment?

STEWART-JOLLEY: *(pauses) That's an enormous question. (laughs)*

PARKER: Sorry, I was thinking that when I asked it. You should know that there will be some more follow up questions on that alone, so pick, you know, your top two and then we can ask more about limitation, the immediate processes and time limits and things like that down the road.

STEWART-JOLLEY: *Right. The biggest challenges I suppose would really be -- if you cut it down—should we stop it for a second?*

PARKER: Victoria Stewart-Jolley part two.

STEWART-JOLLEY: *Okay so -- the very big question, "What were the main challenges?" I think in a real sense getting things done in Sierra Leone where you have systems that are either nonfunctional or semi-functional. My mandate, in as much as it was to protect the electoral management body (EMB) entities that I worked with, was also to achieve objectives in terms of legislative reform. Getting movement on those things was extraordinarily difficult and not really because there was huge political opposition, but just that there was no sense that this was necessary or important and getting it to a point or to a place where it was perceived as important was extremely challenging. Introducing to an organization the idea of total adherence to the rule of law, that didn't just mean following letters on a page. That actually meant absorbing a philosophy as much as anything else and the importance of adhering to those ideals. Extremely difficult, again, not for any particular reason other than people just simply weren't aware, weren't aware that things needed to be done in a particular way.*

PARKER: Did you do anything that you felt was particularly successful in conveying that?

STEWART-JOLLEY: *Constant cajoling. (laughs) Constant charming and chatting and backslapping and flattering and appealing and --. I mean, this -- this job, in as much as you sit and tell people what the law is, it's also about getting consensus and getting people to, if not go the line that you think is the right idea, to at least agree to a line and go down it. To agree to the substance of a regulation and accept it and then move forward with it as opposed to saying "Right, that's fine. We've agreed," well now need to do something with this. In a very broad sense, that was a huge challenge.*

In my time here, we have gotten five regulations through parliament which are an amendment to the Electoral Laws Act which allowed for -- which overturned, rather -- a provision which allowed for serial numbers on the ballot paper and introduced the electoral court structure into the electoral laws structure. That was the first one. The second one was the boundary delimitation regulation which needed to be written before the exercise could take place. It was the legal framework under it. The third was financial reporting regulations for the PPRC. The fourth was the candidate nomination regulations for the local government elections, and the fifth was the tallying and counting regulation for the local government elections.

The local government elections in January 2008 had no legal structure at all. There was nothing. There was one reference to local elections in the Constitution, and there were two clauses in the Local Government Act, which related to candidate qualifications and nothing else existed. So we had to start from scratch.

There's another regulation in the pipeline, which, before I finish, needs to be completed for PPRC, which allows them to sanction political parties for non-reporting of financial assets. So, in total, by the time I walk out the door, there should be six through. Getting one piece of legislation passed is an achievement; getting six is just unbelievably difficult.

PARKER: Can you describe that process?

STEWART-JOLLEY: *Oh God, right, first of all, the process. (laughs) Sorry. For those of you who are listening, I am not disrespectful, just tired. The process -- first of all, you work with the commission at question, identify that there is an area, which requires regulation. And then you need to come to consensus about exactly what that regulation has to contain. That can be easy, or it can be very protracted and difficult, depending on the issues, which the regulation raises. The boundary delimitation regulation is essentially a mathematical equation. I wrote it with a boundary delimitation expert over my shoulder, basically, because it is a highly complex mathematical construct. But, for others, such as candidate nomination, where there are significant political interests that need to be balanced, because the law is inextricably linked to politics in this field, it requires a bit more negotiation.*

Once you have agreement from the commission and you have a draft, which is signed by the commission, the commission in question then has to take it to a line ministry. Now the line ministry in Sierra Leone is the Ministry for the Interior Development and Local Government [Ministry of Internal Affairs, Local Government and Rural Development]. That's not the correct title; I can't remember it off the top of my head. The minister and his permanent secretary can choose to become extremely involved in the draft, and we have had

instances where they have attempted to become involved to the point where they would compromise the independence of the commission. And then you start entering into really tough round of negotiations, because that document cannot go to Cabinet unless it's brought by a minister, but a minister has political criteria which may or may not necessarily work within the structure that you're looking at.

Once it is tabled by Cabinet – interesting -- by way of illustration, before I got here, there were twelve issues which were tabled for electoral law reform. None of them got through, because the line ministry didn't want to pass them. So that takes a lot of – a lot of effort, just working on that to shepherd it through to make sure that the integrity of the document isn't compromised and, at the same time, to allay any concerns which may exist.

It goes to Cabinet. It's discussed in Cabinet. Cabinet issues it and has the right to modify it. And we were lucky. In none of the regulations we passed did Cabinet chose to modify. Once it goes from Cabinet, it then goes to the Government Printer. The Government Printer can take up to six months to print the document. So again, it requires nurturing through the Government Printer as quickly as possible, and that can take anything from three days to three weeks to get it printed. From the Government Printer it then is laid before Parliament. And it's laid before Parliament between 21 or 16 days depending on how the legislation is framed as a regulation or amendment to an Act; regulations are quicker, they're 16 days.

(pauses) I missed a step, sorry. I'm going to have to go back. After it leaves cabinet it goes to the law office. The law office then modify your draft to place it within the culture or legal language of the country in question. Now, they don't have a mandate to change or question the substance of the law but they invariably do, because they also have a job to do and need to be seen to be doing it and can't just take—they will not just take your draft no matter how perfect or nuanced it is and say, "That was lovely, thank you very much. There you go." They won't. So that process can then take – oh God -- months.

The Candidate Nomination Regulation was in the Legal Office for four months, and that is a three-page document. Then it goes to the Government Printer for printing. Then it goes to Parliament. And then it finally comes into being. So, in terms of greatest challenges, none of those steps are easy.

PARKER: Can you think of ways to streamline this process to make it easier if you were designing a system? What would you recommend to another country?

STEWART-JOLLEY: *I would seriously question the role of a line minister in relation to independent commissions and seriously question. It has the capacity to utterly compromise an independent commission. The law office here has a very valid function, but it is grossly under-resourced and an awful lot of people in the law office really should be retiring. You know, it is an exhausted function and very much a symptom of war. You have a lot of old people who are professionals, who are functional, and you have very young people. And there is -- the middle generation is gone because they were killed or exiled. The law office and the legal structures here suffer from exactly that scenario. And that -- that's normal. That's normal in a deeply abnormal manner. Streamlining it – oh God -- yes, but you won't do that easily.*

PARKER: Yeah. In terms of the middle generation being gone, I mean, it would be a management sort of generation or a professional generation, are there things

being done now to build capacity or to build managerial skills or to fill in that gap?
Or do you have recommendations for what could be done?

STEWART-JOLLEY: *Honestly, it's not something I've ever considered. I think it is a scenario which will resolve itself in time. I mean, at the moment, an awful lot of donor effort is going in to shore up institutions, the judiciary, DFID (Department for International Development) are working extremely closely with them. We've been working with entities like the NEC, building capacity to the greatest degree possible. Unfortunately donors like programs, which are done nicely, neatly, quickly, predominantly quickly. That kind of development takes time.*

I don't want to get into this discussion but the current philosophy around aid and how it is employed, doesn't allow for slow, steady development and, as such, things don't develop slowly, steadily or otherwise in the long term.

PARKER: Yeah, yeah. So how long did the electoral process take, say, from first planning discussions until the final count? And you can separate the two elections or put them together.

STEWART-JOLLEY: *Yeah no, the 2007 parliamentary elections, the planning for that started in November 2006 – October, November. I wasn't here at that stage. I got in later. I got in in March when things had really started to heat up. It generally takes, from what I can see, about nine months to pull an election together, give or take. The planning for the local government elections, we knew it was happening, but it really kicked off in January and we did it in seven months, which was extremely challenging because it was accelerated to a point which was pretty uncomfortable.*

PARKER: What sorts of things were not compromised but smushed?

STEWART-JOLLEY: *Oh everything was smushed, to use a technical term. (laughs) Everything was compacted. And the question, I mean, Was the integrity damaged? No. And that's a different issue. But everything, the period of time for voter re-registration.*

You're talking about an extremely compressed process. Candidate nomination was compressed. Everything was compressed. And it was -- I should mention that the timing for the local government elections was -- from a legal perspective, the local councils cannot enter a an electoral phase until after their mandate, until after their phase is completed. So they sit for exactly four years. The clock starts to run from the day they sit the first time.

But the local councils in Sierra Leone are inaugurated at different times, because the President does a tour of the country and inaugurates them all. So we took the final date from the last council that was inaugurated. And, basically, from there, you have ninety days to conduct an election. Ninety days before a new council is brought into being. And two commissioners of the NEC had been fired, so it was a commission of three.

She wanted these elections done. The presidential (phone rings) – that's okay – the presidential and parliamentary elections had been extremely exhausting and government and the chair wanted these elections done as fast as they could be done. And the first physical date that they could be conducted was the third of

July, and the following Saturday was the fifth, and that was why the date was set that way.

PARKER: Victoria Stewart-Jolley, part three.

PARKER: You mentioned that the government and the chairperson were in favor of a shortened timeline. Could you describe the process by which they came to that decision?

STEWART-JOLLEY: *the President had made it known that he wanted this done as fast as possible. So whenever he was presented with the first possible date, he accepted it without any question.*

PARKER: Did any election disputes delay the certification of results in the local election?

STEWART-JOLLEY: *No.*

PARKER: Okay. Do you have any general advice to offer people in similar settings about the timing and sequencing?

STEWART-JOLLEY: *Timing is -- general advice -- timing is one of those great areas where you have an absolute, which suddenly may not be. The presidential, parliamentary elections were delayed by two weeks; the dates were changed. And the dates were changed because, before my arrival, whenever they were working at the timeframes, there was an oversight in reading the constitutional law provisions. The provision in question was the second line, which said the candidate nomination had to take place after the dissolution of Parliament. That hadn't been picked up so nominations were to take place before dissolution. Parliament refused to dissolve early so the election date moved. (pauses) I think dates are always going to be one of those areas where there is drama attached. Either the timeline is too tight, and you're fighting like hell to get things done in time or the timings have to be changed and there's the "Oh my God, how embarrassing" factor.*

The best advice I could give to people is not to get overly concerned about dates because it is where legal, operational, and political meet. In many cases, an electoral law practitioner will not be in control, and there's no point in trying to impose control on an uncontrollable entity. So I would say that, yeah, not to put too huge an emphasis on that element and take it as it comes.

PARKER: This may precede the 2007, 2008 elections but could you talk a little bit about the choice of electoral system, how it was chosen, the choice of whether to use "first past the post" or proportional representation (PR), some alternative voting system or a different set of rules?

STEWART-JOLLEY: *I don't know a huge amount of this, but the little I know I can share. I believe that "first past the post" has been historical expression of the vote in Sierra Leone. That it used to be done by putting different colored stones in individual candidate boxes. So you had your stone and you popped it into whichever box you approved of. That would be the sort of rudimentary voting structure that traditionally existed here.*

Now, at some stage, and – as I say, I may be wrong because I don't know a huge amount about this – I believe that there was PR exercised at one point in Sierra Leone. Basically the PR system is a system, which is ideal for places which have very sophisticated electoral structures and a huge amount of money. "First past the post" is probably much more suitable to an environment like this, although, politically, it is not. But, in terms of logistics and the ability to run a clean election, it's the more viable. In terms of creating an encompassing, full representative government, it's not, and proportional representation should be pursued. And, in post-conflict environments, my personal belief is that PR should almost be compulsory because it creates an environment where everyone is at the table. Everybody has to be at the table in a way that "first past the post" just does not allow for.

But how do you run an election like that in an environment like this? That would be the big question. I know also that Sierra Leone in 2002 -- certainly in '96 they had a block, the block system. For those who don't understand what that means, it is basically that the party mandates. Subsequent to that and I'm not— .

PARKER: Can you explain the block system?

STEWART-JOLLEY: *Basically, the party presents a nomination sheet, but you vote for the party. You don't vote for anybody -- you don't vote for personalities. It means that, where things are extremely shaky, and maybe candidates have been threatened or there are simply very few people, it takes the emphasis off the individual and places it on an organization, and the organization is then voted into power and represents the people. Very necessary in conflict elections. Not hugely democratic. And usually -- and in the instance -- in the case of Sierra Leone, that system is left behind as quickly as possible and has been in this case. I'm not sure if it was used in 2002. It certainly wasn't used in 2007, and I don't believe it was in 2002 off the top of my head. So now it's one person, one vote, but they have the capacity to choose the individual candidates that they wish to vote for, which is an improvement.*

PARKER: Were there any reserved seats for women or regions, youth, or other groups?

STEWART-JOLLEY: *No, there's no quota system here although there was – right – there was an awful lot of resources placed into the local government elections to get women -- female candidates on tickets. Suddenly every one was talking about gender in a way that they hadn't been for the parliamentary or presidential elections.*

Now there -- in the local government elections, there was a significant increase in female representation. There has been a positive outcome no matter how cynically I may present the reasonings behind it, and female representation has increased. But, in relation to Parliament, it's very low. Women very much are – I wouldn't go so far to say second class citizens in Sierra Leone – but they're certainly not first class citizens in Sierra Leone. There's a lot of work to be done there.

A person is defined as a youth until the age of 35 in this country which made me extremely happy. But the concept of youth is one, which is very equivocal. It's very unclear to me. I mean, youth basically means anyone who's not married and doesn't have children. Where youth advocacy comes into play – I mean, the basic issue for youth is there's no jobs. And the beginning, middle and end whatever their advocacy programs is going to center around the fact that there is

an extraordinary high level of unemployment. So there – as an interest or lobbying group, they're not particularly visible and neither are the disabled as far as I'm aware.

PARKER: Were there models in other countries that attracted particular attention in terms of the electoral system?

STEWART-JOLLEY: *Well the models I used, South African, Indian, Kenyan, English and Australian. And those have been used as a reference. Basically, you know, "Okay, this is what we have to do, how did they do it somewhere else?" But those were the ones that I looked at because they're all post-British colonies. They've all chosen to handle that post-colonial existence in different ways in terms of their electoral structures. So that was where I took it from.*

PARKER: What about other laws and rules governing eligibility, registration, voting procedures, (laughs) candidate clearance and other matters? Were there any distinctive challenges, problems or opportunities that shaped the development and promulgation of the legal framework for this election?

STEWART-JOLLEY: *Well, by this election, if we mean the local government elections—?*

PARKER: -- or the presidential.

STEWART-JOLLEY: *Or the presidential. As you saw in that list of regulations that I read out to you, there was only one which was for the parliamentary presidential election. What had happened was is the Electoral Laws Act, in Section 66, clearly states there should be no serial numbers on ballot papers. But, within two weeks of the passing of the Electoral Laws Act, somebody passed an amendment to put serial numbers on the ballot papers, and we have no idea why this happened. Serial numbers on the ballots -- the idea behind it is that you can track the serial number to the name. The reality of it is it's almost impossible to actually do, but, psychologically, it compromises the integrity of the ballot.*

That was really—from a legal perspective -- that was the main thing. In relation to the local government elections, there was no law, so you had to start from scratch on all of those headaches. But the Electoral Laws Act for Sierra Leone has not been written by an electoral practitioner and therefore it allows, or, rather, envisages structures which, in reality, either can't or should not exist. As such -- where am I going with this? Right. To create a new structure was necessary for all of those headings. To attempt to modify the old structure, we could do that to a very limited degree in relation to the regulations. So, even though the Electoral Laws Act actually really requires a complete overhaul, it's unbelievably detailed in some areas and doesn't allow for recounts. You know, I mean it's extremes of things in this law.

We weren't really able to do that, so we've had to follow a flawed blueprint. That's -- for the presidential and parliamentary election, the real challenge in relation to these headings was finding ways around the structures that were set down by the law without breaking the law or compromising the processes. So the perfect example of this is that there is no concept of a national tally center in the law. It allows for counting in polling centers – in polling stations, which are then consolidated by regional returning officers and then submitted to the national returning officer for announcement.

But with every layer that you put into place on an election in relation to counting and tallying, you add another area where fraud can be undertaken. So whenever we were looking at this, we can't change the law so what do we do? We brought the regional returning officers to headquarters so that they could physically be seen to fulfill their mandate while, at the same time, we could create a national tally center. So we didn't break the law.

You see this over and over and over again. And, you know -- honestly, I don't know if there's a perfect electoral law. I don't know if that exists. It's a bit like looking for a phoenix or a unicorn. You know, you're always going to find something that you need to adapt.

PARKER: Just for kind of setting the record straight, what are the elections based on? What laws are they based on? The constitution and—

STEWART-JOLLEY: *The Constitution is a primary source, and it's in Chapter 5 of the Constitution, which deals with the electoral management bodies. Then there's the Electoral Laws Act 2002 which outlines the structures for voter registration, parliamentary elections, presidential elections and that includes everything, tally and counting, the whole bag. Now there are local government regulations, but, before we started, there were not. And then there is the NEC Act and the PPRC Act, but they're administrative acts. They outline the structure of the commissions, how they operate. They don't really discuss electoral law per se.*

PARKER: Okay, could you describe some of the features of the laws that govern the conduct of the election that you think makes this electoral process distinctive? How well do you think these have worked?

STEWART-JOLLEY: *Could you run that by me again?*

PARKER: Yeah. Are there any features of the laws that you just described that make this – in a sense I think that the thrust of this question is are there any kind of creative elements to the law that make the Sierra Leonean process different, that work well or don't?

STEWART-JOLLEY: *(pauses) The silence is me thinking, dear listener. (pauses) I can't say that I actually think that the electoral laws. The Constitution is confused. It is 128 pages and if you read it strictly, it actually says that no incumbent President or any parliamentarian, or Vice President or official can stand for reelection. Even though it says that the President can sit for two terms, if you strictly read it, it actually says he can't stand for reelection unless he resigns a full year ahead. Now, the way it says this, it basically says that he must be eligible to be a member of Parliament to stand as – to be a President, must be eligible for -- the criteria -- the eligibility criteria for members of Parliament applies to the President. But part of that is that a member of Parliament, somebody who wants to become a member of Parliament cannot be a public officer, an officer of the state, and, if they are a public officer, they have to resign twelve months ahead. And the Pres -- the definition of a public officer is somebody who is paid from the consolidated fund, which includes the President. So, on strict reading of the law, if the President wants to stand for reelection, which under the Constitution he's allowed to do, he must be qualified to be a member of Parliament which means he cannot be a public officer which means he must resign his post a year before the election.*

It's an area, which needs urgent reform and review. The Constitution itself is unbelievably detailed. From my personal perspective, I'm from the constitutional school of thought that believes the constitution should be as simple as possible so that they stand as a solid framework and allow for legal evolution to take place through legislation. This constitution is --was signed -- came into being in 1991. It's undergoing or will undergo in the next year, a radical review. It is eighteen years old and already it's unworkable in many respects.

The Electoral Laws Act suffers from exactly the same problem. There are details in there where poll -- ballot boxes must have a lock and key. Well lock and key technology in relation to ballot boxes went out a long time ago; it is not reflective of the current state. But it talks about marking ballot papers and literally defines that it must be a thumbprint, which means that your spoiled ballot rate increases exponentially as people get ink splotches over things and therefore the ballot gets ruined. It goes into that minutia. But there are no provisions to allow for recounts. There are no provisions to allow for examinations of questionable results. There are no provisions to allow for exclusions of ballot boxes or polling centers or stations. So there are no anti-fraud measures or validity measures at all.

Now we brought in the capacity to undertake recounts into the local government regulations. And that is an area -- it's a very contentious area because politicians do not want the NEC to have the capacity to invalidate stations. Even though it's doing it. It's a power it has by precedent, not by law. So we brought this into the local government regulations and got it passed as a feeler. So, for the next round of reform, they'll actually look at getting that into the Electoral Laws Act and getting those powers fully brought in,

PARKER: Transparency and the appearance of fairness—I'm sorry, it's the next question. Transparency and the appearance of fairness are an important part of elections. I'm especially interested in the ways in which people try to maintain transparency in the electoral management body here.

STEWART-JOLLEY: *Well, the irony of it is that transparency is often maintained by a lack of transparency in a strange kind of way. There is transparency, and then there is the appearance of transparency. And I think it is very important to make a distinction between the two. I think it's also grossly naïve for anyone to think that, within a political, or, rather, a politicized entity, that there wouldn't be such a distinction. There is information, which is presented in order to truly be transparent. There is information that is presented in order to appear transparent, and then there is information which is actively withheld to protect the organization. And any mature analysis would understand that those three elements are absolute requirements. Unfettered transparency would be virtually nihilistic because nothing can work in that way.*

PARKER: So how do you create that balance?

STEWART-JOLLEY: *Carefully, and with a huge amount of awareness of what you're doing. That's the kind of thing that keeps people awake at night. You know? How much information do you present? How do you present it? What's your objective? Is your objective to, say, for example -- to the last point we were discussing -- is your objective to assist an organization to have, or, rather, to more closely adhere to international standards? Right? So that's an extremely good thing, to allow it to take viable anti-fraud measures which would then, in turn, ensure free*

and fair elections. That's a very good thing. If you announce to the world that that's what you're about to do, you won't be able to do it because vested political interests will break their necks to ensure that that does not happen.

So how much of that information do you release to enable you to achieve that goal where people are allowed to consult and are aware of what is happening.

PARKER: Can you think of any institutions that might be set up or any positions that might be set up within a NEC, or within an advisory body that would assist in that process, or any skills that someone should have?

STEWART-JOLLEY: *I think really that is the role of the CTA (Chief Technical Advisor). It is the role of a really politically astute, skilled CTA.*

PARKER: A CTA is?

STEWART-JOLLEY: *Chief Technical Advisor. So Carlos Valenzuela, who ran the Iraq elections, was our CTA here for the presidential parliamentary elections, and he's an extraordinary astute political animal. I mean "political" in a broad track sense. I don't mean it in a factional or in a political sense, if that isn't an oxymoron. "Political" in the sense of making sure that interest groups have the capacity and stakeholders have the capacity to contribute and, at the same time, get to where you need to go. And that is -- I mean -- that is the lifeblood of a CTA, of people who head elections. I think it's an element in legal, very definitely. I think -- it probably emerges to a greater or lesser degree throughout the team. It is an element.*

PARKER: And on the national side?

STEWART-JOLLEY: *On the national side, well, outreach and the commission itself. I mean, all commissions -- excuse me -- deal with information that's confidential at times. Some information will be totally confidential, some information partially and some information will be totally left open to the public. One thing that the NEC has been very good about -- this NEC -- is that they had an entity called the Political Party Liaison Committee. And the Political Party Liaison Committee sat once a week during the electoral phase, in the run-up. This was a couple of months before the elections. And pretty much every step of the process -- from how ballot papers were going to look to how many agents and how they would be deployed and their ID cards -- every tiny little detail of the election was discussed with them and consensus was sought. And that gave permission to the NEC to operate.*

So, you know, in terms of how it functions, you're never going to operate in a vacuum either. Either -- I'm not sure if I'm being terribly articulate here, but I think with transparency you always have to straddle that line between inclusion and protection. And really that's identifying where the process needs to be as inclusive as possible and focusing on that inclusion as much as possible.

PARKER: How would you describe the relationship of the NEC to the government in terms of independence?

STEWART-JOLLEY: *Ah, independence. The NEC has been remarkably independent and the NEC for the presidential and parliamentary election was perceived as being totally independent and largely was. I mean, Sierra Leone's a very small country. Everybody's gone to school with everybody else, everybody's cousins of everybody else, you know. The deputy, just for an example, the deputy minister's*

father was a former Prime Minister who was executed by the current acting chairperson of the PPRC. He signed the death warrant when he was master of the court. So it's a tiny, tiny, tiny, little world that you have in Sierra Leone.

So there's never going to be a scenario where the NEC sits on mountain high and is totally beyond; but, in terms of perceived natural independence, totally independent. Now, Madam Chair operated very strong -- is Christiana Thorpe, we call her Madam Chair, it's just what she's called. She is an extremely strong person. She used to be a Mother Superior and, my God, it shows. She was a nun for 26 years and headmistress of a girls' school. In as much as she is a lovely, lovely human being, she is a very strong character and the independence is largely down to her.

But what happened in the presidential and parliamentary elections is, for the first time in the history of this country and certainly one of the few times in West Africa, is that an opposition political party unseated an incumbent government through a free, fair, transparent election process. And, ironically, that has probably caused more damage to the independence of the NEC than anything else.

PARKER: How so?

STEWART-JOLLEY: *Because the NEC was the reason that the elections were free, fair, independent and transparent. The reason the opposition got in was because of the NEC, because of how it conducted itself. So, if they want to stay in power and if they don't necessarily want the next election to be free, fair and transparent, the first thing they have to do is weaken the very organization that created them in the first place.*

PARKER: How can the NEC maintain its position?

STEWART-JOLLEY: *It's going to have a struggle, and it's going to have to be extremely vigilant and very, very careful about how it operates. And, in many ways, the tough time for its independence is yet to come. It is going to be in the next couple of moribund years when no one is noticing and while international donors are not throwing money at it and, you know, international folk are running around. It's going to -- it will be a slow, steady erosion. I mean if SLPP had won, they had already firmly announced that they would disembowel the NEC for punishment for putting them through the possibility of defeat. APC (All People's Congress) so far has kept its hands off the Commission except the three commissioners were fired by the President and legal procedures were not followed in their firing -- two because of the announcement and one because of a personality clash. Now he summarily removed each of those three. It actually should go to a tribunal and in no case did it.*

Now there is currently an SLPP member of the commission who sits there, and commissioners have to be approved by Parliament which means there's always going to be horse trading. But, in terms of the independence of the Commission, I would say it is more vulnerable now than it was when we walked in the door, and this is going to be an area where more care and attention will be needed than ever before in many ways.

PARKER: If you were providing advice to somebody else in another country about how to build an independent electoral commission, what particular challenges would you alert them to?

STEWART-JOLLEY: *Your biggest problem is personalities. If you don't have, at the head of your commission, somebody who's squeaky clean and as tough as nails then you're going to be dealing with a serious problem because it's an uphill battle anyway. Sorry, I just need to read the question if that's okay. Building an independent election commission, oh God, it's not like a house. Or maybe it is. Some houses can go on for years. But anyway, if you're really lucky, if you're really lucky you'll end up with two or three personalities that really choose to drive something, that understand the concept of independence and really pull it forward. I don't think there is any secret key. It's 90% personality and 10% luck. And, as for the structures, you can put every structure in the world in place, it doesn't necessarily mean anyone is going to adhere to them. I wouldn't even emphasize that side because you'll stand or fall on personalities. It is, after all, a human institution.*

PARKER: I have already run you over the time I wanted to so I'm going to ask this last question –

STEWART-JOLLEY: *Sure.*

PARKER: -- which is about electoral dispute resolution. What was the process of dealing with those disputes that came up? I guess what disputes were there and the process to deal with them?

STEWART-JOLLEY: *Okay well the first thing I need to outline is the structure. In 2007, the Basket Fund had, as part of its mandate, the necessity to provide support to the courts. The electoral courts had been envisaged in the 1964 electoral law but had never been brought into being. And the courts were to operate in two ways. Now this is only in relation to parliamentary elections. Presidential elections are the sole concern of the Supreme Court; parliamentary elections, the high court and the division of the high court being the electoral courts. Two types, one a criminal division which deals with electoral offences known as the Electoral Offences Court, and the second is civil court which was the Election Petitions Court. The Australian system, they call it the "Court of Disputed Results" or "Tribunal of Disputed Results." But they basically hear cases, somebody can challenge—. Candidate A wins the election, someone can challenge that success and challenge it based on the criteria.*

So, in 2007, working with the Chief Justice and the Master of the Court, we provided assistance to the creation of the electoral courts which was the first time they were created in the history of the state. That was very much a focus for inter-political dispute. And then, of course, criminal sanction. They were reinstated for the local government elections, and they've been pretty successful and done quite a bit of training with the judges. They're handling cases and, at the moment, the signs are that they are working independently and in a non-biased manner. At least the last audit that we did they came out with a clean bill of health. So we're very positive about what has happened there.

The NEC then is faced with their own requirement to have a complaints handling mechanism. Complaints are extremely useful for any National Electoral Commission because, in as much as you may receive 200 complaints and 199 of them may be utter nonsense, one of them will be gold dust. One of them will guide you to discovering fraud, and, therefore, complaints become extremely precious and important to the organization.

The NEC handled it in each instance by publicly announcing a complaints period and receiving complaints in a defined period of time so that those complaints could be investigated prior to the certification of results. Also, then responses were written to everyone who complained, and they were directed to the courts or to the police in the case of criminal actions, because NEC doesn't have the capacity to deal—it's not a judicial entity. It can only investigate the count. Effectively, it can only investigate either the actions of its own people or the counting and tallying process. It cannot go beyond that. And it's a very strong parameter fence around what it can and cannot do.

In the parliamentary election, there were 78 complaints. In the presidential runoff, there were very few. And in both -- in the first round, I think there were seven polling stations disqualified. There was a very low rate of fraud. In the runoff there was an high rate of fraud; there were 477 polling stations disqualified. That sounds like an awful lot, actually, it comes down to about 4%. It's not actually that high. And the results were looked at even with the exclusion of those, it did not affect the outcome of the results. At all, actually. Despite the fact that 477 stations took -- showed gross anomaly, the fraud did not amount to anything that would impact.

The local government elections, there were 167 complaints which were processed. And by "processed," I mean reviewed, analyzed, investigated within one week. Of those, examination of 55 result sheets occurred, and recounts were ordered for 24 -- yeah 24 stations. In relation to the complaint, one station was subsequently disqualified or excluded due to a complaint. So, basically, of the 167 complaints, you end up with one exclusion, with one result. But that actually is the appropriate ratio. That's kind of what you'd expect. And corrections were made to—I mean there was clearly -- in some of the complaints, we were able to establish the results had been tampered with and we were able to correct those and repair those, because the result sheets were tampered with. The -- There was no ballot box stuffing. The integrity of the ballots were not questioned; it was just the results sheets.

The impact of dispute -- of having a multi-tiered dispute resolution mechanism meant that people could be channeled. So, instead of taking something out onto the streets, that you actually had a focus of ire. NEC -- in the act of somebody getting very cross and writing a letter to an Electoral Commission and having it responded -- I mean, NEC has an internal policy that any letter will be replied to within three days. It means that, you know, even if you don't get the answer that you wanted, at least somebody has heard you. That's extremely important. I mean, it might sound like a very simple thing, but that goes a long way to diffusing conflicts, diffusing the beginnings -- the beginnings of resentment, you know. And even though your letters might be very dismissive, and honestly, many of the complaints, at best, could be described as frivolous, at least they've given it a whirl. You've given it a whirl. You're all honorable in the same game.

The courts psychologically play a very important role, especially if you can guarantee that they're clean, and, in this case, we are able to say with good certainty that the courts have been operating in a very political environment totally cleanly. It's all part of that great phrase which has been used in conflict and post-conflict environments which is "confidence-building." A very wise person once said that the first thing that dies in a war is trust, and it is the last thing to be revived. The levels of suspicion that people display here, a very natural emotional response to what has happened. And everything that you do in a

dispute resolution system is to start rebuilding trust. And if you can even partly achieve that, you've done okay, and I think the NEC managed that very well.

PARKER: Well thank you very much. Again, if you have any questions please don't hesitate to contact me or the others who are on the card. And, that's all.