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Nov. 2, 2010

Statement of Preliminary Findings and Conclusions

This statement is preliminary; a final report will be published several months after the end of the electoral process. For previous Carter Center statements on Cote d'Ivoire's elections, please visit www.cartercenter.org.

Political Context

The presidential election of Oct. 31, 2010, is an important step in Cote d'Ivoire's peace process to end the longstanding political crisis in the wake of the 2002 civil war, offering Ivoirians an opportunity to participate in the country's first truly open contest, with 14 candidates on the ballot, including the three main political leaders of the past two decades.

Since the end of the constitutional mandate of President Laurent Gbagbo in October 2005, presidential elections have been repeatedly postponed, mainly due of the lack of progress in the implementation of successive peace agreements, beginning with the Linas-Marcoussis Agreement (Jan. 24, 2003), the Accra III Agreements (July 31, 2004), Pretoria (April 6, 2005), and up to the Ouagadougou Political Agreement (OPA) of March 4, 2007. The OPA endorses the principles set by previous agreements and the framework formed by successive resolutions of the Security Council of the United Nations.

As with the previous agreements, the OPA faced multiple bottlenecks, including delays in the timing of application (for example, the agreement called for presidential elections to be held within ten months), and successive rounds of negotiations. The Carter Center established a presence in Côte d'Ivoire in December 2007 and has witnessed the lack of political will in implementing the OPA on several occasions, and closely followed the development of the Agreement's electoral components. With one of the signatories of the Agreement also being a candidate (President Gbagbo), election issues came to dominate the peace process and affected its overall pace.

Legal Framework

The OPA has led to many amendments to the comprehensive legal framework with adaptations to reflect changing political circumstances. Many provisions highlight the importance of elections to resolve the country's political crisis and the resulting legal framework for the elections, as well as the ensuing national identification and voter registration processes, bear the signs of politically negotiated solutions.

The democratic principle affirmed in Art. 32 of the Constitution provides the basic legal framework governing these elections: "The people exercise their sovereignty by means of referendum and through their elected representatives...The Constitutional Council controls the regularity of the referendum and the election of People's Representatives. The organization and supervision of the referendum and elections are provided by an independent commission as provided by law."

Law No. 2000-514 of the Aug. 1, 2000, Electoral Code was amended by Order No. 2000-133 of April 14, 2008, with adjustments to the electoral code for elections to end the crisis. This order reflects the policy framework negotiated in the context of the crisis, particularly with regard to candidate eligibility for the presidential election. Other specific arrangements for the election are provided in decrees signed by the head of state and by instructions issued by the IEC for commission members and election officials. Decree No.207 issued on Aug. 5, 2010, established Oct. 31, 2010, as the election date.

The president is elected for five years by direct universal suffrage. The vote is to be conducted by single ballot including the candidate's symbol and photograph. If no candidate receives an absolute majority of votes, a second round is held between the two candidates who received the most votes. The first round of voting must take place in the month of October during the sitting president's fifth year in office.

Voter Registration

Sound voter registration processes that ensure an accurate and complete voters' list are a principal means of ensuring that universal suffrage and the right of every citizen to vote are fulfilled.

Within the framework of the OPA, voter registration and identification of the national population were conducted jointly. Individuals identified through this special process were to receive new voter cards and national identity cards respectively.

On this basis, Decree 2008-136 of April 14, 2008, specified the conditions for the new voter register: those on the 2000 voter list and those not on this list who otherwise met the requirements established by the Electoral Code and other political accords (Ivoirian citizens who are at least 18 years old with proof of birth have the right to vote). In practice, these distinctions were not applied and individuals seeking to be on the voter list did not have to demonstrate proof of nationality.

The OPA was thus ambiguous. In effect, the voter registration process deviated from the normal requirements of national identification, which require proof of citizenship. In the Ivoirian context, it became inevitable that the differing basis for inclusion in the two processes would cause problems for the establishment of a final voter list.

Operational implementation of these prerogatives would also prove to be complicated, especially as the process had to respond to both political and technical considerations. The political implications appear to have been underestimated and significant logistical, operational, and financial challenges further delayed the process. Conceived to last six weeks, voter registration lasted nine months.

Verification of the data collected during registration was to be cross-checked with other public records to determine the nationality of individuals. Once again, operational limits became clear and in the end,

of a total potential voter list of 6,384,257 names, the nationality of 1,083,667 individuals could not be verified with reference to other existing records.

The existence of this 'residual' population posed additional problems when the provisional voter list was published in two parts. First, a 'cleared' list of 5,300,586 individuals for whom positive matches could be established against public records and these names was to be reviewed through normal public display and verification. A second 'grey' list of 1,083,667 names was created for people for whom no public records confirming nationality could be found, so these individuals were subject to a special verification process.

The verification procedures for the provisional voter register faced additional obstacles following fraud allegations made by the presidential spokesperson in early 2010 against the IEC and in particular its president. Thus, following the conclusion of the first verification process of the provisional voter list, a second extraordinary verification of some 400,000 names on the 'grey' list who could prove national citizenship was to be conducted. In parallel, responding to the concerns of the presidential camp, a computer and manual verification process was launched to validate the authenticity of a category of registrants who had demonstrated their nationality through parental ancestry. This process set aside 55,990 individuals for whom identity would have to be clarified at a later date.

The final voter list held 5,725,721 people who also had the right to receive a new national identity card based on Decree 238-201 of Sept. 9, 2010. Cote d'Ivoire's main political leaders expressed their satisfaction with this list, which subsequently received certification from U.N. Special Representative of the Secretary-General Y.J. Choi.

Ivoirians living abroad also have the right to vote and some 33,000 members of the diaspora were included on the voter register. Many other potential voters abroad were effectively unable to vote due to their distance from registration and voting locations. Future steps could be taken to make more effective rights promised under the electoral law for Ivoirians abroad by facilitating their registration.

Election Administration

An independent and impartial electoral authority that functions transparently and professionally is internationally recognized as an effective means of ensuring that citizens are able to participate in a genuine democratic election and that other international obligations related to the electoral process can be met.

The responsibilities of organization and oversight of all phases of the electoral process fall under the Independent Electoral Commission (IEC), whose duties and powers are defined by Art. 32 (4) of the Constitution, by Act No. 2001-634 of Oct. 9, 2001, which established the CIS, supplemented by the implementing decree of Nov. 7, 2001, and amended by Act No. 2004-542 of Dec. 14, 2004, and by the decisions of 2005-06/PR July 15, 2005, and Aug. 29, 2005-11/PR 2005.

In principle, the IEC has the authority to supervise or carry out activities related to the electoral process and may, in part, be assisted by other administrative state structures to carry out its mission. The IEC is responsible for voter registration, managing the electoral register, the establishment of electoral lists, the printing and distribution of voter cards, and to ensure geographic distribution of polling stations.

The current configuration of the IEC was established in Feb. 16, 2006, and consists of 31 members appointed according to the formula in the Pretoria Agreement to include two representatives of each of the ten party signatories of the Linas Marcoussis Agreement, as well as other members from governmental, ministerial, judicial, and presidential bodies. This composition often revealed the potential for partisan interests to erode the functional independence of the IEC. The IEC composition and its decision-making by political consensus, sometimes severely constrained the development of its technical capacity. This has been the case for many operational decisions, including the processing and transmission of election results. These processes have often undermined the important principle of transparent election administration.

The IEC is also responsible for the creation of various administrative offices at different geographic levels: 19 regional commissions, 55 departmental committees, 46 municipal committees, and 297 sub-prefectural committees. Their composition is based on the same formula as the national election commission, for a total number of 12,865 local commissioners.

The distribution of voter cards and national identity cards was conducted jointly by the IEC and the National Identification Office (ONI) beginning the first week of October. Both organizations were supported by U.N. Operation in Cote d'Ivoire (UNOCI) and the U.N. Office of Project Support (UNOPS). Carter Center long-term observers noted delays in the delivery of cards to polling stations in some places owing to operational shortcomings in the cooperation between Ivorian national structures and the UNOPS in particular.

According to the electoral law, the distribution of voter cards is to end no later than eight days before the election. Given the delays in delivery and the significant number of cards that remained to be collected, distribution was extended until the eve of the election. This important demonstration of flexibility by the IEC proved to be in the best interests of voters and enabled strong voter turnout on election day. Further, Art. 16 of the Electoral Code provides for cards to also be available on election day at polling stations.

In the final weeks before the election, with the significant support of UNOCI, the IEC transported non-sensitive election material to its branches across the country. The strong cooperation between the two bodies is commendable. A total of 20,073 polling stations at some 10,000 locations with a maximum of 400 voters per station were established.

Universal and equal suffrage are closely linked to ability for all voters to be awarded an equal opportunity to cast their ballots.¹ Discrepancies in preparation, material allocation, and training in different parts of the country can lead to inequalities with regards to the effectiveness of polling. At worst, the scenario described above can produce a geographically-based disenfranchisement of people living in isolated or rural areas, who are often the poorest, undermining the principle of universal and equal suffrage.

Carter Center observers found that the training of local commissioners, especially the training of polling station staff, occurred very late, with most receiving training less than 48 hours before polls opened. In previous phases of the electoral process, Carter Center long-term observers found similar late training

¹ ICCPR, Art. 25b

often resulted in too little time for trainees to acquire more than a superficial understanding of the linked procedural elements of their duties.

Communication between the national IEC office and its branches was inconsistent throughout the process. IEC branch officials across the country have frequently expressed their dissatisfaction with this situation to Carter Center observers, remarking on their inability to get answers to questions and concerns raised by citizens in their local jurisdictions. Weak or delayed operational planning may partly explain this lack of regular communication between the different levels of election administration. Nevertheless, local IEC branches felt that the lack of information communicated to their administrative level was a factor in their sometimes diminished capacity to serve the local population.

Owing to the central importance of transparent and independent election administration in the conduct of democratic elections, the Center's final report will provide in-depth focus on these issues.

Candidates, Political Parties, and the Campaign

The right of individuals to participate in public affairs, including through the establishment of and free association with political parties and participation in campaign activities, is protected by international principles and fundamental electoral rights.²

The definitive list of 14 presidential candidates was approved by the Constitutional Council announcement of Oct. 19, 2009, following the examination of 20 nomination submissions for the elections then scheduled for Nov. 29, 2009. Given the subsequent delay in the election date, the question of re-opening candidate nomination was raised by jurists and some civil society organizations.

It is important to note that electoral law provisions for candidacy for the presidency were affected by the Linas-Marcoussis Agreement, which established preferential consideration for signatories to the accords. In effect, candidates from signing political parties or groups were exempted from the demonstration of any legal requirements (such as proof of citizenship, tax payment, or health certificate) other than the personal declaration and signature of candidacy.

Accordingly with Art. 28 of the Electoral Code, Presidential Decree 2010-282 of Oct. 12, 2010, fixed the official start of the campaign period at Oct. 15 to close at midnight on Oct. 29.

Art. 32 of the Electoral Code prohibits all political campaign meetings and propaganda of any type outside the official campaign period. In practice, all political parties and most of the candidates conducted informal campaign activities well in advance of the official campaign, without any such violations being sanctioned.

The Carter Center notes with concern many of the statements made by candidate representatives and in some cases the candidates themselves during this 'pre-campaign.' Personal attacks on other candidates were often spoken while slogans such as "we win or we win" implicitly prepared the ground for rejection of results.

² ICCPR, Art. 25(a); CEDAW, Art. 7(b)

Prior to the campaign, the IEC encouraged candidates to abide by a Code of Conduct that was adopted on April 24, 2008, by more than 40 political parties in the presence of the U.N. Secretary-General. All presidential candidates committed themselves to respect the provisions of this Code. Overall, this commitment was honored by the candidates during the official campaign period. Carter Center long-term observers attended campaign rallies and other events that appeared to reflect the freedoms of expression, movement, and assembly.³

However, tensions between opposing camps, in particular, members of the Rally for Republican Democracy (RDR) and Laurent Gbagbo supporters, were evident in many areas, especially in the towns of Korogho and Katiola. Isolated acts of violence, provocation and vandalism, including tearing down campaign posters, were reported by Carter Center long-term observers.

Voter Education

Voter education is recognized in international law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote. In a country that suffers from a high rate of illiteracy and has numerous local languages, voter education is a challenging task.

The state, and the IEC as an organ of the state, should be responsible for providing voter education to better ensure the uniform distribution of information to the voting population. While non-governmental organizations may have a role in the education of the electorate, it is ultimately the responsibility of the state to ensure that non-partisan information is available. The IEC relied to a large extent on external actors including civil society, political parties, and the international community to provide this service.

Carter Center long-term observers frequently saw party members and candidates during the campaign explaining how to vote with reference to sample ballot papers supplied by the IEC. In some cases, observers found voter education posters produced by the IEC but they were relatively few in number and displayed in principal towns, limiting their reach to segments of the population that could have benefited from the information.

For those with access to national television and local radio stations, IEC public service announcements explained voting procedures and encouraged a peaceful election.

On election day, observers found few cases of posted information explaining voting procedures either inside or outside polling stations. Stronger institutional cooperation between the IEC and non-governmental actors such as political parties and civil society organizations could broaden and strengthen the reach of such voter education materials.

Polling

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections. Certain participatory rights must be fulfilled for the voting process to accurately reflect the will of the people. Foremost among these are the right to vote, to

³ Freedom of expression, movement and assembly are enshrined in the ICCPR, Art. 19(2), 12(1), and 21 respectively. The African Union Declaration on the Principles Governing Democratic Elections in Africa, Art. IV.5 further states that “Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.”

participate in public affairs, and to enjoy security of the person.⁴ The state must take all necessary steps to ensure such rights are fully protected and awarded to all citizens in an equal and non-discriminatory manner. The state must take necessary measures to give effect to rights enshrined in the treaty to which they are party. Such rights include the right for all citizens to be treated in an equal and non-discriminatory manner.⁵

Illustrating the strong voter turnout (estimated at 70-80 percent by observers based on unofficial results), many voters were at the polls in the early hours of Oct. 31, well before opening at 7:00 a.m.

Most polling stations opened on time or with delays ranging from 30 minutes to two hours. Reasons for delays in opening varied across the country:

- Late arrival of the president of the polling station staff
- Late delivery of essential election materials
- Absence of other polling station staff

Several operational difficulties appeared to be attributable to weak understanding on the part of election officials about the full details of their responsibilities. In particular, observers noted that the numbered ties to seal the ballot box were not used and where they were employed, the numbers were not registered in the polling station record. In nearly half the polling stations visited by Carter Center observers, the polling officials did not check voters' fingers for indelible ink before issuing them a ballot paper.

Electoral procedures were established to allow party agents and domestic observers at each polling station to observe the voting process and record any concerns for legal scrutiny.⁶ Candidate representatives serving as poll witnesses were present in every polling station visited with at least two different parties represented in every case. Non-partisan domestic observers were less prevalent though the Center took note of their presence where encountered.

No major incidents of such magnitude as to undermine the integrity of the polling process were reported.

Voter turnout was very strong over the course of the morning, with most polling stations largely empty by late afternoon. The use of a single ballot and the decision to limit the number of voters to 400 per polling station were positive features that likely contributed to the ability of polling stations to process the high voter turnout.

The presence of security forces at polling stations varied by location across regions. No significant security incidents were observed by the Center on election day. Security forces were highly visible

⁴ ICCPR, Arts. 2, 25(a) and 9

⁵ The State must take necessary measures to give effect to rights enshrined in the treaty to which they are party. Such rights include the right for all citizens to be treated in an equal and non-discriminatory manner. ICCPR; I: Art. 1, Art. 2(2).

⁶ The right to participate in the public affairs of one's country, including the electoral process, are recognized at the regional and international level. See for example, African Charter on Human and Peoples' Rights, Art. 13 (1); African Union Declaration on the Principles Governing Democratic Elections in Africa, Art. 7; and ICCPR, Art. 25 (a)

across Abidjan and proved themselves able to police polling locations where voters became frustrated and impatient at delayed poll openings.

The participation of women voters was notable and Carter Center observers did not report instances of discrimination in polling operations.

Vote Counting and Tabulation

Polls closed on time at 5:00 p.m., allowing polling officials to prepare their stations for vote counting.

The criteria for deciding on ballot validity were recalled by polling officials who read aloud the instructions to accept as valid those ballots where the voter marked or otherwise indicated their preference in the space provided. The counting process and completion of tally sheets was conducted in accordance with procedures. Transport problems delayed the physical delivery of election materials and results to local election commission offices.

As at polling stations, candidate representatives served as witnesses to the receipt and tabulation of results at the various levels of election commission offices. Most results were tallied manually with some locations using computers. Organizational preparations for the receipt of results was often found to be wanting. Tabulation was slowed for several reasons:

- Slow transport and delayed arrivals of materials
- Poor physical organization of the tabulation process as the local election commission
- The demands of both electronic and manual tabulation.

In general, vote tabulation has proceeded in a calm environment and without obstruction of observer access. In Yamoussoukrou, Carter Center observers were asked to leave the regional election commission offices by the president of the commission, leaving them unable to observe tabulation on Nov.1.

Participation of Women

State obligations to promote de facto equality for women derive, in part, from broader political obligations regarding absence of discrimination⁷ and the right of all citizens to participate in the public affairs of their country regardless of gender.⁸ Through ratification of international and regional treaties, Cote d'Ivoire has pledged to promote the political participation of women on an equal basis with men.⁹ Art. 1 of the constitution provides for the equality of all persons before the law with men and women sharing equal rights.

For the first time in Côte d'Ivoire, a woman ran for the office of president. Ms. Jacqueline Oble Lohoues ran as an independent candidate among 13 other male candidates. This imbalance reflects the the active, but not equal, involvement of women in the electoral process. With the recognition of

⁷ ICCPR, art. 25; 2(1); 26.

⁸ UDHR; Art. 21(a); ICCPR, Art 25(9)

⁹ See, for example CEDAW; Convention on the Political Rights of Women, and ACHPR.

difficulties faced by female candidates in financing their campaigns, The Carter Center encourages Côte d'Ivoire to take into account the disproportionate impact that the requirements of a large financial deposit for candidacy has on female candidates.

During the campaign period, Carter Center observers noted the active presence of women in political parties and political rallies. On election day, women participated as election agents in polling stations, political party representatives, and observers. Carter Center observers estimated that at about 40 percent of the polling sites visited had at least one woman among the representatives of political parties in the polls.

Women also participated in electoral administration, as members of the national IEC and its local branches, but in significantly smaller numbers than men. Notably, on election day, few polling station presidents were women.

Resolution of Election Complaints

Efficient electoral dispute mechanisms, including, as necessary, the provision of a fair and public hearing before a tribunal, are essential to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.¹⁰

The preliminary results are to be announced by the IEC within three days of the election, with official results proclaimed by the Constitutional Council seven days later.

Art. 40 of the constitution recognizes of all candidates to appeal election procedures and Art. 60 provides for complaints to be submitted in writing to the president of the Constitutional Council.

A weakness in the legal provisions for election complaints gives candidates only three days following the close of polls to submit their petition. In the event that the IEC uses all three days to announce preliminary results, candidates may be left with little or no time to assess the results should they wish to submit a complaint about irregularities in the results process.

Furthermore, though the constitution assigns the Constitutional Council the authority to proclaim final official results, neither the constitution nor the electoral law provides any definitional guidance on the nature of irregularities or how the Council may consider them in the event that it annuls an election result. Constitutional Council decisions are final and not subject to appeal. These arrangements could be reviewed to ensure that the right to effective remedy is enabled.

Civil Society Organizations

Many civil society organizations were active participants in the electoral process from the preliminary stages of voter registration. Their activity focused on three principle projects: voter education, national election observation, and the upholding and observation of the Code of Conduct and its political party signatories.

A cooperative initiative among several civil society organizations, the Code of Conduct observation was launched to coincide with the beginning of the presidential election campaign.

¹⁰ International Covenant on Civil and Political Rights Art. 2(3), UNHRC General Comment No. 32, para. 18

The primary tenet of this project was to ensure the respect of the Code of Conduct signed by the political parties and all 14 candidates running for presidential office, and to publicly denounce any violations.

For the first time in Cote d'Ivoire, a group of national domestic observers, made up of the members of the Ivorian Civil Society Convention (CSCI), deployed long-term observers to follow the presidential election. Some 250 observers strong, the CSCI reported on all the key steps of the political process, from voter registration through the elections. These long-term observers were joined by 700 additional short-term observers for the elections. The CSCI has released several public reports outlining their findings following each critical step of the electoral process, with recommendations for future improvements.

Other civil society organizations also deployed election observers, notably the Ivorian league of human Rights (LIDHO), West African Network for Peace) WANEP, and the Ivoirian Women's Coalition for the Reconstruction of Cote d'Ivoire and Post-Crisis Elections (COFEMCI-REPC), and CONOPSI.

Domestic observers (and international observers) faced significant obstacles in the timely issue of accreditation badges from the IEC; more effective election observation could be enabled by the dedication of more attention and resources to this important aspect of the Electoral Code.

Media

International obligations related to the media and elections include freedom of expression and opinion and the right to seek, receive, and impart information through a range of media.¹¹ The Carter Center did not conduct comprehensive media monitoring but offers the following observations on the overall media framework.

The preamble to the constitution refers to the inalienable and fundamental freedoms which are defined in the Universal Declaration of Human Rights and the African Charter on Human and Peoples Rights, with Art. 9 of the constitution specifically guaranteeing the freedom of expression.

The National Council for Audiovisual Communication (CNCA) and the National Commission of the Press (CNP) provide for freedom of the media in Cote d'Ivoire and ensure pluralism, and respect for the legal texts, rules and ethical standards applicable to journalists during the election campaign, with particular attention paid to fairness between candidates in the written press and in the broadcast media.

Freedom of expression appears to have been prominent throughout the campaign and these two agencies sought to ensure fair competition among candidates through the dissemination of different political views to the electorate on the whole territory.

¹¹ ICCPR, Art. 19

The Carter Center regrets that throughout the period before the official opening of the campaign, the candidate for the presidential majority dominated National Television (RTI), whereas Art. 30 of the Electoral Code stipulates that "parties and candidates have equitable access to state media from the date of publication of the provisional list until polling..."

Conclusion

The Oct. 31 elections were marked by a number of logistical and operational challenges, most notably the timely distribution of voter cards, delivery of essential election materials throughout the country, poll worker training, and effective distribution of information regarding election day procedures. The IEC manifested ongoing planning and operational difficulties.

However, despite these difficulties, the elections were marked by broad political participation, a peaceful election campaign, and strong voter turnout. International goodwill and support have been significant features of Cote d'Ivoire's peace process and the conduct of these elections.

The Carter Center offers these observations and recommendations in the spirit of cooperation and respect. The Center wishes to thank the Ivoirian officials, political party members, civil society members, individuals, and representatives of the international community who have generously offered their time and energy to facilitate the Center's efforts to observe the electoral process.

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. A not-for-profit, nongovernmental organization, the 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 to increase crop production. Visit: www.cartercenter.org to learn more about The Carter Center.