



Nov. 30, 2010

## Statement of Preliminary Findings and Conclusions

### Main Findings and Preliminary 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](http://www.cartercenter.org).*

#### Political context

In the presidential election of Oct. 31, 2010, outgoing President Laurent Gbagbo and former Prime Minister Alassane Ouattara won the two highest shares of the vote, 38.04 percent and 32.07 percent respectively, qualifying them for a second round run-off election. Former President Henri Konan Bedie (PDCI) came third with 25.27 percent, while the other eleven candidates combined for a total of 4.65 percent.

The losing candidates announced their support for one of the two remaining camps. Members of the political coalition Rally of Houphouetists for Development and Peace (RHDP), which includes former President Bedie, announced their support for Ouattara.

The campaign environment intensified between the two rounds with each candidate hardening their tone and sending significantly more negative messages in both the press and their campaign activities, leading to clashes between party supporters.

The Oct. 31 results revealed strong communal voting patterns, with three important regional vote blocks emerging: the interior of Cote d'Ivoire, Abidjan, and the forest area on both sides of the Valley of Sassandra. In these areas, the Baoule community, who in the first round largely supported Bedie, is either the majority or is strongly represented. Neither candidate could assume that he would automatically garner Baoule support and many believed that capturing their support was a key factor to winning the election. As a result, both campaigns pursued Baoule support through courtship, especially of traditional community leaders, and intimidation tactics.

In more diverse voting districts, there was a noted increase of community tension, especially in the forest zone, where resentment over land ownership was tied to the election campaigns. In some areas, Carter Center long-term observers were able to verify and confirm several first voting round incidents of intimidation and obstruction of voting by residents with roots outside the area as well as threats of reprisal.

In the north and central parts of the country, tensions were less evident due to the relative homogeneity of the population. Nevertheless, independent observers remarked upon the hostile comments made by representatives and supporters of different political parties towards their opponents.

The hardening of attitudes during the campaign period highlights the ongoing sensitivity of citizenship and land ownership issues, and the manipulation of historical grievances by the candidates contrary to the spirit of national reconciliation.

It is unfortunate in this context that public authorities, notably the minister of interior, exercised selective memory in his communications, culminating in the citation of only the Ouattara camp for its role in violent incidents.

### **Legal framework**

The determinants of the Ivoirian peace process have shaped the contours of the legal framework for elections. In effect, the Ouagadougou Political Agreement supersedes the Ivoirian Constitution and electoral law, conditioning the amendments to existing laws to produce a framework valid only for the elections to end the crisis. Throughout the electoral process, presidential decrees have proved to be the main instrument of amendment. The Carter Center regrets the tendency of political actors to use the legal framework not to resolve political differences by referring to the legal basis for decisions, but to sharpen them by ignoring it when it did not suit their agenda.

The subjection of the legal framework to political agendas was particularly evident throughout the identification and voter registration process, with the establishment of technical procedures to challenge the voter list based on political advantage rather than to establish consensus based on rights and obligations.

A further example of ad hoc adjustment was evident with the Nov. 6 announcement of the final results of the Oct. 31 election by the Constitutional Council. Since Art. 36 of the Constitution provides for a run-off election two weeks after the announcement of the result, the Constitutional Council identified Nov. 21 as the election date. Deemed impractical by the IEC, given the logistical preparations, the date was then postponed to Nov. 28, again based on a decree.

During the run-off election campaign, attention focused on the Constitutional Council's literal interpretation Art. 60 of the election law, limiting the period for lodging election petitions to three days after polling day. The Center suggests that a review of both elements of the time line be reviewed for future elections.

### **Voter Registration**

Within the framework of the Ouagadougou Political Agreement (OPA), voter registration and national identification were conducted jointly. This process unfolded over an exceptionally long period of two years, characterized by operational difficulties and political obstacles. It produced ambiguous results, albeit ones ultimately endorsed by political actors and certified by the Special Representative of the Secretary General of the United Nations.

The final list of 5,725,721 voters was comprised of eligible voters holding the new national ID card. The political endorsement of the voter register does not eliminate reservations about the overall technical success of the operation or its fulfillment of the ambitious goals of the OPA.

The total number of registered voters is significantly lower than the initial estimate of the eligible voting population of 7,835,768 cited in 2008 by the National Institute of Statistics (INS). Based on this estimate, the final list of registered voters represents 73 percent of eligible voters. Ivoirian political actors minimized this difference by emphasizing that voting, and thus registration, is not compulsory. The Carter Center notes, however, that the voter registration was coupled with national identification and that all Ivoirians aged 16 and over are obliged to be in possession of a national ID card.

Among other concerns, it is important to note that since April 1, 2010, those identified as minors in the sense of the OPA (e.g. born between April 1, 1990, and March 31, 1992), have since reached the age of majority. However, no measures were taken to accommodate them in the voter list for either presidential election or any of the other elections understood as part of the peace process. *Anyone else who subsequently receives their national ID will similarly find themselves eligible to be a voter but unable to get on the voter list.* The Center finds that the importance of a political consensus regarding the voter list is an insufficient reason to justify continued lack of an update to the voter register. Too many potentially eligible voters remain off the list and should regain the opportunity to exercise their right to vote.

### **Election administration**

Carter Center long-term observer teams assessed IEC efforts to strengthen election management between the two rounds. During the first round, observers noted the late and apparently inadequate training of polling station workers, illustrated, for example, by their repeated difficulties in determining the validity of ballots, or in completing the written polling station record. In another example, transportation of ballots and other sensitive polling station materials to local election commission offices was slower than originally planned. Preparations for the run-off election appear to be limited not only by financial constraints, but reflect an embedded institutional environment observed throughout the earlier phases of the electoral process, characterized by a lack of coordination and operational integration across the IEC. The IEC has been an unreliable pilot of the complex administrative and logistical requirements of the election process. Generally dependent on partners for the provision of many services, the IEC did not always establish a sufficiently robust and clear operational framework to coordinate this activity.

The IEC has generally been reluctant to share unambiguous and timely information regarding electoral operations. There have been persistent gaps in the communication of instructions throughout the institutional structures, with significant variations manifest in the personal management style and decisions of commission officials, rather than operational consistency.<sup>i</sup>

The national election commissioners met to take stock of the Oct. 31 election and adopted several new procedures, including reformatting the polling station record, re-deployment of supervisors to the outlying regions to intensify the training of commissioners and polling station staff, and the production of support materials for polling station officials. In areas where Carter Center observers gained access to IEC training, substantial improvements in the training methodology were reported. Unfortunately, IEC officials denied observer access to training in several regions (Savannah, Lakes, and Bandama

Valley).

The lack of clear information regarding the tabulation and transmission of results process noted in the first round persisted. The IEC was also slow to communicate several important procedural revisions adopted on Nov. 13 (received by The Carter Center mission on Nov. 25 through an indirect source) and even when contacted, IEC commissioners for unknown reasons refused to admit such a document existed. The document provided important information about the manual tabulation of election results.

Two other parallel systems of results transmission were proposed: transmission by SMS of polling station results from 7,000 polling locations and electronic transmission of results forms local election commission offices to the national office. The degree of implementation of these systems was, as in the first round, unclear, as was their location vis-à-vis the overall results process. The publicly available information about these systems was limited and insufficient for the mission to fully appreciate this aspect of election operations. The technical requirements do not appear to have been met, providing another illustration of lack of transparent decision making and procedural clarification. Carter Center observers noted, however, a general improvement in the overall processing of results in many of the local election commissions, thereby contributing to more timely results.

Logistical support to the IEC was strengthened for the run-off but it is apparent that some of the inadequacies of the first round remained, particularly related to inventory and distribution of election materials. However, overall the run-off revealed improved operations, reflected in apparently fewer late poll openings and especially in the more rapid collection of ballot boxes and results by local election commissions. Despite misgivings about the nationwide curfew imposed, few incidents appear to be related. It is notable that significant delays were reported in the Sassandra Valley region as a result of political tension and violence the night of the elections.

### **The election campaign**

As provided by the electoral law, the IEC fixed the formal campaign period for the run-off election at one week, running from midnight Nov. 20 to midnight Nov. 26. As with the first round, candidates did not wait for the official opening of the campaign to hold public gatherings. Again as before, the IEC did not cite this contravention of the election law.

Contrary to the first round campaigns which the Center and others noted were generally peaceful, the run-off climate quickly degenerated with widespread communication strategies based essentially on negative portrayals of the opposing camp and the use of politically affiliated newspapers to spread rumors.<sup>ii</sup>

On the eve of the campaign, Laurent Gbagbo's spokesman set an early tone, naming Alassane Ouattara as the instigator of the 1999 coup and 2002 armed forces rebellion. Similar messages had begun to circulate earlier by SMS and by the screening in several areas of the country of a controversial, and later forbidden, movie depicting crimes committed during the war ostensibly by Outtara. The opposition was not exempt from negative tactics, as both campaigns resorted to name-calling and party supporters from both sides were involved in acts of violence and intimidation, in some cases, aimed at election observers.

Although reliance on rhetoric based on past actions was used often, the two candidates demonstrated a

sense of public responsibility during their live debate aired by the public broadcaster RTI on Nov. 25. In largely moderate and respectful tones, each candidate appealed for a peaceful democratic election and the end to violence. The debate was a notable first for Cote d'Ivoire, but the relaxed and constructive character of its exchanges was not enough to prevent campaign tensions from persisting. The press associated with each candidate did not abandon the aggressive tactics that bracketed the debate. The candidates should be held accountable to the higher standard of civility and public service they expressed during the debate.

## **Voter education**

The national rate of invalid ballots cast during the first round of voting was 4.66 percent. This average, though relatively good in a context where no election has been conducted for ten years, masks significant regional variations in the numbers of invalid ballots casts, ranging from 2.34 percent of ballots casts in the district of Abidjan to 8.58 percent in the region of Zanzan.

These percentage differences could reflect discrepancies in levels of regional development and may also demonstrate the impact of media access on voter education. These numbers also illustrate the limits of local voter education campaigns, and, in this context, the Center notes that efforts to undertake large, national scale voter education campaigns were stymied by delays in decision making by those responsible for clarifying procedures and providing the material needed to implement voter education.

After the high voter turnout of 84 percent for the first round, some speculated that the absence of former president Henri Konan Bedie as a candidate in the run-off could fuel significant voter apathy. Carter Center observation of the run-off campaign suggests however, that voter interest remained high and did not dissipate despite his absence.

## **Voting Procedure**

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 participate in public affairs, and to enjoy security of the person.<sup>iii</sup> 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.<sup>iv</sup>

Carter Center observers found that the training of poll workers for the second round of voting was better developed, and more comprehensive than in the first round of elections. These efforts, however, did not succeed in guaranteeing the perfect implementation of voting procedures. In some instances there was confusion over last minute changes in the assignment of polling station staff with many new replacements who did not appear to have received training. The Center identified important weaknesses in several voting day procedures, including the lack of inspection of voters' fingers for indelible ink in nearly half the polling stations visited. Another noted deviation from procedure was

that one in ten polling stations did not follow the proper steps for voter signature of the voters' list or use of indelible ink to mark their fingers after voting.

The handling of voters eligible to cast their ballot in a location other than their place of registration also varied. A government-issued 'ordre de mission' certificate establishing the right of such voters was supposed to be retained by polling station staff after the voter cast his or her ballot to prevent multiple voting. In one quarter of all stations visited, this official documentation was not kept.

Carter Center observers also reported potential voter intimidation in some five percent of the polling stations visited, a higher level than was reported for the first round, and perhaps a reflection of the hardened tactics of the run-off campaign.

While several allegations were made by both campaigns of obstructionist practices used against their supporters in polling stations, Carter Center observers found representatives from both candidates present in most polling stations visited.<sup>v</sup>

It should be noted that poll workers recorded an official complaint in only one of the polling stations visited by Carter Center observers. This could be a consequence of intimidation but given its generalized nature, a more likely explanation is the low-level of training for candidates' representatives, rendering them either ignorant of the provision to register their complaints about improper procedure, or they were unable to recognize procedural irregularities.

The IEC's timely release of provisional election results, by polling station, could provide the basis for further analysis of irregularities noted throughout the voting process, and point to future improvements.

### **Counting and tabulation**

The IEC instruction to post vote results outside of polling stations was unevenly applied as nearly less than half of the polling stations visited by Carter Center observers lacked posted results. The IEC thus appears to have incompletely implemented this provision during both rounds of the presidential election.

It also appears that the serious election day irregularities occurred after the close of polling stations. Although not directly involved in some of the incidents reported, The Carter Center intends to examine reported cases of efforts to obstruct the physical transfer of ballot boxes and results, the destruction of election materials, and the theft of ballot boxes. Regardless of an assessment of the potential impact of such incidents on the results process, the Center believes it is essential for there to be an investigation of these incidents and calls on Ivorian prosecutors investigate and pursue these incidents and their perpetrators in accordance with the law.

The Carter Center is particularly concerned by the several deaths and injuries arising from various election-related incidents and trusts that the two candidates and their supporters will ensure that the proclamation of election results is not tarnished by more violence. The Carter Center hopes that candidates will publicly call on their supporters to receive the announced results with patience and restraint.

Carter Center observers present in local election commissions for where the first level of vote tabulation is conducted reported high level of disorganization in the receipt of election materials, but did not find that these conditions were the result of efforts to manipulate results. In all of the observed locations, both candidates were represented and no complaints were registered.

### **Women's participation**

State obligations to promote de facto equality for women derive, in part, from broader political obligations regarding absence of discrimination<sup>vi</sup> and the right of all citizens to participate in the public affairs of their country regardless of gender.<sup>vii</sup> 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.<sup>viii</sup> Art. 1 of the constitution provides for the equality of all persons before the law with men and women sharing equal rights.

The final voter list does not reveal gender discrimination in the voter registration process. Women were visible participants in the electoral process as polling station officials, political party representatives, domestic election observers and voters. Carter Center observers reported that approximately 20 percent of candidate representatives in polling stations were women. By contrast, female representation in the IEC, especially at senior levels, is much more limited. Similarly, while women were very present in the election campaign, their contribution has often been reduced to the mobilization of women's wings of political parties and the female segment of the electorate.

In this context, The Carter Center encourages Côte d'Ivoire to further promote women's participation in the political process through effective measures of encouragement, incentives, and human rights guarantees.

### **Resolution of election complaints**

The effectiveness of the administrative procedures used to address electoral disputes is weakened by the legal provision that restricts the time allowed for submission of complaints under standard practices. In contrast to the majority of electoral laws evolved from a similar legal tradition, the Ivorian electoral code is written in such a way that the Constitutional Council can significantly reduce the possibility of an effective right to remedy.<sup>ix</sup>

In decision No. CI-2010-EP-33/08-11/CC/SG, the Constitutional Council declared a petition submitted by candidate Konan Bedie inadmissible, because the given deadline had passed. Article 60 of the electoral law, which states the period for the filing of petitions is three days from the close of voting, was interpreted by the Council as beginning at the close of polls (Sunday, Oct. 31, at 5:00 p.m.). This timeframe could seriously limit the introduction of relevant appeals, as the IEC's deadline to announce their preliminary results adheres to the same three-day deadline. This interpretation of electoral law does not consider the fact that the polling operations extend beyond voting and counting. Faced with this possibility, it seems appropriate that the Council should consider and undertake a more constructive reading of the text in question, and if possible, to establish a more reasonable timeframe to lodge petitions.

Declaring that no valid petitions were received, the Council proclaimed the final results of the first round on Nov. 6, confirming the provisional results of the IEC. It should be noted that the electoral law regarding the presidential election leaves little room for maneuver and the Constitutional Council has the sole option to either approve the provisional results, or, if deficiencies are likely to affect the overall result, to annul the election.

In the absence of extensive legal precedent, there is little evident guidance as to what the Constitutional Council would consider a serious irregularity. It would prove helpful in the future if the Council was more explicit prior to the election regarding the criteria by which it intended to base its decisions, its approaches and working methods. In this vein, The Carter Center hopes that the Constitutional Council will draw on the experience of other francophone courts and constitutional bodies with experience in electoral complaints which have developed elements of doctrine.

### **Civil Society Organizations**

As in the first round, domestic election observers from civil society organizations benefited from international donor support. Though the level of preparation among organizations may have varied, the importance of the role of domestic observers is indisputable. It is regrettable that the IEC failed to engage sufficiently with civil society groups, making their work more difficult, through, for example, the late issue of accreditation, which hampered their efforts to conduct long-term observation.

By contrast, the involvement of civil society organizations in voter education attained a high water mark in Cote d'Ivoire.

The presence of multiple civil society organization networks with overlapping membership may have undermined a more effective role of some organizations in the election process. This pattern may have served as a reason for some to call into question the integrity of civil society groups but should not be used to undermine the long-term interests of democracy when it is best-strengthened by a diverse and active civil society.

### **Media**

Media conduct was flawed in several ways. State media RTI proved its long-standing tendency to favor the activities of President Gbagbo and only covered the rest of the national political landscape – and even then very limited - during the official campaign period.

The press, especially politically-affiliated papers, did not play a constructive role, and were, at times, inflammatory. It is worth noting, however, that the national daily, *Fraternite Matin*, provided equitable and balanced coverage of the two candidates.<sup>x</sup> International support in the creation of ONUCI FM provided important broadcasts of public service.

Although The Carter Center did not conduct formal media observation, the mission assessed the contributions of the monthly statistics provided by the National Audiovisual Communication Council (CNCA) and the National Press Council (CNP). These regulatory bodies have specific responsibilities during an election process. They are responsible to guarantee equitable access to state media for

political parties and groupings starting at the point of publication of the provisional voter register through election day and equal access to all candidates during the formal campaign period.

The CNP appears to have demonstrated more commitment to its tasks whereas the CNCA failed to show much interest in playing an effective role.

CNCA statistics for the month of October remain unavailable, suggesting a degree of lack of transparency on its part. Based on the September statistics from CNCA, the Center finds a misrepresentation of the media time allotted to parties and political groupings. The CNCA distinguishes between political parties and political support groups. It calculated time allotted to national campaign activities of candidates in the latter group. This approach masks, unsuccessfully, the net predominance of the presidential camp in national television coverage.

Unfortunately, the Center finds that this pattern continued uncorrected. The credibility of the CNCA as an impartial regulatory body was particularly damaged by the definitional gymnastics that enabled Laurent Gbagbo to receive the final broadcast access at the close of the first round campaign.

During the formal campaign period, the Center noted the media monitoring effort of the non-governmental organization Reporters Without Borders and its report of Nov. 10. Their report underscores the importance of the CNCA to fulfill its responsibilities in an impartial manner.

## **Conclusion**

Cote d'Ivoire's Nov. 28 presidential election unfolded against the background of a tense and often negative campaign. Long-standing disputes about national identity issues and land ownership were often brought to the surface, inflamed by negative political rhetoric and fueled by a partisan media. Sporadic incidents of violence, including several deaths, occurred in the days preceding the election and on election day itself.

Ivoirians came to the polls in large numbers, showing once again their determination to participate in an election that, in allowing Cote d'Ivoire to regain institutional stability, will advance the peace process.

In spite of procedural irregularities, voting and counting operations were largely well-conducted by polling station officials. Representatives of the two candidates were present in the vast majority of stations visited by Carter Center observers.

Pending the announcement of preliminary and final results, the Center reminds the candidates of their commitment to respect the choice of voters to select their own leaders without fear of intimidation or reprisal.

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*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;*

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<sup>i</sup> The uniform application of election procedures provides an important means for states to meet their obligation to universal and equal suffrage by awarding all voters an equal opportunity to cast their ballot. ICCPR, Art. 25b.

<sup>ii</sup> 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.”

<sup>iii</sup> ICCPR, Arts. 2, 25(a) and 9

<sup>iv</sup> 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).

<sup>v</sup> 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)

<sup>vi</sup> ICCPR, art. 25; 2(1); 26.

<sup>vii</sup> UDHR; Art. 21(a); ICCPR, Art 25(9)

<sup>viii</sup> See, for example CEDAW; Convention on the Political Rights of Women, and ACHPR.

<sup>ix</sup> 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. International Covenant on Civil and Political Rights Art. 2(3), UNHRC General Comment No. 32, para. 18

<sup>x</sup> International obligations related to the media elections include freedom of expression and opinion and the right to seek, receive, and impart information through a range of media. ICCPR, Art. 19