

Legislative and Second Round of Presidential Elections in Madagascar

Final Report



December 2013

THE
CARTER CENTER



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| Foreword

The Dec. 20, 2013, elections in Madagascar marked a turning point in Malagasy history, an important step toward democracy and a foundation for renewed growth and development. The elections offered an opportunity for one of the world's poorest countries to emerge from five years of economic, social, and political stagnation that began with a 2009 coup d'état—when Andry Rajoelina took power from President Marc Ravalomanana. The international community did not recognize Rajoelina's 2009 coup or his government. Isolated and without critical international support, the Malagasy people suffered as domestic political battles derailed development.

Madagascar's independent electoral institutions, along with the presence of citizen and international observers, were vital to successful democratic elections.

Concerted efforts of multilateral diplomacy led by the Southern African Development Community (SADC) and other members of the international community guided Madagascar forward to this significant step toward democratic governance. SADC was instrumental in Madagascar's adoption of a new constitution in 2010 and applied critical pressure leading to the implementation of a roadmap back to democracy, signed in 2011. Constant, coordinated pressure

from the international community made the 2013 elections possible, overcoming repeated delays and obstacles to the electoral process.

In November 2013, The Carter Center deployed six long-term observers across Madagascar to monitor political developments and logistical preparations for the upcoming elections. The Carter Center's presence grew in December when, in a joint mission with the Electoral Institute for Sustainable Democracy in Africa (EISA), the Center deployed 26 observers from 19 different countries to a total of 85 polling stations in six different regions of Madagascar.

Former Mauritius President Cassam Uteem and EISA Executive Director Denis Kadima joined me as co-leaders of our partnered mission. The partnership between The Carter Center and EISA represented the only nongovernmental observation effort of these elections.

The Carter Center's presence in Madagascar would not have been possible without the initial support of Stefan Findel and Susan Cummings-Findel and then the U.S. State Department.

We were fortunate to work alongside observation missions from several intergovernmental organizations including the Southern African Development Community, the European Union (EU), the African Union (AU), the Indian Ocean Commission (IOC), and the Organisation Internationale de la Francophonie (OIF). These organizations deployed an estimated total of 800 international observers for the Dec. 20 elections. In addition to the international observers present during the elections, domestic citizen observer

organizations deployed more than 10,000 mobile and stationary observers throughout Madagascar on election day. The strong citizen and international observer presence during the election period contributed to the overall transparency and success of the electoral procedures.

Madagascar's independent electoral institutions, along with the presence of citizen and international observers, were vital to successful democratic elections. The recent elections in Madagascar were successfully implemented by the National Independent Electoral Commission for the Transition (CENI-T), the first independent electoral commission in Madagascar's history. CENI-T should be commended for its orderly and timely execution of electoral procedures. The Special Elections Court should also be commended for its management of the electoral dispute process and the announcement of election results.

Although this forward progress is positive, stability is fragile. The international community should continue to press Madagascar's government to foster and strengthen its democratic institutions. The elections were a necessary step to putting Madagascar back on the path to democracy, but Madagascar's political leaders need to provide genuine leadership and to demonstrate their commitment to inclusive democratic governance. Doing so would be a crucial step in

breaking the cycle of winner-take-all elections that have bred repression and economic deprivation in Madagascar. To advance democracy, the government should establish a comprehensive national reconciliation process that can bridge the bitter divides of previous years.

To advance democracy, the government should establish a comprehensive national reconciliation process that can bridge the bitter divides of previous years.

For the international community, the message is clear: These elections are only the beginning of what is likely to be a long and difficult transition in which sustainable engagement with ample moral and material support will be essential.

Dr. John Stremlau
Vice President for Peace Programs
The Carter Center

| Executive Summary

Madagascar held the first round of presidential elections on Oct. 25, 2013, and the second round runoff presidential and legislative elections on Dec. 20, 2013. The Carter Center's observations and findings summarized in this report relate only to the second round of presidential elections and legislative elections.

Observers from the integrated EISA/Carter Center mission reported that voting and counting processes were peaceful, orderly, and in general accordance with Madagascar's legal framework and obligations for democratic elections.

These elections marked a pivotal point for Madagascar as its leadership sought a return to genuine democratic government and normalized relations with the international community. Madagascar has been in international political isolation since a 2009 coup d'état prompted its foreign partners to sever ties and eliminate critical financial support. The coup and the subsequent isolation it provoked created a devastating political crisis that lasted nearly five years.

The road to elections was rocky, but they took place after years of negotiations and international pressure. As a result, Madagascar now has an opportunity to rejoin the community of nations

and the foundation to forge a solution to the prolonged humanitarian crisis.

The Carter Center met with critical stakeholders, including the leadership of CENI-T, during a pre-election assessment in February 2013. During the course of that visit, CENI-T formally invited The Carter Center to observe the elections. Upon accepting CENI-T's invitation, in mid-October the Center deployed a core team to set up a field office in the capital, Antananarivo. The following month, six international long-term observers arrived in Madagascar and were deployed across the country. During the month leading up to the elections, they observed electoral preparations, met with various stakeholders, and monitored important political developments in their respective areas of responsibility. As the election date neared, Carter Center staff from the Atlanta office deployed to Antananarivo to assist the mission. With our partner, the Electoral Institute for Sustainable Democracy in Africa, The Carter Center deployed 26 observers to a total of 85 polling stations in six different regions of Madagascar.

Observers from the integrated EISA/Carter Center mission reported that voting and counting processes were peaceful, orderly, and in general accordance with Madagascar's legal framework and obligations for democratic elections. In polling stations that Carter Center and EISA members observed, voter turnout was moderate at only about 50 percent.

The Center commends the CENI-T for its efforts to ensure that all eligible voters had an



opportunity to cast their ballots freely. Although Carter Center and EISA observers noted several shortcomings in the process—including inconsistent use of separate voter lists for the presidential and legislative elections, delays in delivery of materials to some polling stations, and inconsistent inking procedures—these shortcomings were not systematic and did not appear to have significantly influenced the outcome of the elections. Carter Center observers also reported that the polling process was good or excellent in 82 percent of stations observed.

Key Findings and Recommendations

Legal Framework

To the government of Madagascar: Introduce campaign finance regulations, modify framework for dispute resolution, and improve women's representation

The legal framework for the 2013 Malagasy presidential and legislative elections was established by the constitution of Dec. 11, 2010, the roadmap of Sept. 16, 2011, and the laws and regulations of the

Republic of Madagascar. In this report, The Carter Center recommends areas in which aspects of the legal framework could be strengthened, including the introduction of campaign finance reforms, modifications of the framework for electoral dispute resolution, and adjustments to enhance women's participation in politics.

Election Administration

To the government of Madagascar: Continue to support the independence of the commission and develop its capacity

For the first time in Madagascar's history, elections were organized and managed by an independent electoral authority, the National Independent Electoral Commission for the Transition. International obligations for democratic elections indicate that an independent, professional, transparent, and impartial election authority is fundamental to ensuring that citizens are able to participate in genuine democratic elections. The formation of CENI-T marked an important step forward, and its independence should continue to be strengthened.

The integrated EISA/Carter Center mission deployed 26 observers from 19 countries on election day.

Voter Registration

To the government of Madagascar: Commit to revise the voter registration process to ensure an accurate and complete voter registry in advance of future elections

Although the Center did not directly observe the registration process, and while accurate demographic data is unavailable, analysis suggests that the register likely underrepresented the voting-age population. On election day, observers noted confusion surrounding the introduction of the additive voter lists, lists of additions made to the voter list between the first and second round of elections. Observers also noted challenges related to the inadequate distribution of voter cards. The Carter Center recommends revision of Madagascar's voter registration process to ensure an accurate and complete voter registry in advance of future elections.

Political parties in Madagascar should strive to develop issue-based platforms and build membership bases across the country and beyond the capital.

Voter Education

To the government of Madagascar: Commit to developing an extensive and nationwide voter education program in advance of future elections

Voter education is an essential part of any legitimate electoral cycle, and an informed electorate ensures that the electoral results are a genuine expression of the will of the people. The 2013 elections included a number of important changes that would have benefited from corresponding voter education messages, including the introduction of a single ballot paper for the first time and a change in voter identification procedures. However, Carter Center observers reported limited voter education activities across the country. In future elections, there should be a commitment to development of an extensive, nationwide voter education program.

Candidates, Parties, and Campaigns

To political parties and the government of Madagascar: Strengthen political parties; improve access to candidacies by women

In a healthy democracy, political parties play a critical role in linking citizens to government. Madagascar has accepted important international obligations regarding political candidates, parties, and campaigns—including political pluralism, freedom of assembly, the right to run for office, and competitive elections. Candidate interest was high, as 33 presidential candidates were on the ballot during the first round of elections, while 2,054 candidates contested legislative elections. Despite the large number of candidates, only two of the 33 presidential candidates were women. That proportion was slightly higher in legislative elections but still low with just 15 percent being women.

Although the abundance of over 200 political parties in Madagascar is indicative of competition, most parties are weak, lack internal organization and institutions, and are inactive outside the capital city.

Political parties in Madagascar should strive to develop issue-based platforms and build membership bases across the country and beyond the capital. Steps should be taken to strengthen internal party structure, organization, and democracy. Steps should also be taken to increase women's participation in political parties, including in leadership positions and as candidates.

Voting

To the CENI-T: Reduce opening delays and improve delivery of materials

Carter Center and EISA observers visited 85 polling stations and reported that election day proceeded in an atmosphere that was primarily calm and peaceful. There were no reported incidents of election-related violence. Voter turnout on election day was modest at about 50 percent, a drop of nearly 10 percent from the turnout level reported in the first round. Most observers reported delays in the opening of polling stations, but these delays did not affect the polling

process. Observers also reported that the voting process was relatively efficient and that standard operating procedures were usually followed. Isolated irregularities occurred in various polling stations, including the late arrival of ballots and confusion over voter identification, but they did not undermine the fundamental integrity of the electoral process nor prevent registered voters from participating in that process. In future elections, CENI-T should strive to reduce opening delays and improve delivery of materials.

Closing and Counting

To the government of Madagascar: Review the electoral law to strengthen counting procedures

Accurate and fair vote counting plays an indispensable role in ensuring the electoral process is democratic and reflects the will of the voters. Although no significant irregularities were observed during the counting process, future elections would benefit from a review of the electoral law to strengthen counting procedures to ensure an accurate count and provide stronger guidance to polling staff.

Tabulation and Results

To the government of Madagascar: The full authority for the counting, tabulation, and announcement of results should rest with independent bodies, and any distribution of responsibility for tabulation should be done in a way that preserves the efficiency and transparency of the process

Tabulation of results is an integral phase of the electoral process that ensures the will of voters is accurately and comprehensively reflected in final results. In the days following the polls, Carter Center observers reported that the tabulation process generally met Madagascar's international obligations. The Special Electoral Court announced the results of the presidential election on Jan. 17, 2014, officially declaring Hery Rajaonarimampianina the winner, and legislative results were announced on Feb. 7. While some results were not included in the final count primarily due to unreadable certified copies of polling station tallies, the total number of votes left out of the final count was not significant

enough to change the outcome of the election.

Although the CENI-T conducted the tabulation process and announced provisional results, Madagascar's legal framework calls for official results to be announced separately by the Special Electoral Court. Further consideration should be given to the process of tabulating and announcing official results. In future elections, the authority for the counting, tabulation, and announcement of results should rest with an independent electoral authority. If this responsibility continues to be divided across two institutions, the division of responsibility should be done in a way that preserves the efficiency and transparency of the tabulation process.

Electoral Dispute Resolution

To the government of Madagascar: Continue to support the independence of the Special Electoral Court; revise the legal framework to allow more time to file complaints and to broaden overly restrictive criteria for filing complaints

A total of 650 complaints were submitted to the Special Electoral Court after the elections regarding the presidential and legislative electoral proceedings. The court responded swiftly and in an impartial manner in the electoral dispute process.

While this was a positive part of the electoral process, consideration should be given to revising the legal framework for dispute resolution to allow more time to file complaints. As it stands, complaints must be filed within 10 days of polling, which means that complaints must be filed before results are announced and that any formal complaints about the results themselves are prohibited. Legislators should modify Article 132 of the Electoral Law in order to allow appeals and complaints *after* the release of provisional results by CENI-T.

In addition, consideration should be given to broadening the criteria for filing complaints. Currently, the criteria for the plaintiff to file a complaint are: 1) be a registered voter, 2) have participated in the election, 3) limit complaints to activities in the polling station where the voter is registered, and 4) limit the subject of complaints only to the regularity of voting operations. These

restrictions weaken the Malagasy citizens' right to an effective remedy against improper action, a right that is recognized in international standards for democratic elections.

The Center commends the Malagasy people for participating in a peaceful and orderly process and for the successful democratic elections of 2013.

Conclusions

In summary, the Center found the electoral process to be generally orderly and transparent and in accordance with international obligations

for democratic elections. The Carter Center urges Madagascar to use these elections as a foundation on which to foster both democratic development and national reconciliation. The Center commends the Malagasy people for participating in a peaceful and orderly process and for the successful democratic elections of 2013. There is, however, room for improvement. To continue its progress toward democratic governance, the government of Madagascar should make efforts to make campaign finance significantly more transparent, ensure greater representation of women in future elections, empower civil society organizations to educate the Malagasy people on voting procedures, and focus on national reconciliation and cooperation.

The Carter Center in Madagascar

Since 1989, The Carter Center has observed 96 elections in 38 countries. The Center played a central role in the development of the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observation adopted at the United Nations in 2005 and is among 40 intergovernmental and international organizations that have endorsed these documents. Endorsing organizations pledge their commitment to assuring integrity and transparency in election observation missions and adhere to these documents to guide the purpose, scope, and conduct of their missions. The purpose of election observation is to provide a credible and impartial assessment of the electoral process and, when relevant, to make recommendations to improve future electoral processes.

The Carter Center assesses the electoral process against national laws and the country's international obligations for democratic elections. An assessment of the pre-electoral environment and preparation for the election are essential to determining the full extent to which all aspects of the electoral process—including voter registration, campaigning, and voter education—fulfill the obligations of the country in its ratified or endorsed international and regional treaties. Madagascar has ratified a series of international and regional human rights treaties whose provisions are relevant to the electoral process. Table 1 provides an overview of the relevant international and regional treaties that Madagascar has acceded to, signed, or ratified.

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Deployment of Observers for the Dec. 20 Elections

In February 2013, The Carter Center conducted a pre-election assessment mission in Madagascar to determine whether key political and electoral stakeholders would welcome an election observation mission and if the Center could play a useful role in supporting Madagascar's transition. Throughout the mission, key Malagasy actors, including representatives of CENI-T, the Special Electoral Court, and civil society leaders, requested the Center's assistance in supporting the electoral process. They welcomed the Carter Center's possible role as international observers, and CENI-T extended a written invitation to the Center to observe the entirety of the electoral process. See Appendix F.

Observers from The Carter Center and the Electoral Institute for Sustainable Democracy in Africa were trained in Antananarivo before the Dec. 20 elections.

Table 1: Criteria for Assessing the Elections

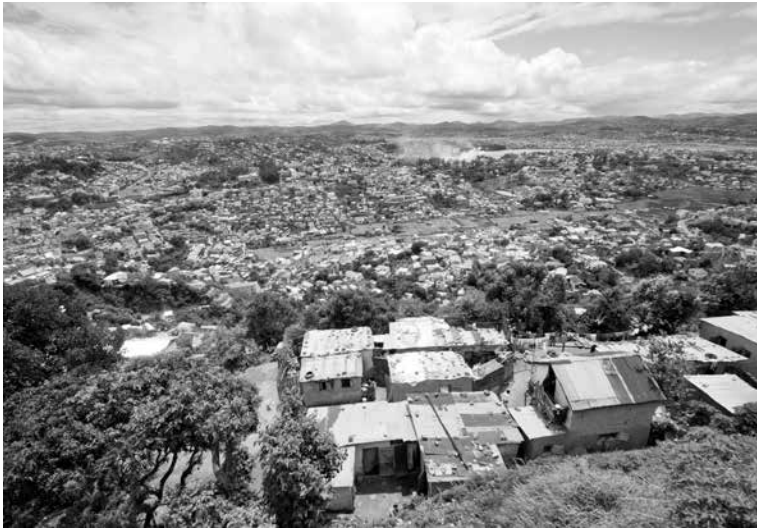
Organization	Document	Status
U.N.	Convention on the Elimination of All Forms of Discrimination Against Women	Ratified/Acceded
U.N.	Convention on the Political Rights of Women	Ratified/Acceded
U.N.	Convention on the Rights of the Child	Ratified/Acceded
U.N.	International Covenant on Civil and Political Rights	Ratified/Acceded
U.N.	International Convention on the Elimination of All Forms of Racial Discrimination	Ratified/Acceded
U.N.	United Nations Convention Against Corruption	Ratified/Acceded
AU	African Charter on Human and Peoples' Rights	Ratified/Acceded
AU	African Union Convention on Preventing and Combating Corruption	Ratified/Acceded
U.N.	Communication No. 488/1992. Toonen vs. Australia	Ratified/Acceded
U.N.	Convention on the Rights of People with Disabilities	Signed
AU	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Signed
U.N.	Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 8 I.L.M. 679, entered into force Jan. 27, 1980	Signed
U.N.	Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms	Persuasive Upon
U.N.	United Nations Human Rights Committee, General Comment No. 18, Nondiscrimination	Persuasive Upon
U.N.	Universal Declaration of Human Rights	Persuasive Upon
U.N.	United Nations Office of the High Commissioner for Human Rights. The Right to Freedom of Expression and Opinion	Persuasive Upon
AU	African Union Declaration on the Principles Governing Democratic Elections in Africa	Persuasive Upon
AU	NEPAD Declaration on Democracy, Political, Economic, and Corporate Governance	Persuasive Upon
U.N.	United Nations Human Rights Committee, General Comment No. 25 on The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service	Persuasive Upon
U.N.	United Nations Human Rights Committee, General Comment No. 10 on Freedom of Expression (Article 19)	Persuasive Upon
AU	African Charter on Democracy, Elections, and Governance	Not Party To

The Carter Center did not observe the first round of voting for the presidential elections held on Oct. 25. Instead, the Center's election observation was focused on the second round of presidential elections and legislative elections that took place simultaneously on Dec. 20.

The Carter Center deployed an initial core team of experts to Madagascar in October 2013 and established an office in Antananarivo. This team assessed critical issues that would frame the

larger electoral process and began in-country logistical preparations for the arrival and deployment of long-term observers. Meetings were conducted with key stakeholders to explore the status of electoral preparations, including representatives of the government, political parties, candidates, civil society organizations, the judiciary, media, police, and others.

Six long-term observers representing six different countries joined the core team in



Antananarivo is the capital and largest city in Madagascar.

mid-November. After their arrival, observers were briefed in the capital and deployed to the field on Nov. 18. In the field, they assessed the campaign period and electoral preparations in six regions, including Toamasina, Fenoarivo, Antsirabe, Fianarantsoa, Toliara, and Antsiranana. Observer teams provided regular reports on political developments in their respective regions.

The Carter Center partnered with the Electoral Institute for Sustainable Democracy in Africa to observe the Dec. 20 polls. The integrated EISA/

Carter Center mission was co-led by Cassam Uteem, former president of Mauritius; Denis Kadima, executive director of EISA; and Dr. John Stremlau, vice president of the Carter Center's Peace Programs. The EISA/Carter Center team consisted of 26 observers from 19 countries, and they visited 85 polling stations.

Carter Center observers continued to observe the aggregation of results in the transmission center and remained in Madagascar until the end of December to observe the tabulation process and the immediate postelection period. The Center's core team remained in

Antananarivo through January 2014 to continue to observe the postelection period, including the resolution of election-related disputes and the announcement of election results.

During this time, The Carter Center issued two press statements on aspects of the electoral process, summarizing observations and findings and offering recommendations to key stakeholders. These reports can be found in Appendix D, and their key findings are summarized in this report.

Historical and Political Background

Overview

Madagascar became independent from France in 1960. During the subsequent five-and-a-half decades, Malagasy politics have been volatile and prone to mass protests and military intervention. For the first three decades of independence, Madagascar was dominated by two longstanding regimes, one led by the pro-French President Philip Tsiranana and the other by Marxist–Socialist turned pragmatist Vice Admiral Didier Ratsiraka. After the political system became more open to multiparty competition in the early 1990s, elections became a more meaningful aspect

of the political process—but one that was too frequently and easily swept aside during moments of political gridlock or crisis. Long-term political and economic stability is not a hallmark of Madagascar’s political history, nor is good governance or institutionalized democracy. The 2013 elections provided the opportunity to break with this overly contested and conflict-ridden past to open a new peaceful democratic chapter.

Single-Party Dominance and a Close Relationship With France (1960–1975)

Madagascar’s First Republic began in 1960 when Madagascar became an independent state. However, independence did not usher in a sharp break with its former colonizer. Instead, Madagascar’s first postindependence president, Philip Tsiranana of the Parti Social Démocrate, presided over a political system that continued to allow French citizens to dominate the upper class of society while maintaining political and economic coordination between Paris and Antananarivo. With the blessing of France (Tsiranana was selected by the French government), the new president dominated Madagascar’s politics in the postindependence period. The regime was an authoritarian one-party state, and it tolerated minimal dissent.

Over time, Malagasy citizens began to grow weary of the postindependence arrangement, which was not drastically different from the colonial period. In 1971, Tsiranana’s regime

Rice is important to the country, both culturally and as a valuable food source. This paddy is in the Antananarivo area.



Thomas Cox

crushed a rebellion, the first major challenge to his power. The following year, farmer and student protests broke out. Although these, too, were crushed, Tsiranana recognized that his regime was intensely unpopular. Trying to save his presidency, Tsiranana dissolved his government and appointed Gen. Gabriel Ramanantsoa as prime minister. This move failed to stem the tide of discontent, and Tsiranana reluctantly handed over the reins of presidential power to Gen. Ramanantsoa in October 1972.

The transfer of power to Gen. Ramanantsoa set a precedent of military involvement in politics that would endure for decades and provoke instability in Madagascar's politics. Having been trained in the French army, Ramanantsoa ruled for three years, maintaining a close relationship with France in Tsiranana's mold. His attempts to sew Madagascar's fraying social and political fabric back together were unsuccessful, and he, too, was forced to resign due to protests and political instability. His successor, another military officer, Col. Richard Ratsimandrava, was in power for six days before he was assassinated. Ratsimandrava's successor, Gen. Gilles Andriamahazo, served as president for just five months before being pushed aside by another military officer, Vice Admiral Didier Ratsiraka.

Therefore, Madagascar's first 15 years of independence were marked by regime volatility, single-party authoritarianism, military rule, and a continued close alliance with France, the former colonial power.

Single-Party Dominance and the Red Admiral's Break With France

Vice Admiral Didier Ratsiraka took power in June 1975. Ratsiraka and his political party, the Vanguard of the Malagasy Revolution, instituted a Marxist–Socialist system of government that began Madagascar's Second Republic. During Ratsiraka's rule, Madagascar severed its ties with France and other Western allies. Ratsiraka nationalized a number of Malagasy industries and proclaimed a national goal of economic self-sufficiency. While officially declaring a nonalignment foreign policy, Madagascar shifted

Table 2: Country Profile

Population	22,599,098 (July 2013 estimated)
Ethnic Groups	Malayo-Indonesian (Merina and related Betsileo), Cotiers (mixed African, Malayo-Indonesian, and Arab ancestry–Betsimisaraka, Tsimihety, Antaisaka, Sakalava), French, Indian, Creole, Comoran
Languages	French (official), Malagasy (official), English
Religions	Indigenous beliefs 52 percent, Christian 41 percent, Muslim 7 percent
Life Expectancy	64.85 years
GDP Per Capita	\$900 (2012 estimated)
System of Government	Republic
Legal System	Civil law system based on the old French civil code and customary law in matters of marriage, family, and obligation

toward a political alignment with Eastern Bloc countries. This political and economic reorientation came shortly after the global oil crisis of 1973. The global economic downturn and the shock to domestic industry from a split with France were too much for the fragile Malagasy economy to absorb. The economy collapsed, and the country was bankrupt by 1979. Ratsiraka was forced to abandon his ideological commitments and accepted bailouts from the International Monetary Fund and World Bank, which, in turn, pushed the administration to adopt a free-market economic policy and combat government corruption. Despite Ratsiraka's pragmatic change of heart and his attempts to reinvigorate the economy with more liberal policies, economic growth remained stagnant and his popularity dwindled. Public support for Ratsiraka plummeted after presidential guards opened fire on unarmed protesters in 1991. Shortly after, Ratsiraka was removed from office, and a transitional government was established under the leadership of Albert Zafy, who called for multi-party democracy. By the end of Ratsiraka's time in office, Madagascar had experimented with new ideologies and breaking ties with France but had largely failed—both in terms of forging sustained growth and in creating a stable and inclusive political system.

Zafy, Ratsiraka Again, and the Advent of Multiparty Democracy (1992–2001)

Shortly after initially taking control of the post-Ratsiraka interim government, Zafy was officially elected president of Madagascar in 1992—the country’s first genuinely competitive multiparty elections. After his election, Zafy put in place a new Malagasy Constitution, launching Madagascar’s Third Republic. The new constitution permitted multiparty competition and instituted separation of powers between the executive branch and the National Assembly, an important step to constraining the authority of the one-party state. The constitution also included a stronger emphasis on human rights, free trade, and civil liberties—though these goals remained largely unrealized.

International pressure successfully led to the Maputo accords, signed in the Mozambique capital in August 2009, that called for Madagascar to create an inclusive and neutral transitional government and mandated that elections be held within 15 months. This deadline would come and go, as 15 months would stretch into 55 months until a vote finally took place.

Madagascar’s economy continued to decline. Due to economic malaise, civil unrest, and allegations of corruption, the National Assembly impeached Zafy in 1996. After a short interim period, a presidential election was held in the same year. Running on a platform based on economic reform and decentralization, Ratsiraka returned to power after narrowly defeating Zafy with 51 percent of the vote in the runoff presidential election. His second term in office was as equally unsuccessful as his first. Economic woes persisted, and public support for Ratsiraka declined

throughout his term as president. The 1990s transformed Madagascar from an authoritarian single-party state to a fragile multiparty democracy.

Growth, Reform, and CEO Ravalomanana Versus President Ravalomanana (2001–2009)

The next elections, held in 2001, pitted Ratsiraka against the mayor of Antananarivo, Marc Ravalomanana. Ravalomanana had built an impressive dairy company, Tiko, into a national empire and had subsequently created tangible progress during his time presiding over the capital city. As a result, Ravalomanana was popular and won the first round of the 2001 election, but he failed to clear the 50 percent plus one hurdle required to avoid a presidential runoff. Shortly after that result was announced, however, the results were changed and reannounced, giving Ravalomanana enough votes to avoid a runoff.

Ratsiraka refused to recognize Ravalomanana’s victory, sparking a prolonged standoff that approached the brink of civil war. The country became home to two self-proclaimed governments. After months of simmering political violence, Ravalomanana established political dominance, and Ratsiraka was forced to flee Madagascar into exile.

Ravalomanana’s political party, Tiako I Madagasikara (translated as I Love Madagascar or TIM party), secured an overwhelming majority of seats in the Malagasy National Assembly (104 of 106 seats). During this period, Ravalomanana presided over impressive economic growth, consistently above 5 percent during his time in office. Ravalomanana was extremely popular due to Madagascar’s first brush with strong economic growth over a sustained period. He was re-elected in a landslide in 2006, though the election period was marred both by the exclusion of a prominent opponent (Pierrot Rajaonarivelo, who was in forced exile) and by a failed coup attempt by Gen. Randrianafidisoa, known colloquially as Gen. Fidy.

With his landslide victory in place, however, Ravalomanana began running the country almost as an extension of his business, prompting observers to question his commitment to

democracy. For example, he purchased a new presidential plane but registered it to Tiko rather than to the state—prompting public outcry. This was further fueled by Ravalomanana’s announcement that he had signed a deal with Daewoo, a South Korean firm, providing a 99-year lease to large tracts of Madagascar, representing roughly half of all arable land in the country. By late 2008, Ravalomanana—who had won a resounding electoral victory just two years previously—was becoming vulnerable and unpopular.

The Rise of Rajoelina and the Return of Military Intervention (2009–2012)

Ravalomanana’s successor as mayor of Antananarivo, Andry Rajoelina, harnessed the growing opposition to Ravalomanana. Rajoelina, who had previously made a living as a radio disc jockey, utilized the airwaves and television to stoke a nascent opposition movement. He called upon disgruntled Malagasy citizens to take to the streets under the umbrella of his Tanora malagasy Vonona (TGV) party. (TGV translates to “determined Malagasy youth” but is also a play on words about the TGV bullet train in France and Rajoelina’s speedy rise in Malagasy politics.) In response to the opposition movement’s growing support, Ravalomanana closed Rajoelina’s television station in December 2008, which triggered widespread protests in the capital. These quickly turned violent, and dozens died when a burning building that was being looted collapsed.

Nonetheless, Malagasy citizens continued to heed Rajoelina’s call to take to the streets. On Feb. 7, 2009, an estimated 20,000 protesters gathered in the center of the capital, and a contingent of them crossed the “red line” of the security perimeter around the presidential palace. The military fired live rounds at the protesters, killing at least 28 (though unconfirmed estimates frequently cite a death toll above 50) and injuring hundreds. The incident both cemented popular anger toward Ravalomanana’s regime and prompted several key elements of the military to question their allegiance toward the government.

As a result, when a group of soldiers at Camp Capsat mutinied in early March 2009, the military leadership did little to stop them. A week later, the military stormed the presidential palace and forced Ravalomanana to hand over power to a military directorate. The directorate took power and immediately transferred it to Rajoelina, their handpicked president.

When Rajoelina took power, the international community’s reaction was swift and coordinated. The African Union suspended Madagascar’s membership, and all foreign aid to Madagascar dried up as foreign governments refused to recognize a government that came to power after deposing an elected leader with a military coup d’état. The U.S. government went one step further, severing Madagascar’s involvement in the African Growth and Opportunity Act, a preferential trade deal that provided an estimated 150,000 direct and indirect jobs.

The political, social, and economic costs of the 2009 coup hit Madagascar’s people hard. Nevertheless, Rajoelina formed an interim transitional government called the High Transitional Authority that was packed with TGV partisans. International pressure successfully led to the Maputo accords, signed in the Mozambique capital in August 2009, that called for Madagascar to create an inclusive and neutral transitional government and mandated that elections be held within 15 months. This deadline would come and go, as 15 months would stretch into 55 months until a vote finally took place.

In the meantime, Rajoelina proposed a new constitution shortly after the accords, which included an expansion of presidential powers. The vote proceeded after minimal voter education, and it was widely believed that few voters understood the content of the proposed document before they cast their votes in support. Several major opposition parties called for a boycott of the referendum. Nonetheless, the vote took place—after several delays and postponements—and it passed with 74.2 percent of the votes, albeit amid moderate voter turnout of 52 percent of registered voters. This constitution began Madagascar’s Fourth Republic in ominous fashion, as Madagascar

remained in international limbo, with no elections in sight.

After the new constitution was in place, the international community (led by the Southern African Development Community, or SADC) renewed pressure on Madagascar's past and former leaders to reach agreement and set a timetable for elections. This pressure was successful, producing a roadmap in 2011 that was intended to pave the way for a vote. The roadmap was signed by both Rajoelina and Ravalomanana and was intended to usher in a swift return to elections and an end to the crisis. However, the text of the document called for "blanket amnesty for all political events that happened between 2002 and 2009, except for crimes against humanity, war crimes, crimes of genocide, and other serious violations of human rights and fundamental freedoms." Article 20 confirmed that the transitional government would

"allow all Malagasy citizens in exile for political reasons to return to the country unconditionally, including Mr. Marc Ravalomanana."

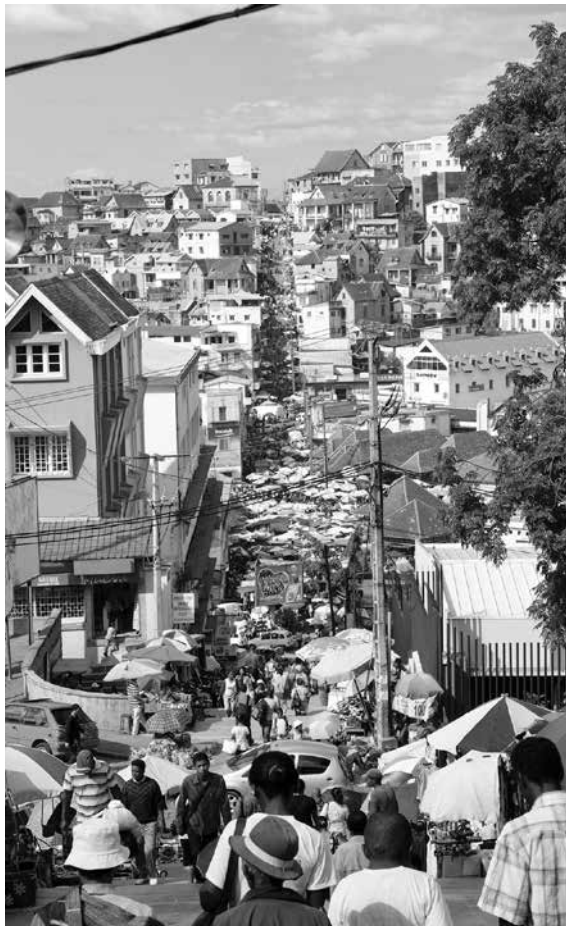
Seemingly, these provisions were intended to pave the way for Ravalomanana's return to Madagascar without the threat of immediate arrest. However, because Rajoelina interpreted Ravalomanana's actions during the lead-up to the coup d'état as "war crimes" and "crimes against humanity," the roadmap did not resolve the prolonged political deadlock surrounding Ravalomanana's return to Madagascar. The debate over this provision of the roadmap would be the lynchpin of blocked dialogue, prompting repeated delays to successive electoral calendars.

The Ni...Ni Solution and the 2013 Proxy Election

With Ravalomanana remaining in forced exile in South Africa, the international community made clear that they would not support, fund, or acknowledge elections that involved Rajoelina but not Ravalomanana. Stagnation continued and humanitarian conditions worsened, as development remained stalled by the political impasse. This deadlock was finally broken as the international community coalesced around the so-called "ni...ni" (neither/nor) solution, which would allow elections to proceed without Ravalomanana or Rajoelina's participation. On Dec. 12, 2012, Ravalomanana announced that he would abide by the proposed solution and withdrew himself from future consideration in elections. This put pressure on Rajoelina, and he eventually followed suit—taking himself out of the running with an announcement on Jan. 16, 2013.

For a brief period, it appeared that the road was clear for elections. That optimism dissipated when Ravalomanana announced on April 15, 2013, that his wife, Lalao, would stand as the candidate for his political *mouvance*. Although this may have adhered technically to the ni...ni solution, most analysts interpreted Lalao Ravalomanana's candidacy as a violation of the spirit of the ni...ni agreement. Rajoelina's reaction was swift, arguing that because Ravalomanana had reneged on his commitment, he, too, was free to do so. On May

Shoppers crowd a market in Antananarivo, Madagascar, where the World Bank estimates that 92 percent of citizens now live on less than \$2 a day.



Thomas Cox

4, 2013, one day after the close of the candidate nomination period, Rajoelina announced that he would stand as a candidate in elections, rescinding his previous pledge.

This reversal of progress prompted the international community—particularly the European Union—to rescind its offer to provide critical financial support for the elections. As a result, the elections, scheduled to take place on July 24, 2013, were postponed. The impasse continued as that date came and went, and the elections were rescheduled for Aug. 23, 2013.

As the scheduled elections approached, the political deadlock remained in place, and it became apparent that they would not take place as planned. Just five days before the proposed election day, on Aug. 18, 2013, the Special Election Court ruled that Rajoelina, Lalao Ravalomanana, and former President Ratsiraka (along with five other candidates) were ineligible to run. In the case of Rajoelina, he was disqualified because he had filed his candidate registration papers after the prescribed period. The candidacies of Lalao Ravalomanana and former President Didier Ratsiraka were also rejected by the court on the basis that they failed to meet the residency requirement of having lived in Madagascar for the six months prior to registration—something they had not done but only as a result of their forced exiles. This ruling opened the way to elections but set a dubious precedent by using exile as the legal basis to disqualify political opposition.



Regardless, the elections proceeded, as Rajoelina and Ravalomanana both selected proxy candidates to represent their political movements in their stead. Ravalomanana selected one of his former government ministers and a former World Health Organization official, Dr. Jean-Louis Robinson. Rajoelina selected his former minister of budget and finance, Hery Rajaonarimampianin. CENI-T, the independent electoral commission, finally set a date of Oct. 25 for the first-round presidential elections and Dec. 20 for the legislative elections and second-round presidential runoff.

A delegation meets with the president of the transition, Andry Rajoelina.

Electoral Institutions and the Framework for the Elections

Effective electoral institutions and a sound legal framework are essential to the administration of democratic elections and to ensuring that a country upholds its international obligations. The legal framework includes constitutional provisions, domestic laws, and regulations regarding the electoral process. Based on its international commitments, Madagascar is obligated to take measures to promote the principles of the rule of law, recognizing that laws must be consistent with international principles of human rights.¹

Madagascar's electoral law includes positive measures for transparency and fair campaigning. Its robust judicial avenues to contest and appeal election results were an important contribution to democratic institutions.

Legal Framework

The regulatory framework for Madagascar's presidential and legislative elections is provided by the constitution of Dec. 11, 2010; the roadmap of Sept. 16, 2011, incorporated into the Malagasy legal system by the law of Dec. 28, 2011; and the laws and regulations of the Republic of Madagascar. In addition, Madagascar has ratified a series of international and regional human and political rights instruments that are relevant to the electoral process. These treaties include the

International Covenant on Civil and Political Rights; the African Charter on Human and Peoples' Rights; the African Union Convention on Preventing and Combating Corruption; International Convention on the Elimination of All Forms of Racial Discrimination; International Convention on Economic, Social, and Cultural Rights; Convention on the Elimination of Discrimination Against Women; Convention on the Political Rights of Women; Convention on the Rights of the Child; and the United Nations Convention Against Corruption. It has also signed the protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Madagascar's electoral law includes positive measures for transparency and fair campaigning. Its robust judicial avenues to contest and appeal election results were an important contribution to democratic institutions.² Also, Article 46 of Madagascar's Constitution, which invalidates any candidate who uses public assets to campaign, could be a positive deterrent to corruption, if enforced.

The Carter Center commends CENI-T for its work in compiling a comprehensive set of legal texts governing the elections and making the legal framework more accessible to stakeholders.

¹ U.N., International Covenant on Civil and Political Rights, Article 2; AU, ACHPR, Article 1; UDHR, Article 21(3); ICCPR, Article 25(b)

² Organic Law No. 2012-005, March 15, 2012, Article 23

However, there is room for improvement. The legal framework sometimes lacks coherence and should be reviewed for grammatical and spelling errors.

The Decrees and the Principle of Neutrality

Madagascar's electoral law and the roadmap require that members of the government exercise neutrality during the time of elections.³ In its preliminary statement released on Dec. 22, The Carter Center noted that the enactment of two decrees on April 16 and Aug. 6, 2013, contradicted this sentiment of neutrality, removing the provision of the roadmap that insisted on the neutrality of the current heads of Malagasy political institutions during the legislative and presidential campaigns. The second decree was annulled by the Special Election Court but, unfortunately, this annulment came on the final day of the campaign period, making its enforcement irrelevant. Heads of institutions—notably Rajoelina—were able to campaign throughout the campaign period in support of Hery Rajaonarimampianina, who was perceived to be Rajoelina's proxy candidate. The decree also benefited the Robinson camp, as influential heads of Malagasy institutions, including the president of the Congress of the Transition, Mamy Rakotoarivelo, participated in his campaign.

Thomas Cox



Toliara is nicknamed "City of the Sun" because of its hot climate.

Electoral System

The essence of any electoral system should be to translate the will of the people into a representative government.⁴

Madagascar is divided into 119 constituencies, with 87 single-member constituencies and 32 two-member constituencies.⁵ The difference in these two types of constituencies is related to population, with constituencies of more than 250,000 inhabitants (urban areas) being two-member constituencies and those with fewer than 250,000 inhabitants (the more rural areas) being the single-member constituencies.

Legislative elections in the single-seat constituencies are conducted with the first-past-the-post system, while two-member constituencies use a closed-list system of proportional representation. Although political parties are able to nominate two candidates in these two-member constituencies, only one candidate for each party appears on the ballots, despite it being a two-member constituency where a party has nominated two candidates. In two-member constituencies, this mismatch between the electoral system and ballot design should be rectified before future elections.

Electoral Institute for Sustainable Democracy in Africa



Carter Center and EISA leadership John Stremiau (left) and President Uteem (middle) meet with presidential candidate Hery Rajaonarimampianina.

3 Organic Law No. 2012-005, March 15, 2012, Articles 45 and 115; Roadmap For Ending the Crisis in Madagascar, Dec. 28, 2011, Article 15

4 U.N., International Covenant on Civil and Political Rights, Article 25(b); International IDEA Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections, p. 28

5 Organic Law No. 2013-083

A mix of majoritarian and proportional representation systems is used jointly in 13.8 percent of countries worldwide.⁶ Although it adds complexity, this parallel representation system used in the Malagasy legislative elections supports a comprehensive representation of the will of the voters. In past elections, these systems ensured a satisfactory level of representation for the Malagasy population.

The president of Madagascar is elected in a two-round system in a single nationwide constituency. Candidates can be elected outright in the first round if they receive more than 50 percent of the vote. If no candidate reaches this threshold, a second round is organized between the two candidates who garnered the highest numbers of votes in the first round. This second round of elections must be held within 30 days of the official release of the first-round results.⁷

The current boundary delimitation creates considerable variance between districts and, therefore, undermines the principle of equal suffrage.

Boundary Delimitation

To ensure that the right of equal suffrage is respected, the delimitation of boundaries should seek to ensure that elected representatives represent reasonably equal numbers of constituencies.⁸ Boundary delimitation should be managed by an independent and impartial body representative of the society as a whole so electoral boundaries do not favor any particular social group or political interest.⁹

The current boundary delimitation creates considerable variance between districts and, therefore, undermines the principle of equal suffrage. The current system is based on older administrative divisions and results in significant differences in the number of inhabitants represented for different legislators, meaning that the votes of citizens in districts with fewer inhabitants per seat

have a greater impact on election results than the vote of a citizen in a larger district.

Constituent representation per legislative seat in Madagascar ranges from as low as 5,219 inhabitants per seat in Ampanihy to as high as 143,036 inhabitants per seat in Anjozorobe. (See Appendix G.) While the use of pre-existing administrative divisions as a basis to draw constituencies may have had some financial and logistical advantages, future designs of the electoral system should include a revised boundary delimitation process that creates a more equitable population distribution in Madagascar's parliamentary seats.

Election Management

An independent and impartial election management body that functions transparently and professionally is recognized as an effective means of ensuring that citizens are able to participate in a genuine democratic process and that other international obligations related to the democratic process can be met.¹⁰ The election management body should have the responsibility of ensuring that the electoral process is in compliance with Madagascar's obligations for democratic elections and human rights. The body should also ensure accountable, efficient, and effective public administration as it relates to elections.¹¹

These elections were notably the first to be conducted in Madagascar through an independent body. Previous elections in Madagascar

6 ACE electoral knowledge network database: <http://aceproject.org/epic-en/CDTable?question=ES005#g>

7 The Constitution of the Fourth Republic of Madagascar, Nov. 22, 2010, Article 47, para. 3

8 UNHCR General Comment No. 25, para. 21: "[...] The principle of one person, one vote, must apply, and within the framework of each state's electoral system, the vote of one elector should be equal to the vote of another. The distribution of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group [...]" <http://www.unhcr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb>. The Venice Commission, Code of Good Practice in Electoral Matters, section I.2: "Seats must be evenly distributed among constituencies"; and p.17 of the Explanatory Report, [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf)

9 EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 13

10 UNHCR, General Comment No. 25, para. 20

11 Venice Commission, Code, sec. II.3.1.c

were primarily conducted through the Ministry of Interior.

The constitution of the Fourth Republic of Madagascar provides for an “independent national structure” that is responsible for the conduct of elections,¹² and the roadmap¹³ established a temporary election administration structure, the National Independent Election Commission (CENI). The election commission’s mandate was later domestically established by Organic Law No. 2012–004,¹⁴ which expresses the institutional and financial independency of the collegial body, the National Independent Election Commission for the Transition or CENI-T.

CENI-T is governed by its General Assembly, composed of 24 members, supported by a secretariat, and headed by a collegial executive

secretary-general. Twenty-one of the 24 General Assembly members represent a broad spectrum of civil society organizations and branches of government. The Carter Center is pleased to note that the spirit of inclusiveness of the CENI-T continued down to the lowest levels of election administration.

While the decision-making process is centralized de facto at the national level, a large part of the election preparations and election-day operations is decentralized to the 22 regional election commissions, 119 district election commissions, and 1,553 municipality election commissions. The Carter Center recognizes the good faith effort that CENI-T officials and polling staff put forth to ensure that Madagascar could re-establish democracy and end its long-standing crisis.

Gaston Kalombo



The president of a polling station oversees operations in Toamasina on election day.

12 The Constitution of the Fourth Republic of Madagascar, Nov. 22, 2010, Article 5: “The organization and administration of electoral operations fall under the jurisdiction of an independent national structure.”

13 The roadmap was introduced to the Malagasy legal system by the Organic Law No. 2011–014, Dec. 28, 2011.

14 Organic Law No. 2012–004, Feb. 1, 2012

CENI-T and local administration bodies recruited 140,007 polling staff in order to conduct the election in 20,001 polling stations across the island. At the local level, representatives of civil administration (*chefs du fokontany*) played a major role in recruiting polling staff. In its preliminary statement released on Dec. 22, The Carter Center also noted that its long-term observers reported that due to limited resources, district-level election administration often depended on municipal-level civil administration to conduct the elections. In future elections, CENI-T should re-evaluate its structure, strive to continue to enhance its independence, and reduce the need to rely on government elements at the local level.

Brett Lacy



Carter Center country expert Brian Klaas speaks with polling officials and records observations on an electronic system that reports data in real time to Carter Center and EISA election analysts.

CENI-T conducted electoral operations with a satisfying level of independence and collaborated with its national and international partners.

Although the CENI-T is authorized to release election results, these results are not binding. Only the Special Electoral Court has the power to release final certified results. As a result, the decision-making power of CENI-T as the only authority mandated by the constitution to organize the elections is greatly diminished compared to that of the court. While the CENI-T's budget allows for a thorough tabulation and results

process, the court has a much more limited financial and technical capacity to perform the same tasks. In future elections, the full authority for the counting, tabulation, and announcement of results should rest with an independent electoral authority.

CENI-T conducted electoral operations with a satisfying level of independence and collaborated with its national and international partners. However, at times the presence of high-level government officials during CENI-T meetings and deliberation presented a possible avenue for conflicts of interest. Despite this presence, there is no evidence that electoral operations or results were influenced.

| Pre-election Period

Voter Registration

Voter registration is recognized as an important means to ensure the right to vote, and it should be made available to the broadest pool of citizens possible without obstacles to ensure universal and equal suffrage.¹⁵

The rights of universal and equal suffrage are fundamental in democracies and are a critical part of democratic elections. The constitution of Madagascar and other Malagasy legislative acts affirm these human rights.¹⁶ For example, Madagascar's electoral law¹⁷ outlines the procedure for establishing the voter list and stipulates that it must be regularly updated. While the voter list is independent of the civil register, identity verification (using a national identity card) is required when registering as a voter.

According to the official calendar, voter registration took place between Oct. 1, 2012, and Oct. 9, 2013, which was prior to the arrival of Carter Center observers. Registration activities were not directly observed by the Center. The comments included here reflect analysis of the legal framework for voter registration; the impact of the voter registration process observed on election day; and information collected from interviews with political parties, civil society organizations, and international organizations.

Voter registration was conducted by election officials deployed by CENI-T to each of the 1,553 municipalities of Madagascar. This process was largely coordinated with local administration, or *chefs du fokontany*. Election officials visited

households across the country, filled in registration forms, and transmitted copies to CENI-T. During registration, some instances of confusion in the process reportedly led to voters assuming they were registered, when in reality, their name was never recorded in the voter list.

Distribution of Voter Cards

Although The Carter Center did not directly observe the registration process, the process included an official display of the voter list, a complaint period for correction of irregularities, and the distribution of voter cards to registered voters. However, in some circumstances the distribution of these cards by local electoral administration was delayed. While a voter card was not required to vote in Madagascar's 2013 elections,¹⁸ the document has traditionally been compulsory in previous elections. This history led many voters to believe that voter cards would be required in order to vote. People who did not receive a voter card—or received one after a long delay—may have mistakenly believed they were ineligible to vote, which may have discouraged some from voting.

15 U.N., International Covenant on Civil and Political Rights, Article 25(b); AU, AU Declaration on the Principles Governing Democratic Elections in Africa, Article 1; U.N., United Nations Human Rights Committee, General Comment No. 25 on "the Right to Participate in Public Affairs, Voting Rights, and the Right to Equal Access to Public Service," para. 11

16 The Constitution of the Fourth Republic of Madagascar, Nov. 22, 2010

17 Organic Law No. 2012-005, March 15, 2012

18 The national identity card is the only identification required for polling; not the voter card.

Additionally, although the voter card was not required to vote, it is an important source of information and indicates the designated polling location for each voter. Voters without voter cards did not have access to information about their polling location. In some areas, Carter Center observers witnessed the distribution of voter cards as late as election day.

Representative Factor in the Voter List

Ultimately, the voter list included 7,823,305 eligible citizens. Although the Center did not directly observe the registration process, and while accurate demographic data is unavailable, analysis suggests that the register likely underrepresented the voting-age population. In addition, it is extremely likely that many people were not registered properly in the first place. U.N. projections, based in part on Madagascar's last census (conducted in 1993), indicate that at least 10,500,000 citizens of Madagascar should be eligible to vote. If that figure is correct, only 74.5 percent of eligible Malagasy citizens registered to vote in the 2013 elections. Moreover, according to official, national-level statistics, more than 3 million adult citizens do not have a national identity card. Lacking this card would prevent them from registering.

In its Dec. 22 statement, The Carter Center noted that these concerns of underregistration were compounded by low voter turnout, particularly in the second round, with just under 51 percent of registered voters casting ballots.

The increase in the size of the voter roll between 2006 and 2013 was extremely low (a 2.7 percent increase), another indicator that demographic growth was not being captured by voter registration.¹⁹ In six of the country's 22 regions, the number of registered voters decreased from the elections in 2006 to the recent elections

in 2013—in spite of the fact that the best demographic estimates show that Madagascar's population has been growing relatively quickly in all regions.

In its Dec. 22 statement, The Carter Center noted that these concerns of underregistration were compounded by low voter turnout, particularly in the second round, with just under 51 percent of registered voters casting ballots. If the demographic estimates are correct that more than 10.5 million Malagasy citizens should be eligible to vote, it is important to note that the winning presidential candidate, Hery Rajaonarimampianina, won with just over 2 million votes—less than 20 percent of the age-eligible population.

The Additive Voter List

Reports from international observers indicated that during the first round of presidential elections on Oct. 25 (prior to the arrival of Carter Center observers) some problems arose related to inadequacies with the voter list. As a result, CENI-T reviewed the official voter list and discovered that some names of properly registered voters were omitted from the final copy used for voter identification at the polling station, an error that caused some voters to be disenfranchised.

This resulted in the decision to revise the voter list between the first and second rounds by reintegrating 143,408 voters who were initially registered but whose names were not added to the list in the first round of presidential elections. This decision was reached after a robust debate that involved some parties suggesting that voter registration should be completely reopened to new registrations. The Carter Center supports the CENI-T decision not to open the voter list, opting instead to reinstate the names of previously registered voters. Reopening the list for the registration of new voters between the first and second rounds of elections would have been challenging and would have meant that the two parts of the

¹⁹ "Analysis of the electronic voter list of the presidential elections of Dec. 3, 2006, and administrative status of the Malagasy population was based on the rule of law, democracy, and development in Madagascar." — Ministry of the Interior, June 2009

same presidential election were conducted with different electorates.

Exclusions From Eligibility

Only small groups of people should be excluded from voting under Malagasy electoral law.²⁰ Madagascar's Constitution allows for voters to be excluded from participation in elections only by court ruling.²¹ If these are the only groups of people excluded under established procedures, being based on objective and reasonable criteria, such restrictions are in line with international standards for democratic elections. Madagascar's laws do not provide for the disenfranchisement of sick or incarcerated citizens. The Carter Center regrets, however, that attempts were not made to register and facilitate the enfranchisement of eligible voters in Madagascar's 2,648 hospitals²² or 41 detention centers.²³

Women and the Voter Register

Although official voter registration data disaggregated by gender is not available, some civil society groups compiled statistical information related to women's participation in the voter registration process that indicated women likely participated at high levels, with an estimated 46 percent of the final registry being women.²⁴

Conclusions

Before Madagascar's next elections, steps should be taken to ensure that the problems related to voter registration are not repeated. In particular, future electoral processes would benefit greatly from the conduct of a comprehensive national census, followed by a new voter registration process to generate a clean and representative voter list.

In future elections, voter cards should be distributed to all Malagasy citizens with ample time before elections take place. Comprehensive efforts to educate voters, not just about the voting process itself but also about the registration process, should be made across the island.

The electoral management body should ensure that voters are given ample opportunity to be notified of their voting eligibility status and given sufficient time to appeal any decisions that would restrict their right to participate.

Voter Education

Voter education is an essential part of the electoral cycle that is recognized in international law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote.²⁵

In future elections, voter cards should be distributed to all Malagasy citizens with ample time before elections take place. Comprehensive efforts to educate voters, not just about the voting process itself but also about the registration process, should be made across the island.

Voters' understanding of the secrecy of the ballot was of fundamental importance, particularly given the highly politicized environment in which these elections took place and the country's political culture of punishing losers and their supporters. These elections included important changes, such as the introduction of a single ballot paper for the first time and the change in voter identification procedures. Voter education efforts to enhance awareness and understanding of these changes were broadly recognized as being essential to the process but, ultimately, appear to have been underfunded and ineffective.

20 Organic Law No. 2012-005, March 15, 2012, Article 4

21 The Constitution of the Fourth Republic of Madagascar, Nov. 22, 2010, Article 5

22 2,485 Municipal Health Centers (CSB 1 and 2) have the capacity of accommodating 9,940 patients (source: Ministry of Health). Additionally, there are 148 other health institutions with residing patients. However, the number of eligible adult patients currently being hospitalized in public health centers is not available.

23 The population of those awaiting trial in Madagascar's detention centers is thought to be about 10,000.

24 Data related to the participation of women in the elections was compiled from a range of meetings with stakeholders, including CENI-T, National Women's Council of Madagascar, Focus Development Association, and EISA.

25 ICCPR, Article 25; UNHRC, General Comment No. 25, para. 11



Thomas Cox

Children entertained themselves by playing outside a polling station the day before election day. They enjoyed the camera too.

Carter Center observers noted limited voter education activity in advance of the Dec. 20 elections. Thirty-two civil society organizations under the supervision of CENI-T were given materials to conduct voter education. However, their overall capacity, level of programming, and impact throughout the election process remain unclear. The Project to Support the Electoral Cycle in Madagascar was among the more prominent organizations that conducted voter education aimed at maximizing voter participation.

In spite of the new procedures and limited voter education activities, voters seemed to have understood the basic voting process and were given support by polling staff when needed. Polling staff members were generally willing to help voters with casting their ballots and contributed positively to the success of the electoral process.

Candidates, Parties, and Campaigns

Political pluralism and genuine choice for voters are critical aspects of democracy. Equitable treatment of candidates and parties during an election, as well as the maintenance of an open and transparent campaign environment, are important to

ensuring the integrity of the democratic election process. Madagascar has accepted several important international obligations in relation to candidates, parties, and the campaign environment, including ensuring that every citizen has the right to be elected²⁶ and the right of freedom of assembly.²⁷

Due to its international obligations for democratic elections, the Republic of Madagascar committed to ensure “a real political pluralism, an ideological variety, and a multiparty system that are exercised through

functioning of political parties....”²⁸ In order to ensure this important ambition, Madagascar is also obligated to ensure that “every citizen should have equal legal possibilities to propose him/herself as a candidate in elections.”²⁹

The Malagasy legal framework for political parties and campaigns contains some positive measures in support of electoral transparency. For example, Article 45 of the electoral law prohibits any official inauguration ceremony, such as of a building or event, during the election campaign period. This is a positive measure that, in practice, could reinforce an equal playing field for candidates. However, it was not fully respected during the campaign.

The Carter Center congratulates the Malagasy people on conducting campaigns for presidential and legislative elections in a largely peaceful

26 See, for example, UDHR, Article 21(1); ICCPR, Article 25(b); AfCHPR, Article 13(1); CISCRRFF, Article 29(b)

27 ICCPR, Article 21; AfCHPR, Article 11; CISCRRFF, Article 12(1)

28 CIS, Convention on the Standards of Democratic Elections, Electoral Rights, and Freedoms in the Commonwealth of Independent States, Article 9(2)

29 Ibid., Article 3(4)

manner. While the campaign period was peaceful, regrettably there was a grenade attack in the capital during Rajaonarimampianina's inauguration on Jan. 25, which killed one child and injured 37 others. No other major violent events occurred during the electoral process.³⁰

The peaceful campaign period is a major improvement from previous elections and an important milestone for Malagasy democracy.

Approximately one month before the presidential runoff elections, one-third of Madagascar's regional governors were replaced with military personnel, a move that was seen as unnecessarily inflammatory given Madagascar's history of postelection coups. In its Dec. 22 statement, the Center noted regret for this decision to replace governors with military personnel, which created unnecessary uncertainty about the role of the military within key government posts during Madagascar's first postcoup election.

Freedom of assembly is recognized as an essential part of democratic elections; however, this right may be restricted under circumstances prescribed by law.³¹ During the campaign period, candidates were free to organize meetings after fulfilling conditions dictated by electoral code, which required the prior notification of administrative authorities. The Carter Center believes that despite this requirement, no candidates reported difficulty with enjoying their freedom of assembly.

Candidate Debates

CENI-T and the Friedrich Ebert Foundation organized three presidential debates between the two second-round finalists, Dr. Jean-Louis Robinson and Hery Rajaonarimampianina. Though at times pointed, the debates were largely conducted in a respectful manner that allowed Malagasy citizens to hear directly from the candidates on live television and radio as they discussed important issues about Madagascar's future. The continuation of these debates in future elections is encouraged for presidential and legislative races.

Political Parties

Political parties play a critical role in democratic societies to connect citizens to government. In a

healthy democracy, competition among political parties provides citizens a meaningful choice in governance, outlets for participation in politics, and ways to mobilize citizens around issues that affect their lives.

Although the abundance of over 200 political parties in Madagascar is indicative of competition, The Carter Center regrets that most parties are weak and lack internal organization and institutions, and most are inactive outside the capital city. Few parties in Madagascar put forward a coherent slate of candidates. Some parties are empty shells, with a membership that does not extend beyond a single candidate.

Madagascar's democracy would be better served if parties extended their outreach and built membership. Moreover, parties should devote more effort to constructing platforms and policy statements beyond the personality of their featured candidate.

Approximately one month before the presidential runoff elections, one-third of Madagascar's regional governors were replaced with military personnel, a move that was seen as unnecessarily inflammatory given Madagascar's history of postelection coups.

Similarly, The Carter Center is disappointed by the lack of an oversight body for the code of conduct of candidates and political parties. Electoral rules and regulations exist to ensure fairness and that elections accurately reflect the will of the people. Without oversight and enforcement, it is difficult to ensure that a campaign is conducted appropriately. This is an important flaw that should be addressed in advance of future elections.

30 Legislative candidate Victorio Antonio Rakotobe was killed on Nov. 16 at his home in Antananarivo. His death was reportedly not politically motivated but rather linked to the high level of criminality that prevails in the island.

31 ICCPR, Article 21; AfCHPR, Article 11; CISCHRFF, Article 12

Campaign Finance

Madagascar is obligated to take measures to prevent corruption, particularly in the context of campaign financing.³² Campaign finance regulations should enforce a transparent process in which all political parties and candidates are treated equally.

While Article 47 of Madagascar's electoral law references regulating campaign finance, the political parties' law makes no reference to campaign finance regulation. Regardless of the legal foundation for campaign finance oversight, no scrutiny or regulation of money used in campaigns was conducted during the 2013 Malagasy elections.

The lack of campaign finance regulation and oversight was one of the largest shortcomings of these elections, particularly in the politically charged context in which these elections was conducted and in the spirit of the roadmap that sought to protect a neutral environment.

Greater oversight of campaign expenditure and public disclosure of candidate assets would have provided greater financial transparency throughout the process while strengthening voter confidence in the electoral process.

The overall absence of transparency in campaigns—coupled with the refusal of both presidential candidates to publish the details of their campaign spending—contributed to an opacity of the 2013 presidential and legislative campaigns, undermining Madagascar's obligations for democratic elections.³³

With no campaign finance regulations in place, it was difficult for observers, parties, and citizens to assess how much money was spent or whether financial resources were improperly used to secure an electoral edge. The Center regrets that Madagascar lacks a clear legal framework to regulate campaign finances and that attempts by civil society organizations to compel candidates

to publicize their assets were ignored. Greater oversight of campaign expenditure and public disclosure of candidate assets would have provided greater financial transparency throughout the process while strengthening voter confidence in the electoral process.

Participation of Women, Minorities, and Marginalized Groups

Gender equality is an important goal of democratic elections. Article 5 of the Malagasy Constitution provides for gender equality in voter eligibility. Article 6 of the constitution mandates equality between men and women and forbids all forms of discriminations based on gender. International and regional obligations also protect women's rights and ensure their democratic right to participation.³⁴ Madagascar has committed to taking measures to ensure that:

- a. Women participate without any discrimination in all elections.
- b. Women are represented equally at all levels in all electoral processes.
- c. Women are equal partners with men at all levels of development and implementation of state policies and development programs.”³⁵

According to the latest comparative reports³⁶ aimed at monitoring gender equality in SADC countries, Madagascar is situated at the bottom of the list in achieving the objectives of its regional commitments.³⁷ The current representation of Malagasy women in decision-making positions is exceptionally low. While in the previous

32 U.N. Convention Against Corruption, Articles 18 and 37; African Union Convention on Corruption, Article 7; UNCAC, Article 7

33 African Charter on Democracy, Elections, and Governance, Article 2, para. 10; ICCPR general comments on Article 25, para. 19

34 ICCPR, Convention on the Political Rights of Women

35 AU, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 9(1); SADC Protocol on Gender and Development, Article 12

36 The SADC Gender Protocol Barometer (Baromètre du Protocole de la SADC sur le Genre et Développement) (Last Barometer 2012) indicates that Madagascar falls short of achieving the protocol's objectives.

37 SADC Protocol on Gender and Development: <http://www.sadc.int/documents-publications/show/803>

parliamentary mandate 11 percent of parliamentarians were women, only 4.7 percent of the country's mayors are female and only 2.6 percent of *chefs du fokontany* are women.

The Carter Center regrets that in spite of Madagascar's national and international obligations regarding gender equality, the meaningful participation of women as candidates in these elections was low. Just two of the 33 candidates in the first-round presidential election were women, and none advanced to the runoff elections.³⁸

In the legislative elections, female candidates represented only 15 percent of the total number of candidates, and only 10 percent of female candidates were ranked at the "head of the list" of candidates, making it distinctly unlikely that they would be elected.

During the presidential and legislative election campaign, civil society organizations reported isolated cases of intimidation toward female candidates and their supporters. In future elections, additional measures should be put in place to ensure the security of female participants of the electoral process.

The Carter Center recommends implementing legal and systematic measures that will ensure accurate representation of women in the democratic life of Madagascar and likewise recommends implementation of the goal of gender equality in terms of representation in public life as stipulated in Article 12 of the SADC Protocol on Gender and Development.³⁹

Financial incentives could be put in place to encourage more women to run in future legislative elections. These could include the allocation of funding specifically for the campaigns of female candidates, waiving candidate fees for women who run for office, or providing tax incentives to



Jules Lalancette

Former President of Mauritius Cassam Uteem and Carter Center Vice President for Peace Programs John Stremlau speak with the press on election day to share initial observations.

political parties who nominate female candidates. These measures could increase gender parity both in the number of candidates and in the number of people of each gender elected in Madagascar.

The Media

The media play an indispensable role during democratic elections by educating voters and political parties about major issues, thus giving them access to information so they can make a truly informed decision.⁴⁰

The Malagasy Constitution guarantees the freedoms of opinion, expression, communication, and press. The constitution guarantees freedom of the press with the caveat that press freedom may not violate the rights of others and is within

38 In the first round of presidential elections, Saraha Georget Rabeharisoa received 4.5 percent of votes while Brigitte Ihantanirina Rabemanantsoa received 1.38 percent.

39 SADC Protocol on Gender and Development, Article 12: "States' parties shall endeavor that, by 2015, at least 50 percent of decision-making positions in the public and private sectors are held by women."

40 OSCE, Election Observation Handbook (Fifth Edition), p. 48

the boundaries of preservation of public order, national dignity, and state security. It also reaffirms the right to information for all individuals and forbids all forms of censorship.

Madagascar's national legislation provides for an equitable distribution of airtime on public radio and television between candidates and parties, which is monitored and regulated by CENI-T.⁴¹ However, there is no similar regulation of private media. This absence of regulation and independent enforcement of private airtime greatly benefits the wealthiest candidates, providing them with an overwhelming advantage over their opponents.

The Malagasy media environment is made up of a large number of newspapers, television, and radio channels. Freedom of the press was generally respected during the campaign, and no attempts to curtail these freedoms were reported by Carter Center observers. While there was a considerable amount of information available for the public via Malagasy news sources, the quality and accuracy of the information reported are questionable. Reports of inaccurate and conflicting information were abundant throughout the election period.

Civil society organizations would benefit from additional technical, financial, and organizational capacity to strengthen their ability to be a voice in Madagascar's public affairs.

Carter Center observers found that while media diversity is prevalent, news reports are often biased and opinionated. A media environment rife with biased and inflammatory information could have negatively affected the electoral process and incited violence during the campaign period. Despite the media's lack of partisanship, local news reports regularly informed the public on various parties' campaign spending, creating at least a low level of transparency in campaign finance.

A limited number of media outlets conducted voter education. Radio media remained the most

powerful and popular medium for educating voters, especially in remote areas where TV and newspapers do not reach the populations.

The ownership of media outlets and access to airtime has traditionally played a significant role in the success of electoral campaigns in Madagascar. Radio and printed media provide a stage for the repetition of campaign messages that ultimately reinforce a candidate's credibility among the public. The dominance of privately owned media outlets by wealthy candidates in the 2013 presidential and legislative elections created an unequal playing field in favor of the richest candidates. Media ownership by candidates and airtime used in campaigns should be regulated in future elections to ensure a level playing field for all candidates in the legislative and presidential races.⁴²

Civil Society

According to public international law, all people have the right to participate in the public affairs of their country.⁴³ This includes the right of citizens to participate in nongovernmental organizations.⁴⁴ Other sources extend this to the right to take part in citizen observer organizations and to contribute to voter education efforts.⁴⁵ Through these means, civil society can actively play an essential role in upholding an electoral process that is accountable while also building confidence in the process.

Overall, Carter Center observers noted a relatively weak role of civil society organizations across the country throughout the electoral process, particularly in the area of voter education. Civil society organizations would benefit from

41 Organic Law No. 90-031, Dec. 21, 1990; Ordinance 92-039, Sept. 14, 1992; Organic Law No. 2012-005, March 15, 2012, Article 48; Organic Law No. 2012-015, Article 19; Organic Law No. 2012-016, Article 48

42 The Carter Center did not conduct comprehensive quantitative media monitoring. For further information on the role of the press in the elections, please refer to the work of the European Union election observation mission, or Osservatorio di Pavia.

43 U.N., International Covenant on Civil and Political Rights, Article 25(a); AU, African Charter on Human and Peoples' Rights, Article 13(1); U.N., Universal Declaration of Human Rights, Article 21(a)

44 U.N., CEDAW, Article 7

45 EISA, PEMMO, p. 19

additional technical, financial, and organizational capacity to strengthen their ability to be a voice in Madagascar's public affairs.

The election process was observed by a large number of domestic observers. The three main groups of civil society organizations deployed an

estimated 10,000 mobile and stationary observers throughout Madagascar on Dec. 20, according to accreditation numbers from CENI-T. However, Carter Center and EISA observers noted that domestic observers were only present at about 40 percent of polling stations observed.

| Election Day

Opening and Polling

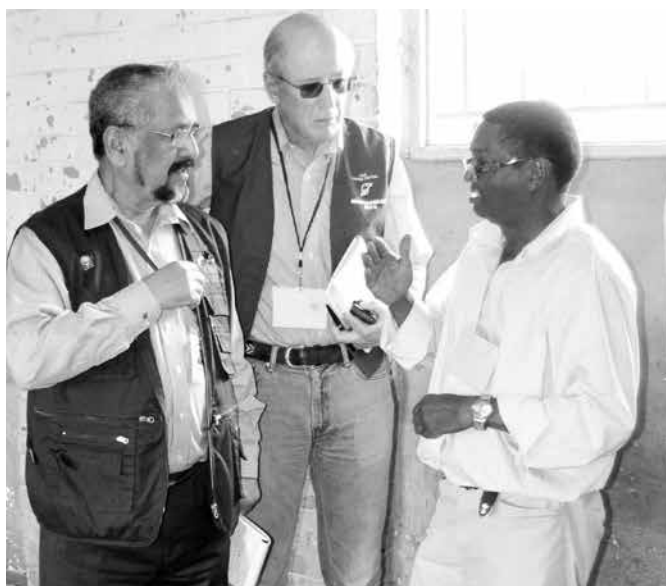
The quality of voting operations on election day is crucial to determining whether an election lives up to its democratic obligations. According to Madagascar's international and regional commitments, all citizens should enjoy the right to universal and equal suffrage,⁴⁶ and all citizens have the right to vote,⁴⁷ subject only to reasonable and objective limitations. A core obligation under international law is that elections shall be held by secret ballot, which is recognized as a means of ensuring that the will of the people is expressed freely and that a cast ballot cannot be connected with a voter to avoid intimidation and political

retribution.⁴⁸ Madagascar largely met these important requirements in the Dec. 20 polls.

Voting Process

Carter Center and EISA observers visited a total of 85 polling stations in six districts on election day where they observed poll opening, polling, closing, and counting in an atmosphere that was primarily calm and peaceful. Overall, observers reported modest voter turnout and polling staff that generally performed according to procedures. The presence of Carter Center and EISA observers was welcomed across the country without exception. The Center shared its findings in a preliminary statement released on Dec. 22, shortly after election day, to congratulate Madagascar on a calm and transparent polling process.⁴⁹

President Cassam Uteem, former president of Mauritius (left), and Dr. John Stremlau of The Carter Center speak with polling station staff on election day.



Electoral Institute for Sustainable Democracy in Africa

46 U.N., ICCPR, Article 25; ACHR, Article 23; U.N., UDHR, Article 21

47 ICCPR, Article 25; AU, AfCHPR, Article 13; ACHR, Article 23

48 U.N., ICCPR, Article 25; ACHR, Article 23; U.N., UDHR, Article 23. EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 24

49 The Carter Center. "Carter Center Congratulates Madagascar on a Calm and Transparent Polling Process; Encourages Renewed Commitment to National Reconciliation," Dec. 22, 2013

Opening of Polling Stations

Observer teams noted opening delays across the country. The delays were minimal, often between five and 15 minutes, and did not impact the opportunity for citizens to vote. In some areas observed, polling stations opened as much as an hour late.

Observers reported that in most cases, delays in opening were due to a late start in setting up the polling stations and the late arrival of election materials, including voting booths and ballot papers. Observer teams evaluated the opening processes as average, poor, or very poor in 63 percent of stations observed.

Voting

Voters were able to vote in a relatively efficient manner in most polling locations, with few queues. Carter Center and EISA observers reported that the polling process was good or excellent in 82 percent of stations observed. Election day was largely calm and peaceful, with no reported incidents of election-related violence.

Carter Center and EISA observers reported modest participation, with about 50 percent turnout at polling locations visited. Official statistics put overall national turnout at 50.72 percent. This figure represents a sharp reduction of more than 10 percent from the more than 61 percent turnout reported in the Oct. 25 first-round presidential vote and is regrettable.

The Carter Center and EISA observer teams reported a few shortcomings in the process, including inconsistent use of the separate voter list and inconsistent inking procedures.⁵⁰

Although voting procedures were conducted relatively smoothly, observers reported challenges with the voter identification process. In a number of cases, there was confusion about which identification documents were necessary to vote, with officials in some cases accepting voter cards rather than the required national identification cards.

Closing and Counting

Accurate and fair vote counting plays an indispensable role in ensuring the electoral process is democratic and reflects the will of the voters. International and regional commitments require



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that votes be counted by an independent and impartial electoral management body. The counting process must be public, transparent, and free of corruption.⁵¹

As part of polling procedures, voters' thumbs were marked with ink to show that they had voted.

⁵⁰ Observers also reported a few isolated irregularities, including the extremely late arrival of presidential ballots in two polling stations, and polling staff determining to simply hold a legislative election during that time, allowing people to vote for one-half of the election but not the other. There was one report of roughly a dozen armed guards inside a polling station. These shortcomings were not systematic and did not impact the outcome of the elections.

⁵¹ UNHRC General Comment No. 25, para. 20; U.N. Convention Against Corruption, Article 18

In its Dec. 22 statement, The Carter Center noted that 80 percent of polling stations observed did not close on time, but procedures were followed to allow all those in line at the time of closing to cast their ballots. Center and EISA observers noted that the closing process was conducted poorly in 60 percent of stations observed. However, administrative and procedural challenges in the closing process were not significant enough to question the outcome of the elections at these polling stations.

Counting took place at the polling-station level immediately following the closure of polls on election day. The counting process took place peacefully and without significant incident.

Future elections would benefit from a review of the electoral law to strengthen counting procedures to ensure an accurate count and provide stronger guidance to polling staff. In particular, Article 106 of Malagasy electoral law stipulates

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that whenever the number of ballots in the ballot box is greater than the number of people who signed in to vote, the polling staff must randomly withdraw a matching number of ballots from the ballot box and declare them invalid.⁵² Although the application of this procedure ensures reconciliation of ballots, the invalidation of ballots from the box, disenfranchising voters, is regrettable.

The ballots that are invalidated from this procedure are not reported separately, as there is no difference in recording procedures between genuinely blank ballots and those declared blank as a result of this process. The Carter Center recommends that Madagascar introduce a new electoral procedure to ensure that the number of blank and invalid ballots reflects only those ballots that are genuinely blank or invalidated and reports

Brett Lacy



Polling officials locate a name on the voter list as children look on.

any discrepancies between the number of signed-in voters and the number of ballots in the ballot box. This change would allow severe discrepancies to be flagged quickly and transparently and would avoid the unnecessary disenfranchisement of votes.

Polling Station Locations

Although best practice indicates that polling stations should be assigned a relatively equal number of voters, Malagasy law does not mandate that an equitable and manageable number of voters be assigned to each polling station. As a result, some polling locations had large numbers of voters, while others were allocated a much smaller number. While CENI-T initially introduced an internal benchmark aimed at having fewer than 1,000 voters per polling location, that number later increased to 1,200, especially in the capital city of Antananarivo. In spite of CENI-T's efforts, there were more than 2,400 voters (double the benchmark number) in some polling stations around the country.

Due to the increase of the number of voters in some areas, polling stations were added or moved to new locations. These last-minute changes, combined with distribution delays with voter cards that provided polling location information to voters, created confusion during election day.

⁵² Organic Law No. 2012-005, March 15, 2012, Article 106



Lake Anosy in the capital city of Antananarivo was created in the 19th century to provide hydraulic power to industrial factories.

In some cases, Carter Center observers noted that prospective voters were turned away at polling stations due to not being on the voter list or not having a national identification card.

For future elections, The Carter Center recommends that Malagasy electoral law be revised to stipulate a maximum number of voters per polling station and put the appropriate framework in place to implement this threshold. Doing so will make a number of areas of the electoral process smoother and more efficient, including procurement, the

delivery of voting materials, security, and efficient processing of voters on election day to ensure that all voters are able to cast their ballot within an appropriate time frame.

The Center also recommends an appropriate procedure for the effective distribution of voter cards and an alternative method to orient voters to their assigned polling station. Further discussion on these points can be found in the voter registration section of this report.

Postelection Developments

In the postelection period, The Carter Center deployed six long-term observer teams to six regions of Madagascar. During this deployment, the observer teams based their reporting on meeting with 240 interlocutors in 19 constituencies (districts) of the country.

Carter Center observers generally reported a calm atmosphere in the days following the elections, with the population patiently awaiting results of the second round of presidential elections and legislative elections.



The Carter Center and the Electoral Institute for Sustainable Democracy in Africa hold a joint press conference on Dec. 22 to share their preliminary findings and recommendations.

Carter Center observers generally reported a calm atmosphere in the days following the elections, with the population patiently awaiting results of the second round of presidential elections and legislative elections. In a press release on Jan. 18, 2014, The Carter Center commended the people of Madagascar, political parties, CENI-T, and other key stakeholders who urged for calm and respect for the peaceful resolution of disputes.⁵³

Transfer of Results to District Transmission Centers

Following the counting process at the polling-station level, the presiding officer, a representative of the CENI-T, representatives of civil administration, or a nominated representative of the transmission center was required to deliver the certified copy of the results—along with supporting materials outlined in the electoral code—to the corresponding transmission center in each district by the fastest method available.⁵⁴

The Carter Center observed that the delivery of material to the transmission center was usually conducted by the person legally assigned to do so. In the majority of cases, Carter Center observers found that the transfer of material was properly conducted, in accordance with procedures.

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⁵³ The Carter Center, "Carter Center Commends Peaceful Release of Madagascar Final Election Results; Urges Commitment to Reconciliation," Jan. 18, 2014

⁵⁴ Organic Law No. 2012-005, March 15, 2012, Article 113

However, the transfer of results was delayed in some districts due to the lack of adequate transport and miscommunication regarding the handover of material.

A clearly outlined collection plan for electoral material was notably absent from the electoral code. In future elections, the Center recommends that a material collection plan be developed in advance to ensure that the transport of material leads to a timely publication of results.

Despite these challenges relating to the timely transfer of materials, in its Jan. 18 statement The Carter Center reported that the conduct within transmission centers was acceptable in 87 percent of the transmission centers visited and that the overall process was sufficient. In the remaining 13 percent of transmission centers visited, observers noted that returning material was not properly recorded. In general, teams reported that increasing the number of staff in the future would increase the efficiency of the work of these institutions. Observers largely evaluated conduct of the transmission centers' operations as peaceful.

Tabulation of Results

Tabulation of results is an integral and important phase of the electoral process that ensures the will of voters is accurately and comprehensively reflected in the final results.⁵⁵ Overall, the tabulation process in Madagascar was open to observers and was generally performed in a transparent manner.

The centralized tabulation process for both elections took place between Dec. 20, 2013, and Jan. 10, 2014. Similar to the first round of the presidential elections, the initial tabulation was based on the scans of certified copies of the results transmitted from district centers and at a later stage, returned paper copies of the results slips.

In cases of results slips in which the total valid votes did not equal the total votes obtained by candidates, CENI-T followed its previous methodology of using invalid/blank ballot numbers as a subtraction/addition margin.⁵⁶ Use of this procedure raises questions about the integrity of the number of invalid/blank votes reported. However, because CENI-T does not keep track of these

statistics, it is not possible to identify whether the real number of valid/blank was higher or lower than the number reported.

In its Jan. 18 statement, the Center noted that the tabulation process was open to observation and was generally performed in a transparent manner. However, access to data in CENI-T's data collection information technology center was not always open. Improving accessibility of the center to observers in future elections would help to increase the overall transparency of the process, contributing to building confidence in the results.

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In accordance with Malagasy law, the Special Electoral Court conducted its own tabulation process parallel to that of the CENI-T through a process of verification of results slips from each polling station. The court's team in charge of checking all the results slips was understaffed and underequipped, despite the use of software specifically designed for the process. In comparison, CENI-T had more than 10 times the staff assigned to the same task of results slip verification. Considering that the court was the only institution allowed to release final results, it should have been provided with more computers and more staff to conduct its tabulation of the results.

55 U.N., ICCPR, Article 25(b); AU, Declaration on the Principles Governing Democratic Elections in Africa, Article 1

56 This CENI-T central procedure follows the philosophy of Article 106, mentioned in the Carter Center's preliminary statement. However in this case, contrary to using it at the polling-station level, it does not influence the results of the candidates.

Election Results

Although the CENI-T is authorized to release election results, these results are not binding. Only the Special Electoral Court has the power to release final certified results. In future elections, the authority for the counting, tabulation, and announcement of results should rest with an independent electoral authority. If this responsibility continues to be divided across two institutions, the division of responsibility should be done in a way that preserves the efficiency and transparency of the tabulation process.

According to the law,⁵⁷ CENI-T was obliged to declare the provisional results of the elections within 10 days of the day on which the last certified copy of results arrives from a polling station. The last certified copy of the result was received by CENI-T on Dec. 31, 2013, at 4:30 p.m. Due to late arrival of these materials from many regions, and the centralized character of the tabulation, the process took a significant amount of time. However, both declarations by CENI-T were made within the timeline provided by the legal framework, a praiseworthy achievement.

Of the 3,862,255 valid votes, 2,066,103 went to Hery Rajaonarimampianina (53.5 percent) and 1,796,122 went to Jean Louis Robinson (46.5 percent). Hery Rajaonarimampianina was declared the provisional winner of the presidential elections.

In polling stations where the number of total votes cast significantly exceeded the number of voters registered, CENI-T was legally obliged to transmit all the electoral material to the Special Electoral Court for further examination without modifying the results as they were initially received. After these polling station discrepancies were sent to the court, the results from six polling locations were discarded. Votes at one polling station were not included because of the absence of counting forms. The votes from 16 other

polling stations were discarded because polling station officials failed to return the results to the appropriate transmission centers. The votes from 13 other polling stations were discarded because the polling stations never opened and voting did not take place. Finally, the results from 40 polling stations were labeled as “inexploitable” (unreadable). In total, these decisions rendered the results from 76 polling locations invalid.

Presidential Runoff Election Results

CENI-T released the provisional results of the Dec. 20 second-round presidential elections on Jan. 3, 2014.⁵⁸ Of the 3,862,255 valid votes, 2,066,103 went to Hery Rajaonarimampianina (53.5 percent) and 1,796,122 went to Jean Louis Robinson (46.5 percent). Hery Rajaonarimampianina was declared the provisional winner of the presidential elections.

CENI-T reported a total of 4,044,391 votes for the 2013 runoff presidential elections, with 182,166, or 4.5 percent, as blanks and invalids. Voter turnout was just over 50 percent, 11 percent lower than in the first round of presidential elections on Oct. 25.

The presidential results were later confirmed by the Special Electoral Court on Jan. 17, 2014, with only minor alterations to the published figures.

Legislative Election Results

CENI-T released the provisional results of the legislative elections on Jan. 10, 2014.

The parliamentary election resulted in Miarakana Amin'ny Prezidà Andry Rajoelina, the political party backing former transitional President Andry Rajoelina, attaining the most seats, winning 49 out of 151 seats available in the National Assembly. Mouvance Ravalomanana, the political party backing ousted former President Marc Ravalomanana, secured the next highest number of seats with 20 out of 151. The remaining 82 seats were won by minor parties and candidates running as independents.

⁵⁷ Organic Law No. 2012-015, Article 26; Organic Law No. 2012-016, Article 53

⁵⁸ http://www.ceni-madagascar.mg/dossier/C2P_Proclamation_resultats_provisoires_du_second_tour_presidentiel_03janv2014.pdf

According to the results published by CENI-T, out of the 147 elected members of the National Assembly, 30 (20.4 percent) are female.⁵⁹ This is a significant increase from the 2007 elections.⁶⁰

The legislative results were later confirmed by the Special Electoral Court on Feb. 7, 2014.

Presidential Inauguration

Hery Rajaonarimampianina was inaugurated as president of the Republic of Madagascar on Jan. 25, 2014. The Carter Center commends the presence of Dr. Robinson at the inauguration of his opponent. This public display of support symbolized Dr. Robinson's respect for constitutional order and was an important departure from the previous winner-take-all model of postelection disputes that has previously affected Madagascar. The Center encourages Malagasy political actors to foster strong institutions in order to prevent the resurgence of past trends of political overthrows.

Unfortunately, the presidential inauguration ceremonies were marked by a grenade launch that killed a child, Kevin Arnaud Rasolonirina, and injured 37 others. This violence was a regrettable mark at the conclusion of an electoral process that had otherwise been largely peaceful and free of politically motivated violence, and it signaled an important departure from Madagascar's past and demonstration of the commitment of the Malagasy people to the country's future.

Annulment of Legislative Results in Four Districts

Following the elections, four legislative seats remain empty in districts where results from the Dec. 20 legislative elections were annulled due to fraud and corruption.⁶¹ In Ambanja and Belo Tsiribihina districts, the Special Electoral Court declared that a large number of "erased" ballots in each district constituted evidence for the falsification of records. In Sainte Marie district, an active vice president of a local political party, Mouvement pour la Démocratie à Madagascar (MDM), was chairman of a polling station and a member of the district electoral commission. The court determined that this undermined the integrity of results in the district and canceled all results from Sainte Marie. In Marovoay, the court

canceled voting results due to widespread vote falsification and the misallocation of electoral materials. A partial election is anticipated to be held on May 30, 2014, in these four districts.

The campaign period for these elections will take place from May 8 to May 29. The results of these elections will be released before the country's 54th independence day on June 26.⁶²

Hery Rajaonarimampianina was inaugurated as president of the Republic of Madagascar on Jan. 25, 2014. The Carter Center commends the presence of Dr. Robinson at the inauguration of his opponent. This public display of support symbolized Dr. Robinson's respect for constitutional order and was an important departure from the previous winner-take-all model of postelection disputes that has previously affected Madagascar.

Electoral Dispute Resolution

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process. Effective dispute resolution mechanisms are essential to ensure that effective remedies are available for the redress of

59 The total number of seats in the National Assembly is 151. The results of elections in the districts of Ambanja, Belo sur Tsiribihina, Marovoay, and Sainte-Marie were annulled by the High Constitutional Court.

60 Elections in 2007 resulted in 7.9 percent women parliamentarians.

61 Decision No. 11, CES/AR of Feb. 6, 2014, concerning announcement of the final results of the parliamentary elections on Dec. 20, 2013

62 Article 36 of the Malagasy electoral law (Organic Law no. 2012-005, March 15, 2012) designates that vacant seats in the National Assembly must be filled via partial elections held within four months of the release of electoral results (or in this case, four months from the decree made by the Special Electoral Court) if a replacement for the seat is not available. <http://www.hcc.gov.mg/election/arret/arret-n11-cesar-du-06-fevrier-2014-portant-proclamation-des-resultats-definitifs-des-elections-legislatives-du-20-decembre-2013-2>

violations of fundamental rights related to the electoral process.⁶³ Voters and other electoral stakeholders must be given and must perceive that they possess a voice in the quality of the electoral process if the process is to retain credibility.

Malagasy citizens have the right to an effective remedy before a competent national tribunal for acts that violate their rights or freedoms, including the right to genuine elections and all associated rights.⁶⁴ In the instance of a dispute relating to elections, citizens have the right to a public hearing in front of an independent and impartial tribunal.⁶⁵ Madagascar's political commitments also suggest that the legal framework for elections should provide effective redress for violations of electoral rights.⁶⁶ Timely and effective resolution of disputes is critical in ensuring that the right to an effective remedy and the right to a fair and public hearing are realized.⁶⁷

The Carter Center found the legal framework for electoral dispute resolution to be in line with electoral standards and good practices for democratic elections.

In its Jan. 18 statement, The Carter Center commended the Special Elections Court on the impartiality and objectivity that it demonstrated during the electoral process and postelection period. The Carter Center also commended the court and other stakeholders that upheld their commitment to peace and constitutional order.

The Legal Framework for Electoral Dispute Resolution

An effective electoral dispute resolution system is essential for bolstering the legitimacy and credibility of elections and serving as an official outlet for electoral complaints. The Carter Center found the legal framework for electoral dispute resolution to be in line with electoral standards and good practices for democratic elections. Although the intent of the legal framework

seems to be to support the timely and effective resolution of disputes, the current time frame for submission of complaints is too short. Complaints must be submitted within 10 days of election day, which means that the window for complaints closes even before results are made public. There is no recourse for appealing results.⁶⁸ Malagasy lawmakers should consider modification of Article 132 of the electoral law in order to allow voters, candidates, and parties to submit complaints after provision results are announced.

The criteria regarding who can submit a complaint, as well as the scope of violations that are considered worthy of consideration as an official complaint, are narrow and restrictive. To submit a complaint, two main conditions must be met: The person submitting a complaint must be a registered voter, and they must have participated in the election. Complaints are limited to the polling station where the voter was registered, and the subject of the complaint can only refer to voting operations or electoral campaigns in that constituency. These regulations are restrictive and infringe upon voters' rights to an effective remedy.

The Carter Center welcomes the adoption of law 2013-008, which led to a new composition of judges presiding over the Special Electoral Court with the addition of 10 judges. Court members were appointed by political parties that signed the transitional roadmap (except the Zafy Mouvançe, which did not appoint a member). It is regrettable that only two of the court's judges were women.

The inclusiveness of the court selection process is a positive measure that strengthened political actors' confidence in the electoral

63 U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 47

64 U.N., ICCPR, Article 2; ACHR, Article 25

65 U.N., International Covenant on Civil and Political Rights, Article 14(1); U.N., Universal Declaration of Human Rights, Article 10; ECOWAS, Protocol on Democracy and Good Governance

66 AU, ACDEG, Article 17

67 AU, African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Article 2(i); U.N., United Nations Human Rights Committee, General Comment No. 32, para. 27

68 The ability to challenge election results should be provided for by law (SADC, Principles and Guidelines, para 2.1.10).

dispute resolution mechanism and contributed to the Special Electoral Court's ability to act with neutrality. However, moving forward, Madagascar should strive to separate electoral dispute resolution mechanisms from politics and avoid political appointments.

Resolution of Complaints

In total, 70 complaints were filed in relation to the presidential election, the majority of which were submitted on the last day of the complaint period. A total of 580 complaints were submitted related to the legislative elections. Of these complaints, two significant submissions called for a cancellation of the election results and disputed the preliminary results.

The Carter Center applauds the Jan. 14 decision of the Special Electoral Court to recount

votes and compare the voter lists from the first and second round in nine regions, as requested by the Robinson camp. Also, it was commendable that lawyers from both opposing camps were present to witness this action. This transparency was not only an effective means of assessing allegations of electoral fraud made by the Robinson camp but also in building trust for the dispute resolution mechanism during judicial review of the election result.

In its Jan. 18 statement, the Center noted that in advance of the announcement of results, the Special Electoral Court released nine key decisions in early January 2014. The most important of these was the decision that the court would not disqualify any candidate or detract votes from any candidate on the basis of its annulment of the decree of Aug. 6, 2013, authorizing heads of institutions to participate in the campaign.

Conclusions and Recommendations

The Dec. 20, 2013, elections in Madagascar marked a pivotal turning point in Malagasy history, both as an important step toward democracy and as a foundation for renewed growth and development.

The Carter Center urges Madagascar to use these elections as a foundation on which to foster both democratic development and national reconciliation. These are critical steps to creating a lasting end to the crisis and fully emerging from its ongoing political transition.

Overall, the Center found the process to be orderly, transparent, and in accordance with international obligations for democratic elections. The Carter Center urges Madagascar to use these elections as a foundation on which to foster both democratic development and national reconciliation. These are critical steps to creating a lasting end to the crisis and fully emerging from its ongoing political transition.

The Center commends the Malagasy people for participating in a peaceful and orderly process and for the successful democratic elections of 2013. There is, however, room for improvement. To continue its progress toward democratic

governance, the government of Madagascar should make efforts to make campaign finance significantly more transparent, ensure greater representation of women in future elections, empower civil society organizations to educate the Malagasy people on voting procedures, and focus on national reconciliation and cooperation.

Recommendations

For future elections, The Carter Center makes the following recommendations in the spirit of mutual respect and support:

To the Government of Madagascar

National Reconciliation

- The government should emphasize messages of national reconciliation and cooperation in order to ease political tensions and ensure that these elections mark a clear turning point away from the country's history of winner-take-all politics.

A Permanent and Independent Election Management Body

- CENI-T should be transformed into a permanent electoral institution with financial independence. Doing so would reinforce the progress made in the 2013 elections and allow future elections to be conducted with independent management and oversight. Furthermore, the composition of CENI-T should be re-evaluated in order to enhance its independence and reduce the need to rely on government elements to support it at the local level.

Campaign Finance

- Campaign finance regulation should be put in place before the next election. The law should include limits on campaign spending and a mechanism for transparent publication of all money spent on campaign activities. An enforcement mechanism should also be put in place to sanction those that violate those new campaign finance rules.

Legal Framework for Electoral Dispute Resolution

- Legislators should modify Article 132 of the Electoral Law in order to allow appeals and complaints *after* the release of provisional results by CENI-T. In the article's current wording, the deadline to file a complaint occurs before the release of provisional results by CENI-T, thereby prohibiting any complaints of election results. In the same spirit, the overly restrictive criteria for filing complaints should be broadened. The criteria for the plaintiff to file a complaint are 1) to be a registered voter, 2) to have participated in the election, 3) to limit complaints to activities in the polling station where the voter is registered, 4) to limit the subject of complaints only to the regularity of voting operations. These restrictions damage the Malagasy citizens' right to an effective remedy against improper action, a right that is recognized in international standards for democratic elections.

Authority for Tabulation and Announcement of Results

- Further consideration should be given to the process of tabulating and announcing official results. In future elections, the authority for the counting, tabulation, and announcement of results should rest with an independent electoral authority. If this responsibility continues to be divided across two institutions, the division of responsibility should be done in a way that preserves the efficiency and transparency of the tabulation process.

Ballots for Two-Member Constituencies

- Although parties were able to nominate two candidates in two-member constituencies, only one candidate for each party appeared on the ballots. This mismatch between the electoral

system and ballot design should be rectified in advance of future elections.

Advancing the Participation of Women in Politics

- The Carter Center recommends implementing legal and systematic measures that will ensure accurate representation of women in the democratic life of Madagascar and that steps are taken to ensure full implementation of Article 12 of the SADC Protocol on Gender and Development. Specific measures to increase the representation of women in the Malagasy political system should be considered, including financial support for women candidates, tax exemptions, or waiving of candidate fees for women who run for office.

National Census

- Madagascar should conduct a comprehensive national census before future elections are held. This will be crucial to determining who is and is not eligible to vote and to maintaining the integrity of the voter registration process.

Revision of Voter Registration Process

- The Carter Center recommends revision of Madagascar's voter registration process to ensure an accurate and complete voter registry in advance of future elections. Voter cards should be distributed to all Malagasy citizens with ample time before elections take place. The electoral management body should ensure that voters are given ample opportunity to be notified of their voting eligibility status and given sufficient time to appeal any decisions that would restrict their right to participate.

Boundary Delimitation

- While the use of pre-existing administrative divisions as a basis to draw constituencies presents significant advantages, future designs of the electoral system should include a revised boundary delimitation process that creates a more equitable population distribution in Madagascar's parliamentary seats.

Strengthen Counting Procedures

- Although no significant irregularities were observed during the counting process, future elections would benefit from a review of the

electoral law to strengthen counting procedures to ensure an accurate count and provide stronger guidance to polling staff. The Carter Center recommends that Madagascar introduce a new electoral procedure in order to ensure that the number of blank and invalid ballots only reflects those ballots that are genuinely blank or invalidated. A system should also be put in place to allow polling stations to more accurately report any discrepancies between the number of signed-in voters and the number of ballots in the ballot box.

Number and Distribution of Polling Stations

- For future elections, The Carter Center recommends that Malagasy electoral law be revised to stipulate a maximum number of voters per polling station and put the appropriate framework in place to enforce this threshold. The Center also recommends an appropriate procedure for the effective distribution of voter cards and an alternative method to orient voters to their assigned polling station.

To Political Parties

Strengthen Organization, Membership, and Internal Party Democracy

- In a healthy democracy, political parties play a critical role in linking citizens to government. Political parties in Madagascar should strive to develop issue-based platforms and build membership bases across the country and beyond the capital. Steps should be taken to strengthen internal party structure, organization, and democracy.

To the International Community

Sustainable and Coordinated Support

- These elections are a step, but only the foundation has been laid for the path toward building a sustained, inclusive, and robust democracy in Madagascar. Coordinated international action was a crucial factor in laying that foundation and will continue to be important to ensure that this opportunity for democratic development in a new Madagascar is not squandered.

Acknowledgments

The Carter Center's election observation mission in Madagascar would not have been possible without the support of a number of individuals and organizations.

The Center is primarily grateful to the government of Madagascar and the National Independent Electoral Commission for the Transition (CENI-T) for inviting the Center to observe the elections.

The Center is further grateful for financial support from the U.S. State Department as well as Stefan Findel and Susan Cummings-Findel. Their generous contributions allowed the Center to observe the Dec. 20 presidential runoff and legislative elections in Madagascar.

The Center is deeply appreciative of the leadership of former President of Mauritius Cassam Uteem, EISA Executive Director Denis Kadima, and Carter Center Vice President of Peace Programs Dr. John Stremlau for their key roles. Their insight during the observation process was invaluable to the success of the mission.

The Center benefited greatly from the efforts of the skilled and talented Antananarivo staff. Field office operations were supervised by Field Office Director Stephane Mondon. Electoral analyst and observer coordinator Bartosz Lech oversaw the coordination of international election observers and contributed to political reports throughout the electoral process. Security Manager Jules Lalancette coordinated the arrival and departure of the Center's delegation to Madagascar and provided important information to the mission regarding the security situation throughout the

country and in the capital. Country expert Brian Klaas provided the mission with in-depth political analysis and contributed to public statements released by the Center. The Center would also like to thank the office staff in Antananarivo, including Domoina Rajaonarivony, Mialy Raveloarison, and Achille Rabesihanaka.

The Center greatly appreciates its partnership with the Electoral Institute for Sustainable Democracy in Africa. In particular, the Center would like to thank Olufunto Akinduro, Cecile Bassomo, Hama Munyikwa, and Ange Marie Nijimbere. These individuals contributed to the planning of the mission, training of observers and staff, and the execution of the successful observation of the Dec. 20 elections.

The Center recognizes the efforts of all the international observation organizations in supporting Madagascar's electoral process. The organizations include the Southern African Development Community, the European Union, the African Union, the Indian Ocean Commission, and the Organisation Internationale de la Francophonie.

The Carter Center offers its sincere thanks and gratitude to the long-term observers who completed their deployment during the pre- and postelection periods from Nov. 18 to Dec. 31. Their reporting, diligent collection of data on the electoral process, logistical support, cooperation with their EISA observer counterparts, and engagement with Malagasy stakeholders across the country were crucial to the success of the mission. These observers included Koffi Abou

Anzou, Monique Nobs, Charlotte Ramble, Taboh Gideon, Gaston Kalombo, and Laura Erizi. We would also like to thank the EISA observers who worked with The Carter Center during the election period. These observers included Gisele Pana, Lucianne Sophola, Immaculee Murangwa, Jean Jacques Cornish, Andre Kabunda, Sailifa Nzwalo, Aichatou Fall, and Marie Clemence Nodjan.

The Center's efforts were supported by a team of hard-working staff in Atlanta, including Chloe Bordewich, Thomas Cox, William Hassall, and Alden Mahler Levine, assistant program

coordinators. Tynesha Green and Traci Boyd provided administrative and budgetary support, while Mercedes Sprouse-Mickevicius helped raise the funds to make the mission possible. Christelle Lorin and Travis Linger served as the project's interns. Ramiro Martinez provided financial oversight. Brett Lacy managed the election observation mission, with support from David Carroll.

This final report was drafted by Stephane Mondon, Bartosz Lech, Brian Klaas, Thomas Cox, and Brett Lacy with assistance from William Hassall.

Appendix B

Observation Delegation and Staff

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Appendix C

Terms and Abbreviations

CENI	National Independent Electoral Commission (Commission Électorale Nationale Indépendante)	Pillar and Structure for the Salvation of Madagascar Party	Andry sy Rihana Enti-Manavotra an'i Madagasikara
CENI-T	National Independent Electoral Commission for the Transition (Commission Électorale Nationale Indépendante pour la Transition)	Project of Support to the Electoral Cycle in Madagascar 2012–2014	Projet d'appui au cycle électoral 2012–2014 à Madagascar
EISA	Electoral Institute for Sustainable Democracy in Africa	SADC	Southern African Development Community
High Transitional Authority	Haute Autorité de Transition	Social Democrats Party	Parti Social Démocrate
International Contact Group	Groupe International de Contact	Special Electoral Court	Cour Électorale Spéciale
MAPAR	Together With President Andry Rajoelina (Miaraka amin'i Prezida Andry Rajoelina)	TGV	Determined Malagasy Youth (Tanora malaGasy Vonona)
OIF	Organisation Internationale de la Francophonie	TIM	I Love Madagascar party (Tiako I Madagasikara)
		Transmission Center	Section de Recensement Matériel des Votes



**Carter Center Election Observation Mission
LEGISLATIVE AND SECOND ROUND OF PRESIDENTIAL ELECTIONS**

Preliminary Statement

**Carter Center Congratulates Madagascar on a Calm and Transparent Polling Process;
Encourages Renewed Commitment to National Reconciliation**

Dec. 22, 2013

Contact: In Antananarivo, Stéphane Mondon, +261 347 212 613; In Atlanta, Deborah Hakes, +1 404 420 5124

On Dec. 20, Madagascar held legislative elections and the second round of presidential elections. Following a protracted political crisis, these elections offer an opportunity that we are hopeful will reinstate a democratically-elected government, enable Madagascar to rejoin the community of nations, and provide a foundation through which to address the prolonged humanitarian crisis that has continued to escalate within recent years. The culmination of the roadmap in Friday's elections offer an opportunity for the country to move forward and begin to address the suffering of the Malagasy people, 90 percent of whom survive on less than USD \$2 a day.

The Carter Center congratulates the Malagasy people for a peaceful vote, an important achievement on the road to ending the crisis and working toward the important goal of national reconciliation.

These elections are the first in Madagascar's history to be conducted by an independent electoral authority. Electoral Institute for Sustainable Democracy in Africa (EISA) and Carter Center observers reported that voting and counting processes were peaceful, orderly, and in general accordance with Madagascar's legal framework and obligations for democratic elections. Although voter turnout was moderate at only about 50 percent in polling stations observed, the Center commends the CENI-T for their commitment to ensuring that all eligible voters had an opportunity to cast their ballots freely. Carter Center and EISA observers noted

a few shortcomings in the process, including inconsistent use of the separate voters list for the presidential and legislative materials, delays in delivery of materials in some areas, and inconsistent inking procedures. However, these shortcomings were not systematic and will not impact the outcome of the elections. Carter Center observers visited a total of 85 polling stations, and reported that the polling process was good or excellent in 82 percent of stations observed.

As the tabulation process continues, The Carter Center offers the following recommendations to Malagasy and international stakeholders:

- All political actors should insist on maintaining a peaceful environment while respecting the constitution and the laws of Madagascar. We urge all political parties and leaders to maintain the current environment of calm as the tabulation process continues, materials are returned, and the results are processed.
- Candidates, leaders, and international actors should work together to advance genuine messages of national reconciliation and respect for the democratic process. Madagascar must leave behind its history of winner-take-all politics, isolation of losers, and extra-constitutional actions that undermine democratic processes.
- The military should continue to play a neutral role in providing security, and avoid playing a role in the political process.

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Waging Peace. Fighting Disease. Building Hope." A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. 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. Visit: www.cartercenter.org to learn more about The Carter Center.

Statement of Preliminary Findings and Conclusions

The Carter Center did not observe the first round of voting for the presidential elections held on Oct. 25; the Center's election observation is focused on the second round of presidential elections and legislative elections that took place on Dec. 20. The Center's election observation mission in Madagascar is conducted in partnership with the Electoral Institute for Sustainable Democracy in Africa (EISA). Following an invitation from the Independent National Electoral Commission for the Transition (CENI-T), the Center's core team of experts arrived in Madagascar in mid-October, and six long-term observers deployed across the country on Nov. 18, 2013.

The integrated EISA/TCC short-term observation mission around the Dec. 20 polls was co-led by former president of Mauritius Cassam Uteem, executive director of EISA Denis Kadima, and vice-president of the Carter Center's peace programs, Dr. John Stremlau. The EISA/Carter Center team consists of 26 observers from 19 countries who visited 85 polling stations. Carter Center observers continue to observe the aggregation of results in the transmission center (SRMV) and will stay in the country during the post-election period. The Carter Center thanks CENI-T and all Malagasy stakeholders who welcomed the observers from our mission and took the time to meet with them.

The Carter Center observation mission in Madagascar is carried out in accordance with the Declaration of Principles for International Elections Observation and its Code of Conduct which were adopted at the United Nations in 2005 and endorsed by more than 40 election observation organizations. The Center assesses the electoral process based on the national legal framework of Madagascar and its commitment to holding democratic elections as presented in regional and international agreements.

This is a preliminary statement; a final report will be published in the months following the end of the electoral process.

BACKGROUND

Madagascar held the second round of its presidential election along with legislative elections on Dec. 20, 2013. These elections are an important step for Madagascar as the country seeks a return to legitimate democracy and normalized relations with the international community after a 2009 coup d'état plunged the island into a nearly five year long political crisis. Despite the adoption of a negotiated roadmap under the auspices of the Southern African Development Community (SADC), the political impasse caused by the bitter rivalry between the former President, Marc Ravalomanana and the President of the Transition, Andry Rajoelina, continues to cast a long shadow over the political environment in Madagascar. As proof of this lingering dispute, both of the presidential finalists in the second round are closely tied to the main protagonists from the 2009 crisis, with Dr. Jean-Louis Robinson allied to exiled President Ravalomanana and Hery Rajaonarimampianina tied closely to President of the Transition Rajoelina. This alignment raises questions about the independence

of the candidates and suggests that they are simply proxies for a past rivalry that has been brewing for nearly five years - at a time when Madagascar needs to focus on its future.

Nonetheless, the recent elections are an essential step towards ending the current crisis in Madagascar. Originally scheduled for May 8, 2013, the first round of presidential elections were postponed to July 24 and again to Oct. 25, when the first round of the presidential elections finally took place. The second round took place on Dec. 20, coupled with the legislative elections.

The international community provided critical technical and financial support for the election, but Madagascar's government still bore 50 percent of the costs. Moreover, the employees of CENIT should be commended for their efforts to end the crisis and return Madagascar to a path conducive to democracy and development.

LEGAL FRAMEWORK

A strong legal framework is essential for the effective administration of democratic elections. This framework must be consistent with the commitments of the government regarding human rights and simultaneously coherent with its obligations to democratic standards including the obligation that the will of the people shall form the basis of the authority of government.¹ The Carter Center mission has engaged in an objective evaluation of Madagascar's election, determining whether Madagascar has fulfilled its international commitments and obligations to providing genuine democratic elections.

Madagascar's legal framework for elections calls for a single national constituency for the presidential election. The presidential system uses an absolute majority system in the first round, where a candidate must receive more than 50 percent of the vote to win. If no candidate wins the first round, the two candidates with the highest number of votes proceed to a runoff round to determine the winner.

For legislative elections, Madagascar is divided into 119 constituencies, which correspond to the administrative division of the country (119 districts). While 87 districts are single member constituencies, 32 are two-member member constituencies.² Elections in the single seat constituencies are conducted with the first past the post (FPTP) system, while two-member member constituencies use a closed list system of proportional representation. Although parties were able to nominate two candidates in these two-member constituencies, only one candidate for each party appeared on the ballots. In future elections, the ballot design should be reconsidered to ensure that ballots better reflect the electoral system in place.

The regulatory framework for the presidential and legislative elections is based upon a series of commitments: the Constitution of Dec. 11, 2010, the roadmap of Sept. 16, 2011, incorporated into the Malagasy legal system by the Law of Dec. 28, 2011, and the laws and regulations of the Republic of Madagascar. In addition, Madagascar has ratified a series of international and regional human and political rights instruments that are relevant to the electoral process. These treaties include the International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of all Forms of Racial Discrimination (CERD), International Convention on Economic Social and Cultural Rights

¹ UDHR, art 21(3); ICCPR, art 25 (b).

² See decree 2013-083.

(ECOSOC), Convention on the Elimination of Discrimination against Women (CEDAW), Convention on the Political Rights of Women (CPRW), Convention on the Rights of the Child (CRC), and the United Nations Convention against Corruption (UNCC).

This framework contains many positive measures in support of electoral transparency. For example, Article 45 of the Election Act prohibits any official inauguration, such as of a building or event, during the election campaign period. This is a positive measure that reinforces an equal playing field for candidates.

However, the Center regrets the lack of a legal framework to regulate campaign finances, and the fact that the attempts of civil society to compel candidates to publicize their assets have been ignored. Greater oversight of campaign expenditure and public disclosure of candidate assets would have provided greater financial transparency on the process while strengthening the confidence of voters in their future leaders.

Additionally, The Carter Center regrets that two decrees - one from April 16 and one from Aug. 6, 2013 - were issued in a way that conflicted with critical legal provisions of the agreed-upon roadmap guiding the transition. In particular, the decrees removed the provision that insisted on the neutrality of the current heads of Malagasy political institutions during the parliamentary and presidential campaigns. In doing so, both decrees directly contradicted Malagasy law.³ Malagasy law could have overridden the decrees and barred heads of institutions from active engagement in the campaign, an important component of maintaining the neutrality of the transitional government. Ultimately, the Special Electoral Court (CES) shared this view, as it struck down the legality of the decrees. However, this decision was announced less than 36 hours before voting began and only 12 hours before the end of the campaign period, essentially rendering the verdict of the court moot. The decision should have been announced much sooner, as virtually the entire campaign period was conducted under the assumption that the decree provided legal cover to heads of institutions that sought to actively campaign - something that has now been demonstrated to be a violation of Malagasy law.

ELECTION ADMINISTRATION

International standards dictate that an independent, professional, transparent, and impartial election authority is fundamental to ensuring that citizens are able to participate in genuine democratic elections.⁴

The Constitution of Fourth Republic of Madagascar provides for an “independent national structure” that is responsible for the conduct of elections.⁵ The Roadmap for Ending the Crisis in Madagascar⁶ established a temporary election administration structure, the National Independent Election Commission. The election commission’s mandate was later domestically established by Organic Law n°2012-004⁷ which expresses the institutional and financial independency of the collegial body, National Independent Election Commission for

³ Law 2011-014 of 28 December 2011

⁴ ICCPR UNHRC General Comment No.25, para. 20.

⁵ Art. 5: “L’organisation et la gestion de toutes les opérations électorales relèvent de la compétence d’une structure nationale indépendante”

⁶ The Roadmap was introduced to the Malagasy legal system by the Organic Law n°2011-014 of December 28, 2011.

⁷ Organic Law n° 2012-004 of Feb. 1, 2012.

the Transition (CENI-T). This is an important step, as it is the first time in Malagasy history that an independent institution was established to administer and regulate the conduct of elections.

CENI-T, a collegial body, is governed by its General Assembly, composed of 24 members. The General Assembly is supported by a secretariat, headed by the executive secretary general. Twenty-one of the 24 General Assembly members represent a broad spectrum of civil society organizations and branches of government. The Carter Center was pleased to note that this spirit of inclusiveness continued down to the lowest levels of election administration.

While the decision-making process is centralized *de facto* at the national level, a large part of the election preparations and election day operations was decentralized by establishing 22 Regional Election Commissions (CER), 119 District Election Commissions (CED) and 1,553 Municipality Election Commissions (CEC).

The Carter Center recognizes the effort that CENI-T officials and polling staff put forth a good faith effort to ensure that Madagascar could re-establish democracy and end its long-standing crisis.

CENI-T and local administration bodies recruited 140,007 polling staff in order to conduct the election in 20,001 polling stations across the island. At the local level, representatives of civil administration (*Chefs du Fokontany*) played a major role in recruiting polling staff. Carter Center long-term observers also reported that due to limited resources, district-level election administration often depended on municipal-level civil administration to conduct the elections. In future elections, CENI-T should re-evaluate its structure and strive to continue to enhance its independence and reduce the need to rely on government elements at the local level.

VOTER EDUCATION

Voter education is an essential part of the electoral cycle that is recognized in international law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote.⁸ Furthermore, given the highly politicized environment in which these elections are taking place, the secrecy of the ballot is of pivotal importance. Fulfillment of secrecy of the ballot is partially dependent on the extent to which voters understand this right.⁹ These elections also included a number of elements that were not present in past elections, including the introduction of the single ballot paper and new regulation that the voters card was not required to vote, as other forms of identification were accepted.

According to CENI-T, in advance of these elections 32 civil society organizations received materials from the election administration in order to conduct voter education. However, their overall capacity and level of programming and impact is largely unknown. The Project to Support the Electoral Cycle in Madagascar (PACEM), sponsored by the United Nations Development Program (UNDP), is among the more prominent CSOs that conducted voter

⁸ ICCPR, art. 25; UNHRC, General Comment 25, para. 11.

⁹ UN, Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 6.

education aimed at maximizing voter participation. Carter Center observers observed limited voter education activities in advance of the Dec. 20 elections.

VOTER REGISTRATION

The Right to Universal Suffrage is at the core of democratic elections, a principle that is affirmed in a number of universal and regional documents.¹⁰ The Constitution of Madagascar and other Malagasy legislative acts confirm this right.¹¹

According to the official calendar, voter registration took place between Oct. 1, 2012 and Oct. 9, 2013, prior to the arrival of Carter Center observers. The registration was conducted by election officials, deployed by CENI-T to each of the 1,553 municipalities of Madagascar. This process was largely coordinated with local administration, or *Chefs du Fokontany*. These officials visited households across the country.

Madagascar's electoral law¹² stipulates the procedure for establishing the voters list and ensuring that it is regularly revised. While the voters list is independent of the civil register, identity verification (using a national identity card) is required when registering as a voter.

The registration process concluded with the registration of 7,823,305 eligible citizens on the voters list.

Although The Carter Center did not directly observe the voter registration process, and while accurate demographic data is unavailable in Madagascar, some analysis suggests that the register may not be fully representative of the population of voting age. Madagascar's last census, which was conducted two decades ago—in 1993—indicates that there are roughly 10,500,000 citizens of Madagascar that should be eligible to vote. However, according to official, national-level statistics, more than 3 million adult citizens do not have a national identity card. Furthermore the increase in number of registered voters between presidential elections in 2006 and current process was just 2.7 percent, a modest increase from an already inadequate number in relation to the voting-age population.¹³ In six of the country's 22 regions, the number of registered voters decreased between the elections in 2006 and 2013.

Based on these estimates, a significant number of voters could have been left out of the register. This combined with moderate voter turnout on election day impacts the extent to which the right of universal suffrage was upheld in the Dec. 20 elections. In advance of future elections, a census should be conducted.

¹⁰ African Charter on Human and Peoples' Rights Article 13, ICCPR Article 25, UNHRC ICCPR General Comment No. 25 paragraphs 4, 10, 11, 13.

¹¹ Constitution of Fourth Republic of Madagascar of Dec. 22, 2010.

¹² Organic Law n° 2012-005 of March 22, 2012.

¹³ “Analyse de la liste électorale informatisée de l'Élection Présidentielle du 03 Décembre 2006 et Situation administrative de population Malagasy, base de l'état de droit, de la démocratie et du développement à Madagascar”, Ministère de L'intérieur, June 2009.

For the population that was successfully registered, the official process was not considered complete until correct data was entered and the voter possessed their voter card. However, the distribution of these cards by local electoral administration was partially delayed. While voter cards were not required to vote in Madagascar's 2013 elections,¹⁴ the document has traditionally been compulsory in previous elections. Additionally, the voter card is an important source of information for voters, as it indicates in which polling location the voter is registered. In some areas, Carter Center observers observed voter cards being distributed on election day.

The Carter Center therefore regrets that problems surrounding distribution of voters cards—both in terms of delays and lack of distribution to some voters. At best, this caused confusion among voters as to where they should vote, and at worst the delays combined with a lack of voter education around the regulations for acceptable voter identification at polling stations could have given the impression that they were not registered at all, and were therefore ineligible to participate, negatively impacting turnout.

Reports from international observers indicated that during the first round of presidential elections on Oct. 25, prior to the arrival of Carter Center observers, some problems arose related to inadequacies of the voters list. As a result, CENI-T reviewed the official voters list and discovered that some of the names of registered voters had been omitted from the final copy of the voters list used for voter identification at the polling station. This resulted in the decision to revise the voters list by adding 143,408 citizens, in order to allow all registered voters to participate in the elections. This decision was reached after a robust debate that involved some parties suggesting that voter registration should be completely re-opened to new registrations.

The Carter Center commends CENI-T on the decision to correct flaws in the voter list, but not to reopen voter registration, between the two rounds of elections. However, in general, changing the list of eligible voters between two rounds of the same election is not a good practice.

Madagascar's constitution only allows for voters to be excluded from participation in elections by the exceptional ruling of a court.¹⁵ The Electoral Code further elaborates on this rule by explicitly listing groups of citizens with no right to be included on the voters list.¹⁶ It is regrettable, therefore, that attempts were not made to register and facilitate the enfranchisement of eligible voters in Madagascar's 2,648 hospitals¹⁷ or 41 detention centers.¹⁸

CANDIDATES, PARTIES, AND THE CAMPAIGN ENVIRONMENT

¹⁴ The national identity card is the only identification required for polling, not the voter card.

¹⁵ Constitution of Fourth Republic of Madagascar of Dec. 22, 2010.

¹⁶ Organic Law n° 2012-005 of March 22, 2012: Art. 4.

¹⁷ Only the 2 485 Municipal Health Centers (CSB 1 and 2) have the capacity of accommodating 9940 patients (Ministry of Health). Additionally there other 148 health institutions with residing patients. However, the number of eligible adult patients currently being hospitalized in the public health centers is not available.

¹⁸ The population of those awaiting trial in Madagascar's detention centers is thought to be about 10,000.

Madagascar is committed to several important international obligations in relation to candidates, parties, and the campaign environment including ensuring that every citizen has the right to be elected¹⁹ and freedom of assembly.²⁰

Political pluralism and genuine choice for voters are critical to democracy. Madagascar is obligated due to its international commitments to ensure “a real political pluralism, an ideological variety and a multi-party system that are exercised through functioning of political parties...”²¹ In order to ensure this important ambition, Madagascar has also made a commitment to ensure that “every citizen should have equal legal possibilities to propose him/herself as a candidate in elections.”²²

The Carter Center firmly believes that gender equality is also an important goal for democratic elections. Madagascar has committed to taking “measures to ensure that: a) women participate without any discrimination in all elections; b) women are represented equally at all levels with men in all electoral processes; c) women are equal partners with men at all levels of development and implementation of State policies and development programmes.”²³

Carter Center observers were deployed across the country for the entirety of the campaign period for the second round of presidential elections and legislative elections, which took place from Nov. 28 to Dec. 19.

The Carter Center congratulates the Malagasy people on conducting the campaign period in a peaceful manner. There have been no major violent events, an important achievement. Additionally, there was an impressive level of candidate registration, as 33 presidential candidates were on the ballot during the first round of elections and 2,054 candidates contested the legislative elections for 151 seats.

Freedom of assembly is recognized as an essential part of democratic elections; however, this right may be restricted under circumstances prescribed by law and necessary in a democratic society.²⁴ During the campaign period, candidates were free to organize meetings after fulfilling electoral code conditions requiring notification of administrative authorities. The Center believes that despite this requirement, no candidates reported difficulty with enjoying their freedom of assembly.

The Carter Center applauds CENI-T and the Friedrich Ebert Foundation for organizing three presidential debates between the two second round finalists, Dr. Jean-Louis Robinson and Hery Rajaonarimampianina. The tone of the debates was at times pointed, but were largely conducted in a respectful manner that allowed Malagasy citizens to hear directly from the candidates on live television and radio, as they discussed important issues about Madagascar’s future.

¹⁹ See for example, UDHR, art. 21(1); ICCPR, art. 25(b); AfCHPR, art. 13(1); CISCHRFF, art. 29(b).

²⁰ ICCPR, art. 21; AfCHPR, art. 11; CISCHRFF, art. 12(1).

²¹ CIS, Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Commonwealth of Independent States, art. 9 (2).

²² CIS, Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Commonwealth of Independent States, art. 3(4).

²³ AU, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 9(1); SADC Protocol on Gender and Development, art. 12.

²⁴ ICCPR, art. 21; AfCHPR, art. 11; CISCHRFF, art. 12.

In spite of such positive aspects, The Carter Center is concerned about several aspects of the electoral process related to candidates, parties, and the campaign environment. The main findings include that:

- Although the abundance of over 200 political parties is indicative of competition, The Carter Center regrets that most parties have not created robust internal institutions. Political parties play a critical role in democratic societies to connect citizens to government. Few parties in Madagascar have put forward a coherent slate of candidates. Some parties are empty shells, with a membership that does not extend beyond a single candidate. Madagascar's democracy would be better served if parties continue to build their membership. Moreover, parties should devote more effort to constructing platforms and policy statements beyond the personality of their featured candidate.
- The Center strongly believes that more needs to be done in terms of monitoring campaign finance, and being transparent about the source of election finance and campaign spending. This opaqueness and lack of national oversight makes it difficult to assess campaign fairness, as those allied to major national-level parties may enjoy an unfair advantage relative to independent candidates - particularly given the importance of private media in the Madagascar campaign environment.
- Similarly, The Carter Center also is disappointed by the lack of oversight over the code of conduct of candidates and political parties. Electoral rules and regulations exist to ensure fairness and that elections accurately reflect the will of the people. Without oversight and enforcement, there is no way to determine whether the campaign was conducted appropriately.
- The low proportion of female candidates is among the most significant weaknesses of the elections. Even though 46 percent of registered voters are women, only two of the 33 presidential candidates in the first round were women. In the legislative elections, 15 percent of the candidates were women, but only ten percent were ranked at the "head of the list," making it less likely that they will be elected. This does not reflect Madagascar's international commitment to ensure that "women are represented equally at all levels with men in all electoral processes."²⁵
- The Center recommends implementing legal and systematic measures that will ensure accurate representation of women in the democratic life of Madagascar and likewise recommends implementation of the goal of gender equality in terms of representation in public life as stipulated in Article 12 of the SADC Protocol on Gender and Development.²⁶
- Finally, The Carter Center regrets the decision by President of the Transition Rajoelina to replace one-third of Madagascar's regional governors with military personnel between the first and second round of the presidential elections. This act on Nov. 21 created uncertainty about the role of the military within key government posts during Madagascar's first post-coup election.

²⁵ AU, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 9(1).

²⁶ SADC Protocol on Gender and Development, Art. 12: "States Parties shall endeavor that, by 2015, at least fifty percent of decision-making positions in the public and private sectors are held by women".

Despite these failings, the peacefulness and prevailing calm during the campaign period, along with the high level of candidate registration and competition are laudable.

MEDIA ENVIRONMENT

Carter Center observers assessed that while media diversity is prevalent, the press is far too often tainted by biases and overly opinionated delivery of news. Despite this failing, it is worth noting that local media remained open about pricing for political advertising, creating at least some level of transparency in a critical realm of campaign finance. A limited number of media outlets also conducted voter education.

The ownership of the significant number of media outlets by politicians and their use in the campaign should be regulated to ensure a level playing field for all candidates in the legislative and presidential race.²⁷

CIVIL SOCIETY AND DOMESTIC OBSERVATION

According to the International Covenant on Civil and Political Rights, of which Madagascar is a signatory to, all persons have the right to participate in the public affairs of their country.²⁸ This includes the right of citizens to participate in non-governmental organizations²⁹ as well as the right of citizens to participate in citizen observer organizations, and contribute to voter education efforts.³⁰ Through these means, civil society can actively play an essential role in upholding an electoral process that is accountable and in which all participants can have confidence.

The election process was observed by a large number of domestic observers. The three main groups of civil society organizations deployed an estimated 10,000 mobile and stationary observers throughout Madagascar on Dec. 20, according to accreditation numbers from CENI-T. Carter Center and EISA observers noted that domestic observers were only present at about 40 percent of polling stations observed.

There were also an estimated 800 international observers deployed on Dec. 20, representing various intergovernmental and regional organizations including the African Union (AU), Southern African Development Community (SADC), European Union (EU), and the Indian Ocean Commission (IOC).

ELECTORAL DISPUTE RESOLUTION

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process. Effective dispute resolution mechanisms are essential to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.³¹ According to Madagascar's international commitments, everyone has the right to an effective remedy before a competent national tribunal for acts that violate their rights or freedoms, including the right to genuine elections and all associated

²⁷ The Carter Center did not conduct comprehensive quantitative media monitoring. For further information on the role of the press in the elections, please refer to the work of the European Union election observation mission, or Osservatorio di Pavia.

²⁸ ICCPR, art. 25; AU, AfCHPR, art.13.

²⁹ UN, CEDAW, art. 7.

³⁰ EISA, PEMMO, p.19.

³¹ UN, Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 47.

rights.³² In the instance of a dispute relating to elections, everyone has the right to a public hearing in front of an independent and impartial tribunal.³³ Madagascar's political commitments also suggest that the legal framework for elections should provide effective redress for violations of electoral rights.³⁴

The Carter Center welcomes the adoption of Law 2013-008, which added 10 judges, appointed by the groups that signed the roadmap, to the Special Electoral Court. The inclusiveness of the reconstituted court, which is responsible for adjudicating electoral disputes, is a positive measure that strengthened the confidence of political actors in the mechanism of electoral dispute resolution.

Despite this fact, the Carter Center regrets the disjointedness of the electoral complaints process. The convoluted procedure provided for by Art. 132 of the electoral law allows candidates and parties 10 calendar days after the polls close (in this case on Dec. 20) to file a complaint. This is problematic because the law provides that provisional results are released within 10 days following receipt of the last certified copy of polling station results, which can occur well after the complaint deadline has passed, so political actors will be forced to file complaints before provisional results are announced.³⁵

Moreover, the necessary criteria for voters to lodge complaints of the electoral process are overly restrictive. Voters must be registered and have voted in order to have the right to file a complaint about the process. Even then, their right to file a complaint is limited to the conduct of the electoral campaign in their constituency or in terms of the immediate jurisdiction of the polling station where they are officially registered. This does not provide for adequate exercise of the right to an effective remedy in accordance with international standards.³⁶

The 15-day window provided to the electoral court to process electoral disputes is sufficient. Nonetheless, the ongoing aggregation of election results could benefit from more resources in order to provide more robust verification of results.

VOTING

The quality of voting operations on election day is crucial to determining how closely an election falls in line with its democratic obligations. According to Madagascar's international and regional commitments, all citizens should enjoy the right to universal and equal suffrage,³⁷ and all citizens have the right to vote,³⁸ subject only to reasonable and objective limitations. A core obligation under international law is that elections shall be held by secret ballot,³⁹ which is recognized as a means of ensuring that the will of the people is expressed freely, and that a cast ballot cannot be connected with a voter to avoid intimidation and

³² UN, ICCPR, art. 2; ACHR, art. 25.

³³ UN International Covenant on Civil and Political Rights, art. 14(1); UN, Universal Declaration of Human Rights, art. 10; ECOWAS, Protocol on Democracy and Good Governance.

³⁴ AU, ACDEG, art. 17.

³⁵ In these elections, it is anticipated that CENI-T may release final results by Jan. 7, 2014.

³⁶ See for example, UDHR, art. 8; ICCPR, art. 2(3); AfCHPR, art. 7(1).

³⁷ UN, ICCPR, art. 25; ACHR, art. 23; UNm UDHR, art. 21.

³⁸ ICCPR, art. 25; AU, AfCHPR, art. 13; ACHR, art. 23.

³⁹ UN, ICCPR, art. 25; ACHR, art. 23, UN, UDHR, art. 23.

political retribution.⁴⁰ Except in cases where a voter, such as an illiterate or disabled voter, is being lawfully assisted, a voter cannot waive their right to secrecy of the ballot.⁴¹

Malagasy law does not ensure that only a manageable and equitable number of voters are assigned to each polling station. While the CENI-T initially introduced an internal benchmark aim of having fewer than 1,000 voters per polling location, that number later increased to 1,200. However, in spite of their efforts, in some cases more than double this number of voters were assigned to a single polling location. For future elections, The Carter Center recommends that Malagasy electoral law be revised to stipulate a maximum number of voters per polling station.

Due to the increase of the number of voters in some areas, polling stations were added or moved to new locations. The delays of distribution of voter cards that serve as an important element of voter information on the location of their polling station seemed to have caused some confusion of the voters during the election day. In some cases Carter Center observers noted that prospective voters were turned away at polling stations observed due to either not being on the voters list or not having a national identification card.

There were many praiseworthy aspects of the Dec. 20 election. Carter Center and EISA observers visited 85 polling stations and reported that election day proceeded in an atmosphere that was primarily calm and peaceful. There were no reported incidents of election-related violence. The observer teams reported that in most stations observed they had good access to adequately observe polling procedures.

Additionally, though most observer teams noted delays to opening times at polling locations, the delays were minimal, often between five and fifteen minutes, and did not impact the opportunity for citizens to vote. In some areas observed, delays in opening reached one hour. Observers reported that in most cases delays in opening were due to a late start in setting up the polling stations and late arrival of election materials including voting booths and in some areas ballot papers. Opening procedures were generally followed, but observer teams evaluated the opening processes as average, poor, or very poor in 63 percent of stations observed.

Once voting began, voters were able to vote in a relatively efficient manner in most polling locations, with few queues. Observers reported that the polling process was good or excellent in 82 percent of stations observed.

Carter Center and EISA observers reported modest participation, with about 50 percent turnout at polling locations visited. If such figures reflect national turnout, that would be a sharp reduction from the more than 61 percent turnout reported in the Oct. 25 first round presidential vote.

The Carter Center and EISA observer teams also indicated that isolated irregularities cropped up in various polling locations across the country. Some problems were serious, such as the extremely late arrival of presidential ballots in two polling stations, forcing poll staff to

⁴⁰ EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 24.

⁴¹ EU, Handbook (2nd Ed.), p. 79.

simply hold a legislative election during that time, allowing people to vote for one half of the election but not the other. Others were worrying, including one report of roughly a dozen armed guards inside the polling station. Furthermore, there was considerable confusion about which identification documents were necessary to vote, with officials in some cases accepting voter cards rather than the required national identification cards.

Eighty percent of polling stations observed did not close on time where they followed the procedure to allow all those in line at the time of closing to cast their ballots. Carter Center and EISA observers noted that the closing process was conducted poorly in 60 percent of stations observed.

Generally speaking, however, Carter Center and EISA observers did not report any widespread evidence of intimidation, active campaigning around polling stations, or outright attempts at electoral fraud.

COUNTING

The accurate and fair counting of votes plays an indispensable role in ensuring the electoral process is democratic and reflects the will of the voters. International and regional commitments indicate that votes be counted by an independent and impartial electoral management body whose counting process is public, transparent, and free of corruption.⁴²

Article 106 of Malagasy electoral law stipulates that whenever the number of ballots in the ballot box is greater than the number of people who signed in to vote, the polling staff must randomly withdraw a matching number of ballots from the ballot box and declare them blank and invalid.⁴³ These invalidated ballots are not reported separately, as there is no difference in recording procedures between genuinely blank ballots and those declared blank as a result of this process.

The Carter Center recommends that Madagascar introduce a new electoral procedure to ensure that should this situation arise in the future, that the number of blank and invalid ballots only reflects those ballots that are genuinely blank or invalidated, and reports any discrepancies between the number of signed-in voters and the number of ballots in the ballot box.

In a positive step, CENI-T for the second round of presidential elections and legislative elections introduced a new procedure to record the number of unused ballots as a part of the reconciliation of ballots process.

The Center also urges continued dedication of the return of results forms (PV) by polling staff, and calls for CENI-T to publish provisional results as quickly as possible. Timely announcement of election results is an important aspect of maintaining a peaceful, calm post-electoral climate. Results should be publically available disaggregated to the level of polling station.

⁴² African Charter, art. 17(1); UNHRC General Comment 25, para. 20; UN Convention against Corruption, Art. 18.

⁴³ Le Guide a l'Usage Des Membres du Bureau De Vote, page. 24.

The Carter Center also calls on all candidates and their supporters to abstain from disrupting the ongoing tabulation and respect the process.

The Carter Center has observed 96 elections in 38 countries. The Center conducts election observation in accordance with the Declaration of Principles of International Election Observation and Code of Conduct for International Election Observation adopted at the United Nations in 2005 and revised in 2012. The Center assesses electoral processes based on states' obligations for democratic elections contained in their regional and international commitments and in their domestic legal framework.

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Jan. 18, 2014

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Carter Center Commends Peaceful Release of Madagascar Final Election Results; Urges Commitment to Reconciliation

Following today's announcement of final presidential election results, The Carter Center congratulates the people of Madagascar on reaching this key milestone and urges continued commitment to peace and reconciliation. While the country awaits final results of the legislative elections and resolution of any pending election-related complaints, the Center urges all stakeholders to commit to rising above the country's history of winner-take-all politics. The Center again congratulates the National Independent Electoral Commission of the Transition (CENI-T) on its administration of the elections, and commends the Special Electoral Court (CES) for performing its role with impartiality and a demonstrated commitment to advancing Madagascar's future. The Carter Center appeals to stakeholders to uphold their commitment to peace, constitutional order, and an inclusive democratic government.

The Carter Center observed Madagascar's Dec. 20, 2013, presidential runoff and legislative elections in partnership with the Electoral Institute of Southern Africa (EISA). The Carter Center did not observe the first round of voting in the presidential elections that took place on Oct. 25, 2013, and the Center's observations are limited to the immediate period of the Dec. 20 polls.

The Center released a preliminary public statement on Dec. 22 summarizing the mission's observations of polling, which noted that voting and counting processes were peaceful, orderly, and in general accordance with Madagascar's legal framework and obligations for democratic elections. The Center commended the CENI-T for its commitment to ensuring that all eligible voters had an opportunity to cast their ballots freely. Carter Center observers noted a few shortcomings in the process, including inconsistent use of the separate voters list, delays in delivery of materials in some areas, and inconsistent inking procedures. However, these shortcomings were not systematic and did not impact the outcome of the elections. Carter Center

observers remained deployed to observe the counting and tabulation process in Analanjirofo, Atsimo-Andrefana, Atsinanana, Boeny, Haute Matsiatra, and Vakinankaratra.

Post-election Period

The Carter Center deployed six long-term observer teams to six regions¹ of Madagascar. During deployment time, these observers based their reporting on meetings with 240 interlocutors in 19 constituencies (districts) of the country.

Carter Center observers generally reported a calm atmosphere in the days following the elections, with the population patiently awaiting results of the second round of presidential elections. The tabulation process was open to observation and was generally performed in a transparent manner; however, access to data in CENI-T's data collection IT center was not always fluid and the setup could be improved to allow for more comprehensive observation in the future. The Carter Center commends the people of Madagascar, political parties, CENI-T, and other key stakeholders who have urged for calm and respect for the peaceful resolution of disputes.

Counting and Tabulation

In accordance with the Malagasy electoral code, counting took place at polling-station level immediately following the closure of polls on election day.² Following counting, the presiding officer, representative of CENI-T, Fokontany Chief, or nominated representative of the SRMV was required to deliver the certified copy of the results (PV) along with supporting materials outlined in the electoral code to the corresponding transmission center (SRMV) in each district by the fastest method available.³ The Carter Center observed that delivery of material to the SRMV was usually conducted by the person legally assigned to do so. In the majority of cases, Carter Center observers found that the transfer of material was properly conducted, in accordance with electoral procedures. However, the transfer of results was delayed in some districts due to the lack of adequate transport and miscommunication regarding the handover of material. A clearly outlined collection plan for electoral material was notably absent of the electoral code. In future elections, the Center recommends that a material collection plan be

¹ Atsinanana, Analanjirofo, Vakinankaratra, Amoron'i Mania, Haute Matsiara, Atsimo Andrefana

² Organic Law n° 2012-005 of Mar. 22, 2012, Art. 98.

³ Organic Law n° 2012-005 of Mar. 22, 2012, Art. 113.

developed in advance to ensure that the transport of material ensures a timely publication of results.⁴

Despite these challenges relating to the timely transfer of materials, The Carter Center assessed that the conduct within SRMV's was acceptable in 87 percent of the transmission centers visited and that the overall process was sufficient. In the remaining 13 percent of SRMVs visited, observers noted that returning material was not properly recorded. In general, teams reported that increasing the number of staff in SRMVs in the future would increase the efficiency of the work of these institutions. Observers largely evaluated conduct of the SRMV operations as peaceful.

Following the count and transfer of preliminary results, the centralized tabulation process for the legislative elections and the second round of presidential elections took place between Dec. 20, 2013, and Jan. 10, 2014. The Carter Center has found the counting and tabulation processes to be peaceful, with all observers reporting free access to the counting and tabulation processes.

As stated in the Center's preliminary statement on Dec. 22, Malagasy electoral law dictates that in a circumstance where the number of ballots in the ballot box is greater than the number of people who signed the voter's list, polling staff must randomly withdraw a matching number of ballots from the ballot box and declare them blank and invalid.⁵ This procedure does not provide for a possibility to register separately invalidated ballots and genuinely blank ballots. The Carter Center notes that the absence of such information from the CENI-T resulting from the use of this procedure makes it impossible to distinguish between the total of invalid and blank votes. Providing such information in future elections will help ensure greater integrity and transparency of the process.

Declaration of Provisional Results

According to the law,⁶ CENI-T has 10 days after the reception of the certified copy of results to declare provisional national electoral results. These certified results were received by CENI-T on Dec. 31, 2013, giving the body until Jan. 10, 2014, to announce national provisional results. In compliance with its legal obligation, CENI-T announced preliminary results for the second round of presidential elections on Jan. 3 and preliminary results for the legislative elections on Jan. 10. Although CENI-T has complied with this legal calendar, The Carter Center notes that further

⁴ Commonwealth Secretariat, *Dimensions of Free and Fair Elections: Frameworks, Integrity, Transparency, Attributes, Monitoring*, 47, "The timely announcement of election results enhances the transparency of the electoral process. The promptness or otherwise with which the results of an election are made known may depend on the electoral system that is in place. The first-past-the-post system has the ability to produce early results, particularly when the counting of the ballots is done at the polling stations."

⁵ Guide à l'usage des membres du Bureau de Vote, page. 24.

⁶ Organic Law n°2012-015, Art. 26 (for presidential elections); Organic Law n°2012-016, Art. 53 (for legislative elections).

improvements should be made regarding the collection of materials to expedite the process in the future.

The CES conducted a parallel process of tabulation that has been the basis for the final declaration of result, which is the only one that is legally binding. On Jan. 17, the CES released the final results of the presidential elections, officially declaring Hery Rajaonarimampianina Rakotoarimanana winner of the second round with 2.060.124 votes (53.49 percent) against Jean Louis Robinson with 1.791.336 votes (46.51 percent). These results are very similar to those released by the CENI-T. While it is unfortunate that voter turnout was lower than in the first round of elections at about 50 percent, an important decrease in the number of invalid ballots between the first and second rounds was positive.

For the legislative elections, CENI-T declared that results from 13 polling stations were considered cancelled due to the failure to complete electoral operations on the election day. Most of cases concerned non-delivery of electoral material to SRMVs, in two cases due to insecurity in the area concerned. In three cases voting operations did not take place due to attack on polling staff. In one case, a polling staff was arrested during election day and not replaced, which stopped the vote in this polling station. For an additional 40 polling stations, the certified copies of the result were unreadable.

For presidential elections, there were a small number of polling stations in which presidential results were not included in the final CENI-T count. Presidential results from 16 polling stations were not returned to SRMVs, and therefore not included in the final count. In a small number of cases where the number of total votes cast significantly exceeded the number of voters registered, CENI-T was obligated to transfer all corresponding electoral material to the CES for further examination. In one case this process was not completed due to the lack of counting forms. It is important to note that the total number of votes at these polling stations is not significant and would not affect the outcome of the election.

Electoral Dispute Resolution

By Dec. 31, 2013, the deadline for the submission of complaints to the CES, 70 electoral complaints were filed in relation to the presidential election, 63 of which were submitted on the very last day of the complaint period. A total of 580 complaints were submitted related to the legislative elections. Of these complaints, two significant submissions called for a cancellation of the election results and disputed the preliminary results.

In advance of the announcement of results, the CES released nine key decisions in the first weeks of January. The most important of these was the decision that the CES would not disqualify any candidate or detract votes from any candidate on the basis of the CES's annulment of the decree of Aug. 6 2013 authorizing heads of institution to participate in the campaign.

The Carter Center commends the CES on the impartiality and objectivity that it has demonstrated during the electoral process, and calls for the respect of the will of the Malagasy people. The Carter Center appeals to stakeholders to uphold their commitment to peace and constitutional order, and calls on political stakeholders to advance this opportunity to overcome the country's history of winner-takes-all politics and commit to an inclusive democratic government.

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“Waging Peace. Fighting Disease. Building Hope.”

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Appendix E

Deployment Plan

Short-Term Observer Teams	Names	Location
1	Marie Clemence Nodjan (Rotating Members) Cecile Bassomo Hama Munyikwa	Antananarivo
2	Gaston Kalombo Gisele Pana	Toamasina/Tamatave
3	Monique Nobs Lucianne Sophola	Fenoarivo
4	Charlotte Ramble Immaculee Murangwa	Antsirabe
5	Gideon Taboh Jean Jacques Cornish	Fianarantsoa
6	Laura Erizi Andre Kabunda	Toliara
7	Koffi Abou Anzou Thomas Cox	Toliara
8	Sailifa Nzwalo Aichatou Fall	Antsiranana/Diego
9	Denis Kadima (Rotating Members) William Hassall Jules Lalancette Brian Klaas	Antananarivo
10	H.E. Cassam Uteem John Stremlau	Antananarivo

Letter of Invitation

REPOBLIKAN'I MADAGASIKARA
Fitiavana-Tanindrazana-Fandrosoana



Antananarivo, le 15 février 2013

Monsieur Jimmy CARTER
Ancien Président des Etats Unis

Objet : Sollicitation d'envoi d'observateurs electoraux

Monsieur le Président,

Faisant suite à la visite exploratoire de vos agents à la CENI-T, lors de notre rencontre, il a été évoquée la possibilité pour votre centre d'envoyer des observateurs electoraux pour les prochaines elections à Madagascar.

Aussi, nous confirmons que nous sommes disposés à recevoir favorablement vos observateurs pour suivre les élections programmées pour cette année 2013.

Comptant sur votre collaboration, veuillez recevoir, Monsieur le Président, nos remerciements anticipés



ATALLAH Béatrice Jeanine
Président de la Commission
Electorale Nationale Indépendante
Pour la Transition

Appendix G

Quick Facts About the 2013 Presidential and Legislative Elections in Madagascar

Dates of Election

Type	Date
First Round Presidential	Oct. 25, 2013
Second Round Presidential (Runoff)	Dec. 20, 2013
Legislative	Dec. 20, 2013

Quick Statistics

Population of Madagascar	22,599,098 ¹
Number of Regions	22 ²
Number of Districts	119
Number of Registered Voters (First Round Presidential)	7,823,305
Turnout for First Round Elections	4,831,666 (61.76%) ³
Number of Invalid/Blank Votes (First Round)	303,277 (3.88%)
Number of Registered Voters (Second Round Presidential)	7,971,790 ⁴
Turnout for Second Round Elections	4,043,246 (50.72%)
Number of Invalid/Blank Votes (Second Round)	191,786 (2.41%)
Number of Polling Stations	20,001
Average Number of Voters per Polling Station	202.15
Total Number of Presidential Candidates (First Round)	33
Total Number of Legislative Candidates	2,054
Total Number of Seats Contested in National Assembly	151
Number of Polling Stations with Invalidated Results	76

1 <http://www.cia.gov/library/publications/the-world-factbook/geos/ma.html>

2 http://www.ceni-madagascar.mg/dossier/recap_nbelec_arretprov.pdf

3 http://www.cenit-madagascar.mg/res/recap/Recap_National.pdf

4 <http://www.hcc.gov.mg/elections/president2013-2/mada>

First Round Presidential Election Results (Top Five Candidates)⁵

Candidate Name	Number of Votes
Jean Louis Robinson (AVANA)	955,534 (21.10%)
Hery Rajaonarimampianina (Hery Vavao ho an'I Madagasikara)	721,206 (15.93%)
Hajo Herivelona Andrianainarivelo (MMM)	476,153 (10.51%)
Roland Ratsiraka (MTS)	407,732 (9.00%)
Albert Camille Vital (Hiaraka Isika)	310,253 (6.85%)

Second Round Presidential Election Results⁶

Candidate Name	Number of Votes
Hery Rajaonarimampianina (Hery Vavao ho an'I Madagasikara)	2,060,124 (53.49%)
Jean Louis Robinson (AVANA)	1,791,336 (46.51%)

⁵ AU, African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Article 2(i); U.N., United Nations Human Rights Committee, General Comment No. 32, para. 27

⁶ The ability to challenge election results should be provided for by law (SADC, Principles and Guidelines, para 2.1.10).

■ The Carter Center at a Glance

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

80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. Please visit www.cartercenter.org to learn more about The Carter Center.



Martin Frank

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