



The Carter Center International Election Observation Mission to Cote d'Ivoire

Report on Voter Verification, Claims, and Objections of Provisional Voters List November-December 2009

As part of its long-term observation of the electoral process in Cote d'Ivoire, The Carter Center deployed five teams of international elections observers from Nov. 29 to Dec. 20, 2009, to assess the process of posting and public verification of the provisional voters list and the claims and objections period. Observers visited 14 regions of the country, where each team maintained contact with regional and local election officials, local authorities, political party representatives, and civil society organizations.

The following summary report reflects key points of the Center's December 2009 assessment. It should be recalled that the period for the resolution of claims and objections was extended on several occasions, first to Jan. 6, 2010, then to Jan. 9, 2010, and then re-opened Feb. 4-14.

The electoral process was seriously disrupted on Jan. 7, 2010, following allegations made by the spokesman of the president of the Republic of Cote d'Ivoire that the Independent Electoral Commission (CEI) attempted to commit fraud ([read Carter Center statement](#)). These claims led to a deadlock in the electoral process and a major political crisis, which resulted in the dissolution of the government and the CEI by President Laurent Gbagbo.¹ With the assistance of the facilitator of the Ouagadougou Political Accord (OPA), Burkina Faso President Blaise Compaore, Ivorian political parties agreed to form a new government and a new CEI. They also agreed to the resumption of adjudication of claims and objections to the provisional voter list for a period of 21 days, though this step has yet to take place.²

¹ Section 48 of the Ivorian constitution allows for the President to take exceptional measures when the state's institutions are threatened. In French, it states: *Lorsque les Institutions de la République, l'indépendance de la Nation, l'intégrité de son territoire ou l'exécution de ses engagements internationaux sont menacées d'une manière grave et immédiate, et que le fonctionnement régulier des pouvoirs publics constitutionnels est interrompu, le Président de la République prend les mesures exceptionnelles exigées par ces circonstances après consultation obligatoire du Président de l'Assemblée nationale et de celui du Conseil constitutionnel.* President Laurent Gbagbo's decision to dissolve parliament and the Independent Electoral Commission (CEI) has been controversial – opposition political parties have criticized his justification to invoke section 48 of the Ivorian constitution.

The United Nations International Covenant on Civil and Political Rights (ICCPR), Art. 4, (1) states, "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measure derogation from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin."

² It should be noted that the recurring delay of electoral procedure has been cause for concern among local and international authorities, as current proceedings are taking place nearly five years beyond the mandate of the President of the Republic.

Voter Verification and Claims and Objections Procedure

The public posting and verification of the provisional voter list followed by the claims and objections period is the formal operation through which the CEI allows Ivoirians to verify the quality of the voter list. This period serves the CEI and all interested and eligible citizens:

- to read and review the provisional voter register;
- to challenge and correct the posted provisional voter register;
- to re-enroll those registrants who lacked the appropriate documentation during the registration period and who have been left off of the provisional register; and,
- to provide reasons for non-valid registration based on a system of coded classification.

This process was to be carried out by the CEI central offices and their regional, departmental, prefectural, communal, and foreign sub-branches over a thirty-day period. As noted above, the period was extended on several occasions to compensate for administrative and judicial delays.

Throughout the process, CEI officials were requested to remain politically neutral and to respect the presence of political party representatives, international observers, civil society organizations, and other national institutions. Claimants could argue for changes to irregularities or omissions from the posted lists, provided they could present the local CEI officials with legal documentation and proper national identification or past proof of registration. These claims were not dealt with by local election commissions but were sent to regional CEI offices for consideration. Following the decision made by CEI officials, further objecting claimants could appeal to local judicial committees without cost. Ideally, the judicial decision was to be made within eight days of the appeal and is considered legally binding and incontestable from that point forward, even in the event of an unfavorable judgment.

Main Findings

Improvement of operational elements: The CEI demonstrated improved operational ability and procedures during the public posting of the provisional voter list. Local branches of the CEI were more able to deploy in the field and to respond when faced with difficulties. These efforts were nevertheless hindered by the lack of a clear methodology and procedure established by the central offices of the CEI, as evidenced by the apparent lack of consideration for the logistical needs of, and procedural guidance necessary for, remote CEI offices in the field. Document shortages, lack of office supplies and equipment, and little thought for transportation needs left opportunities for political interference in the process. In some observed cases, political parties provided financial and material support to rural CEI branches and posting centers, as well as direct involvement with citizens.

Application of legal regulations: A substantial number of local CEI officials did not follow the proper method for posting lists and claimant information, which is to display the lists side-by-side with contact information for further updates regarding individual files. In the cases where procedures were not followed, claimants had difficulty gathering information on the status of their file. Furthermore, when certain local CEI officials refused to register claims from individuals whose registration was contested on the basis of nationality (e.g. refused for the reason that their claims were unfounded because they relied on public affirmation and not official documentation) a substantial amount of friction was generated. As outlined in CEI policy,³ judicial appeal with no financial cost must be provided to those who object to local CEI ruling regarding any corrections to, or omissions from, the provisional voter list. As a signatory of the U.N. International Convention on Civil and Political Rights and the African Union African Charter on Human and Political Rights, the state of Cote d'Ivoire must uphold such rights.⁴ When this type of claim is flatly denied by election officials, there is no paperwork administered that can be evaluated or rejected, rendering state guaranteed legal appeal, and recourse by the claimant, impossible, and thereby denying a citizen's electoral right to remedy.

Deficiencies in communication: Generally, it was apparent that there were persistent systematic malfunctions in the distribution of information between the different levels of electoral administration. The result was often incoherent methods and procedures used to administer claimants.

Discrepancies in the interpretation of instructions: At the beginning of the process, Carter Center observers reported significant variations in the comprehension and interpretation of instructions regarding the procedure for the administration of voter files by local CEI officials.

Inaccuracies in the application of procedure: The implementation of the fundamental principal requiring a CEI supervising commissioner's confirmation of all decisions made by local CEI branches quickly proved to be impractical due to the delay caused by

³ Art. 12 of the Electoral Code of Cote d'Ivoire states that omissions and irregularities in the voter list can be challenged through judicial recourse. In French, "Tout électeur inscrit sur la liste de la circonscription électorale peut réclamer l'inscription d'un individu omis ou la radiation d'un individu indûment inscrit. Ce même droit peut être exercé par chacun des membres de la Commission chargée des élections. Les demandes émanant des tiers ne peuvent avoir pour objet que des inscriptions ou des radiations éventuelles et doivent préciser le nom de chacun de ceux dont l'inscription ou la radiation est réclamée. Les omissions et irrégularités constatées par la Commission chargée des élections, en ce qui concerne la mention des nom, prénoms, sexe, profession, résidence ou domicile des électeurs, pourront faire l'objet d'un recours devant les juridictions de première instance sans frais, par simple déclaration au greffe du tribunal. Les décisions rendues par ces juridictions ne sont susceptibles d'aucun recours."

⁴ (ICCPR), Art. 2, (b, c) states, "Each State Party to the present covenant undertakes: (b) to ensure the right that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted. The African Union African Charter on Human and People's Rights (AfCHPR), Art. 7, (a, b, d) states, "Every individual shall have the right to have his cause heard. This comprises of (a) the right to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, law, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (d) the right to be tried within reasonable time by an impartial court or tribunal. The African Union African Charter on Democracy and Elections and Governance (ACDEG) Art. 17(2) says, "State parties shall: Establish and strengthen national mechanisms that redress election-related disputes in a timely manner." Economic Community of West African States (ECOWAS) Protocol on Democracy and Good Governance Art. 34(1) states, "Member states and the Executive Secretariat shall endeavour to adopt at national and regional levels, practical modalities for the enforcement of the rule of law, human rights, justice and good governance."

logistical impediments and staffing shortages. Signatory responsibilities were quickly delegated to other local level officials. This practice, however, was not uniformly applied across all local branches. Similar circumstances were observed in the local CEI branches' methods of treating claims in cases where exclusion from the voter list was due to repeated use of the same piece of identification by different registrants, for which The Carter Center observed many variations in the treatment administered.⁵

Absence of a coordinated statistics mechanism: In the absence of a statistics monitoring mechanism – the CEI had never instructed its local branches to gather data relating to claimants prior to Dec.11, 2009 – the information circulated as of mid-December 2009 could only be considered approximate at best. With no instructions from central CEI offices for branches to keep sufficient records of the claimant cases they administered, the numerical data concerning the first three weeks of the voter list posting and appeals process cannot be considered reliable. The information gathered throughout each step of the electoral process and at all levels of administration and free and fair access to such information is crucial to the assessment of the transparency of the overall electoral process.

Absence of public awareness and education campaigns: The terms of reference for the management of the list of claims and objections were delayed in their release and were subject to adjustments throughout the process. Accordingly, the CEI was incapable of putting together any significant public information campaign to educate voters, specifically one that addressed the topic of documentation required to file claims during the appeals process.⁶

Delays and difficulties in the implementation of re-enrolment: The CEI announcement that those who were excluded from the voter list for institutional or administrative reasons could re-register to vote through the week of Dec. 14 was never put into practice. At the same time, the Center observed that local branches of the CEI were not basing their own varied responses to such cases on any formal instruction or specific terms.

Difficulties associated with the methods of implementing data collection during registration: The posting of the voter list confirmed specific problems that stemmed from the initial collection of information by administrators during the voter registration period. For example, both the provisional and contentious voter lists showed errors in the allocation of individuals to their proper districts, the omission of some individuals from the list entirely, and demonstrated errors in the accuracy of collected data, such as misspelled and missing names and information. These problems were due, in part, to the discrepancies in the training and supervision of registration officials.

⁵ Ad hoc methodology varied throughout the country for the treatment of contentious voter files. Though not intentionally put in to practice, the variance in procedure resulted in the uneven application of an electoral right to remedy based on where each case was administered, and by whom.

⁶ United Nations Human Rights Commission, General Comment 25, para. 11 states that, “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. [...] Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”

Exogenous factors affecting the process: A strike by judicial clerks was particularly paralyzing to a section of the tribunal system throughout several weeks, though these delays varied in duration by region and by the clerks' regional adherence to union strike orders. In the affected areas, the strike created an administrative bottleneck, slowing the proceedings of judicial appeals for inclusion in the voters list.

When considering other structural factors, the distance between local CEI offices, posting centers, and surrounding villages, particularly in rural zones, proved a deterrent for many individuals and a logistical hindrance for the quick relay of documents between centers. In some cases, regional CEI underestimated the time needed for the distribution of official documents to rural branches, further delaying administrative processes.

Cross-agency ties with national identification: Given the coupling of the electoral registration and national identification programs, it was legitimate for the National Monitoring and Identification Commission (CNSI) and the National Office for Identification (ONI) – the government bodies associated with national identification – to be included in the voter list verification process, even though the CEI was opposed to their involvement. This jurisdictional dispute led to many complex discussions, which, in turn, generated further instructions for CEI local branches. Starting Dec. 11, these new policies were implemented among departmental follow-up committees consisting of representatives from the CEI, CNSI, and ONI. However, these committees barely became operational as a result of the drawn out procedure developed under the guidance of the prime minister and the January 2010 allegations of fraud on the voters list that suspended the overall process.

Recommendations

The following recommendations are intended to suggest potential future improvements in Cote d'Ivoire's conduct of election preparations. Although the overall process is ongoing, the early-2010 suspension of election preparations may result in the re-opening in some of the operations described in this report. The Carter Center will continue to follow election preparations in the hopes that they are conducted according to the overall terms of the OPA and broader peace process.

1. The distribution of electoral lists to local CEI branches and posting centers was generally carried out in the manner outlined by the CEI. This marks an important improvement in local planning capacity. The provision of adequate resources by the CEI should have enabled local branches to ensure the effective deployment of electoral materials throughout their regions of responsibility. Some areas, however, still suffered delays in the display of the lists due to distance, issues of accessibility, and the number of centers to cover. These problem areas require specific solutions to avoid similar delays that could affect the quality of polling operations on election day. In this context, the upcoming distribution of identity cards will provide a final opportunity to fine tune these operations.
2. Variations in the procedure used to administer cases may undermine equal and fair access to all eligible citizens if they have the effect of unfairly and randomly

privileging or impeding citizen access to their democratic rights.⁷ Carter Center observers found distinct differences in the interpretation of instructions by local election commissioners regarding the processing of claims. For the most part, these wrinkles were smoothed out over the course of the observed duration of the process. The Center was well aware of the potential difficulties arising around specific groups of voters (e.g. elderly registrants with insufficient documentation to prove their Ivorian identity or newly eligible youth registrants with inadequate access to receive government documentation), and observed ad hoc measures developed in the treatment of these cases. This situation suggests that the CEI needs to pay special attention to strengthening the quality and timing of training of local electoral commissioners.⁸

3. If the current phase of appeals and identification is any indication of the effectiveness of Cote d'Ivoire's electoral administration, it is evident that, if not addressed, serious difficulties will arise during the critical phases of voting, collection and consolidation of results. For example, the CEI appears to favor a strong decentralization of the tabulation of results. It is therefore of crucial importance that all procedures related to polling, counting, and tabulation be adopted sufficiently in advance and outlined in full detail to avoid the complications of last minute, ad hoc provisions. Appropriate and timely training of local election officials will also be crucial if decentralized administration is to succeed.
4. Carter Center observers identified several cases of difficulties and delays regarding the distribution of information to local CEI commissioners, including the relay of information from local centers back to central CEI offices. These communication difficulties likely contributed to the emergence and persistence of different interpretations of procedure at the local level.
5. In the same vein, it is necessary to emphasize that while the working conditions of some local commissions were generally improved in terms of their equipment, many offices remain in poor working condition, which could jeopardize the secure and effective transmission and consolidation of election results. In addition to some local commissions not having premises within their jurisdictions, many of their offices lacked electricity. Unless remedied, this deficiency will negatively affect the CEI's ambitious plan for the electronic transmission of polling results.
6. Finally, it should be said that the conduct of a reliable observation mission also requires the receipt of clear information from election officials, particularly where it relates to the procedures and instructions in use. As the election approaches, the CEI will undoubtedly be approached by more information requests from political parties, election observation groups and other individuals. The CEI will be well-served if it

⁷ UNHCR, General Comment 25, para.11: "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right."

⁸ African Union African Charter on Democracy, Elections and Governance, art. 32 (8) states that "State Parties shall strive to institutionalize good political governance through: 8. Entrenching and respecting the principle of the rule of law." UNHRC General comment 25, para. 4, "Any conditions which apply to the conditions outlined in article 25 should be based on objective and reasonable criteria."

anticipates the demands for transparent election administration and implements a comprehensive public information and relations strategy.⁹

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At the invitation of the Ivorian authorities, The Carter Center launched an international election observation in November 2008. Teams of international observers were deployed on two occasions as part of the population identification of and voter registration. During five weeks between November and December 2008 and four weeks between February and March 2009, Carter Center observers traveled to 64 sub-prefectures across the country. Based on these observations, the Center has published two reports and a general assessment on the identification and electoral census, which are available at www.cartercenter.org. The Carter Center conducted its work in monitoring compliance with international standards contained in the “Declaration of Principles for International Election Observation” adopted by the United Nations in 2005.

⁹ African Union Convention on Corruption, art. 9 states that, “Each party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offenses.”