



**ELECTION OBSERVATION MISSION  
Guinea, Presidential, June 2010**

**PRELIMINARY STATEMENT**

**The Carter Center Commends Guinea's Historical Election; Urges Continued Calm in the  
Post-Election Period**

**Conakry, June 29, 2010**

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**Executive Summary**

**Conakry...**The June 27, 2010, elections, represented an important political opening for the people of Guinea. These were the first elections to be held in Guinea without an incumbent candidate, which increased political space and the opportunity for participation by all sectors of society.

Despite procedural flaws and logistical challenges, this election, marked by high voter turnout and wide participation, was an important step forward in Guinea's process of democratization. Although it lacks experience and faces challenges of poor infrastructure, the Independent National Electoral Commission (CENI) exhibited good faith efforts in their attempts to ensure a credible, transparent, and peaceful process.

As the counting process and proclamation of results continues, The Carter Center urges all candidates to adhere to their commitment to a peaceful transition of power, utilizing appropriate legal challenges for the filing of complaints as necessary. The CENI and relevant judicial bodies should recommit themselves to ensuring transparency throughout the process of proclamation and dispute resolution, ensuring all challenges are addressed in a timely and effective manner. In addition, it is critical that security forces, civil society, religious communities, the media, and the international community reaffirm and continue their support and commitment to Guinea's democratic development.

The next month will be critical in affirming Guinea's commitment to democratic governance. Should there be a second round of elections, The Carter Center urges the final contestants to remain committed to a peaceful and inclusive process, including

through debate of their differences in an open forum accessible to all Guineans.

**The main interim findings of the Center’s observation mission are as follows:**

- The election campaigns were based on messages of national unity, with parties adhering to a code of conduct, and party supporters engaged in largely peaceful campaign events.
- The Carter Center commends the transitional administration of Guinea for adhering to the January 2010 Ouagadougou agreement, including the agreed upon schedule for presidential elections and the tenet of abstaining from running as presidential candidates.
- The elections were the first to be organized by an independent election commission, the CENI. The Carter Center recognizes the challenges faced by this agency, including a compressed electoral calendar, a legal vacuum, and a poorly developed national infrastructure.
- Confusion about several important aspects of voting and counting procedures, delay in allocation of polling stations, and late delivery of essential voting materials negatively affected the quality of polling. The Carter Center is concerned that an uneven delivery of service to voters in different parts of the country and confusion over proper election day procedures has the potential to undermine the principles of universal and equal suffrage. In future elections, the establishment of a clear legal and procedural framework, well in advance of election day, may allow for better preparation and training.
- The CENI introduced several complex technological innovations such as biometric voter cards and a system of tamper-proof envelopes for transferring poll results, that were well-conceived but required more attention and planning in their application.
- The Carter Center will continue to observe the completion of the tabulation and official results process as well as any electoral disputes that may arise.

*The Carter Center election observation mission has been in Guinea since May 12, 2010, following an invitation from CENI. The Carter Center mission was led by General Yakubu Gowon, former head of state of Nigeria and Dr. John Strelau, Carter Center vice president for peace programs. Eight long-term observers from five countries were deployed throughout the country in advance of election day to assess election preparations. On election day, 30 observers from 15 countries visited 138 polling stations throughout Guinea to observe voting and counting. Carter Center observers continue to assess the conclusion of counting and vote tabulation and will remain in Guinea to observe the post-election environment. The Carter Center conducted this assessment on the basis of Guinea’s domestic law and international commitments for democratic elections.<sup>1</sup> The mission was conducted in accordance with the Declaration of Principles for International Election Observation.*

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<sup>1</sup> Guinea is a member of the United Nations, the African Union, and the Economic Community of West African States. The Carter Center has based its assessment on Guinea’s domestic law and political commitments such as the International Covenant on Civil and Political Rights, African Charter on Human and Peoples’ Rights, and the ECOWAS Protocol on Democracy and Good Governance.

## Statement of Preliminary Findings and Conclusions

*This statement is preliminary; a final report will be published four months after the end of the electoral process.*

### Introduction

Elections are a central component in the Ouagadougou Agreement, which was signed in January 2010. Guinea's recent history has been marked by quasi-dictatorial rule—leading to increasing levels of discontent amongst the population and sporadic outbreaks of violence. As such, the 2010 presidential election offers the first real opportunity for a democratic and openly contested election since Guinea declared its independence in 1958. Guinea's unique place as the only one of the Mano River Union nations not to fall into civil war, paired with the recent military coups in Niger and Mauritania, also gives these elections an important regional significance. Further, the strong signal sent by the African Union and Economic Community of West African States (ECOWAS) to suspend Guinea's membership and the international condemnation of last September's massacres will mean little if Guinea does not achieve a transition to a stable democratic government.

The Carter Center's election observation mission in Guinea has found an environment of remarkable political will for elections. The political actors within Guinea have maintained a spirit of trust and good faith throughout the transition period following the Ouagadougou Agreement, with the country led by a government of national unity. While ethnic identity has sometimes been the object of political manipulation in Guinea, the transition period has been marked by concerted efforts of political parties to focus their campaigns on messages promoting national reconciliation and disavowing regional and ethnic interests. The legislative National Transitional Council (CNT) remained neutral in its oversight of all electoral processes and the National Independent Election Commission (CENI), which was faced with the enormous challenge of preparing for the election within a compressed time frame, has ensured that preparations for the election have been conducted in an independent fashion.

As counting and results proclamation move forward, The Carter Center urges all stakeholders to remain cognizant that a successful conclusion of the electoral process hinges on all the major candidates and party leaders accepting the final results of the elections and managing disappointment among their party supporters. Where disputes exist, these should be adjudicated through proper administrative and legal channels.

The Carter Center mission is assessing Guinea's electoral process against the Guinean Constitution and the electoral law, commitments made in the January 2010 Ouagadougou Agreement, and Guinea's regional and international commitments.<sup>2</sup> The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation.

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<sup>2</sup> Guinea has ratified a number of international treaties with provisions regarding electoral processes, including ECOWAS Protocol on Democracy and Good Governance (ratified in 2004); the African Charter on Human and Peoples' Rights (ratified February 16, 1982) (ACHPR); the International Convention on Civil and Political Rights (ICCPR)(ratified January 24, 1978); and the Convention on the Elimination of Discrimination Against Women (CEDAW) (ratified August 9, 1982).

## **Legal Framework**

The Ouagadougou Agreement established a framework for the current transitional period. It designated General Sékouba Konaté as interim president, called for the formation of a National Transitional Council (CNT) representative of all sectors of Guinean society and the organization of presidential elections within six months. The CNT was installed in February and called on to revise the constitution and all laws relating to the electoral process and oversee elections.

The CNT adopted a new constitution in April. It was drafted with the goal of establishing a political structure and national institutions to facilitate democratic governance and respect for human rights. The 2010 Constitution now declares that “The People of Guinea...solemnly affirm their fundamental opposition to all unconstitutional taking of power, to all regimes based on dictatorship, injustice, corruption, nepotism and regionalism.” It enshrines political rights key to the electoral process, such as the right of free association, the right to participate in public affairs, the right to universal and equal suffrage, the right to vote by secret ballot, and to freedom of expression. It reduced the presidential term from seven to five years and limited the number of terms to two. Most notably, it provided for this and all future elections to be organized and administered by an independent and constitutionally mandated institution, the CENI, rather than a government entity. Additionally, under the Constitution, all citizens have the duty to participate in elections and to promote democratic values.

A new electoral law was adopted in May. Although it provides the basis for the conduct of elections in accordance with international standards, implementation was not always consistent. Such inconsistencies were due in part to the condensed timeline required under the Ouagadougou Agreement and the late promulgation of the electoral law, which was finalized only a month before Guineans went to the polls and after electoral preparations were already well underway. While necessitated by the exigencies of Guinea’s political situation, such a late adoption of an electoral code should generally be avoided, allowing for ample time to ensure proper implementation of the law and appropriate regulations.<sup>3</sup>

Several deadlines required by law were not respected. For example, although the electoral law requires polling station locations to be determined 30 days prior to the election, in the days immediately preceding the election, adjustments were still being made. In addition, the unexpectedly high number of candidates required the development of new voting procedures that differ from those described in the electoral law. Interpretations of provisions for where voters should vote differed among key actors. Challenges faced during the voter registration process and with the distribution of voter cards were such that the documents required in order to vote evolved over the weeks prior to the elections. The result of this confluence of factors was that it was unclear to many where and how voting should take place.

### ***Election Administration***

An independent and impartial electoral authority that functions transparently and professionally is internationally recognized as an effective means of ensuring that citizens are able to participate in a

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<sup>3</sup> The ECOWAS Protocol on Democracy and Good Governance states that “No substantial modification shall be made to the electoral law in the last six (6) months before the elections, except with the consent of a majority of Political actors.”

genuine democratic election and that other international obligations related to the electoral process can be met.<sup>4</sup>

The new electoral law gives CENI primary responsibility over the conduct of elections.<sup>5</sup> The Carter Center congratulates Guineans for the reaffirmation of the administration of elections by an independent body.

In practice, lack of previous experience and limited human resources, staff capacity, and technical expertise have required the CENI to rely heavily on the Ministry of Territorial Administration and Political Affairs (MATAP), the ministry previously responsible for elections.

The election calendar and the inexperience of the responsible institutions resulted in hastily drafted texts and procedures. The CENI delayed taking many decisions and failed to make timely public announcements about the numerous exceptions to the electoral code. CENI regulations, guides and manuals frequently gave unclear or contradictory information with regards to polling procedures. In particular, instructions regarding ballots, voting methods, protocols, and documents required by voters were not always clearly articulated. As a result, polling staff and voters were faced with personal interpretations to important electoral issues on election day, including fundamental questions such as the question of who could vote, the determining of valid and invalid ballots, and the recording and transmitting of results. In particular, Carter Center observers noted wide variation in practices regarding whether voters without a voter ID but in possession of a registration receipt were allowed to cast ballots. In some cases noted by observers, such discrepancies in the understanding of procedures effectively limited the enfranchisement of such voters.

Carter Center long-term observers, deployed in Guinea's four geographic regions of the country, followed the work of the regional administrations during the weeks preceding the elections. Their assessment, based on observations of the various stages of electoral preparations is that the prefecture and sub-prefecture level electoral commissions have behaved with impartiality in their duties. According to Carter Center long-term observers, there was an inconsistency between what the CENI communicated in Conakry regarding electoral arrangements and the realities upcountry. The timeline of distribution of materials and recruitment and training of polling station staff were unrealistic considering distances, poor transport, and telecommunication challenges.

A total of approximately 150 such stations were created in the days preceding the elections. While this effort to ensure accessible polling stations for all voters is commendable, considering the complexity of logistical arrangements, in particular regarding the coded seals placed on protocols (with a bar-code that links a protocol to a specific polling station), distributing this special material to new polling stations required additional time and in some instances, materials had not arrived by the commencement of polling. If a second round of elections is held and the same technology is used, much more foresight regarding the number and location of polling stations is required

Two days prior to election day, numerous serious logistical challenges remained: ink used by voters to vote by fingerprint was just arriving in the country, and sensitive material such as ballots, protocols, tamper proof bags, and seals for the transmission of results still had not departed Conakry for prefectures throughout the country. The sensitive materials did not arrive in all polling stations on time or in sufficient amounts according to Carter Center observers (see additional information in the voting section of this document). Just hours before the opening of polls, the personnel for handling the polling station results remained in Conakry waiting for funds and transportation.

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<sup>4</sup> UNHRC , General Comment No. 25 para. 20

<sup>5</sup> Electoral Code, Art. 2.

Universal and equal suffrage<sup>6</sup> are closely linked to ability for all voters to be awarded an equal opportunity to cast their ballots. Discrepancies in preparation, material allocation, and training in different parts of the country can lead to inequalities with regards to the effectiveness of polling. At worst, the scenario described above can produce a geographically-based disenfranchisement of people living in isolated or rural areas, who are the often the poorest, undermining the principle of universal and equal suffrage.

### ***Candidates, Parties, and The Campaign Environment***

The right of individuals to participate in public affairs, including through the establishment of and free association with political parties and participation in campaign activities, is protected by international principles and fundamental electoral rights.<sup>7</sup>

The campaign environment was positive and characterized by a message of non-violence, national unity and reconciliation, respect for other candidates, and an absence of negative campaigning. This is also the first presidential election in Guinea's history that has not been boycotted by any political parties, with all parties participating in support of the 24 candidates certified by the Supreme Court. The Carter Center commends the political parties for signing and abiding by a code of conduct promising to refrain from fraud, violence, personal attacks, and appeals to race, religion, ethnicity or region. Furthermore, on the eve of the elections, together with the interim president, the president of CENI, and the president of the CNT, all 24 candidates congregated for a televised common appeal for peaceful elections and national unity.

The candidates conducted impressive campaigns throughout the country, with some making pointed efforts to rise above their expected regional bases and mobilize support in distant prefectures. Unfortunately, some campaign rhetoric suggested that anything other than a first-round victory for the party in question would indicate fraud in the electoral process, but more often candidates spoke of the election process as a moment of unity. When pressed, they and their partisans expressed their willingness to accept the result. The candidates and parties have generally respected the organizational authority of the electoral commission (CENI), the transitional legislative body (CNT), and the administration, despite widespread disregard for the starting date of the campaign.

Guineans, who in past election cycles had little reason or were afraid to display their political preferences openly, have taken to the campaign period with remarkable enthusiasm. Carter Center long-term observers frequently encountered enthusiastic campaign events and rallies that appeared to be conducted with respect to free expression, movement and assembly for all candidates.<sup>8</sup> In this sense, the electoral process has already been successful in allowing Guineans an unprecedented opportunity to express themselves openly and engage in political debate.

In Coyah, only three days before election day, our short-term observers experienced the single major incident of electoral violence of the campaign, the violent confrontation between two sets of candidate supporters. Witnesses said supporters of former prime minister Sidya Toure's Union of Republican Forces (UFR) were awaiting a rally when they clashed with those of the Union of Democratic Forces of Guinea (UFDG) – the party of another ex-prime minister, Cellou Dalein

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<sup>6</sup> See, for example, ICCPR Article 25b

<sup>7</sup> ICCPR, Art. 25(a); ICERD, Art. 5(c); CEDAW, Art. 7(b), UNHRC General Comment 25, para. 26

<sup>8</sup> Freedom of expression, movement and assembly are enshrined in the ICCPR, Articles 19(2), 12(1), and 21 respectively. The African Union Declaration on the Principles Governing Democratic Elections in Africa, Art. IV.5 further states that “Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.”

Diallo, resulting in conflicting reports of several injured and six dead. According to the CENI, the UFR were authorized to hold a rally that day.

As determined by joint CENI-MATAP decision, ° 160,<sup>9</sup> presidential candidates were required to pay a monetary deposit of 400,000,000 FG (\$78,000 USD). The deposit amount was established after discussions with political parties. It will be reimbursed to all candidates who attain at least 5 percent of the votes within 15 days following the proclamation of definitive results.

While political finance has not emerged as a salient issue in the public discourse of Guinean stakeholders, given Guinea's great natural wealth, increased focus on the establishment of clear and robust financial reporting systems will benefit future electoral processes significantly. Where such measures currently exist in law, they should be carefully implemented and reviewed for potential expansion.

### ***Voter Registration***

Sound voter registration processes that ensure an accurate and complete voters' list are a principal means of ensuring that universal suffrage and the right of every citizen to vote are fulfilled.<sup>10</sup>

According to Art. 17 of the Electoral Law updating of the voters' list should take place from Oct. 1 to Dec. 31 of each year. Such a provision assumed that an existing voters' register is continually updated; however, in practice the voter's register was created 'from scratch' in 2008 using voter kits and dedicated teams to register voters with their photographs and biometric information. An exceptional voters' registration exercise to correct the list was conducted from March 22 - April 26, 2010. In total, approximately 4.2 million eligible Guineans registered to vote.

In accordance with Guinea's laws, citizens who are at least 18 years old and have not been stripped of civil or political rights have the right to vote.<sup>11</sup> Guinean voters living abroad also have the right to participate in elections.<sup>12</sup> There were 53,083 voters registered in 18 embassies and consulates in 17 countries. While The Carter Center congratulates the dedication showed by the CENI to include the diaspora in the electoral process, many voters abroad were effectively unable to vote due to their distance from registration and voting locations. Steps should be taken in the future to make effective rights promised under the electoral law, by facilitating the registration of a larger percentage of the estimated 800,000 Guineans living abroad.

While limits on voting rights are allowed under international law, they must be of a reasonable and objective nature.<sup>13</sup> The electoral law limits the voting rights of certain classes of citizens, most notably those found guilty of crimes.<sup>14</sup> However, individuals in pre-trial detention, who comprise an

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<sup>9</sup> *Decision conjointe N° 160 CENI/MATAP/SG Determinant le montant du cautionnement et du plafonnement des dépenses aux élections présidentielles du 27 juin 2010.*

<sup>10</sup> An accurate and complete voters registration list promotes public confidence in the electoral process and protects fundamental human right to a genuine democratic election (General Comment No 25, para 16)

<sup>11</sup> Electoral Law, Art. 3

<sup>12</sup> Electoral Law, Art. 11)

<sup>13</sup> United Nations Human Rights Committee, General Comment 25, paragraph 10. "The right to vote at elections must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote."

<sup>14</sup> Electoral Law, Art. 7. While such a restriction based on criminal conviction is allowed by international law, it is good electoral practice that this restriction be limited to certain, serious crimes rather than applied as a blanket restriction for all convictions.

estimated 70 percent of Guinea’s prison population, should not be stripped of their civil or political rights, and their ability to vote should be guaranteed by the state. In practice, the entire prison population, regardless of their conviction status, was disenfranchised. Such broad disenfranchisement is in conflict with Guinea’s international obligations<sup>15</sup> and The Carter Center encourages Guinea to take the necessary steps to ensure that efforts are taken to register eligible members of the prison population to ensure respect for universal suffrage. Guinean law also states that voters must fulfill civic duties in order to be eligible to vote, although there is no evidence in practice that this requirement placed a limit on suffrage.<sup>16</sup>

The Carter Center did not observe voter registration except for its final phase, distribution of the voters cards. However, observers were informed of several factors and technical difficulties that hampered registration efforts and may have led to an underrepresentation of the electorate among registered voters. The Carter Center’s long- and short-term observers witnessed the distribution of voters cards in several parts of the country. The printing of biometric voter cards was completed in June by MATAP in collaboration with SAGEM, a French company that won the contract for their production. The delivery of cards to regions furthest from Conakry, including the Forest Region, began about 11 days later than the planned June 1 date. This process was described by our observers as late, chaotic, and confusing in terms of the information provided to voters. Also, the practice of ‘handing in the receipt’ to receive the voter’s card was not consistently followed or enforced.

While noting concerns, The Carter Center does believe that the voter registration exercise represented a genuine effort on the part of the authorities on the national and sub-national levels. Interlocutors told of a great excitement to register throughout much of the country, and Carter Center observers did not report any cases of military or political actors trying to restrict or influence the voter registration process. Representatives of political parties were invited as registration observers throughout the country, contributing to the transparency of the process. The Carter Center encourages Guinea to develop robust and sustainable systems for developing and maintaining an accurate and comprehensive national voter register.

### **Voter Education**

It is the responsibility of all states to take specific measures to address difficulties that could prevent people from exercising their electoral rights effectively.<sup>17</sup> Voter education is recognized in international law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote. In a country that suffers from a high rate of illiteracy and has numerous local languages, voter education is a challenging task.

In Guinea, the focus of voter education campaigns has been to encourage voters to accept the final election results. While this is an important message given the recent history of Guinea, nonetheless The Carter Center regrets the lesser emphasis on effective basic voter education regarding the key issues of importance for polling day. The short timeframe and limited funding for the election has inhibited CENI’s ability to conduct more widespread education or ensure coherent messaging, and Carter Center observers found examples of mistaken information.

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<sup>15</sup> United Nations Human Rights Committee, General Comment 25, paragraph 14. “If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.”

<sup>16</sup> Electoral Law, Art. 5

<sup>17</sup> Specific difficulties include such things as language barriers, poverty, and impediments to the freedom of movement. States must ensure that voter education reaches the broadest possible pool of voters (United Nations Human Rights Committee General Comment 25, para. 11)



The state, and the CENI as an organ of the state, should be responsible for providing voter education to better ensure the uniform distribution of information to the voting population. While non-governmental organizations may have a role in the education of the electorate, it is ultimately the requirement of the state to ensure that non-partisan information is available to the electorate. In the case of the Guinea 2010 elections, the CENI relied to a large extent on external actors including civil society, political parties, and the international community, to provide this service.

### **The Voting Process**

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections. Certain participatory rights must be fulfilled for the voting process to accurately reflect the will of the people. Foremost among these are the right to vote, to participate in public affairs, and to enjoy security of the person.<sup>18</sup> The state must take all necessary steps to ensure such rights are fully protected and awarded to all citizens in an equal and non-discriminatory manner. The state must take necessary measures to give effect to rights enshrined in the treaty to which they are party. Such rights include the right for all citizens to be treated in an equal and non-discriminatory manner.<sup>19</sup>

According to the electoral law, polling stations should be installed in neutral locations that are easily accessible by voters. They also must be outside of military garrisons and religious sites.<sup>20</sup> Some inconsistencies with this provision were apparent following the publication of polling station lists for election day. Additionally, some voters were assigned to polling stations more than 15 km from their residences. CENI took active steps to address this concern by adding additional polling stations and moving groups of voters in the days prior to the election. Unfortunately, many voters interviewed on election day complained of the difficulty in finding these new allocated polling stations. There were also numerous polling stations installed and then removed or relocated by local officials in the days and hours prior to voting. This raises concerns regarding the accessibility of the stations for all voters and observers. CENI should ensure that in the future, polling station locations are chosen in accordance with the electoral code and their locations are properly announced in advance of the vote.

In some constituencies, the lines were extremely long, with some voters waiting more than 8 hours to cast their ballot. Any tension that arose among voters seemed to be attributable to frustration with long wait times and the perception that they may not get to vote. The Carter Center notes that article 73 of the Guinean Electoral Code calls for one booth per 250 voters. Delays at these locations could be avoided had this provision been respected in practice.

Throughout the country, Carter Center observers noted that election officials were not as well prepared as they should have been to handle the influx of voters, and that the CENI was remiss in making sure all polling stations were functioning properly. Though poll workers received training, Carter Center observers detected apparent gaps in their ability to deal with unexpected scenarios. Confusion was particularly apparent in understandings of rules regarding proxy voting, supplementary lists, assisted voting and the criteria for invalidating ballots. While Carter Center observers reported cases of ad hoc procedures, late poll openings, and missing materials, they noted that in general such incidents did not fundamentally affect the integrity of the process and that the election commission did, in good faith, endeavor to ensure universal suffrage.

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<sup>18</sup> International Covenant on Civil and Political Rights, Arts. 2, 25(a) and 9

<sup>19</sup> The State must take necessary measures to give effect to rights enshrined in the treaty to which they are party. Such rights include the right for all citizens to be treated in an equal and non-discriminatory manner. ICCPR; Art. 2(2); International Convention on the Elimination of all forms of Racial Discrimination, Art. 1.

<sup>20</sup> Electoral Code, Art. 64

The electoral law requires a voter card to be presented by all wishing to vote.<sup>21</sup> Due to technical problems during voter registration, 491,000 registered voters were not provided with voter cards due to poor quality fingerprints or photos. Additional voters for whom cards were developed were unable to pick them up prior to election day. On June 16, CENI and MATAP issued a joint decision clarifying that any voter could vote using the receipt provided to them during voter registration.<sup>22</sup> On election day, however, it became apparent that, while the June 16 clarification allowed for voting with the receipt, this process was not uniformly accepted across polling stations and Carter Center observers reported some cases of voters with receipts who were not allowed to vote.

Procedures to ensure the secrecy of the vote were largely followed as outlined in the electoral law. While voter's fingers were regularly inked by poll officials after they cast their ballot, voters' fingers were not consistently checked for ink prior to receiving their ballot paper. The Carter Center urges CENI to convey the importance of these two procedures to local poll workers to ensure the integrity of the vote.

Procedures for assisted voting can serve to ensure broad participation in the electoral process by persons with disabilities or who are otherwise unable to cast their ballot independently. The procedures for assisted voting in Guinea were clarified through the CENI-MATAP joint decision of June 16. It stated that any voter in a condition which does not allow him to properly exercise his civil rights is authorized to seek the assistance of a voter of his choice.<sup>23</sup> The Carter Center congratulates the CENI for this effort to ensure voters requiring impartial assistance were able to participate. In addition to assisted voting, proxy voting can be employed as a means to ensure citizens who are hospitalized, seriously ill, or otherwise unable to vote where they have been registered are not disenfranchised.<sup>24</sup> Recognized good electoral practice, however, requires that such systems of proxy voting be carefully regulated.<sup>25</sup> In Guinea, proxy voting required the completion of a form bearing a voters signature. However, in practice, these forms were not widely available, and the procedures required for proxy voting were unclear. In most cases, the proxy list consisted of a blank piece of paper signed by those who were casting a proxy vote. If Guinea continues to use proxy voting in future elections, The Carter Center recommends the adoption of stricter regulations on the process to ensure it is not susceptible to fraud or duplicate voting.

FOSSEPEL, the specially created election security forces (la Force speciale de securisation du processus electoral) played a low-key but helpful role in the process and ensured that the security of the process was realized through relatively peaceful means. On the whole, Carter Center observers noted that the presence of FOSSEPEL did not lead to incidents of intimidation or harassment, nor to any impediment to the free movement of voters.

Carter Center observers noted that voters appeared enthusiastic about the process and came out in large numbers to cast their ballot in relative calm. Overall, the process was largely transparent, with The Carter Center giving high ratings (85 percent) to the transparency of the observed process. Party agents were well-represented in polling places across the country. Agents across party affiliations worked well together, cooperating with one another in the majority of polling places observed. In some cases, party officials commented on polling center procedures, but did not

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<sup>21</sup> Electoral Code, Art. 5.

<sup>22</sup> Joint CENI-MATAP decision 203, June 16, 2010.

<sup>23</sup> Joint CENI-MATAP decision 203, June 16, 2010.

<sup>24</sup> Electoral Code, Art. 90.

<sup>25</sup> There is no legal obligation to carefully regulate proxy voting. However, the high potential for fraud inherent in this type of voting threatens the equality of suffrage (ICCPR, Art. 25b). As such, the need for strict regulation has been widely recognized by organizations such as the United Nations, The European Union, International IDEA, and the Venice Commission. See, for example, *International IDEA: Guidelines for reviewing a Legal Framework for Elections*, p. 72, *Venice Commission Code of Good Practice in Electoral Matters*, sec. I.3.2.v, and United Nations *Human Rights and Elections*, para. 110.

impede or interfere with the vote. In addition to political party agents, The Carter Center observed the presence of domestic observation organizations in a fair number of polling places across the country. Electoral procedures were established to allow party agents and domestic observers at each polling station to observe the voting process and record any concerns for legal scrutiny.<sup>26</sup> The Center commends the inclusion of these safeguards of transparency, and congratulates the political parties on their efforts in deploying the large number of agents who were observed at the polling stations.

### ***Counting***

An accurate and non-discriminatory vote counting process, including the announcement of results, is an essential means of ensuring that the fundamental right to be elected is fulfilled.<sup>27</sup>

The Carter Center observed the close of polls and counting process in polling stations across the country. The counting process was generally peaceful, but not consistently free from irregularities. Carter Center observers noted that in many circumstances poll workers were not familiar with the protocol required by the CENI for vote counting and tabulation.

However, The Carter Center commends the high level of openness and transparency in the counting process, which was observable by party agents and domestic and international observers. In almost all stations observed, the Center reported that the declaration of results was announced to all party agents in attendance, and that results were tabulated and displayed in full view of all polling staff and observing agents present.

In some polling places, polling officials were unable to accurately reconcile the ballots cast in their polling place. This appeared to be caused by confusion about poll closing and counting procedures. In the cases observed by The Carter Center, the discrepancies in vote count process did not appear to significantly undermine the integrity of the process but did complicate centralized vote tabulation at the prefectural level, due to the use of varying vote count procedures by poll station workers. Future CENI training efforts should pay more attention to ensure that poll workers understand all aspects of the closing and counting procedures.

The tabulation of election results is still being conducted and a final vote count has not yet been announced. The Carter Center will continue to observe this process until its completion.

### ***Participation of Women***

State obligations to promote de facto equality for women derive, in part, from broader political obligations regarding absence of discrimination<sup>28</sup> and the right of all citizens to participate in the public affairs of their country regardless of gender.<sup>29</sup> Through ratification of international and regional treaties, Guinea has pledged to promote the political participation of women on an equal

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<sup>26</sup> The right to participate in the public affairs of one's country, including the electoral process, are recognized at the regional and international level. See for example, African Charter on Human and Peoples' Rights, art. 13 (1); AU Declaration on the Principles Governing Democratic Elections in Africa, art. 7; and ICCPR, art. 25 (a)

<sup>27</sup> International Covenant on Civil and Political Rights, Art 25(b)

<sup>28</sup> ICCPR, art. 25; 2(1); 26.

<sup>29</sup> UDHR; Art. 21(a); ICCPR, Art 25(9); ICERD, Art 5(c).

basis with men.<sup>30</sup> The Constitution provides for the equality of all persons before the law. Men and women have the same rights and duties. Privileges and disadvantages conferred on the basis of sex are prohibited.<sup>31</sup>

While women in Guinea have had the right to vote and stand for election since independence in 1958, Mrs. Saran Daraba of the Democratic Panafrican Convention (CDP) was the first female presidential candidate in the history of Guinea. Her presence as the only woman among 24 is illustrative of the fact that while women are actively involved in the electoral process, their participation is not equal to that of men. A total of four women presented candidacy files to the Supreme Court, but three were rejected for failure to pay the required nomination fee. In light of increased global recognition of the difficulties faced by female candidates in receiving financial backing for their campaigns, The Carter Center urges Guinea to consider the disproportionate impact of deposit requirements on potential female candidates.<sup>32</sup>

Election day observation consistently showed that women seemed to exercise their franchise in equal if not higher numbers than men. According to verbal communication from MATAP officials, women represent 52 percent of registered voters in Guinea and 53 percent of registered voters in the diaspora. The Carter Center encourages Guinea to publish gender-disaggregated voter information to facilitate evaluation of women's participation. Observation during the campaign period also indicated that women are active members of political parties and participate in political rallies.

Women were also participants in the voting process as polling station staff, as party representatives, and were especially numerous as domestic observers. There are also women working for the CENI and its *démembrements*. At the national level, two of the 25 CENI commissioners are women.<sup>33</sup> Observers across Guinea estimated that women comprise approximately 25 percent of CEPI, CESPI, and CECI officers. The Carter Center notes that they are most often secretaries or treasurers rather than presidents. Approximately one-third of the magistrates presiding over the centralization commissions within each prefecture are women. The Carter Center congratulates Guinea and civil society groups for efforts to promote women's participation in political processes. It calls on Guinea to take equal participation of women in all electoral administration bodies as its goal.

### ***Media Environment***

The Carter Center did not conduct a comprehensive, methodical review of the media's election coverage. Based on its limited observation and time in country; however, the Center does offer the following observations.

International obligations related to the media and elections include freedom of expression and opinion and the right to seek, receive and impart information through a range of media.<sup>34</sup> Guinea's

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<sup>30</sup> See, for example the United Nations Convention on the Elimination of Discrimination Against Women, ratified 9 August 1982, Convention on the Political Rights of Women, ratified 24 January 1978, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, signed 16 December 2003

<sup>31</sup> Constitution, Art. 1

<sup>32</sup> While not directly applicable to this single-race election, The Carter Center notes that the Electoral Law now requires 30% of candidates on all proportional lists for legislative and communal elections to be women. (Electoral Law, Art. 103, Art. 115, Art. 129). The Center congratulates Guinea for this special measure, and encourages additional efforts from the state to assure women's equal participation in decision-making bodies.

<sup>33</sup> [http://www.ceniguinee.org/index.php?option=com\\_content&view=article&id=67&Itemid=60](http://www.ceniguinee.org/index.php?option=com_content&view=article&id=67&Itemid=60)

<sup>34</sup> ICCPR, Art. 19

constitution also guarantees freedom of political expression, freedom of the press, and the right of access to public information.<sup>35</sup> The electoral law further provides for non-discrimination and impartial use of state resources by requiring that all candidates have equal access to state media outlets during the election campaign.<sup>36</sup> The High Authority of Communication oversees the equality of treatment of all candidates by public media. When necessary, the Constitutional Court can be seized and will intervene to ensure the principle of equality of coverage is respected.<sup>37</sup> While not fully promulgated in advance of this election, the Center also notes positively the decriminalization of libel in the new press law.

The CENI and the Ministry of Communication took measures to ensure equal coverage on national news and radio. In particular, media teams were provided to all candidates during the campaign period, and all candidates were provided a consistent four minutes of coverage time in the weeks prior to election day. The Carter Center also notes the cancellation of a weekly program featuring individual candidates when, following the official announcement of the 24 candidates, it was apparent that there would be insufficient time to offer equal coverage.

Carter Center observers reported that the media has played a large role in promoting civic education while providing a balance of political views. Public radio has played an important part in voter sensitization by explaining to listeners how to vote, why voting is important, and who the candidates are. Some public stations have also extended their messages to larger audiences through the use of Soussou, Malinke, and Pulaard local languages.

A code of good conduct for media during the transition was signed by Guinean journalists on May 18. Numerous trainings have also been held for journalists, to encourage professionalism during the election period. Such a focus on professional journalism has the potential to greatly impact the impartiality and equality of media coverage and should be applauded.

Private media has been an effective watchdog in their standardization of the cost of candidate coverage. While there are no restrictions on private/independent media, its infiltration throughout the country is limited. In a few reported circumstances, there were journalists from private media outlets returning to regions where they had previously been threatened by local officials under the Camara regime, who had orders to suppress reporting. While they were allowed to return to these regions and report on local events, these same local officials are still in power in the localities in question, creating an environment of potential hostility.

### ***Electoral Dispute Resolution***

Efficient electoral dispute mechanisms, including, as necessary, the provision of a fair and public hearing before a tribunal, are essential to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.<sup>38</sup>

In Guinea, complaints regarding voter registration or the composition of voter lists that are not satisfactorily resolved by local CENI officials are judged by Tribunals of First Instance or Justices of the Peace and can be lodged by individuals at any point.<sup>39</sup> Decisions are taken into consideration

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<sup>35</sup> Constitution, Art. 7

<sup>36</sup> Electoral Code, Art. 56

<sup>37</sup> Electoral Code, Article 59

<sup>38</sup> International Covenant on Civil and Political Rights Art. 2(3), UNHRC General Comment No. 32, para. 18

<sup>39</sup> Electoral Code Art. 14, Art. 25.

during periodic revisions of voter lists. Despite numerous reports of concerns regarding voter lists, according to the CENI, no legal challenges have thus far been presented.

While voters can file disputes on the basis of the voter registration, the electoral law does not specify available recourse for individuals on or after election day, effectively limiting the standing of individuals before judicial and administration dispute resolution bodies.. There is no formal procedure for the resolution of disputes on election day. Informal modes of dispute resolution described by Guinean magistrates and CENI officials include calling on the president of the polling station, a CENI official, or the president of the relevant *Commission Administrative de Centralisation* to mediate. Guinea should take steps to extend standing in election disputes to individual citizens, who, at a minimum, should be able to file disputes on the basis of their individual suffrage rights.

Candidates have standing to file election disputes, and party representatives present in the polling station can write onto or annex to the protocol all observations or contestations regarding polling station activities or the vote counting.<sup>40</sup> Candidates can contest election results by application to the Supreme Court<sup>41</sup>. Such complaints must be presented to the Court within eight days following the public announcement of the provisional results.<sup>42</sup> The Court must issue a decision within three days, ensuring a timely remedy.<sup>43</sup> There is no possibility for appeal. Observations made by party agents serve as evidence used in deciding such challenges. Because various forms of electoral fraud are criminalized under the electoral law, observations made by party agents may also prompt arrests or criminal convictions.<sup>44</sup>

The major obstacles to effective electoral dispute resolution in Guinea is the lack of available information with regards to process and procedures and the general lack of confidence in the judicial systems among Guineans. The current sentiment among many Guineans is that courts are unable to provide a response to election-related complaints in an impartial or timely manner. Although the Supreme Court has been called to rule on contestations to previous elections, it is generally believed by Guineans that the influence of executive power on all levels of the judiciary limited independent decision-making. The Carter Center recognizes that efforts have already been made to combat this low public confidence. For instance, the new constitution seeks to strengthen the separation of powers and ensure impartiality of the judiciary by requiring the consent of the High Council of Judges for all nominations or removals of judges.<sup>45</sup> The naming of a new president of the Supreme Court in May 2010 was applauded as representing one step towards the renewal of public confidence in the Court. However, as a measure to increase trust and ensure openness in the system of dispute resolution, The Carter Center urges the Supreme Court and CENI to ensure all decisions and reasoning taken on electoral disputes are made public in a transparent and efficient manner.

## Conclusion

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<sup>40</sup> Decret N. 068/PRG/CNDD/SGPRG/2010 Promulgant la Constitution adoptee par le Conseil National de Transition 19 Avril 2010 (May 7, 2010) Art. 27.

<sup>41</sup> Electoral Code, Art. 184.

<sup>42</sup> Constitution, Art. 33.

<sup>43</sup> Constitution, Art. 33. While the deadline of three days is a commendable effort to ensure timely remedies, such a stringent deadline should be weighed carefully against the resources and capacity of the Supreme Court to ensure adequate time for the hearing of all complaints.

<sup>44</sup> Constitution, Art. 154

<sup>45</sup> Constitution, Art. 109

The June 27 Guinean elections were marked by a number of logistical and operational challenges, most notably with regard to poll worker training, distribution of information regarding election day procedures, and the allocation of voter cards to citizens. These challenges were due in large part to the late promulgation of the election law and compressed electoral calendar, which greatly hampered the CENI's ability to prepare adequately in advance of election day.

However, despite these difficulties, the elections were marked by broad political participation, a spirit of open campaigning, and transparency. Carter Center observers noted that all stakeholders appeared committed to a transparent process and to peaceful acceptance of election results. The Carter Center notes with positivity the good faith efforts of the election commission to undertake the credible elections in line with the timeline established in the Ouagadougou peace agreement. The good will and political openness apparent in these elections makes them a significant step forward for Guinea and an opportunity for substantial entrenchment of democratic values.

Guinea's real hope for a better future may lie in the hard choices by the leaders chosen in the elections – choices over issues such as disarmament of the militias and security sector reform; constitution of a government that gives voice to marginalized parts of Guinean society; and to push forward with plans to continue the democratic transition by holding legislative and local elections by the end of the year, as proscribed by the new constitution.

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

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*The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped to improve life for people in more than 65 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production. Visit: [www.cartercenter.org](http://www.cartercenter.org) to learn more about The Carter Center.*