

**The Carter Center International Election Observation Mission
Democratic Republic of Congo, Presidential and Legislative Elections, Nov. 28, 2011**

Preliminary Post Election Statement

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Executive Summary

The Carter Center welcomes the conduct of presidential and legislative elections in the Democratic

- The official campaign period was largely peaceful and competitive, though marred by deaths and arrests when police responded to demonstrations.
- It is noteworthy that half of the registered voters in Congo are women, though they were not among the presidential candidates and composed only 10 percent of legislative candidates.
- The Center also commends CENI for being established as an independent administrative organ that oversaw an election with more than 32 million registered voters, 11 presidential candidates, and more than 18,000 legislative candidates. On election day, a majority of polling stations observed had the necessary materials and CENI is to be congratulated for the final push to ensure that the polls could open on Nov. 28. However, essential materials, most importantly ballot papers and voter lists were absent in a significant number of cases.

- The publication of election results by polling station as required by the electoral law will be the single best means to ensure that the elections reflect the will of the people.
- Electoral dispute resolution mechanisms in both CENI and the court system lack wide accessibility to citizens and are perceived by many Congolese to be partial. Nevertheless Congolese should make use of all avenues of appeal in the event that they have complaints about any aspect of the electoral process.
- Candidates and voters alike should remain calm and await CENI's announcement of official preliminary results due by Dec. 6.

Background: The Carter Center election observation mission has been in the DRC since Aug. 17,

International standards of transparency require that judicial decisions are made public; the Congolese Supreme Court should make its decisions available for examination without delay.

ELECTION ADMINISTRATION

An independent and impartial authority that functions transparently and professionally is internationally recognized as an effective means of ensuring that citizens are able to participate in a genuine democratic process, and that other international obligations related to the democratic process can be met.¹⁶

CENI is the administrative organ in charge of overseeing presidential and legislative elections in the DRC. It was established in May 2010 by law though the constitution called for its creation to replace the CEI by 2008. CENI is an independent national organization mandated to: organize and manage electoral processes, manage voter registration processes, publish for public viewing a voter registry and disseminate the provisional election outcome.¹⁷ CENI is comprised of members of the majority party (4) and opposition groups (3).¹⁸ In Jan. 2011, these seven members, including Pastor Daniel Ngoy Mulunda as president, were selected. The electoral calendar released by CENI on April 29, 2011, for the 2011-2013 electoral cycle was revised most recently on Aug. 18, 2011, after adoption of annexes to the electoral law.¹⁹

CENI is comprised of ten provincial offices and Kinshasa and 169 districts (*antennes*). On Oct. 23, CENI announced new leadership for provincial CENI offices, which involved transfer of provincial CENI representatives (SEP) between provinces and creation of deputy positions. Staff movements were also made at the CENI an

failed to produce a clear logistical plan for delivery of materials throughout the territories. This fact, in addition to its failure to analyze the logistical realities and complications of such delivery, reflected a lack of transparency on the part of CENI.

In regard to ballot production, once CENI certified the final presidential and legislative candidate lists, it contracted with 17 South African printers to print all the ballot papers. A sample voting ballot for the presidential race was quickly created. However, for the legislative race, 11 sample ballots were created. The legislative ballots created ranged in length from a one page ballot developed for the Yumbi district (with five seats and five candidates) to a 57-page ballot created for Tshangu in Kinshasa (with 1,500 candidates contesting 25 seats).

The printed ballots were large in size. This created yet another challenge for CENI that it had to address, since the size made the tasks of transporting, storing and delivering them to the voting stations very difficult. CENI thus called onto neighboring countries to aid in the transport of materials via helicopter: 5 helicopters were provided by Angola, 2 from the DRC armed forces, 4 from South Africa (in addition to 2 airplanes) and 6 helicopters were contracted from commercial operators.

Spurred by speculation leading up to election day that it would be logistically impossible for elections to take place across

CENI organized its training of electoral workers via the cascade method of replication trainings: starting with eighteen Master Trainers; 196 National Electoral Trainers (FEN); 2,598 Provincial Electoral Trainers (FEP); 34,972 Heads of the voting centers; and ending with 349,225 members of the polling and counting stations (BVD) and 4,160 members of the local center for compilation of results (CLCR). The cascade approach is nimble and efficient but if not monitored closely (i.e. supervision of selected replication trainings by Master Trainers to ensure quality of instruction) and investments are not made in development and production two sets of manuals (for participants and one with instructor notes), the quality of this type of training can be compromised.

The planned nation-wide six-day training by the CENI agents of FEN trainers was delayed four days until Oct. 31, due to the late arrival of lead trainers from Kinshasa. Carter Center observers noted variations in format, quality, and organization of trainings of CENI agents they attended. LTOs in Matadi observing a FEP training there noted a lack of necessary training material present and not all participants received booklets listing election day procedures. Across the DRC the training was reduced to four or five days.

The planned five-day training for members of the BVDs and CLCRs took place in most provinces Nov. 24-26. The trainings attended by LTOs in Kisangani were only of half-day duration due to the limited availability of meeting space. The majority of Center observers noted that training of polling station workers appeared to unfold smoothly without great complication. In a few trainings observers noted that there was a shortage of training materials.

On Nov. 25, three days before the elections, CENI announced in a press release that citizens with a voter card whose names are on the national electoral register should receive a voter card with a booklet listing election day procedures. The booklet should be distributed to all voters by Nov. 20, 2007.

Candidate Registration

As noted in a previous Carter Center report, the candidate registration process in early September was disorganized due to the volume of last minute applicants.²⁸ Applications submitted to the office responsible for processing candidate applications (BRTC) were reviewed for eligibility by a legal clerk. In some cases, there was a lack of verification of eligibility or monitoring of resignation of non-elected public officials. In meetings with observers in South Kivu, Congo Liberation Movement (MLC) members alleged that People's Party for Reconstruction and Development (PPRD) legislative candidates holding local office were successfully registered despite not showing proof resignation or request for temporary leave (which would interrupt salary and access to public resources). It is alleged the current mayor of Bukavu was confirmed as a legislative candidate despite not submitting either letter. Under Article 10 (5) and (6) of the electoral law, candidates who do not submit such a letter are ineligible to register. There were also concerns that CENI did not monitor resignation of individuals who submitted a resignation letter with the application.

VOTER REGISTRATION

Voter registration is recognized as important means to ensure the right to vote, and should be made available to the broadest pool of citizens possible to ensure universal and equal suffrage are protected as required by DRC's international commitments.²⁹ Voter registration includes all aspects of the electoral process related to the registration of voters.

In June and July of 2011, CENI enrolled 32,024,640 voters across DRC. Few domestic observers from civil society or witnesses from political parties observed the voter registration. Subsequently, opposition parties, in particular the Union for Democracy and Social Progress (UDPS), requested CENI allow them to conduct an audit of the voter registration server after allegations of minors, foreigners, members of the military and other ineligible groups were able to register.³⁰ Despite elaboration of terms of reference for an audit, CENI and UDPS were ultimately unable to agree on the number of party witnesses permitted to be present in order for the audit to go forward.

CENI does not have a legal obligation to allow parties to conduct an audit of the voter register database. However accommodating (reasonable) requests concerning access to the server by political parties could have improved openness in the work of CENI, and may have more instilled voter and political party confidence in the electoral process, thereby minimizing the

²⁸ According to CENI, 14,000 of the over 18,000 applicants applied in the last day or two before the Sept. 11 deadline.

²⁹ United Nations Human Rights Committee, General Comment 25 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service", para. 11; UN, International Covenant on Civil and Political Rights, art. 25(b).

³⁰ Center observers noted that in Maniema that they had heard allegations from an Italian NGO that minors had been seen with voter registration cards. In Bas-Congo, the Direction Générale de Migration (DGM) in Matadi confirmed isolated cases of Angolan who were able to register and receive voter cards. Allegations were also made, but not authenticated that Ugandan nationals had registered in Beni and that Rwandan nationals had registered to vote, with members of the Democratic Liberation Forces of Rwanda (FDLR) registering to vote in Goma and other regions.

primarily noted that it lacked sufficient funds to institute robust voter education campaigns and activities throughout the DRC.³⁵

CENI instead emphasized its expectation that Congolese civil society groups would largely undertake education initiatives to prepare voters for the upcoming election. Some observers reported a general sentiment from local CENI officials that CENI was not responsible for implementing voter education activities.

International actors supported voter and civic education. For example, Search for Common Ground produced television and radio announcements to educate voters. IFES provided small grants to NGOs across the DRC through its Voter Opinion and Involvement Through Civic Education (VOICE) project. The United Nation Development Programme produced civic education materials that were distributed via its Electoral Cycle Support Program (PACE).

For distribution of voter education supplies in CENI offices to local NGOs, observers noted CENI did not appear to have a system in place to screen NGO recipients in advance of distribution of a limited amount of sensitization materials. This lack of screening was problematic because many civil society groups lacked the necessary funds to implement educational initiatives. It is not clear that CENI materials reached those groups who could have capably led such activities.

The Center notes overall that CENI has largely failed to meet its international, regional and national obligations to institute proper voter education efforts throughout the DRC well in advance of election day. Efforts that have been made have been made primarily by international organizations that may not have targeted citizen populations adequately enough. Additional voter education efforts have been made by partisan organizations, thus emphasizing the need for CENI to institute and apply stronger voter education efforts.

CANDIDATES, PARTIES AND THE CAMPAIGN E

The early campaign period was characterized by a low level of political campaigning of both legislative and presidential candidates. Two of the 11 presidential candidates (Etienne Tshisekedi and Oscar Kashala) were outside of the DRC for half of the campaign period. Observers reported in some places campaigning was not visible until the last few days of the campaign. Legislative candidates have given several explanations to observers, including: they were waiting on party materials in order to begin campaigning; logistical constraints delayed deployment of campaign materials to the interior of the country; they had limited funds to campaign and saved their resources for the last week of the campaign period; and/or they did not wish to spend their own funds on their electi

Both the DRC constitution and the electoral law make include language that upholds the DRC's international obligations. The preamble of the constitution notes that the Congolese people reaffirm their commitment to uphold a number of its international commitments, including the United Nations Convention the Rights of Children and Women, "particularly in regard to equal representation between men and women in positions of responsibility within governmental institutions."⁴² Article 14 pledges the promotion of equality between men and women within the civil, political, economical, social and cultural realms to take measures to combat all public and private forms of violence against women. The electoral law promotes women's rights as well noting in a number of articles that political parties, poll station leaders, and national and provincial bodies should make note of the gender make up of their members.⁴³

Approximately half of registered Congolese votes are women and during the 2006 presidential elections, more women reportedly voted than men. In spite of these registration statistics, a low number of female candidates ran for any political office during this election. The Carter Center regrets that no party has nominated a woman to stand for the presidential election (in 2006 there were four female candidates). It is also regrettable that the percentage of women candidates in the legislative elections decreased from 12 percent in 2006 to 10 percent in 2011. With this low rate, and the lack of binding measures to promote the role of women in politics, the DRC has not met the SADC declaration target of 30 percent representation of women in parliament.

International and regional commitments of the DRC encourage the government and political leaders to implement procedures that promote more participation of women in politics.⁴⁴ The

Article 33 of the electoral law gives competence to the Superior Council of Audiovisual Communications (CSAC) to oversee activities of the media in regard to the electoral environment.

The Center encourages CSAC, as the media regulatory body to better uphold its obligation to ensure equal access to political candidates during electoral periods. CSAC should also exercise the powers of Article 35 in its regulatory law to deny or remove media access to certain candidates whose messages harm the integrity of the electoral process. CENI should monitor persons who are appointed to serve on CSAC to ensure they have no major political affiliations or commitments that would deter them from being impartial in carrying out duties. Though the realities of a difficult infrastructure in the DRC may render it difficult to ensure radio and television access is available across the country, CENI may consider strategizing methods to ensuring more Congolese citizens are aware of key events and campaigns related to the elections so they can make the most informed decision when they vote.

ELECTION DAY

The opening of polls was generally reported by Carter Center observers as calm and well ordered, however, more than 50 percent of the polling stations observed opened after 7:00 a.m.

Most of the essential material reached the polling stations before the opening. In nine percent of the cases, polling stations opened with some missing ballot papers. It was reported later on that in 53 percent of the cases, ballot papers were not in sufficient quantity to accommodate all the voters.

No electoral propaganda was reported near polling stations and voters lists were displayed outside in 80 percent of the cases. All polling station staff were reported present at the time of opening and political party witnesses were represented in 96 percent of polling stations visited. PPRD and UDPS were the most represented with 60 and 80 percent of the polling stations covered. Other parties observed an average of 30 percent of the polling stations visited. In 88 percent of the cases, domestic observers were present at the time of opening. In some polling centers, the large presence of witnesses led to disturbances and several cases of violence. In general, the confusion prevailing in many of the BVDs generated tensions that polling station staff were unable to control. Security personnel was reportedly present in 96 percent of cases, however, the number of personnel affected to polling centers appeared to be insufficient.

Poor presence of security and disorganization of CENI agents in polling centers led to crowd violence in some instances. For example, in several Kinshasa locations, large crowds of UDPS supporters shouted pro-Tshisekedi slogans inside voting centers, violating the prohibition on campaign activity and possibly intimidating voters and election officials. In several cases, poll workers who were allegedly tampering with ballot papers were threatened with violence. In Kananga a local observer was molested when found in possession of marked ballot paper she was given as a proof of ballot marking. The actual (and alleged) circulation of ballot papers worsened an already volatile climate in some places.

Women were members of polling staff in 70% of the polling stations. While it is promising that 30 percent of the polling station presidents were women, improvements remain necessary to reach gender equality.

The overall evaluation of the polling process by Carter Center observers found that procedures

The National Mediation Committee was established late in the electoral process; prominent religious leaders were named on Nov. 18, 2011. Designation of mediators was done without consultation with political parties and it appears parties were unaware of the mechanism and it could not play an effective role. As a result, the election period saw a number of disputes arise due to the lack of dispute resolution capacity in the DRC.⁵⁰ As a demonstration of pressing need for such a mechanism, in Goma a mediation committee for electoral conflicts was established and had its first meeting on Nov. 7 to resolve complaints filed with CENI concerning campaign conduct and activities. Complaints of minors implicated in party campaign activities were addressed. This committee appears to be at the initiative of Goma political parties and the CENI SEP.

Based on findings of Center observers, it appears that the electoral dispute resolution mechanisms in both the CENI and at the national level lack wide accessibility to citizens and are perceived to be partial. The underdeveloped system does not seem to sufficiently protect citizens' fundamental right to adjudicative remedy for alleged violations of their rights. Citizens' awareness of the DRC's inadequate dispute resolution mechanisms is believed to have contributed some to the many street protests and violence that have permeated this election; many voters are frustrated and feel they have no other alternative but to protest in order to have their voice heard.⁵¹ The Center would thus recommend the CENI devote effort to putting in

al process.