

ALGERIA

INTRODUCTION

Any analysis of the voter registration system in present day Algeria is a challenge given that no independent organization has been able to observe the voter registration process in any recent elections. A coalition of citizen groups came together to observe the May 2012 legislative elections, but too late to cover the registration process and without any formal access to the authorities in charge of the electoral process.⁶ This gap is compounded by the refusal of the Ministry of Interior (MOI) to share the voter registration list with international observers, despite repeated requests by a European Union (EU) observation mission in 2012. Moreover, the role played by newly created entities purportedly designed to oversee the election process has been unclear. The laws and regulations are often similarly opaque.

However, some commentary and assessment can be made regarding the relevant provisions of the new 2012 election law, regulations, and rules promulgated by the MOI in the course of the election, and what missions organized by the National Democratic Institute (NDI) and the EU to observe the 2012 legislative and 2014 presidential elections were able to discover.⁷

INTERNATIONAL AND REGIONAL AGREEMENTS

Algeria is a signatory to many international treaties related to elections, including the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Political Rights of Women, the Convention on the Elimination of Discrimination against Women (CEDAW), and the African Charter on Human and Peoples' Rights.⁸

LEGAL FRAMEWORK

After years of elections that opposition parties, some of the Algerian press, and other interested observers alleged to be fraudulent and manipulated by the government, the Algerian parliament passed a new electoral law in 2012, albeit with very little debate. While the elections were regularly scheduled for

6 Sonia Lyes, "Un observatoire des élections composé d'ONG algériennes est né," *Tout Sur l'Algérie*, March 7, 2012, http://archives.tsa-algerie.com/politique/un-observatoire-des-elections-compose-d-ong-algeriennes-est-ne_19781.html.

7 There were 21,645,841 registered voters for the legislative elections in May 2012. Of those voters, the officially reported voter turnout rate in the election was a relatively tepid 43.1 percent. The voting age population of Algeria is just over 24 million, and of that group only 38.7 percent cast a ballot. The percentage of invalid ballots was a high 18.2 percent. See *Final Report on Algeria's Legislative Elections*, National Democratic Institute, 2012, <https://www.ndi.org/node/19180>; "Voter Turnout for Algeria," International IDEA, accessed May 8, 2015, <http://www.idea.int/vt/countryview.cfm?id=66>. Reported turnout for the local elections in November 2012 was similar, with 44.27 percent of the registered 21,445,621 voters casting ballots.

8 *Compendium of International Standards of Elections*, European Commission, 2007, http://www.needsproject.eu/files/Compendium_of_Int_Standards.pdf.

spring 2012, the revision of the law was interpreted by many as a response to the Arab uprisings of 2011 and presented by the government as part of a broad reform process. The difference between the new law and past ones, however, was marginal. The law remained vague on a number of issues, including those related to voter registration. A limited international observation mission organized by NDI for the 2012 vote observed this in interviews with key interlocutors. According to NDI,

Observers also repeatedly heard complaints about the ambiguity of numerous key articles within the legal framework. Some regulations or guidelines referenced in the electoral law were not promulgated or clarified until late in the process, complicating parties' efforts to manage effective campaigns and respect regulations. Poor efforts to educate parties and citizens on both existing and new regulations and procedures contributed at numerous points to differing interpretations and inconsistent application. Examples include regulations on the registration of military personnel, voter identification requirements, the handling of unused electoral materials, and the mandates of special political party and magistrates commissions.⁹

Voter Eligibility

The law related to elections excludes a number of groups of people from registering to vote. Of particular note is Article 5, which prohibits “someone whose conduct during the revolution of national liberation contradicted the nation’s interests.” Prisoners are also denied electoral rights, as are people who are bankrupt and “someone imprisoned or banned.”¹⁰ These types of exclusions have been criticized by some organizations as international obligations mandate that voter registration should be made available to the broadest pool of citizens possible to ensure that universal and equal suffrage are protected.¹¹

As interesting as who is excluded is who is included. Unlike in many other countries, there is nothing explicit in the law barring persons with mental disabilities. Similarly, members of the army and personnel from the national security agency, civil protection agency, and many other government agencies are permitted to participate. This is in keeping with the concept of inclusive democracy in accordance with international documents such as the ICPPR. In addition, Algerian citizens can vote from abroad via proxy or, for most elections, directly at their nearest Algerian consulate; interestingly, residents abroad can choose to vote from their birthplace, their last residence *or* the birthplace of the voters' ancestors (Article 9). In other contexts, allowing people to vote from the area of their ancestors rather than a jurisdiction to which they have a current personal connection has been problematic in perpetuating voting on the basis of tribal or ethnic affinity.

9 National Democratic Institute, *Final Report on Algeria's Legislative Elections*.

10 “Code électoral,” Secrétariat Général du Gouvernement, 2012, <http://www.joradp.dz/TRV/FElect.pdf>.

11 General Comment 25 of the UN Human Rights Commission. See also, for example, “The Carter Center’s Study Mission Report on Jordan’s 2013 Parliamentary Elections,” The Carter Center, 2013, http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/jordan-2013-study-mission-eng.pdf, 15. NDI’s *Promoting Legal Frameworks for Democratic Elections* states that, “Restrictions on the right and opportunity to vote must be limited generally to requirements concerning citizenship, residency and minimum age (usually the age of majority) or to smaller categories of citizens relating to mental incapacity, criminal record or present service in the military or police. The trend concerning the latter categories is to broaden the franchise, for example, by requiring a court proceeding to determine that a person does not have the capacity to make an informed electoral choice, by allowing military and police personnel to vote, and by limiting restrictions on the voting rights of those convicted of crimes in accordance with the principle of proportionality of punishment to the nature of the crime” (*Promoting Legal Frameworks for Democratic Elections*, National Democratic Institute, 2008, <https://www.ndi.org/node/14905>, 12).

Voters Lists

The voter registration system is ostensibly decentralized. According to the law, the voters lists are drafted and revised in each municipality under the control of an electoral administration commission composed of an appointed judge who serves as the president, the president of the Communal Popular Assembly, the municipality's secretary general, and two voters designated by the president of the commission (Article 15). While MOI officials verbally confirmed to NDI that they do possess national level voter registration data, there is no nationally consolidated voter registration list made available to stakeholders or the public. Lists otherwise are kept at the local level with commissions at the communal level responsible for annual revision.

The letter of the law provides that political parties can obtain a copy of the list (Article 18), though, as is explained below, this was at best inconsistently implemented in 2012 and no improvements were made prior to 2014. As is common practice in many countries, a citizen can file a complaint about his own omission or the inclusion of another voter believed to be ineligible (Articles 19 and 20).

Voter Identification

All registered voters must also obtain a voter registration card. It is necessary to present this card in addition to a national identity card, passport or driver's license at the polls on election day. However, according to the MOI's voters' guide,

Voter's cards which have not been collected by election day will be made available to voters at the level of their usual voting center. In addition, an office will be open especially for the election day in each commune to inform and orient voters on which voting centers and voting offices they are registered to. In any case with cause, registered voters may, in conformity with the law, even if they do not have their voter card, exercise their right to vote at their usual voting office on the simple justification of their identity by the presentation of their National Identity card, passport, or driver's license. This facilitating measure is not applicable except to voters who are already registered in the relevant voting offices, and does not allow for any case of new registrations to the electoral lists.¹²

Similarly, the 2012 code also says that in the absence of the registration card the voter can still vote if he is on the list and can show a national identity card or other official document proving his identity (Article 24). This is significant because neither the law nor the guidelines are specific about how people are supposed to get the voter registration cards or what they must include; the code just says that successful registrants will be issued such a card and that a voter registration card issued by the *wilaya* (province) is issued to everyone on the voter registration list. The law goes on to say, "The procedure for drawing up, issuance, replacement and cancellation of the card and the duration of validity are defined by regulation." Yet extensive research and interviews with civil society representatives working in the country reveal that such regulations do not appear to be publicly available and that the distribution

12 "Guide de l'électeur," Ministère de l'Intérieur et des Collectivités Locales, 2009, <http://www.interieur.gov.dz/Dynamics/frmItem.aspx?html=85&s=23>.

process for voter registration cards appears to follow ad hoc practice.¹³

Given the significance of the national identity card in the process, it should be noted what is required to obtain it: a birth certificate, a certificate of nationality, a certificate of residency, four color photos, a tax receipt or excise stamp to pay for the service, and a copy of the blood group card.¹⁴ This may be difficult for some citizens to comply with. NDI has heard anecdotally that obtaining such paperwork from the government in Algeria can be extremely challenging.¹⁵

Registration Oversight

The Ministry of Interior, part of the executive branch of the government, continues to maintain overall control of the election process. Responsibility for registration, as noted above, lies with the local electoral administration commissions, albeit at the direction and with the resources granted by the MOI.

Otherwise, the structure of oversight of the election process is complex and not entirely clear. At the top, under Constitution Articles 163 and 164, the Constitutional Council oversees elections and proclaims the results. The Council has nine members, three appointed by the president, two appointed by the National Popular Assembly,¹⁶ two by the Council of the Nation,¹⁷ and one by the Council of State.¹⁸ The Constitutional Council appeared not to play any role in the voter registration process in 2012 or 2014.

The 2012 law also established two entities responsible for oversight of the elections at the national level. They are both temporary bodies. Though the government presented them as a new means to provide transparency, similar commissions had existed during previous elections.

The first is a body of judges that is called the National Commission for Election Supervision (CNSEL).¹⁹ The duties of this body are vague in the law; as described, it is responsible for making sure the law is implemented and assessing any transgressions. This body played no role in the voter registration process in the 2012 legislative elections, as it did not even begin functioning until after the voter registration exercise was completed. However, it did deal with complaints, resolving a number of issues on the spot during the course of the election. The EU recommended that this body be made permanent and that

13 Tova Andrea Wang, *Voter Identification Requirements and Public International Law: An Examination of Africa and Latin America*, The Carter Center, <https://www.cartercenter.org/resources/pdfs/peace/democracy/des/voter-identification-requirements.pdf>, 2013.

14 Wang, *Voter Identification Requirements*.

15 Author interview with Andrew Farrand, Senior Program Officer, National Democratic Institute, April 2, 2012.

16 The National Popular Assembly is the lower house of parliament and is elected by popular vote, most recently in May 2012. See “Chapter I: Control,” *Constitution of the People’s Democratic Republic of Algeria, 1989*, <http://www.conseil-constitutionnel.dz/indexAng.htm>.

17 Per Article 101 of the Algerian constitution, the Council of the Nation is the upper house of parliament. One-third of its members are designated by the President. The other two-thirds are elected indirectly by members of communal and *wilaya* assemblies (APC and APW, respectively).

18 The Council of State is a judicial body that adjudicates cases between the administration and citizens, following the French legal model.

19 The CNSEL is referred to as the CNSEP for presidential elections.

it be granted some oversight over the registration process.²⁰ For the local elections held in November 2012, the commission was re-established just after the extraordinary registration process was begun, approximately two and one-half months before election day; legal prerogatives for voter registration are not expressly provided to the CNSEL and no related complaints were reported by the commission during the time when its function overlapped with the extraordinary registration period. Not engaging such a body for the overall electoral process misses an opportunity for greater oversight. It was therefore positive to see the commission reconstituted just prior to the opening of the two-week extraordinary voter registration period for the 2014 presidential election, though greater lead-time could allow the commission to more effectively adjudicate complaints arising during this period.

The second entity is the National Commission for Election Monitoring (CNISEL). It is also a temporary body and is, according to the law, responsible for implementing the laws and regulations of the elections and monitoring the entire electoral process, including activities related to the voters list, though in recent electoral processes it did not appear empowered to exercise these functions. It is composed of a secretariat of national experts, and the governing committee includes representatives of political parties and of independent candidates. It is comprised of a president elected by the general assembly, the general assembly, a bureau of five vice-presidents elected by the general assembly, and regional branches composed of representatives of the parties and candidates contesting seats in each *wilaya*. For the 2012 legislative and local elections as well as the 2014 presidential poll, this national commission was not put into place until after the extraordinary voter registration period. It lacked the legal authority to play any major role in the elections. Similarly, the body was reconstituted for the November 2012 local elections, and observers and other stakeholders remained unclear about its intended role.

THE 2012 VOTER REGISTRATION PROCESS

While there was a routine annual revision of the electoral list in October 2011, there was also a period of “exceptional revision of the electoral lists” in preparation for the regularly scheduled May 2012 legislative elections from February 12 to 21, and a short period of time thereafter for complaints and resolution of complaints about the lists. For the local elections held on November 29, 2012, a slightly longer extraordinary registration period also occurred, lasting from September 16 through October 31, though with a shorter timeframe between the close of the registration and election day.²¹ In both instances, this was a relatively constrained time frame to ensure maximal inclusion on the voters list. It should be considered whether this infringed on international good practices since, as NDI has explained, to meet international norms for universal and equal suffrage, voter registration must provide a reasonable chance to inspect and correct the voters list.²²

Interestingly, press reports indicated that for the 2012 legislative elections, the government revived a mechanism for updating lists and registering voters by dispatching “mobile brigades” of agents who went door-to-door. Originally introduced before the 2009 presidential election to target residents of new neighborhoods established after the previous census, the brigades that year reportedly registered

20 Author interview with Susanne Giendl, Legal Analyst for the 2012 European Union Election Observation Mission, May 31, 2013.

21 For the presidential election on April 17, 2014, after the usual month of regular registration from October 1 to 30, 2013, an exceptional pre-election registration period ran from January 23 to February 6, 2014.

22 National Democratic Institute, *Promoting Legal Frameworks*, 2008, 12.

125,000 additional voters after visiting some 580,000 households in nearly a dozen *wilayas*. National aggregates for 2012 could not be found, though the press reported at least one such effort in Oran.²³ However, the brigades were mobilized outside of the regular or extraordinary revision periods. Such proactive measures can facilitate registration for communities such as women who may find it difficult to travel to an administrative office during open hours, though they should be properly integrated within formal registration periods.

As referenced above, the voter registration process was decentralized, causing some challenges, including failures to provide the lists to the parties as is mandated by the law. According to the NDI observation report,

The voters list stood out as one of the most significant areas of concern for most political parties and civic groups with whom NDI observers met. Numerous interlocutors noted that the final registry for the 2012 polls had grown inexplicably by a dramatic four million people since 2009. Many highlighted concerns over the registration of security forces, noting that some soldiers were registered in their home districts as well as in multiple deployment sites, and were also given extra time to register. Others complained that deceased voters or voters who had moved to other cities and registered anew were not removed from the lists, raising the potential for fraud. While the electoral law allows any voter to confirm his or her place on local electoral lists and guarantees parties access to communal electoral lists, only a few parties that requested lists reported receiving copies in time for review and verification before the polls. Moreover, they noted that many of the lists they received contained only limited information, such as just the first and last names of voters, or were disaggregated only to the *wilaya* level and made available in a read-only electronic format that rendered them virtually useless for verification or electoral preparations.²⁴

The EU also found fault with the registration process in 2012, especially “the absence of a national consolidation of the electoral list,” which is not contemplated in the electoral law; EU election observers believed the MOI to be in the possession of such a list in some format. The EU observation mission found that the inability of the parties and candidates to verify the electoral lists affected confidence in the integrity of the elections. The EU also criticized Algerian authorities for refusing to share voter registration data, finding this to be a breach of the authorities’ commitment to transparency.²⁵ The inability of international and domestic observers or political parties to observe voter registration proceedings, along with the lack of changes to registration procedures since 2012, suggest that many of the concerns over transparency and access expressed in 2012 remained valid for the presidential election as well.

ISSUES UNDER INTERNATIONAL LAW

The ambiguity around the registration rules is problematic vis-à-vis international law and good practice regarding voters’ rights to be informed about and understand the electoral process, as well as the

23 J. Boukraa, “Actualisation des listes électorales: Des extraits de naissance à domicile,” *Le Quotidien d’Oran*, February 2, 2012, <http://www.djazairiss.com/fr/lqo/5163849>.

24 National Democratic Institute, *Final Report on Algeria’s Legislative Elections*, 18.

25 Rapport Final : Élections Législatives Algérie 2012, Mission d’Observation Electorale, European Union, 2012, 18.

requirement for equal and consistent application of the law under international law. According to the UN Human Rights Committee interpretative document on ICCPR Article 25, “Voter education campaigns are necessary to ensure an informed community is able to effectively exercise their Article 25 rights” (paragraph 11). NDI’s publication *Building Confidence in the Voter Registration Process* explains international norms in this respect, stating, “Providing the electorate and those seeking to be elected with sufficient, timely information about how, when, where and other requirements for candidate qualification, voter registration, voting and other electoral matters (whether referred to as “voter education” or by a broader term) is essential to ensuring the opportunity to freely exercise electoral rights.”²⁶ Article 19 of the ICCPR also requires “freedom to seek, receive and impart information”; this plays a critical role in elections as the voters cannot participate freely and equally without access to information about the rules and procedures necessary to follow in order to vote and make informed choices.²⁷

The potential challenges some Algerians may face in accessing a national identity card, required for registration and voting, should also be noted. Identification requirements that are difficult or impossible for some citizens to meet may violate international norms. The UN Human Rights Committee’s General Comment 25, explaining obligations under ICCPR Article 25, establishes that, “The right to vote may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements.” Even more pertinent, the General Comment also says,

States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. Onerous documentation requirements can be found to be discriminatory, unreasonable and/or an obstacle to registration and thus in contradiction to Article 24 of the ICPPR, especially when such hardship falls particularly on certain groups of voters such as ethnic minorities, the poor or women.

Further, NDI guidelines state that,

The legal framework must address a myriad of issues to ensure a genuine opportunity to exercise the right to vote on the basis of equal and universal suffrage... The provisions must ensure, among other things, that: ...voter identification and related procedures that are nondiscriminatory concerning race, color, religion, language, national origin, other status or political or other opinion, that prevent disenfranchisement of eligible voters and avert illegal voting.²⁸

This being said, Algerian officials have started taking small steps to respond to popular calls to reduce bureaucratic hurdles and paperwork burdens on citizens, including removing the requirement in January 2015 that all photocopies submitted with official requests for government service be legalized as true copies.

26 Richard Klein and Patrick Merloe, *Building Confidence in the Voter Registration Process: An NDI Monitoring Guide for Political Parties and Civic Organizations*, National Democratic Institute, 2001, <https://www.ndi.org/node/12886>, 14.

27 See Patrick Merloe, “Human Rights: the Basis for Inclusiveness, Transparency, Accountability and Public Confidence in Elections,” in *International Election Principles: Democracy and the Rule of Law*, ed. John Hardin Young, American Bar Association, 2008.

28 National Democratic Institute, *Promoting Legal Frameworks*, 50.

The Ministry of Interior has authority over elections in Algeria, including voter registration. That the overall authority over elections remains in the executive branch, and that the responsibilities of other, potentially more independent, agencies remain unclear, is not consistent with widely recognized international practices. For example, General Comment 25 states that there should be an independent electoral authority. That does not exist in Algeria today. Other regional documents, including the African Charter on Democracy, Elections and Governance (Article 17), to which Algeria is a signatory,²⁹ and the Organization of African Unity/African Union (OAU/AU) Declaration on the Principles Governing Democratic Elections in Africa,³⁰ support the idea that states should have an impartial, inclusive and accountable independent body managing all aspects of elections. The bodies established on a temporary basis beginning in 2012 have the potential to become independent authorities if organized and resourced to do so, but that idea has not yet been promoted by the government or raised in the national discussion.

Finally, the failure to facilitate access to the voter registration list and to provide a comprehensive list contradicted international obligations and good practices on the basis of several treaty provisions, including Articles 19 and 25 of the ICCPR. According to International IDEA,

The international standard for voter registration is that the register must be comprehensive, inclusive, accurate and up to date, and the process must be fully transparent... Transparency requires that voter registers be public documents that can be monitored and made available for inspection at no cost to the requester. Before finalizing voter registers, in addition to the general public, all registered political parties should also be given notice of and provided access to such registers so that they may verify, object to or seek to add such names as they wish.³¹

Scrutiny of these lists by political parties and others helps to ensure the registry is accurate and inclusive. Moreover, principles of electoral transparency include the voter registration process³² and require the right of parties, observers, and the public to be able to view and review the voters list in an effective manner.

This concept is bolstered by the recommendations of the Organization for Security and Co-operation in Europe (OSCE) with respect to transparency of the voter registration list:

A transparent voter registration process is key to ensuring public confidence. . . . A transparent voter registration process allows public access to the voter register and voter lists for review prior to election day. It also allows political parties and civil society groups to observe the different stages of the voter registration process.

In countries where public access to the voter register and voter lists is not allowed or is obstructed, allegations about inaccuracies or attempted manipulation of voter lists may decrease public confidence in the integrity of the voter register as well as the election process as a whole. On the

29 See "AU: Ratification Status of the African Charter on Democracy, Elections and Governance," updated January 2012, Electoral Institute for Sustainable Democracy in Africa, accessed May 8, 2015, <http://www.eisa.org.za/EISA/aucharter.htm>.

30 Algeria is a member of the African Union.

31 *International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections*, International IDEA, 2002, http://www.idea.int/publications/ies/upload/electoral_guidelines.pdf, 45.

32 National Democratic Institute, *Promoting Legal Frameworks*, 17.

other hand, countries that allow voters and election stakeholders to check and verify voter lists prior to election day will generally enhance the level of public confidence in their integrity and improve the quality of the final voter register.³³

The OSCE goes on to recommend the following:

A good practice is to provide the voter register to election stakeholders in a computerized format, with respect for privacy concerns and in line with data-protection regulations, so that the information can be easily searched. Authorities could consider posting a downloadable version of the voter list, with a search function, on the Internet. Following the processing of corrections, authorities should also provide the final voter lists to political parties and civil society groups as a measure of transparency.³⁴

These practices were certainly not followed in Algeria in 2012 and no changes were made prior to 2014. Rather, local voters lists were made available at irregular times, in varying formats, and with various degrees of difficulty in accessing them depending on individual decisions in each of Algeria's 1,541 communes.

33 *Handbook for the Observation of Voter Registration*, Organization for Security and Co-operation in Europe, 2012, <http://www.osce.org/odihr/92058>, 31.

34 Organization for Security and Co-operation in Europe, *Handbook for the Observation*, 33.