

THE
CARTER CENTER



FINAL REPORT OF
THE CARTER CENTER MISSION
TO WITNESS THE 2011–2012
PARLIAMENTARY ELECTIONS IN EGYPT

FINAL REPORT

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FINAL REPORT OF
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EXECUTIVE SUMMARY

Egypt's first parliamentary elections in the post-Mubarak era were a formative step in Egypt's struggle for democracy. The broader context in which the parliamentary elections were held, however, was a cause for concern. The Supreme Council of the Armed Forces (SCAF), as the interim authority over the transition, failed to implement institutional and sectoral reforms, resulting in a deterioration of the relationship between the military council and many segments of Egyptian society. In particular, the strict regulatory environment for civil society organizations, the ongoing implementation of the emergency law and the subjection of civilians to military trials, the repression of political activists, and the stifling of political dissent in the state-owned media led to confrontations between the military and civilians, sometimes resulting in violence. In spite of these concerns and in spite of visible flaws in the election process itself, it is the assessment of the Carter Center's mission that the results of the parliamentary elections appeared to broadly represent the will of Egypt's voters.

Under the supervision of a judicial election management body, polling for Egypt's parliamentary elections took place over a nearly three-month period between Nov. 28, 2011, and Feb. 22, 2012. The People's Assembly elections were conducted in three phases covering nine governorates per phase, while the Shura Council election was conducted in two phases covering 13 governorates in the first phase and 14 governorates in the second phase. There were more than 50,000 polling stations available for both elections, allowing for nationwide polling of an estimated 50 million eligible voters. In total, Egyptians elected 498 members of the People's Assembly and 180 members of the Shura Council. Of the 678 elected members of Parliament, just 14 are women.

The People's Assembly elections captured national and international interest and enjoyed broad participation by voters, political contestants, media, and civil society alike. Nevertheless, several problems arose during the election period that are symptomatic of larger underlying issues with the legal framework and the election administration. They included, but were not limited to, incorrect implementation of procedures put in place to ensure confidence and transparency in the process, administrative mistakes which led to last-minute legal challenges resulting in costly rerun elections across many jurisdictions and a general uneven enforcement of the law and regulations.

The Shura Council elections, on the other hand, garnered little interest and participation. Uncertainty about the value and role of the Shura Council, in conjunction with the pace and direction of the transition as a whole, contributed to a low level of engagement. On June 14, 2012, the Supreme Constitutional Court invalidated sections of the laws governing the election of the People's Assembly and ordered the assembly dissolved.* While many of the same technical and operational shortcomings witnessed by the Carter Center mission during the People's Assembly election were again observed in the Shura Council election, the Supreme Judicial Commission for Elections (SJCE) introduced some welcome technical improvements to the electoral process. It was difficult to assess their value, however, given the atmosphere in which these improvements were implemented and the associated low voter turnout. While the election results appeared to have reflected the will

* In October 2011, the SCAF decided to allow party members to run for both the two-fifths of People's Assembly seats available for parties and the one-third of People's Assembly seats reserved for individual candidates. This decision was allegedly made under pressure from parties, including the Freedom and Justice Party. On June 14, 2012, the Supreme Constitutional Court ruled that the SCAF's decision was an unconstitutional violation of Egyptians' right to equality before the law.



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of the voters that participated, the low level of voter turnout underscored the political uncertainties that surrounded Egypt's ongoing transition.

This, coupled with a subsequent decision of the SCAF to amend the Constitutional Declaration as votes were being counted in the presidential elections, was a cause of great concern regarding the vote and meaning of elections in the transition process. Several significant challenges remain to complete Egypt's democratic transition. To address these challenges, Egyptian leaders must ensure that the transition to civilian rule is completed as promised. Specifically, Egypt also should make every effort to conduct an inclusive constitutional drafting process that takes into account the views of the full political spectrum of Egyptian society and protects democratic principles, fundamental rights, and freedoms.

After receiving accreditation through the SJCE, The Carter Center deployed more than 40 accredited election witnesses to assess the parliamentary elections. An initial contingent of 14 witnesses arrived in early November and was joined by an additional 20 witnesses at the end of November. Although accreditation was received late, The Carter Center enjoyed a constructive relationship with the SJCE, which helped to facilitate the presence of Center witnesses in every governorate throughout all three phases of voting during the People's Assembly elections and 21 of 27 governorates for the Shura Council elections.¹

Over the course of the elections, The Carter Center issued a total of eight public statements that assessed the quality of the electoral process in accordance with international obligations for democratic elections and the national legal framework. The mission was conducted in accordance with the Declaration of Principles for International Election Observation adopted at the United Nations in 2005. The Carter Center remained in Egypt to witness the 2012 presidential elections and will continue to witness the planned constitutional referendum and further parliamentary elections as part of Egypt's political transition to democratic rule.

In its final report, The Carter Center outlines its complete findings from the parliamentary elections and recommends several key steps to improve the conduct of future elections in Egypt. Many of these recommendations also apply to the May 2012 presidential election, and the as-yet-unscheduled constitutional referendum. With the opportunities presented by the continued transition in mind, and in the spirit of cooperation and respect for the people of Egypt, The Carter Center offers the following recommendations for future elections.

- **Create a permanent, professional, independent, and impartial electoral management body.** In line with Egypt's international commitments, The Carter Center recommends that the future constitution explicitly provide for the independence of Egypt's election authority and that lawmakers reconsider the role of sitting judges as ex officio members of the election management body.
- **Consider a simple majority electoral system and amend the quota system.** The Carter Center strongly urges Egypt's authorities to reconsider the electoral system and to engage in a broad and inclusive process of consultation with stakeholders in its design. In particular, The Carter Center would strongly recommend that the farmer and worker quota be removed but that a quota to ensure representation of women within elected bodies be introduced.
- **Ensure the enjoyment of the fundamental rights to vote and to be elected.** Under the current legal framework, a number of categories of Egyptian citizens are prohibited from voting, including those who turn 18 between the date of closure of the voters' list and election day, people who have been declared bankrupt in the last five years, members of the military, and others. The Carter Center suggests

¹ Governorates not assessed for the Shura Council elections were Beheira, Beni Suef, Luxor, Matrouh, North Sinai, and Red Sea.



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that lawmakers reconsider these legal provisions in order to ensure that voting rights are enjoyed by the widest possible pool of eligible voters.

- **Ensure the legal framework and electoral calendar are realistic, compatible, and conducive to administering credible and sustainable elections.** The Carter Center recommends that future iterations of the legal framework for elections should be subject to inclusive consultation processes and that lawmakers ensure that any new electoral legislation upholds Egypt's regional and international commitments to promote and protect fundamental human rights. This includes the new constitution of Egypt, which will form the basis of electoral legal framework for future elections. Priority should be given to ensuring that the legal framework and electoral calendars for all future elections are realistic, compatible with the resources available, and conducive to administering credible elections.
- **Establish clearly defined inter-institutional relationships among the election management body (EMB) and other institutions.** The administration of elections in Egypt requires coordination and cooperation between the election management body and other institutions responsible for many practical aspects of the process, e.g. election-day security, provision of election materials, etc. The Carter Center recommends that the EMB establish clearly defined relationships with these other institutions to improve coordination and information-sharing in future elections and to reinforce the supervisory role of the EMB over the electoral process.
- **Ensure that election officials and key stakeholders are adequately trained in and informed of all aspects of electoral law and procedures.** As was evident throughout the process as witnessed by The Carter Center, judges, poll workers, candidate and party agents and representatives, and candidates themselves must be more fully trained on all parts of the electoral legal framework and electoral procedures. The Carter Center recommends that judges and poll workers be provided with training in all aspects of electoral law and procedures and that they are provided in a timely manner with clear, comprehensive manuals, fact sheets, or other aids to ensure consistent and accurate application of law and procedures.
- **Enhance the transparency of the counting process and announcement of results.** The Carter Center urges Egypt's authorities not only to continue the counting process at the polling station level but also to strengthen its procedures that enhance accountability, transparency, and integrity of the system: for example, by improving the timeliness of the announcement of the election results.
- **Put in place clear provisions on the role of civil society organizations (CSOs) during elections and facilitate the witnessing work of these organizations.** The Center welcomed the participation of many Egyptian organizations in witnessing the parliamentary elections. However, the EMB should take steps in future elections to improve the ability of these groups to provide credible assessments of the electoral process. Specifically, Egypt's electoral authorities should establish clear, predictable standards for observer organizations to follow in applying for accreditation and in operating once they have been accredited; consider and approve applications to witness from electoral observation organizations at the earliest possible instance and before the commencement of the electoral process; provide clear channels of communication with the witnessing organizations; and, most importantly, provide access to all aspects of the process for domestic and international witnesses.
- **Consolidate and clarify an impartial, efficient, and transparent electoral dispute resolution system.** Egypt's leaders should take steps to consolidate and clarify its electoral dispute resolution system and to ensure there is equal access for all to the system.

The Carter Center's recommendations continue on page 64.



QUICK FACTS ABOUT THE 2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

Dates of Elections		
People's Assembly	Election Day	Runoffs
Phase 1	Nov. 28–29, 2011	Dec. 5–6, 2011
Phase 2	Dec. 14–15, 2011	Dec. 21–22, 2011
Phase 3	Jan. 3–4, 2012	Jan. 10–11, 2012
Shura Council	Election Day	Runoffs
Phase 1	Jan. 29–30, 2012	Feb. 7, 2012
Phase 2	Feb. 14–15, 2012	Feb. 22, 2012

Quick Statistics	
Population of Egypt	82,813,957 ²
Number of Governorates	27
Number of Registered Voters	Around 50 Million (est.)
Number of Registered Out-of-Country Voters (OCV)	355,569 ³
Number of Judges	12,000–15,000 ⁴ (est.)
Number of Polling Stations	55,000 (est.)
Number of Two-Seat Majoritarian Districts (PA)	83
Number of Proportional Representation Districts (PA)	46
Number of Two-Seat Majoritarian Districts (SC)	30
Number of Proportional Representation Districts (SC)	30

² Central Agency for Public Mobilization and Statistics, <http://www.capmas.gov.eg/>. Last accessed July 26, 2012

³ Supreme Judicial Commission for Elections, <http://www.elections2011.eg/>

⁴ The official number of judges in Cairo is unavailable, but this is a total estimate based on polling center requirements.



HISTORICAL AND POLITICAL BACKGROUND

On Feb. 11, 2011, 18 days of mass protests forced the resignation of Egypt's president, Hosni Mubarak, who had been in power since 1981. For several years, Egypt had experienced a growing political and economic malaise, with an uncertain political horizon. Mubarak's fifth term as president was due to expire in September 2012, and it had been speculated that he might not run again at the age of 84. His son, Gamal Mubarak, had been a rising force in the ruling National Democratic Party (NDP) over the previous decade and was widely expected to succeed his father. Popular rejection of both father and son (and especially of an "inheritance of power" scenario) had been the central narrative of Egyptian politics in the last decade, with little clarity on the question of presidential succession even as the president's health deteriorated and his ability to continue in his post increasingly came into question.

THE UPRISING

The uprising began on Jan. 25, 2011, a day that had recently been made Police Day, a public holiday. It started with a series of protests largely intended to bring attention to police brutality, but the uprising had both long-term causes and more immediate catalysts. In the longer term, the younger Mubarak's political rise was accompanied by a growing role in government for businessmen close to the regime as well as increased fragmentation of the country's ruling elite. Fractures were appearing between a new guard, largely allied to Gamal, and an old guard centered around longstanding ruling-party apparatchiks as well as between an increasingly powerful and



The headquarters of the ruling National Democratic Party in Cairo was set ablaze during the 2011 revolution.

Deborah Hakes

unaccountable Ministry of Interior and a military that had largely disappeared from public political life. These factions of the regime had grown at odds with one another, and most analysts expected that the post-Mubarak transition could be difficult as a result, especially in light of Mubarak's refusal to appoint a clear, designated successor.

In tandem with these tensions in the structure of the regime, changes in economic policy and attempts at partial liberalization of the economy—while helping to create some growth in the middle class and improve annual gross domestic product (GDP) growth figures—were often unpopular. High inflation in the last few years of the 2000s, when it rarely dipped below double digits and was aggravated by global factors such as the 2008 surge in oil and commodity prices, contributed further to popular resentment of the government and the class of businessmen who prospered from these policies.

Key events in the months preceding the uprising also undermined the Mubarak regime's legitimacy.



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Parliamentary elections held in 2010 saw a marked deliberalization of electoral politics, with fraud and police interference reversing the gains made in elections held in 2005 in which the Muslim Brotherhood had seized 20 percent of the seats in the People's Assembly (the lower house of Parliament.) Shortly before the elections, sectarian riots that for the first time saw violent engagement between riot-control troops and Christian protesters broke out on the outskirts of Cairo. A New Year's Eve terrorist attack on the Church of the Two Holy Saints in Alexandria further heightened tensions and led to a growing sense that security forces had allowed the threat of terrorism to be used as another justification for exceptional legislation, such as the emergency law, that gave police wide powers to suspend due process. These actions were, however, mostly perceived by citizens as those of a brutal, abusive, and corrupt institution.

The uprising that took place on Jan. 25 and the subsequent occupation of Cairo's Tahrir Square and other locales shook the regime to its core. It

neutralized the police, which withdrew its forces from the streets late on Jan. 28, as the army deployed its own. It forced previously unimagined concessions from Mubarak, most notably his appointment of

Omar Suleiman as vice president and the dissolution of the recently elected Parliament. Suleiman's rise to the post made him heir apparent, and effectively Egypt's new ruler. It immediately ended the political career of Gamal Mubarak as well as many senior figures in the National Democratic Party (NDP), whose building burned for three days, symbolizing the collapse of the ruling party. And, finally, it forced

The uprising that took place on Jan. 25 and the subsequent occupation of Cairo's Tahrir Square and other locales shook the regime to its core.

Suleiman—who was convinced that the Muslim Brotherhood was behind the uprising—to engage with the Islamist group and other political forces, giving them unprecedented legitimacy.

The face-off that followed until Mubarak stepped down was largely about whether Mubarak should step down in six months when his term ended or immediately. It was partly a matter of constitutional principle: Suleiman warned that the alternative to the plan of the regime would be a military coup that



Cairo by night

Deborah Hakes



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would suspend the constitution in order to remove Mubarak. As protestors continued to insist that Mubarak be removed and fought off attempts to clear them off the square by thugs hired by the fallen regime and elements of the security services, the military was left frozen. It did not want to use force against protestors (as it later would in the protests of late 2011) but did not interfere to protect them either. Mubarak's speeches to the nation, delivered confidently but without acquiescing to the demands for his immediate resignation, angered rather than appeased the crowds. The paralysis at senior levels of the regime continued, along with talks with a range of opposition figures, until Feb. 10, when the Supreme Council of the Armed Forces (SCAF) issued "Decree Number One" signaling that the military had taken over. The following day, Suleiman announced Mubarak's removal—and that the SCAF effectively was seen as having assumed power—and then disappeared himself.

AFTERMATH: AN UNSTABLE TRANSITION

The January uprising put an end to the prospects of both father and son but left Egyptians with an electoral framework and a host of political problems that remained largely inherited from the previous regime. It also severely hindered the state's ability to maintain law and order, with dozens, if not hundreds, of police stations attacked, often with their armories raided. For the first time in decades, the military attempted to secure Egypt's streets. The rise in insecurity that accompanied the fall of the police state was initially ascribed to "remnants" of the former regime intent on sabotaging a democratic transition, but as incidents of theft, carjacking, and other forms of petty crime increased, it became clear that the downside to having broken the barrier of fear imposed by Mubarak was that criminals also were emboldened. The problem was particularly acute in northern Sinai—where not a single police station was left standing after the uprising—which became largely lawless until a forceful military deployment in August 2011. The reality of insecurity, amplified in the

media, has remained a constant political factor during Egypt's transition, making many Egyptians skeptical of the revolutionaries and their continued protests and creating a base of support for the military.

The political negotiations to determine the shape of the transition took place in this heady atmosphere of revolutionary fervor and growing concern about the security and economic costs of the uprising. Strikes and protests that had started in February at many government agencies and factories, as well as in the private sector, continued apace, with demonstrators emboldened by the example of Tahrir. The main political actors of the revolution had initially been youth groups and activists for whom the revolution had been the beginning of a radical change in governance. Only later, once the uprising had started, did established political parties join in the protests (some of which refrained from lending support to the demand for Mubarak's ouster until the last minute). In fact, most existing secular parties and the Muslim Brotherhood never backed the call for Mubarak to step down officially and engaged in negotiations with the regime, while at the same time, their members joined the protests. It is generally recognized by activists that Islamists played an important role in facing off the attacks on Tahrir Square on Feb. 2–3, 2011, known as "the battle of the camel."

If the more established political parties were caught off guard by the magnitude of the protests, they had an advantage in the post-uprising situation—particularly since many had already been in talks with the regime that the military was now taking over. Among the protestors, many were leery of trusting military officers who had been appointed by Mubarak but were convinced to cease protesting by a lack of popular enthusiasm for continued disturbances and a recognition that the armed forces had ultimately sided with the people by refusing to repress protests and removing Mubarak. For its part, the SCAF was eager to find partners to calm the situation and looked naturally to the largest opposition political force, the Muslim Brotherhood, to help it.



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THE MARCH 2011 CONSTITUTIONAL REFERENDUM

A constitutional committee was selected by the SCAF to begin amending the 1971 constitution, which had been suspended after Mubarak's resignation. The amendments would be the subject of a referendum held on March 19. While the committee addressed some of the questions of the transition, it neglected others. In drafting the amendments to the 1971 constitution, for instance, it focused on symbolic measures to reduce the power of the president but did not include details on the type of electoral system and was ambiguous on the sequencing of the transition.

In addition, the makeup of the committee was a source of controversy. Headed by Tarek al-Bishri, a renowned jurist known for his sympathies to the Muslim Brotherhood, and including prominent Muslim brotherhood lawyer and former MP Sobhi Saleh, the membership of the group raised concerns among secular and revolutionary circles that the SCAF and the Brotherhood were conspiring to set a transitional agenda that would favor them. This soured the political mood and unraveled the unity seen in Tahrir Square during the 18 days of protests leading to Mubarak's fall.

The Islamists—both Brotherhood and Salafist—lent strong backing to the “yes” vote, with preachers misleadingly instructing voters that a “no” vote would lead to the removal of any reference to Sharia in the constitution. For opponents of the “yes” vote, who mostly preferred the drafting of an entirely new

constitution immediately (although without giving a clear mechanism for how this should be done), the Islamists' backing of the military's position was the first sign of a suspected tacit alliance. Despite an overwhelming result in favor of the “yes” vote (78 percent) over the next few months, political leaders and activists would argue over the sequencing of the transition. Much of this took place in the form of an Islamist/secular divide symbolized by the competing slogans “elections first” and “constitution first” that would dominate the protests of summer 2011.

The March 19 referendum (despite reports of technical problems and some laxity in the voting process) drew the largest turnout in recent Egyptian history—46 percent. The euphoria of revolutionary fervor still in the air accounts for much of its legitimacy. Egyptians were clearly enthusiastic about embarking on the transition. However, the referendum also sowed the seed of later disagreement over the legality and fairness of the 2011 electoral processes. This was because the SCAF-drafted Constitutional Declaration that was promulgated



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Vestiges of the protests that took place in Tahrir Square throughout 2011 remain.



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later in March included not only the amended articles accepted by referendum but also added and removed other articles that were not subject to popular approval. In addition, the wording of some of the articles that had been the subject of the referendum had been changed in the Constitutional Declaration. This caused confusion and alarm among segments of the Egyptian population and weakened the foundations of the transition, paving the way for future challenges to the constitutionality of elections (as was evident soon after the People's Assembly elections were concluded.)

MISMANAGEMENT AND NEW POLITICAL FORCES

The months that followed the referendum reflected the rising divide across the political spectrum as well as mounting disaffection with the SCAF's stewardship of the transition. For several months after the referendum, large protests were organized (often boycotted by Islamists) to push the military into arresting senior Mubarak regime figures and arresting the former president and his family. Repressive acts by military police, which often replaced regular security forces in the first few months after the fall of Mubarak, also drove activists into an increasingly antagonistic relationship with the military. By July 2011, the activist movement decided to reoccupy Tahrir Square, where it remained for several weeks before running out of steam and largely dismantling in early August, as Ramadan began.

In the intervening months, political activity flourished. With new regulations set for the creation of political parties, new entities began to emerge. The Muslim Brotherhood established the Freedom and Justice Party, benefiting from its existing range of political cadres. Salafists, ultraconservative Islamists who had previously adopted a quiet position, were divided on how to approach the moment. Ultimately, however, several Salafist parties emerged, the most prominent of which was the Nour Party, with its core based in the Dawa movement of Alexandria

and elsewhere in the Delta. The Gamaa Islamiya, the upper Egyptian-based Islamist movement that had fought an insurgency in the 1980s and 1990s, resurfaced (having abandoned violence for over a decade). More moderate Islamists who had broken from the Brotherhood in the 1990s established the Wasat Party. Secular parties, ranging from conservative to liberal to social democratic to socialist, proliferated—their diverse ideologies fragmenting the secular front. The only potential national leader from the secular camp, Mohamed ElBaradei, preferred to remain above the fray of political parties and focused on his presidential bid and his criticism of the transition plan.

By the end of the Muslim holy month in late August, elections dates had not been set, and the debate about the sequencing of the transition had not been resolved in the minds of many Egyptians. At the same time, public support for the SCAF as leaders of the transition had dwindled. Islamist political parties in particular took advantage of the holy month to redouble their charitable activities and win support on the street. As elections approached, many of the newer political parties, particularly secular ones, debated whether to take part in the elections. Several reasons were given in support of a boycott: that the security situation was unfavorable, that the SCAF was allied with the Islamist parties, or simply that the country was not logistically ready to hold complex elections. Importantly, concerns about the electoral system lingered. Newer parties and revolutionary groups preferred a fully proportional representation system rather than the mixed system that was finally agreed upon after desultory public and partisan debate.

With the approach of elections, the political context worsened. Frustration with the transition process and SCAF policies, as well as the protest movements' increasing distrust of organized political parties (notably the Brotherhood), led to new protests and street clashes. Notable among them were the October 2011 "Maspero" protests, which were focused on Coptic Christian grievances after over a year



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of sectarian clashes and attacks on churches. The manner in which the army handled the protests, killing at least 25 participants and inciting violence against Christians on television, shocked many and further undermined the military in the protest movement's eyes.

The SCAF's stock had steadily declined since Mubarak's fall, as the military attempted to restrict freedom of association and ban strikes and arrested thousands, including many protestors, and referred them to military courts. The generals' slowness in arresting senior former regime figures and their insistence on maintaining the emergency law in place since 1981 had already led to multiple protests between March and October 2011, as did the rough treatment often meted to activists by military police. A more long-term consequence was that consensus on the drafting of the new constitution was never found, a problem that would re-emerge

in March 2012 and haunt the relationship not only between the Parliament and SCAF but also between Islamists and secularists.

The handling of the transition between Feb. 11, 2011 — when Hosni Mubarak stepped down and the SCAF took control of the country — and the beginning of election season in October 2011 left much to be desired. It was conducted in a nontransparent manner, with decision-making often slow and arbitrary, squandering the good will that existed between the protest movement, political movements, and the military in its role as a caretaker authority. The immediate consequence was that the transition itself, with the elections as major watershed events, took place under less than ideal conditions. A more damaging long-term consequence is that a consensus among political forces about the future of Egypt never quite formed. It is in this context that the 2011 parliamentary elections took place.



THE CARTER CENTER IN EGYPT

President Carter's relationship with Egypt stems from his longstanding commitment to the Middle East peace process. The Camp David Accords of 1978 were a milestone achievement for the process, and President Carter's interest in the region has continued since his time in the White House.

President Carter has led multiple missions to the Middle East, meeting with heads of state and political figures from several Middle Eastern countries as part of his sustained commitment to peace, democracy, and human rights in the region. These missions

included several visits to Egypt, as well as consultations with Egyptian leaders and officials. To mark the 25th anniversary of the Camp David Accords in 2003, President Carter hosted a meeting in Washington, D.C., with Israeli and Egyptian negotiators from Camp David meetings to discuss the current state of the Middle East peace process and how lessons learned at Camp David could benefit negotiations in the present. The establishment of a field office in Egypt in late 2011 marked the first formal involvement of The Carter Center on elections in the country.



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President Carter, Field Office Director Sanne van den Bergh, and Carter Center President and CEO John Hardman take questions during the Center's press conference on Jan. 13, 2012.



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OBSERVATION METHODOLOGY

The Carter Center is among 40 intergovernmental and international nongovernmental organizations that have endorsed the Declaration of Principles for International Election Observation. Endorsing organizations pledge their commitment to assuring integrity and transparency in election observation missions and look to these documents to guide decisions about determining the purpose, scope, and conduct of their

missions. The Carter Center observed the People's Assembly and Shura Council elections in accordance with the Declaration of Principles and assessed the electoral process against the national laws and international commitments of Egypt.

The Carter Center believes that assessment of the pre-electoral environment and preparation for the election are key to determining the extent to which all aspects of the electoral process, including voter registration, campaigning, and voter education

Figure 1. Parliamentary Election Phases

Governorate	People's Assembly			Shura Council	
	One	Two	Three	One	Two
Alexandria	✓			•	
Aswan		✓			•
Asyut	✓			•	
Beheira		✓			
Beni Suef		✓			
Cairo	✓			•	
Dakahliya			✓	•	
Damietta	✓			•	
Fayoum	✓			•	
Gharbiya			✓	•	
Giza		✓			•
Ismailia		✓			•
Kafr El Sheikh	✓				•
Luxor	✓				
Matrouh			✓		
Minya			✓		•
Menoufiya		✓		•	
New Valley			✓	•	
North Sinai			✓		
Port Said	✓				•
Qalyubia			✓		•
Qena			✓	•	
Red Sea	✓				
Sharqiya		✓			•
Sohag		✓			•
South Sinai			✓	•	
Suez		✓			•



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efforts, fulfill the obligations of the country in its ratified or endorsed international and regional treaties. Instances of malpractice that may not be visible on the election day itself, such as voter intimidation, bribing, or substandard voter education, are more likely to be detected by a long-term observer. In addition, the presence of long-term international observers allows them to develop a relationship with election officials, party candidates, members of civil society, and other stakeholders in the electoral process, providing the mission with valuable insight into the political environment and increased understanding on the part of the host country of the role of international election observers.

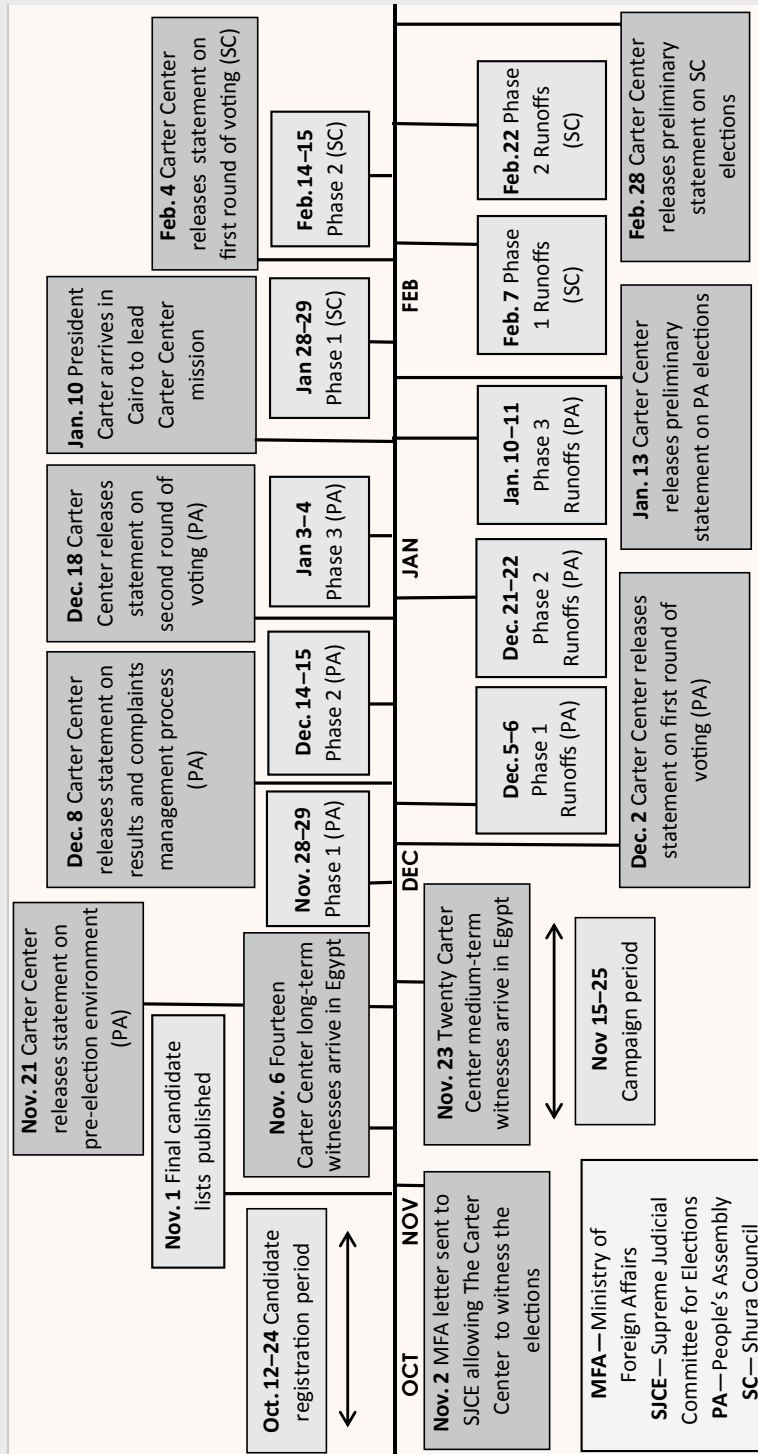
In Egypt, sensitivity regarding the translation of the English word “observer,” which in Arabic can also mean “to supervise” and has a connotation of interference in the process, resulted in international and domestic organizations deploying election “witnesses” or “followers.” While a different term was used, in practice, the rights and responsibilities of election “witnesses” in Egypt were largely in line with internationally recognized definitions of “election observers.”

After receiving accreditation from the Supreme Judicial Committee for Elections on Nov. 2, The Carter Center deployed 14 long-term witnesses to Egypt in early November. After receiving comprehensive electoral, political, and security briefings, they were deployed to seven sites throughout Egypt. During their deployment in the pre-election period, these witnesses assessed the campaign environment and progress in the technical preparations for the elections. With 20 additional medium-term witnesses deployed toward the end of November, The Carter Center had witnesses present in all governorates through all three phases of voting. Carter Center witnesses were present in 21 of the 27 governorates during the Shura Council election. Overall, together with the Center’s accredited international core team, The Carter Center maintained up to 40 international witnesses in Egypt throughout the whole parliamentary elections. The Carter Center issued eight public reports on its observations during the parliamentary elections. Figure 1 indicates where each Carter Center witnessing team was based.



TIMELINE OF EVENTS: 2011–2012 PARLIAMENTARY ELECTIONS

Egypt Parliamentary Elections Timeline, October 2011–February 2012





ELECTORAL INSTITUTIONS AND FRAMEWORK FOR EGYPT'S PARLIAMENTARY ELECTIONS

Under domestic and international pressure from a range of opposition groups, the framework for the election of the president had been amended to permit for multicandidate presidential elections, which occurred for the first time in September 2005. Scrutiny over parliamentary elections in 2003 instigated an amendment to Egypt's electoral management system, introducing the judiciary as the supervisory entity for the electoral process. However, judicial oversight was limited to polling, while the critical processes of counting and tabulation were opaque and questionable. Despite this limitation, the 2005 parliamentary elections resulted in some success for the political opposition, which was able to gain some seats. However, in anticipation of the 2010 parliamentary elections, the supervisory role of the judiciary was eliminated from the electoral process, reverting to a fully governmental model, with the process supervised, managed, and implemented by the executive branch.

After the fall of the regime, several reforms were implemented ahead of the 2011–2012 parliamentary elections. The judicial supervisory model for administering elections was revived and the mandate of the election authorities expanded to include the counting and tabulation processes. The dedicated voters' register that had allegedly been a source of electoral manipulation in the past was replaced by a database of voters extracted from the National Identity Database (NID) and was made subject to judicial supervision. The election laws for the People's Assembly (Law No. 38 of 1972, as amended) and

Shura Council (Law No. 120 of 1980, as amended) were amended, including several changes to the electoral system. With the SCAF assuming the interim leadership of Egypt during the transition, the military also became the principal guarantor of security for the election process, supplanting the traditional lead role of the police.

The institutions and framework for Egypt's parliamentary elections displayed a range of symptoms

often associated with fluid electoral processes taking place within the context of a broader political transition. While clear and definitive steps and reforms were necessary to distinguish the parliamentary elections from those that had taken place under

the past regime, much of the past regime's machinery and institutional legacies remained in place. This reality influenced the elections, while in turn, being affected by them. Accordingly, the experience of the parliamentary elections should be viewed as part of Egypt's evolving democracy rather than as a definitive representation of it.

ELECTORAL LEGAL FRAMEWORK

A robust legal framework is critical to the enjoyment of fundamental electoral rights. Specifically, the "allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws."⁵

⁵ U.N. Human Rights Committee (UNHRC), General Comment 25, para. 5

The experience of the parliamentary elections should be viewed as part of Egypt's evolving democracy rather than as a definitive representation of it.



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Throughout the long electoral process, life proceeded as normal in many parts of Egypt.

Egypt's legal framework has changed significantly since the ouster of President Mubarak in February 2011. The Supreme Council of the Armed Forces, having assumed legislative and executive functions, greatly amended existing laws to establish the framework for the 2011–2012 People's Assembly and Shura Council elections. The March 30, 2011, Constitutional Declaration, promulgated by the SCAF, includes provisions governing the eligibility of presidential candidates, limiting the terms and powers of a future elected president and requiring judicial supervision of the electoral process. While it has been debated whether the Constitutional Declaration has formally supplemented Egypt's previous constitution (of 1971), or whether it has replaced it altogether,⁶ based on witness reports of conversations with election administrators, judges, and party representatives

and candidates, most electoral stakeholders treat the Constitutional Declaration as the country's interim constitution.⁷ In addition to the Constitutional Declaration, other laws governing Egypt's parliamentary electoral framework are the Law on the Exercise of Political Rights (No. 73 of 1956), the Law Concerning the People's Assembly (No. 38 of 1972), and the Law Concerning the Shura Council (No. 120 of 1980).

The Law on the Exercise of Political Rights governs the right to vote and voter eligibility. It establishes the Supreme Judicial Commission for Elections (SJCE) and outlines its authority over the administration of the parliamentary electoral process. It also

governs voter registration, the

voting and counting processes, and election-related crimes. The Law Concerning the People's Assembly and the Law Concerning the Shura Council establish the electoral system for the People's Assembly and Shura Council, respectively.⁸

⁶ A Jan. 18, 2012, decision by the Supreme Constitutional Court, Egypt's highest court, would seem to indicate that the court deems the 1971 constitution as no longer operative and the Constitutional Declaration as the supreme law of the land.

⁷ Some stakeholders, however, including Egyptian civil society organizations and legal scholars, continue to challenge the legitimacy of the SCAF's Constitutional Declaration, based both on the wide powers accorded to the SCAF in the declaration and the addition of many articles to the declaration that were not voted upon by the Egyptian people in a referendum.

⁸ See The Carter Center, Database of Obligations for Democratic Elections for more information on the status of ratification of major international conventions by Egypt: <http://www.cartercenter.org/des-search/des/>.



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Figure 2. Egypt—Status of Ratifications

Treaty/Declaration	Status	Date
Universal Declaration of Human Rights		Dec. 10, 1948
International Convention on the Elimination of all Forms of Racial Discrimination	Ratified	May 1, 1967
Convention on the Political Rights of Women	Acceded	Sept. 8, 1981
Convention on the Elimination of Discrimination Against Women	Ratified	Sept. 18, 1981
International Covenant on Civil and Political Rights	Ratified	Jan. 14, 1982
International Convention on Economic, Social, and Cultural Rights	Ratified	Jan. 14, 1982
Convention on the Rights of the Child	Ratified	July 6, 1990
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Acceded	Feb. 19, 1993
United Nations Convention Against Corruption	Ratified	Feb. 25, 2005
Convention on the Rights of Persons With Disabilities	Ratified	April 14, 2008

In addition, Egypt has ratified a number of international treaties that form the basis of its international obligations to genuine democratic elections. The statuses of these ratifications are summarized in Figure 2.

Challenges Within the Electoral Legal Framework

Carter Center witnesses, in interviews and conversations with electoral stakeholders across Egypt, identified the following aspects of Egypt's overall legal framework governing elections that remain areas of concern.

Fundamental Political Rights in Egypt

In the realm of fundamental political rights, such as freedom of assembly, freedom of expression, and the freedoms to participate in public affairs, Egypt remains in flux. The ouster of President Mubarak kindled hopes not only that true democracy might emerge in Egypt but also that individual rights curtailed under previous regimes would be established or re-established.

The record so far, however, has not been positive. Although candidates and voters were generally free to participate in the People's Assembly and Shura Council elections, voters were able to participate in

most cases without hindrance from the state, and domestic observers were given greater latitude to witness the parliamentary process, there also has been an ongoing repression of essential political rights under the SCAF. This includes the violent crackdown on peaceful protests occurring in Tahrir Square and elsewhere in Cairo; prominent prosecutions of Egyptian public figures for allegedly insulting the state, its leaders, or religion; and the ongoing investigations and prosecution of well-established and well-respected domestic and international civil society organizations working in the areas of human rights and democracy promotion. Given the persistence of the emergency law during the parliamentary elections, discussed more fully below, the SCAF and the military generally have been responsible for a dangerous continuation of the harsh policies of the Mubarak regime regarding the curtailment of fundamental rights.

The Emergency Law and the Use of Military Trials

The Carter Center repeatedly expressed serious concerns about the continuation of the emergency law, which remained in effect throughout the entire parliamentary electoral process. The emergency law, which had been in effect in one form or another



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continuously since 1981, ran counter to basic principles of the rule of law.⁹ The reasons¹⁰ provided by the Egyptian military for renewing the law in September 2011, a renewal that many feel was in and of itself an illegal act,¹¹ could be addressed effectively through Egypt's civil law system. The SCAF's decision to modify the emergency law on Jan. 24, 2012, but to maintain prohibitions against the vaguely defined crime of "thuggery" had little practical effect on the law's scope and potential impact. Although the military or police appeared to refrain from implementing the emergency law to enforce restrictions directly on electoral speech and activities throughout the parliamentary electoral process, its existence produced a chilling effect that stifled free expression and assembly, which are essential for a healthy electoral process within a functioning democracy.

Similarly, The Carter Center also repeatedly stated concern regarding the continued use of military trials for civilian suspects. It has been reported that 12,000 civilians have been brought before military tribunals since January 2011.¹² Such measures can smother political dissent and instill fear among Egypt's citizenry, ultimately limiting the civil and political rights of citizen electors as defined by both national laws and international commitments regarding democratic elections.

For these reasons, The Carter Center recommended that the emergency law be rescinded and that any future application of the emergency law be narrow in scope, based on absolute and verifiable necessity, and tightly limited in duration.¹³ The



Nedra Cherif

Poll workers and judges prepare for the opening of a polling station in Fayoum during the People's Assembly elections.

9 See, for example, United Nations, Economic and Social Council, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, para. D. 58–60: "No state party shall, even in time of emergency threatening the life of the nation, derogate from the Covenant's guarantees of the right to life; freedom from torture, cruel, inhuman or degrading treatment or punishment... freedom of thought, conscience and religion. These rights are non-derogable under any conditions even for the asserted purpose of preserving the life of the nation...the ordinary courts shall maintain their jurisdiction, even in a time of public emergency, to adjudicate any complaint that a non-derogable right has been violated."

10 This included concerns reported to have been expressed by the SCAF regarding an attack by protestors on the Israeli Embassy in Cairo, the existence of "thuggery" generally, and other alleged criminal activities. See, for example, Tamim Elyan, "Egypt's army says that emergency law in place till June," Reuters, Sept. 21, 2011: <http://www.reuters.com/Art/2011/09/21/us-egypt-emergency-idUSTRE78K3WK20110921>.

11 Pursuant to the SCAF Constitutional Declaration of March 30, 2011, Art. 59, a state of emergency must be for a time period of no greater than six months. It is not permissible to extend it beyond six months without a public referendum.

12 Human Rights Watch, "Egypt: Retry or Free 12,000 after Unfair Military Trials," Sept. 10, 2011: <http://www.hrw.org/news/2011/09/10/egypt-retry-or-free-12000-after-unfair-military-trials>

13 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (14)



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Carter Center recommended that any emergency law should ensure due process rights before civilian courts for any civilians charged under its provisions and further recommends that under no circumstances should civilians ever be tried before military courts.

Disenfranchisement and the Right To Vote

The enjoyment of the right to vote is a primary indicator of the health of electoral democracy.¹⁴ Egypt's commitment to the principles of universal suffrage requires that the right to vote be extended to the broadest possible pool of eligible voters. Egypt has made voters' rights the centerpiece of its electoral legal framework, through the Law on the Exercise of Political Rights.

Under Egypt's Law on the Exercise of Political Rights as amended, eligible voters are defined as male and female Egyptians at least 18 years of age, who are required to exercise their political right to vote.¹⁵ It is important to note that Egyptian citizens who turn 18 years of age after the closing date for changes to the voter registry, but before election day itself, are not eligible to vote. In addition, a person may be deprived of his or her right to vote under the following circumstances:

- If convicted of a felony, unless rehabilitated
- If convicted and sentenced to having their funds confiscated within the past five years
- If convicted of various crimes without having been rehabilitated
- If convicted of electoral crimes, unless rehabilitated
- If a civil servant who has been discharged from service because of a breach of honor, within the past five years.¹⁶

A person's right to vote is suspended if (1) They are under a court order during the period of their interdiction; (2) They are held in custody due to mental illness; (3) They have been declared as bankrupt within the past five years;¹⁷ and (4) they have only

been naturalized as an Egyptian citizen within the past five years.¹⁸ Further, serving members of the main, subsidiary, and additional branches of the military and police service are not allowed to vote.¹⁹

International conventions contemplate reasonable restrictions on the right to vote, although these restrictions must be clearly written, narrowly tailored, and above all must have a rational basis in a country's overall legal system.²⁰ Egyptian lawmakers may wish to reconsider current legal provisions preventing each of these groups from voting, in order to ensure that

as many citizens of Egypt as possible may exercise this essential right.²¹

There is no reason to deny the thousands of Egyptians who turn 18 years of age after the closing of the voter registry, but before election day, the right to vote. Current voter registry procedures could be modified

to enable this group to exercise its voting rights. To do so, electoral administrators would simply need to include on the voters' roll all voters who will turn 18 years of age by election day and who also possess

*Under no circumstances should
civilians ever be tried before
military courts.*

14 U.N., ICCPR, Art. 25 (b); Universal Declaration of Human Rights, Art. 21(3): "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

15 Law on the Exercise of Political Rights, Art. 1

16 Law on the Exercise of Political Rights, Art. 2

17 Law on the Exercise of Political Rights, Art. 3

18 Law on the Exercise of Political Rights, Art. 4

19 Law on the Exercise of Political Rights, Art. 1

20 UNHRC, General Comment 25, para. 4: "Any conditions which apply to the exercise of the rights protected by Art. 25 should be based on objective and reasonable criteria." For example, it may be reasonable to require a higher age for election or appointment to particular offices than for exercising the right to vote, which should be available to every adult citizen. The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable. For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office.

21 To be a candidate for elective office in Egypt, one must first be an eligible voter. Egyptians who fall into one of these categories are thus also deprived of the right to run for elective office.



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national identity cards at the time of the closing of the voter registry.²²

In the cases of both naturalized Egyptians and Egyptians who have been declared bankrupt, there does not appear to be any national security or other justification to keep these groups off the voters' list for a period of five years. Allowing these groups to vote would be consistent with international norms regarding the prevention of unfair discrimination in the determination of eligibility for voters' rights.²³

The longstanding prohibition against Egypt's military and police personnel from voting warrants special attention. Although there is a case to be made that such a provision helps insulate security forces from the factionalism that is common in democratic politics, it might also be argued that such a prohibition isolates the hundreds of thousands of soldiers, sailors, police officers, and other security personnel from the new political process that has emerged and deprives all Egyptians of the useful voice that active duty military and police personnel may provide in a democracy.²⁴ With a strong constitution that ensures that the military and police are subordinate to democratically elected leaders, Egyptian decision-makers may wish to re-evaluate whether the benefits of political participation by Egypt's military and police outweigh any potential disadvantages.

The Unenforced Fine for the Failure to Vote

Unenforced or selectively enforced provisions in the law can undermine the overall authority of the law while doing little to deter the "illegal" activity that they are meant to prohibit. Moreover, generally unenforced legal provisions that nonetheless remain a part of the law may potentially be arbitrarily enforced in select cases by authorities against certain citizens or groups as a form of persecution.

During the People's Assembly and Shura Council elections, Egyptian law stated that a failure to vote carries with it a fine of up to 500 Egyptian pounds (roughly U.S. \$83). Assuming runoff elections in both elections, which was common, a registered voter who failed without an excuse to participate

in parliamentary elections could be liable for up to 2,000 Egyptian pounds, which is 13.8 percent of the Egyptian median income. The Carter Center is unaware of any fines being levied against any of the millions of Egyptians who chose not to vote.²⁵ Therefore, The Carter Center would urge lawmakers to remove the mandatory voting requirement from Egyptian law.²⁶

The Law Against Political Corruption

In November 2011, the SCAF enacted a law banning political corruption, defined in part as crimes committed by those who seek to corrupt "political life."²⁷ The law, which requires that an alleged perpetrator be tried and convicted in criminal court, carries with it a penalty of a ban from serving as an elected official, or from being a member of a party, for a period of five years. The law was widely reported²⁸ to have been adopted to address the participation of some former members of Hosni Mubarak's NDP in Egyptian politics.

22 Egyptians typically obtain National Identity Cards when they are 16 years of age. In order for election administrators to accurately gauge where all registered voters reside, it would be reasonable to prohibit voting by Egyptians of any age who have failed to obtain their NIC by the closing date for the voter registry.

23 U.N., 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. 3: "No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

24 It is worth noting that Egypt requires mandatory military service for all able-bodied males between the ages of 18 and 30. Therefore, disenfranchisement is unavoidable for most Egyptian males of this age group under this provision.

25 Carter Center witnesses in Port Said did report a chaotic upsurge in voter turnout during the People's Assembly runoff stage of Dec. 5–6, 2011. Reportedly, it had been rumored that the fine might be enforced, triggering the rush to vote.

26 If the mandatory voting requirement is maintained, The Carter Center would urge decision-makers to greatly enhance voter education efforts, develop clear exemptions to the requirement (in cases of illness or travel, for example), and lower the fine to a reasonable amount in relation to the average Egyptian's income.

27 SCAF press release titled "SCAF Adopts Political Corruption Legislation," Nov. 19, 2011, for additional details in English on the amended law's new provisions: <http://www.sis.gov.eg/vr/policy/policy.pdf>

28 Human Rights Watch, "Egypt: Draft 'Political Corruption' Law Invites Abuse," Oct. 26, 2011: <http://www.hrw.org/news/2011/10/26/egypt-draft-political-corruption-law-invites-abuse>



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The Carter Center recognizes that certain elected or other officials from previous regimes may be responsible for corrupt acts and should be tried in accordance with existing laws governing abuse of power, financial corruption, or other relevant laws. The Carter Center is concerned, however, that any Egyptian government could use provisions of the Law Against Political Corruption, which include vague references to “political” crimes, in an unjust manner against political opponents. The Carter Center recommends that lawmakers or the courts establish clear, fair standards for each of the elements of “political corruption” under this law, or if this cannot be done, repeal these provisions of the law.²⁹

Electoral Legal Provisions and the Need for Stakeholder Training and Supporting Information

Although Egypt’s electoral legal framework is built upon older laws and practices, much of it was recently amended and untested during the parliamentary elections of 2011–2012. In some areas, laws or procedures appeared poorly defined, causing some confusion among electoral stakeholders. Other new legal provisions were clearly written but subject to interpretation by those participating in the electoral process. In all of these instances, fact sheets, manuals, or other additional clarification would have benefited many electoral actors. In addition, the law’s silence on some topics, such as the proper degree of assistance that judges and poll workers may provide to illiterate voters, resulted in inconsistent practices throughout the country by polling station judges and electoral workers. Lawmakers may wish to promulgate laws or regulations addressing these issues.

Judges, poll workers, party agents and representatives, and candidates themselves must be more fully trained on all parts of the electoral legal framework. Furthermore, although some manuals were issued to judges late in the pre-electoral process, these manuals were not always comprehensive³⁰ and were not complemented with training. Election administrators should do more to ensure that judges and all members of the electoral administration team are trained in all aspects of electoral law and procedures and that

they are provided in a timely manner with clear, comprehensive manuals, fact sheets, or other aids to ensure consistent and accurate application of law and procedures.³¹

Seat Allocation and the Electoral Coefficient

Egypt’s electoral system in 2011 and 2012 was extraordinarily complicated. Legal provisions governing the allocation of vacant seats following the proportional representation list races,³² and the determination of which winning lists must put forward “farmer” or “worker” candidates from the list to ensure the 50 percent quota,³³ although clearly written and perhaps understandable to some sophisticated political actors in Egypt, were difficult for most to understand. (See The Electoral System section for more information about the farmer/worker quota.) A fact sheet or other piece of supplementary information giving examples of how these systems would work would have been of great use to voters generally and others attempting to understand these complicated provisions.

Legal Consistency, Uniformity, and Simplicity

Egypt relies upon a certain set of relatively old laws for the governing of elections. The primary law governing voting rights is more than 55 years old; the laws governing the People’s Assembly and Shura Council are 40 years old and more than 30 years old, respectively. However, these laws, particularly following the ouster of President Mubarak in February 2011, have undergone extensive amendments, including numerous amendments specific to the elections of 2011 and 2012. In order to hold future

29 As mentioned in the Carter Center’s Preliminary Report on All Three Phases of the People’s Assembly Elections, Jan. 24, 2012 (15)

30 Manuals that Carter Center witnesses were provided consisted mainly of recapitulations of the law and regulations without significant extra guidance for judges or other officials.

31 As mentioned in the Carter Center’s Preliminary Report on All Three Phases of the People’s Assembly Elections, Jan. 24, 2012, (11)

32 Law Concerning the People’s Assembly, Art. 15

33 Law Concerning the People’s Assembly, Art. 15 bis



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People's Assembly and Shura Council elections, these laws will have to be amended again.

Egypt may wish to consider establishing a uniform election law that governs all of the areas currently covered by Egypt's major election laws, without any reference to specific dates within the law.³⁴ Specific electoral provisions, including the various dates of the electoral cycle, should be established by regulation, in accordance with the parameters laid out in the law and following an announcement by the competent authority of the election day or days. Lawmakers also should consider a standard, standing policy regarding access for domestic and international observers,³⁵ to establish clear, predictable standards for observer organizations to follow in applying for accreditation and in operating once they have been accredited.

Last-Minute Changes in Regulations and Procedures

It is international good practice that electoral decision-makers establish clear, understandable procedures well in advance of the electoral process itself.³⁶ Although sometimes unavoidable, it is important they make every effort to refrain from last-minute changes in regulations and procedures.³⁷ During phase one of the People's Assembly elections, SCAF made the late decision to add a second day of elections to both the regular election and runoff elections,³⁸ and the SJCE decided at the last minute to keep the polling stations open until 9:00 p.m. on the first day of polling and 7:00 p.m. on the second day.³⁹ Late changes such as these require (1) that all stakeholders, including judges, poll workers, and the electorate, are aware of the changes in a timely manner; (2) that all election administrators are trained on the changed regulation



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The ballots for the People's Assembly elections were large and complex.

or procedure; (3) that additional directives to govern unforeseen consequences of changes be developed

34 Lawmakers may wish to submit a draft version of this law to the Supreme Constitutional Court for its review. A determination by the court of the law's constitutionality would insulate the law from litigation later on.

35 The Carter Center favors the term "observer" for its election observation personnel. Although electoral "witnesses" in Egypt have the same access opportunities as "observers" in other countries, "observer" (Muraqeb in Arabic) is consistent with international usage and will prevent anyone from drawing the erroneous conclusion that "witnesses" somehow enjoy fewer access rights or privileges than "observers."

36 As the Organization for Security and Cooperation in Europe (OSCE) has noted, "The legal framework should be structured so that it is readily accessible to the public, transparent, addresses all the components of an electoral system necessary to ensure democratic elections, and is adopted sufficiently in advance of polling to be implemented." See OSCE, Handbook for Domestic Election Observers, p. 36

37 U.N., 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. 1: "Whatever the form of constitution or government is in force, the Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects." Poorly publicized, last-minute decisions to amend electoral regulations and procedures deny citizens "the effective opportunity" to exercise their rights as contemplated by the ICCPR.

38 SCAF Decree 262/2011

39 SJCE Decision 45/2011, issued on Nov. 28, 2011, the first day of the first phase of the People's Assembly election



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(e.g., the need to develop procedures for protecting and storing ballot boxes overnight between election day 1 and the new election day 2); and (4) that there is prompt coordination with other agencies (Ministry of Interior, Judiciary, Ministry of Education⁴⁰) to ensure that these changed procedures and policies are properly implemented.

The Carter Center urges election officials to redouble their efforts to ensure that electoral laws, regulations, and procedures are established far enough in advance to enable training for all relevant electoral stakeholders and that officials refrain from last-minute changes in laws, regulations, or procedures unless there is a clear need to do so.

THE ELECTORAL SYSTEM

While Egypt's international commitments do not prescribe the electoral system to be used, international law is clear that any system adopted should protect and fulfill fundamental rights and freedoms.⁴¹ Historically, Egypt's parliamentary chambers were elected through a fully majoritarian system of two-seat constituencies. The 2011 People's Assembly and

2012 Shura Council elections introduced an electoral system that combined one-third of seats allocated to two-seat majoritarian constituencies and two-thirds to a closed-list proportional representation system.

For the People's Assembly elections, 166 seats were allocated to 83 two-seat majoritarian districts,⁴² while 332 seats were allocated to 46 proportional representation districts⁴³ nationwide, of variable district magnitude.⁴⁴ For the Shura Council elections, 60 seats were allocated to 30 two-seat majoritarian districts,⁴⁵ while 120 proportional representation seats were allocated to the same 30 districts with a fixed district magnitude of four seats. The difference between the assembly and council's elections was the number of representatives to be elected (498 for the assembly and 180 for the council), the size of the electoral districts (larger for the council), and the number of seats assigned to each. Figure 3 summarizes this information.

Common to both elections, the electoral system was required to meet a number of specifications at the governorate level: Each two-seat majoritarian district had to elect at least one candidate who was classified

Figure 3. Summary of Electoral System

	Majoritarian System	Proportional Representation System
People's Assembly (498 Seats in Total)	<ul style="list-style-type: none"> • 166 seats • 83 districts • 2 seats per district 	<ul style="list-style-type: none"> • 332 seats • 46 districts • 4–12 seats per district
Shura Council (180 Seats in Total)	<ul style="list-style-type: none"> • 60 seats • 30 districts • 2 seats per district 	<ul style="list-style-type: none"> • 120 seats • 30 districts • 4 seats per district

40 The addition of election days meant both that students would miss extra days of school and that poll workers, generally drawn from the faculty of area schools, would be responsible for extra days of electoral work and eligible for extra days of pay.

41 UNHRC, General Comment 25, para 21: "Although the covenant does not impose any particular electoral system, any system operating in a state party must be compatible with the rights protected by Art. 25 and must guarantee and give effect to the free expression of the will of the electors."

42 The majoritarian districts for the People's Assembly election were defined at a subgovernorate level across Egypt's 27 governorates.

43 Proportional representation districts were defined within each governorate boundary.

44 District magnitude refers to the number of seats allocated to each district.

45 The majoritarian districts for the Shura Council election were defined as whole governorates, with the exception of Cairo, Giza, and Dakahalyia governorates, which were each split into two districts.



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as either a farmer or worker;⁴⁶ and similarly, for candidates elected through the proportional system, at least 50 percent had to be farmers and workers. Following an amendment⁴⁷ to the law, both party-affiliated and independent candidates were able to compete for the individual majoritarian seats. In each election, a national threshold was applied to the proportional races where competing parties and coalitions had to receive at least 0.5 percent of the valid votes nationwide to be eligible to win any seats under the proportional system. Further, for a party or coalition list to be certified to compete in the proportional races, the list of candidates was required to have at least one female candidate.

Electoral systems are not neutral. Different electoral systems promote different types of representation and political behaviors that influence the performance and focus of an elected assembly. As such, informed and broad debate should accompany decisions on the electoral system to be used. Negotiations over the proportion of seats allocated to the majoritarian and proportional representation systems were reportedly the subject of discussions among the SCAF, political parties, and civil society and resulted in the adoption of a system that allocated one-third of seats in each chamber to the majoritarian system and two-thirds to the proportional representation system.

On the one hand, the majoritarian system, where an individual candidate must win over 50 percent of the vote in his or her district, promotes a strong connection between the elected representative and his or her constituency. On the other hand, the closed-list proportional representation system promotes the development of political parties and coalition building but does so at the expense of a direct link between voters and their elected representative (as the voter votes for the party and their ordered list of candidates rather than voting directly for their preferred candidate).

The decision to allow individual candidates in majoritarian races to be party-affiliated had an impact on the system and was the subject of a legal challenge to its constitutionality that ultimately

resulted in the Supreme Constitutional Court's (SCC) June 14 decision to dissolve the Parliament. This amendment permitted voters a broader choice of individual representatives—allowing for both independents and party-affiliated candidates to compete in these races. Also, within the elected assembly, the party affiliation allows for

these elected members to be part of broader parliamentary party blocs. On the other hand however, it allows parties with a greater depth of resources and grassroots organization to arguably dominate political campaigning over independent candidate rivals.

The Majoritarian System

In the 83 two-seat constituencies of the People's Assembly and 30 two-seat constituencies of the Shura Council, the use of the absolute majority system and the requirement that at least one winner be a worker or farmer necessitated that voters cast two votes. If two candidates did not receive absolute majorities or if at least one of the winners was not a farmer or worker, a runoff race was required. In most majoritarian races, a runoff race was necessary to determine the final winners. A simple majority system (where

46 The terms "farmer" and "worker" are defined in Art. 2 of the Law Concerning the People's Assembly. The term "farmer" is defined as a person whose sole work and main source of living are cultivation and who is residing in the countryside, providing he, his wife, and minor children do not own or lease more than a certain amount of land. The term "worker" is defined as a person who depends mainly on income from manual or nonmanual work in agriculture, industry, or services. He or she must not be a member of a professional syndicate, recorded in the commercial register, or a holder of a higher degree of education. (Any person who was a worker and then obtained a higher degree of education is exempt from this restriction, however.) In all cases, for any person to be considered a worker, he or she must be enrolled in a trade union.

47 Art. 5 of the Law Concerning the People's Assembly was repealed as of Oct. 8, 2011, allowing both party-affiliated and independent candidates to compete for the individual seats, whereas in the past, only independent candidates had been eligible to compete for these seats.

*Informed and broad
debate should accompany
decisions on the electoral
system to be used.*



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the highest-vote winning candidates are awarded the seats) would alleviate the pressure and costs of conducting runoff elections.⁴⁸ Furthermore, for any future replacement of elected officials, rather than conducting a supplementary election (as is currently the case), the substitute official could be identified as the next most popular candidate. The Carter Center recommends that Egypt's authorities consider a simple majority system to replace the absolute majority approach.

The Proportional Representation System

The use of the closed-list proportional representation system and the 0.5 percent national threshold provided an incentive for national coalitions to form in preference to single-governorate parties competing alone. This design of the electoral system encouraged a Parliament with a national focus rather than one that is bound to subnational localized interests. The formation of national coalitions also appears to have largely mitigated some concerns that the comparatively small size of the proportional districts (in the People's Assembly elections) would result in a fragmented Parliament. The law did not define a specific formula for the calculation of the proportional representation seats. It did, however, assert that seats would be allocated on a proportional basis and that vacant seats would be distributed by the "highest remainder" method. To meet the farmer/worker quota requirement, party lists were required to be submitted with at least one farmer/worker candidate in every two ranked positions. If a list district failed to elect at least 50 percent farmer/worker candidates, an electoral coefficient was calculated by dividing the valid votes for each list in the district by the number of seats they won.⁴⁹ The lists with the lowest coefficient and nonfarmer/worker winners were then required to reorder their list to provide the necessary farmer/worker winners.

Replacement of Elected Members

The election laws for the assembly⁵⁰ and council⁵¹ make provision for the replacement of elected members in the event their seat is made vacant. If

the member is seated through the proportional representation system and an unseated member remains on the party list and would not affect the farmer and worker quota, that candidate then takes the vacant seat. If the party list cannot accommodate this requirement or the vacancy is for an individual candidate, a supplementary election is required to elect the replacement.

Quotas: Representation of Women and Occupational

Egypt's international commitments require that steps be taken by the Egyptian authorities to ensure that women and men participate in the electoral process on an equal basis both as voters and as candidates. Such steps may include the use of quotas to ensure adequate representation of women in elected bodies. The Constitutional Declaration of March 30, 2011, as amended on Sept. 25, 2011, did not require women to be present in the assembly or council. This was a significant setback to past progress where 64 seats of the 508-seat People's Assembly had been reserved for women. While the law required parties to include at least one woman in their party list of candidates to register for the assembly and council, the system did not require these women to be placed in a particular order within the list. As a result, more than 70 percent of female candidates were ranked in the bottom half of the lists for the assembly races, and more than 80 percent in the council list races. The quota mechanism catastrophically failed to promote the election of women to the Parliament, resulting in only 14 women of 678 elected members across both chambers.

Under Egypt's Constitutional Declaration of March 30, 2011, at least 50 percent of the elected membership of the People's Assembly and Shura Council

48 As mentioned in the Carter Center's Preliminary Statement on Egypt's Shura Council Election, Feb. 28, 2012 (8)

49 Law Concerning the People's Assembly, Art. 15 bis

50 Law No. 38 of 1972, Concerning the People's Assembly, as amended, Art. 18

51 Law No. 120 of 1980, Concerning the Formation of the Shura Council and its Amendments, Art. 4



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must be a farmer or worker. This quota requirement,⁵² while a historical feature of Egypt's electoral system, is nevertheless controversial under international obligations that prohibit unreasonable limitations on a citizen's rights to be elected.⁵³ Further, as is noted under this report's section on boundary delimitation, the farmer and worker quota appears to be a root cause of inequitable suffrage.

The Carter Center strongly urges Egypt's authorities to reconsider the electoral system and to ensure a broad process of consultation with stakeholders in its design. In particular, The Carter Center would strongly recommend that the farmer and worker quota be re-evaluated in terms of its international obligations of equal and universal suffrage, or if retained, the proportion of seats that are allocated to the quota should be significantly reduced. Similarly, The Carter Center strongly encourages Egypt's authorities to reconsider the women's quota mechanism, with a view to guaranteeing a minimum of 30 percent representation of women in Egypt's future elected assemblies.⁵⁴

ELECTION MANAGEMENT

An independent and impartial election 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.⁵⁵ Egypt's parliamentary elections were supervised by a fully judicial commission, the Supreme Judicial Commission for Elections (SJCE),⁵⁶ mandated⁵⁷ under the SCAF's Constitutional Declaration issued on March 30, 2011. The powers of the SJCE are elaborated under the Law on the Exercise of Political Rights.⁵⁸ Senior judges serve, ex officio, as members of the commissions. The chairman of the SJCE, who

serves as the commission's principal representative, is the head of Cairo's Court of Appeals. The commission has an independent budget⁵⁹ and is able to adopt regulations for its own financial management. Further, state agencies are required under the law⁶⁰ to assist the commission in carrying out its mandate and implement its decisions and to provide the commis-

sion with any information it requests. The commission may seek assistance from experts to conduct studies or research.

The SJCE oversees a General Secretariat composed of judicial and governmental representatives,⁶¹ responsible for implementing electoral

operations. In each governorate, a fully judicial electoral committee⁶² is established based on ex officio judicial appointments and is chaired by the local head of the Appeals Court. Judicial general committees also are established for each electoral district (46 for the People's Assembly and 30 for the Shura Council).

The Carter Center strongly encourages Egypt's authorities to guarantee a minimum of 30 percent representation of women in Egypt's future elected assemblies.

52 SCAF Constitutional Declaration, March 30, 2011, Art. 32

53 U.N., ICCPR, Art. 25

54 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (7)

55 UNHRC, General Comment 25, para. 11

56 The SJCE was entitled the High Elections Commission (HEC) under the Law on the Exercise of Political Rights (Law No. 73 of 1956, as amended), but its name was changed by the commission.

57 Constitutional Declaration, March 30, 2011, Art. 39

58 Law No. 73 of 1956, as amended

59 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 3 bis (J)

60 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 3 bis (K)

61 Law on the Exercise of Political Rights, Art. 3-bis(i). The General Secretariat, which is responsible for the implementation of the election, is constituted of judges and a representative from the ministries of the Interior, Telecommunications and IT, and Local Development.

62 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 3 bis (E)



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At polling and counting, judges directly presided over the work of polling staff drawn from the local civil service (predominantly teachers from the Ministry of Education), while the district-level general committees also oversaw the counting centers (during the People's Assembly) and the tally centers (during the Shura Council elections).

The powers of the SJCE as detailed in the law are:⁶³ (1) Establish polling sites and appoint a secretary to each polling station; (2) Oversee the preparation of the voters' lists based on the National Identity Card (NIC) database; (3) Develop and implement a system of electoral symbols for parties and candidates; (4) Receive, verify, and address complaints in connection with the electoral process; (5) Regulate the involvement of national and international civil society organizations in monitoring the electoral process; (6) Regulate election campaigning; (7) Regulate the distribution of air time for electoral campaigning; (8) Declare the overall results of elections and referenda; (9) Set the schedule for runoff elections; (10) Express opinions regarding election legislation.

The institutional arrangements adopted for the parliamentary elections closely resembled the mixed election administration model used in Egypt in 2005⁶⁴ but extended the judiciary's role and authority to supervise the entire process. However, while the judiciary's role was strengthened in contrast to past elections, the independence of the SJCE is not explicitly stated under the SCAF's Constitutional Declaration. The absence of this formal independence, when combined with Egypt's prescriptive civil law system and the transitional arrangements, limited the perceived independence of the SJCE. This was exacerbated by the SCAF's role as the interim executive and legislative branch, which allowed it unilaterally to define and limit the actions of the SJCE through legal amendments (made by decree) that undermined the SJCE's perceived and actual independence, both in law and in practice. Further, the law required that the deliberations of the SJCE be secret,⁶⁵ making critical decisions opaque to electoral stakeholders and undermining the principle of access to information.⁶⁶ For example, only three days ahead of the first round

of polling for the People's Assembly elections, the SCAF announced that the People's Assembly elections would be conducted over two days of polling for each round and runoff. The SJCE subsequently endorsed this announcement the day before polling started, but the SJCE's deliberations over the decision and their perceived ability to counteract it were unclear to electoral stakeholders.

The SJCE itself was appointed on July 19, 2011, and the People's Assembly and Shura Council elections announced on Sept. 27, 2011. Therefore, the SJCE had little time in which to become established, define interinstitutional relationships, develop electoral procedures, and train staff. As a result, the SJCE relied heavily on the capabilities of the Ministry of Interior (MoI) to implement the electoral process. Operating through the General Secretariat, the MoI was responsible for organizing the procurement and distribution of materials, security and logistical support, and operational arrangements. Revisions to the electoral laws were made from May 19, 2011, onward and were subject to ongoing piecemeal amendments, making the electoral administrative process difficult to manage. In particular, the speed of development of the electoral framework created several deficiencies. Most pronounced was the lack of a clear institutional mandate for civic and voter education efforts and a clear delineation between the regular judiciary and the SJCE for the management of complaints.

The legislative electoral framework also exhibited variability in the level of detail it prescribed over various phases of the election process. For example, voting procedures were detailed in the law, while

63 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 3 bis (F)

64 The judiciary assumed a supervisory role in the 2005 elections, but their supervision was limited to polling activities. The count process was not subject to judicial oversight. This partially mixed model approach was dropped for the 2010 elections, where a fully governmental model was reinstituted.

65 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 3 bis (D)

66 UNHRC, General Comment 34, paras. 18–19



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counting procedures lacked similar elaboration. The scope of the SJCE's mandate to issue binding regulations was unclear, and the SJCE was subject to criticisms that it failed to fully exert itself by developing a regulatory framework for the election process, in particular for counting, campaign finance, complaints, and media management. Undeveloped, these areas of the process created ambiguities of interpretation for election officials and stakeholders.

In line with Egypt's international commitments, The Carter Center recommends that the future constitution explicitly provide for the independence of Egypt's election authority.⁶⁷ Independence also is affected by the ability of the electoral authority to not only supervise but to implement an election. The SJCE has been dependent on the MoI to implement key electoral processes but has not necessarily had the capacity to fully supervise these activities. The Carter Center urges the establishment of a professional, permanent, and independent election management body with a mandate to issue and enforce regulations over elections and referenda and with an operational presence

in all of Egypt's 27 governorates. The transparency of an electoral authority is vital to its credibility with the electoral stakeholders. As such, The Carter Center strongly urges that the deliberations of any

future electoral management body be subject to adequate public scrutiny and not be secret. Finally, the participation and representation of women in elections extend to their role within the election administration. The Carter Center urges Egypt's authorities to ensure equitable repre-

sentation of women at all levels within the election administration.

Potential Conflicts of Interest

The Carter Center also notes with concern the possibility of conflicts of interest existing for judges adjudicating election-related cases, given that elections are largely administered at the national, governorate, and subcommittee level, by their fellow judges. In accordance with internationally recognized obligations regarding judicial independence and ethics, Egyptian judges should take transparent steps to ensure that those adjudicating election-related cases have no conflicts of interest, or appearances of conflicts of interest, with judges supervising the electoral process who might be associated with the case at issue.⁶⁸ Egyptian lawmakers should consider taking other steps to minimize the likelihood that judges will face conflicts of interest regarding election administration

In line with Egypt's international commitments, The Carter Center recommends that the future constitution explicitly provide for the independence of Egypt's election authority.



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Many of the poll workers during the People's Assembly and Shura Council elections were teachers.

⁶⁷ As mentioned in the Carter Center's Preliminary Statement on Egypt's Shura Council Election, Feb. 28, 2012 (8)

⁶⁸ Impartiality, and the perceived impartiality, of the judiciary is a widely recognized condition for an equitable judicial process. See, for example, the Bangalore Principles of Judicial Conduct (2002), Application 2.5, "A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially..."



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cases, such as appointing nonjudicial members (and fewer judges) to electoral oversight committees and to the board of the electoral management body itself.

Lawmakers may also wish to consider ending ex officio membership on electoral boards. Currently, as a matter of law, both the SJCE and the Presidential Election Commission must be led by specific senior judges, such as the president of the Cairo Court of Appeals and the chief judge of the Supreme Constitutional Court. Even if these judges personally recuse themselves from hearing election-related matters in their judicial capacities and recuse themselves from assigning other judges to hear these cases, there still may be the appearance of a serious conflict of interest, since chief judges are associated with the courts they oversee and may appear to exert influence over subordinate judges on their courts. For future elections, electoral decision-makers may wish to require that judicial units elect members to serve on election management body (EMB) boards (and as alternates) and not base appointment solely on seniority or position.

MISSTATEMENTS OF ELECTORAL LAW

As The Carter Center noted in public statements, a future EMB should take steps to ensure that information provided to the public, including public statements and press conference responses, accurately reflect the current law. In one incident before phase one of the People's Assembly elections, an SJCE official incorrectly stated that a voter must vote for at least one "worker" or "farmer" among the two votes to be cast for individual candidates. (This erroneous instruction was later publicly retracted.) In order to minimize the possibility of this happening in the future, a successor EMB should ensure that only a media representative or the head of the EMB address the media or the public⁶⁹ and that any misstatement of the law, regulations, or procedures is corrected as quickly as possible and in a format that reaches at least as many people as the format in which the misstatement itself was communicated.

BOUNDARY DELIMITATION

The international obligation of equal suffrage, where every voter should have roughly equal voting power, is an important feature of any electoral system.⁷⁰ Essentially, the elected members of an assembly should represent a consistent portion of the population, citizens, or registered voters.⁷¹ This is determined by the boundaries of electoral districts and the apportionment of seats assigned to them.⁷² SCAF decrees 121/2011 and 122/2011 of Sept. 26, 2011, respectively, assigned the allocation of seats to districts for the People's Assembly and Shura Council elections. The ratio of registered voters to seats on a governorate level shows a wide variation, as shown in Figure 4, and likely did not meet Egypt's commitment to equal suffrage.

The delimitation of boundaries for Egypt's parliamentary elections was based principally on the 27 governorates, as the highest level of the country's five-tier administrative hierarchy.⁷³

The electoral system for each chamber imposed several unavoidable requirements for the apportionment of seats. Under the relevant electoral law

69 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (25)

70 UNHRC, General Comment 25, para. 21: "The principle of one person, one vote must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another." U.N., ICCPR, Art. 25 (b)

71 The principle of equal suffrage has been elaborated by the Organization for Security and Cooperation in Europe (OSCE), Existing Commitments for Democratic Elections in OSCE Participating States, p. 55: "Elections conducted on the basis of equal suffrage require equality of voting power. In principle, no vote should carry proportionally more weight than another, so that there is an approximately equal number of voters per elected representative in each district."

72 UNHRC, General Comment 25, para. 21: "The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely."

73 Between 2008 and 2009, three governorates were created under the Mubarak regime, including the 6th October and Helwan governorates in April 2008 and Luxor in 2009. In April 2011, the 6th October and Helwan governorates were reincorporated into their respective governorates of origin, Giza and Cairo, under the authority of the SCAF70, leaving 27 governorates as the basis for the 2011/2012 parliamentary elections. Subdivisions beneath the governorate level include 166 regions (Markazes), with further breakdown into cities, districts, and villages.



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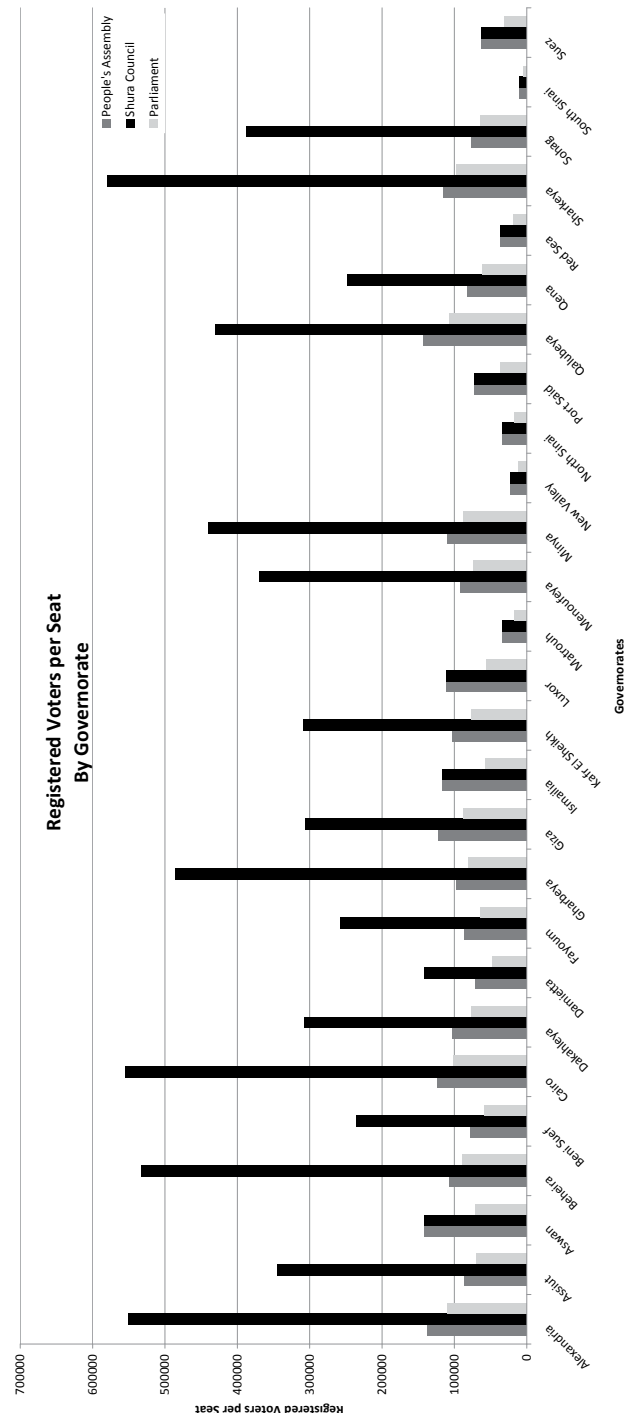
provisions,⁷⁴ the farmer and worker quota and the allocation of seats to the majoritarian and proportional electoral systems had to be met at the governorate level. In the first instance, the requirement that each chamber meet a quota of at least 50 percent farmers and workers required that the smallest allocation of seats to an electoral district for the individual candidate race was two. To meet the required distribution of seats between electoral systems, for each individual race seat, two had to be allocated to the proportional representation race. As such, the minimum number of seats allocated to the proportional system was four.

Across the 27 governorates, for the election of the 498 elected seats of the People's Assembly, Egypt was divided into a total of 83 two-seat individual candidate districts and 46 list districts of varying seat size.⁷⁵ For the smaller governorates in the People's Assembly election that were a single electoral district, the minimum allocation of seats for both majoritarian and proportional races was six.⁷⁶ For the Shura Council election, which employed the same electoral system of majoritarian and proportional races, Egypt was divided into 30 districts.⁷⁷ Each governorate was established as an electoral district with the exception of Cairo, Giza, and Dakahlyia, which were each subdivided into two districts.

As reflected in Figure 4, the electoral system forces a degree of inequitable suffrage, particularly among the Shura Council districts. The root cause of this inequity appears to be a consequence of the worker and farmer quota, which necessitates a minimum of six seats to each governorate. The impact of this feature of the system creates overrepresentation of sparsely populated rural governorates at the expense of those that are more densely populated and urban.

The Carter Center reiterates its recommendation that Egypt's authorities consider removing the worker and farmer quota and reconsider the process of apportioning seats to electoral districts, with a view toward enhancing equal suffrage.

Figure 4. Egypt's Registered Voters Per Seat by Governorate



74 Law No. 38 of 1972, as amended (Concerning the People's Assembly), Art. 3; Law No. 120 of 1980, as amended (Concerning the Formation of the Shura Council and its Amendments), Art. 2

75 Law No. 38 of 1972, as amended (Concerning the People's Assembly), Art. 3

76 Luxor, Red Sea, Port Said, Ismailia, Aswan, Suez, Matrouh, New Valley, North Sinai, and South Sinai

77 Law No. 120 of 1980, as amended (Concerning the Formation of the Shura Council and its Amendments), Art. 2



VOTER REGISTRATION

When required, voter registration is recognized as an

important means to ensure the right to vote by eligible people. Voter registration processes should be inclusive of the widest pool of citizens possible so that universal and equal suffrage is protected, as required by Egypt's international commitments.⁷⁸ For the 2011–2012 parliamentary elections, voter registration occurred between July and September 2011, before the accreditation of witnessing organizations in October 2011.⁷⁹ As such, The Carter Center and other organizations were unable to directly witness the process. The following technical assessment of the historical system, legal framework, and subsequent observations of the election process in this report will nevertheless highlight several major components of the system that was used for the parliamentary elections.

Egypt employs a compulsory voting system for eligible voters. Prior elections in Egypt used a dedicated voter registration system. Under this system, the estimated number of registered voters for parliamentary elections in 2010 was 31,890,106.⁸⁰ For the constitutional referendum in March 2011, an estimated 41,000,000 citizens were able to vote anywhere in the country using their National Identity Card (NIC) as proof of identity and eligibility. For the 2011–2012 parliamentary elections, the voters' register was required to be based on the National Identity Database (NID) system, under the supervision of the SJCE. This resulted in a total of



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Cairo and Giza, whose pyramids are visible in the distance, are densely populated with a high number of registered voters.

49,777,473 in-country and just over 356,000 out-of-country registered voters for the parliamentary elections.

The NID is administered by the Department of Civil and Personal Registration within the Ministry of Interior. The NIC is a modern identity card (driver's license-size made of hard plastic with embedded anti-fraud devices) that includes information about each recorded person.⁸¹ The decision to extract the voters'

⁷⁸ U.N., ICCPR, Art. 25

⁷⁹ The regulation for the accreditation of witnesses was not issued until Oct. 16, 2011.

⁸⁰ IFES Election Guide, <http://electionguide.org/election.php?ID=1513>, accessed March 11, 2012

⁸¹ The NIC includes the following information: photograph, full name, address, date of birth, unique ID number, occupation, gender, marital status, and religion. Further data, such as biometric information, is encoded into a two-dimensional bar code on the rear of the card, among other security features.



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list from the NID was widely reported to the Carter Center witnesses by Egypt's electoral stakeholders as a positive step for the integrity of the elections, as the old voters' registry was widely seen as a source of electoral manipulation under the Mubarak regime.

In effect, the operational provisions of Egypt's election laws imposed several extra requirements for a voter to be able to participate in the elections. The decision to assign voters to specific polling stations based on their address (as recorded in the NIC) was broadly welcomed as an improvement over past practices to strengthen the integrity of the process and improve logistical planning.⁸² At the same time, however, it heightens the barriers for participation by creating a criterion that a voter is only able to cast their vote if they appear at the specific polling station where they are recorded on the voters' list. Another provision imposed by the law determined that the only valid form of identification that could be used for voting was the NIC (although out-of-date cards were also permitted for use). As such, to be eligible, a voter had to have possession of their NIC to be able to participate in the process.

ENSURING THE VOTERS' LIST IS ACCURATE AND CURRENT

International good practice indicates that a voters' list should be accurate and current in order to ensure that the right to vote is protected and that citizens have an opportunity to verify the data on the list. In Egypt, this requirement is heightened by provisions that state that if a person is recorded in the voters' database and fails to vote without excuse, he or she is liable to a fine not exceeding 500 Egyptian pounds (500 EJP).⁸³ Therefore, the accuracy of the voters' list is vital to Egypt's electoral process, not only to ensure enfranchisement but also to faithfully support the compulsory voting system that is used. The law stipulates that the database would be closed as of July 20, 2011.⁸⁴

Extracting the list of eligible voters from the NID was principally a technical database cross-matching exercise to compare the records in the NID against

individuals who were recorded in other systems (for example, against Ministry of Interior for imprisoned felons and Ministry of Health to identify the deceased). The provisional voters' list was then publicly displayed for examination between Aug. 20–31, 2011, and challenges to the accuracy of the records could be made up until Sept. 15, 2011.⁸⁵ However, public information about the exhibition and challenge process was reportedly very poorly communicated. Many groups interviewed by Carter Center witnesses reported that most voters and stakeholders in the process were unaware of the opportunity to inspect the records. While the SJCE was responsible for supervising the preparation of the voters' list, the SJCE itself was only appointed on July 19, 2011. As such, the ability of the SJCE to comprehensively supervise the process of preparing the voters' list was limited under the circumstances. In this regard, the weak exhibition and challenge exercise was a concern and should be a focus of future efforts to strengthen the accuracy, transparency, and confidence in the system.

The closure of the voters' list also disenfranchised voters who reached 18 years of age between July 20, 2011, and the election dates. Carter Center witnesses received reports on a few occasions that deceased family voters were still listed on the voters' register at polling.⁸⁶

82 Assigning voters to specific polling stations based on their NIC strengthens the barriers against attempts at multiple-voting fraud, a principal concern based on past types of election fraud and the challenges posed by multiple election phases.

83 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 40

84 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 5 bis

85 Law on the Exercise of Political Rights, Law No. 73 of 1956, as amended, Art. 5 bis

86 Of note, technical enquiries revealed that recording and registering deaths do not use the national ID number of the deceased and, therefore, weaken the ability to definitively cross-match records between the NID and Ministry of Health records. When cross-matched based on non-unique attributes (such as names), the possibility of false positives is heightened, and the inclusion rather than exclusion of some records is seen as an inclusive decision but also can undermine the credibility of the system.



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For purposes of political campaigning, and to allow voters to verify their polling station for voting day, the voters' list was made available to political parties (as a CD available through police stations at the cost of 200LE or approximately \$33), and voters were able to check their assigned polling station by telephone, website, and text message services. These services were reported by the SJCE to have been extensively used and were a positive aspect of the process, enabling voters to verify their polling station location and information for the election.

Compulsory voting heightens the need for an accurate and transparent process that fosters public confidence. As such, The Carter Center offers the following recommendations: (1) The process of public exhibition and challenge should be emphasized to inform and allow voters the opportunity to inspect and correct records.⁸⁷ (2) Voter education should be improved to better inform the public of their opportunity to participate in the process. (3) Technical steps should be taken to ensure that eligible voters who turn 18 years of age between the closing of the voters' list and the election date are not excluded. (4) Supplemental registration processes should be considered to allow for the full enfranchisement of Egypt's citizens who may not be recorded or in possession of the NID.

WOMEN AND VOTER REGISTRATION

While the adoption of the NID system was widely regarded as an improvement from the past, key segments of society have reportedly been systematically underregistered in the system: in particular, women. To register for the NID, which is used as the principal civil system in Egypt, a person must be registered using their birth certificate. In some parts of the country, cultural and historical factors, the availability of birth certificates, and awareness of eligibility for or access to the civil registration process have decreased female inclusion in the system. Current government and officially sponsored civil society initiatives seek to address these issues, but it



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A voter casts her large ballot in a small secrecy booth.

is estimated that 3 million women may be undocumented.⁸⁸ Accordingly, at this juncture, the NIC does not necessarily serve as a complete record of Egypt's eligible citizens due to the significant underrepresentation of women. The Carter Center encourages the continued efforts of the government of Egypt and others to ensure that women are not prevented from participating in public affairs by the technical barriers imposed by the national identification system.

VOTER EDUCATION AND INFORMATION

Voter education and information efforts are necessary to ensure an informed electorate is able to freely and effectively exercise their right to vote.⁸⁹ Internationally recognized best practice indicates that impartial and consistent voter education is the responsibility of the election authorities. The

⁸⁷ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (10)

⁸⁸ "In Egypt, Women and Children Benefit from Program to Promote Identity Cards, Birth Certificates," *Los Angeles Times*, Oct. 4, 2010, accessed via <http://www.modernegypt.info/online-newsroom/e-alerts/in-egypt-women-and-children-benefit-from-program-to-promote-identity-cards-birth-certificates/>

⁸⁹ UNHRC, General Comment 25, para. 20



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Egyptian legal framework, however, does not establish a clear institutional mandate for voter education to be conducted by the SJCE,⁹⁰ and Carter Center witnesses observed little or no evidence of official voter education or information during the pre-election periods of both the People's Assembly and the Shura Council elections.

The Carter Center regrets that the SJCE conducted very limited voter education efforts, especially in light of the frequent amendment of laws and adjustment of regulations and procedures over the course of the parliamentary elections. This placed an additional obligation on the authorities to communicate with electoral stakeholders in order to avoid confusion. The Carter Center recommends that the election management body be specifically mandated by law to provide voter education.

In the absence of official voter education and information, civil society organizations (CSOs) were among the stakeholders attempting to fill the gap. Carter Center witnesses met with CSOs in several governorates undertaking basic voter education campaigns. Methods included hosting workshops,

disseminating brochures, and conducting door-to-door consultations. Some CSOs specifically targeted underserved groups, including women and illiterate voters. While these efforts were beneficial, CSOs generally lacked resources to reach large populations, and there was little or poor coordination between them. Furthermore, their efforts suffered due to a lack of authoritative information from the SJCE or the governorate committees.

Voter education efforts were largely concentrated in the period before the People's Assembly elections. Carter Center witnesses reported very little voter education activity by CSOs in advance of the Shura Council elections. Some civil society actors explained that the information they provided in the pre-election period of the People's Assembly elections applied to both elections, while others blamed their lack of engagement during the Shura Council elections on limited time and resources. By and large, however, many civil society actors perceived the Shura Council as unimportant and opted to save their resources for the future referendum and the presidential election.

⁹⁰ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (12)



CANDIDATES, PARTIES, AND CAMPAIGNS

Equitable treatment of candidates and parties during an election as well as the maintenance of an open and transparent campaign environment are important to protecting the integrity of the democratic election process.⁹¹ While a vibrant campaign process characterized the People's Assembly election, a more passive atmosphere was observed during Shura Council election. Reflecting the general lack of interest demonstrated by election stakeholders, low levels of participation were witnessed during the latter elections on the part of the various political parties and candidates. It is worth noting that during both PA and Shura Council elections, some parties suspended their campaigns in response to the nonelection-related events that characterized the environment in which elections to both houses took place.⁹²

Political campaigning for the People's Assembly started some time before the authorized period determined by the SJCE.⁹³ Using a number of different methods, Carter Center witnesses observed a vibrant and active campaign environment across Egypt. Candidates from all parties were seen going house to house, holding public meetings, mounting banners and posters, distributing leaflets, using amplifiers,⁹⁴ taking out ads in local newspapers, and even projecting videos in public places. Campaigning also included the giving of gifts, provision of inexpensive goods (such as school materials), and free services such as vaccinations for children or veterinary services in rural areas, which constituted a legal gray area in Egypt.⁹⁵ Rallies also were a major means of campaigning, especially by the Freedom and Justice Party (FJP) and the Nour party that, according to Carter Center witnesses, were the most organized and effective campaigners.

The campaign period for the Shura election was far less lively. As part of the overall low participation by the different stakeholders, campaigning was

unremarkable and mainly consisted of door-to-door visits. Carter Center witnesses reported that the lack of interest in Shura elections deterred parties and candidates from spending significant resources on campaigning.

One challenge for female candidates, independent candidates, and smaller political parties with fewer resources was the large size of the electoral districts.⁹⁶ Candidates in various governorates complained that campaigning in larger geographical areas impinged upon their campaign strategy in terms of time spent, campaign expenses, and prioritization of electoral audiences.⁹⁷ These challenges were specifically heightened during the pre-runoff campaign period when the late announcement of election results left competing candidates with a short campaign period. Additionally, such delimitation gave an unfair advantage to party-affiliated candidates running for individual seats.⁹⁸

91 U.N., ICCPR, Art. 25 (b)

92 Prior to the PA elections, a variety of parties and candidates, such as Amr Hamzawy, Egypt Current Party, Free Egyptian Party, and Justice Party, suspended their campaigns in response to protests in Tahrir Square. During the Shura Council election, the FJP suspended its campaign in Aswan as a response to the violent events that took place in Port Said football station on Feb. 1, 2012, where at least 74 people were killed.

93 Official starting day of campaign period was Nov. 15, 2011. Carter Center witnesses were deployed on Nov. 11 and already observed active campaigning in all governorates.

94 Art. 2(11) of SJCE Decision 21 bans the use of amplifiers in campaigning except in electoral organized meetings. Carter Center witnesses reported seeing amplifiers being used by candidates unlawfully.

95 Art. 2 (8) of SJCE Decision 22 bans candidates and parties campaigning for elections from giving, offering, or promising to give money or any interest or benefit or other financial or moral gain aimed at preventing the beneficiary from expressing his/her opinion or influencing it.

96 83 districts majority races, 46 individual races in PA election; 30 districts in Shura

97 Hurghada, Luxor, Cairo, Giza, Dakahliya

98 Oct. 8 Amendment of SCAF Decree 124



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Under the list competition rules, each list is required to have at least one female candidate but does not specify a minimum position on the list. In both races for the Egyptian Parliament, the position of female candidates within these lists was principally in the bottom half, resulting, unsurprisingly, in poor female representation in both houses.

In general, and apart from isolated incidents reported mainly by the Egyptian media, the campaign period for both electoral houses was peaceful. Carter Center witnesses observed only a few incidents of violence between campaigners of different parties that involved smashing laptops and tearing down posters.⁹⁹

RELIGIOUS SLOGANS

One of the most serious charges leveled against candidates and parties during the parliamentary elections was that they had used religious slogans in support of their campaigns or to attack the campaigns of others. Under current Egyptian law, a candidate or party using a religious slogan for campaigning may result in that candidate or list being removed from the People's Assembly or Shura Council.¹⁰⁰ This provision, however, appears to be excessively vague. It is easy to imagine slogans or other campaign rhetoric that fall within gray areas under this prohibition. For example, a significant debate has taken place in Egyptian political circles regarding the legality of the slogan "Islam Is the Solution," the traditional slogan of the

Muslim Brotherhood. Opponents have claimed that the phrase is religious in nature and that candidates who employ this phrase in their campaigns should be disqualified. Supporters contend that the phrase is derived from Egypt's Constitution and, therefore, is allowable. A court recently ruled that the use of this phrase was permissible.

Despite the ban on using religious slogans, Carter Center witnesses regularly received reports of the use of religious references during the campaign period without penalty. When raised with the SCJE, the Center was informed that due to the lack of clarity on the definition of religious slogans, the enforcement of these rules was difficult. Egypt's international obligations clearly state that restrictions on freedom of expression may be taken in specific circumstances: for example, when a speech is inciting violence or hatred or when it threatens the security of the nation.¹⁰¹ The use of religious slogans in the parliamentary election campaigns did not appear to fit this criteria. If a ban on the use of religious slogans in campaigning is to continue, it is critical to take measures to clarify further provisions regarding the definition and the use of "religious slogans" and ensure that these provisions are applied evenly in order to prevent any potential persecution of serving candidates or parties.¹⁰²

CAMPAIGN SILENCE-PERIOD VIOLATIONS

One of the most common electoral violations observed by The Carter Center witnesses was illicit campaigning during the two-day campaign silence period before polling day for each election phase and the one-day campaign silence period before runoffs. These violations, witnessed also on election days and more broadly during the People's Assembly elections,



Carter Center long-term witness Nicolas Alexander speaks with poll workers on election day.

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⁹⁹ In North Sinai and Cairo

¹⁰⁰ Law Concerning the People's Assembly, Art. 11 (2); SJCE Regulation No. 67 of 2011

¹⁰¹ U.N., ICCPR, Art. 19

¹⁰² As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (19)



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employed numerous campaign tactics such as the use of mobile loudspeakers and the dissemination of flyers. It should be noted, however, that illicit campaigning appeared to decrease in subsequent phases of election to both houses, although the Center's witnesses continued to report violations in several governorates during the third phase of People's Assembly and, to a lesser degree, both phases of Shura Council elections. The campaign silence provision was violated by both political parties and individual candidates.

Given the extreme difficulty in defining what constitutes "campaigning" and in enforcing time provisions throughout an entire electoral district, The Carter Center recommends that lawmakers abandon the use of a campaign silence period altogether and adopt campaign limitations based on proximity to polling centers on election days. Doing so will facilitate enforcement as officials need only ensure there is no unauthorized activity occurring within perhaps 50 or 100 meters of a polling center, rather than having to determine whether any activity occurring anywhere within a governorate constitutes illicit campaigning. The Carter Center extends this same recommendation to campaigning during election days.

CAMPAIGN FINANCE

While laws and regulations governing campaign finance limit the maximum expenditure on campaign funding,¹⁰³ they do not include any reporting requirements for parties or candidates or explicit enforcement mechanism against violators.¹⁰⁴ The SJCE currently lacks both the authority and the capacity to investigate alleged violations. The failure to include reporting and enforcement provisions in the regulatory legal framework regarding campaign finance renders the explicit restrictions on spending by candidates and parties effectively meaningless.

The Carter Center recommends that for future elections, postelection audits of all campaign expenditures be mandatory. In addition, parties and candidates must be required to fully, accurately,

and periodically disclose contributions received and expenditures made on behalf of their campaigns.¹⁰⁵ These reports should be made public. Egypt's lawmakers should invest election officials or other law enforcement officials with clear authority to investigate and prosecute allegations of campaign finance violations and address potential loopholes¹⁰⁶ in campaign finance regulations in order to prevent parties and candidates from skirting campaign-finance restrictions by improperly relying upon independent spending by individuals, charities, or other domestic or foreign sources. The Center also recommends that penalties for such violations should be proportionate so that smaller campaign finance infractions result in fines, while violations that unfairly affect the results of the election should be judged more severely.

103 SJCE Decision 21, Art. 4, states that the maximum amount of money each candidate is allowed to spend on his campaign is 500,000 Egyptian pounds and 250,000 pounds during the runoff. This provision applies to all candidates participating in the elections.

104 The United Nations Convention Against Corruption, Art. 7 (3) states that "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidates for elected public office and, where applicable, the funding of political parties."

105 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (19)

106 Spending by wealthy individuals on behalf of parties and charities has been reported. Moreover, there are reports that some parties or candidates have received funding from charities that, in turn, have received foreign funding.



ELECTION DAYS, VOTING, AND VOTE COUNTING

In a genuine democracy, the right to vote is fundamental. In order to exercise this right in a meaningful manner, other important rights also must be preserved and protected, including the right to speak freely, to assemble, and to exercise political rights without fear of violence or other negative repercussions.¹⁰⁷

Furthermore, the experience of voting creates a powerful impression about the health and credibility of democracy in the mind of most citizens. For most Egyptians, election day is their only real interaction with the electoral administration. It is important not only that votes are cast freely and fairly but also that the experience of voting conveys the commitment of the electoral administration to ensuring that the results will reflect the will of the voters.

On the one hand, election days in the three phases of the People's Assembly were conducted in a largely positive atmosphere among voters, judges, poll workers, and party and candidate agents in polling stations. On the other hand, election days during the two phases of the Shura Council elicited only a muted level of engagement from Egypt's voters, candidates, political parties, media, and civil society organizations.

The Carter Center witnesses reported the following in connection with the voting process:

POLL OPENING

On election days, Carter Center witnesses generally observed that polling centers opened later than the scheduled time of 8:00 a.m.¹⁰⁸ Particularly during phase one of the People's Assembly election, late

openings were attributed to late arrivals by judges and/or party and candidate representatives or to sensitive materials, such as ballots, not delivered

on time.¹⁰⁹ During phase two and, to a lesser extent, phase three of the People's Assembly election, many polling centers failed to open at 8:00 a.m. because of the late execution of protocols required by law for the opening of polling stations. In some cases during the People's Assembly elections, party or candidate represen-

tatives (a minimal number of whom are required to witness the opening of polling stations) were kept outside polling centers by security until 8:00 a.m. and thus could not perform their functions as witnesses to the opening of polling stations until after 8:00 a.m.¹¹⁰

The experience of voting creates a powerful impression about the health and credibility of democracy in the mind of most citizens.

107 U.N., ICCPR, Art. 25(a): "Every citizen shall have the right and the opportunity,... without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives"; ICCPR, Art. 19(2): "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"; ICCPR, Art. 21: "The right of peaceful assembly shall be recognized"; ICCPR, Art. 9(1): "Everyone has the right to liberty and security of person..."

108 Such delays may undermine the right to vote. See, for example, EU, Handbook for European Union Election Observation, second edition, p. 75.

109 Law on the Exercise of Political Rights, Art. 24, which states in part that a polling station judge shall commence operations at a polling station one hour after the designated opening time if a sufficient number of representatives of agents are not present to serve as witnesses to the opening, and the judge is unable to designate other registered voters present to serve as witnesses.

110 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (26)



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ILLICIT CAMPAIGNING ON ELECTION DAY

As stated previously in this report, Carter Center witnesses observed numerous examples of illegal campaigning occurring on election days, particularly during the People's Assembly election.¹¹¹ Election day campaigning took numerous forms, including the dissemination of flyers and other campaign materials outside polling centers and the use of loud-speakers to promote candidates and parties. A few political parties, mainly FJP and the Nour party, set up information tables or tents just outside polling centers, using computers with databases to direct voters to their assigned polling stations. Carter Center witnesses reported that some political party representatives at these tables attempted to refrain from overtly campaigning, neutrally offering only objective voter information. In other instances, however, the party representatives appeared to cross the line into active campaigning.

Often the parties provided information to voters on a card bearing the logo and other information regarding the political party or candidate for whom the voter should cast his or her vote. Election witnesses saw voters in several instances carrying this information with them into the polling station and to the voting booth itself.

To eliminate the need to police entire electoral districts for illicit campaigning, The Carter Center reiterates its recommendation that lawmakers establish distance or other physical restrictions on campaigning outside polling centers on election days, as opposed to an overall ban on campaigning on election days and during silent time periods.¹¹²

POLLING

In general, Carter Center witnesses reported that during election days for both houses, the process of voting within polling stations was calm and orderly. Polling station judges and workers were generally cooperative and voters generally respectful of the officials administering the vote within the station. Additionally, the procedures for using voter



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Indelible ink was applied to voters' fingers inconsistently throughout the People's Assembly and Shura Council elections.

identification cards and numbers to identify voters within the station, as well as for checking off voters after they had cast their votes, were systematically applied and were considered a significant improvement over procedures used in elections prior to 2011.

Use of Indelible Ink

Carter Center witnesses reported large inconsistencies in the application of indelible ink to mark the fingers of voters once they had voted.¹¹³ As election phases progressed, these discrepancies increased. In almost no cases were poll workers or others inspecting voters'

111 Although election day illicit campaigning during Shura Council election was drastically diminished as part of the overall reduction in campaigning activity, Carter Center witnesses still noticed illegal campaigning occurring on election days of both phases of Shura and runoff days.

112 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (27)

113 Such measures are in line with international good practice, intended to ensure equality of suffrage. For example, see EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 25: "Appropriate methods should be put in place to prevent multiple voting"; IPU, Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Art. 4.2: "In addition, States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections. In so doing, they should, among other matters: Ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled thereto."



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hands to ensure that their fingers were not already inked. Some poll workers erroneously used the cap of the ink bottle as the vessel in which a voter was to dip his or her finger, and during the Shura Council election, Carter Center witnesses reported instances where the ink bottle was not even opened.¹¹⁴

If the use of ink is continued, election administrators must do more to train judges and poll workers on its appropriate use. They should ensure that fingers are checked both upon entry to the polling station and again upon departure to ensure that a voter's finger, including the finger of a voter wearing gloves, has been properly inked. To facilitate procedures in this area, election officials should require that a particular finger, such as the right index finger, be the finger that is to be inked.

Illiterate Voters

One of the most contentious issues emerging on election days involved the assistance of illiterate voters by judges or poll workers.¹¹⁵ Despite Egypt's international commitments requiring steps such as the provision of impartial assistance to be taken to facilitate voting by illiterate voters, the law is silent on the subject of whether illiterate voters may be assisted by polling station judges. The fact that the law does spell out procedures for assisting visually impaired or disabled voters could be construed as supporting the claim that judges may not assist illiterate voters.¹¹⁶

Throughout the country, Carter Center witnesses observed inconsistent practices by judges and poll workers on this matter during all phases of the two elections. Some judges categorically refused to assist



A judge explains the voting process to a voter.

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voters claiming illiteracy and seeking assistance in voting. Others went so far as to ask the voter which party he or she preferred and marked the ballot in the voting booth for the voter. In assisting illiterate voters, some judges and poll workers opened themselves up to charges of tampering or favoritism for specific parties or candidates.

Given Egypt's high illiteracy rate and its complicated parliamentary electoral system, a better practice would be to provide some guidelines in law or regulations for the assistance of illiterate voters by judges. These guidelines should be clear, limited, and except for the marking of the ballot itself, observable by representatives and others present in the polling station.

114 Assiut, Dakahliya, Qena, Suez, Giza, Menya, Sohag

115 As of 2006, the World Bank reported that only 66 percent of Egyptians ages 15 and over are literate.

116 The SJCE informed The Carter Center that shortly before the second phase of the People's Assembly election, it had issued a directive reminding judges that they were prohibited from providing any assistance to illiterate voters. However, inconsistent practices in this area persisted.



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Secrecy of Voting

Egypt's international commitments protect the right of voters to cast their ballots in secret as a means of ensuring that they may freely express their political opinions in the ballot booth.¹¹⁷ In many polling stations, Carter Center witnesses observed that voters were not casting their votes in absolute secrecy. This appeared to be occurring for a number of reasons. First, polling booths were small and not constructed to allow voters to easily bring the large, individual candidate ballot behind the privacy screen. Some polling booths faced the wrong way, so that voters were exposed to the queuing area as they voted. In several instances, voters found it easier to vote on a tabletop or elsewhere outside the voting booth. In rare instances, voting booths were not available. In the overwhelming number of cases, however, voters themselves appeared to disregard the opportunity to vote secretly and instead voluntarily chose to vote in a common area where others could potentially view their votes. In future elections, The Carter Center encourages election administrators to consider acquiring larger polling booths to ensure the secrecy of the vote.¹¹⁸ Election officials should also ensure that the importance of the right to vote secretly is incorporated into voter education efforts.¹¹⁹

Party and Candidate Agents and Representatives

Candidate and party representatives can play an important role in ensuring that fundamental rights and freedoms are upheld during the voting and counting process. Carter Center witnesses observed party and candidate agents and representatives playing both a positive and negative role during the polling process. On one hand, they assisted in checking the correctness of the electoral procedure and ensuring fairness in the process. On the other hand, they often arrived late to the polling stations, which delayed the poll opening; took an inappropriate role by helping the judge seal and carry ballot boxes; and conducted illicit campaigning on election days in the polling centers. It should be noted that the participation of agents and representatives in

the electoral process was more active and apparent during the People's Assembly election than the Shura Council election.

Certain aspects of the laws governing candidate and party agents, and candidate and party representatives, require further clarification.¹²⁰ These actors perform an important function in the electoral process, monitoring fairness and conformity with rules and regulations. Without a proper legal framework, however, they can be an obstacle to fair elections by interfering with or attempting to influence electoral processes. Although the law includes provisions for the appointment of agents and representatives and sets limits on the number of representatives that may be present at one time in a room containing polling stations, it would be helpful to amend the regulations to include:

- Making explicit, and a part of any candidate and party representative training or educational material, that they are prohibited from participating directly in any aspect of the electoral process beyond witnessing, such as applying seals to ballot boxes, carrying ballot boxes, providing voter information in polling stations, or any other activity that should be conducted by electoral officials alone.
- Ensuring that candidate and party representatives are granted equal access to witness the voting, counting, and tabulation process. When space does not permit continuous access, the election management body should consider the rotation of representatives.¹²¹

117 U.N., ICCPR, Art. 25 (b)

118 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (27)

119 U.N., ICCPR, Art. 25(b), which codifies the rights "[t]o vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter."

120 Legal definition LEPR, Art. 24

121 The Carter Center witnessed that judges at times informally allow for the rotation in and out of agents and representatives. It is just not a part of written law or procedure.



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- Requiring that all agents and representatives wear clear identification so that judges and poll workers, witnesses, and other agents and representatives are aware of their status, and confusion between partisan agents and representatives and impartial electoral workers and officials is prevented.

Participation of Women

As noted earlier, women were underrepresented in the Egyptian parliamentary elections whether as candidates or as officials. As voters, women were negatively impacted by a lack of adequate voter education, especially given lower rates of literacy among women. In addition, the high numbers of undocumented women

mean that many women were not able to register to vote. Carter Center witnesses reported widespread pressure on women voters, including, for example, the threat that a woman voting for a different candidate than that chosen by the family or tribe constitutes legal grounds for divorce. Although witnesses reported that many voters failed to protect the secrecy of their ballots by choice, the lack of awareness and enforcement of secrecy provisions may have reinforced the pervasive practice of family voting. The Carter Center did not have access to gender-disaggregated voter-turnout data in order to fully assess women's participation and recommends that the SJCE make this data publicly available.



Nedra Cherif

Women wait in line in front of a polling station in Giza during the People's Assembly elections.



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Inconsistencies were reported in identifying fully veiled female voters in niqab. In the first two phases of the People's Assembly elections, Carter Center witnesses reported several instances where fully veiled female voters were not checked for identity verification.¹²² However, a significant improvement was introduced in phase two when the SJCE issued instructions requiring at least one female poll worker in every polling station to identify veiled female voters and check their identity. While these new instructions helped in systematizing the identification process of veiled female voters, Carter Center witnesses still noticed incidents where fully veiled female voters were not checked for identity during the Shura Council election.

Out-of-Country Voting

The People's Assembly and Shura Council elections included out-of-country voting (OCV) by Egyptian nationals through Egyptian embassies overseas. OCV voters could register to vote online using their National Identity Card number and personal information, download and mark their ballots, and submit them in a double-envelope procedure to the nearest embassy by mail or in person. In total, just over 356,000 Egyptians abroad registered. The process was subject to minimal scrutiny and did not allow for direct judicial oversight of polling. (The Carter Center did not formally witness OCV during

either the People's Assembly or Shura Council elections.) While this system was rapidly designed and implemented due to a last-minute court decision, the lack of transparency associated with the process, the extent of judicial oversight, and the opaque process of how OCV votes were integrated into the overall election results should be a focus of improvement for future elections.

CLOSING

During the first election day of phase one of the People's Assembly election, the SJCE made a last-minute decision to extend polling hours from 7:00 a.m. to 9:00 p.m., rather than the scheduled time of 7:00 p.m.¹²³ This decision was made in the afternoon hours of the election day and was communicated to voters via state television. Carter Center witnesses reported a state of confusion and uncertainty on behalf of the judges and poll workers who, at the time, did not have any clear instructions from the SJCE to extend the voting hours and, as a result, could not accurately respond to voters' inquiries on the matter.

Because of the last-minute change in closing time, election stakeholders remained uncertain about closing time during the first election day of the second phase. Although there was not an official announcement regarding 9:00 p.m. poll closure, Carter Center witnesses reported that voters, judges, and poll workers remained unclear about when polling stations should close, and closing time appeared to vary between 7:00 p.m. to 9:00 p.m. across different governorates.

While the extended voting hours during the PA elections allowed more people to vote, it



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A voter casts her ballot in one of the wooden ballot boxes used in the People's Assembly elections.

122 People's Assembly phase one: Port Said, Alexandria, Red Sea, Kafr El Sheikh, Cairo. Phase two: Beni Suef, Suez, Sohag, Giza, Beheira, Ismailia, and Sharqiya

123 SJCE Decree 45/2011. The extension of polling hours until 9:00 p.m. was applied only to the first day of polling (Nov. 28, 2011). On the second day, however, polling stations closed at 7:00 p.m., except in Luxor, where Carter Center witnesses reported that polling stations closed at 8:30 p.m.



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caused strain, confusion, and uncertainty among voters, candidates, judges, and poll workers. The Carter Center recommends that the SJCE avoids making last-minute changes on election day that might create additional unnecessary challenges. However, in case these changes are crucial to guarantee the transparency and fairness of the electoral process, the SJCE must make sure that judges, poll workers, and other stakeholders are made aware of these changes in a timely manner.

While closing time was extended during the People's Assembly elections, during the Shura Council elections Carter Center witnesses observed several instances of polling stations closing before the official closing time of 7:00 p.m. In several cases during the second phase, Carter Center witnesses observed counting commencing before closing. While this was likely as a result of judges responding to the low voter turnout, it potentially disenfranchised voters.

Securing Ballot Boxes at the End of the First Polling Day

Carter Center witnesses reported that judges took different approaches to closing procedures. During the People's Assembly elections, where wooden ballot boxes were used, the waxing of ballot boxes and ballot box locks was inconsistent.¹²⁴

During the Shura Council election, the wooden boxes were replaced by lidded, plastic-molded ones with a securable ballot slot located in the center of



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Carter Center witness President Jimmy Carter speaks with a judge at a polling station in Cairo.

the lid. Carter Center witnesses noted that some presiding judges had some initial difficulties with the seals. However, the use of the new ballot boxes and security procedures was an improvement for the integrity of the process. The efficiency of this new equipment and procedures allowed for better management of operating, on average, three polling stations in each polling room.¹²⁵

Inconsistencies also were observed regarding procedures for securing the rooms where ballot boxes were stored, as well as for securing unused ballots and other sensitive materials—for example, by recording their numbers. In some cases, unauthorized people, such as

¹²⁴ Ballot boxes were sealed using red wax that was poured over the slots of the ballot box as well as the locks. For example, in Sohag during phase two of the People's Assembly election, Carter Center witnesses reported cloth being used with the wax during sealing, and in Alexandria during phase one, witnesses reported that a hot glue gun was used instead of wax.

¹²⁵ The decision to conduct the Shura Council elections in two rather than three phases required, in general, presiding judges to oversee three polling stations in one polling room (rather than two, as had been the case in the People's Assembly election).



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party representatives, domestic observers, and others, assisted the judge and poll workers in applying the wax to the ballot boxes. To bolster public confidence in these processes, The Carter Center encourages the SJCE to ensure that judges and poll workers are consistent in their application of protocols for the securing and storage of ballot boxes and other sensitive materials and that protocols are implemented only by authorized people.¹²⁶

SECURITY

In general, Carter Center witnesses observed that police and army personnel acted competently throughout the election. This observation, however, stands in sharp contrast to the behavior of the security forces toward the demonstrators in Tahrir Square, where the excessive use of force undermined public confidence in their motives.

As a result of the protests and subsequent violence that occurred in Tahrir Square in November 2011, the parliamentary elections took place in an atmosphere of anticipated violence. The excessive use of force by the security forces against protesters in the square exacerbated pessimism about the transition and heightened suspicion of the intentions of the interim ruling SCAF. Interviewees commonly stated that the past association of the police with political suppression under the Mubarak regime led to minimal police visibility and presence in the public arena. This situation posed concerns for the escalation of criminal activity in general and, arguably, propelled the military to a more prominent role in traditionally police-related security matters. However, while the pre-election atmosphere was contaminated with a heightened sense of suspicion and speculation toward the security forces, the election process itself appeared to be insulated from these disturbances.

During the polling period, Carter Center witnesses reported that uniformed military personnel were present in greater numbers than uniformed police personnel in the vicinity of polling, counting, and tallying centers and that police in general deferred to military counterparts for guidance. As the principal

security provider for the electoral process, the role of Egypt's security forces (military and police forces) was a sensitive issue throughout the elections. As is normal, election security plans were not available to the public for operational reasons, but in

The security of the electoral environment throughout parliamentary elections was generally peaceful, but witnesses still observed several cases of electoral violence.

Egypt's circumstances, this secrecy contributed to pervasive suspicion. Operational secrecy aside, the level and means through which security efforts are coordinated with the electoral authority do not need to be opaque. Nevertheless, because election security can limit the principles of freedom of assembly, freedom of association, and freedom of speech, efforts to explain and build confidence in the role of security forces should be stressed. As such, intensified efforts to explain and repair public confidence in the role of security forces are strongly recommended.

Overall, Carter Center witnesses observed the performance of most security forces in connection to the election process as competent. The security of the electoral environment throughout parliamentary elections was generally peaceful, but witnesses still observed several cases of electoral violence. These incidents included verbal harassment and some instances of physical violence among candidates and parties. There also were several instances of security forces acting beyond their authority, denying national

¹²⁶ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (27)



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and international witnesses access to polling and counting centers, and appearing to enter these sites without the required invitation from presiding judges.

Carter Center witnesses also noted that military personnel appeared to have a leadership responsibility over police forces. Carter Center witnesses reported at least a few instances in which army personnel released gunfire into the air and threatened to use tasers to control crowds at polling centers. The use of these inappropriate crowd control measures may be the result of a lack of adequate training and guidance on proper conduct during elections.¹²⁷ Therefore, The Carter Center recommends that in the future, military forces act in support of police-led security. Security forces also should be better trained in the appropriate and proportionate use of force, with a focus on de-escalating potential conflict or violence.

It is also important for the judiciary (as election administrators) to be both demonstrably and visibly in control of the election process. Polling activities are a main point of interaction between the general public and the electoral administration and are, therefore, critical in terms of public perception. While judges are inside polling stations, their lack of visibility and presence in and around the polling centers is a concern. Similarly, at counting centers, judges were largely absent at locations where the public is most able to view the process. Instead, security forces were most visible, undermining the visible authority of the judiciary. The Carter Center recommends that extra judicial officials be assigned to liaise directly with security forces and voters at polling and counting center access points to mitigate this concern.

VOTE COUNTING AND TABULATION

For the election of the People's Assembly, the vote count and tabulation exercises were conducted at count centers established in each of the 46 proportional representation districts. Often, the facilities used were sports stadiums or similar venues, as well as ad hoc locations (such as, bridge underpasses)

with large tents erected to provide covered areas for counting. The results from these centers were then transmitted to the governorate electoral committees and forwarded to the SJCE in Cairo for final tabulation. Procedurally, the counting and tallying process was broadly outlined in SJCE instructions as:

At the conclusion of polling, the presiding judges and several of the poll workers assigned to their polling rooms were transported with the ballot boxes and other sensitive materials to the count centers. Sensitive materials were transported in plain envelopes, while ballot boxes would be secured by locks, sealed with cloth and wax, and imprinted with a judge's stamp. Under the supervision of general committees at each count center, the presiding judges and poll workers then conducted the count in the presence of candidate and party agents and representatives as well as national and international witnesses. The presiding judge would then submit the count results for the polling stations they presided over to the committee, which would cross-reference the count against other records such as the ballot reconciliation records (enumerating the number of issued, spoiled, invalid, and valid ballots) and voters' list records before accepting and logging the results. Results were reportedly then aggregated at the governorate level and submitted to the SJCE headquarters in Cairo.

In contrast to the voting process, which was extensively elaborated in the law, the count and tabulation processes suffered from a lack of detailed procedural instruction. In the absence of training being provided to presiding judges or detailed regulations and procedures having been issued by the SJCE, the count process in particular was observed to be conducted in a variety of approaches, undertaken at the discretion of each presiding judge. Similarly,

¹²⁷ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (13)



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although the criteria for assessing a vote as valid or invalid were detailed in the law, the Carter Center’s witnesses observed that the process was implemented in a variety of methods: In some cases judges would inspect the votes and make a determination independently, while in other cases judges would allow a few poll workers to assess the vote and then make a final decision if there was any indecision.

In the first round of counting that followed the first round of polling on Nov. 28 and 29, 2011, the Carter Center witnesses observed a high level of confusion and disorganization at the count centers. The flow of vehicles and election officials into the count centers was poorly coordinated (often combining vehicle and pedestrian access), while security officials guarding the sites often added to the frustration by haphazardly refusing access to election officials, candidate and party agent and representatives, and national and international witnesses. In the first operation of the count centers, there also appeared to be no process by which to verify the arrival of staff and materials (known as the intake process). Similarly, inside the count centers, facilities such as chairs, tables, and lighting were not always adequate to allow for all election officials to conduct their work simultaneously, forcing ad hoc arrangements to be used in most centers. As a result, the overall atmosphere in the majority of count centers was observed to be chaotic and posed a significant challenge for agents, representatives, and witnesses to observe the count process.

The Carter Center witnesses noted a steady improvement in the management and operation of count centers over the three phases of the People’s

Assembly election. In particular, presiding judges who participated in multiple phases of the election rapidly improved. It was also notable that in the counting operations that followed runoff rounds, significantly lower turnout allowed for the counting exercise to be accelerated. Despite the progress that was made, as an operational approach, the time required for travel between polling locations and the count centers and the exhaustion of poll workers after two days of polling combined to make the count process slow. Often the process would not be complete until the early morning or midday of the following day. In turn, these delays impacted the ability of the SJCE to provide a timely announcement of the candidates to compete in the individual seat runoff races, directly impacting the time they had available to campaign for those races.

Between the end of the People’s Assembly election and before election for the Shura Council, the SJCE introduced a number of changes to the process. The number of phases of the election was reduced from three to two, and runoff elections were conducted on



Carter Center witness Arwa Marzouk stands in a counting center in Ismailia. During the Shura Council elections, ballots were counted at the polling station.



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only one day instead of two. To accommodate this change with a limited number of presiding judges, polling rooms that had included two polling stations in the People's Assembly were increased to include three polling stations. In addition, to avoid confusion over the numbering of candidates on the ballot that had arisen due to candidate withdrawals, the Shura Council ballot design dropped the candidate number.¹²⁸ In order to accelerate the vote count process, counting of votes was conducted at the polling-station level. Presiding judges with a few accompanying poll workers would travel to tally centers in each Shura Council district (usually the size of a governorate), where they would deliver the count sheets and other sensitive materials.

The significantly lower voter turnout for the Shura Council accommodated much of these changes for the count and initial tabulation process without, however, placing these new protocols under significant operational stress. The limited size of the polling rooms used for counting limited the number of candidate and party agents and representatives as well as national and international witnesses who could observe the counting. As such, while accelerating the count process, this change in procedure also made the count process less transparent. Counterbalancing measures, such as publishing the results at the polling-station level or requiring presiding judges to announce or post the results at the station in front of representatives and witnesses, were not required. However, the Carter Center's witnesses observed on many occasions that presiding judges would use their discretion to announce the results before leaving the polling station. Nevertheless, the very low turnout for the Shura Council among voters, agents and representatives, and witnesses gave less emphasis to the reduced transparency that arose.

The lack of the candidate number on the ballot was also observed to cause some difficulty for poll workers in conducting the count. The lack of numbers removed an easy reference for multiple poll workers to be able to aggregate the results, especially if candidates had similar names. As such, while the removal of candidate numbers from the ballot may

have reduced some confusion for voters, its impact on the counting process was problematic. Also, similar to the People's Assembly election, the movement of sensitive materials from polling sites to tabulation centers was not subject to the use of tamper-evident bags or similar security measures. Instead, materials were transported in regular envelopes in the custody of the presiding judge, who was responsible for their secure delivery. This protocol leaves judges exposed to possible complaints of tampering during transportation and is a procedure that the SJCE may wish to reconsider for future elections to protect election officials from any allegations that may arise.

The Use of New Technologies

For the second phase of the Shura Council elections, the SJCE conducted a limited trial of a new technology system for the tabulation of votes in Giza governorate's Districts One and Two. This system used an online application that was accessed by trained staff at the tally centers to directly input the count and reconciliation data into a central server and database. The Carter Center witnesses in Giza District One observed that the system appeared to operate smoothly and allowed for the information to be entered more rapidly than the spreadsheet systems. However, in Giza District Two, it was reported that the maximum bandwidth limits for the cellular network were reached, and operators were unable to access the application as a result. The Giza District Two tally center, therefore, reverted to the spreadsheet system for the tabulation process. The Carter Center recognizes that the introduction of new technologies into an electoral process is a challenge in any environment. However, these challenges stress

¹²⁸ The decision to remove the candidate number from individual race ballots was not formally announced by the SJCE but was observed by witnesses at polling. Several reasons for the removal of candidate numbers were postulated, appearing most likely due to the withdrawal of candidates. This acted as a potential source of confusion for voters, as candidates often used their candidate number for campaigning in particular for illiterate voters. However, this was not able to be confirmed with the SJCE as their deliberations, by law, are secret.



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that new technologies should be rigorously evaluated, designed, and tested prior to their implementation and that the votes themselves should be protected from trial and error processes. The Carter Center urges the SJCE to strengthen its internal research, development, and testing processes to avoid any unnecessary risks in future elections.¹²⁹

The Carter Center recognizes that the change in counting processes from semicentralized count centers to conducting the count at the polling station was a progressive step to accelerate the process and reduce the period of uncertainty for political contestants awaiting the initial results. The impact of this decision was a positive step for the management of the election process. At the same time, it lacked the introduction of commensurate measures that protect the integrity, transparency, and accountability of the election process—in particular, the need to announce and post results at the polling-station level, the use of security measures (such as tamper-evident bags) for the transportation of sensitive materials between sites, and the publication of final results at the polling-station level. The Carter Center would urge Egypt's authorities to maintain the counting process at the polling-station level and also strengthen its procedures and parallel processes that enhance accountability, transparency, and integrity of the system.

Ballot Invalidation

A critical procedure in any electoral process is the criteria by which ballots are determined to be valid or invalid¹³⁰—that is, whether the ballot has been marked in a manner that allows for its inclusion into the vote count. It was noted in the People's Assembly election that increasing levels of invalid ballots were recorded as the election proceeded across the three phases. The invalid ballot rate reported by the SJCE increased over the course of the Shura Council election. It is impossible to identify the exact factors that caused this high rate of invalidation. However, Carter Center witnesses observed one possible cause—inconsistent application of the law governing the determination of invalid ballots.

The law states that a voter must not undervote or overvote, in which case that vote will be considered invalid. It also states that a voter must not make any mark on the ballot that would identify him- or herself or vote based on any “condition” or incentive. However, there was no training on what specifically might constitute an overvote (for example, whether a ballot that included a vote for one party—and lines crossing out all other parties—should be considered a valid or an invalid overvote). Additionally, there was no training or further clarification on whether any extraneous writing on a ballot might result in invalidation (e.g., it is unclear whether writing the phrase “Long Live Egypt” on a ballot might result in invalidation).

The Carter Center strongly recommends that electoral officials take steps to 1) standardize the criteria for determining whether ballots are valid or invalid; 2) ensure that judges, poll workers, candidates, parties, and other electoral stakeholders are aware of these standards; and 3) guarantee that party and candidate representatives, election witnesses, and others are given the opportunity to observe the process of determining ballot validity.¹³¹

ELECTION RESULTS MANAGEMENT

The process of announcing the results of an election is one of the most sensitive tasks undertaken by an election authority. Authoritative, timely, and accurate election results significantly contribute to the perceived credibility of an election and reduce uncertainty in the postelection period. The timely and authoritative release of results after the first round of polling and before runoff races is of particular

¹²⁹ As mentioned in the Carter Center's Preliminary Statement on Egypt's Shura Council Election, Feb. 28, 2012 (12)

¹³⁰ U.N., ICCPR, Art. 25 (b), right to vote; UNHRC, General Comment 25, para 19: “[E]lections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights.”

¹³¹ As mentioned in the Carter Center's Preliminary Statement on Egypt's Shura Council Election, Feb. 28, 2012 (11)



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importance for runoff candidates' campaigns. Due to the national threshold requirement, the SJCE was unable to announce winning lists and candidates for the proportional representation races until all races in the election were completed.

As was noted in the Carter Center's statement for the People's Assembly election, the process of announcing results requires further development and improvement. Results were announced late, in part due to delays in the counting process. The SJCE partially addressed this concern with the introduction of counting at the polling-station level for the Shura Council and also made more timely the publication of results via its website, <http://www.elections2011.eg>. However, the Shura Council election demonstrated that further progress is required to ensure the timely release of detailed information. With the introduction of counting votes at polling stations, the SJCE also should consider publishing the vote count results from the polling-station level. With limited coverage achievable by most party agents, this should be a

complementary mechanism to increase transparency of the process. Additionally, The Carter Center noted that the SJCE has failed to identify the gender of winning candidates, and in the case of the individual seats, the political affiliation of the winners. As a consequence, uncertainty and speculation may arise over the complete results of these elections.

The Carter Center strongly urges the SJCE to improve the timeliness of the announcement of the election results, to provide greater detail (gender and party affiliation, as appropriate) about the winning candidates, and to publish the vote count results at the polling-station level. Further, the SJCE may wish to consider issuing results at different stages of the process as preliminary (the initial tabulation of results) and provisional (awaiting the outcome of any appeals that may affect the results) before announcing the final results. In this way, speculation can be dampened, without compromising the authority of the electoral authorities on the final outcome.



MEDIA ENVIRONMENT

The legitimacy of government is established through a democratic election process.

Democratic elections require that voters have access to sufficient and unbiased information to make free and informed choices about political contestants. During an election, mass communications media play a critical role in providing information to the public about voters' rights, the electoral process, and candidate and party information. Although The Carter Center was not able to conduct a comprehensive media-monitoring effort, it conducted meetings with members of the Egyptian media and national CSOs that undertook media-monitoring activities in order to provide a general assessment of access to information through the media.

Despite a number of complex legal provisions that regulate the media, Egypt has a relatively vibrant and diverse mass media comprised of state, party, and independent media.¹³² Nevertheless, the media's right to collect and convey information in the lead-up to the elections was in question in light of the SCAF's unwillingness to accept criticism or ensure the safety of journalists. That said, Egypt's media were heavily engaged in election issues. Election news, however, often was overshadowed by coverage of other events that were dominating the political environment. Such events included mass demonstrations in Tahrir Square and other public spaces throughout the country as citizens expressed their dissatisfaction with the course and pace of the transition and the use of disproportionate force by security forces to quell these demonstrations. Similarly, the nongovernmental organization (NGO)

crisis that began in late December 2011 also served to divert media attention from the elections.

While circumstances posed a challenge for elevating media coverage of elections, it also was notable that the election authorities offered only limited opportunities for the media to receive information and briefings about the election process. The SJCE appeared to lack an effective system for directly liaising with the media and responding to media inquiries. The SJCE's primary method of communicating with the media was through press conferences. However, these press conferences were limited in

scope, infrequent, and insufficient as the primary mechanism for media engagement. As such, there is a risk that the media may have underreported or reported incorrectly on aspects of the electoral process. In particular, the lack of voter participation in

the Shura Council elections demonstrated that publicizing elections requires concrete efforts by the electoral authorities to engage with the media. In order to better meet international obligations, Egypt's election authorities should take concrete steps to engage with the media as a means of providing the public with accurate and timely information about the electoral process.¹³³

Despite a number of complex legal provisions that regulate the media, Egypt has a relatively vibrant and diverse mass media comprised of state, party, and independent media.

¹³² In Egypt, there are a number legal provisions that govern media which are often overlapping and contradictory. They include the constitution, the press legislation, the press code of conduct, the broadcast code of conduct, the penal codes, and the emergency law. In addition, the Higher Council of the Press, the Journalist Syndicate, Egyptian Radio and Television Union, Ministry of Information, and the courts regulate and oversee different aspects of the media.

¹³³ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (25)



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During an election, the media (most importantly the publicly funded state media) should be accessible on a fair and equitable basis to all political contestants. The SJCE, in accordance with decision 21/2011 regarding campaign regulations, has a responsibility to monitor the media coverage of election campaigns and respond to complaints. Article 2/14 establishes the right of candidates, parties, and coalitions to advertise their electoral program through public and private broadcasting networks. Distribution of air time among political contestants, during the normal and distinguished periods of transmission, should be managed without discrimination. Electoral contestants with firsthand complaints about on-air

campaign violations or unequal distribution of air time were able to notify the Ministry of the Media and the Egyptian Union of Radio and TV (ERTU), which were in turn required to notify the SJCE. In meetings with the SJCE, however, The Carter Center was not able to ascertain the detailed procedures for filing complaints or the number of complaints that were filed. Therefore, The Carter Center urges the SJCE to take steps to clarify this process and make public any complaints filed that pertain to media coverage of elections in order to meet obligations ensuring that political parties and candidates receive fair and accurate media coverage.



CIVIL SOCIETY

Despite the strict regulatory environment for civil society organizations (CSOs), Egypt's civil society sector is vibrant and diverse. The current laws regulating civil society, a holdover from the Mubarak era, give a wide range of powers to the Ministry of Insurance and Social Affairs (previously the Ministry of Social Solidarity) to regulate the establishment of CSOs and interfere in their internal affairs as well as limit their advocacy and access to resources. These laws contravene international law as well as commitments made by Egypt that mandate freedom of association by perpetuating opaque criteria and arbitrary bureaucratic procedures that undermine the transparent and timely registration of CSOs.

In the context of the emergency law, the present framework is further open to abuse, infringing on the right to freedom of speech by the threat of criminal charges against individuals and organizations advocating for human rights, political liberalization, and social reform. The lack of institutional and sectoral reform continues to perpetuate the notion that CSOs cannot be trusted and impedes their role as valuable independent stakeholders in the election process. To better meet its international obligations, The Carter Center urges the People's Assembly to approve a new law that facilitates the work of CSOs in a manner that is autonomous from state control while ensuring transparency and accountability.

CSOs are important stakeholders in the election process. If allowed to operate freely, they can perform key functions that contribute to freer and fairer

elections and lend credibility to the electoral process. Over the course of the parliamentary elections, Carter Center witnesses observed varying levels of domestic and international CSO engagement. Primarily, they functioned as a watchdog for the election process. In other instances, however, they provided voter and civic education and advocated on behalf of special interests and marginalized groups. Carter Center witnesses met with CSOs across all 27 governorates.

Below are the principle findings of the Center with regard to the role of civil society in the parliamentary elections.

THE ROLE OF CSOs IN WITNESSING THE ELECTIONS

The most visible role played by CSOs during the course of the parliamentary elections was that of "election witness." Egyptian law recognizes the importance of

impartial scrutiny of the election process by having a specific provision for "witnessing" by domestic and international CSOs. This is consistent with international best practices that encourage transparency and accountability in elections. It is important to note, however, that Egyptian authorities objected to the term "observation," which they felt incorrectly implied a supervisory role for observers over the electoral process. Egypt ultimately accepted both domestic and international CSOs to "witness" the electoral process and allowed them to operate in a manner that is generally consistent with internationally recognized standards for observation.

For future elections, The Carter Center recommends that Egypt allow CSOs to use the commonly

The Carter Center urges the People's Assembly to approve a new law that facilitates the work of CSOs in a manner that is autonomous from state control while ensuring transparency and accountability.



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recognized term “observer” for all electoral observation missions, both domestic and international.¹³⁴ This will prevent the incorrect characterization of election “witnesses” as having less than internationally recognized rights concerning the electoral process.

The Law on the Exercise of Political Rights mandates the SJCE to regulate the engagement of domestic and international CSOs in witnessing parliamentary elections and referenda. SJCE Decision No. 20 issued on Oct. 16, 2011, articulated the rules for CSOs to witness the parliamentary elections. It named the state-affiliated National Council for Human Rights (NCHR) as the body responsible for

collecting, examining, and transmitting domestic CSO applications to the SJCE. During the Mubarak era, the NCHR also oversaw applications by CSOs to witness the election process. Reportedly, it was a more burdensome and expensive process, and CSOs were charged a fee for each witness application. This time, however, the SJCE abolished the fee requirement, and the NCHR facilitated a more inclusive accreditation process for witnesses by not only accrediting individuals from registered organizations but also individuals from organizations that were not strictly registered under the NGO law, provided these members obtained accreditation under the umbrella of a registered organization. The Carter Center



Deborah Hakes

Carter Center witnesses Haissam Minkara and Nicolas Alexander visited polling stations on all 20 election days during the People's Assembly and Shura Council elections.

¹³⁴ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (21)



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welcomes this move toward greater inclusiveness. The deadline for CSOs to apply to witness was Nov. 19, 2012.

Unfortunately, Decree No. 20, while providing regulations for CSOs to officially witness the elections, was issued after some parts of the process were complete, effectively preventing CSOs from officially scrutinizing the entire electoral process. For example, the compilation and exhibition of the voters' list was complete by mid-September, and several key negotiations over the electoral process were already complete by the time the decree was issued. Effective scrutiny and transparency of the election process should allow domestic and international CSOs to have access to all significant electoral activities as well as direct access to the election authorities.

Elections are comprised of a number of interrelated components with different stakeholders that interact and influence one another. Because these factors are interdependent, it is necessary to observe all aspects of an election in order to provide a comprehensive and accurate assessment. An earlier open call for applications would have also allowed for a more diverse pool of witnessing organizations to participate. The timing of the Decree No. 20, however, meant that most potentially interested organizations did not have sufficient time to obtain funding and mobilize a mission. In order for election witnessing missions to conduct meaningful and comprehensive analysis, The Carter Center urges Egypt's electoral authorities to consider and approve applications to witness from electoral witnessing CSOs at the earliest possible instance and before the commencement of the electoral process.¹³⁵

A number of international and domestic CSOs were eager to witness the election process. The NCHR confirmed to The Carter Center that it accredited 25,000 witnesses on behalf of 130 domestic CSOs from across Egypt's 27 governorates. Altogether, seven international CSOs, including The Carter Center, were accredited to witness the elections. The SJCE directly managed applications for international CSOs witnesses.

Domestic witnesses reported improvements to the overall witnessing environment and access to the electoral process vis-à-vis previous elections. During previous elections, witnesses were often denied access to polling centers altogether and faced intimidation by security forces. There were, however, some reports of difficulties accessing, polling, and counting during these parliamentary elections. Access became more problematic following the NGO raids on several domestic and international NGOs in late December. Some domestic observers were reportedly denied entry to polling stations by judges and security who accused them of receiving foreign funding. Domestic witness reports of electoral violations and access issues were received by the NCHR and transmitted to the SJCE.

Carter Center witnesses also reported difficulties, albeit isolated, with access to polling and counting. During the People's Assembly elections, there were cases in which presiding judges were unaware of the role and rights of international CSOs as witnesses and were unfamiliar with the official accreditation provided to them by the SJCE. This, however, improved with each phase. Nevertheless, on occasion witnesses were denied access by security forces that controlled access to polling and counting centers. In some instances, witnesses were informed that overcrowding in counting centers was the reason for the denial of access.

During the third phase of polling for the People's Assembly, Carter Center witnesses noted that access of observers, party agents, and candidates at a few sites was obstructed by security officials who claimed they had received instructions to tighten access as a result of the NGO raids, even though the SJCE and the MoI denied the existence of such instructions. During the Shura Council elections, Carter Center witnesses noted more intensive questioning from election officials and security forces regarding their status and institutional affiliation. Overall, restrictions on access occurred with more frequency in rural rather than urban governorates. In spite of

¹³⁵ As mentioned in the Carter Center's Preliminary Statement on Egypt's Shura Council Election, Feb. 28, 2012 (9)



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these difficulties, Carter Center witnesses were, in most cases, welcomed by voters, election officials, and security officials.

It is important to note that the prosecution and trial of domestic and international CSOs operating in Egypt had an undeniable impact on the participation of CSOs in the electoral process, including The Carter Center. The widely publicized investigation of international CSOs operating in Egypt, culminating in the prosecution of both foreign and Egyptian individuals working on behalf of these entities, provoked suspicious reactions, and in rare occasions in later stages of the electoral process provoked outright xenophobic hostility against some Carter Center witnesses. The ongoing, very public investigations of domestic CSOs on allegations of operating as illegal organizations and receiving illegal foreign funding for democracy promotion and human rights-related activities reportedly hindered these groups own election-witnessing efforts and were a drain on their resources.

THE ROLE OF CSOs IN PROVIDING VOTER EDUCATION AND INFORMATION

Voter education and information efforts are necessary to ensure an informed electorate is able to freely and effectively exercise its right to vote. Internationally recognized best practice indicates that impartial and consistent voter education is the responsibility of the election authorities. The Egyptian legal framework, however, does not establish a clear institutional mandate for voter education to be conducted by the SJCE, and Carter Center witnesses observed little or no evidence of official voter education or information during the pre-election periods of either the People's Assembly or the Shura Council elections. The Carter Center regrets that the SJCE conducted very limited voter education efforts, especially in light of the frequent amendment of laws and adjustment of regulations and procedures over the course of the parliamentary elections. This placed an additional

obligation on the electoral authorities to communicate with electoral stakeholders in order to avoid confusion.

In the absence of official voter education and information, CSOs were among the stakeholders attempting to fill the gap. Carter Center witnesses met with CSOs in several governorates undertaking campaigns in an attempt to provide the public with a basic understanding of the process. Methods included hosting workshops, disseminating brochures, and conducting door-to-door consultations. Some CSOs specifically targeted underserved groups, including women and illiterate voters. While these efforts were beneficial, CSOs generally lacked resources to reach large populations, and there was little or poor coordination between them. Furthermore, their efforts suffered due to a lack of authoritative information from the SJCE or the governorate committees.

THE ROLE OF CSOs AS ADVOCATES

CSOs also played the role in the election process as advocates for marginalized as well as excluded groups. Carter Center witnesses met with CSOs in several governorates working to enhance the electoral participation of marginalized groups, including but not limited to women, youth, and people with disabilities. One of the most publicized examples of effective advocacy, however, was the campaign to allow Egyptians abroad the right to vote. After a successful legal challenge by several Egyptians and Egyptian organizations abroad and a national nongovernmental organization in late October, the parliamentary elections included provisions for out-of country voting (OCV) through Egypt's embassies abroad. In total, just over 356,000 Egyptians abroad registered to vote. To better meet obligations for a free and fair electoral process, The Carter Center urges the Egyptian Parliament to adopt an NGO law that enables civil society organizations to operate freely and perform key functions that contribute to a freer and fairer election process.



ELECTORAL DISPUTE RESOLUTION

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process.¹³⁶ Voters and other electoral stakeholders must be given a voice in the quality of the electoral process if the process is to retain credibility.¹³⁷ A transparent electoral dispute resolution system is particularly important to address potential instances when sophisticated electoral stakeholders, such as political parties and candidates, attempt to manipulate inappropriately the dispute resolution system to achieve more favorable electoral outcomes.

Egypt has all the tools necessary to establish a comprehensive, transparent system for receiving, investigating, and adjudicating all electoral complaints fairly and expeditiously. This is due in part to the constitutionally mandated supervision of the electoral process by judges¹³⁸ and because of the existence of Egypt's well-established and generally well-respected courts. In spite of these resources, however, Egypt has an electoral dispute resolution system that is not only largely ineffective, particularly for ordinary voters, but that actually caused significant damage to the electoral process itself. This was particularly evident during the People's Assembly elections and the high number of court-ordered "rerun" elections.

A wave of late court decisions issued shortly before, on, or shortly after election days, including some apparently resulting from complaints filed by parties after the legally mandated deadline for filing challenges to candidate or party lists, caused serious disruptions of the electoral process. As a result, districts in several governorates across Egypt were forced to rerun individual candidate or list elections

in accordance with these last-minute court decisions. In addition, Carter Center witnesses found in many instances a lack of understanding about the process for registering a complaint among Egyptian voters, party and candidate representatives, and candidates themselves.

CONSOLIDATING AND CLARIFYING THE ELECTORAL COMPLAINTS PROCESS

Many Egyptians do not seem to be aware of their full rights to initiate complaints regarding the electoral process, including the processes for filing a complaint and what constitutes electoral misconduct.¹³⁹ Carter Center witnesses reported that many judges at the polling-station level made a conscientious effort to resolve complaints occurring within their polling stations. However, voters appeared to have little knowledge of or guidance on how to make allegations of electoral misconduct in a variety of other

A wave of late court decisions issued shortly before, on, or shortly after election days caused serious disruptions of the electoral process.

136 U.N., ICCPR, Art. 2(3), "Each State Party to the present covenant undertakes: (a) to ensure that any person whose rights or freedoms are herein recognized as violated shall have an effective remedy, not withstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted."

137 UNHRC, General Comment 32, para. 25: "The notion of fair trial includes the guarantee of a fair and public hearing."

138 Constitutional Declaration of March 30, 2011, Art. 39

139 Law on the Exercise on Political Rights, Art. 3-bis(f)(4), designates the SJCE for "[r]eceiving reports and grievances in connection with the electoral process and verifying the validity and eliminating the causes thereof."



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circumstances. Examples of such circumstances include allegations of misconduct occurring before election day; allegations of misconduct occurring within polling centers but outside polling stations; allegations of misconduct by police, military, and other security personnel; and allegations of misconduct by the polling station judges themselves.

Political parties, candidates, and other more sophisticated actors, however, seemed able to bypass the SJCE and avail themselves directly of Egypt's courts to resolve complaints regarding alleged irregularities in the electoral process.¹⁴⁰ Complaining parties in the courts are guaranteed a decision on their complaint, and the court, through executed judgments, has the authority to compel remedies. Court decisions are recorded, and copies of the decisions are provided to parties in the case.

As a matter of basic fairness, whether it is through the courts, through an electoral management body, or through some other entity, Egypt's leaders should take steps to consolidate and clarify its electoral dispute resolution system.¹⁴¹ This includes:

- Taking greater steps to educate the public on the right to file a complaint
- Easing the process for ordinary citizens to file complaints (for example, through the use of standardized complaint forms)
- Lowering barriers to access (for example, ensuring there are no fees for filing complaints and establishing multiple sites within a governorate where individuals may file complaints).

Such a system should ensure that every complaint is considered, even if it is rejected, and that decisions on allegations are publicized in a way that will instill confidence in any Egyptian complainant that his or her complaint was heard.¹⁴²

UNTIMELY DISRUPTION OF THE ELECTORAL PROCESS THROUGH THE COURTS

Court decisions, particularly during the People's Assembly phase, resulted in a serious disruption of the electoral process. Specifically, the Egyptian

administrative courts issued a number of rulings during the elections that resulted in decisions to rerun elections in various districts.¹⁴³ Many of these decisions appeared¹⁴⁴ to be related to matters that should have been resolved during the candidate-challenge phase.¹⁴⁵ It appeared to be needlessly wasteful and potentially damaging to the credibility of the electoral process to require rerun elections in many of these cases. The Law Concerning the People's Assembly and the Law Concerning the Shura Council contain clear deadlines for candidate challenges, the publication of party and individual candidate lists, and other aspects of the electoral timeline. Going forward, The Carter Center urges the SJCE and the courts to adhere to the deadlines contained within these laws to prevent the needless rerunning of elections.

140 Egypt's State Council or Administrative Court system has jurisdiction over complaints regarding the electoral process up until the moment that results in an election are officially announced. Egypt's Court of Cassation has the authority to hear challenges to the membership of candidates to the Parliament for a period of 30 days from the moment that results are announced.

141 As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (16-17)

142 Courts should be encouraged to publish detailed, clear decisions, not only for benefit of the parties in the case but also to establish standards for other courts and in other elections.

143 The SJCE implemented a total of 18 rerun elections for the People's Assembly and three during the Shura Council elections. With the exception of the People's Assembly rerun election in the Shobra/El-Sahel district of Cairo, which was ordered due to a gap in the supervision of ballot boxes by judges at the counting center and the resulting destruction or theft of a number of boxes, all rerun elections were triggered by ballot irregularities (e.g. candidates or parties missing from the ballots, candidates with incorrect logos or incorrect numbering, etc.)

144 Administrative court decisions in Egypt are extremely difficult to obtain. They are often handwritten documents that are provided to interested parties only. Decisions are not officially compiled and published until a significant period of time after judgments are issued. Decisions are not posted online and are not available for public scrutiny at the courthouse itself.

145 This is spelled out in Arts. 9 and 9-bis of the Law Concerning the People's Assembly. The Carter Center also has heard reports that litigants in election-related cases have obtained judgments that they purposefully had executed only shortly before election results are announced to affect electoral outcomes. We also have heard reports that some litigants are using unexecuted judgments as a bargaining chip to obtain benefits or extract concessions from other parties or candidates. Lawmakers and courts should ensure that the execution of all administrative court judgments occurs within a short time period after the judgment is issued, so that litigants may not unfairly spring executed judgments upon the SJCE shortly before the announcement of election results.



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POTENTIAL ABUSE OF THE CASSATION COURT'S AUTHORITY TO REMOVE SEATED PARLIAMENTARIANS

The Court of Cassation has the authority to hear complaints regarding the validity of the membership of the People's Assembly members.¹⁴⁶ Complaints must be filed within 30 days after results are announced. The court then has up to 90 days to render a decision. If it finds that an accused parliamentarian did not possess valid credentials to serve in Parliament, the court may order his or her removal. Undoubtedly, there are cases where a sitting parliamentarian should be removed: for example, if evidence emerges of fundamental fraud in his or her nomination application. However, it is unclear what standards the court will apply generally in hearing these cases.

The lengthy timeline for consideration and adjudication of these complaints also is cause for concern. The Carter Center recommends that Egyptian lawmakers shorten the timeline for submission and adjudication of complaints so that potential decisions to remove members do not result in the likely disruption of the operation of the People's Assembly once it has been seated.¹⁴⁷

After the election, The Carter Center has learned through interviews with several political parties that a number of cases were still pending in the Cassation Court brought by political parties or candidates against the SJCE. The claims in many of the cases involved miscounting or mistabulation of votes or the alleged failure of the SJCE to prevent the illegal use of religious slogans in campaigning. The Carter Center attempted, with great difficulty and no success



Deborah Hakes

The wooden ballot boxes used during the People's Assembly elections were replaced with molded plastic boxes for the Shura Council elections.

to date, to obtain a comprehensive list of election-related cases in the Cassation Court.

As previously noted, the People's Assembly was ultimately dissolved by a decision of the SCC that determined that the SCAF's October 2011 decision to allow party-affiliated individuals to run for individual seats was unconstitutional.

CHALLENGES REGARDING VOTER REGISTRATION

In conjunction with a comprehensive program of voter education regarding the voter registration process, including the importance of ensuring that every eligible Egyptian is registered correctly to vote, there should be more public information on the processes of challenging voter registration.¹⁴⁸

¹⁴⁶ Law Concerning the People's Assembly, Art. 20

¹⁴⁷ As mentioned in the Carter Center's Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 24, 2012 (18)

¹⁴⁸ See Law on the Exercise of Political Rights, Arts. 15–20, for a description of the process under which a prospective voter may challenge or appeal errors in the voters' registry.



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Adjudicators should ensure that decisions, including appellate decisions, are clearly written and publicly available.

COMPLAINTS DATABASE AND DATA MANAGEMENT SYSTEM

In many instances, electoral officials expressed concern about the inability of the SJCE, the general prosecutor, or any entity to track the status of the hodgepodge of electoral complaints filed at all levels. A database, or a comprehensive data management system, managed from the EMB with input from the courts and the Office of the General Prosecutor, would ensure that electoral decision-makers and other electoral stakeholders such as witnesses had access to updated information on the status of complaints and could provide specific information to complainants or respondents or more general information to the media and the public on the status of complaints.

THE ROLE OF THE POLLING STATION JUDGE AND SJCE IN PRESERVING THE RECORD

As noted, Carter Center witnesses observed many polling station judges diligently and courteously resolving a variety of complaints brought by voters, party representatives, and others. Witnesses also observed instances, however, when judges failed to record details regarding these complaints in their minutes. It is essential that alleged electoral violations and the steps, if any, taken by judges to resolve these issues are recorded and provided to district, governorate, or the national electoral management bodies. This would allow those bodies to investigate

or otherwise address violations that the polling station judge was unable to address and would ensure there is a full record of all violations. Such a record would be a valuable resource when it comes time to assess the strengths and weaknesses of the electoral process overall.

INCLUDING AGGREGATED COMPLAINT DATA IN SJCE FINAL REPORT

At the time of publication of this report, the SJCE has not issued a final report on the People's Assembly or Shura Council elections. A comprehensive, clear final report on the activities of the SJCE is an important aspect of a transparent election and a valuable

tool for assessing the strengths and weaknesses of the electoral process.¹⁴⁹ A report should include a clear restatement or summary of key provisions of Egypt's laws and procedures, a compendium or summary of decisions rendered by the SJCE during the electoral process, and numerical information regarding

turnout and results broken down by electoral district.

This final report should also provide aggregated information on complaints registered with polling station judges, complaints registered with the SJCE directly at the local or national levels, actions taken

A comprehensive, clear final report on the activities of the SJCE is an important aspect of a transparent election and a valuable tool for assessing the strengths and weaknesses of the electoral process.

¹⁴⁹ See, for example, International IDEA, International IDEA Code of Conduct: Ethical and Professional Administration of Elections, p. 14: "...for decisions of election administrators to be satisfactory to the participants, the information on which the decision is based must be accurate as well as accessible. Inaccurate or unreliable information can undermine confidence in both the administration's decisions and its general competence...Election administrators...should ensure that information is collected, compiled, and published in a way that is systematic, clear, and unambiguous; do anything necessary, within the country's legal framework, to ensure that all the information that they compile, use, or publish has a sound factual basis."



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by the SJCE on those complaints (e.g., transferred to the general prosecutor's office and dismissed, resolved by SJCE local committee, etc.), and ideally, a report on all final dispositions of complaints, whether by courts or the SJCE.¹⁵⁰ This information is extremely valuable when analyzing the success of an electoral process and areas of concern that may need to be addressed for future elections. The Carter Center urges the SJCE to develop and issue publicly such a report on the elections in the near future.

DECISIONS ON BALLOT INVALIDATION

Due to the decision following the People's Assembly elections to transfer the physical counting of ballots from consolidated counting centers to the polling stations themselves, it is unclear how the procedures for counting committee review of ballot invalidation decisions are now being made, if at all.¹⁵¹ In many cases, it appeared that the polling station judge had the final say in deeming ballots valid or invalid. Egyptian lawmakers and election administrators should ensure that tally center or other judges have the opportunity to review, and if necessary, overrule, polling station judge decisions regarding ballot validity and that these decisions are recorded in the minutes and announced publicly, in accordance with the current Law on the Exercise of Political Rights.

CRITERIA AND PROCEDURES FOR CONDUCTING AUDITS AND RECOUNTS

Ballot box and electoral form audits can be important tools in ensuring public confidence in the quality of the electoral process and the fairness of electoral results.¹⁵² Currently, the SJCE has no procedures either for random audits of ballot boxes and count forms or for audits in cases where the results may lead to suspicions of miscounting or fraud. Given that some parties and candidates have alleged misconduct in tallying and reporting results, a clear set of audit procedures, which includes allowing party/candidate

representatives and witnesses to observe the audit process, would be helpful in resolving these allegations. Examples of possible automatic "triggers" for audits include large discrepancies within a polling station between valid votes cast for parties and for individual candidates, an abnormally low number of invalid or spoiled ballots, or extremely lopsided results for one particular candidate or party.

There are no provisions in Egyptian electoral law or procedures regarding the conditions under which a recount may be required or on how to conduct a recount. It is possible that the Cassation Court may order recounts of ballots in electoral districts based on pending allegations. The SJCE or a successor EMB should establish recount procedures, including allowing party/candidate representatives and witnesses to observe the recount process, to ensure that this process is transparent and understandable to all.

ETHICAL OBLIGATION TO REPORT MISCONDUCT

It is not enough to require polling station judges and other election and law enforcement officials to record and pursue claims of electoral violations. It is incumbent on all Egyptians, and particularly sophisticated actors such as party and candidate representatives

¹⁵⁰ For future reference, such a report could also include a complete list of all defined electoral crimes, misdemeanors, and other violations (such as campaign violations). Currently, there is no single document that contains such a comprehensive list. Currently, electoral crimes are defined in Egypt's electoral laws, election-related misdemeanors (such as insulting polling station judges) are defined in other parts of the Penal Code, and electoral violations are defined in law and some regulations of the SJCE.

¹⁵¹ Law Concerning the Exercise of Political Rights, Art. 35, states "The sorting committee shall decide on all matters relating to the election process or referendum or the validity or invalidity of each vote. Deliberations are confidential and shall only be in the presence of the committee head and members. Decision shall be issued by the absolute majority. In the case of a tie, the side of the committee head shall overrule. Decisions shall be recorded in the minutes of the committee along with the reasons and signed by the head of the committee and its members and read by the head of the committee in public."

¹⁵² AU, African Commission on Peoples' and Human Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Art. C(b)3: "The right to an effective remedy includes: access to the factual information concerning the violation."



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or agents, candidates themselves, and even poll workers, to report all credible incidents of electoral misconduct. Carter Center witnesses heard many allegations from candidates, agents, and representatives throughout Egypt, only to also learn that in many

cases the interviewee failed to file a complaint with any authority. An ethical obligation to report misconduct would provide election officials with a more complete, accurate picture of trouble spots, which then could be addressed for future elections.



CONCLUSIONS AND RECOMMENDATIONS

The Carter Center had witnesses throughout Egypt for all phases of both the People's Assembly and Shura Council elections.

While there were significant shortcomings in the legal framework, numerous campaign violations, and weaknesses in the administration of the elections, the results appeared to be a broadly accurate expression of the will of the voters.

The People's Assembly election captivated national and international attention as a tangible step forward in Egypt's democratic transition. In contrast, however, the Center found the subsequent Shura Council election to be characterized by a lack of interest. Uncertainty about the value and role of the Shura Council, as well as the pace and direction of the transition as a whole, contributed to the low level of engagement by voters, candidates, political parties, media, and civil society organizations. In spite of several welcome technical improvements introduced by the Supreme Judicial Commission for Elections (SJCE) between the elections, the comparatively low voter turnout made it difficult to assess their value and underscored the political uncertainties of Egypt's transition in the period.

The Carter Center recognizes that these elections are one element of Egypt's ongoing political transition. The ultimate success of the transition will depend on the earliest possible handover of power to a civilian government that is accountable to the Egyptian people. The inclusive drafting of a new constitution that protects fundamental rights and freedoms and ensures full civilian authority over the military will establish the foundations of a democratic Egypt during future elections and beyond.

With the opportunities presented by the continued transition in mind, and in the spirit of cooperation and respect for the people of Egypt, The Carter Center offers the following recommendations for future elections.

TO THE GOVERNMENT OF EGYPT

- **Create a permanent, professional, independent, and impartial electoral management body**

In line with Egypt's international commitments, The Carter Center recommends that the future constitution explicitly provide for the independence of Egypt's election authority. The Carter Center urges the establishment of a professional, permanent, and independent election management body with a mandate to issue and enforce regulations over elections and referenda and with an operational presence in all of Egypt's 27 governorates.

In addition, the Center encourages lawmakers to reconsider the role of sitting judges as ex officio members of the election management body. While Egypt's judiciary appears to enjoy broad trust among the electorate, having judges serve as polling station supervisors while also fulfilling their judicial duties placed an unreasonable burden on individual judges and had a deleterious effect on the judicial system, particularly given the protracted electoral process (in this case three months). This also would address concerns of potential conflict of interest that exist for judges adjudicating election-related cases, given that elections are largely administered at the national, governorate, and subcommittee level by their fellow judges. In accordance with internationally recognized standards regarding judicial independence and ethics, Egyptian judges should take transparent steps to ensure that those adjudicating election-related cases have no conflicts of interest, or appearances of conflicts of interest, with judges supervising the electoral process who might be associated with the case at issue.



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- ***Consider a simple majority electoral system and amend the quota system***

The Carter Center recommends that Egypt's authorities reconsider the electoral system and engage in a broad and inclusive process of consultation with stakeholders in its design. In particular, The Carter Center strongly recommends that the farmer and worker quota be removed. If ultimately retained, the proportion of seats that are allocated to the quota should be significantly reduced.

The Carter Center also strongly encourages Egypt's authorities to reconsider the women's quota mechanism and to take steps to ensure representation of women within elected bodies. In this context, and in light of Egypt's international commitments to equal participation of women and men, a quota that guarantees a minimum of 30 percent representation of women in Egypt's future elected assemblies is recommended.

- ***Advance equal representation of women in the public affairs of Egypt***

The People's Assembly and Shura Council elections suffered from a lack of female participation in many parts of the process. Women were under-represented in the Egyptian parliamentary elections whether as candidates and/or as officials. As for female voters, a lack of adequate voter education negatively impacted women's participation, especially given lower rates of literacy among women. Although witnesses reported that many voters failed to protect the secrecy of their ballots by choice, the lack of awareness and enforcement of secrecy provisions may have reinforced the practice of family voting. The Carter Center recommends that the SJCE make gender-disaggregated voter-turnout data publicly available to assist in the development of responses to the concern of women's participation. In addition, the Center reiterates the recommendation that a quota to ensure women's representation in elected bodies be enacted.

- ***Ensure the enjoyment of the fundamental rights to vote and to be elected***

Under the current legal framework, a number of categories of Egyptian citizens are prohibited from voting, including those that turn 18 between the date of closure of the voters' list and election day, people who have been declared bankrupt in the last five years, members of the military, and others. The Carter Center suggests that lawmakers reconsider these legal provisions to ensure that voting rights are enjoyed by the widest possible pool of eligible voters.

The Carter Center welcomes the steps taken by the SJCE to implement out-of-country voting (OCV) for Egyptian citizens abroad, in spite of this initiative being compelled by a court order. Moving forward, steps should be taken to ensure that these voters are aware of important deadlines and how the OCV voting process will unfold. In addition, The Carter Center recommends that the SJCE make greater efforts to inform Egypt's electoral stakeholders about the OCV process, the OCV count results, and how these votes are included into the tabulation of the election results.

In November 2011, the SCAF enacted a law banning political corruption, defined in part as crimes committed by those who seek to corrupt "political life." The Carter Center recognizes that certain elected or other officials from previous regimes may be responsible for corrupt acts and should be tried in accordance with existing laws governing abuse of power, financial corruption, or other relevant laws. The Carter Center is concerned, however, that any Egyptian government could use provisions of the Law Against Political Corruption, which include vague references to "political" crimes, in an unjust or arbitrary manner against political opponents. The Carter Center recommends that lawmakers or the courts establish clear, fair standards for each of the elements of "political corruption" under this law or if this



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cannot be done, that these provisions of the law be repealed so that Egyptian citizens are not unjustly excluded from the political process.

- ***Ensure the legal framework and electoral calendar are realistic, compatible, and conducive to administering credible and sustainable elections***

A common challenge after a political transition where elections are conducted to re-establish the legitimacy of elected assemblies and positions is the timetable of future elections. The different terms of Egypt's elected assemblies and positions, when elected in the same year, raise the concern that from 2014 onward, major elections will be undertaken almost yearly. The resource costs and the exhaustion of parties and voters created by this strategic election cycle can undermine the sustainability and credibility of future elections. The Carter Center recommends that priority be given to ensuring that the legal framework and electoral calendars for all future elections are realistic, compatible with the resources available, and conducive to administering credible elections.

The Center also recommends appropriate participation of electoral stakeholders in the formulation of public policy concerning electoral improvements, their implementation, and oversight. This might include public consultation on the content of reformed electoral laws and the formal inclusion of civil society and political parties in electoral reform deliberations. When considering amendments to the legal framework for future elections, the Center urges lawmakers to ensure that any new electoral legislation upholds Egypt's regional and international commitments to promote and protect fundamental human rights. This includes the new constitution of Egypt, which will form the basis of the electoral legal framework for future elections. In addition, Egypt may wish to consider establishing a uniform election law to govern all of the areas currently covered by Egypt's major election laws.

- ***Amend mandatory voting sanctions***

Voting is mandatory in Egypt. During the People's Assembly and Shura Council elections, Egyptian law stated that a failure to vote carried with it a fine of up to 500 Egyptian pounds (roughly U.S. \$83). Assuming runoff elections in both elections, which were common, a registered voter who failed without an excuse to participate in parliamentary elections could be liable for up to 2,000 Egyptian pounds, which would be an enormous economic burden for most Egyptians. While The Carter Center is unaware of any fines being levied against any of the millions of Egyptians who chose not to vote, these fines are both unreasonably high and are not having the desired effect of ensuring voter turnout. The Center therefore suggests that they be reconsidered.

- ***Clearly define the role of security forces in the electoral process***

During the polling period, Carter Center witnesses reported that uniformed military personnel were present in greater numbers than uniformed police personnel in the vicinity of polling, counting, and tallying centers and that police, in general, deferred to military counterparts for guidance. As the principal security provider for the electoral process, the role of Egypt's security forces (military and police forces) was a sensitive issue throughout the elections. As is normal, election security plans were not available to the public for operational reasons, but in Egypt's circumstances, this secrecy contributed to suspicion and speculation. Operational secrecy aside, the level and means through which security efforts are coordinated with the electoral authority do not need to be opaque. Nevertheless, because election security can limit the principles of freedom of assembly, freedom of association, and freedom of speech, efforts to explain and build confidence in the role of security forces should be emphasized. Security forces also should be better trained in the appropriate and proportionate use of force, with a focus on de-escalating potential conflict or violence as well as in their roles and duties in the electoral process.



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TO THE ELECTION MANAGEMENT BODY

- ***Enhance the transparency of the counting process and announcement of results***

The Carter Center urges Egypt's authorities to continue the counting process at the polling-station level but also to strengthen related procedures that enhance accountability, transparency, and integrity of the system. In addition, The Carter Center strongly urges the EMB to improve the timeliness of the announcement of the election results, to provide greater detail (gender and party affiliation, as appropriate) about the winning candidates, and to publish the vote count results at the polling-station level. Further, the EMB may wish to consider issuing results at different stages of the process as preliminary (during or after the initial tabulation of results) and provisional (awaiting the outcome of any appeals that may affect the results) before announcing the final results. In this way, speculation can be dampened, without compromising the authority of the EMB on the final outcome. At the logistical level, it is recommended that further safeguards be put in place, such as transporting sensitive materials, like cast ballots, in tamper-evident bags.

- ***Put in place clear provisions on the role of civil society organizations during elections and facilitate the witnessing work of these organizations***

Civil society organizations play an important role in promoting a transparent and accountable electoral process. The Center welcomed the participation of many Egyptian organizations in witnessing the parliamentary elections. However, the EMB should take steps in future elections to improve the ability of these groups to provide credible assessments of the electoral process. Specifically, Egypt's electoral authorities should (a) establish a clear framework for witnessing organizations to follow in applying for accreditation and in operating once they have been accredited; (b) ensure that

accreditation is available prior to the start of the electoral process, which starts as early as amendments to the legal framework are discussed, and include the voter registration process and candidate nomination; (c) provide clear channels of communication with the witnessing organizations; and most importantly, (d) provide access to all aspects of the process for domestic and international witnesses.

- ***Consolidate and clarify an impartial, efficient, and transparent electoral dispute resolution system***

Egypt's leaders should take steps to consolidate and clarify its electoral dispute resolution system and to ensure that there is equal access for all to the system. This includes taking greater steps to educate the public on the right to file a complaint, easing the process for ordinary citizens to file complaints, and lowering or eliminating barriers to access. To achieve such a system, The Carter Center recommends that Egypt work to establish one, unified process for filing all electoral complaints (either with the EMB or directly with the courts), such as through the use of a standardized complaint form available at multiple locations throughout the country and online.

To ensure that there is equal access for all to the system, there should be no fees assessed for the filing of a complaint or to file an appeal of any decision. All complaint-related decisions taken by the EMB, including actions taken by the EMB to address ongoing, on-the-spot violations, should be clearly explained and written, recorded, and thoroughly publicized, to instill and promote stakeholder confidence in the electoral complaints system.

Above all, to ensure that all Egyptians have the opportunity to seek redress of election-related complaints, it is essential that the EMB clearly and effectively educate voters and other electoral stakeholders on the details of the electoral



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complaints system, including how the process works and why it is important to file a complaint if one has witnessed electoral misconduct. In addition, The Carter Center recommends that Egyptian lawmakers shorten the timeline for submission and adjudication of complaints so that any decision that would remove elected candidates does not result in the disruption of the operation of the People's Assembly once it has been seated.

- ***Develop a robust system for maintaining a comprehensive national voters' register***

The process of voter registration, when used in an election process, is a critical means of ensuring the enfranchisement of eligible voters and the integrity of an election. In the context of a compulsory voting system, the importance of such systems is heightened and demands the highest standards of accuracy, transparency, and public confidence. As such, The Carter Center offers the following recommendations:

- a. The process of public exhibition and challenge should place greater emphasis on informing and allowing voters opportunity to inspect and correct their records, thereby enhancing accuracy, transparency, and confidence in the process.
- b. Supplementary registration processes should be considered to allow for the full enfranchisement of Egypt's citizens who may not be in the national identification database or in possession of the national identity card.
- c. Steps should be taken to ensure that eligible voters who turn 18 years of age between the closing of the voters' list and the election date are not disenfranchised.
- d. To enhance transparency, voter education on registration processes should be improved to better inform the public of their opportunity to participate in the process.

- ***Establish clearly defined interinstitutional relationships between the EMB and other institutions***

The administration of elections in Egypt requires coordination and cooperation between the election management body and other institutions responsible for many practical aspects of the process, e.g. election day security, provision of election materials, etc. The Carter Center recommends that the EMB establish clearly defined relationships with these other institutions to improve coordination and information sharing in future elections and to reinforce the supervisory role of the EMB over the electoral process. This could include the establishment of a joint operations center at the governorate level that would allow greater coordination, thereby limiting miscommunication and ensuring election officials have specific authority and responsibility to oversee all activities at, and have access to, electoral facilities.

- ***Ensure that election officials and key stakeholders are adequately trained in and informed of all aspects of electoral law and procedures***

As was evident throughout the process as witnessed by The Carter Center, judges, poll workers, candidate and party agents and representatives, and candidates themselves must be more fully trained on all parts of the electoral legal framework and electoral procedures. Although manuals were issued to judges late in the pre-electoral process, these manuals were not always comprehensive and were not complemented with training.

Election administrators must do more to ensure that judges and poll workers are trained in all aspects of electoral law and procedures and that they are provided in a timely manner with clear, comprehensive manuals, fact sheets, or other aids to ensure consistent and accurate application of law and procedures. This will assist judges and poll workers to be consistent in their application of protocols for the securing and storage of ballot boxes and other sensitive materials and ensure that



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protocols are implemented by authorized individuals only. In addition, such training will protect fundamental rights and freedoms by helping to ensure that: Standardized criteria for determining whether ballots are valid or invalid are used; judges, poll workers, candidates, parties, and other electoral stakeholders are aware of these standards; and party and candidate representatives and election witnesses are given the opportunity to observe the process of determining ballot validity.

The Carter Center also urges election officials to redouble their efforts to ensure that electoral laws, regulations, and procedures are established far enough in advance to enable training for all relevant electoral stakeholders and that officials refrain from last-minute changes in laws, regulations, or procedures unless there is a clear need to do so. This may require that there be a greater period of time between the announcement of the election and the first election day.

- ***Ensure timely notification of procedural changes***

Changes to procedure close to polling days can create a host of challenges. Therefore, it is essential that the EMB prioritize timely release of election procedures. The Carter Center recommends that in case of unavoidable late changes, the EMB take steps to ensure that all stakeholders (including the electorate) are alerted to and, as necessary, trained on the new regulations and procedures and that the EMB coordinate quickly with other agencies (Ministry of Interior, Judiciary, Ministry of Education) to ensure that these changed procedures and policies are properly implemented.

While the extended voting hours during the PA elections allowed more people to vote, it caused strain, confusion, and uncertainty among voters, candidates, judges, and poll workers. The Carter Center recommends that the SJCE avoid making last-minute changes on election day that might create additional unnecessary challenges. However, if changes are crucial to guarantee the transparency and fairness of the electoral process, the SJCE

must make sure that judges, poll workers, and other stakeholders are made aware of any changes in a timely manner.

- ***Improve and enhance the regulations governing party/candidate agents and representatives***

Although the law includes provisions for the appointment of agents and representatives and sets limits on the number of representatives that may be present at one time in a room containing polling stations, additional regulations could include:

- a. Ensuring that party and candidates' representatives and agents are granted equal and adequate access to the polling stations: for example, through a rotation system when space is insufficient for continuous access.
- b. Explicit instruction in any training or educational materials for candidate and party representatives to indicate that they are prohibited from participating directly in any aspect of the electoral process beyond monitoring: for example, assisting judges and poll workers in applying seals to ballot boxes, carrying ballot boxes, or providing voter information in polling stations.
- c. The requirement that all agents and representatives be clearly identifiable so that judges and poll workers, witnesses, and other agents and representatives are aware of their status, to prevent confusion between partisan agents and representatives and impartial electoral workers and officials.

- ***Coordinate voter education***

The SJCE did not have an explicit mandate to conduct voter education or civic awareness for the parliamentary elections. To fill this gap, Egyptian civil society organizations engaged in programs aimed at providing voters with the information necessary to participate meaningfully in the electoral process. Similarly, political parties played an especially active role during the People's Assembly election to inform voters about how to vote. However, the low voter turnout and the increase



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in the invalid ballot rate during the Shura Council election demonstrated that when CSOs and parties were inactive, the absence of voter education by the electoral authorities was problematic. For future elections, The Carter Center strongly recommends that voter education be a responsibility of the EMB and that the EMBs actively engage with CSOs as providers of impartial civic and voter education campaigns.

- ***Address information-sharing strategy***

The SCJE suffered from a lack of a cohesive and comprehensive public outreach mechanism and campaign. At times, this led to confusion about the electoral process and the decisions of the EMB. In the future, the EMB should consider having a more coherent outreach strategy that includes:

- a. Making the deliberations of the electoral management body fully available for public scrutiny and not secret.
- b. Creating an office of public information to liaise with the media.
- c. Establishing consultative fora for electoral stakeholders, including political parties and CSOs.
- d. Establishing a dedicated unit to liaise directly and engage with national and international witnessing organizations.
- e. Providing quick responses to any misstatement of the law, regulations, or procedures that can reach a broad audience.

- ***Clarify the use and definition of “religious slogans” in electoral campaigns***

Under current Egyptian law, a candidate or party using a religious slogan for campaigning may result in that candidate or list being removed from Parliament. This provision, however, appears to be excessively vague. In accordance with Egypt’s international obligations regarding freedom of expression, The Carter Center recommends that the ban on religious slogans be reconsidered in its entirety. However, if a ban on the use of religious slogans

in campaigning is to continue, it is critical to take measures to clarify further any provisions regarding the definition and the use of “religious slogans” and ensure that these provisions are applied evenly in order to prevent arbitrary persecution of serving candidates or parties.

- ***Ensure election day procedures are consistently applied***

Carter Center witnesses noted several election day procedures that were inconsistently applied across all phases of both the People’s Assembly and Shura Council elections. These include:

a. **Assistance to illiterate voters.** Carter Center witnesses reported inconsistent assistance to illiterate voters by judges in the polling stations. Given Egypt’s high illiteracy rate and Egypt’s complicated parliamentary electoral system, the Center recommends that clear guidelines and training on impartial assistance of illiterate voters by a person of their choice be established and implemented.

b. **Ballot secrecy.** Carter Center witnesses observed in many polling stations that, for various reasons, voters were not casting their votes in absolute secrecy. In future elections, The Carter Center encourages election administrators to consider selecting polling sites that are large enough to allow for secret voting and also possibly to acquire larger polling booths. Election officials should ensure that the importance of the right to vote secretly is incorporated into voter education efforts.

c. **Inking of fingers.** In several instances, Carter Center witnesses noted that voters’ fingers were inconsistently checked for ink and that ink was not always applied after voting. Inking of voters’ fingers is an important safeguard to prevent multiple voting. Consistent and correct procedures to apply the ink are important in its effective use. Additionally, poll workers should ensure that fingers are checked both upon entry



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to the polling station and again upon departure to ensure that a voter's finger, including the finger of a voter wearing gloves, has been properly inked. If the use of ink is continued, election administrators must do more to train judges and poll workers on its appropriate use.

d. Poll opening. On election days, Carter Center witnesses generally observed that polling centers opened later than the scheduled time of 8:00 a.m., potentially disenfranchising voters. The Carter Center recommends that all stakeholders work to ensure that all preliminary procedures for the opening of polling stations are concluded by the scheduled opening time so as to facilitate an orderly and timely opening of the polling stations.

- ***Reconsider the pre-election day “silence period”***

One of the most common electoral violations observed by the Carter Center witnesses was illicit campaigning during the two-day campaign silence period before polling day for each election phase and the one-day campaign silence period before runoffs. The Carter Center recommends that lawmakers abandon the use of a campaign silence period altogether and adopt campaign limitations based on proximity to polling centers on election days. Doing so will facilitate enforcement as officials need only ensure that there is no unauthorized activity occurring within perhaps 50 or 100 meters of a polling center rather than having to determine whether any activity occurring anywhere within a governorate constitutes illicit campaigning. The Center extends the same recommendation to campaigning during election days.

- ***Regulate campaign finance***

While laws and regulations governing campaign finance limit the maximum expenditure on campaign funding, they do not include any reporting requirements for parties or candidates or explicit enforcement mechanism against violators. The SJCE did not conduct investigations into alleged campaign violations. As of the date of

this report, there has been no public information regarding investigations by any Egyptian governmental entity of any alleged campaign finance violations.

The Carter Center recommends that for future elections, postelection audits of all campaign expenditures be mandatory. In addition, parties and candidates should be required to fully, accurately, and periodically disclose contributions received and expenditures made on behalf of their campaigns. These reports should be made public. Egypt's lawmakers should invest election officials or other law enforcement officials with clear authority to investigate and prosecute allegations of campaign finance violations and address potential loopholes in campaign finance regulations.

These and other such actions would help prevent parties and candidates from skirting campaign-finance restrictions by improperly relying upon independent spending by individuals, charities, or other domestic or foreign sources. The Center also recommends that penalties for such violations should be proportionate so that smaller campaign finance infractions result in fines, whereas violations that could be seen to have unfairly affected the results of the election should be judged more severely.

- ***The SJCE must enhance research and development***

Election processes are unique to each country, reflecting the distinctive political, cultural, social, economic, and technological characteristics of the nation. Progressively improving the election process requires that the election authority customize its methods and systems and continually assess the suitability of integrating new technologies, legal amendments, and approaches. The Carter Center urges the SJCE to develop its internal research, development, and testing processes in order to strengthen its capacity to administer election processes and to provide expert advice to Egypt's stakeholders on the impact of proposed amendments.



ACKNOWLEDGMENTS

The Carter Center would like to thank a number of individuals and organizations that helped make the witnessing mission for Egypt's parliamentary elections possible. First, the Center thanks the Supreme Judicial Commission for Elections and the Egyptian Ministry of Foreign Affairs for granting the Center permission to witness the People's Assembly and Shura Council elections.

The Carter Center is grateful for the generous funding from the Danish Ministry of Foreign Affairs, the Ministry of Good Governance of the Netherlands, the Norwegian Ministry of Foreign Affairs, the Swiss Federal Department of Foreign Affairs, and the Foreign and Commonwealth Office of the United Kingdom. Their monetary support allowed the Center to conduct an extensive and impartial witnessing mission of the Egyptian electoral process, and the Center extends its appreciation and thanks to these bodies for their cooperation.

The Center would like in particular to thank Ambassador Laila Bahaa El Din; Assistant Deputy Foreign Minister for Human Rights, Councilor Wael Attia; Second Secretary Emad Morcos from the Ministry of Foreign Affairs, Department of Human Rights, Social, and Humanitarian International Affairs; Counselor Alaa Kutb from the Supreme Judicial Commission for Elections; and Assistant Interior Minister for Administrative Affairs, General Refa'at Qomsan for their advice and assistance concerning the Center's mission in Egypt.

The Carter Center recognizes the efforts of both the domestic observation groups within Egypt as well as the many international groups that actively supported Egypt's electoral process. Additionally, the Center is grateful to the Egyptian officials, political parties, civil society, journalists, and citizens who welcomed the Center's witnessing mission.

The Carter Center offers its sincere thanks and gratitude to the long-term witnesses who completed

a three-month deployment during pre- and postelection periods. Their diligent compilation of data on the electoral process as well as their logistical support were crucial to the success of the mission. The Center also extends additional thanks to its medium-term witnesses, who volunteered their time, expertise, and insights to the Center's mission in Egypt.

The Carter Center was extremely fortunate to have a dedicated and talented Cairo-based staff. Field office operations were overseen by Field Office Director Sanne van den Bergh, along with Deputy Field Office Director Ebie DuPont. The Center also extends special thanks to our subject experts Frank McLoughlin, Sean Dunne, Gabrielle Bardall, Ossama Kamel, and Koshin Aden and assistants Salem Mostafa Kamel and Caroline Kolta for their contributions to the Center's analysis and public statements. Zizette Darkazally oversaw the coordination of witnesses and Philip Jol and Amer Shakhatreh managed the security of the witnesses. Office staff Shimaa Hellal, Salma Haridy, Amira Diao El Din Badr, Mohammed Fathy, Mohammed Farouk, Amr Hussein, and Fathia Sayed along with IT expert Mostafa Saadwere were essential to the smooth running of operations in Cairo. The Center also extends its thanks to the team from Forte Transportation led by Yasser Mohamed Kamal Hassan and Yasser Metwaly Mohamed Shaarawy as well as office drivers Alla Bayoumi Mohammed and Essam Bakr Abdulla. Acknowledgments and gratitude also go to Carter Center program assistants/fellows Cornelius Queen, Anna Carden, Stratos Kamenis, Maurice Chammah, and Cordelia Long for their contributions to the statements as well as the support they provided to the field office staff. The Center would also like to thank Dina Sadek, who assisted the Center's public information during the election period. Finally, The Carter Center extends its sincere



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gratitude and thanks for the professionalism and dedication exhibited by all.

The Center's efforts were also supported by a team of enthusiastic and hard-working staff in Atlanta. Paul Linnell coordinated all of the logistics of the mission and did so admirably, with support from Aliya Naim. Tynesha Green and Traci Boyd provided budgetary and administrative support. Jennie Lewis and Larry Frankel from the Center's Development department helped raise the funds to make the mission possible. Ramiro Martinez and Cheri Robinson provided financial oversight, and Deborah Hakes served as media liaison. Andrew Jasculca and

Beth Davis coordinated President Carter's leadership of the January delegation. Avery Davis-Roberts managed the election observation mission in Atlanta, and Democracy Program Director David Carroll provided oversight and guidance.

This final report was drafted by Sean Dunne, Frank McLoughlin, Zizette Darkazally, and Ebie DuPont, with contributions from Gabrielle Bardall and Koshin Aden. Avery Davis-Roberts, Sanne van den Bergh, and David Carroll served as editors of the final document, which is dedicated to the memory of Jennie Lewis.



TERMS AND ABBREVIATIONS

Brotherhood	Muslim Brotherhood	NIC	National Identity Card
CSO	Civil society organization	NID	National Identity Database
EMB	Election management body	OCV	Out-of-country voting or voters
FJP	Freedom and Justice Party	PA	People's Assembly
MoI	Ministry of the Interior	SC	Shura Council
NDP	National Democratic Party	SCC	Supreme Constitutional Court
NGO	Nongovernmental organization	SJCE	Supreme Judicial Commission for Elections



APPENDIX A

DELEGATION LIST AND DEPLOYMENT PLAN

DELEGATION LEADERS

The Honorable Jimmy Carter, 39th President of the United States, Founder of The Carter Center, United States

Dr. John Hardman, President and CEO, The Carter Center, United States

LONG-TERM FIELD ANALYSTS

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APPENDIX B

OBSERVATION CHECKLISTS

People's Assembly: Poll Opening

THE CARTER CENTER		Carter Center Mission - Parliamentary Elections, Egypt 2011/2012 OPENING			
Observer Team Names: _____		Team #: _____			
Governorate: _____		RURAL / URBAN (please circle)		Constituency: _____	
Electoral District: _____		Polling Station #: _____			
Polling Center Name and Polling Station Number: _____		DATE _____			
Station gender: mixed (2 queues) _____ mixed (1 queue) _____ M only _____ F only _____		Arrival Time: _____ (24 hour clock)			
Ease of Access to Polling Station: EASY / MED./ HARD / V. HARD (please circle)		Departure Time: _____ (24 hour clock)			
		Yes	No	D/K	N/A
Outside the Polling Center/Station					
1	Is the polling center accessible to all voters, including the disabled?				
2	Is the polling station accessible to all voters, including the disabled?				
3	Is the environment outside the polling center peaceful?				
4	Is the environment inside the polling station peaceful?				
5	Are the polling center and its surrounding environment free from campaigning and campaign materials?				
6	Are the polling center and its surrounding environment free from obstructions to the free movement of voters, poll workers or others?				
7	How many people are registered to vote at this polling station? (please note that there may be more than one polling station per room)	_____			
Inside the Polling Station					
8	Were all polling station staff present before opening with sufficient time to set up the polling station for opening by 8:00AM?				
9	Was the opening process free from interference? Including by security personnel, party/candidate agents and supporters?				
10	Were all election materials delivered to the polling place safely and securely?				
11	Was the ballot box presented as empty to all present including party/candidate agents, and observers?				
12	When did the polling station open? <input type="checkbox"/> 08:00H <input type="checkbox"/> 08:00 - 08:15H <input type="checkbox"/> 08:15 - 08:30H <input type="checkbox"/> 08:30 - 09:00H <input type="checkbox"/> 09:00 - 09:30H <input type="checkbox"/> After 09:30H <input type="checkbox"/> Did not open				
13	Were candidate/party agents present at the polling station to observe opening?				
14	Were domestic observers present at the polling station to observe opening?				
15	Were national and international observers as well as party agents and representatives able to directly observe the process?				
16	Was the process free from official complaints made to the Judge?				
17	If complaints were made was the judge responsive to these complaints?				
Overall Assessment of the Opening Process					
Instructions for this Section: Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					



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People's Assembly: Poll Opening (continued)

Comments

Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the station. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

People's Assembly: Polling

Carter Center Mission - Parliamentary Elections, Egypt 2011/2012 POLLING	
Observer Team Names: _____	Team #: _____
Governorate: _____ RURAL / URBAN (please circle)	Constituency: _____
Electoral District: _____	Polling Station #: _____
Polling Center Name and Polling Station Number: _____	Arrival Time: _____ (24 hour clock)
Station gender: mixed (2 queues) <input type="checkbox"/> mixed (1 queue) <input type="checkbox"/> M only <input type="checkbox"/> F only <input type="checkbox"/>	DATE _____
Ease of Access to Polling Station: EASY / MED. / HARD / V. HARD (please circle)	
Yes No D/K N/A	
Outside the Polling Center/Station	
1 Is the polling center accessible to all voters, including the disabled?	
2 Is the polling station accessible to all voters, including the disabled?	
3 Is the environment outside the polling center peaceful?	
4 Is the environment inside the polling station peaceful?	
5 Are the polling center and its environment free from campaigning and campaign materials?	
6 Are the polling center and its surrounding environment free from obstructions to the free movement of voters, poll workers or others?	
7 How many people are registered to vote at this polling station? _____	
Inside the Polling Center/Station	
8 Were you (TCC) able to access the polling station? If NO , please comment.	
9 Is the judge present?	
10 Is the judge <input type="checkbox"/> Male? <input type="checkbox"/> Female?	
11 How many poll workers are present in the polling station(s)? _____ How many poll workers are women? _____	
12 Are candidate/party representatives and agents present to observe polling?	
13 If there is more than one agent or representative present, do they represent different parties or candidates?	
14 Are the candidate/party agents being rotated to ensure access to the polling station?	
15 How many candidate/party agents are women? (please indicate number of agents/number of female agents) _____/_____	
16 Are domestic observers present to observe polling?	
17 How many domestic observers are women? (please indicate number of domestic observers/number of female observers) _____/_____	
18 Are media representatives present? (If YES , please indicate where) <input type="checkbox"/> Outside Center <input type="checkbox"/> Inside Center <input type="checkbox"/> Inside Polling Station	
19 Are security personnel present inside the polling center?	
20 Are security personnel present inside the polling station?	
21 Is the polling place free from unauthorized persons?	
22 Is the polling station <input type="checkbox"/> Orderly? <input type="checkbox"/> Confusing? <input type="checkbox"/> Chaotic?	
23 How many voters are in the polling center queue? _____ How many voters in the polling center queue are women? _____	
24 How many voters are in the polling station queue? _____ How many voters in the polling station queue are women? _____	
Voting Procedures	
When did the polling station open?	
25 <input type="checkbox"/> 08:00H <input type="checkbox"/> 08:00 - 08:15H <input type="checkbox"/> 08:15 - 08:30H <input type="checkbox"/> 08:30 - 09:00H <input type="checkbox"/> 09:00 - 09:30H <input type="checkbox"/> After 09:30H <input type="checkbox"/> Did not open	
26 Are the IDs of observers and candidate/party agents being checked and logged?	
27 Are voter identification procedures being followed?	
Was any voter turned away? If YES , why? _____	
28 <input type="checkbox"/> Not on voters list <input type="checkbox"/> Did not have ID <input type="checkbox"/> At the wrong polling station <input type="checkbox"/> Voter's eligibility challenged <input type="checkbox"/> Other _____	
29 Are fully veiled women being identified?	
30 Are there any complaints about the voters' list?	
31 Are voters' fingers checked for ink prior to a ballot being issued?	
32 Did each eligible voter receive TWO ballots? If NO , why not? _____	

(continues)



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

People's Assembly: Polling (continued)


	Runoff only: Did each eligible voter receive ONE ballot? If NO, why not?				
33	Were any ineligible voters (e.g. voters that were not on the list) who attempted to vote given ballots?				
34	Were all ballots given to voters stamped on the back?				
	If NOT STAMPED , were all ballots signed or otherwise marked by the judge on the back?				
35	Were any marks made on the ballots that could identify the ballot with the voter that cast it?				
36	Are posters of closed list party candidates posted for voter inspection?				
37	Were procedures followed by poll workers to protect the secrecy of the ballot?				
38	Were procedures followed by voters to protect the secrecy of the ballot?				
39	Was impartial assistance provided to those that required it (e.g., persons with disabilities)?				
40	Are ballot boxes visible to poll workers, candidate/party agents/representatives and observers?				
		Yes	No	D/K	N/A
41	Did ballot boxes remain sealed while you were in the polling station?				
42	Are voters' fingers inked prior to their departure from the polling station?				
43	What is the approximate time for a voter to be processed?				
	Was the process free from the irregularities listed below? If NO , please check all that occurred.				
44	<input type="checkbox"/> Duplicate Voting <input type="checkbox"/> Ballot Box Stuffing <input type="checkbox"/> Interruption of Voting <input type="checkbox"/> Voter intimidation <input type="checkbox"/> Family Voting <input type="checkbox"/> Other _____				
45	Are voters departing the polling center after voting unhindered?				
46	Were official complaints made to the judge?				
47	If complaints were made, was the judge responsive to these complaints? What did they do?				
	<input type="checkbox"/> Resolve the complaint <input type="checkbox"/> Note the complaint in the minutes <input type="checkbox"/> Other _____				
Poll Closing					
Instructions: This section of the form will be completed only once - at the end of the day for the closing of the polls.					
48	What time did the polling station close? _____				
49	Were all voters in the line at 19:00H allowed to vote?				
50	Was the ballot box sealed with wax and stamped?				
51	Was the ballot box lock sealed with wax and stamped?				
52	Were candidate/party agents able to observe the closing process?				
53	Were the minutes of the closing properly completed, including recording the number of spoilt and unused ballots?				
54	Were the number of voters who voted recorded on the minutes?				
55	Were spoilt ballots, unused ballots and the voters list placed into tamper-evident envelopes?				
56	Were the ballot box and materials taken into the possession of the judge and accompanied by her/him to the counting center?				
57	Was there any disruption to the closing, preparation and transfer of materials?				
Overall Assessment of the Voting Process					
Instructions for this Section: Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					
Comments					
Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the station. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.					



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

People's Assembly: Counting

THE CARTER CENTER		Carter Center Mission - Parliamentary Elections, Egypt 2011/2012	
		COUNTING	
Observer Team Names: _____		Team #: _____	
Governorate: _____	RURAL / URBAN (please circle)	Constituency: _____	
Electoral District: _____		Counting Center #: _____	
Polling Center Name and Polling Station Number: _____		Arrival Time: _____ (24 hour clock)	
_____		Departure Time: _____ (24 hour clock)	
Ease of Access to Polling Station: EASY / MED. / HARD / V. HARD (please circle)		DATE _____	
		Yes	No D/K N/A
Outside the Counting Center			
1	Is the building accessible to all authorized persons, including the disabled?		
2	Is the environment outside the counting center peaceful?		
3	Are the counting center and its surrounding environment free from obstructions to the free movement of voters, poll workers or others?		
Inside the Counting Center			
4	Are you (TCC) able to access the counting center? If NO , please comment.		
5	Are judges present?		
6	How many judges are female? (please indicate the number of judges/number of female judges) _____/_____		
7	How many poll workers are present? _____ How many poll workers are women? _____		
8	Are candidate/party agents representing more than one candidate/party and/or coalition present to observe counting?		
9	How many candidate/party agents are women? (please indicate number of agents/number of female party agents) _____/_____		
10	Are domestic observers present to observe counting?		
11	How many domestic observers are women? (please indicate number of domestic observers/number of female domestic observers) _____/_____		
12	Are media representatives present?		
13	Are security personnel present?		
14	Is the counting center free from unauthorized persons?		
15	Is the counting center <input type="checkbox"/> Orderly? <input type="checkbox"/> Confusing? <input type="checkbox"/> Chaotic?		
Counting Procedures			
16	What time did the counting center open? _____		
17	Are the IDs of observers and candidate/party agents being checked and logged?		
18	When ballot boxes arrive, are they accompanied by a judge?		
19	Are the wax and stamp inspected by candidate/party agents and observers before being opened?		
20	Is the area where ballots are being counted easily observed?		
21	Are ballots being accurately counted?		
22	Are the rules of valid and invalid votes being objectively and consistently applied?		
23	Is the intent of the voter considered by the counting staff?		
24	Was the counting process free from challenges? In NO , on what ground were challenges based? <input type="checkbox"/> Voter intent <input type="checkbox"/> Miscounting <input type="checkbox"/> Invalidation of valid ballots <input type="checkbox"/> Lack of official stamp on ballot paper <input type="checkbox"/> Other _____		
25	Was the counting process free from interference (including by security personnel and candidate/party agents)?		5
26	Were candidate/party agents able to raise complaints about the process?		

(continues)



2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

People's Assembly: Counting (continued)

27	Were any complaints recorded?				
28	Were any complaints resolved?				
Overall Assessment of the Counting Process					
<p><u>Instructions for this Section:</u> Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					
Comments					
<p><u>Instructions:</u> In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the counting center. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>					



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Counting

Carter Center Mission - Parliamentary Elections (Shoura), Egypt 2011/2012 CLOSING/COUNTING/TALLYING					
Observer Team Names: _____			Team #: _____		
Governorate: _____			Polling Station #: _____		
Electoral District: _____			DATE _____		
Polling Center Name: _____			Arrival Time: _____ (24 hour clock)		
Station gender: M only _____ F only _____ Mixed _____			Departure Time: _____ (24 hour clock)		
			Yes	No	D/K
			N/A		
Polling Station Closing					
1	What time did the polling station close? _____				
2	Were all the voters in line at 19:00 allowed to vote?				
3	Only Day 1 Was the ballot box slot sealed?				
4	Only Day 1 Did the judges record the unique ballot box seal number in the minutes?				
5	Only Day 1 Were agents/representatives/observers able to record the ballot box seal number?				
6	Were number of voters who voted recorded in the minutes?				
7	Were the numbers of spoilt and unused ballots recorded in the minutes?				
8	Were the spoilt and unused ballots and the voters' lists put in envelopes?				
Counting					
9	Were you (TCC) able to access the counting room?				
9a	Is the polling room rearranged to allow for counting?				
9b	Are there any unauthorized persons inside the counting room?				
10	Are party/candidate agents/representatives present? If so how many? _____				
11	How many parties/candidates are represented? _____				
12	Are party/candidate representatives/agents being rotated?				
13	Are observers present? If so how many? _____				
14	Is the counting environment orderly?				
15	What time did counting begin? _____				
16	Is the number of ballots in the ballot box reconciled with the polling station's total ballot reconciliation?				
17	Are they using a counting form?				
18	Are they using a pen to complete the form?				
19	Are they completing one form per ballot box?				
20	Are party/candidate agents able to raise complaints about the process with the presiding judge?				
21	If complaints were made, was the judge responsive to these complaints? What did s/he do?				
	<input type="checkbox"/> Resolve the complaint <input type="checkbox"/> Note the complaint in the minutes <input type="checkbox"/> Other _____				
22	Did the presiding judge publicly announce the count results for each polling station?				
23	Were the count forms, the ballots and the materials taken into the possession of the judge and accompanied by him/her to the tally center?				
Polling Center					
24	Are security personnel present?				
25	Are media present?				

(continues)



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Counting (continued)

Overall Assessment of the Counting Process					
Instructions for this Section: Put an 'X' next to the statement that best describes your assessment of the election environment and counting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					
Comments					
Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the counting center. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.					
Tally Center Outside					
26	Is the environment outside the tally center orderly?				
27	Is the tally center secured by military/police forces on the outside?				
28	Is physical access to the tally center orderly?				
29	Are authorized persons able to access the tally center?				
Tally Center Inside					
30	Were you (TCC) able to access the tally center?				
31	Are security personnel present?				
32	Are media present?				
33	Are party/candidate agents/representatives present? If so, how many?				
34	How many parties/candidates are represented?				
35	Are observers present? If so, how many?				
36	Is the tallying environment orderly?				
37	What time did tallying begin?				
38	Is there an intake process to record the arrival of results?				
39	Are candidate/party representatives and witnesses able to observe the transfer of data from count forms to tally forms?				
40	Are the processing and transfer of forms occurring in an orderly manner?				
41	Are they using a pen to complete the tally forms?				
42	Are party/candidate agents able to raise complaints with the presiding Committee?				
43	If complaints were made, what was the follow-up action?				
	<input type="checkbox"/> Resolve the complaint <input type="checkbox"/> Note the complaint in the minutes <input type="checkbox"/> Other _____				
44	Were the count forms, ballots and materials properly disposed of? If not, please note in comments.				
45	Did the General Committee announce the results of the tally for independent candidate races?				
46	Did the General Committee announce the results of the tally for the list races?				
Overall Assessment of the Tallying Process					
Instructions for this Section: Put an 'X' next to the statement that best describes your assessment of the election environment and counting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					
Comments					



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Opening

Carter Center Mission - Parliamentary Elections (Shoura), Egypt 2011/2012 OPENING					
Observer Team Names: _____			Team #: _____		
Governorate: _____			Polling Station #: _____		
Electoral District: _____			DATE _____		
Polling Center Name: _____			Arrival Time: _____ (24 hour clock)		
Station gender: M only F only Mixed			Departure Time: _____ (24 hour clock)		
			Yes	No	D/K
Outside the Polling Center					
1	Are the polling center and its surrounding environment free from obstructions to the movement of voters, poll workers, or others?				
2	Are the polling center and its surrounding environment free from campaigning and campaign materials?				
3	Is the environment outside the polling center orderly?				
4	Is the polling center accessible to all voters including the disabled?				
5	Are authorized persons being denied access to the polling center?				
Inside the Polling Center					
6	Were you (TCC) able to access the polling center?				
7	Is the environment inside the polling center orderly?				
8	Are there security personnel inside the polling center?				
8.a	If yes, are they armed?				
9	Is there active campaigning or campaign materials present inside the polling center?				
10	Are the party lists displayed inside the polling center?				
11	Are voter information materials displayed inside the polling center?				
12	Are media representatives present inside the polling center?				
13	Are voters departing the polling center promptly?				
Inside the Polling Room					
14	Were party/candidate agents/representatives present in the polling room to observe opening?				
15	Were observers present in the polling room to observe opening?				
16	Only Day 1 Were party/candidate agents/representatives allowed to record the seal numbers?				
16.a	Only Day 1 Were observers allowed to record the seal numbers?				
17	Only Day 2 Were party/candidate agents/representatives allowed to check the unique seals on the sides?				
17.a	Only Day 2 Were observers allowed to check the unique seals on the sides?				
18	Only Day 2 Were party/candidate agents/representatives allowed to check the ballot slot seal (on the top)?				
18.a	Only Day 2 Were observers allowed to check the ballot slot seal (on the top)?				
19	How many polling stations are inside of the room?				
Polling Station Level					
20	Please select when the polling station opened <input type="checkbox"/> 08:00H <input type="checkbox"/> 08:00 - 08:30H <input type="checkbox"/> 08:30 - 09:00H <input type="checkbox"/> After 09:00H <input type="checkbox"/> Did not open				
21	Are all required election materials present upon opening?				
22	Was pre-polling reconciliation of ballots undertaken and recorded?				
23	Are there new ballot boxes?				
24	Only Day 1 Was the ballot box presented as empty to all present including the candidates and party agents?				
25	Only Day 1 Was the ballot box sealed on the sides?				
26	Did the judge record the seal numbers in the minutes?				
27	How many voters are registered at this polling station? _____				
28	Were any official complaints made to the judge?				
29	Did the judge record the complaints in the minutes? (call center will ask about the nature of the complaints)				

(continues)



2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Opening (continued)

Overall Assessment of the Opening Process				
<p><u>Instructions for this Section:</u> Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>				
Very Good - No significant incidents or irregularities				
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process				
Poor - Incidents or irregularities that may significantly affect the integrity of the process				
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.				
Comments				
<p><u>Instructions:</u> In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the station. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>				



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Polling

THE CARTER CENTER		Carter Center Mission - Parliamentary Elections (Shoura), Egypt 2011/2012			
		POLLING			
Observer Team Names: _____		Team #: _____			
Governorate: _____		Polling Station #: _____			
Electoral District: _____		DATE _____			
Polling Center Name: _____		Arrival Time: _____ (24 hour clock)			
Station gender: M only _____ F only _____ Mixed _____		Departure Time: _____ (24 hour clock)			
		Yes	No	D/K	N/A
Outside the Polling Center					
1	Are the polling center and its surrounding environment free from obstructions to the movement of voters, poll workers, or others?				
2	Are the polling center and its surrounding environment free from campaigning and campaign materials?				
3	Is the environment outside the polling center orderly?				
4	Is the polling center accessible to all voters including the disabled?				
5	Are authorized persons being denied access to the polling center?				
Inside the Polling Center					
8	Were you (TCC) able to access the polling center?				
9	Is the environment inside the polling center orderly?				
10	Are there security personnel inside the polling center?				
10.a	Are they armed?				
11	Is there active campaigning or campaign materials present inside the polling center?				
12	Are the party lists displayed inside the polling center?				
13	Are voter information materials displayed inside the polling center?				
14	Are media representatives present inside the polling center?				
15	Are voters departing the polling center promptly?				
Inside the Polling Room					
16	Is the polling room accessible to voters including the disabled?				
17	Were you (TCC) able to access the polling room?				
18	Is the presiding judge present? If yes, please specify the gender of the judge: <input type="checkbox"/> Male <input type="checkbox"/> Female				
19	How many polling stations are assigned to this polling room?				
20	What is the total number of poll workers per room? _____ How many of them are female? _____				
21	Are candidate/party representatives and agents present to observe polling? If yes, please enter the total number of candidate/party representatives and agents _____				
22	How many parties and candidates do representatives and agents represent? _____				
23	Are representatives and agents being given equitable access?				
24	Are domestic observers present to observe polling? If yes, please enter the total number of domestic observers _____				
25	Are voting procedure posters displayed?				
26	Are posters of party lists posted for voter inspection?				
27	Are the ballot boxes visible to poll workers, candidate/party agents/representatives and observers?				

(continues)



THE CARTER CENTER

2011-2012 PARLIAMENTARY ELECTIONS IN EGYPT

Shura Council: Polling (continued)

Polling Station		Yes	No	D/K	N/A
28	Are voters being checked for ink?				
29	Are voter identification procedures being followed?				
30	Are fully veiled women being identified?				
31	Was any voter turned away? If YES , why? <input type="checkbox"/> Not on voters' list <input type="checkbox"/> Did not have ID <input type="checkbox"/> At the wrong polling station <input type="checkbox"/> Voter's eligibility challenged <input type="checkbox"/> Other _____				
32	Did each eligible voter receive TWO ballots?				
33	Runoff only: Did each eligible voter receive ONE ballot?				
34	Is the ballot issuer marking or stamping the ballot before issuing the ballot?				
35	Are voters voting in secret?				
36	Are illiterate voters being assisted?				
37	Are disabled voters being assisted?				
38	Did poll workers follow procedures to protect the secrecy of the ballot?				
39	Are voters' fingers inked prior to their departure from the polling station?				
40	Was the process free from the irregularities listed below? If NO , please check all that occurred. <input type="checkbox"/> Duplicate Voting <input type="checkbox"/> Ballot Box Stuffing <input type="checkbox"/> Interruption of Voting <input type="checkbox"/> Voter Intimidation <input type="checkbox"/> Family Voting <input type="checkbox"/> Other _____				
41	Were official complaints made to the judge?				
42	If complaints were made, was the judge responsive to these complaints? What did they do? <input type="checkbox"/> Resolve the complaint <input type="checkbox"/> Note the complaint in the minutes <input type="checkbox"/> Other _____				
43	How many voters are registered at this polling station? _____				
Overall Assessment of the Voting Process					
Instructions for this Section: Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling station. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.					
Very Good - No significant incidents or irregularities					
Good - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process					
Poor - Incidents or irregularities that may significantly affect the integrity of the process					
Very Poor - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.					
Comments					
Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed, or any incidents reported to you by those present in the station. You must provide an explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.					



APPENDIX C

PUBLIC STATEMENTS OF THE CARTER CENTER'S WITNESSING MISSION

NEWS

THE
CARTER CENTER



ONE COPENHILL ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

Nov. 21, 2011

CONTACTS: Atlanta, Deborah Hakes +1 404 420 5124; Cairo, Sanne van den Bergh +20 1013511710

Carter Center Statement on Egypt's Pre-election Environment

The Carter Center is greatly concerned about the ongoing violence at Tahrir Square and elsewhere in Egypt that has resulted in more than 30 casualties. As events continue to unfold, we urge the authorities to act with restraint and for all involved to continue to advance a meaningful democratic transition in Egypt through peaceful political participation and respect for the rule of law.

The upcoming parliamentary elections have the potential to be a milestone in the country's democratic transition, as the first multi-party elections since the departure of Hosni Mubarak. The elections will provide Egypt's citizens the opportunity to exercise their political rights by voting for representatives from a range of political parties, as well as individual candidates. It is essential that these rights be fulfilled in the context of a secure environment.

Voting is slated to take place across three regions on separate polling days (Nov. 28, 2011; Dec. 14, 2011; and Jan. 3, 2012) following a tightly compressed period of electoral preparations and the introduction of several major changes to the election legislation. With only seven days before the first polling day, The Carter Center offers the following preliminary observations in the spirit of support and respect for the Supreme Judicial Commission for Elections (SJCE) and the people of Egypt as the electoral process progresses. These observations are partial and preliminary, and are provided with the aim of identifying several areas where immediate steps could be taken before polling begins to increase confidence and transparency in the elections. As part of its longer-term mission, The Carter Center intends to issue additional statements at various points during the electoral process, including an overall assessment following the last round of People's Assembly elections in January.

While elections are an inherently sovereign process that reflects a country's unique culture, history, and politics, they must fulfill the civil and political rights of citizen electors as defined both by national laws and international commitments for democratic elections. To ensure that the parliamentary elections are genuinely competitive and democratic, several significant challenges should be addressed as soon as possible. Most importantly, The Carter Center recommends that steps be taken to protect democratic rights and freedoms that are central to open political



2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

discourse and competition, but which have been curtailed by the continuing State of Emergency and the by-passing of civilian courts, thereby challenging the possibility of an open, inclusive, and secure campaign environment and electoral process as a whole.

In addition, as outlined below, several other measures should be considered to increase voter information and to enhance transparency and public confidence. These include steps to increase voter information about electoral procedures and certain aspects of the electoral system, to clarify procedures for filing electoral complaints, to explain the roles of the military and police in providing for electoral security, and to facilitate the ability of observers or “witnesses”/“followers” to participate in the process.

Intensify efforts to inform voters of their polling station

During the constitutional referendum held in March 2011, voters were able to cast a vote at any polling station. In the upcoming parliamentary elections however, voters are assigned to specific polling stations to cast their ballots and may only vote at that location. Voters have been allocated to polling centers based on their address as it is recorded in the National Identification Card (NIC) system. While this is a positive change that strengthens the integrity of the process by impeding attempts at multiple voting—especially important when voting occurs across multiple days¹—it is nevertheless new and unfamiliar to voters. Intensive public information efforts in the next seven days could have a positive impact in informing voters of these changes.

While the SJCE is taking steps to provide information to voters about their voting place through its website (<http://www.elections2011.eg>) and phone bank service (number: 140), the Center strongly recommends that the SJCE use all possible means to broaden and intensify its outreach efforts to inform voters of these changes. In particular, efforts should be considered to reach voters without access to telephones and internet and those who may need to travel in order to vote.² Furthermore, the Center encourages the SJCE to bolster the capacity of existing services – the website and phone bank –on election day itself to meet increased user demand. These actions will help voters to locate their assigned polling station and mitigate potential confusion and frustration.

Ensure election security and outreach

In the charged political atmosphere that accompanies competitive elections, security is a key issue. Voters should be confident of their safety when participating in the election.³ Special steps

¹ United Nations U.N., International Covenant on Civil and Political Rights (ICCPR), Art. 25(b): “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”; U.N., Universal Declaration of Human Rights, Art. 21(3): “The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

² United Nations Human Rights Council (UNHRC), General Comment 25, Para. 11, “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service”: “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right... Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”

³ U.N., ICCPR, Art. 9(1): “Everyone has the right to liberty and security of person.”; Inter-Parliamentary Union (IPU), Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Art. 4(8): “States should take the necessary measures to ensure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence.”



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should be considered to ensure that voters, especially women, minorities, and other vulnerable groups, are not deterred from participating due to intimidation and security concerns.⁴ The requirement for voters to cast their ballots at a specific location also imposes new security challenges. If a voter's access to their assigned polling center is obstructed, they will be unable to cast a ballot elsewhere and their right to vote is undermined. It will be essential therefore, to not only consider safety and security at polling locations, but also to ensure freedom of movement for voters to access the centers on election day.

Both the police and the armed forces will be involved in providing election security. It is important that their respective roles be clear and effectively communicated to all levels of their hierarchy, and that this information be communicated to the public and political parties to remove any uncertainties and build confidence in the process.

Ensure the right to an effective remedy

The caliber of an election depends in large part on the degree to which electoral complaints are resolved fairly, effectively, and consistently throughout the election process, as a vital element of credibility and legitimacy. The citizenry and stakeholders in an election should be fully informed and aware of their rights in lodging a complaint and the process of adjudication to which it will be submitted.⁵ The Carter Center urges the electoral authorities to publish and widely disseminate information regarding who can submit a complaint; when, how, and where complaints may be submitted; as well as the process of adjudication and appeal.

Enhance the participation of observers in the elections

The Carter Center welcomes the accreditation it has received to 'witness' or 'follow' Egypt's electoral process, and the assurances of adequate access to the electoral process that is consistent with core principles that guide Carter Center observation missions.⁶ The role of national and international observers is a critically important means of reinforcing the transparency and credibility of the electoral process, allowing impartial scrutiny and commentary on the process.⁷ The potential contribution of observers is especially important for elections conducted as part of a democratic transition. The SJCE's recent decisions to facilitate wider participation of domestic observers or "witnesses," such as the decision to eliminate a fee requirement for each accredited observer, is a welcome step toward a greater commitment to the vital principle of transparency.

⁴ U.N., Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Art. 7(a): "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies."; U.N., Convention on the Political Rights of Women, Art. 1: "Women shall be entitled to vote in all elections on equal terms with men, without any discrimination."

⁵ African Union, African Union Declaration on the Principles Governing Democratic Elections in Africa, para. 3.; Inter-Parliamentary Union, Free and Fair Elections: International Law and Practice, pp. 157-158: "A free and fair electoral system depends not only on voter registration, free campaigning, monitors and secret ballots; it must also be able to deal promptly and effectively with the different types of complaint that will inevitably arise... As with other aspects of the electoral process, the availability of such procedures must be open and known to the electorate and the parties."

⁶ "Carter Center Announces International Delegation for Egypt's Parliamentary Elections" (Nov. 14, 2011), Sanne van den Bergh, field office director, The Carter Center: "We have been assured by the Supreme Judicial Commission for Elections that, despite being identified as 'witnesses' or 'followers,' our delegation will be provided the access we deem necessary to provide a credible and impartial assessment of the conduct of the election, as we have on previous missions around the world."

⁷ Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers



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The deadline for accreditation of election ‘followers’ or ‘witnesses’ was Nov. 19, 2011. While many countries institute a deadline for accreditation before polling day, the circumstances of Egypt’s legislative elections are such that a reconsideration of this deadline is warranted. The timeline for the elections was announced very recently through decrees (199/200) of the Supreme Council of the Armed Forces (SCAF) on Sept. 27, 2011. Similarly, the regulations on ‘the role of civil society organizations (CSOs) in election following’ were only passed on Oct. 16, 2011 (Decision 20/2011). Uncertainty regarding the precise definition of the terms ‘witnessing’ and ‘following’ forestalled rapid responses from observer groups, thus hindering their mobilization and undermining their ability to foster confidence and transparency through their presence. Given that the regulations regarding election following were only recently released, The Carter Center encourages the authorities to consider extending the Nov. 19 accreditation deadline to allow for greater participation.

Intensify public outreach efforts

Election authorities have a responsibility to share information with candidates, voters and the public regarding the election process.⁸ The frequent amendment of laws and adjustment of regulations and procedures place an additional onus on the authorities to communicate with electoral stakeholders in order to avoid confusion, misunderstandings and misleading expectations, for example clarity on how to correctly mark the ballot to be considered valid and that expired national ID cards can be used as a valid voter ID. Intensive efforts should be considered to inform and educate stakeholders on the processes of the election.⁹ Political contestants are especially important, not only due to their participation in the process, but because they are naturally motivated to inform their supporters of important information. The Carter Center urges the SJCE to directly engage stakeholders, particularly political contestants, to inform them about key aspects of the electoral process.

Clarify how votes in the proportional representation race will be transformed into seats

The introduction of the proportional representation list system is a new feature of these elections that warrants intensive public information and explanation. While the amended Article 15 of law number 38 of 1972 on the People's Assembly provides a broad definition of the proportional list system, it may be interpreted and implemented in several ways. A regulation that clarifies how votes will be translated into seats under this system is vital for parties to understand, and ultimately, respect the results of the election.¹⁰ If this information is not clearly explained prior to the election, there is a significant risk that parties will consider any post-election efforts to define

⁸ U.N., ICCPR, Art. 19(2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” As an example of international good practice, see International IDEA, International IDEA Code of Conduct: Ethical and Professional Administration of Elections, pp. 12-13: “[E]lection administrators should be prepared: i) to justify their decisions; ii) to make freely available the information on which each decision was based; iii) to arrange effective and reasonable access to relevant documents and information, within the framework of the country’s electoral and freedom of information laws...”

⁹ UNHRC, General Comment 25, para. 11, “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service”

¹⁰ As an example of international good practice, see for example: Organization for Security and Co-operation in Europe, Handbook for Domestic Election Observers, p. 36: “The legal framework should be structured so that it is readily accessible to the public, transparent, addresses all the components of an electoral system necessary to ensure democratic elections, and is adopted sufficiently in advance of polling to be implemented.”



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the system as an attempt to manipulate the election outcome. Clear and timely information to parties on this process would defuse many of these concerns.

Recruitment and preparation of polling station staff

Polling day is the principal point of interaction between voters and the election administration. As such, the trustworthiness, competency, and efficiency of poll workers will shape a voter's impression of the overall credibility of an election. To build confidence and transparency in the process, The Carter Center recommends that the SJCE inform the public about how poll workers will be recruited and trained. Recruitment of poll workers would be enhanced by seeking to employ an equal number of men and women. Ensuring that each polling station is staffed by at least one woman upholds Egypt's commitments for ensuring equal participation of women.¹¹ Guaranteeing gender equality in poll worker recruitment would also alleviate difficulties in identifying voters wearing *Naqab*.¹²

The Carter Center mission to 'witness' Egypt's Parliamentary Elections has been accredited by the Supreme Judicial Commission for Elections. The Carter Center deployed the first phase of its international delegation on Nov. 6, 2011. This initial delegation of more than 20 field analysts, experts, and core staff – from a wide range of countries – have been deployed to governorates throughout Egypt. While deployed, these witnesses will observe the election administration, campaigning, voting and counting operations, and other activities related to the electoral process in Egypt. The Carter Center delegation will be expanded with additional witnesses in the next few days to intensify its activities shortly before the first round of polling and thereafter. The objectives of the Carter Center's election observation mission in Egypt are to: a) provide an impartial assessment of the overall quality of the electoral process, b) promote an inclusive electoral process for all Egyptians, and c) demonstrate international interest in Egypt's transition.

The Carter Center's election mission is conducted in accordance with the Regulations and Code of Conduct for Elections Followers issued by the Supreme Judicial Commission for Elections, as well as the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2006 and has been endorsed by 37 election observation groups. The Center assesses the electoral process based on Egypt's national legal framework and obligations for democratic elections contained in regional and international agreements.

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"Waging Peace. Fighting Disease. Building Hope."

¹¹ CEDAW; U.N. ICCPR, Art. 25

¹² Revised Arab Charter on Human Rights, Art. 3(3): "Men and women are equal in respect of human dignity, rights and obligations within the framework of the positive discrimination established in favour of women by the Islamic Shariah, other divine laws and by applicable laws and legal instruments. Accordingly, each State party pledges to take all the requisite measures to guarantee equal opportunities and effective equality between men and women in the enjoyment of all the rights set out in this Charter."



THE CARTER CENTER

2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers in developing nations to increase crop production. 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.



THE CARTER CENTER

2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

NEWS

THE
CARTER CENTER



ONE COPENHILL ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

Dec. 2, 2011

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Carter Center Preliminary Statement on the First Round of Voting in Egypt's People's Assembly Elections

The Carter Center deployed witnesses to observe two days of polling on Nov. 28-29 in the first of three rounds of Egypt's parliamentary elections, as well as the preceding election preparation period. Carter Center witnesses visited more than 300 polling stations in all nine active governorates, and followed the process through to the counting exercise.

"Carter Center witnesses in Egypt reported enthusiastic participation in the election and a largely peaceful process, for which the Egyptian people should be proud," former U.S. President Jimmy Carter said. "However, the process is far from complete, and there are several areas for improvement before the next two rounds of voting. We hope that steps can be taken to help ensure the integrity and transparency of these elections."

Despite long lines, late poll openings, and other indicators of under-preparation evident in some polling stations and counting centers, Carter Center witnesses reported that Egyptian citizens displayed optimism and participated in large numbers. Candidates, parties and their representatives, and election officials also appeared eager to participate and to demonstrate their commitment to a democratic transition. Egypt's voters and other political stakeholders in general warmly received Carter Center witnesses, a sentiment that was deeply appreciated.

The Carter Center notes the deep skepticism of activists in Tahrir and in other parts of the country about the value of these elections, however, and so urges Egyptian authorities to ensure that the parliamentary elections will result in a more transparent, inclusive and participatory transition process, and a parliament with genuine authority to select the Constitutional Assembly.

At this time, The Carter Center cannot offer a comprehensive assessment of the electoral process. There remain two further rounds of voting, run-off elections and the resolution of any complaints. In the interim, the Center offers the following preliminary observations and suggestions for the next rounds of voting.

These observations include:

- Campaigning prior to the election was vigorous and enthusiastic. However, campaigning continued through the election days in contravention of the Supreme Judicial Commission for



2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

Elections' (SJCE) regulations on campaigning. The Center suggests that the SJCE provide clear instruction to the parties on what constitutes improper campaigning.

- Despite reports of some isolated incidents of violence, the Carter Center witnesses found the voting environment to be generally peaceful, and that security personnel, while present did not interfere in the process.
- The process thus far has suffered from a lack of clear and well communicated information about election day processes and procedures. The Carter Center hopes that clear information about the process will be disseminated widely and in sufficient time to guarantee that voters and other stakeholders have the opportunity to understand and adapt to it.
- In general, Center witnesses reported considerable disorganization and confusion stemming from inadequate preparation and instructions to the judges and workers on how to efficiently count the ballots and report the results to the supervising sorting committee. It is recommended that the SJCE publicize clear vote count procedures, as well as regulations on the access of candidates, parties and their agents to the counting centers, and that they enforce these rules fairly.
- While Carter Center witnesses received accreditation, there were isolated incidents in which access to polling stations and counting centers was denied or limited. For the next two future rounds of elections it is important to ensure that accredited domestic and international witnesses have access to polling stations and counting facilities without obstruction.
- Any complaints regarding the Nov. 28-29 election days are yet to be heard. The Center reiterates the importance of providing information on the complaints process to voters and candidates.'

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"Waging Peace. Fighting Disease. Building Hope."

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2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

THE
CARTER CENTER



Carter Center Preliminary Statement on the First Round of Voting in Egypt's People's Assembly Elections

Dec. 2, 2011

The Legal Framework

The People's Assembly elections are governed primarily by the Constitution, the Law of Political Rights,¹ and the Law Concerning the People's Assembly.² In addition, Egypt has ratified a number of international treaties which provide guidance on the electoral process. Although codified during earlier Egyptian regimes, both electoral laws were amended significantly during 2011 to establish Egypt's current electoral system. Additionally, Supreme Judicial Commission for Elections (SJCE) has issued several regulations concerning candidate registration, campaigning, and the role of civil society organizations in witnessing elections.

Outreach by the SJCE

Distinguishing between speculation and authoritative information on the process has been a recurring problem. Misinformation on the electoral process creates confusion among voters and can damage the credibility of the elections. In the week prior to the elections, there were conflicting messages communicated by the SJCE on whether voters were allowed to vote for any two candidates or were restricted to only choose candidates with a particular occupation.³ Misstatements such as these can depress voter turnout, affect the free exercise of the right to vote, and generally damage the credibility of the electoral process.

It is also worth emphasizing that changes in electoral procedures must be communicated sufficiently early in the process. Even though the late introduction of two days of polling for the first round was broadly welcomed among Egyptian voters, the lack of a single spokesperson for the SJCE created a lack of clarity on how the two days were to be implemented. In addition, the SJCE issued a last minute regulation extending the polling hours by two hours from 7 p.m. until 9 p.m. on the first day of voting. While this action is to be commended, particularly in light of the late poll openings observed across Egypt by Carter Center witnesses, there were incidences of confusion on the part of judges and poll workers who had not received word of the change. In these cases, the situation was generally rectified to prevent unnecessary disenfranchisement of voters. Future decisions that may affect electoral operations should be issued in sufficient time to guarantee that voters and other stakeholders have the opportunity to comprehend them and adapt to them.

¹ Law Number 73 of 1956, as amended

² Law Number 38 of 1972, as amended

³ The SJCE representative claimed that voters would be required to vote for at least one "worker" or "farmer" candidate among the two votes to be cast in the individual races. This is incorrect. According to Art. 15 of the Law Concerning the People's Assembly, a voter may vote for any two candidates, even if both of the candidates are not workers or farmers. The electoral commission is then required to ensure that at least 50% of the winning candidates following run-offs are either farmers or workers, in accordance with the above-referenced legal provision. The SJCE ultimately publicly stated the correct version of this legal provision.



2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

Campaigning

The campaign environment in the weeks leading up to the elections was vibrant with campaign banners, posters and graffiti widespread throughout both urban and rural areas. Candidates and parties used face-to-face meetings, going from house-to-house and holding public gatherings to receive voters.⁴ Although the campaign period was held under the shadow of an arbitrary Emergency Law, in general, candidates of all political persuasions appeared to be able to campaign freely and openly.⁵ There was, however, confusion over the official start date of the campaign period, and as a result, Carter Center witnesses observed active campaigning before the campaign period commenced.

The campaigning process, however, was disrupted by the violence used by state security forces in response to protests in Tahrir and public squares throughout major Egyptian cities starting on November 19. It should be acknowledged that two of the Egyptian Current Party's activists were killed during the course of these events and that some political parties suspended their campaigns in response to these events until only a few days before voting commenced.

Both before and during the election days, witnesses reported widespread campaign-related violations. Although SJCE Regulation 21 establishes start and stop times for electoral campaigning, these regulations were flouted by numerous parties and candidates.⁶ Vigorous campaigning was particularly notable on the election days themselves, with witnesses reporting that parties and many individual candidates were active in distributing pamphlets and using vehicles and loudspeakers for publicity in contravention of SJCE campaign regulations. Witnesses reported that the Freedom and Justice Party (FJP) set up information tables in Cairo, Damietta and Asyut to assist voters seeking information about the whereabouts of their polling stations. While it is appropriate for political parties to provide neutral voter information to assist voters,⁷ Carter Center witnesses noted that FJP volunteers in many cases simultaneously provided campaign documents or other literature, violating the prohibition on campaigning. For the next rounds, the SJCE should clarify campaign regulations to all political parties by providing instruction regarding activities that are authorized and those that constitute improper campaigning.

Voting and Counting

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 in order 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. The state

⁴ United Nations (U.N.), International Convention on Civil and Political Rights (ICCPR), Art. 21: "The right of peaceful assembly shall be recognized."

⁵ ICCPR, Art. 25: "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) to have access on general terms of equality, to public service in his country."

⁶ SJCE Regulation No. 21, Art. 3: "The Campaign will start at the announcement time of the final statements of candidates, and the stoppage in the previous two days on the ballot in each stage of the stages. And In the case of run-off it will be the day following the announcement of the result, stoppage in the previous day of conducting it, the election campaign shall be abstained at any other dates by any mean."

⁷ ICCPR, Art. 19(2): "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."



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must take all necessary steps to ensure such rights are fully protected and awarded to all citizens in an equal and non-discriminatory manner.

Polling Station Locations

Voters generally seemed to be aware of their polling station location, although this information was imparted in many cases informally, through word of mouth. Based on several reports, it appears that the voter hotline developed by the SJCE was generally effective, although the service was reportedly slow at times on the first election day.

Security

Personal security is a necessary condition for the exercise of democracy, including the exercise of the right to vote. Though Carter Center witnesses reported a generally peaceful environment surrounding the voting process on November 28 - 29, with voters waiting patiently for their turn to cast ballots, The Carter Center is nevertheless concerned by reports of isolated incidents of violence. Although there were considerable numbers of security and police forces present at many polling stations visited by Carter Center witnesses, at the majority of polling stations the security and police generally remained outside of the polling stations and did not interfere in the electoral process.⁸

Opening

Carter Center witnesses across Egypt reported widespread delays in the opening of polling stations, especially on the first day. These delays were caused by different factors, including the failure of ballots and ink to arrive by the allotted start time, and the failure of the presiding judge to arrive on time. Such delays sometimes caused anxiety and frustration in voters, and may damage the perceived integrity of the process in the eyes of political stakeholders.⁹ The next two rounds could be improved by ensuring adequate time for ballot preparation and electoral supply procurement and delivery. In addition, steps should be considered to ensure the timely arrival to the polls of judges, and for contingency plans to address last-minute judicial and polling station worker absences.

Secrecy of the Ballot

The right to cast your ballot in secret is a right granted to Egyptian citizens in the Egyptian electoral code, and is consistent with Egypt's international commitments.¹⁰ Carter Center witnesses reported that the majority of voters were afforded the opportunity to cast their ballot in secret. However in some instances, judges, responding to the long queues of voters, hurried voters through the polling station, encouraging them to cast their ballot outside of the voting booth to expedite the process. In other cases, polling stations were reported to either have broken or improperly structured secrecy booths, or had no secrecy booth at all. Many voters were observed willingly casting their ballots in the open, marking their ballots on the floor, against the wall, or on ballot boxes. While these deviations from the secrecy of the ballot appeared to be practical and understandable responses to the circumstances at hand, the secrecy of the ballot is a

⁸ It was reported by one team in the Cairo governorate that judges postponed the count on Nov. 29 for fear of their security, but resumed the counting process the next day. Another team in the Alexandria governorate also reported a deterioration of the security environment at a counting center, but were later assured by the head of the Police that the situation had been defused. In one case in Fayoum, Carter Center witnesses reported large number of Ministry of Interior personnel in full riot gear outside of a polling station. This was thought to have a chilling effect on the voters at that polling station.

⁹ EU, Handbook for European Union Election Observation, second edition, p. 75: "Delays to the opening of polling stations or early closing undermines the right to vote."

¹⁰ Law Concerning People's Assembly, Art. 1: "The People's Assembly shall be comprised of 498 members selected through the public direct secret ballot method, provided at least half of them are workers and farmers."; ICCPR, Art. 25(b)



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fundamental right that should be fully respected in order to ensure credible elections. To this end, steps should be considered before the next two rounds of elections.

Voter Identification

The use of indelible ink can be an effective means of preventing multiple voting. Carter Center witnesses reported that, in almost all cases, indelible ink was applied to the fingers of voters after they cast their ballot. However, it should be noted that voters' fingers were not systematically checked for ink prior to receiving their ballot. While this undermined the utility of the indelible ink as a safeguard for the voting process, Carter Center witnesses also noted that voters were routinely crossed off the voters' list - another effective means of protecting the integrity of the election process. Looking forward to the next phases of voting, poll workers should be instructed to ensure that voters are systematically checked for ink in addition to voter list marking.

Women's Participation Poll Workers, Agents and Witnesses

Women constituted approximately 25 percent of the workforce in polling stations visited by Carter Center witnesses, though a much smaller number of presiding judges were female. In addition, women made up sizable percentages of the candidate and party agents and domestic witnesses met by our teams. In the coming weeks, The Carter Center will provide more detailed analysis of the role of women in the broader political process, including as candidates.

Poll Closing Day One

The additional day of polling introduced new security and logistical challenges to the electoral process, with election authorities having to undertake measures to temporarily close and secure ballot boxes and materials overnight. Despite the last minute issuance of Decision No.43 of the SJCE governing the establishment of the additional polling day, The Carter Center witnesses reported that, in general, judges locked and sealed ballot box openings using cloth sealed by a red wax stamp in the presence and with the assistance of polling staff. The decision, however, did not require judges to place a seal over the ballot box lock to ensure locks were not tampered with, or the box opened. In future rounds, The Carter Center recommends that judges be required to secure the ballot box lock with cloth and a red wax seal. Given the late decision to add a second day of voting to each of the three phases, the Center hopes that the SJCE will have clear plans in the place for the continued security of ballot boxes between the first and second day of polling, including contingency procedures should boxes be found to be tampered with.

Vote Counting

An accurate and nondiscriminatory vote counting process, including the announcement of results, is an essential means of ensuring that the fundamental right to be elected is fulfilled. The counting of ballots and the announcement of results is ongoing as of the time of this statement and therefore the Center's comments are preliminary.

At the end of the second day of polling, ballot boxes were moved to counting centers. Carter Center witnesses visited 16 of the 28 counting centers active during this first phase of voting.

Most Carter Center witnesses reported a large number of people present at the counting center, including not only the presiding judges and poll workers, but candidate and party agents, domestic witnesses, representatives of the media, and security forces. Despite the volume of people at the counting centers and the instances of tension that this caused, Carter Center witnesses reported that the environment in the counting centers was generally peaceful.

In general, Center witnesses reported considerable disorganization and confusion stemming from inadequate preparation and instructions to the judges and workers on how to efficiently count the



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ballots and report the results to the supervising sorting committee. Some poll workers spent several hours awaiting instructions from the head of the SJCE subcommittees on how to proceed. It is recommended that the SJCE publicize clear vote count procedures, as well as regulations on the access of candidates, parties, and their agents to the counting centers, and that they enforce these rules fairly.

Witness Access

Carter Center witnesses reported meeting Egyptian domestic witnesses at a considerable number of polling stations visited and were pleased to note the high percentage of women among their number. However, the Center was troubled by reports that some had only limited access to the counting centers because of a requirement that they have an additional letter to gain access to counting centers. This is not a requirement of their regulations. The Center welcomes the continued participation of many Egyptian organizations in witnessing the process and encourages the SJCE and other Egyptian institutions to take steps to enable the appropriate role of domestic civil society organizations in electoral observation.

All Carter Center witnesses were granted accreditation cards in a timely fashion prior to the start of the polling, which authorized access to both the polling and counting processes. However, Carter Center witnesses were denied access to polling locations by security forces in three instances, and by presiding judges on seven occasions. Several Carter Center witnesses had problems initially in gaining entry to counting centers, hampering their ability to observe the conveyance of ballot boxes from polling stations to the designated centers, although eventually they were allowed inside. For the next two future rounds of elections it is important to ensure that accredited witnesses have access to polling stations and counting facilities without obstruction. In the interest of promoting greater transparency and confidence in the electoral process, the Center urges the SJCE to ensure appropriate access for both domestic and international witnesses across Egypt.

Electoral Complaints

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.

The polling and counting complaints process has just begun, so it remains to be seen whether the electoral complaints system will serve as an effective feature of the overall electoral process. However, as originally noted in the Carter Center's statement released on Nov. 21, the Center is concerned that the SJCE has not yet publicized procedures regarding this critical aspect of the electoral process. Witnesses reported that many Egyptians were unaware of their right to complain about alleged electoral violations, and the appropriate avenue to do so. The Center reiterates the importance of providing information on the complaints process to voters and candidates.

Seat Allocation and the Powers of Parliament

The Carter Center remains concerned about the lack of information regarding how totals from the party list votes will be allocated into seats. The lack of clarity regarding this information could lead to disagreements about the final seat allocation and possible conflicts between parties and with the SJCE. One interpretation of the existing law that may be taken by the SJCE and would favor dominant political parties and disempower smaller parties is also a concern. As this parliament will be selecting the membership of the future constituent assembly, the broadest representation of views is vital. Clear and widely disseminated information from the SJCE on the



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application of the Law Concerning People's Assembly Article 15,¹¹ and other provisions regarding seat allocation could bolster trust in the system and promote comity between the parties during the electoral phases.

In addition, ambiguity remains about the types of legislation the future parliament will be able to pass within the current constitutional framework. At the moment, the 2012 parliament will operate within a legal framework that is designed and regulated by the Supreme Council of the Armed Forces (SCAF), making it difficult for the civilian parliament to have oversight of the military and serve as an equal partner in the continued transition process. In particular, it is important that representatives, elected freely by citizens, are able, in fact, to exercise governmental power and be held accountable through the electoral process for their exercise of that power.¹² The Carter Center hopes that the Egyptian authorities will ensure that the parliamentary elections facilitate a more inclusive and participatory transition, and result in a parliament with genuine authority to select the Constitutional Assembly.

The Carter Center mission to witness Egypt's Parliamentary Elections has been accredited by the Supreme Judicial Commission for Elections. The Carter Center deployed the first phase of its international delegation on Nov. 6, 2011. The Carter Center has deployed 40 long- and medium-term observers from 21 countries including: Austria, Canada, France, Germany, Ireland, Italy, Kenya, Lebanon, Malaysia, Morocco, the Netherlands, Norway, Palestine, Philippines, Slovakia, Somalia, Spain, Sudan, Tunisia, United Kingdom, and the United States. While deployed, these witnesses will observe the election administration, campaigning, voting and counting operations, and other activities related to the electoral process in Egypt.

The Carter Center's election mission is conducted in accordance with the Regulations and Code of Conduct for Elections Followers issued by the Supreme Judicial Commission for Elections, as well as the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by more than 37 election observation groups. The Center assesses the electoral process based on Egypt's national legal framework and its obligations for democratic elections contained in regional and international agreements.

¹¹ "Representatives of each constituency of the closed lists shall be elected by giving each list a number of the constituency seats by the number of valid votes the list obtained to the total number of valid votes of voters that the parties' (that have the right to represent, according to the next paragraph) had obtained in the constituency, adhering to the order on each list, and the remaining seats shall be distributed to the lists according to the sequence of the highest remaining votes for each list." "The party or party coalition whose lists do not gain at least half percent of the number of valid votes in the constituencies of the republic that are allocated to the lists, may not have representation in the assembly."

¹² UNHRC, General Comment 25, para. 7



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ONE COPENHILL ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

Dec. 8, 2011

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Carter Center Statement on Egypt's Election Results and Complaints Management Process

The Carter Center has closely observed the first round of Egypt's parliamentary elections, witnessing polling and counting Nov. 28-30 and the runoffs Dec. 5-6, and notes that conducting runoffs amid a multiphase election poses distinct challenges requiring extra efforts in key areas. The Center offers the following observations and suggestions to help address the main challenges of electoral complaints resolution and the timely announcement of results.

The short period between the first phase of polling and runoff elections leaves little time for the first round of results to be communicated to the public and candidates. Delays in the announcement of these results impact the time available for runoff candidates to launch their campaigns, limiting their ability to inform and mobilize voters. Further, if there are unresolved complaints¹ that delay the announcement of results, an atmosphere of uncertainty and speculation can arise. As Carter Center witnesses have observed, these conditions encourage candidates to breach the regulations on campaign silence, which commence one day before and continue during the runoff election,² and can detract from the confidence in the electoral process. Conscious of these circumstances, The Carter Center urges the Supreme Judicial Commission for Elections (SJCE) to take concrete steps to accelerate the process of resolving complaints and announcing election results for subsequent rounds of voting.

The Carter Center understands that plans already may be underway to accelerate the counting process by conducting the vote count at polling stations (as was done during the referendum) and tabulating results at count centers. Implementing changes during an ongoing electoral process and with very little lead time will create extra challenges, including the need to amend the electoral law, revise instructions for election officials, and implement new security arrangements. Applying these steps however, should accelerate the process to announce results and could thereby improve confidence in the process. If so, this is seen as a

¹ International good practice suggests that complaints and appeals should be transparent and that information regarding the electoral process should be publicly accessible. See for example, United Nations Human Rights Committee, General Comment 34, para. 19 and OSCE Existing Commitments for Democratic Elections, p. 75. OSCE, Guidelines for Reviewing a Legal Framework for Elections, p. 29: "The legal framework should require that all relevant electoral documents be publicly accessible, including election protocols, tabulation and tally sheets, and decisions determining or affecting election results."

² SJCE, Regulation No. 21, Art. 3



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positive step, but extra efforts also should be considered for the rapid and transparent resolution of complaints, and to enhance timely communication to voters, political contestants, and election officials.

The Carter Center mission to witness Egypt's Parliamentary Elections has been accredited by the Supreme Judicial Commission for Elections. The Carter Center deployed the first phase of its international delegation on Nov. 6, 2011. The Carter Center has deployed 40 long- and medium- term observers from 23 countries including: Austria, Brazil, Canada, France, Germany, Iraq, Ireland, Italy, Kenya, Lebanon, Malaysia, Morocco, the Netherlands, Norway, Palestine, Philippines, Slovakia, Somalia, Spain, Sudan, Tunisia, United Kingdom, and the United States. While deployed, these witnesses will observe the election administration, campaigning, voting and counting operations, and other activities related to the electoral process in Egypt.

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Dec. 18, 2011

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Carter Center Preliminary Statement on the Second Round of Voting in Egypt's People's Assembly Elections

Carter Center witnesses observing the People's Assembly elections in Egypt reported progress in several aspects of polling during the second round of voting on Dec. 14-15, but found that there are numerous areas where procedures need further improvement.

On the positive side, the experience gained by judges supervising the first round of the elections was evident in the second round of voting, as many of the logistic and administrative operations improved. In addition, Carter Center witnesses reported a reduction of illicit political campaigning during the campaign silence period in most areas.

Nevertheless, many problems observed in the first round were still evident in the second round of voting. Assistance to illiterate voters has been inconsistent across polling stations and would be improved by issuing clear instructions to election officials. In addition, there are areas in the implementation of vote counting where the process should be enhanced, including through the development of specific and clear procedures for those responsible for the counting and aggregation of results.

In both polling and counting activities, a breakdown of communication between judicial officials and security forces was observed to hinder access to sites. The management of access to polling stations and count centers for election officials, party and candidate agents, and domestic and international witnesses was reported as unnecessarily difficult in many cases. Improvements in the security forces' awareness of their own duties is necessary,¹ as well as their coordination under judicial officials.

While the environment surrounding the elections has been generally peaceful,² The Carter Center notes with regret the deaths and injuries of demonstrators arising from recent violence around the Parliament

¹ Inter-Parliamentary Union (IPU), Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Art. 4(8): "States should take the necessary measures to ensure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence."

² The Center acknowledges isolated incidents of physical violence committed in some cases by the security forces and in others by candidates and supporters of political parties. It was reported widely in the media that on Dec. 15, 2011, Yasser El-Rifai-the Revolution Continues was beaten by military police when he tried to enter one of the polling stations. Carter Center witnesses in Suez observed clashes between security forces and Freedom and Justice



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and Tahrir Square. The Carter Center condemns the violence and the excessive use of force by security forces and urges a thorough and detailed investigation into these events. Such violence undermines the fundamental right of security, which is vital for all Egyptian citizens and essential to ensure their rights of freedom of expression and of association, which are especially important during elections.

The Carter Center mission witnessed the second round of Egypt's People's Assembly elections held on Dec. 14-15 across nine of the nation's 27 governorates.³ The Center deployed more than 40 international witnesses to all nine governorates to directly observe the pre-election environment, polling, and counting processes.

As the elections are being conducted in phases, this statement will form part of the Carter Center's overall assessment to be completed at the end of the People's Assembly elections. This statement builds on previous statements issued during and after the first round.⁴ The goal of these statements is to provide substantive and constructive feedback to the electoral authorities in the interest of achieving progressive improvements in the electoral process. It is in this context that The Carter Center offers the following key recommendations to the Supreme Judicial Commission for Elections (SJCE).

Polling Process

- Assign additional judicial officials to each polling center with the sole task of coordinating, liaising, and supervising security forces in their management of access to polling sites;
- Ensure instructions are issued to all presiding judges to make clear the procedures for providing impartial assistance, if any, to illiterate voters;
- Reinforce instructions to judges about the importance of ballot reconciliation procedures at the end of polling;
- Ensure that any decision to extend polling hours is adequately communicated as early as possible. In order to ensure transparency and avoid speculation, the reason for the extension should be provided. Such decisions should also be communicated to the public through all available means so that voters are informed of the extension;

Movement of Ballot Boxes

- Implement improved logistical plans for the orderly movement of ballot boxes from polling stations to counting centers and ensure that the presiding judge is able to accompany the ballot boxes;
- Implement procedures to record the arrival and intake of ballot boxes and other voting materials at the counting centers;

Party (FJP) supporters. The head of the Judges Club is also alleging that the security forces at a polling center in Sharkiyaa mistreated several judges.

³ These nine governorates include the following: Beni Suef, Giza, Beheira, Ismailia, Sharqiya, Suez, Monoufiya, Sohag, and Aswan.

⁴ Carter Center Statement on Egypt's Pre-election Environment, Nov. 21, 2011; Carter Center Preliminary Statement on the First Round of Voting in Egypt's People's Assembly Elections, Dec. 2, 2011; Carter Center Statement on Egypt's Election Results and Complaints Management Process, Dec. 8, 2011.



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Counting Centers

- Assign additional judicial officials to counting centers with the task of coordinating, liaising, and supervising security forces in their management of access, to ensure the orderly and timely access by authorized people, including judges, party agents, domestic and international witnesses, and others;
- Issue clear procedures to election officials to standardize the conduct of the counting process;
- Provide more information to electoral stakeholders on how and when the votes from the out-of-country voting process are integrated into the election results;

Complaints Procedures

- Improve the clarity of the complaints procedures and implement systems to record and track complaints that are lodged;
- Make concerted efforts to inform and raise the awareness of the complaints procedures among electoral stakeholders;
- Ensure that the handling of complaints, appeals and resolutions is in accordance with the legal framework.

The full Carter Center preliminary statement may be found at www.cartercenter.org.

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**Carter Center Preliminary Statement on the Second Round of Voting in Egypt's People's Assembly
Elections**

Dec. 18, 2011

The Carter Center mission witnessed the second round of Egypt's People's Assembly elections held Dec. 14 -15 across nine of the nation's 27 governorates,⁵ deploying more than 40 international witnesses to all governorates to directly observe the pre-election environment, polling, and counting processes. As these elections are being conducted in phases, The Carter Center is issuing this statement as a preliminary assessment. It builds on previous statements issued during and after the first round. The goal of these statements is to provide substantive and constructive feedback to the electoral authorities in the interest of achieving progressive improvements in the electoral process.⁶ The main findings of Carter Center witnesses during the second round of voting include the following.

Illicit Campaigning: Witnesses noted an improvement in several aspects of the polling activities compared to the first round. A noticeable decline of illicit political campaigning during the 48 hour campaign-silence period ahead of polls was evident in urban areas, although a similar level of campaign-related violations still took place in several rural districts. Illicit campaigning inside polling stations during election days was considerably reduced in most areas, due in part to the heightened vigilance of presiding judges.

Access to Polling Centers: Administrative and logistical difficulties that caused late openings of polling stations in the first round were less frequently reported. In spite of this, late openings continued to be a problem. Carter Center witnesses reported a number of instances where security forces controlling access to polling centers impeded the access of party and candidate agents. This is especially problematic since the agents must be present inside the polling station for the presiding judges to be able to prepare the polls for opening. In light of this working level breakdown in communication between security forces and the supervising judges, the Center offers several recommendations for future rounds of polling:

- An additional judicial official should be assigned to each polling center, solely to provide dedicated coordination and supervision of security forces;

⁵ These nine governorates include the following: Beni Suef, Giza, Beheira, Ismailia, Sharqiya, Suez, Monoufiya, Sohag, and Aswan.

⁶ The Carter Center acknowledges that the SJCE has taken steps recently to improve the electoral process by issuing new "Instructions for the Judges and Councils" before the second round of voting.



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- Security forces at polling stations should be better briefed in their duties, which include being responsive to the instructions of supervising judges; and
- Accredited party and candidate agents and representatives should be provided and required to wear clearly displayed identification at all times to facilitate access to polling centers.

Inside the Polling Stations: Within polling stations, the effect of the Supreme Judicial Commission for Election's (SJCE's) recent instruction to require a female poll worker in all polling stations was broadly implemented, which is a positive development. However, consistent checking for the presence of indelible ink on voters' fingers prior to voting remained weak, as did the correct application of ink. Of particular concern also is a continued lack of clarity and consistency over assistance to illiterate and disabled voters. The Law on the Exercise of Political Rights (Article 29) is clear that disabled voters may be assisted as they cast their ballot. However, for illiterate voters, the degree of assistance that may be provided is not stated, and as a result, has been inconsistent. To ensure consistency in the polling process and preserve its credibility, The Carter Center therefore strongly urges the SJCE to ensure instructions are issued to all presiding judges to make clear the procedures for providing impartial assistance, if any, to illiterate voters.

Extended Voting Hours: The decision of the SJCE to extend polling hours to 9 p.m. on the first day of polling was a source of confusion at many polling stations. Carter Center witnesses reported that in many cases, presiding judges were notified of the extension during the last hour or at the stage of poll closing. Further, election officials appeared unclear about the reason for the extension. If the SJCE intends to extend polling hours in future rounds it is recommended that they ensure that any decision to extend polling hours is adequately communicated all electoral stakeholders as early as possible. To ensure transparency and avoid speculation, a reason should also be provided for the extension.

Reconciliation of Ballots and Movement of Sensitive Materials: The reconciliation of ballots at the closing of a poll station is a key measure to ensure the integrity of the vote.⁷ Carter Center witnesses, however, observed inconsistencies in this process. In addition, Center witnesses observed what appeared as a chaotic and confusing process to transport ballot boxes to count centers. The lost and missing ballot boxes in Cairo District One (Al Sahel) that occurred in the first round, which will now have to re-poll in January, highlights the importance of ensuring orderly processes. The Carter Center therefore suggests that the SJCE reinforce the importance of the procedures for ballot reconciliation at the end of polling, and ensure an adequate and orderly logistical plan for the movement of ballot boxes, also ensuring that presiding judges are able to accompany the boxes in all cases.

Access to the Count Centers: At the count centers themselves, the arrival of ballot boxes, judges, and poll workers was observed as chaotic. Difficulties in physical access to the count centers contributed to

⁷ International Convention on Civil and Political Rights (ICCPR), Art. 25(b): "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors"; International good practice suggests that "The legal framework should provide, in clear and objective language, the procedures for transferring the protocol results of counting, ballots, and election materials from lower election commissions to intermediate and higher election commissions for tabulation and safekeeping."; OSCE, Guidelines for Reviewing a Legal Framework for Elections, p. 37: "Closing and counting procedures should be established in law and provide safeguards that guarantee a transparent, prompt and accurate count." European Union, Handbook for European Union Election Observation, second edition, p. 82



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this problem. The fact that judges, agents, and observers encountered problems in gaining access to the count centers was strong evidence of a breakdown in communication between security forces and the supervising judicial officials.⁸ To improve procedures for access to count centers in future rounds of polling, The Carter Center strongly recommends that the SJCE consider the following suggestions:

- Additional judicial officials should be assigned to count centers and be dedicated to supervising security forces controlling access to count centers;
- Security force personnel with command and management functions should be better briefed on their duties and be responsive to the instructions of the supervising judges;
- A system to verify the arrival and in-take of ballot boxes and other sensitive materials from polling stations should be implemented to register and confirm the arrival of materials;
- Where possible, vehicle access to count centers should be separate to pedestrian access. That would allow the presiding judge and a few poll workers to accompany the ballot boxes by vehicle, while other poll workers, party and candidate representatives, and domestic and international witnesses could enter via the pedestrian route; and
- Where there is difficult physical access to count center facilities, a secondary staging site should be used to control and manage the flow of vehicles, materials, and staff into the count center.

Inside the Count Centers: Inside the count centers, the atmosphere was also generally chaotic. Despite effort and instructions from the SJCE, insufficient furniture and equipment for poll workers and presiding judges often forced the adoption of improvised arrangements for counting. The physical limitations of the count centers and the improvised counting arrangements impeded efforts for party and candidate representatives, as well as witnesses, to adequately follow and observe the process. In addition, Carter Center witnesses noted that a continued lack of standardized procedures for the count resulted in a variety of systems being used. It is important to note that in spite of these observed problems at the counting centers, Carter Center witnesses were impressed by the dedication of judges, polling staff, and others who worked for very long hours to complete the counting process. Finally, it remains unclear how and when votes from the out-of-country voting process are integrated into the results. The Carter Center urges the SJCE to consider the following related recommendations:

- Greater efforts need to be made to prepare adequate work space and equipment at the count centers for the work of the presiding judges and poll workers during the counting process;
- In order to ensure transparency, the layout of the count centers should provide ample space for party and candidate agents, as well as domestic and international witnesses, so that they are able to meaningfully observe the process;
- Clear procedures for how to conduct the counting process should be issued to election officials to standardize the process of counting; and
- The SJCE should provide clarity on how and when the votes from the out-of-country voting process are integrated into the election results.

Complaints Process: Overall, the second round has suffered from several structural deficiencies that were already identified in the first round of the election. In particular, the management and administration of the electoral complaints process remains opaque. For example, the decision by the courts to allow for

⁸ In at least five instances, Carter Center witnesses could not access the counting center due to the chaotic environment or denial of access by the security forces and/or judges, which is a deterioration from phase one.



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previously excluded parties to be included on the ballot in three proportional representation district races on the day prior to the election forced these races to be postponed until the runoff phase. While the decision to allow these parties to compete enables a more genuinely inclusive election process, the timing of the court's decision on their appeal is problematic.⁹ Article 9 of the Law Concerning the People's Assembly Law (as amended) articulates the timeline for the resolution of these appeals. The interruption of polling activities and the uncertainty created by failing to abide by these provisions was disruptive to the electoral process. The management of complaints and appeals is a vital component of any election, as is their timely resolution, to reduce uncertainty for electoral stakeholders.¹⁰ As such, The Carter Center again urges the SJCE to:

- Improve the clarity of complaint procedures and implement systems to record and track complaints that are lodged;
- Make concerted efforts to inform electoral stakeholders and raise their awareness of the complaints process; and
- Ensure that the handling of complaints, appeals and resolutions is in accordance with the legal framework.

The Carter Center mission to witness Egypt's Parliamentary Elections has been accredited by the SJCE. The Carter Center deployed the first phase of its international delegation on Nov. 6, 2011. The Carter Center has deployed 40 long- and medium-term observers from 21 countries including: Australia, Brazil, Canada, France, Germany, Iraq, Ireland, Italy, Kenya, Lebanon, Malaysia, Morocco, the Netherlands, Norway, Palestine, Philippines, Slovakia, Somalia, Spain, Sudan, Tunisia, United Kingdom, and the United States. While deployed, these witnesses will observe the election administration, campaigning, voting and counting operations, and other activities related to the electoral process in Egypt.

The Carter Center's election mission is conducted in accordance with the Regulations and Code of Conduct for Elections Followers issued by the Supreme Judicial Commission for Elections, as well as the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by more than 37 election observation groups. The Center assesses the electoral process based on Egypt's national legal framework and its obligations for democratic elections contained in regional and international agreements.

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⁹ Regarding international best practices, see, for example, OSCE, Existing Commitments for Democratic Elections in OSCE Participating States, p. 75: "One best practice for election complaints is to provide for an expedited process of complaint and appeal, to permit resolution of complaints in an effective manner - if possible, during the election period." ... "additional best practices for handling election complaints and appeals include the following: The right to a timely remedy."

¹⁰ ICCPR, Art. 2(3)(a): "Each State Party to the present covenant undertakes: (a) to ensure that any person whose rights or freedoms are herein recognized as violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."; U.N. Human Rights Committee, General Comment 34, para. 19: "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information..."; IPU, Free and Fair Elections: International Law and Practice, p. 158: "The integrity of the system requires not only that such issues [electoral complaints] be dealt with by an independent and impartial authority, such as the electoral commissions or the courts, but also that decisions be reached in a timely manner, in order that the outcome of elections not be delayed."



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A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers in developing nations to increase crop production. 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.



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2011–2012 PARLIAMENTARY ELECTIONS IN EGYPT

NEWS

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CARTER CENTER ELECTION WITNESSING MISSION Egypt 2011/2012 Parliamentary Elections

PRELIMINARY REPORT ON ALL THREE PHASES OF THE PEOPLE'S ASSEMBLY ELECTIONS

Jan. 24, 2012

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Egypt's People's Assembly elections enjoyed broad participation from voters and are a progressive step toward a democratic transition. While there were shortcomings in the legal framework, campaign violations, and weaknesses in the administration of the elections, the results appear to be a broadly accurate expression of the will of the voters. However, the ultimate success of Egypt's transition will depend on the earliest possible handover of power to a civilian government that is accountable to the Egyptian people. The inclusive drafting of a new constitution that protects fundamental rights and freedoms and ensures full civilian authority over the military will establish the foundations of a democratic Egypt.

Since the departure of President Mubarak in February 2011, the Supreme Council of the Armed Forces (SCAF) has assumed interim executive and legislative authority in Egypt. In the months following, the relationship between the SCAF and many of Egypt's citizens has deteriorated, at times escalating to violence. The excessive use of force by the security apparatus, the continuation of the Emergency Law, the use of repressive measures to stifle political debate and dissent, the use of military tribunals for trying civilian suspects, and the crackdown on civil society organizations has created an atmosphere of distrust. Further, the SCAF's lack of transparent behavior has created a sense of uncertainty about their commitment to full civilian leadership. It is in this context that the People's Assembly elections have taken place.

Principal Findings of The Carter Center's Witnessing Mission:

The Carter Center mission to witness Egypt's parliamentary elections is accredited by the Supreme Judicial Commission for Elections (SJCE). The Carter Center deployed 40 witnesses from 24 countries to all of Egypt's 27 governorates. Across the three phases of voting, these witnesses assessed and observed the administrative preparations, campaigning, voting and counting, and complaints processes. Carter Center witnesses met with government officials, political parties and candidates, and religious leaders, as well as representatives of civil society, academia, and media. Carter Center witnesses continue to assess the conclusion of counting and vote tabulation and will remain in Egypt to observe the post-election environment and the upcoming Shura Council (Upper House) elections.

This is an executive summary of The Carter Center's principal findings on all three phases of the People's



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Assembly Elections. The full report is attached and is also available on the Center's website, www.cartercenter.org. A more detailed final report of the Center's assessment and recommendations will be published at the conclusion of the mission.

The Center assesses the elections in Egypt based on the legal framework for elections and Egypt's obligations for democratic elections contained in regional and international agreements. The Center conducts its election observation missions in accordance with the 2005 Declaration of Principles for International Election Observation.

The principal findings and recommendations of the mission to date include the following:

- Parties and candidates representing a spectrum of views generally participated in the People's Assembly elections without interference, despite continuation of the Emergency Law and episodic violence in and around Tahrir Square.
- Voters were generally able to cast their ballots free of interference and intimidation. Within the polling station, observers found the atmosphere to be generally peaceful, but at times overcrowded. Although the secrecy of the ballot was at times compromised, this was usually due to election officials failing to instruct voters correctly on the voting process.
- Illegal campaigning on election day occurred throughout the process. Though witnesses noted a decrease by the third phase, uneven enforcement of the law was a concern for many stakeholders with whom the Center's witnesses met.
- Carter Center witnesses consistently found the counting process to be chaotic. Judges used different approaches to counting and invalidating ballots, due to an absence of clear procedures or training. In addition, the publication of results by the SJCE was inconsistent across the three phases. Despite this, Carter Center witnesses found the counting process to be acceptable.
- The legal framework for the People's Assembly elections has served as a reasonable, but far from ideal, foundation for the electoral process. The election administration lacks the full legal authority necessary to be independent. In addition, inconsistencies in the legal framework were exacerbated by piecemeal and last minute amendments.
- The election complaints process is among the Center's most significant concerns. Many Egyptian citizens did not appear to know how to access complaints mechanisms, particularly in phase one. In several instances, the timeline of complaints and the remedy granted by the courts (specifically, the rerun of some elections) have extended the election calendar and caused legal uncertainty. Few complaints have been investigated or resolved.
- The lack of official instruction to electoral stakeholders and the voting public has been a major weakness of the process. In addition, the Center noted that there was poor coordination between the SJCE and security forces, as well as between the SJCE and their subsidiary governorate committees.
- The Carter Center has deep reservations about the gross under-representation of women. Women were failed by the lack of a quota for representation, and by the political parties who consistently chose to place women in uncompetitive positions on their lists.
- Carter Center witnesses observed that, in general, police and army personnel acted competently throughout the election. This observation, however, stands in sharp contrast to the behavior of the



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security forces toward the demonstrators in Tahrir Square, where the excessive use of force undermined public confidence.

The Carter Center’s mission respectfully offers the following key recommendations for future elections:

Clarify the process for electoral complaints and impose a reasonable deadline for the resolution of disputes: Egypt has all the tools necessary to establish a credible and expeditious election complaints process. The Carter Center recommends that steps be taken to clarify the process for accessible and timely resolution of electoral disputes.

Complete the procedural framework for elections and train election officials: Election day and counting processes were inconsistent because of the lack of a clear and complete procedural framework and inadequate training for election officials. This should be rectified by the timely publication of full procedures and training of election officials.

Conduct civic and voter education: An electorate that is informed about its rights and the steps necessary to exercise them is vital to the democratic health of a nation. The deficiency of voter information campaigns was notable. The Carter Center therefore recommends that the SJCE be given a clear mandate for voter education that is established in the law, and that they fulfill that responsibility.

Increase transparency and accountability measures: Election authorities must be proactive in building trust with their electoral stakeholders and the public. This responsibility is amplified in the context of political transitions. A commitment to transparency and accountability at all levels of the administration is essential. Specific measures that should be considered include amending the law regarding the secrecy of the SJCE’s deliberations and, publicly posting count results outside polling stations during the Shura Council elections.

Enforce campaign finance regulations: Campaign finance regulations do not include any reporting requirements for parties or candidates, or explicit enforcement mechanisms against violators. The Carter Center recommends that parties and candidates be required to fully and accurately disclose campaign expenditures and donations to a regulatory body with the capacity and authority to investigate and prosecute allegations of campaign finance violations.

Completing the Democratic Transition

The People’s Assembly elections are one step in Egypt’s democratic transition. Maintaining the momentum of the transition to full democratic rule necessitates further key steps, including the following:

Lift the Emergency Law and end use of military trials for civilian suspects: Emergency laws are special measures that must be continuously justified. They should only be used in situations that threaten the security of the nation. When introduced, they should be limited in duration and geographic scope. The Emergency Law and the use of military trials for civilian suspects are not appropriate in the current climate in Egypt and should be ended.

The Carter Center also notes with regret the deaths and injuries of demonstrators arising from violence around the Parliament and Tahrir Square. The Carter Center condemns the violence and excessive use of force by security forces and urges a detailed investigation into these events. Such violence undermines the fundamental right of security, which is vital for all Egyptian citizens and essential to ensure their rights of freedom of expression and of association, which are especially critical during elections.

Ensure the parliament has exclusive authority to select the constitutional committee: The newly elected membership of the People’s Assembly and Shura Council will bear responsibility for selecting the 100



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members of the constitutional committee. The exclusive authority of the parliament, as elected representatives of the people, should be respected.

Conduct an inclusive constitutional drafting process that takes into account the views of the full political spectrum of Egyptian society: It is important that the constitutional committee selected by the parliament be representative of Egyptian society. In particular, there should be a minimum of 30 percent women, and preferably a 50 percent requirement, included in the committee, and quotas for other vulnerable groups considered.

Protect democratic principles, fundamental rights, and freedoms in the constitution: Constitutions, once adopted, are difficult to change. It is important that Egypt's new constitution protects the rights and freedoms of all Egyptians, that it provides for the clear separation of powers, and that national ownership of the constitution is secured through a credible and genuine referendum.

In reference to post-transitional elections, The Carter Center stresses the following recommendations:

Establish an independent election commission: The Carter Center recommends that for post-transition elections, a permanent, fully independent, and professional election management body be established. A clear, consistent, and restructured legal framework is necessary to support such a body. Both of these goals should be achieved through a consultative process.

Redesign the women's quota: In accordance with international obligations, it is essential to ensure that women are able to participate in public affairs and contribute to public debate. The Center recommends that a minimum 30 percent quota be introduced to ensure the effective representation of women in both houses of parliament.

Remove farmer/worker quota: The use of occupational categories as the basis for candidate eligibility arbitrarily undermines the right to be elected. The Carter Center recommends that this provision of the constitution be reconsidered.

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THE ELECTION ENVIRONMENT

After eighteen days of popular uprising, the resignation of President Hosni Mubarak on Feb. 11, 2011, initiated a transitional process in Egypt. The Egyptian military's Supreme Council of the Armed Forces (SCAF) moved quickly after the president's resignation to establish itself as the interim authority for the country's transition. A referendum amending nine articles of Egypt's 1971 Constitution was held on March 19, 2011. These articles (some of which were changed after the referendum), and a number of other provisions from Egypt's 1971 constitution, formed the basis of the SCAF's Constitutional Declaration, promulgated on March 30, 2011. The Constitutional Declaration gave the SCAF interim executive and legislative powers during the period of the transition, while acknowledging the independence of Egypt's judicial authorities.

The SCAF's roadmap for Egypt's transition has been broadly outlined to include the election of the two houses of Parliament, made up of the 508-seat lower-house People's Assembly and the 270-seat upper-house Shura Council. The combined 678 elected members¹ of the Parliament will select a 100 person constitutional-drafting committee to write a new constitution that will then be put to a referendum. The presidential elections will be held thereafter. The SCAF has indicated that these steps will be complete by the end of June 2012, and has publicly committed to a full transfer of power to the newly elected president by that date.

The SCAF's decision to introduce the interim Constitution Declaration and position itself as the interim authority over the transition has been controversial. Violent clashes erupted during the course of persistent opposition by political groups and protest movements, contesting the SCAF's self-appointed role and management of the transition. Meanwhile, the SCAF and its supporters maintain they are committed to the goals of the January 25 Revolution, arguing that the time has come for protest movements to demobilize, for normalcy to return to political and economic life, and for Egyptians to rely upon legal institutions such as political parties, elections, the national legislature, and constitutional efforts (rather than demonstrations and sit-ins) as vehicles for advancing the process.

Opponents of the SCAF maintain that the January 25 Revolution remains an inconclusive struggle, highlighting that political institutions have not been overhauled to remove the authoritarian machinery and practices of the Mubarak regime. The SCAF's continuation of the Emergency Law, which allows for the military trial of civilians and limitations on the freedoms of assembly and association, is an ongoing source of tension and conflict. While the SCAF has been self-restrained in applying the Emergency Law provisions in connection to the electoral process, some groups view it as a form of intimidation and persistent threat. Equally, the use of excessive and deadly force against demonstrators, the sudden enforcement of laws over non-governmental organizations, and a lack of transparency and accountability have heightened an atmosphere of suspicion and distrust.

Ambiguity in the Constitutional Declaration over the powers of the elected parliament, the schedule and sequencing of presidential and legislative elections, and the exact method for selecting the constitutional drafting committee, allows the SCAF to determine the terms and pace of the transition. Opponents of the SCAF's ongoing role in the transition have highlighted that the People's Assembly, as the democratically elected representatives of the people, should assume leadership over the transition as the entity with popular legitimacy, and that its discretion should not be limited by the SCAF. The SCAF has sought to

¹ The People's Assembly is constituted of 498 elected and 10 SCAF-appointed members. The Shura Council is made up of 180 elected members and 90 members appointed by the executive.



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avert these tensions by appointing an Advisory Council, composed of a group of political leaders and opinion-shapers, tasked with devising formal recommendations to the SCAF on salient policy issues. However, this step has also been criticized as offering few formal mechanisms to hold the SCAF accountable and check its interim powers.

This context has had a formative influence on the process of the election for the People's Assembly. Political party platforms have been shaped, and re-shaped, as a response to events over the extended seven-week period of the People's Assembly election, making events in Tahrir Square and elsewhere inseparable from the electoral politics of the moment. Across the political spectrum, parties have maintained an interest in ensuring that the elections proceed credibly, and the People's Assembly be seated as a legitimate body that can exert its influence thereafter. Amid these dynamics the electoral administration's ability to deliver a credible and genuine election has been a pivotal concern for all actors in the transition.

ELECTION OVERVIEW

Under the supervision of a judicial election management body, Egypt's People's Assembly Elections were conducted in three phases across 27 governorates, with more than 50,000 polling stations allowing for a nationwide polling of an estimated 50 million eligible voters. The requirement of judicial oversight at polling stations and the limited number of judges necessitated the phased election. During each phase, polling was conducted across nine governorates. Both party list and individual candidate races were conducted together in one round of voting. If required, runoff elections for the individual candidate races, were scheduled a week afterward, to determine the final winners.²

It was announced on Sept. 27, 2011, that the elections would be held on Nov. 28, 2011, (Dec. 5, runoffs), Dec. 14, 2011, (Dec. 21 runoffs) and Jan. 3, 2012 (Jan. 10 runoffs).³ On Nov. 25, 2011, three days before the first round of polling, the SCAF issued decree 262/2011 making each polling exercise a two-day process. Furthermore, in response to a range of complaints, more than 18 districts across Egypt were subject to re-run races. These races were held on various schedules over Jan. 10-11, 16-17, 17-18 and 18-19. In each round of polling, counting and tallying operations were conducted immediately following the close of polls at counting centers in each party-list district constituency. Out-of-country voting (OCV) was conducted three days before each round of elections in Egypt. The votes were tallied at Egypt's embassies and the results transmitted to the national election authority.

ELECTORAL SYSTEM

The electoral system for the 498 elected seats of the People's Assembly is a mixed system. Two thirds (332) of representatives are elected using a closed list proportional representation system across 46 multi-seat constituencies. For a party or coalition to be eligible to win these seats, they must win at least 0.5 percent of all votes cast in the list races across the country. The remaining third (166) of the representatives is elected from 83 two-seat constituencies. The electoral system must ensure that at least 50 percent of the People's Assembly is composed of designated farmers or workers. The President also appoints an additional 10 seats of the People's Assembly.⁴ In this instance, however, the SCAF will

² Law Concerning the People's Assembly (Law Number 38 of 1972, as amended), Art. 15, states that the electoral system requires individual candidate winners receive an absolute majority of votes, that is, they must receive at least 50 percent+1 votes to win.

³ SCAF Decree 199/2011, Sept. 27, 2011. Phase one governorates included: Cairo, Alexandria, Port Said, Damietta, Kafr El Sheikh, Fayoum, Assiut, Luxor and the Red Sea. Phase two governorates included: Ismailia, Suez, Sharkeya, Menoufeya, Beheira, Giza, Beni Suef, Sohag and Aswan. Phase three governorates included: Qalubeya, Dakahleya, Gharbeya, Minya, Qena, Matrouh, New Valley, North Sinai and South Sinai."

⁴ SCAF Constitutional Declaration of March 30, 2011, Art. 32



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appoint these seats due to its interim executive authority. While Egypt's international commitments do not prescribe the electoral system to be used, it is critical that any system adopted protect and fulfill fundamental rights and freedoms.⁵

Seat Distribution

The international obligation of equal suffrage, where every voter should have roughly equal voting power, is an important feature of any electoral system.⁶ Essentially, the elected members of an assembly should represent a consistent portion of the population, citizens or registered voters.⁷ This is determined by boundaries of electoral districts and the apportionment of seats assigned to them.⁸ SCAF decree 121/2011 of Sept. 26, 2011, assigned the allocation of seats to districts for the People's Assembly elections. This distribution of seats (based on the number of eligible voters) shows a wide variation across governorates. To address this inequity of representation, Egyptian leaders should consider reviewing the conditions for the distribution of seats for future elections, with a view to enhancing equal suffrage.

Quotas

Under Egypt's Constitutional Declaration of March 30, 2011, at least 50 percent of the elected membership of the People's Assembly must be a farmer or worker.⁹ This quota requirement,¹⁰ while a historical feature of Egypt's electoral systems, is nevertheless controversial under international obligations that prohibit limitations on a citizen's rights to be elected.¹¹ The Constitutional Declaration of March 30, 2011, as amended on Sept. 25, 2011, however, does not require women to be present in the assembly. While the law requires parties to include at least one woman in their party list of candidates to register, this quota mechanism has failed to promote the election of women to the Assembly. The Carter Center strongly urges Egypt's authorities to reconsider the farmer/worker provisions, and to consider a meaningful and effective quota for women's representation that is consistent with its international obligations.

"Mixed" Electoral System

Electoral systems are not neutral. Different electoral systems promote different types of representation and political behavior, which are highly influential on the subsequent focus of the elected assembly. As such, informed and broad debate should accompany decisions on the electoral system to be used.

⁵ UNHRC, General Comment 25, para 21: "Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors."

⁶ United Nations Human Rights Committee, General Comment 25 on the ICCPR, para. 21: "The principle of one person, one vote must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another." U.N., ICCPR, Art. 25 (b)

⁷ Organization for Security and Co-operation in Europe (OSCE), Existing Commitments for Democratic Elections in OSCE Participating States, p. 55: "Elections conducted on the basis of equal suffrage require equality of voting power. In principle, no vote should carry proportionally more weight than another, so that there is an approximately equal number of voters per elected representative in each district."

⁸ UNHRC, General Comment 25, para 21: "The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely."

⁹ The terms "farmer" and "worker" are defined in Art. 2 of the Law Concerning the People's Assembly. The term "farmer" is defined as a person whose sole work and main source of living is cultivation, and who is residing in the countryside, providing he, his wife and minor children do not own or lease more than a certain amount of land. The term "worker" is defined as a person who depends mainly on income from manual or nonmanual work in agriculture, industry, or services. He or she must not be a member of a professional syndicate, recorded in the commercial register, or a holder of a higher degree of education. (Any person who was a worker and then obtained a higher degree of education is exempt from this restriction, however.) In all cases, for any person to be considered a worker he or she must be enrolled in a trade union.

¹⁰ SCAF Constitutional Declaration of March 30, 2011, Art. 32

¹¹ International Covenant on Civil and Political Rights (ICCPR), Art. 25



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Negotiations over the proportion of seats allocated to the majoritarian and proportional representation systems were reportedly the subject of extensive discussions between the SCAF, political parties, and civil society. The closed list proportional representation system promotes the development of strong political parties and allows for coalition building, but does so at the expense of a direct link between voters and their elected representative.

The absolute majority system on the other hand, where a candidate must win over 50 percent of the vote in his or her district, promotes a strong connection between the representative and the constituency, but does not encourage coalition building. The SCAF's concession to parties to allow individual candidates in majoritarian races to be party affiliated was an important decision.¹² The decision permitted voters a broader choice of representative – allowing for both independents and party affiliated candidates to compete in these races. Also, in the elected assembly the pre-existing party affiliation allows for these elected members to be part of broader coalitions, off-setting some of the drawbacks of the majoritarian system.

The Proportional Representation System: The use of the closed list proportional representation (PR) system and the 0.5 percent national threshold provided an incentive for national coalitions to form, in preference to single-governorate parties competing alone. This design of the electoral system is therefore a positive step towards forming an assembly with a national focus, rather than one that is bound to sub-national localized interests. The formation of national coalitions also appears to have largely mitigated some concerns that the relatively small size of the proportional districts would result in a fragmented assembly.

The law did not define a specific formula for the calculation of the PR seats. It did however assert that seats would be allocated on a proportional basis, and that vacant seats would be distributed by the 'highest remainder' method. To meet the farmer/worker quota requirement, party lists were required to be submitted with at least one farmer/worker candidate in every two ranked positions. If a list district failed to elect at least 50 percent farmer/worker candidates, an electoral coefficient is calculated by dividing the valid votes for each list in the district by the number of seats they won.¹³ The lists with the lowest coefficient and non-farmer/worker winners are then required to reorder their list to provide the necessary farmer/worker winners.

The Majoritarian System: In the 83 two-seat constituencies, the use of the absolute majority system and the requirement that at least one winner be a worker or farmer, necessitated voters to cast two votes. If two candidates do not receive absolute majorities or, if at least one of the winners is not a farmer or worker, a runoff race is required. In most districts a runoff race was necessary to determine the final winners. A simple majority system (where the highest vote winning candidates are awarded the seats) would alleviate the pressure and costs of conducting runoff elections. Furthermore, for any future replacement of elected officials, rather than conducting a supplementary election (as is currently the case), the substitute official could be identified as the next most popular candidate. The Carter Center therefore recommends that Egypt's authorities consider a simple majority system to replace the absolute majority approach.

¹² See Law Concerning the People's Assembly, Art. 5, which was repealed as of Oct. 8, 2011.

¹³ Law Concerning the People's Assembly, Art. 15-bis



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ELECTION ADMINISTRATION

A fully judicial supervisory commission, the Supreme Judicial Commission for Elections (SJCE), leads Egypt's transitional electoral authority.¹⁴ The SJCE oversees a mixed judicial and governmental General Secretariat that is responsible for coordinating and implementing the electoral operations.¹⁵ The SJCE is also supported in its work by subsidiary all-judge electoral committees in each governorate and general committees in each district. At polling and counting, judges directly preside over the work of staff drawn from the local civil service (predominantly teachers from the Ministry of Education), while judicial counting committees also supervise counting centers.

The institutional arrangement in place closely resembles the electoral administration that Egypt used in 2005, but has extended the judiciary's roles and authority.¹⁶ However, while the judiciary's role has been strengthened, the independence of the SJCE is not explicitly stated under the SCAF's Constitutional Declaration. The civil law system, which is highly prescriptive, tightly binds the SJCE. Furthermore the SCAF, as the interim executive and legislative branch during this transition has the ability to define and bind the actions of the SJCE through legal amendments, which undermines the SJCE's independence both in law, and in practice. The recent major revisions to the electoral laws made from May 19, 2011, onward have been subject to ongoing piecemeal amendments, making the electoral administrative process difficult to manage.

The SJCE was appointed on July 19, 2011, and the People's Assembly elections announced on Sept. 27, 2011. The SJCE, therefore, had a critically short period in which to become established, define inter-institutional relationships, develop electoral procedures, and train staff. As a result, the SJCE has relied heavily on the Ministry of Interior (MoI) to implement the electoral process. Operating through the General Secretariat, the MoI has been responsible for organizing the procurement and distribution of materials, logistical support, and operational arrangements.

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.¹⁷ The Carter Center therefore recommends that the future constitution explicitly provide for the independence of Egypt's election authority. However, independence is also affected by the ability of the electoral authority to not only supervise, but to implement an election. The SJCE has been dependent on the Ministry of Interior (MoI) to implement key electoral processes, but has not necessarily had the capacity to fully supervise these activities. A further recommendation of The Carter Center is therefore to suggest the establishment of a professional and permanent election administration, with a presence in all of Egypt's 27 governorates.

The Shura Council elections will be conducted in two phases under the SJCE. The presidential election however, will be conducted under a separate judicial commission (headed by the president of the Supreme Constitutional Court¹⁸). The current tenure of the People's Assembly (five years¹⁹), the Shura Council (six

¹⁴ The SJCE was originally titled as the High Elections Commission (HEC) per the Law on the Exercise of Political Rights (Law Number 73 of 1956, as amended), but its name was changed by the commission.

¹⁵ Law on the Exercise of Political Rights, Art. 3-bis(i). The General Secretariat, which is responsible for the implementation of the election, is constituted of judges, and a representative from the ministries of the Interior, Telecommunications and IT, and Local Development.

¹⁶ SCAF Constitutional Declaration of March 30, 2011, Art. 39

¹⁷ United Nations Human Rights Committee, General Comment 25 on the ICCPR, para. 11

¹⁸ SCAF Constitutional Declaration of March 30, 2011, Art. 28

¹⁹ SCAF Constitutional Declaration of March 30, 2011, Art. 34



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years²⁰) and the presidency (four years²¹) highlights that, as they will all be elected in 2012, the next major round of elections will occur in 2016 (presidential), 2017 (People's Assembly) and 2018 (Shura Council). This electoral calendar, which does not yet include local elections, highlights future risks of voter exhaustion and the high cost of elections. These likely costs are not trivial, especially given the associated indirect expense of closing courts (by the absence of judges) and schools for polling.

Electoral Operations

The SCAF's decision to extend polling to two days strengthened inclusiveness by enhancing the opportunity for voters to participate. However, it also heightened the challenges for the election administration. Procedural changes were necessary to arrange for the overnight security of used ballot boxes and other sensitive materials. Protocols for reconciling voter turnout and the use of ballots became more complex, and for poll workers, fatigue became a serious concern, especially as they had to conduct counting immediately after the second day of polling. The SJCE and election officials made a series of credible adjustments, although the extremely short timeframe and the lack of clear instructions, led to the inconsistent implementation of procedures between and within governorates.

For counting activities, the SJCE implemented a semi-centralized count process. Votes (sealed inside the ballot boxes), polling materials, and the polling committees were transported to counting centers located in each of the proportional representation districts. While polling committee staff was meant to travel with the votes and materials, the Carter Center's witnesses observed that on many occasions several staff members would travel separately due to inadequate space. Upon arrival at counting centers, it was widely witnessed that there was no formal system to intake²² the arrival of votes, materials, and staff. The absence of an intake process contributed to a chaotic atmosphere at entry in most centers. Overseen by counting committees, judges that presided at polling stations then supervised the counting of those votes, assisted by the same polling staff. In addition, results from the out-of-country Voting (OCV) were transmitted by the SJCE to the counting committees for inclusion into the final count.

Voters' Registry

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 Egypt's international commitments. The National Identity Card (NIC) database was adopted as the basis for the voters' list for the People's Assembly election. This move was widely accepted by stakeholders as a positive step for the integrity of the election, as the old voters' registry was reputed to have been a source of electoral manipulation under past regimes. In accordance with the law, the initial compilation of the voters' list was completed on July 20, 2011.²³ However, the SJCE is mandated by law²⁴ to oversee the preparation of the election list and was only appointed on July 19.²⁵ As such, the requirement that the SJCE fulfill this part of its mandate within this timeframe was unreasonable.

The voters' list was publicly displayed for examination between Aug. 20–31, 2011, and challenges to the accuracy of the records could be made up until Sept. 15, 2011.²⁶ However, information to the public about the exhibition and challenge process was poorly communicated. Many groups interviewed by Carter Center witnesses reported that most voters were unaware of the opportunity to inspect the records. In

²⁰ SCAF Constitutional Declaration, March 30, 2011, Art. 36

²¹ SCAF Constitutional Declaration, March 30, 2011, Art. 29

²² "Intake" here refers to procedures for ensuring that all polling station materials and staff have arrived at the counting center.

²³ Law on the Exercise of Political Rights, Art. 5-bis

²⁴ Law on the Exercise of Political Rights, Art. 3-bis(f)(2)

²⁵ Law on the Exercise of Political Rights, Art. 3-bis(f)(2)

²⁶ Law on the Exercise of Political Rights, Art. 5-bis



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addition, national and international witnesses could not be accredited at the time²⁷ of the voters' list preparation. The Carter Center would strongly recommend that future exhibition and challenge processes for the voters' list be the subject of extensive information campaigns and that election officials ensure that witnesses are accredited well in advance to view the entire process.

The decision to assign voters to specific polling stations based on their address as recorded in the NIC was an improvement over past practices. It provides a strong level of protection against multiple voting – a principal concern based on past types of election fraud and the challenges posed by the multiple election phases. The voters' list was available to political parties and voters were able to check their assigned polling station by telephone, website, and text message services. In spite of initial concerns, Carter Center witnesses observed that most voters were able to locate their assigned polling station. The Carter Center notes however that the assignment of voters to polling stations did not always keep families together to vote at the same polling station, which is usually beneficial for participation. The Carter Center recommends that in future elections, the list be prepared to keep families together.

Two provisions of the electoral laws heightened the importance of the accuracy of the NIC. First, the law established²⁸ that the NIC was the only form of identification that could be used by voters for polling. Second, the law²⁹ states that if a person is recorded in the voters' database and fails to vote without excuse, he or she is liable to a fine not exceeding 500 Egyptian Pounds (LE 500). In effect, this provision imposes an onus on voters to participate. However, in so doing, it also places a reciprocal responsibility on the electoral authorities to ensure voters are well informed about the election process, and their records are as accurate as possible. Together, these provisions emphasize the importance of the voters' database to credible elections in Egypt. The weak exhibition and challenge exercise was therefore a concern, and should be a focus of future efforts to ensure accuracy and confidence in the system. Overall however, the voters' list has largely been a source of positive comment and demonstrated a significant improvement for the integrity of the elections.

Regulations, Procedures, and Training

An important weakness of the electoral administration has been its lack of capacity, and arguably its unwillingness to exert its authority to interpret and define the electoral process. While the electoral laws are detailed in some elements (such as the polling process), the level of detail is inconsistent across the entire electoral process. For example, the laws lack detail on the counting process. The SJCE appeared reluctant to clarify ambiguities or to issue definitive instructions in this area to the general committees and presiding judges. The Carter Center's witnesses commonly observed different approaches being adopted by presiding judges. As such, The Carter Center would strongly recommend that the SJCE issue full and detailed regulations and procedures on all key elements of the electoral process, to ensure standard guidance is available to all election officials and other stakeholders.

International good practice and experience indicates that training and manuals that establish a consistent procedural approach are also vital to ensure a standard level of performance across an election.³⁰ The importance of these measures is particularly heightened for an operation that occurs over separate phases. The SJCE reportedly instructed the presiding judges that it was principally their responsibility to train³¹ poll workers. The SJCE issued a polling manual for judges shortly before the first round of elections, however many judges advised Carter Center witnesses that they did not receive it prior to the first round

²⁷ As the regulation for the accreditation of witnesses was not issued until Oct. 16, 2011.

²⁸ Law on the Exercise of Political Rights, Art. 31

²⁹ Law on the Exercise of Political Rights, Art. 40

³⁰ See for example, EU, Handbook for European Union Election Observation, second edition, p. 36

³¹ Carter Center witnesses reported that polling station staff did not undergo official training regarding their roles. In general, poll workers were given instructions by judges on the morning of the first election day, forcing them to learn on the spot.



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of voting. Furthermore, a counting manual was not produced. The lack of training was evidenced by inconsistencies in the implementation of activities by presiding judges, and caused uncertainty over their scope and application of authorities. In particular, there was wide variation in the treatment³² of illiterate voters at polling, and during counting, inconsistency in the determination³³ of a ballot as valid or invalid. The Carter Center recommends that full training materials be developed, and election officials be better trained for future elections.

Public Outreach and Voter Education

Voter education efforts are necessary to ensure an informed electorate is able to effectively exercise their right to vote.³⁴ The Egyptian legal framework does not establish a clear institutional mandate for voter education. However, even in the absence of an official mandate, an election authority has a responsibility to inform voters, political contestants, and stakeholders about the election process.³⁵ In particular, when there is a prospect of a fine for failing to participate, the electoral authority and government has a greater responsibility to inform voters.

Political parties and civil society organizations were both active in voter education, but their efforts suffered due to a lack of authoritative information from the SJCE or governorate committees to inform these efforts. In almost all governorates, Carter Center witnesses observed little to no evidence of official voter education and/or ballot education campaigns during the pre-election periods. For future elections, the law should establish a clear mandate for the election authority to undertake voter and civic education campaigns.

The lack of ballot education is a particular concern, especially in communities of illiteracy. At polling, voters were given two ballots, one for the party-list race and another for the individual candidates' race. The law³⁶ requires that when voters mark the ballot for the individual candidate races, they must select exactly two candidates. If fewer or more candidates are selected, or if there is any mark on the ballot that would indicate the voter's identity, it is ruled invalid. Similar legal provisions apply for the party-list race; the voter must select only one party. These strict rules impose a strong requirement for voters to receive extensive ballot education to ensure their vote is valid. Initial analysis of invalid ballot information from the SJCE indicates that the invalid ballot rate is over seven percent. This is a high rate of invalid ballots and emphasizes the demand for greater efforts in ballot education and voter education generally.

The frequent amendment of laws and procedures³⁷ imposed an additional onus on the authorities to communicate with electoral stakeholders in order to avoid confusion, misunderstandings, and misleading expectations. The SJCE however demonstrated a weak capacity for reactive messaging (responding to

³² Witnesses observed that judges lacked a uniform method when dealing with illiterate voters. On several occasions judges would mark the ballot for a voter, while in other instances, they would read out the names of individuals and parties or describe their respective symbols. Uniquely, one Carter Center witness reported that a judge allowed illiterate voters to first test-try a ballot outside the polling station before marking an official one inside.

³³ Carter Center witnesses observed that judges lacked consistency in the classification of invalid ballots. Judges appeared to have different decision-making criteria in deciding whether anti-government slogans or other extraneous writing on a ballot rendered it invalid.

³⁴ UNHRC, General Comment 25, para. 20

³⁵ See for example, international good practice as indicated by the U.N. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Art. 14: "The State has the responsibility to take legislative, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights."; European Union, Handbook for European Union Election Observation, second edition, p. 39: "Responsibility for impartial voter education often rests with the [electoral management body], frequently in conjunction with civil society and the media."

³⁶ Law Concerning the People's Assembly, Art. 5-bis

³⁷ For example, there was a lack of clear information from the SJCE regarding the use of expired national identity cards as a form of identification at polling.



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misinformation, emerging issues, or crises). Conflicting or erroneous information announced by officials, created confusion in several instances. The deliberations by the SJCE are by law secret, which compounds these problems and is a significant concern for the transparency of the SJCE's decision-making processes.³⁸

The SJCE's weak public outreach capacity was also evident in the critical process of announcing election results. In each round, results were often announced late and, due to the complaints process, subject to ongoing amendments. Delays and uncertainty directly impacted the time available for runoff candidates to campaign between rounds of elections. The uncertainty over results also detracted from the authoritative credibility of the SJCE. The Carter Center would therefore recommend that the SJCE take definitive steps to enhance its communication capabilities, including its reactive media capabilities, and to develop streamlined processes for the timely announcement of results and other information.

Out of Country Voting

After a successful legal challenge by several Egyptians abroad and a national non-governmental organization in late October 2011, the election for the People's Assembly included provisions for out-of-country voting (OCV) through Egypt's embassies abroad. The system in place allowed for OCV voters to register online using their National Identity Card number and personal information, download and mark their ballots, and submit them in a double-envelope procedure to the nearest embassy by mail, or in person. In total, just over 356,000 Egyptians abroad registered. The process has been the subject of minimal scrutiny and did not allow for direct judicial oversight of polling. While this system was rapidly designed and implemented, the lack of transparency associated with the process, the extent of judicial oversight, and the opaque process of how OCV votes are integrated into the election results should be a focus of improvement for future elections.

Election Security

As the principal security provider for the electoral process, the role of Egypt's security forces (military and police forces) has been a sensitive issue throughout the elections. Events in Tahrir Square and elsewhere during the election period marred the image of and public confidence in the security forces. As is normal, election security plans are not available to the public for operational reasons, but in Egypt's circumstances, this secrecy contributed to suspicion and speculation. Operational secrecy aside, the level and means through which security efforts are coordinated with the electoral authority do not need to be opaque. In addition, because election security can limit the principles of freedom of assembly, freedom of association, and freedom of speech, efforts to explain and build confidence in the role of security forces should be stressed. As such, intensified efforts to explain and repair public confidence in the role of security forces are strongly recommended.

Carter Center witnesses generally observed the performance of security forces in connection to the election process as consistently competent. The security of the electoral environment throughout the three phases was peaceful overall, but witnesses still observed several cases of electoral violence. These incidents included verbal harassment and some instances of physical violence between candidates and parties. There were also several instances of security forces acting beyond their authority, denying national and international witnesses access to polling and counting centers, and appearing to enter these sites without the required invitation from presiding judges. Also, it was broadly observed by Carter Center witnesses that military personnel appeared to have a leadership responsibility over police forces. Carter Center witnesses reported at least a few instance in which army personnel released gunfire into the air and threatened to use *tasers* to control crowds at polling centers. The use of these inappropriate crowd control measures may be the result of a lack of adequate training and guidance on proper conduct during

³⁸ Law on the Exercise of Political Rights, Art. 3-bis(d)



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elections. The Carter Center would recommend that the normative roles of police and military forces be asserted, where military forces would act in support of police-led security. Security forces should also be better trained in the appropriate and proportionate use of force, with a focus on de-escalating potential conflict or violence.

It is important for the judiciary as election administrators to be both demonstrably and visibly in control of the election process. Polling activities are a main point of interaction between the general public and the electoral administration, and are therefore critical in terms of public perception. While judges are inside polling stations, their lack of visibility and presence in and around the polling centers is a concern. Similarly, at counting centers, judges have been absent at the point of access where the public is most able to view the process. Instead, security forces have been most visible at these points, which undermines the visible authority of the judiciary. The Carter Center's earlier recommendation that extra judicial officials be assigned to liaise directly with security forces and voters at polling and counting center access points would mitigate this concern.

LEGAL FRAMEWORK

As noted above, Egypt's electoral laws have changed significantly since the departure of President Mubarak. The SCAF, as the country's legislative authority, has greatly amended existing laws to establish the framework for the 2011-2012 People's Assembly elections. The primary laws governing Egypt's Parliamentary electoral framework are the Law on the Exercise of Political Rights (No. 73 of 1956) and the Law Concerning the People's Assembly (No. 38 of 1972). The Law on the Exercise of Political Rights governs the right to vote and voter eligibility. It establishes the SJCE and outlines its authority over the administration of the Parliamentary electoral process. It also governs voter registration, the voting and counting processes, as well as election-related crimes. The Law Concerning the People's Assembly establishes the electoral system for the People's Assembly as described above.³⁹

Egypt is signatory to the following international conventions or treaties, among others: the International Covenant on Civil and Political Rights (ICCPR);⁴⁰ the International Convention on the Elimination of all Forms of Racial Discrimination;⁴¹ the Convention on the Elimination of Discrimination against Women (CEDAW);⁴² the Convention on the Political Rights of Women; the Convention on the Rights of Persons with Disabilities;⁴³ the United Nations Convention against Corruption;⁴⁴ and the Universal Declaration of Human Rights.

The Emergency Law and the use of Military Trials

The Carter Center reiterates its concern about the continuation of the Emergency Law, which has been in effect throughout the parliamentary electoral process. The current Emergency Law runs counter to basic principles of the rule of law.⁴⁵ The reasons⁴⁶ provided by the Egyptian military when it decided to renew

³⁹ Another significant law is the Law Concerning the Shura Council (Law Number 120 of 1980, as amended), which establishes the electoral system for the upcoming Shura Council elections.

⁴⁰ Ratified, 08/04/1967

⁴¹ Ratified 09/28/1966

⁴² Ratified 07/16/1980

⁴³ Ratified 04/04/2007

⁴⁴ Ratified 02/25/2005

⁴⁵ United Nations, Economic and Social Council, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, para. D. 58-60: "No state party shall, even in time of emergency threatening the life of the nation, derogate from the Covenant's guarantees of the right to life; freedom from torture, cruel, inhuman or degrading treatment or punishment... freedom of thought, conscience and religion. These rights are non-derogable under any conditions even for the asserted purpose of preserving the life of the nation...the ordinary courts shall maintain their jurisdiction, even in a time of public emergency, to adjudicate any complaint that a non-derogable right has been violated."



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the law in September 2011, a renewal that many feel was in and of itself an illegal act,⁴⁷ may be addressed effectively through Egypt's civil law system. Although the military or police have appeared to refrain from implementing the Emergency Law to enforce restrictions on electoral speech and activities, its existence still produces a chilling effect that stifles free expression and assembly, which are absolute conditions for a healthy electoral process within a functioning democracy.

The Carter Center also reiterates its concern regarding the use of military trials for civilian suspects. To date, it has been reported that 12,000 civilians have been brought before military tribunals.⁴⁸ Such measures can stifle political dissent and instill fear among Egypt's citizenry, ultimately limiting the civil and political rights of citizen electors as defined by both national laws and international commitments regarding democratic elections.

For these reasons, The Carter Center recommends that the Emergency Law be rescinded and that any future application of the Emergency Law be narrow in scope, based on absolute and verifiable necessity, and tightly limited in duration. It should ensure due process rights before civilian courts for any civilians charged under its provisions.

The Law Against Political Corruption

In November 2011, the SCAF enacted a law banning political corruption, defined in part as crimes committed by those who seek to corrupt "political life."⁴⁹ The law, which requires that an alleged perpetrator be tried and convicted in criminal court, carries with it a penalty of a ban from serving as an elected official, or from being a member of a party, for a period of five years. The law was widely reported⁵⁰ to have been adopted to address the participation of some former members of Hosni's Mubarak's NDP in Egyptian politics.

The Carter Center recognizes that certain elected officials or other officials from previous regimes may be responsible for corrupt acts, and should be tried in accordance with existing laws governing abuse of power, financial corruption, or other relevant laws. The Carter Center is concerned, however, that any Egyptian government could use provisions of the Law Against Political Corruption, which include vague references to "political" crimes, in an unjust manner against political opponents. The Carter Center hopes that lawmakers or the courts will establish clear, fair standards for each of the elements of "political corruption" under this law, or if this cannot be done, will repeal these provisions of the law.

ELECTORAL DISPUTE RESOLUTION

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process.⁵¹ Voters and other electoral stakeholders must be given, and must perceive

⁴⁶ This included concerns reported to have been expressed by leaders regarding an attack by protestors on the Israeli Embassy in Cairo, the existence of "thuggery" generally, and other alleged criminal activities. See, for example, Tamim Elyan, "Egypt's army says that emergency law in place till June," Reuters, Sept. 21, 2011: <http://www.reuters.com/article/2011/09/21/us-egypt-emergency-idUSTRE78K3WK20110921>.

⁴⁷ Pursuant to the SCAF Constitutional Declaration of March 30, 2011, Art. 59, a state of emergency must be for a time period of no greater than six months. It is not permissible to extend it beyond six months without a public referendum.

⁴⁸ Human Rights Watch, "Egypt: Retry or Free 12,000 after Unfair Military Trials," Sept. 10, 2011:

<http://www.hrw.org/news/2011/09/10/egypt-retry-or-free-12000-after-unfair-military-trials>.

⁴⁹ SCAF, press release entitled "SCAF Adopts Political Corruption Legislation", Nov. 19, 2011, for additional details in English on the amended law's new provisions: <http://www.sis.gov.eg/vr/policy/policy.pdf>.

⁵⁰ Human Rights Watch, "Egypt: Draft 'Political Corruption' Law Invites Abuse," Oct. 26, 2011:

<http://www.hrw.org/news/2011/10/26/egypt-draft-political-corruption-law-invites-abuse>.

⁵¹ ICCPR, Art. 2(3): "Each State Party to the present covenant undertakes: (a) to ensure that any person whose rights or freedoms are herein recognized as violated shall have an effective remedy, not withstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto



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that they possess, a voice in the quality of the electoral process if the process is to retain credibility.⁵² A transparent electoral dispute resolution system is particularly important to address potential instances when sophisticated electoral stakeholders, such as political parties and candidates, attempt to manipulate inappropriately the dispute resolution system to achieve more favorable electoral outcomes.

Egypt has all the tools necessary to establish a comprehensive, transparent system for receiving, investigating, and adjudicating all electoral complaints fairly and expeditiously. This is due in part to the constitutionally mandated supervision of the electoral process by judges, including the prominent role played by judges within the SJCE, and because of the existence of Egypt's well-established and well-respected courts. In spite of these resources, however, Egypt has an electoral dispute resolution system that is not only largely ineffective, particularly for ordinary voters, but that actually causes significant damage to the electoral process itself, through the high number of court-ordered "re-run" elections.

Carter Center witnesses found in many instances a lack of understanding about the process for registering a complaint among Egyptian voters, some party and candidate representatives, and some candidates themselves. Furthermore, a wave of late court decisions issued shortly before, on, or shortly after election days, including some apparently resulting from complaints filed by parties after the legally mandated deadline for filing challenges to candidate or party lists, have caused serious disruptions of the electoral process. As a result, districts in several governorates across Egypt have been forced to re-run individual candidate or list elections in accordance with these last-minute court decisions.

Consolidating and Clarifying the Electoral Complaints Process

Many Egyptians do not seem to be aware of their full rights to initiate complaints regarding the electoral process, including the processes for filing a complaint and what constitutes electoral misconduct.⁵³ It may be that most Egyptians are aware of the role of the judge within a polling station as the authority on alleged violations, and Carter Center witnesses did report that many judges at the polling station level made a conscientious effort to resolve complaints occurring within their polling stations. However, voters appeared to have little knowledge of or guidance on how to make allegations of electoral misconduct in a variety of other circumstances. Examples of such circumstances include allegations of misconduct occurring before election day; allegations of misconduct occurring within polling centers but outside polling stations; allegations of misconduct by police, military, and other security personnel; and allegations of misconduct by the polling station judges themselves.

Political parties, candidates, and other more sophisticated actors, however, seemed to largely bypass the SJCE and avail themselves directly of Egypt's courts⁵⁴ to resolve complaints regarding alleged irregularities in the electoral process. Unlike filing complaints through the polling station judge or with the SJCE, complaining parties in the courts are guaranteed a decision on their complaint, and the court, through executed judgments, has the authority to compel remedies. Court decisions are recorded, and copies of the decisions are provided to parties in the case.

determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted."

⁵² United Nations Human Rights Committee, General Comment 32 on the ICCPR, para. 25: "The notion of fair trial includes the guarantee of a fair and public hearing."

⁵³ Law on the Exercise of Political Rights, Art. 3 -bis(f)(4), designates the SJCE for "[r]eceiving reports and grievances in connection with the electoral process and verifying the validity and eliminating the causes thereof."

⁵⁴ Egypt's State Council or Administrative Court system has jurisdiction over complaints regarding the electoral process up until the moment that results in an election are officially announced. Egypt's Court of Cassation has the authority to hear challenges to the membership of candidates to the Parliament for a period of 30 days from the moment that results are announced.



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As a matter of basic fairness, whether it is through the courts, through an electoral management body, or through some other entity, Egypt's leaders should take steps to consolidate and clarify its electoral dispute resolution system. This includes taking greater steps to educate the public on the right to file a complaint, easing the process for ordinary citizens to file complaints (for example, through the use of standardized complaint forms), and by lowering barriers to access (for example, ensuring there are no fees for filing complaints and establishing multiple sites within a governorate where individuals may file complaints). Such a system should ensure that every complaint is considered, even if it is rejected, and that decisions on allegations are publicized in a way that will instill confidence in any Egyptian complainant that his or her complaint was heard.⁵⁵

Untimely Disruption of the Electoral Process through the Courts

Recent court decisions have resulted in a serious disruption of the electoral process. Specifically, the Egyptian administrative courts have issued a number of rulings during the first, second and third phases of elections that have resulted in decisions to re-run elections in various districts. Many of these decisions appear⁵⁶ to be related to matters that should have been resolved during the candidate challenge phase.⁵⁷ It is needlessly wasteful and potentially damaging to the credibility of the electoral process to require re-run elections in many of these cases. The Law Concerning the People's Assembly and the Law Concerning the Shura Council contain clear deadlines for candidate challenges, the publication of party and individual candidate lists, and other aspects of the electoral timeline. The Carter Center urges the SJCE and the courts to adhere to the deadlines contained within these laws to prevent the needless re-running of elections going forward.

Potential Conflicts of Interest

The Carter Center also notes with concern the possibility of a conflict of interest existing for judges adjudicating election-related cases, given that elections are largely administered at the national, governorate, and sub-committee level, by their fellow judges. In accordance with internationally recognized standards regarding judicial independence and ethics, Egyptian judges should take transparent steps to ensure that judges adjudicating election-related cases have no conflicts of interest, or appearances of conflicts of interest, with judges supervising the electoral process who might be associated with the case at issue.⁵⁸

⁵⁵ The Egyptian electoral dispute resolution system renders analysis of decisions, and consequently the development of the steps necessary to address in future elections the causes of electoral violations, extremely difficult. It does not appear that the SJCE records or publishes the outcome of electoral complaints that it has received. Although courts issue decisions in election-related cases, there is no easy method to access and compile these decisions. An additional advantage of a consolidated electoral dispute resolution system would be the facilitation of recordkeeping regarding election-related remedies and penalties, so that results can be analyzed, and problem areas pinpointed for future elections.

⁵⁶ Administrative court decisions in Egypt are extremely difficult to obtain. They are often hand-written documents that are provided to interested parties only. Decisions are not officially compiled and published until a significant period of time after judgments are issued. Decisions are not posted on-line and are not available for public scrutiny at the courthouse itself.

⁵⁷ This is spelled out in Articles 9 and 9-bis of the Law Concerning the People's Assembly. The Carter Center has also heard reports that litigants in election-related cases have obtained judgments, which they have purposefully had executed only shortly before election results are announced to affect electoral outcomes. We have also heard reports that some litigants are using unexecuted judgments as a bargaining chip to obtain benefits or extract concessions from other parties or candidates. Lawmakers and courts should ensure that the execution of all administrative court judgments occurs within a short time period after the judgment is issued, so that litigants may not unfairly spring executed judgments upon the SJCE shortly before the announcement of election results.

⁵⁸ Impartiality, and the perceived impartiality, of the judiciary is a widely recognized condition for an equitable judicial process. See, for example, the Bangalore Principles of Judicial Conduct (2002), Application 2.5, "A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially..." See also General Comment 32, para 21: "the tribunal must also appear to a reasonable observer to be impartial."



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Potential Abuse of the Cassation Court's Authority to Remove Seated Parliamentarians

The Court of Cassation has the authority to hear complaints regarding the validity of the membership of members of the People's Assembly.⁵⁹ Complaints must be filed within 30 days after results are announced. The Court then has up to 90 days to render a decision. If it finds that an accused parliamentarian did not possess "valid" credentials to serve in Parliament, the Court may order his or her removal.

Undoubtedly, there are cases where a sitting parliamentarian should be removed, for example, if evidence emerges of fundamental fraud in his or her nomination application. However, it is unclear what standards the Court will apply generally in hearing these cases. Disqualification of a large number of seated parliamentarians, especially if the court's actions are perceived as favoring or disfavoring any political party or faction in particular, could destabilize Egypt's new democracy.

The lengthy timeline for consideration and adjudication of these complaints is also cause for concern. During the first 120 days of the People's Assembly, members will likely make momentous decisions regarding the appointment of a constitutional drafting committee and the development of the new Constitution itself. The People's Assembly will weigh in on sensitive topics such as the future role of the military in government, the language of Article 2 of the previous Constitution governing Egypt's Islamic character, and the power and authority of the President of Egypt. The Carter Center recommends that Egyptian lawmakers shorten the timeline for submission and adjudication of complaints so that potential decisions to remove members do not result in the likely disruption of the operation of the People's Assembly once it has been seated.

CANDIDATES, PARTIES, AND THE CAMPAIGN ENVIRONMENT

Equitable treatment of candidates and parties during an election as well as the maintenance of an open and transparent campaign environment are important to protecting the integrity of the democratic election process.⁶⁰ Carter Center witnesses observed a vibrant campaign process. Campaign rallies appeared to take place with little or no restrictions throughout Egypt. Candidates and parties posted campaign posters and banners in all areas of the country. It is worth noting, however, that as The Carter Center previously reported, some parties suspended their campaigns in response to events in Tahrir Square.

Campaign Silence Period Violations

The single most common, and most visible, electoral violation observed by Carter Center witnesses was unauthorized campaigning during the two-day campaign silence period before the first polling day for each of the three electoral phases, and the one-day campaign silence period before the first polling day of runoff elections for each phase.⁶¹ Campaign tactics employed during silence periods included the use of mobile loudspeakers and the dissemination of flyers. Although campaigning during the campaign silence periods appeared to decrease in subsequent phases,⁶² witnesses continued to report violations in several governorates during the third phase of polling. Both political parties and several individual candidates violated the campaign silence provision.

Given the extreme difficulty in defining what constitutes "campaigning," and in enforcing silence time provisions throughout an entire electoral district, The Carter Center recommends that lawmakers abandon

⁵⁹ Law Concerning the People's Assembly, Art. 20

⁶⁰ U.N. ICCPR, Art. 25(b)

⁶¹ SJCE Regulation No. 21, Section 3

⁶² It is likely that campaigning during the campaign silence period decreased during phases two and three for several reasons, including because of efforts by political parties to curb illegal campaigning by its members, public statements by the SJCE reminding Egyptians of prohibitions against campaigning, and widespread denunciations of silence time campaigning in Egyptian media, including Egyptian social media, following phase one.



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the use of a campaign silence period altogether and adopt campaign limitations based on proximity to polling centers on election days. Doing so will facilitate enforcement as officials need only ensure that there is no unauthorized activity occurring within, perhaps, 50 or 100 meters of a polling center, rather than having to determine whether any activity occurring anywhere within a governorate constitutes illicit campaigning.

Religious Slogans

One of the most serious allegations of misconduct that can be made in Egyptian electoral politics is that a candidate or party is engaging in the use of religious slogans for campaign purposes. According to the Law Concerning the People's Assembly and SJCE regulations,⁶³ the use of religious slogans will result in the removal of the offending candidate from the electoral process. Despite this, Carter Center witnesses regularly received reports of the use of religious references during the campaign period without penalty.

This provision, however, appears to be excessively vague. It is easy to imagine slogans or other campaign rhetoric that falls within gray areas under this prohibition. A significant debate, for example, has taken place in Egyptian political circles regarding the legality of the slogan, "Islam is the Solution," the traditional slogan of the Muslim Brotherhood. Opponents have claimed that the phrase is religious in nature and that candidates that employ this phrase in their campaigns should be disqualified. Supporters contend that the phrase is derived from Egypt's Constitution and is therefore allowable. A court recently ruled that the use of this phrase was permissible. The Carter Center urges lawmakers and other election officials to take steps to clarify further provisions regarding the use of religious slogans, to prevent it from being applied unevenly, and potentially from being used to persecute certain candidates or parties.

Campaign Finance

Regulatory provisions regarding campaign finance do not include any reporting requirements for parties or candidates, or explicit enforcement mechanisms against violators.⁶⁴ The SJCE currently lacks both the authority and the capacity to investigate alleged violations. The failure to include reporting and enforcement provisions in the law and regulations governing campaign finance render the explicit restrictions on spending by candidates and parties effectively meaningless.⁶⁵

The Carter Center recommends that parties and candidates be required to fully, accurately, and periodically disclose contributions received and expenditures made on behalf of their campaigns. These reports should be made public. Egypt's lawmakers should invest election officials, or other law enforcement officials, with clear authority to investigate and prosecute allegations of campaign finance violations. Additionally, lawmakers should also address potential loopholes⁶⁶ in campaign finance regulations, so that parties and candidates may not skirt campaign-finance restrictions by improperly relying upon independent spending by individuals, charities, or other domestic or foreign sources.

⁶³ Law Concerning the People's Assembly, Art. 11(2); SJCE Regulation No. 21, Art. 5; and SJCE Resolution No. 67 of 2011

⁶⁴ The United Nations Convention Against Corruption, Art. 7 (3) states that "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."

⁶⁵ SJCE Regulation No. 21, Sec. 4 states that the maximum amount that a candidate for either an individual district or party list seat may spend on a campaign is 500,000 LE (approximately US \$83,333), with a maximum of an additional 250,000 LE (approximately US \$41,667) for runoff election campaign expenditures.

⁶⁶ Spending by wealthy individuals on behalf of parties, and by charities, has been reported. Additionally, there are reports that some parties or candidates have received funding from charities that in turn have received foreign funding.



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Candidate/Party Agents and Representatives

Candidate or party representatives, and candidate or party agents,⁶⁷ were a visible presence in polling stations and counting centers. They played an important role in the electoral process. Specifically, representatives typically serve as witnesses for the opening of polling stations. They also can act as an important check against the potential of electoral violations committed by other agents or representatives, as well as by judges and poll workers.

Carter Center witnesses reported a few areas of concern regarding the role of candidate and party representatives and agents:

- In the majority of polling stations and counting centers accessed by Carter Center witnesses, representatives and agents were difficult to identify. Officials should require that all agents and representatives wear a badge, armband, or other identifying mark to ensure that all present are aware of their status and role in the process.
- Some Carter Center witnesses reported that representatives were assisting judges and poll workers in the sealing of ballot boxes, and in the transporting of ballot boxes from delivery trucks to counting centers. As part of a more comprehensive training program, electoral officials should ensure that all electoral functions are performed impartially and by authorized personnel only.
- In a few instances, Carter Center witnesses observed incidents of representatives campaigning on behalf of their parties or candidates within the polling center. Electoral administrators should take steps to ensure that no campaigning takes place on the grounds of the polling center, and that representatives and agents are educated on campaign law and regulations.

WITNESSING THE EGYPTIAN ELECTIONS

The Process and Timing of Electoral Witness Accreditation

Consistent with international good practices that encourage transparency in elections, Egyptian law recognizes the importance of impartial scrutiny of the election process by making specific provision for witnessing by national and international civil society organizations (CSOs). The Law on the Exercise of Political Rights mandates⁶⁸ the SJCE to regulate the engagement of Egyptian and international civil society organizations in witnessing all electoral processes. The SJCE issued Regulation No. 20 on Oct. 16, 2011, articulating the rules for CSOs to witness the election. The deadline for CSOs to apply for witness status was Nov. 19, 2011.⁶⁹

The decree identified the Egyptian National Council for Human Rights (NCHR) as the entity responsible for collecting, examining, and transmitting national CSO applications to the SJCE.⁷⁰ In elections during the Mubarak era, the NCHR also oversaw applications for national witness status. Reportedly, it was a more burdensome, expensive process during this era; for example, CSOs were charged a fee for each witness application. The Carter Center supports the SJCE's decision to end the fee requirement and the NCHR for facilitating a more inclusive accreditation process for national witnesses.

Unfortunately, the timing of the decree to allow for CSOs to participate in the process was late. The compilation and exhibition of the voters' list was complete by mid-September, and several key negotiations over the electoral process were already complete. Effective scrutiny and transparency of the election process should allow domestic and international CSOs to have access to all significant electoral activities, as well as direct access to the election authorities. We would encourage Egyptian authorities to

⁶⁷ Representatives are drawn from the registered voters of a particular electoral district and are generally based at the polling station during election days. Agents may act on behalf of candidates or parties in polling centers and counting centers.

⁶⁸ Law on the Exercise of Political Rights, Art. 3-bis(f)(5)"

⁶⁹ SJCE Regulation No. 24, Art. 1

⁷⁰ SJCE Regulation No. 20, Art. 3



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consider and approve applications to observe from electoral observation organizations at the earliest possible instance, and before the commencement of the electoral process.

“Witnesses” versus “Observers”

Egyptian authorities objected to the term “observer,” which they felt might incorrectly connote a supervisory role for observers over the electoral process. Egypt ultimately accepted both domestic and international CSOs to serve as “witnesses” to the electoral process and allowed them to operate in a manner consistent with internationally recognized standards for observation. For future elections, however, The Carter Center recommends that Egypt allow CSOs to use the commonly recognized term “observer”⁷¹ for all electoral observation missions, both domestic and international. This will prevent the incorrect characterization of election “witnesses” as having less than internationally recognized rights concerning the electoral process.

Witness Access to the Electoral Process

In the course of the People’s Assembly election, Carter Center’s witnesses were present in every governorate during all rounds of the electoral process, including runoff elections. In the first phase, witnesses faced several difficulties, albeit isolated, with access to polling and counting locations. In certain cases, presiding judges were unaware of the role and rights of international CSOs as witnesses, and were unfamiliar with the official accreditation provided to them by the SJCE. During the second phase, this improved. On occasion, however, witnesses were denied access by security forces controlling access to polling and counting centers.⁷² In several instances, witnesses were also informed that overcrowding in counting centers was the reason for the denial of access. During the third phase of polling, Carter Center witnesses noted that access of observers, party agents, and candidates at a few sites was obstructed by security officials, claiming they had received instructions to restrict access.⁷³ Overall, restrictions on access occurred with more frequency in rural rather than urban governorates. In spite of these difficulties, Carter Center witnesses were in most cases welcomed by voters, election officials, and security officials. It is noteworthy that national witnesses also reporting facing difficulties at times accessing polling stations and counting centers. Freedom of access to all parts of the electoral process is essential for proper electoral observation. For future elections, The Carter Center recommends that information and awareness about the role of CSO witnesses be better communicated to election and security officials and that full access is given to the entire electoral process.

Ensuring access, and particularly equitable access, to electoral officials demonstrates a commitment to the principles of transparency and accountability. The Carter Center would like to express its appreciation to Egypt’s electoral officials and other decision makers for demonstrating this commitment through their helpfulness and willingness to provide information about the electoral process when that information was available. The Carter Center notes with concern, however, that accredited national CSOs did not enjoy the same level of access to the SJCE, but rather had to work through the NCHR as an intermediary. The Carter Center recognizes the difficulties faced by the SJCE in providing access to information for some 134 accredited CSOs regarding the elections. These CSOs, however, are important stakeholders in the electoral process and The Carter Center would urge the SJCE to take extra measures to ensure accredited

⁷¹ The closest word in Arabic to “observer” would be “muraqib.” Witnesses were designated in Arabic as “mutaba” on badges issued to them by the SJCE.

⁷² Of the 2,027 polling stations visited by Carter Center witnesses in each of the three phases of the election, witnesses were denied access to only 23 of them. Of the 80 counting centers accessed by Carter Center witnesses, witnesses were ultimately granted access to all but two of them.

⁷³ Security officials added in some cases that these instructions were issued as a result of the raids on international and domestic CSOs that took place on Dec. 29, 2011. These officials were unable to provide written confirmation of the instruction, and declined to identify themselves. It should be noted that the Ministry of Foreign Affairs (MoFA) and the SJCE have assured The Carter Center that no such instructions were issued.



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national CSOs have access to electoral officials. One measure for managing this kind of access would be for governorate-level SJCE officials to hold regularly scheduled briefings that include a question and answer period in their governorates throughout the course of the election process.

PARTICIPATION OF WOMEN

Women enjoy the same fundamental right as men to participate in the public affairs of their state, including voting in elections and participating in other aspects of the electoral process.⁷⁴ However, Egypt's historic leadership in advancing women's political participation has reversed in the past decades and the People's Assembly elections were catastrophic in this regard. Barriers to women's participation in politics are related to cultural and structural factors (family requirements, fewer financial resources, norms of male leadership)⁷⁵ as well as election-specific factors, such as the choice of electoral system, district magnitude, and gender quotas.

Women's political empowerment in Egypt consistently ranks among the bottom 10% of countries worldwide⁷⁶ and the subject has been an area of intense debate over the past year. Former First Lady Suzanne Mubarak was promoted as the national face of the women's movement from 2000 until the revolution. In the backlash against the Mubarak regime, laws advancing women's rights have largely been attacked as "Suzanne's Laws" (e.g., tools of Mubarak-era repression) by many, including some women's rights groups.

Women Candidates in the 2011-2012 People's Assembly Elections

The Constitutional Declaration of March 30, 2011, eliminated the quota for women's representation in the People's Assembly that had been employed during the 2010 election (64 seats reserved out of 508). Instead, minimal participation for women in the People's Assembly and Shura Council was recognized in Article 38 of the Constitutional Declaration of March 30, 2011. However the term "minimal" was not defined by a specific percentage or number of reserved seats. This meager protection was eliminated entirely from the Constitutional Declaration through a Sept. 25, 2011, amendment.⁷⁷

Women's participation is legally guaranteed only by a token quota for party lists, but there is no requirement for women to be present in the elected People's Assembly. The electoral legislation⁷⁸ requires at least one woman candidate to be included on closed party lists, but the failure to specify their position within the list resulted in over 70 percent of female candidates being ranked in the bottom half of their party lists.⁷⁹ In all, only seven percent of the 670 female candidates recorded in party list races were placed in the first quartile of their party lists.

Although consistently weak, placement of female candidates on the lists varied somewhat between coalitions. Parties unaffiliated with a coalition placed women in the first quartile of list positions 9.5 percent of the time and were more likely to include more than one female candidate on a list. In contrast, none of the 46 female candidates running under parties affiliated with the Islamist Bloc were placed in

⁷⁴ U.N., ICCPR, Art. 25 (b); U.N., CEDAW, Art. 7

⁷⁵ Ministry of Economic Development, *Egypt Achieving the Millennium Goals: A Midpoint Assessment*, 2008

⁷⁶ Global Gender Gap Project, World Economic Forum: www.weforum.org/issues/global-gender-gap

⁷⁷ The SCAF issued on Sept. 27, 2011, a decree amending some provisions of the Law Concerning the People's Assembly and the Law Concerning the Shura Council. Art. 2, para. 5 of the decree indicates that party lists should include at least one female candidate.

⁷⁸ Law Concerning the People's Assembly, Art. 3, which states in part: "In all cases, each list should include at least one female candidate."

⁷⁹ Data presented here was compiled by The Carter Center from party lists made publicly available by the SJCE. The data reflects the state of the party lists at the time of the elections to the best of Carter Center knowledge at this time. Note that several lists were the subject of legal rulings at the time of writing and some discrepancies may exist.



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first quartile positions. 94 percent of Islamist Bloc⁸⁰ female candidates were placed in the bottom quartile of their party lists.⁸¹ The perception of “token” female candidates was reinforced by the representation of women on the campaign posters and literature of some conservative parties. Carter Center witnesses reported that across the country, women candidates’ faces were at times replaced with a picture of a flower, and their names by the names of their husbands, on party literature.

In all, 339 women ran for office in the majoritarian races. None won seats. Only one reached a run-off competition.⁸² The profile of women running for majority seats was generally urban (over 40 percent of the 339 came from Cairo, Giza, and Alexandria) and white collar (over 74 percent), indicating that political participation may be largely inaccessible to working class and rural women. Although larger district magnitudes for closed list races tend to favor female candidates, the vast geographic size of some rural districts coupled with limited access to campaign resources and traditional restrictions on women’s travel in many areas heightened the challenges for women running for office.

Women candidates often require more time to mobilize financial resources and support (or, in some cases, family permission) for their candidacies. The brief period of time allowed for candidate registration may have therefore diminished access for female candidates in the election races for the People’s Assembly. Further, as the Shura Council candidate nominations were completed simultaneously with the People’s Assembly, this effect is expected to carry over into the upcoming elections for the upper house.

In all, eight women won elected seats in the People’s Assembly and two were appointed by the SCAF, bringing the total percent of women in the People’s Assembly to just under two percent. This number falls far short of the 12.6 percent guaranteed by the quota in the 2010 Parliament and reflects a regression to levels from a decade ago, when women represented 1.8 percent of the People’s Assembly from 2000–2005.⁸³

Women’s Participation in Electoral Administration

No women served in senior electoral administration positions within the SJCE and no special measures (such as a designated committee) were introduced to promote women’s participation as candidates or voters or to examine legal shortcomings in this area. Women participated in the elections as judges, poll workers, observers, and political party agents or representatives. Although women only constituted 2.6 percent of judges in polling stations visited by Carter Center witnesses during the three phases, their presence was more notable (although still unequal) in other roles. In polling centers visited by Carter Center witnesses during the three phases and run-offs, Carter Center witnesses reported that women constituted over 37 percent of political party agents and 31 percent of domestic observers. Despite SCAF Decision 69 (issued Dec. 10, 2011) requiring at least one female poll worker to be present in each polling station, a number of polling stations visited by Carter Center witnesses did not have any female poll workers.

The Carter Center strongly recommends that women be represented at all levels of the electoral administration. This includes the current SJCE national committees, as well as future electoral management bodies. While the law presently stipulates that the membership of these committees is based

⁸⁰ The Islamist Bloc is a coalition that is comprised of the Salafist Al-Nour and Al-Asala Parties as well as the Building and Development Party.

⁸¹ Respective list positions for women running under the four coalitions are as follows: Democratic Alliance 2% 1st quartile/48% 4th quartile; Egypt Bloc 6% 1st quartile/33% 4th quartile; Islamist Bloc 0% 1st quartile/94% 4th quartile; Completing the Revolution 3% 1st quartile/38% 4th quartile.

⁸² Ne’mat Rashad Mohamed (worker, 3rd Gharbeya District)

⁸³ Gender Assessment USAID/Egypt (2010)



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on incumbents within key judicial posts, the addition of female representatives as a special measure is strongly recommended.

Participation of Women Voters

A lack of adequate voter education negatively impacted women's participation, especially given lower rates of literacy among women.⁸⁴ Carter Center witnesses reported widespread pressure on women voters, including, for example, the threat that a woman voting for a different candidate than that chosen by the family or tribe constitutes legal grounds for divorce. Although witnesses reported that many voters failed to protect the secrecy of their ballots by choice, the lack of awareness and enforcement of secrecy provisions may have reinforced the pervasive practice of family voting. The Carter Center did not have access to gender disaggregated voter turnout data and recommends that the SJCE make this data publicly available.

Recommendations regarding Women in Egypt's Electoral Process

Without a concerted effort on the part of the political and electoral leadership, women's representation in government is likely to remain well below levels specified by Egypt's international commitments. In order to meet these obligations,⁸⁵ The Carter Center urges stakeholders to take definite steps on improving women's participation and representation. At this stage of Egypt's transition, an imperative exists for women to be extensively represented in the constitutional drafting committee, and future representation to be secured in the new constitution. The Center recommends that a minimum 30 percent quota be introduced to ensure the effective representation of women in both houses of the legislature.⁸⁶ As noted above, women should be represented in the senior electoral administration and the electoral management body should proactively address the specific needs of female candidates and voters. Any revisions to the electoral system should be assessed for their gender impact.

Women's participation would be enhanced by encouraging and supporting state and non-state organizations mandated to support women's participation, especially voter education and the training of female candidates. This may include taking rapid action to resolve the lingering disagreements that have rendered the National Council for Women⁸⁷ ineffective since the revolution and empowering it, or a similar body, to actively promote women's participation in all levels of state activity. Alleged acts of sexual violence against female protesters and journalists by civilians, military, and police should be investigated and Egyptian authorities should adopt a firm, public stance against impunity on sexual assault.

MEDIA ENVIRONMENT

Broadcast media plays a pivotal role in the electoral process. Information to the public about voters' rights, the electoral process and, candidate and party information are essential to creating an informed

⁸⁴ Adult female literacy as a percentage of male literacy is 77 percent (2005-2008), UNICEF:

http://www.unicef.org/infobycountry/egypt_statistics.html.

⁸⁵ CEDAW, Art. 7, requires States to eliminate discrimination in public and political life, and especially ensure the rights to: vote and be eligible for election; participate in the formulation and implementation of government policy; hold public office and perform public functions at all levels; and participate in non-governmental and civil society organizations.

⁸⁶ CEDAW Committee, General Recommendation No. 5, para. 15: "Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies."

⁸⁷ Established by Presidential Decree Number 90 of 2000



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electorate.⁸⁸ Although The Carter Center was not able to conduct a comprehensive media monitoring effort, it conducted meetings with members of the Egyptian media and national CSOs that undertook media monitoring activities in order to provide a general assessment. During an election, the media and most importantly the publicly funded state media should be accessible on a fair and equitable basis to all political contestants.

The SJCE, in accordance with decision 21/2011 regarding campaign regulations, has a responsibility to monitor the media coverage of election campaigns. Article 2/14 establishes the right of candidates, parties and coalitions to advertise their electoral program through public and private broadcasting networks. Distribution of airtime among political contestants, during the normal and distinguished periods of transmission, is to be made on the basis of full equality and without discrimination. Electoral contestants with firsthand complaints about on-air campaign violations or unequal distribution of airtime were able to notify the Ministry of the Media and the Egyptian Union of Radio and TV (ERTU), who were in turn required to notify the SJCE. However, The Carter Center was not able to ascertain the detailed procedures for filing complaints or the number of complaints that were filed. The Center urges the SJCE to take steps to clarify this process and make public any complaints filed that pertain to media coverage of elections.

The SJCE also appears to lack a system for directly liaising with the media and responding to media inquiries. The SJCE's primary method of communicating with the media was the use of press conferences. These press conferences, however, were limited in scope, infrequent, and insufficient, as the only mechanism for media engagement. Media seeking definitive information about the electoral process had no direct source of information outside of press conferences and the SJCE website. As such, there is a risk that the media may have underreported or reported incorrectly, on aspects of the electoral process. Since election management bodies have a responsibility to provide the public with accurate and timely information about the electoral process,⁸⁹ the SJCE should consider creating an office of public information to liaise with media.

VOTING

In a genuine democracy, the right to vote is fundamental.⁹⁰ In order to exercise this right in a meaningful manner, other important rights must also be preserved and protected, including the right to speak freely, to assemble, and to exercise political rights without fear of violence or other negative repercussions.⁹¹

⁸⁸ Norwegian Helsinki Committee, *Election Observation: An Introduction to the Methodology and Organization*, sec. 5.5, "People must know their rights to use them; hence sufficient civic and voter education is a prerequisite for the facts of universality and equality."; EU, *Handbook for European Union Election Observation*, second edition, p. 39: "Responsibility for impartial voter education often rests with the EMB, frequently in conjunction with civil society and the media." UNHRC, General Comment 34, para. 20: "The Committee, in general comment No. 25 on participation in public affairs and the right to vote, elaborated on the importance of freedom of expression for the conduct of public affairs and the effective exercise of the right to vote. The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues and to inform public opinion without censorship or restraint."

⁸⁹ EU, *Handbook for European Union Election Observation*, second edition, p. 65: "While political parties, civic organizations and even international organizations may contribute to voter/civic education efforts, it is ultimately the responsibility of the government and the election authorities to ensure that voters receive objective and impartial information."; U.N., ICCPR, Art. 25 (b)

⁹⁰ U.N., ICCPR, Art. 25 (b); Universal Declaration of Human Rights, Art. 21(3): "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

⁹¹ ICCPR, Art. 25(a): "Every citizen shall have the right and the opportunity,... without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives"; ICCPR, Art. 19(2): "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."; ICCPR,



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Furthermore, the experience of voting creates a powerful impression about the health and credibility of democracy in the mind of most citizens. Election day is, for most Egyptians, their only real interaction with the electoral administration. It is not only important that votes are cast freely and fairly, but that the experience of voting conveys confidence in the electorate that the electoral administration is committed to ensuring that vote results reflect the will of the voters.

One of the Carter Center's overall observations on the voting process is that there was a largely positive spirit among voters, judges, poll workers, party and candidate agents, and others in polling stations on election days during all phases. In most instances, all involved in the electoral process adopted a spirit of collaboration and cooperation to ensure that the voting process was smooth and efficient. Nonetheless, there were also significant deficiencies in the voting process, and substantial room for improvement.

Carter Center witnesses reported the following in connection with the voting process:

Poll Opening Delays

On election days, witnesses generally observed that polling centers opened later than the scheduled time of 8:00 a.m. Particularly during phase one of the elections, late openings were attributed to judges and/or party and candidate representatives arriving late, or that sensitive materials, such as ballots, were not delivered on time. During phase two and to a lesser extent phase three, many polling centers failed to open at 8:00 a.m. because of lateness in the execution of protocols required by law for the opening of polling stations. In some cases, party or candidate representatives (a minimal number of whom are required to witness the opening of polling stations) were kept outside of polling centers by security until 8:00 a.m., and thus could not perform their functions as witnesses to the opening of polling stations until after 8:00 a.m. In other cases party or candidate representatives failed to arrive by 8:00 a.m., forcing the judge to delay opening of polling stations for up to one hour as stipulated by the law.⁹² The Carter Center recommends that all stakeholders work to ensure that preliminary procedures for the opening of polling stations are concluded by 8:00 a.m.

Illicit Campaigning on Election Day

As noted above, and in a previous Carter Center statement,⁹³ Carter Center witnesses observed numerous examples of illegal campaigning occurring on election days, particularly during phase one. Election day campaigning took numerous forms, including the dissemination of flyers and other campaign materials outside of polling centers and the use of loudspeakers to promote candidates and parties. A few well-resourced political parties set up information tables or tents just outside polling centers, using computers with databases to direct voters to their assigned polling stations. Parties often, but not always, provided information to voters on a card bearing the logo and other information regarding the political party or candidate for whom the voter should cast his or her vote. Election witnesses saw voters in several instances carrying this information with them into the polling station and to the voting booth itself.

It should be noted that Carter Center witnesses reported that in some instances political party representatives at these tables attempted to refrain from overtly campaigning, neutrally offering only objective voter information. In other instances, however, the party representatives appeared to cross the

Art. 21: "The right of peaceful assembly shall be recognized"; ICCPR, Art. 9(1): "Everyone has the right to liberty and security of person...."

⁹² Law on the Exercise of Political Rights, Art. 24, which states in part that a polling station judge shall commence operations at a polling station one hour after the designated opening time if a sufficient number of representatives of agents are not present to serve as witnesses to the opening, and the judge is unable to designate other registered voters present to serve as witnesses.

⁹³ The Carter Center Preliminary Statement on the First Round of Voting in Egypt's Peoples Assembly Elections, released on Dec. 2, 2011: <http://www.cartercenter.org/resources/pdfs/peace/democracy/Carter-Center-Preliminary-Statement-120211.pdf>



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line into active campaigning. To eliminate the need to police entire electoral districts for illicit campaigning, the Carter Center again recommends that lawmakers establish distance or other physical restrictions on campaigning outside of polling centers on election days, as opposed to an overall ban on campaigning on election days and during silence time periods.

Inside the Polling Station

In general, Carter Center witnesses reported that the process of voting within polling stations was calm and orderly. Polling station judges and workers were generally cooperative; voters generally respectful of the officials administering the vote within the station. Additionally, the procedures for using voter identification cards and numbers to identify voters within the station, and for checking off voters after they had cast their votes, seemed to be a great success, and apparently a significant improvement over procedures used in elections prior to 2011.

However, Carter Center witnesses continued to report serious inconsistencies in the use of indelible ink to mark the fingers of voters once they had voted. In almost no cases were poll workers or others inspecting voters' hands to ensure that their fingers were not already inked. Some poll workers used the cap of the inkbottle as the vessel in which a voter was to dip his or her finger. If the use of ink is continued, election administrators must do more to train judges and poll workers on its appropriate use. They should ensure that fingers are checked both upon entry to the polling station and again upon departure, to ensure that a voter's finger, including the finger of a voter wearing gloves, has been properly inked. To facilitate procedures in this area, election officials should require that a particular finger, such as the right index finger, be the finger that is to be inked.

Carter Center witnesses observed in many polling stations that voters were not casting their votes in absolute secrecy. This appeared to be occurring for a number of reasons. First, polling booths are small, and not constructed to allow voters to bring easily the large, individual candidate ballot behind the metal privacy screen. Some polling booths faced the wrong way, so that voters were exposed to the queuing area as they voted. Voters in several instances found it easier to vote on a tabletop or elsewhere outside of the voting booth. In a rare number of instances, voting booths were not available. In the overwhelming number of cases, however, voters themselves appeared to disregard the opportunity to vote secretly, and instead voluntarily chose to vote in a common area where others could potentially view their votes. In future elections, The Carter Center encourages election administrators to consider acquiring larger polling booths to ensure the secrecy of the vote. Election officials should also ensure that the important right to vote secretly is incorporated into voter education efforts.⁹⁴

Securing Ballot Boxes at the End of the First Polling Day

Carter Center witnesses reported that judges took different approaches to closing procedures, including the waxing of ballot boxes and ballot box locks; the securing of the rooms where ballot boxes were to be stored; and the recording of numbers of, and securing of, unused ballots and other sensitive materials. In some cases, unauthorized persons, such as party representatives, domestic observers, and others assisted the judge and poll workers in applying the wax to the ballot boxes. To bolster public confidence in these processes, The Carter Center encourages the SJCE to ensure that judges and poll workers are consistent in their application of protocols for the securing and storage of ballot boxes and other sensitive materials and that protocols are implemented by authorized persons only.

⁹⁴ ICCPR, Art. 25(b), which codifies the rights "[t]o vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter."



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COUNTING

Although witnesses reported no clear evidence of fraud or other subversions of the counting process,⁹⁵ they did report that counting centers were often chaotic and disorganized. Above all, a lack of clear procedures resulted in different approaches being adopted. In particular, a lack of intake process at counting centers, the sorting and counting of votes, the criteria to determine valid and invalid ballots, and the reporting of results by Counting Committees undermined the organization of the counting process.

According to Carter Center witnesses, accessing counting centers was challenging at times. Party agents and representatives attempting to maintain sight of the ballot boxes as they were being transported and delivered to the counting centers pushed against vehicle access gates, and the security forces guarding them, to attempt to gain access. Inside some counting centers, particularly during phase one, the scene was nearly as chaotic.⁹⁶ In general, efficiency was undermined by waiting in cold, uncomfortable premises, into the early morning hours, to conduct the count.

The Carter Center strongly recommends that the SJCE promulgate standard procedures that include the following:

- Intake – to record and track the arrival and receipt of materials to centralized count or tally centers;
- Sorting and counting – to standardize the process of sorting and counting ballots;
- Valid and invalid ballot classification – clear and prescriptive criteria for determining if a ballot is valid or invalid;
- Definition of election official roles – a clear definition of the roles of election officials and committees;
- Complaint and appeal process – a clear definition of who, how and when complaints and appeals about the sorting and counting process can be submitted;
- Announcement of results – defining results as preliminary, provisional and final;
- Posting of results by polling station – physically at counting locations and via the official website;
- Disposal of materials – clear procedures for the disposal or archiving of election materials at the conclusion of the counting process; and
- Forms – where appropriate, to support the above procedures, standard forms be designed and produced for use by all election officials.

Protocols regarding access and the physical space of, and around, counting centers or tally centers, should include the following:

- Criteria to ensure that counting centers can comfortably hold the required number of personnel, ballot boxes, candidates, candidate and party representatives, media, domestic and international witnesses, and others;
- The use of separate entrances for materials and authorized personnel, to safely and better manage controlled access;
- Consider the use of a secondary staging area to control and manage the flow of vehicles into centers;

⁹⁵ In the case of the counting center in the Al-Sahel/Shubra district of Cairo, where there were credible accusations of potential fraud or mismanagement of ballot boxes during phase one, electoral authorities acted expeditiously by ordering a nullification of results in that district and a rerun election.

⁹⁶ For example, poll workers and others chanted for pay increases in one case, while intermittent scuffles broke out in other centers.



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- Prohibitions against allowing candidate and party representatives from handling ballot boxes during transport, or from otherwise participating directly in any aspect of the intake or counting process that should be handled exclusively by election officials;
- Establishment of uniform guidelines for the proper conduct of party and candidate representatives, candidates, domestic and international witnesses, media, judges, poll workers, and security personnel inside counting centers; and
- As with polling centers, a requirement that every counting center committee include a judge who is responsible for liaising with security personnel outside the counting center and otherwise resolving issues involving security and access.

About The Carter Center

The Carter Center mission to witness Egypt's Parliamentary Elections is accredited by the Supreme Judicial Commission for Elections (SJCE). The Carter Center deployed the first phase of its international delegation on Nov. 6, 2011. The Carter Center deployed 40 long-and medium-term observers from 24 countries including: Australia, Austria, Brazil, Canada, France, Germany, Iraq, Ireland, Italy, Kenya, Lebanon, Malaysia, Morocco, the Netherlands, Norway, Palestine, Philippines, Slovakia, Somalia, Spain, Sudan, Tunisia, United Kingdom, and the United States. While deployed, these witnesses observed the election administration, campaigning, voting and counting operations, among other activities related to Egypt's electoral process. Carter Center observers continue to assess the conclusion of counting and vote tabulation and will remain in Egypt to observe the post-election environment and the upcoming Shura Council (Upper House) elections. All assessments are made in accordance with international standards for elections, and the observation mission is conducted in accordance with the Declaration of Principles for International Election Observation adopted at the United Nations in 2005.

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

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Feb. 4, 2012

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Center Preliminary Statement on the First Round of Voting in Egypt's Shura Council Elections

Carter Center witnesses in Egypt observed low levels of interest and participation among voters, political parties, and nongovernmental organizations during the first stage of the country's Shura Council elections. Despite the brief respite between the People's Assembly and Shura Council elections, Egypt's election authority was able to introduce several technical amendments for the Shura election including the use of more secure ballot boxes and the counting of votes at polling stations. While improving operational electoral processes, these changes also introduce new challenges for the training of election officials and to ensure the transparency of the process.

The schedule for the Shura elections, occurring only nine days after the final rerun race of the People's Assembly, and mere days after the anniversary of the Revolution, contributed to an unenthused electoral process. In addition, the continuation of key parts of the Emergency Law, criticism of the Supreme Council of the Armed Forces' (SCAF) leadership of the transition, and uncertainty over investigations into civil society organizations have negatively influenced the overall election environment. The Carter Center notes that the environment in which elections are conducted has an important effect on the credibility of the process. To successfully complete Egypt's democratic transition, it is critical to resolve key points of contention about the transition expeditiously, transparently, and fairly. As part of these efforts, the Center urges authorities to lift the Emergency Law in its entirety.

The first stage of the two-phase election of the Shura Council was conducted across 13 of Egypt's governorates on Jan. 29-30, 2012. Carter Center witnesses were present across 11 governorates and will remain in place to witness runoff and rerun races. This election process is ongoing and therefore the findings of The Carter Center are preliminary. Additional statements regarding the process will be released as it unfolds. The Carter Center's full preliminary statement may be found at www.cartercenter.org.

The Carter Center has been present in Egypt since November 2011 and also witnessed all three phases of the People's Assembly elections.

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This preliminary statement summarizes the observations of the Carter Center's mission to witness the first phase of Egypt's Shura Council (the upper house of parliament) elections held Jan. 29-30, 2012.¹ Runoff and rerun elections for the first phase will be held on Feb. 7. The second phase of the Council's election will be held Feb. 14-15², with any runoff or rerun races to be held Feb. 22. The Shura Council is then scheduled to hold its first session on Feb. 28, 2012³.

The Election Environment

The election of the Shura Council⁴ is the second representative election to be held since the fall of the Mubarak regime in February 2011. It is administered under the authority of the Supreme Judicial Commission for Elections (SJCE) as the supervising judicial authority for elections. Under the transition plan outlined by the interim-governing regime, the Supreme Council of the Armed Forces (SCAF), the 180⁵ elected members of the upper-house Shura Council will join with the 498⁶ elected members of the lower-house People's Assembly to select the 100 members of a constitution drafting committee. Under the SCAF's plan, the committee is expected to draft a constitution to be put to a national referendum and then followed by a presidential election to be completed by the end of June 2012. The SCAF has publicly committed to a full transfer of power to the elected president.

The SCAF's self-appointed role, and loosely-defined transition plan, has been a source of ongoing tension that has escalated since the election of the People's Assembly. The People's Assembly was elected over a three phase⁷ process between Nov. 28, 2011, and Jan. 19, 2012, convening on Jan. 23; two days before the first anniversary of the Jan. 25, 2011, revolution. The broadly recognized credibility of the elections

¹ Phase One Shura Council elections include districts in 13 governorates: Cairo, Alexandria, Gharbiya, Dakahlia, Menoufiya, Damietta, South Sinai, North Sinai, Fayoum, Asyut, Qena, Red Sea, and New Valley.

² Phase Two Shura Council elections include districts in 14 governorates: Giza, Qalyubia, Sharqiya, Beheira, Kafr El Sheikh, Ismailiya, Port Said, Suez, Matrouh, Beni Suef, Minya, Sohag, Luxor, and Aswan.

³ SCAF Decree 315/2011 of Dec. 31, 2011

⁴ The Shura Council was first established in 1980 under the regime of President Anwar el-Sadat. The Shura Council is not co-equal with the People's Assembly and has only a limited authority to affect law making. Under Egypt's Constitution of 1971, as amended, it had authority to conduct studies and make proposals conducive to national unity, and along with the People's Assembly, ratify treaties and approve constitutional amendments. Under the SCAF's Constitutional Declaration of March 30, 2011, the Shura Council is empowered primarily to "consider" draft laws, public policy, and foreign affairs matters referred to it by the president of the republic, and to assist in selecting the membership of the constitutional drafting committee.

⁵ The upper house of Parliament, the Shura Council, is a 270-seat body. 180 seats are elected and 90 seats are appointed.

⁶ The lower house of Parliament, the People's Assembly, is a 508-seat body. 498 seats are elected and 10 seats are appointed.

⁷ The elections for the People's Assembly were conducted over three phases, with nine of Egypt's 27 governorates polled in each phase.



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for the People's Assembly⁸ has strengthened the popular legitimacy of the assembly, and increased pressure on the SCAF to either accelerate the transitional timeline or to cede its management of the process entirely.

The sequence and schedule of events for the transfer of power to civilian rule is of particular concern to many of Egypt's political groups, as is the extent to which the SCAF may be negotiating decisions on key issues of public concern that are outside the purview of an interim regime. In particular, the SCAF's Jan. 19, 2012, issuance of the law to elect the future president is catalyzing debate over legislative control, irrespective of conflicting provisions⁹ within the Constitutional Declaration of March 30, 2011. Similarly, the SCAF's narrowed definition of the Emergency Law, announced on Jan. 24, 2012, which continues to contain an undefined term of "thuggery," fails to adhere to Egypt's international obligations¹⁰ on the use of such instruments and may lead to censure from the People's Assembly. As well, the ongoing investigation of national and international non-governmental organizations (NGOs) promotes an atmosphere of uncertainty over the authorities' intentions toward an active civil society as a key participant and stakeholder in a democratic society.

The Carter Center reiterates its call for the State of Emergency to be lifted in its entirety. In addition, the Center underscores that the treatment of domestic and international NGOs are critical aspects of a healthy electoral environment, where transparent, expeditious, and fair judicial processes are essential to support credible election processes.¹¹

Voter Participation

The Carter Center deployed 28 witnesses across 11¹² of the 13 governorates that were polled in the first stage of the Shura Council's two-phase elections.¹³ In each of these 11 governorates, the Carter Center's witnesses noted a very low turnout of voters compared to the People's Assembly elections. Media reporting, as well as Carter Center witnesses' interviews with local political party representatives, civil society organizations, and government officials, highlighted a range of common concerns that may have contributed to the poor turnout, including: Shura Council elections typically experience low turnout,¹⁴

⁸ Carter Center statement issued on Jan. 24, 2012

⁹ The Constitutional Declaration was unilaterally issued by the SCAF on March 30, 2011, after a referendum to amend the 1971 Constitution. The extent and supremacy of legislative authority between the People's Assembly and SCAF are unclear under conflicting provisions, elaborated under articles 33 and 61.

¹⁰ UN, ICCPR, Art. 4 identifies that public emergencies which derogate rights must "threaten the life of the nation." The narrowed application of the Emergency Law applies to an undefined term of "thuggery," which appears to be a criminal act that is most appropriately covered by Egypt's existing penal code.

¹¹ African Union, African Charter on Democracy, Elections, and Governance, Art. 12(3): "State Parties undertake to implement programmes and carry out activities designed to promote democratic principles and practices as well as consolidate a culture of democracy and peace. To this end, State Parties shall... [c]reate conducive conditions for civil society organizations to exist and operate within the law." EU, Handbook for European Union Election Observation, second edition, p. 73: "All persons have a right to participate in public affairs, including in civil society activities and, through their right to freedom of association, to form and join civil society organisations."

¹² The Carter Center mission deployed observers to the governorates of: Cairo, Alexandria, Gharbiya, Dakahlia, Menoufiya, Damietta, South Sinai, Fayoum, Asyut, Qena, and New Valley.

¹³ SCAF Decree 314/2011 of Dec. 31, 2011, modified the Shura Council election schedule to occur in two phases conducted on Jan. 29–30, with runoff races on Feb. 7; and Feb. 14–15 with runoff races on Feb. 22.

¹⁴ Since its inception in 1980, the Shura Council is only mandated to offer consultative activities.



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voter fatigue and the exhaustion of party resources from the People's Assembly elections that only completed rerun races on Jan. 19, the convening of the first session of the People's Assembly on Jan. 23, and the focus of attention on the first anniversary of the Jan. 25 Revolution.

Party Participation The voter list and candidate and party registration processes for the Shura Council election were conducted simultaneous to those of the People's Assembly election. As such, voters were not provided with an opportunity to update their records between elections, and candidate and party registration for the Shura Council was conducted in October 2011. For the 60 majority seats allocated to the Shura Council's 30 electoral districts 2,036 candidates registered to compete.¹⁵ In contrast, 6,591 candidates competed for the People's Assembly 166 majority seats. In addition, the election administration reported¹⁶ that 590 party lists registered to compete for the People's Assembly 332 proportional representation seats, while 272 lists registered for the Shura's 120 proportional representation seats.

Women's Representation

The larger size of the Shura Council's election districts, where each district is a governorate (with the exception of Cairo, Giza, and Dakahlyia)¹⁷ contributed to several challenges for independent candidates and smaller political parties with fewer resources. The size of these districts may have been especially daunting for females in majority races, where women represent only slightly more than 7 percent of candidates. Under the list competition rules, each list is required to have at least one female candidate, but does not specify a minimum position on the list. With the maximum size of lists being four, this has meant that at least 25 percent of list candidates are female. However, similar to the experience in the People's Assembly election, the position of female candidates within these lists is principally in the bottom half, with more than 80 percent in third and fourth positions. It is anticipated that as a result, similar to the People's Assembly election, the number of female candidates to gain representation will be extremely poor.

The Carter Center strongly urges the Egyptian authorities to implement effective measures ensuring the appropriate representation of women in future elections.¹⁸ In addition, given that the elected houses of

¹⁵ The Shura Council electoral system is the same as that of the People's Assembly election. Two (2) individual candidates are elected in each district by an absolute majority. At least one candidate must be a farmer or worker. A total of 60 members of the Shura Council are elected through this system. Four (4) candidates are elected in each district under a closed list proportional representation system. At least two of the four candidates elected through the proportional representation system in each district must be a farmer or worker. A total of 120 members of the Shura Council are elected through this system. There is no female quota for the Shura Council but each list must include at least one female candidate.

¹⁶ Via its website, <http://www.elections2011.eg>, accessed on Oct. 25, 2011

¹⁷ The determination of the districts and allocation of seats were announced through SCAF Decree 122/2011 on Sept. 26, 2011. Cairo, Giza, and Dakahlyia were each split into two electoral districts, while all other governorates were treated as one district, creating 30 electoral districts.

¹⁸ UNHRC, General Comment 28(68): Equality of rights between men and women (Art. 3), para. 3: "The State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women."; U.N., CEDAW Committee. General Recommendation No. 23, para. 15: "While removal of de jure barriers is necessary, it is not sufficient...The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life...States parties have an



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Parliament will have so few women, the Center reiterates its recommendation that the People's Assembly and the Shura Council takes steps to ensure that women constitute at least 30 percent of the 100-member constitution drafting committee..

Voter Information

In general, Carter Center witnesses noted an absence of official public information¹⁹ campaigns about the Shura Council elections in the days preceding the first round of polling. Where official public information was in evidence, it was observed that the information was often drowned out by other news, such as the anniversary of the Revolution. Similarly, the Carter Center's witnesses noted that there was little visible campaigning among political contestants in the days ahead of the election. Whereas political party campaigning compensated for minimal official information campaigns in the People's Assembly election, its diminished presence in these elections may have contributed to the lack of voter interest and participation.

Reiterating the Carter Center's earlier recommendations of the People's Assembly, the election administration should take significant steps to improve voter information campaigns.²⁰ On a positive note, while political campaigning during the 48-hour campaign-silence period was a significant problem in the first phases of the People's Assembly election, Carter Center witnesses only saw rare instances of illicit campaigning outside polling centers on this occasion.

Polling Operations

In spite of the brief period between the end of the People's Assembly election and the start of the Shura Council elections, the electoral authorities were able to introduce a range of technical improvements. Across all governorates visited by The Carter Center, older wooden and plexi-glass constructed ballot boxes were replaced by plastic-molded and lidded ballot boxes with a securable ballot slot is located in the center of the lid. These new ballot boxes use uniquely numbered security seals to replace padlocks and waxing procedures that were used in the People's Assembly. As reported by Carter Center witnesses, this new equipment improved accountability, transparency, and the secure storage of votes, especially overnight. Witnesses noted that while some presiding judges had some initial difficulties with the seals, overall, the use of the new ballot boxes and security procedures was an improvement for the integrity of the process. The efficiency of this new equipment and procedures allowed for better management of operating, on average, three polling stations in each polling room.²¹

obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens."

¹⁹ U.N., ICCPR, Art. 2, requires States to take the steps necessary to give effect to human rights. Such a requirement infers that the electorate must be sufficiently educated and informed about the electoral process allowing them to exercise those rights. UNHRC, General Comment 25, para. 11, UNHRC on the ICCPR: "...Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community."; UNHRC General Comment 25, para. 25. "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential..."

²⁰ Carter Center Preliminary Report on All Three Phases of the People's Assembly Elections, Jan. 13, 2012

²¹ The decision to conduct the Shura Council elections in two rather than three phases, required in general for presiding judges to oversee three polling stations in one polling room (rather than two, as had been the case in the People's Assembly election).



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While notable advances were achieved in the polling process, several concerns witnessed in the People's Assembly election were still evident. The most commonly reported problems appear to stem from an ongoing lack of procedural definition, training, and clarity of institutional duties. Numerous incidents were reported of polling stations opening after the official start time of 8:00 a.m. due to the late arrival of judges or party representatives.²² The procedures for the use and application of indelible ink also remained problematic, with voters commonly not checked for existing ink stains on their fingers.²³ Security personnel, who should only enter the polling center at the explicit request of judges, were seen on several occasions to be inside polling centers without invitation. Further, voters in general appeared to be unaware of the process or their rights to file complaints about the process.²⁴

Counting Operations

In a significant technical change from the People's Assembly elections, the counting of votes for the first phase of the Shura Council elections were conducted in the polling station rooms. This enabled presiding judges and their polling committees to finalize polling activities, rearrange the facilities and immediately commence counting activities. Carter Center witnesses noted that this change in procedure allowed for a significantly more orderly and efficient counting process than had occurred in the counting centers that were used in the People's Assembly. The Carter Center is encouraged by this development, and hopes that steps will be taken to ensure efficiency in future elections in which there may be a higher voter turnout.

However, counting at polling stations can limit the number of observers and candidate and party agents that are able to directly observe the counting process²⁵ due to the size of the classrooms being used. In this round of the Shura Council elections, Carter Center witnesses noted a widespread absence of national witnesses from the polling and counting processes. Also, and as noted earlier in this statement, the governorate-size districts reduced the number of representatives and agents being deployed by candidates

²² Such delays may undermine the right to vote. See, for example, EU, Handbook for European Union Election Observation, second edition, p. 75

²³ Such measures are in line with international good practice, intended to ensure equality of suffrage. See for example, EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 25: "Appropriate methods should be put in place to prevent multiple voting."; IPU, Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Art. 4.2: "In addition, States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections. In so doing, they should, among other matters:... Ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled thereto."

²⁴ ICCPR, Art. 2(3), "Each State Party to the present covenant undertakes: (a) to ensure that any person whose rights or freedoms are herein recognized as violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted."

²⁵ UNHRC General Comment 25, para. 11 on the ICCPR. "...Voter education and registration campaigns are necessary to ensure the effective exercise of Art. 25 rights by an informed community."; UNHRC General Comment 25, para. 25: "In order to ensure the full enjoyment of rights protected by Art. 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential..."



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and parties with fewer resources. As a result, with fewer witnesses and agents seeking to monitor the counting process, there was little negative impact on transparency in this instance. Nevertheless, The Carter Center urges Egypt's election administrators to consider this barrier to transparency in their future election planning, and recommends that procedures²⁶ be in place to ensure access and transparency to monitor the counting process.

Witnesses noted that while presiding judges were provided with forms for each stage of the counting process, deficiencies in these forms often led to informal counts being conducted. The information was then transferred to the official forms increasing the possibility of human error. In all cases observed, witnesses nevertheless positively noted that polling committees used ink pens at all stages, an important means of preventing tampering or manipulation of the aggregation of results. Unfortunately, it was noted by the Carter Center's witnesses that presiding judges were not required to post a copy of the count results or to announce these results to witnesses and agents. This is generally recognized as a good practice to ensure adherence to the principle of transparency.²⁷ It was nevertheless noted, that on several occasions, presiding judges at their own discretion allowed agents to copy the results or announced them. In all cases observed by Carter Center witnesses, the presiding judges departed the polling stations with the count forms and ballots secured in envelopes for transportation to their district tally center. The Carter Center notes that these circumstances could create a situation where a judge may be accused of manipulating the results during transportation. Therefore, for the protection of judges and to improve the overall transparency of the process, the Center strongly urges the SJCE to implement procedures that require judges to publicly announce or post their count results before they travel to the tally center.

Tallying

A single tally center was established in each Shura Council electoral district, where presiding judges travelled to deliver the results from their polling stations. Upon arrival at the tally centers, Carter Center witnesses noted that similar problems that had plagued the counting centers during the People's Assembly remained a concern. In particular, security forces at access points appeared uninformed about the identification and access entitlements of party and candidate agents, as well as national and international witnesses. Previous statements issued by The Carter Center have noted the difficulty of access presented by these arrangements, when there is not a visible coordinating judicial official present.²⁸ Further, vehicular and pedestrian access points were not separated, creating both a confused and dangerous access environment.

A notable improvement observed by Carter Center witnesses was the introduction of a systematic process to record the arrival of polling station results. These procedures entailed the presiding judges handing the count result forms to staff of the general secretariat that would then enter the information into a computer system. However, it was noted that the ballots, which were also transported to the tally centers, were

²⁶ For example, ensuring that presiding judges must rotate the observers and agents of different candidates and parties is vital if there is insufficient space for all to observe at the same time.

²⁷ UNHRC General Comment 34, para. 19: "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information..."

²⁸ Carter Center Preliminary Statement on the Second Round of Voting in Egypt's People's Assembly Elections, Dec. 18, 2011



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haphazardly collected, and concerns over their orderly collection and storage appears problematic. The efficiency of the tally centers was observed to have been hampered by a lack of staff and computers, creating a bottleneck for judges seeking to register their count forms. As well, with only one tally center in each district, judges were required to travel extensive distances in some cases. In combination, these factors negatively impacted the efficiency of the centers. The Carter Center would therefore urge the SJCE to consider increasing the number of tally centers and the number of staff and computers being used at each site.

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Carter Center Preliminary Statement on Egypt's Shura Council Election

As Egypt's new parliament works to select a 100-member Constitutional Drafting Committee, the Carter Center's mission to witness the country's Shura elections urges Egypt's elected representatives to address the overwhelming lack of representation of women in the parliament by ensuring at least 30 percent of the Constitutional Drafting Committee is female.

"Of the 678 members elected to parliament, just 14 are women," said Carter Center Egypt Field Office Director Sanne van den Bergh. "These results raise great concerns that one of the most important voices of Egypt, and its revolution, will be lost in the constitutional process."

The Carter Center's witnessing mission detailed other recommendations and findings in its preliminary report on the Shura Council election, released today.

The Center found the election characterized by a lack of interest, in contrast to the preceding People's Assembly election that captivated national and international attention. Uncertainty about the value and role of the Shura Council in conjunction with the pace and direction of the transition as a whole, contributed to the low level of engagement by voters, candidates, political parties, media, and civil society organizations. In this environment, many of the same technical and operational shortcomings witnessed by the Carter Center mission during the People's Assembly election were again observed in the Shura Council election. While the Supreme Judicial Commission for Election (SJCE) introduced some welcome technical improvements to the electoral process, the atmosphere in which they were implemented and the associated low voter turnout made it difficult to assess their value. As such, while the election results appear to have reflected the will of the voters that participated, the low level of voter turnout underscores the political uncertainties that surround Egypt's ongoing transition.

The Center deployed 30 witnesses representing 19 nationalities to 21 of Egypt's 27 governorates. The Carter Center mission to witness Egypt's Shura election was accredited by the SJCE. Across both phases of voting, these witnesses assessed and observed the administrative preparations, campaigning, voting, and counting, including the complaints and appeals processes. Carter Center witnesses met with government officials, political parties, candidates, and religious leaders, as well as representatives of civil society, academia, and the media.

The Center's principal findings and recommendations include:

- Carter Center witnesses in Egypt observed low levels of participation among voters, political parties, candidates, media, and civil society organizations in the Shura Council election.



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- There was a general absence of official public information campaigns about the Shura Council election. Reiterating the Carter Center’s previous recommendations during the People’s Assembly election, the electoral authorities should take significant steps to improve voter education and information campaigns.
- Carter Center witnesses reported an inconsistency in, and at times failure to comply with, the application of electoral procedures by presiding judges at polling stations. This included, but was not limited to, failure to ink the fingers of voters, late opening, and early closing of polls.
- The last-minute decision by the SJCE to remove from the ballot the numbers assigned to candidates in the individual candidate races had a negative impact on their campaign efforts and created difficulties for polling staff while conducting the vote count.
- Egypt’s election authority introduced several technical modifications for the Shura Council election including improved ballot boxes and related security materials. Carter Center witnesses reported that this new equipment improved accountability, transparency, and the secure storage of votes, especially overnight.
- Carter Center witnesses observed that illicit campaigning during the pre-polling campaign-silence period, which had been a source of numerous complaints during the People’s Assembly election, diminished in the course of the Shura Council election. There was an overall reduction in political campaigning. Nevertheless, illicit campaigning violations were still observed by Carter Center witnesses in several areas.
- The procedure to count votes in polling rooms allowed for a more orderly and efficient counting process than occurred in the more centralized count centers used in the People’s Assembly election. However, Carter Center witnesses noted that this decentralization made it impossible for several parties and candidates with limited numbers of agents and representatives to monitor counting at all polling stations.
- The Shura Council election demonstrated that further progress is required to ensure the timely release of detailed election results. The Carter Center noted that the SJCE failed to identify the gender of winning candidates, and in the case of the individual seats, the political affiliation of the winners. As a consequence, uncertainty and speculation arose over the results of the election.
- The Carter Center remains deeply concerned about the serious under-representation of women in senior election administration positions as candidates and representatives, as well as the lack of an effective quota to achieve female representation. The Carter Center urges stakeholders, including the Constitutional Drafting Committee, to take definitive steps to improve women’s participation and representation. This could include introducing a minimum 30 percent quota to ensure effective representation of women in both houses of the legislature.
- The election complaints process continued to be a significant concern. Carter Center witnesses noted a continued absence of a transparent, timely, and accountable process for stakeholders to submit their complaints.
- Due to an increased sensitivity toward international NGOs, Carter Center witnesses in some cases experienced hostility and aggressiveness from party agents and representatives as well as more intensive questioning by election officials and security forces regarding their status and institutional affiliation.



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The Carter Center also respectfully offers the following key recommendations for future elections:

Clearly define the role of the election management body (EMBs) in the complaints process and provide related training to electoral officials. The election commission should take the lead in ensuring that a record of all electoral complaints is maintained, preserved, and publicized so that complainants and others may learn of the result of their complaints, and so electoral authorities can identify issues and geographic areas that may require improvement in future electoral processes. Also, the process for electoral complaints should be clarified and a reasonable deadline for the resolution of disputes imposed.

Increase transparency and accountability measures. Election authorities must be proactive in building trust with their electoral stakeholders and the public to ensure transparency and accountability of the process. Specific measures should be considered, including amending the law regarding the secrecy of the SJCE's deliberations and publicly posting the official results outside polling stations at the end of the counting process.

The completion of the parliamentary elections is an important but insufficient step in Egypt's democratic transition. Maintaining the momentum of the transition to full democratic rule necessitates further key steps, including the following:

Lift the Emergency Law and end use of military trials for civilian suspects. Emergency laws are special measures that must be continuously justified and should only be used in situations that threaten the security of the nation. The Emergency Law partially in effect in Egypt should be fully lifted.

Conduct an inclusive constitutional drafting process that takes into account the views of the full political spectrum of Egyptian society. It is important that the constitutional committee selected by the parliament be representative of Egyptian society. In particular, there should be a minimum of 30 percent women included in the committee and quotas for other vulnerable groups considered.

Protect democratic principles, fundamental rights, and freedoms in the constitution. Constitutions, once adopted, are difficult to change. It is therefore important that Egypt's new constitution protects the rights and freedoms of all Egyptians, provides for the clear separation of powers, and be endorsed through a credible and genuine referendum.

In reference to post-transitional elections, The Carter Center stresses the following recommendations:

Establish an independent election commission. The Carter Center recommends that for future elections a fully independent, permanent, and professional election management body be established, supported by a clear, consistent, and restructured legal framework.

Redesign the women's quota. In accordance with international obligations, it is essential to ensure that women are able to participate in public affairs and contribute to public debate. The Center recommends that a minimum 30 percent quota be introduced to ensure the effective representation of women in Egypt's parliament.

Remove the farmer/worker quota. The use of occupational categories as the basis for candidate eligibility arbitrarily undermines the right to be elected. The Carter Center therefore recommends that this provision be removed for future elections.

The Carter Center's full statement on Egypt's Shura Council Election is attached and is also available at www.cartercenter.org, in Arabic and English. A more detailed final report of the Carter Center's



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assessment and recommendations on the elections of both houses of Egypt's parliament will be published at the conclusion of the mission. The Center has assessed Egypt's elections based on the relevant parts of the national legal framework, and in accordance with the country's regional and international obligations for democratic elections. The Center conducts its election observation missions in accordance with the 2005 Declaration of Principles for International Election Observation.

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This statement summarizes the observations of the Carter Center's mission to witness the 2012 election of the Shura Council, concluding the elections for Egypt's two-chamber Parliament. The Carter Center witnessed and issued a statement for the first phase¹ of the Shura Council on Feb. 4, 2012. This statement follows the second phase² of polling and runoffs, which were held Feb. 14-15, 2012 and Feb. 22, 2012. The Shura Council is scheduled to convene for its first session on Feb. 28, 2012.³

Supervised by the Supreme Judicial Commission for Elections (SJCE), the election of the Shura Council elicited a muted level of engagement from Egypt's voters, candidates, political parties, media, and civil society organizations. While the results appear to have reflected the will of the voters that participated, the overall low level of voter turnout drew into question the value of the Shura Council elections in Egypt's transition. Amid ongoing technical deficiencies in the process, the transitional environment strongly influenced the minimal level of engagement. In particular, the uncertainty and lack of consensus over the pace and direction of Egypt's transition undermined public interest in this election.

The Election Environment

Since the Supreme Council of the Armed Forces (SCAF) assumed interim executive and legislative power on Feb. 11, 2011, tensions have emerged and grown between the SCAF and many Egyptians, at times escalating into violence. The continuation of key parts of the Emergency Law, use of military trials for civilians, use of excessive force by security forces, and the crackdown on civil society organizations has shaped an atmosphere of suspicion and distrust.

The SCAF's roadmap for Egypt's transition has been broadly outlined to include the election of the two houses of Parliament, made up of the 508-seat lower-house People's Assembly and the 270-seat upper-house Shura Council. The SCAF's Constitutional Declaration of March 30, 2011,⁴ mandates the joint elected membership⁵ of the houses to select a 100-member Constitutional Drafting Committee to write a new constitution that will be put to a referendum, followed by presidential elections. The first joint meeting of the houses of Parliament is scheduled to occur on March 4, 2012.

Uncertainty remains, however, on the exact method for selecting the committee, and whether or not the new constitution will be drafted and approved before presidential elections are held or if the process will be concluded under civilian rule. The Carter Center reiterates its recommendations that Parliament should have exclusive authority to select the committee, that the committee should reflect Egyptian society,

¹ Phase One Shura Council elections include districts in 13 governorates: Alexandria, Asyut, Cairo, Dakahlia, Damietta, Fayoum, Gharbiya, Menoufiya, New Valley, North Sinai, Qena, Red Sea, South Sinai.

² Phase Two Shura Council elections include districts in 14 governorates: Aswan, Beheira, Beni Suef, Giza, Ismailiya, Kafr El Sheikh, Luxor, Matrouh, Minya, Port Said, Qalyubia, Sharqiya, Sohag, Suez.

³ SCAF Decree 315, issued on Dec. 31, 2011

⁴ A referendum on March 19, 2011, amended several articles of the 1971 constitution. It was supplemented by the SCAF's Constitutional Declaration of March 30, 2011, which included the referendum articles, slightly modified in some cases, and many additional articles that were not part of the original referendum.

⁵ Despite the widely held perception that the consultative chamber's authority is marginal, it does have two potentially influential functions in Egypt's present transition. Under the transition plan outlined by the interim ruling regime, the Supreme Council of the Armed Forces (SCAF), the 180 elected members of the Shura Council join with the elected membership of the Parliament's lower house, the People's Assembly, to select the 100 members of a constitution drafting committee.



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including a minimum of 30 percent women, and should ensure that the constitutional drafting process takes into account the views of the full political spectrum of Egyptian society and that all stakeholders should work to guarantee that democratic principles, fundamental rights, and freedoms are protected in the new constitution.

The success of the the Freedom and Justice and al Nour parties in the People's Assembly (46 and 25 percent of seats respectively), appeared to impact the political calculus of other competitors in the Shura Council in that the momentum of these victories was viewed as a precursor to a foregone conclusion. As well, with the upper chamber only possessing a consultative mandate, the ability of this chamber to directly affect Parliamentary decision-making is minor. These contextual aspects of the environment appeared to heavily contribute to a lack of intensity and political competition for the Shura Council.

The Shura Council election was ultimately defined by low levels of interest and participation among voters, political parties, and non-governmental organizations. Among other commonly held explanations for the low voter turnout was a general uncertainty about the purpose of Egypt's upper house of parliament due in part to insufficient voter and civic education, and voter fatigue.⁶ While the voter turnout for the People's Assembly exceeded 55% the Shura Council elections saw a significant decrease to an average of slightly less than 14% in the first rounds, and less than 7% in the runoff rounds.⁷

The second phase of elections commenced on Feb. 14, 2012, in the aftermath of the tragic deaths of more than 70 people at a football match in Port Said on Feb. 1, 2012. A series of subsequent demonstrations were met with lethal force by the security forces, leading to further deaths, which contributed to diminished attention to the Shura elections. Likewise, the media's heavy focus on the ongoing controversy over the investigation into domestic and international non-governmental organizations and the intense speculation over presidential election preparations and possible nominees for the office of the presidency further distracted attention from these elections.

Background on the Shura Council Elections

The Shura Council was established under Egypt's 1971 Constitution as a consultative upper chamber of the Parliament and was first elected in 1980. Each of Egypt's 27 governorates constituted a single district, with the exception of Cairo, Giza, and Dakahliya that were each subdivided into two districts, for a total of 30 districts. These boundaries were determined by SCAF decree 122/2011,⁸ which also assigned the seat allocations for each district. With a membership of 270 seats, 180 seats are elected and 90 are appointed by the President. Similar to the People's Assembly, the Council is subject to a quota of at least 50 percent workers and farmers.⁹ Of the 180 elected seats, 60 are drawn from individual candidate races, where candidates may be independent or party affiliated, and winners are determined by an absolute majority electoral system in 30 two-seat electoral districts. Four seats are also elected from each of the 30

⁶ The PA elections began on Nov. 28 and finally ended on Jan. 22. Not only were there six official election days (two days for each of the three phases) there were also two-day runoffs for each phase and several additional days for court-mandated rerun elections.

⁷ The turnout data for the both phases was distorted by the postponement of the list races in Menoufiya and Qena to the runoffs in the first phase, and similarly, the postponement of the list race in Luxor in the second phase to the runoff round.

⁸ Issued Sept. 26, 2011

⁹ The terms "farmer" and "worker" are defined in Art. 2 of the Law Concerning the People's Assembly. (It is worth noting that these definitions are not explicitly included in the primarily electoral law governing the Shura Council elections, Law Number 120 of 1980 Concerning the Shura Council Elections.) The term "farmer" is defined as a person whose sole work and main source of living is cultivation, and who is residing in the countryside, providing he, his wife, and minor children do not own or lease more than a certain amount of land. The term "worker" is defined as a person who depends mainly on income from manual or nonmanual work in agriculture, industry, or services. He or she must not be a member of a professional syndicate, recorded in the commercial register, or a holder of a higher degree of education. (Any person who was a worker and then obtained a higher degree of education is exempt from this restriction, however.) In all cases, for any person to be considered a worker, he or she must be enrolled in a trade union.



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electoral districts through closed list proportional representation races, conducted among four candidate party lists that are formed by parties or coalitions.

Each party list must contain at least one female candidate to be eligible to compete in a proportional representation race. The list composition rules do not however specify a minimum position for women on the list. With the maximum size of lists being four, this has meant that at least 25 percent of list candidates are female. However, similar to the experience in the People's Assembly election, the position of female candidates within these lists was principally in the bottom half, with more than 80 percent in third and fourth positions. For female candidates competing in the individual candidate races, the size of the electoral districts (i.e. governorate) presents a challenge for amassing sufficient campaign resources to compete effectively. As a result, and similar to the outcomes of the People's Assembly elections, women are severely underrepresented in the Shura Council, having won only 5 of the elected 180 seats (or, less than 3 percent). Without a concerted effort on the part of the political and electoral leadership, women's representation in government is likely to remain well below levels specified by Egypt's international commitments. In order to meet these obligations,¹⁰ The Carter Center urges stakeholders, including the Constitutional Drafting Committee, to take definite steps on improving women's participation and representation.

The Shura Council election was conducted in two phases covering 13 governorates in the first phase and 14 governorates in the second. The same voters list was used for both the People's Assembly and the Shura Council elections and was closed on July 20, 2011.¹¹ The list required voters to be assigned to and vote at specific polling stations. Slightly less than a total of 50 million voters were registered for the Shura Council election, of which, just over 356,000 were registered as out-of-country voters. The candidate and list nomination process for the Shura Council elections were held at the same time as the nomination process for the People's Assembly in October 2011.¹² For the 60 individual seats 2,036 candidates were registered to compete, while 272 lists were registered to compete for the 120 proportional representation seats.

Election Administration and Framework

Egypt's transitional electoral authority is led by a fully-judicial supervisory commission, the SJCE.¹³ The SJCE oversees a mixed judicial and governmental General Secretariat¹⁴ that is responsible for coordinating and implementing electoral operations. The SJCE is also supported in its work by subsidiary, all-judge electoral committees in each governorate and general committees in each district. At polling and counting, judges directly preside over the work of staff drawn from the local civil service (predominantly teachers from the Ministry of Education), while judicial electoral committees have supervised tallying centers in the Shura Council elections.

The absence of senior female election officials is an ongoing concern in the current composition of the SJCE and the electoral committees.¹⁵ Under the relevant legislation, these posts are filled by the

¹⁰ CEDAW, Art. 7, requires States to eliminate discrimination in public and political life, and especially ensure the rights to: vote and be eligible for election; participate in the formulation and implementation of government policy; hold public office and perform public functions at all levels; and participate in nongovernmental and civil society organizations.

¹¹ Law on the Exercise of Political Rights, Art. 5-bis

¹² SJCE Resolution 11-2011, Art. 1

¹³ The SJCE was originally titled as the High Elections Commission (HEC) under Law 73 of 1956 as amended, but its name was changed by the commission.

¹⁴ Law on the Exercise of Political Rights, Art. 3 bis (I), Law 73 of 1956. The General Secretariat, which is responsible for the implementation of the election, is constituted of judges and a representative from the ministries of the Interior, Telecommunications and IT, and Local Development.

¹⁵ CEDAW, Art. 7, requires States to eliminate discrimination in public and political life, and especially ensure the rights to: vote and be eligible for election; participate in the formulation and implementation of government policy; hold public office and perform public functions at all levels; and participate in nongovernmental and civil society organizations.



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incumbents of judicial positions. However, women's participation in elections includes their presence within the election administration, in particular, as part of policy formulation and executive decision making processes. To guarantee that electoral policies take into account these concerns, The Carter Center recommends that the future composition of any election administration makes specific provision for female representation at senior levels. As an interim measure, The Carter Center strongly urges Egypt's electoral authorities to consider implementing a senior advisory committee for women's issues to advise the commission at an executive level.

The independence of the SJCE is not explicitly provided for in the SCAF's Constitutional Declaration. The SCAF, as the interim executive and legislative branch during the transition, has the ability to define and bind the actions of the SJCE through legal amendments, which undermines the independence of the election authority both in law and in practice. Major revisions to the electoral laws were made from May 19, 2011,¹⁶ onward, and have been subject to ongoing piecemeal amendments. The SJCE was appointed on July 19, 2011, and the People's Assembly and Shura Council elections announced on Sept. 27, 2011.

The SJCE had a critically short period of time in which to become established, define inter-institutional relationships, develop electoral procedures, and train staff. The staff of the electoral authority has, however, gained critical experience in the course of the three rounds of the People's Assembly election and the two rounds of the Shura Council. The SJCE has progressively issued manuals for presiding judges, but as was the case for the People's Assembly election, these manuals were only available a few days before the first round of polling and lacked detail in several areas. The lack of a fully developed regulatory framework to provide a standard and consistent interpretation of various legal provisions has created ambiguity, leaving presiding judges to use their own judgment to apply certain procedures.¹⁷ As a result, Carter Center witnesses have reported the inconsistent application of procedures by presiding judges. The Carter Center therefore urges Egypt's electoral authorities to develop a complete regulatory framework for future elections and a training curriculum for election officials that ensures a consistent procedural approach.¹⁸

The U.N. Human Rights Committee has stated that an independent electoral authority should supervise elections.¹⁹ In line with this, the Center recommends that the future constitution explicitly acknowledge the independence of Egypt's election authority. However, independence is also affected by the ability of the electoral authority to not only supervise, but to implement an election. The SJCE has been dependent on the Ministry of Interior (MoI) to implement key electoral processes, but has not necessarily had the capacity to fully supervise these activities. The Carter Center therefore recommends establishing a professional and permanent election administration, with a presence in each of Egypt's governorates.

The cost of an election is not trivial. As reported in the media, the SJCE advised that the Shura Council election cost in the order of one billion Egyptian Pounds. As such, identifying opportunities to reduce the cost of elections that do not compromise their quality or periodicity is an important consideration. For the Shura Council election, and similar to the Carter Center's observations of the People's Assembly election, the electoral system may provide several opportunities to reduce the costs of Egypt's elections. Replacing the absolute majority system for individual candidate races by the simple majority system would, for example, remove the requirement for runoff races. The removal of the farmer and worker quota would also greatly simplify the election administrative processes. The Carter Center therefore suggests that steps be considered to simplify the electoral system, with a view to making future elections more cost effective.

¹⁶ See SCAF Decree 46 of 2011, issued on May 19, 2011, *et seq.*

¹⁷ Inking procedures, assisting illiterate voters (which is not stipulated in the law), establishing the validity of marked ballots, and the handling of complaints are all areas where Carter Center witnesses observed inconsistencies in practices between various polling station judges and poll workers.

¹⁸ U.N. Human Rights Committee, General Comment 25, para. 19: "[e]lections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights."

¹⁹ UNHRC, para. 11, General Comment 25 on the International Covenant on Civil and Political Rights



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The low level of participation in the Shura Council election was broadly anticipated among the electoral stakeholders, including the election administration. Reflecting this, several procedural amendments, which are described in the polling, counting, and tabulation sections below, were introduced for the Shura Council election. Because of the low turnout, these amendments were not subject to the level of operational stress caused by the intense competition and high voter turnout of the People's Assembly. Therefore, the implementation of these revised procedures remains untested under the stress of an intensely competitive election.

Carter Center witnesses also noted that the reduced pressure on election officials led to a more casual approach toward procedures. For example, the punctuality of judges arriving and completing the preparations for opening polling stations, which had progressively improved over the course of the People's Assembly, worsened during the course of the Shura Council election; the application of indelible ink as a safety measure against multiple voting became more lax and during the second phase was observed to not have been implemented at all in a few cases; following poor days of voter turnout, Carter Center witnesses observed several instances of polling stations closing shortly before the official closing time of 7 p.m.; and in two cases during Phase 2, Carter Center witnesses observed counting commencing before closing. Finally, security forces were seen inside polling centers more often, and access to polling centers by witnesses was unusually prolonged or obstructed by extensive questioning by security personnel. Consequently, as the Shura Council election progressed across the two phases, these procedural violations were observed to become more frequent.

Witnessing Environment

The Carter Center's witnesses noted a very low level of participation in the Shura Council elections by national and international civil society organizations, as well as candidate and party agents. Among political parties and candidates, the low level of agent and representative participation was cited as a result of several factors, including the exhaustion of campaign resources from the People's Assembly, disillusionment with the transition, and a lack of interest in the Shura Council election. Discussions with civil society representatives indicated that several organizations did not witness the process due to the perceived lack of interest and importance of the Shura Council, as well as a decision to preserve their resources for the anticipated constitutional referendum and presidential election. Further, the tension over the ongoing investigation into national and international civil society organizations was cited on a few occasions as the reason to disengage from monitoring the process.

Carter Center witnesses experienced two cases of aggressive behavior, bordering on hostility, from party representatives. In addition, witnesses noted more intensive questioning from election officials and security forces regarding their status and institutional affiliation. It is worth noting that in other cases, inquiries were based on curiosity regarding the current environment facing NGOs. Looking ahead: given the important national elections that remain to take place in Egypt, including the presidential elections and constitutional referendum to take place later in the first half of 2012, The Carter Center urges electoral officials to provide accreditation to domestic and international witness organizations at the earliest opportunity. Doing so will enhance the transparency of the process by ensuring that impartial witnesses have the opportunity to observe and report on all aspects of the electoral process.

Polling

The experience of the SJCE in the People's Assembly election led to several amendments to the electoral process. The ballot design that was used for the People's Assembly election was also used for the Shura Council. However, an amendment was made to the individual candidate race ballot, where the numbers assigned to each candidate were removed. The SJCE indicated that this modification was made to avoid voter confusion in cases where candidate withdrawal resulted in ballot numbers being out of order. The lack of these numbers, however, created two principal difficulties that were noted by the Center's



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witnesses. First, several candidates told witnesses that the ballot numbers were the basis of their campaign to illiterate voters. The removal of the number had therefore undermined their efforts. Second, the Carter Center’s witnesses noted that the lack of numbers made the process of counting votes more difficult for poll workers. Poll workers had to use the names of candidates to count the votes, which took longer, and in some cases, caused difficulties due to the similarity of some candidates’ names. To avoid these difficulties in the future, The Carter Center recommends that candidate numbers be retained on the ballot to assist the process of political campaigning and ease the participation of illiterate voters. Further, to avoid complications due to candidate numbering, the deadline for the withdrawal of candidates, which is currently established in the law as 15 days before an election, might be extended to 30 days and should be strictly implemented.

Improvements since the People’s Assembly elections included the replacement of older wooden and plexi-glass constructed ballot boxes that were sealed with padlocks, cloth, and wax, with plastic-molded and lidded ballot boxes with securable ballot slots that could be secured with uniquely numbered and auditable seals.²⁰ Carter Center witnesses observed that these boxes appeared more secure and allowed for auditing by checking seal numbers by party and candidate agents when stored overnight and reopened on the second day of polling. Carter Center witnesses also noted that in contrast to the first phase, where some judges had difficulties with applying the new seals, in almost all cases during the second phase, election officials appeared confident in the use of the new equipment. As noted above however, the application of inking procedures was far less consistent and stringent than in the People’s Assembly election. Similarly, in most cases illiterate voters were assisted by presiding judges through a wide variety of inconsistent approaches.²¹

Illicit campaigning during the pre-polling campaign-silence period, which had been a source of numerous complaints during the People’s Assembly election, was observed to have diminished in the Shura Council election along with an overall reduction in political campaigning. Nevertheless, illicit campaigning violations were still observed by Carter Center witnesses in several areas.

Counting

In phase two, the SJCE also maintained the procedure of counting votes at polling stations, which had been introduced in the first phase of the Shura Council election. It was broadly noted that this decentralization allowed election officials to conduct the count in a more controlled environment than had been the case in the count centers used in the People’s Assembly, where counting was conducted at large centralized locations for all polling stations within a list-level district. Notably however, Carter Center witnesses were advised by several parties and candidates that the decentralization made it impossible for their limited number of agents to observe counting at all polling stations. This was especially the case for individual candidates.

A critical procedure in any electoral process is the criteria by which ballots are determined to be valid or invalid,²² that is, whether the ballot has been marked in a manner that allows for its inclusion into the vote count. It was noted in the People’s Assembly election that increasing levels of invalid ballots were

²⁰ “The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees.” UNHRC, General Comment 25, para. 20

²¹ Some judges marked the ballots for voters publically, sometimes in the voting booth; in other cases the judge refused to mark the ballot for the voters but instructed the voter how to mark the ballot. Sometimes the judge seemed to note the act of assisting in his or her minutes; others did not appear to do so.

²² U.N., ICCPR, Art. 25 (b), right to vote; UNHRC, General Comment 25, para. 19: “[E]lections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights.”



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recorded as the election proceeded across the three phases. As the Shura Council employed the same ballot design as the People's Assembly, it was expected that the invalid ballot rate may have declined in the second election. However, the invalid ballot rate reported by the SJCE increased over the course of the Shura Council election. The Carter Center strongly recommends that electoral officials take steps to 1) standardize the criteria for determining whether ballots are valid or invalid, 2) ensure that judges, poll workers, candidates, parties, and other electoral stakeholders are aware of these standards, and 3) guarantee that party and candidate representatives, observers, and others are given the opportunity to observe the process of determining ballot validity.

In several cases, Carter Center witnesses and party and candidate agents were prohibited from entering the counting rooms by judges and security officials, who would only allow non-election officials to observe from the doorway. The Center's witnesses noted that this arose in several cases due to space limitations in the counting rooms. As such, while decentralizing counting to polling stations was seen as an improvement for several aspects of the counting process, it had an overall effect of reducing transparency for candidate and party agents and witnesses.²³ To reinforce transparency in future elections, The Carter Center recommends that the electoral authorities select polling and counting facilities that allow party candidate agents and witnesses sufficient access.

The Carter Center was advised by the SJCE that judges were not officially required to announce or post a copy of the count results at the polling station. However, Carter Center witnesses noted that on many occasions the presiding judges announced the results to any party or candidate agents that were present. This is a positive step, and the Center recommends that all judges make an official announcement of the count within polling stations upon the conclusion of the count.

Judges then took custody of the used and unused ballots, minutes of the polling station, reconciliation sheets, and count forms to transport them to district level tally center. Notably the judges placed the count sheets into envelopes for transportation. Often, tamper evident bags are used for this purpose in other countries, and protect election officials from allegations of tampering with the forms during transportation.²⁴ To strengthen transparency, accountability, and auditability, The Carter Center therefore urges the election authorities to require presiding judges to ensure that reconciliation and count sheets are transported inside tamper evident bags to tally centers.

Tabulation

The tabulation of the vote counts was conducted at tally centers located in each of the 30 electoral districts. Presiding judges with a few members of their polling staff would travel from the polling center to the tally center with the ballots, official record of polling, reconciliation, and count sheets. At the tally centers, the judges and their staff would then deposit the ballots, and submit their reconciliation and count sheets to sub-committees. Carter Center witnesses observed that separating counting from tallying allowed for the tally centers to be managed in a more orderly manner than the count centers in the People's Assembly election.

However, Carter Center witnesses experienced ongoing access difficulties. On a few occasions, Carter Center witnesses were unnecessarily obstructed by security force personnel from entering the site, although they were accredited and carrying authorized badges provided by the SJCE. In two cases, the

²³ United Nations Human Rights Committee (UNHRC), General Comment 25 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service", para. 20: "The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents."

²⁴ Id.; See also good practice outlined in the the Council of Europe Handbook for Observers of Elections, para. 2.5.4, which emphasizes the importance of "[s]ecurity arrangements and safeguards against fraud: ensuring that proper arrangements have been made for the security of the polling stations and the ballot boxes/papers during and after the poll and during and after the count."



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head of the tally center refused to allow Carter Center witnesses to access the center without an additional stamped letter from the SJCE. In all cases these problems were resolved, however it highlighted the continuing concern that security forces managing access to these sites should be demonstrably under the supervision of the electoral authorities and be better trained on the different forms of accreditation and entitlements that are afforded to different stakeholders in the election process. The role of national and international observers is a critically important means of reinforcing the transparency and credibility of the electoral process, it is important to ensure that accredited witnesses have access to polling stations and counting facilities without obstruction. The Carter Center reiterates the recommendation that a judicial official oversee and coordinate access to electoral sites with security forces, and that security forces be better trained on their roles and duties in the electoral process.

Carter Center witnesses observed that the reconciliation forms submitted by presiding judges were checked by sub-committees assigned to sub-geographical areas of the electoral district, under the overall supervision of the electoral committees. Once successfully verified, the forms were then handed to administrative staff operating computers to input the information into spreadsheets. Carter Center witnesses noted that the management of these processes was orderly and party and candidate agents were usually able to observe the process. In some tally centers however, witnesses and agents were unable to access the area where results were being input into the computers.²⁵ In a more competitive elections, these issues can become more sensitive and the subject of complaints. Therefore, the Center recommends that tally centers be arranged to ensure agents and witnesses are able to directly observe the process of data entry.

For the second phase of the Shura Council elections, the SJCE conducted a limited trial of a new technology system for the tabulation of votes in Giza governorate's Districts One and Two. This system used an online application that was accessed by trained staff at the tally centers to directly input the count and reconciliation data into a central server and database. The system used a variety of security measures to access the central server via a cellular network. The Carter Center witnesses in Giza District One observed that the system appeared to operate smoothly and allowed for the information to be entered more rapidly than the spreadsheet systems. However, in Giza District Two, it was reported that the maximum bandwidth limits for the cellular network was reached and operators were unable to access the application as a result. The Giza District Two tally center therefore reverted to the spreadsheet system for the tabulation process. The Carter Center recognizes that the introduction of new technologies into an electoral process is a challenge in any environment. However, these challenges stress that new technologies should be rigorously evaluated, designed, and tested prior to their implementation, and that elections themselves should be protected from trial and error processes. The Carter Center therefore urges the SJCE to strengthen its internal research, development, and testing processes to avoid any unnecessary risks in future elections.

Similar to the out-of-country voting (OCV) conducted during the People's Assembly election, eligible Egyptian voters abroad were permitted to participate in the Shura Council elections. Registered before the People's Assembly election, these same voters were able to participate in the Shura Council election through a combination of Internet based technologies and Egypt's embassies. The Carter Center did not have the opportunity to observe these activities, but noted that the inclusion of the vote count from the OCV exercise was opaque. The Carter Center recommends that the SJCE make greater efforts to inform Egypt's electoral stakeholders about the OCV process, the OCV count results, and how these votes are included into the tabulation of the election results.

²⁵ U.N. Human Rights Committee (UNHRC), General Comment 25, para. 20; As EISA has noted, "[p]rocedures for counting should be known to those election officials, party agents, observers and any other authorized persons who are permitted to be present during the count." EISA and Electoral Commission Forum of SADC Countries, *Principles for Election Management, Monitoring, and Observation in the SADC Region*, p. 26



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Announcement of Results

The process of announcing the results of an election is one of the most sensitive tasks undertaken by an election authority. Authoritative, timely, and accurate election results significantly contribute to the perceived credibility of an election and reduce uncertainty in the post-election period. The timely and authoritative release of results after the first round of polling and before runoff races is of particular importance for runoff candidates' campaigns. As was noted in the Carter Center's statement for the People's Assembly election, the process of announcing results requires further development and improvement. The SJCE appeared to partially address this issue with more timely publication of results via its website, <http://www.elections2011.eg>. However, the Shura Council election demonstrated that further progress is required to ensure the timely release of detailed information. The counting of votes at polling stations suggests that the SJCE should also consider publishing the vote count at the polling station level. With limited coverage achievable by most party agents, this should be a complementary mechanism to increase transparency of the process. As well, The Carter Center noted that the SJCE has failed to identify the gender of winning candidates, and in the case of the individual seats, the political affiliation of the winners. As a consequence, uncertainty and speculation has arisen over the results of the elections. To avoid these difficulties, The Carter Center strongly urges the SJCE to improve the timeliness of the announcement of the election results, and to provide greater detail about the winning candidates and to publish the vote count results at the polling station level.

Complaints

The process for the submission and resolution of electoral complaints that was identified as a problem in the People's Assembly election continued to pose problems in the Shura Council election. The ability for electoral stakeholders to submit complaints and have their concerns addressed through a transparent, accountable, and timely process is a key principle of credible and genuine elections.²⁶ For the election administration, it is equally important that decisions are rendered by the competent courts in a manner that allows for the authorities to respond to the remedies applied by the courts, without jeopardizing the timelines of the electoral process or creating uncertainty.²⁷ The process for the submission of complaints through a variety of legal avenues and uncertainty by electoral stakeholders (parties, candidates, and voters) regarding how to submit complaints is an ongoing concern. Carter Center witnesses noted in their conversations with stakeholders that many were unaware of the process to submit complaints. As well, the Free Egyptian party highlighted that their boycott of the Shura Council elections was based on its dissatisfaction with the complaints process, and their perception that complaints they had lodged were not appropriately addressed.

While the election law establishes several clear deadlines for the submission and resolution of complaints,²⁸ several courts have failed to adhere to these deadlines. In the People's Assembly election,

²⁶ ICCPR, Art. 2(3): "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; [and] (c) To ensure that the competent authorities shall enforce such remedies when granted."

²⁷ International IDEA states it well, "[T]he law must require that the appropriate [electoral management body] or court render a prompt decision to avoid the aggrieved party losing his/her electoral rights. The decision of the court of last resort must be issued promptly. The legal framework should provided for timely deadlines for the consideration and determination of a complaint and the communication of the decision to the complainant." International IDEA International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections, p. 93.

²⁸ See, for example, Arts. 9, 9-bis, and 9-bis(b) of the Law Concerning the People's Assembly. These articles, which also govern the Shura Council nomination process, establish a 7-day time limit following the close of nominations for the adjudication of candidate challenges by an SJCE committee, including for errors such as worker/farmer misdesignations and name



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late decisions by appeal courts – in some cases being notified to the election authority only the day before scheduled polling – resulted in more than 18 electoral races being subject to reruns. While respectful of the judicial authority and due process, these decisions and the remedies assigned to them created a high level of uncertainty among election officials, political contestants, and voters. In particular, political parties and candidates that had expended campaign resources ahead of scheduled elections were required to campaign again at a later time. While the Shura Council elections did not suffer to the same degree as the People’s Assembly from similar episodes, two list race reruns were required in the first phase in Qena and Menoufiya governorates, and in Luxor²⁹ governorate in the second phase. To avoid similar concerns in future elections, The Carter Center strongly urges that the legal framework and related complaints processes be subject to a comprehensive review to ensure that election related complaints are addressed in a transparent, timely and accountable manner that better supports the demands of the electoral process.

As during the People’s Assembly election, there does not seem to be available information about the number of complaints regarding allegations of electoral misconduct made by citizens to the SCJE. The SCJE has referred many of these complaints to the General Prosecutor’s office for further investigation, but it is unclear whether consolidated information regarding the ultimate disposition of these complaints will be made public in a format that is accessible to Egyptian electoral stakeholders. Steps to rectify this lack of transparency should be taken.

Official Information Campaigns and Media

Official voter education and civil information campaigns continued to be a significant weakness of the Egypt’s election process. Voter education efforts are necessary to ensure an informed electorate is able to effectively exercise their right to vote.³⁰ As noted in past Carter Center statements on the People’s Assembly, a clear mandate and commensurate resources to inform and educate voters, political contestants, and other stakeholders about the elections is a concern.³¹ In the case of the Shura Council election, the absence of competitive political campaigning and civil society participation, the Carter Center’s witnesses noted a scarcity of public information about the process. On several occasions, political contestants also told Center witnesses that there was a lack of official information on key issues about the election process, and in particular, the complaints process. The Carter Center recommends that greater efforts need to be made in the area of voter and civic education, and in particular that clear, authoritative, and timely information is available to political contestants.

The attention given to the Shura Council election by Egypt’s media outlets was largely overshadowed by other events. In part, the minimal coverage contributed to a lack of awareness and interest among voters about the process. While circumstances may pose a challenge for generating media coverage, it was also notable that the election authorities offered only limited opportunities for the media to receive information and briefings about the election. The Shura Council process emphasizes that publicizing elections requires concrete efforts by the electoral authorities to engage with the media. The Carter Center therefore recommends that the election authorities further develop their media liaison capabilities to enable a proactive engagement with the media, as a means of enhancing participation and awareness.

The Carter Center mission to witness Egypt’s Parliamentary elections has been accredited by the SJCE. In the first phase of the Shura Council elections, The Carter Center deployed 30 witnesses to 11 of the 13

misspellings. There is an additional seven-day time limit for adjudication by the Administrative Court of appeals of decisions by this committee.

²⁹ Carter Center witnesses were not present in Luxor for this portion of the electoral process.

³⁰ UNHRC, General Comment 25, para. 20

³¹ The Carter Center, Preliminary Report on All Three Phases of the People’s Assembly Elections, pp. 12-13



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participating governorates, and 30 witnesses were deployed across 10 of the 14 participating governorates in the second phase. The Center's witnesses were deployed several days before polling and remained in the governorates through the runoff and shortly afterward. Carter Center witnesses represent 19 nationalities including: Australia, France, Germany, Iraq, Ireland, Italy, Kenya, Lebanon, Malaysia, Morocco, the Netherlands, Norway, Palestine, Philippines, Spain, Sudan, Tunisia, United Kingdom, and the United States. While deployed, these witnesses will observe the election administration, campaigning, voting and counting operations, and other activities related to the electoral process in Egypt.

The Carter Center's election mission is conducted in accordance with the Regulations and Code of Conduct for Elections Followers issued by the SJCE, as well as the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by more than 37 election observation groups. The Center assesses the electoral process based on Egypt's national legal framework and its obligations for democratic elections contained in regional and international agreements

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Overview: 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 nongovernmental organization, the Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

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