

- § 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.

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.

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



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

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

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.

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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

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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 transubjeciC5o-1.16kon of ia

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 UN, 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.

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.

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.

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

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 Luxor

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