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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

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 (UN), 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.”; UN, 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 UN, 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.”

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 UN, 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."; UN, 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. iii.; 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.

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 UN, 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.”

¹⁰As 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.”

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; UN 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."

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.