



FOR IMMEDIATE RELEASE

June 19, 2012

**CONTACT: In Cairo, Maurice Chammah +2 010 1283 2236 or Maurice.chammah@egypt.cceom.org
In Atlanta, Deborah Hakes 1-404-420-5124 or dhakes@emory.edu**

**The Carter Center Releases Preliminary Statement
on the Second Round of Egypt's Presidential Election**

The Carter Center's election witnessing mission in Egypt issued preliminary findings today for the second round of Egypt's presidential elections. The Center noted that the Egyptian people again have demonstrated their deep commitment to the electoral process. However, The Carter Center expressed grave concern about the broader political and constitutional context, which calls into question the meaning and purpose of the elections.

"I am deeply troubled by the undemocratic turn that Egypt's transition has taken. The dissolution of the democratically-elected parliament and the return of elements of martial law generated uncertainty about the constitutional process before the election," said former U.S. President Jimmy Carter. "The Supreme Council of the Armed Forces' new Constitutional Declaration, in which they carve out special privileges for the military and inject themselves into the constitution drafting process, violates their prior commitment to the Egyptian people to make a full transfer of power to an elected civilian government. A constitution is a permanent foundation for the nation, and must be fully inclusive and legitimate. An unelected military body should not interfere in the constitution drafting process."

Ultimately, a truly democratic transition requires not just elections, but the full transfer of power to those elected civilian institutions, and the drafting of a constitution by an inclusive and legitimate Constituent Assembly. Given the dissolution of parliament, the reinstatement of certain military powers of arrest and detention, and the Supreme Council of the Armed Forces' newest Constitutional Declaration, among other issues, it is now unclear whether a truly democratic transition remains underway in Egypt.

The Carter Center election witnessing mission was accredited in Egypt by the Presidential Election Commission (PEC) on May 3, 2012. Accreditation badges, necessary for witnesses to observe the process, were only provided on May 16, less than seven days before the first round of the Presidential Election. The Carter Center mission, which is led by Abdelkarim Al-Iryani, former Prime Minister of Yemen, Marwan Muasher, former Foreign Minister of Jordan, and Jason Carter, State Senator of Georgia, includes a total of over 90 witnesses from 36 countries. During the second round of the Presidential Election, witnesses made nearly 1,000 polling station visits in 25 governorates to follow voting, counting, and tabulation. Additionally, 26 long-term witnesses from 15 countries also witnessed the second round campaign phase. The Center's witnesses continue to assess the conclusion of the vote tabulation, and will remain in Egypt to witness and assess the post-election environment. The Carter Center mission to Egypt is limited in scope due to the late issuance of accreditation, the provision that witnessing missions could not issue statements prior to polling, a 30-minute time restriction on witnesses' presence inside polling stations, and the prohibition of witnessing the final aggregation of the results.



June 19, 2012
Cairo, Egypt

**The Carter Center's Preliminary Statement
on the Second Round of Egypt's Presidential Election**

The May-June 2012 Presidential Election marks at least the fifth time that Egyptians have gone to the polls in the last 18 months, and it serves as further evidence of the unwavering commitment of the Egyptian people to democracy. However, decisions taken in the days leading up to, and immediately following, the second round of these elections raise grave concerns about the course of Egypt's transition. Ultimately, a genuine democratic transition will require more than elections. It also will require the establishment of a democratically-elected, civilian government, with full authority over the military, and the inclusive drafting and adoption of a new constitution that represents the interests of all Egyptians and the fundamental principles of democracy.

The weeks prior to the election were characterized by constitutional and political uncertainty. The anticipation of the Supreme Constitutional Court decisions regarding the Political Isolation Law and the constitutionality of the democratically-elected Parliament left Egyptian voters unsure of whether the two final candidates, Ahmed Shafiq and Mohamed Morsi, would be competing in the election at all. The court's announcement two days prior to the election that the lower house of Parliament should be dissolved cast further doubt upon the role and value of these presidential elections in the ongoing transition process. Indeed, because the People's Assembly was a popularly-elected parliamentary body with legislative powers and the constitutional mandate, affirmed by the March 2011 referendum, to select the Constituent Assembly responsible for drafting a new constitution, the court's decision overshadowed the entire trajectory of Egypt's transition.

On Election Day, Egyptians went to the polls with only a vague, interim constitution and no political consensus on the next steps of drafting a new one, forcing voters to choose a presidential candidate without clarity on the precise role and responsibilities of the new president. While this was also the case during the first round of voting, the dissolution of parliament only strengthened the sense of uncertainty surrounding the nature and course of the constitution drafting process and ergo the democratic transition.

The Carter Center has significant concerns not only about the lack of a clear roadmap for the transition, but also about the continued role of the unelected Supreme Council of the Armed Forces (SCAF) in the government of the country. These concerns have been heightened by the recent, troubling decree of the Ministry of Justice which grants the military far-reaching powers to detain and try civilians for a range of alleged criminal activities. Most alarming of all, however, was the unilateral issuance of an addendum to the constitution by the SCAF, even as Egyptians' presidential votes were being counted. This new declaration appears to enshrine a continuing, dominant role for the SCAF within the Egyptian government, with the SCAF appropriating vast additional powers until a new constitution is approved, including not only executive but legislative authority, and an inappropriate role in the constitutional drafting process itself. The new declaration, coupled with the dissolution of the democratically elected People's Assembly, calls into question SCAF's oft-repeated commitment to transfer meaningful power to civilians by July 1, 2012.

It is imperative that the SCAF, as an unelected military body, not interfere in the constitution drafting process. A Constituent Assembly with popular legitimacy must be granted the opportunity for full and complete debate and discourse on the content of the constitution and Egypt's political future. In addition, the SCAF must turn over legislative power to a democratically-elected parliament as soon as possible. Finally, the success of the

transition will require guaranteed respect for and protection of the fundamental civil and political rights of all Egyptians, by a democratically-elected, civilian government.

The Carter Center cannot provide a comprehensive assessment of the integrity of the elections due to the limited nature of the mission. While Carter Center witnesses found that most aspects of the June 16-17 voting and counting process were free from major and systematic flaws that unfairly advantaged either candidate, the uncertain political climate in which these elections took place renders the meaning of these elections unclear. With this in mind, The Carter Center respectfully offers the Egyptian people the preliminary observations on the second round of the presidential election summarized below. The election process is ongoing and official results are yet to be announced.

ELECTION WITNESSES' FINDINGS

While the Presidential Election Commission (PEC) started election preparations on March 8, 2012, the Carter Center's election witnessing mission was accredited as an organisation in Egypt by the PEC only on May 3. Furthermore, accreditation badges necessary for witnesses to observe the process were only provided on May 16, less than seven days before the first round of the Presidential Election. In addition to late accreditation, witnesses (and the media) were subject to a 30-minute time limit inside polling stations, and there was a lack of clarity about the ability of witness organisations to issue public statements on the electoral process prior to the results. Finally, the PEC refused access to the national level vote aggregation to domestic and international witnesses, media, and candidate agents during both rounds of the election. Due to these restrictions, the Carter Center's mission to Egypt is limited in scope and unable to draw conclusions about the overall election process. While the Center decided that the importance of the Presidential election warranted the continued involvement of its witnessing mission, the PEC's restrictions are contrary to the core principles of credible and effective election observation and The Carter Center will not witness future elections in such circumstances.

The Carter Center mission for the second round of the Presidential Election, which is led by Abdel Karim Al-Eryani, former prime minister of Yemen, Marwan Muasher, former foreign minister of Jordan, and Jason Carter, State Senator of Georgia, includes a total of over 90 witnesses from 36 countries. Witnesses made nearly 1000 visits to polling stations in 25 governorates to follow voting, counting, and tabulation and 26 long-term witnesses also witnessed the second round campaign phase.

The main findings of the mission regarding those parts of the electoral process that it could witness are summarized below:

The voters' list should be made available for public scrutiny and shared with campaigns as a means of promoting integrity and transparency of the election process. The decision of the PEC to withhold the voters' list from candidates and their campaigns fuelled speculation and suspicion about the accuracy of the list. While unable to directly follow the voter registration process due to late accreditation, The Carter Center was informed by the PEC that the list was withheld from candidates in the interests of citizens' privacy and because the law did not include a specific provision granting candidates access. It is worth noting that during the parliamentary elections, parties and candidates were legally allowed to purchase a copy of the voter registry in the jurisdiction in which they were running. International best practice demonstrates that voter lists can and should be released to candidates and should be subject to public review as a means of ensuring transparency in the election process and allaying concerns about the accuracy of the list.

Article 28 of the Constitutional Declaration gives the PEC excessive powers. The ex-officio nature of the judges that comprise the PEC blurs the lines between the PEC's mandates and those of other courts. In addition, powers of the PEC are excessive, given that Article 28 of the Constitutional Declaration states that the decisions of the PEC are final, without the possibility of appeal by any party against its decisions. In order to maintain public confidence in the electoral process the PEC must take all necessary steps to demonstrate that its decisions are transparent and fairly reached, particularly given its role as administrator of the electoral process. Future electoral laws should ensure that there is an opportunity to appeal to an impartial tribunal from any decisions taken by an election management body.

The PEC's interpretation of legal provisions erred on the side of non-transparency. Although the PEC has broad authority to interpret the Presidential Election Law, the Carter Center was concerned by the tendency of the Commission to interpret the law narrowly and at times in a manner counter to the principles of transparency. Specifically, when the law was silent on witness access to the final stages of aggregation and the ability of candidates to access the voters' list, the PEC did not grant access, reducing opportunities to build confidence in the process.

The legal and procedural framework for elections remains inadequate. While the PEC has issued 19 decisions to regulate various parts of the election, there remain key aspects of the process that are unclear or poorly defined. Prominent examples include the lack of regulation pertaining to the lodging of electoral complaints and challenges; the absence of clear language in the Law regarding assistance to illiterate voters; and the lack of detailed regulatory provisions establishing voting and counting procedures. These ambiguities resulted in varied and inconsistent treatment of these matters by local judges or other officials.

The provision of polling station and District General Committee level results to candidates' agents was an important improvement that promoted transparency. These provisions helped to instil confidence in the final results by ensuring that agents had verifiable information regarding electoral results in their jurisdictions. In addition, Carter Center witnesses reported improved access to District General Committees, although domestic witnesses continued to face obstacles to meaningful observation there. However, given the fact that there is no outside access to the final aggregation of results, it is essential that the PEC publish vote results broken down to the polling station level at the earliest possible instance on their website. In meetings with the Carter Center, the PEC has committed to do so within one week of the election.

Campaign messaging for the second round of voting was generally negative and there were instances of campaign related violence. Carter Center witnesses were able to follow the campaigning in the interim between the first and second rounds of voting. In general, witnesses noted that both candidates focused on detracting from their opponent rather than focusing on their own platform. In addition, although police and other authorities allowed both candidates the opportunity to campaign freely, witnesses reported that Shafiq representatives in several governorates expressed some concerns about their personal safety due to strong anti-Shafiq sentiment, and violent incidents including alleged arson at Shafiq campaign headquarters in Cairo and elsewhere.

Allegations of illicit influence of voters were rampant. While not directly observed by Carter Center witnesses, each campaign reported that the other was attempting to influence voters through provision of food, money, or other gifts. In the case of Morsi, this allegedly took place through the Muslim Brotherhood's existing charity and social service network. In the case of Shafiq, it was alleged that his campaign was providing funds to family and community leaders in various governorates. Due to the long history of providing social support through religious and family networks, it is extremely difficult to distinguish these practices from illicit influence. These accusations, however, fuelled a climate of tension in the lead-up to polling, and continued throughout the election days.

The framework of campaign finance regulation is unrealistic and lacking. The Presidential Election Law sets a spending limit of 10,000,000 EGP for the first round (approximately \$1.7 million), and 2,000,000 EGP for the second round (approximately \$340,000). While spending limits can be an important means of promoting a level playing field among candidates, unrealistically low limits can have the unintended consequence of forcing political competitors to skirt regulations. Greater emphasis on regular and sufficiently detailed disclosure of all donations to campaigns and campaign spending, as well as a greater commitment to enforce existing campaign finance provisions, would better serve the ultimate goal of promoting equity between candidates.

Women continue to be underrepresented in Egyptian political life. The ongoing pattern of under-participation of Egyptian women in political life remains an important concern of the Carter Center. Although women appeared to turn out to vote in reasonably high numbers, Carter Center witnesses noted low female participation at campaign events. This follows the lack of women presidential candidates and the dearth of women in electoral administration positions. The Carter Center reiterates its call for greater participation by

and representation of women in the Egyptian political sphere, and at least 30 percent representation of women in the future Constituent Assembly and other elected bodies.

In isolated instances, international witnesses were subject to heightened scrutiny and intimidation from military personnel. There was a small but notable pattern of intimidation of Carter Center witnesses during the second-round of polling. This intimidation included interference in the witnessing process, the filming of witnesses in several governorates by military at the polling station, and in at least one case, a witness felt coerced to provide positive comments on the process by a member of the military. Placed in a context of heightened suspicion against foreigners, and false media reports that Carter Center witnesses were detained in Port Said, these cases of intimidation call into question the commitment of Egyptian authorities to respect for the work of international witnesses.

Voter education was lacking. In more than 15 percent of polling stations, voters demonstrated a poor understanding of voting procedures and the process of casting their ballot. Given that voters already had some exposure to learning the voting process during the first-round, the continued voter confusion illustrates the overall shortcomings in voter education that occurred and the need in future elections to have a coordinated effort from the election commission, government counterparts, and civil society in educating voters.

Polling and counting procedures were inconsistently followed. Carter Center witnesses reported that, in particular, fingers were inked incorrectly, there was a failure to check for ink, and proper voter identification procedures (including for women in niqab) were not always followed. Inking and identification protections are put in place to help protect against multiple voting, and failure to properly implement these procedures undermines an important safeguard during polling. Judges were inconsistent in their determination of ballot validity during counting at the polling station level. Additionally, District General Committee judges did not review polling station decisions on the validity of ballots, even though these committees are authorized to do so in accordance with electoral law.

Domestic witnesses faced continued constraints and were notably absent from polling stations. Domestic witnesses faced the same constraints and limitations as the Carter Center and other international organizations, but received their accreditation badges even later than international witnesses, in some cases just a few days before the first round of the election. As Egyptian citizens, domestic witnesses have the right to participate in public affairs, and therefore it is critically important that they have unimpeded access to all phases of the electoral process.

####

"Waging Peace. Fighting Disease. Building Hope." 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 not-for-profit, 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. Visit www.cartercenter.org to learn more about The Carter Center.